

Government of India
Ministry of Railways
(Railway Board)

Indian Railways Vigilance Manual 2018

(Upto & including Amendment no.6)

All modifications, circulars can be found on the webpage of Vigilance Directorate, Railway Board here

http://www.indianrailways.gov.in/railwayboard/view_section.jsp?lang=0&id=0,1,304,366,546,843

All CVC Circulars on Inquiry/disciplinary matters

http://www.cvc.nic.in/notification/Inquiry-disciplinary-matters

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PROTOCOL FOR UPDATING THE INDIAN RAILWAYS VIGILANCE MANUAL-2018

MESSAGE

From Central Vigilance Commission

We are happy that the Indian Railways has revised its Vigilance Manual, which was last published in 2006. The Indian Railways first published the Vigilance Manual in 1970 and later revised it in 1996 and 2006. From 2006, it is a long-time and considerable changes took place in the Indian Railways, in particular, and in all organizations in general, in their functions due to changes of Rules, Technology, etc. Thus, there was an urgent and imperative need to revise the Manual.

2. We are also happy to note that the new Manual has incorporated relevant provisions from the CVC's Manual revised and released in 2017. We are also happy to note that the online version of this Vigilance Manual (like CVC Manual) hyper-linking important Circulars, Orders, etc. is going to be uploaded on Indian Railways' website simultaneously.

3. The Commission congratulates the Directorate of Vigilance of the Ministry of Railways and all others who are associated with the revision and publication of the revised Manual.

4. While revision and publication of the Manual is an important step-forward, it is equally important to make all concerned, not only the vigilance professionals, to frequently consult the Manual while carrying out their duties. Only then, the purpose of the Manual will be served. We hope that the Directorate of Vigilance and the Railway Board will ensure the same.

(T.M.Bhasin)
Vigilance Commissioner

(Sharad Kumar)
Vigilance Commissioner

(K.V.Chowdary)
Central Vigilance Commissioner

New Delhi

29th August, 2018

FOREWORD

The Indian Railways Vigilance Manual was first published in 1970 and was last revised in 2006. In the decade since then, there have been many changes in the procedures, rules and policies relating to Vigilance Administration. Hence there was a need to update the Manual and I am happy that this has been done now. This new version will also be available on the Indian Railways website and relevant orders and circulars will be hyperlinked, thus making future updation easier.

The Vigilance Organization of Indian Railways is a fundamental and essential part of management with a clearly defined role. The focus of the Government is on integrity and ethical behavior. This can be ensured only when procedures are laid down clearly and a compilation of the rules and procedures is the first step towards good governance. I am sure that this Manual will be useful to the Ministry and Field Units for Vigilance Administration on the Indian Railways system.

I compliment the Vigilance Directorate for undertaking this mammoth task of bringing out the revised and updated Indian Railways Vigilance Manual, 2018.

(Ashwani Lohani)
Chairman, Railway Board

New Delhi
4th September, 2018

PREFACE

Over the last decade or so Vigilance administration on Indian Railways has seen a considerable number of changes in its rules & procedures. Most changes were necessitated by new challenges which were thrown up, modifications of policy or simplification in the systems of working. It is thus prudent and necessary that the Indian Railways Vigilance Manual, which was first published in 1970 and last revised in 2006, is updated and the amendments of the intervening period are incorporated.

Revising the Manual has involved considerable effort in selecting, reiterating, modifying and deleting provisions from the earlier Manual. We expect that most of what is important and current in vigilance matters has been incorporated. We have made certain changes in the format of the Manual. The sequence of chapters has been modified and some chapters have even been deleted. An attempt has also been made to simplify details and I hope that our efforts will lead to easier understanding and referencing from this Manual.

An on-line version of this Manual will be uploaded on the Indian Railways' website – 'www.indianrailways.gov.in'- and we expect that making subsequent changes, when necessary, will become easier and will be done on-line. We have also hyperlinked important circulars from the Ministry of Railways, the Central Vigilance Commission and the Department of Personnel & Training. The revised Vigilance Manual 2017 issued by the Central Vigilance Commission has been used extensively for incorporating material for our IRVM.

It needs to be stated that the provisions of the Manual do not supersede any rule contained in Railway Codes and, in case of any conflict, the provisions in the Railway Codes shall prevail. We recommend a reference to the original rules and instructions of the concerned Directorate whenever any doubts arise. This is particularly true in the sphere of Establishment and D&AR matters.

Bringing out this Manual has been a gratifying experience. The team-work and coordination displayed by the entire Vigilance Directorate of the Railway Board and the Vigilance departments of Zonal Railways has been exemplary. Teams were formed within the Directorate to review different chapters. After the initial work was done in the Railway Board, the Manual was circulated to the Zonal Railways' Vigilance departments where also separate teams were formed by the SDGMs to look at various chapters. Thereafter, the suggested changes were incorporated and the final document was reviewed by the Executive Directors and Directors of the Vigilance Directorate in the Railway Board several times. The result is now available with you.

I am deeply indebted to Shri B.M. Gupta, former Senior Executive Director Vigilance/Engineering and Shri A.K. Vajpayee, former Executive Director

Vigilance/ Accounts, whose experience in the Vigilance department and inputs were very valuable to us. The present team of Shri R.K. Jha, ED Vigilance/ Engineering, Shri R.K. Rai, ED Vigilance/Electrical, Shri Arvind Srivastava, ED Vigilance/Stores, Shri S.K. Tyagi, ED Vigilance/Traffic, Smt. Ambika Jain, ED Vigilance/Accounts, Shri Garib Dass, Director Vigilance/Police, Shri Andaleeb Razi, Director Vigilance/ Traffic and his predecessor Shri Anshuman Kumar, Smt. Manisha Chatterjee, Director Vigilance/Traffic-II, Shri P.K. Sharma, Director Vigilance/Engineering-I, Shri A.K. Marantu, Director Vigilance/Engineering-II, Shri Ranjit Kumar, Director Vigilance/S&T, Smt. Suman Sharma, Director Vigilance/Stores, Shri Sunil Kumar Singh, Director Vigilance/Intelligence, Shri Anil Chopra, Joint Director Vigilance (Conf.), Shri Harish Chander, Joint Director Vigilance/R&SC, Shri R.P. Joshi, Joint Director Vigilance/Stores, Shri Jagdish Pandey, Deputy Director Vigilance/Confidential, Shri R.C. Pandey, Deputy Director Vigilance/Traffic and Shri T.P. Sah, Section Officer (V-1) and many others have all contributed substantially towards bringing out this Manual. Smt. Gomathi Sankar and Smt. Priya Gopalakrishnan, Deputy Directors, were earlier posted in Vigilance Directorate and despite being posted elsewhere now, have continuously provided their inputs. I also wish to thank the SDGMs & CVOs, the Dy. CVO's in the Zones and other numerous functionaries in the Vigilance Departments of Indian Railways for their contributions. Special mention must be made of Shri Srinivas Malladi, Dy. CVO/Engg/SCR who had undertaken the arduous task of reviewing the entire manuscript, comparing it with the CVC manual, existing IRVM and all related circulars and then offering valuable suggestions. I must also express appreciation for Shri Sanjay Khurana, Principal Private Secretary, Smt. Janaki Ramesh, earlier PSO, Shri Pranab Kumar Tripathy, Principal Private Secretary, Smt. K. Parvathi, Private Secretary and Shri Sudhir Kumar, Sainik, for their diligent, dedicated and professional assistance provided during this time.

This Manual would never have been printed if it had not been for the stellar contribution of Shri Rajnish Kumar, Director Vigilance/Mechanical, who has coordinated efforts within this Directorate, with the Zonal Railways and Production Units, and who went into every word and every other nitty-gritty to bring this effort to fruition. More than anyone else, this has been his sustained and dedicated effort of more than one year. I am responsible for holding him back from going on deputation just so that he could complete the Manual before he left. I wish him success in his future career.

I would also like to personally thank Shri K.V. Chowdary, Central Vigilance Commissioner, Dr. T.M. Bhasin, Vigilance Commissioner, and Shri Sharad Kumar, Vigilance Commissioner for their support and guidance. I profusely thank Shri Ashwani Lohani, Chairman, Railway Board, who has encouraged us to bring out this Manual.

In times like this when the world is changing so fast, it is likely that this version of the Manual will also need to undergo changes. We look forward

to suggestions for amendments or improvements in the Manual. We will examine all suggestions carefully and make the changes as necessary.

(Sunil Mathur)
Principal Exec. Director &
Chief Vigilance Officer
Ministry of Railways

4th September, 2018
New Delhi

Disclaimer

(i) The Indian Railways Vigilance Manual 2018 is intended only to be a reference book and it cannot be a substitute for rules, orders, etc. of various authorities.

(ii) We have taken every effort to provide accurate and updated information in the IRVM 2018. For any inadvertent error and omission or doubt, the Vigilance Directorate, Ministry of Railways may be contacted for clarification.

(iii) Vigilance Directorate does not take responsibility for accuracy and completeness of third party Circulars/ Citations, etc. referred in the Manual.

(iv) The Hyperlinks to third party websites that have been included in this Manual are provided for public convenience only. The Directorate is not responsible for the contents or reliability of the hyperlinked websites and does not necessarily endorse the view expressed within them or guarantee the availability of such linked pages at all times.

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CHAPTER I RAILWAY VIGILANCE ORGANIZATION AND ITS ROLE

101 INTRODUCTION

101.1 The demon of corruption dates back to times immemorial. As early as the 4th Century BC, Kautilya referred to as many as 40 ways of committing embezzlement of the treasury in his treatise, "Arthashashtra". Over the centuries, the world has faced corrupt practices in different forms in almost all walks of life. The challenge before us today is to create an environment in which integrity and honesty prevail and corruption is punished promptly. The hallmark of good governance is having a clean and transparent administration and, therefore, vigilance administration in any organisation forms an integral part of management. The Vigilance Organisation on Indian Railways has been set up to investigate complaints of corruption, conduct preventive checks, suggest system improvements and to ensure that those held guilty of irregularities are appropriately punished. Its role is both preventive and punitive.

101.2 Indian Railways is the largest government organisation with more than 13 lakh employees which includes about 18000 officers. This is an organisation with a 165 year history and which today operates more than 23000 trains across its 66,000 route kilometres and 7100 railway stations every day, which has more than 2.3 crore originating passengers and loads more than 3 million tonnes of freight traffic daily, which runs its trains 24x7, and which has a continuous public interface. The nature of its work and its operations present many opportunities for corrupt practices to arise. While a large number of its officials and staff are considered to be honest and dedicated to their work, it can also be said that there are many whose integrity is questionable.

101.3 It is the role of the administration in any organisation to set up systems which encourage integrity and transparency and come down heavily on corrupt practices. Essentially, every officer and staff is himself/herself a vigilance officer and needs to ensure probity in the work being done by him/her and the people who work with him/her. The Vigilance organisation is an essential and integral part of Indian Railways and assists the department towards running a clean and efficient administration.

102 EVOLUTION OF THE VIGILANCE ORGANIZATION

102.1 Special Police Establishment - Recognizing the gravity of the problem of corruption, the Government established an agency to combat it, namely, the Special Police Establishment (SPE), in terms of the Delhi SPE Act, 1946. The Prevention of Corruption Act 1947 was also passed as an endeavour in this direction.

102.2 Indian Railway Enquiry Committee - In the Railway sector, the Indian Railway Enquiry Committee was appointed in 1947 to undertake a general survey of Railway working. This Committee recognized the evil of corruption and stressed the need to tackle it. The first organizational response in this direction came in the shape of Railway Board's decision in April, 1948 to establish an independent Anti Corruption Department on each Zonal Railway for the prevention, detection and departmental investigation of cases of corruption. In

order to avoid any conflict with working of the SPE, the ambit of this department was delineated as below:

a) Cases involving departmental/procedural irregularities, which resulted in preferential treatment to traders, travellers, contractors, other individuals/firms. (However, the case was to be handed over to the SPE if there was any probability of illegal gratification in it).
b) Corruption cases which the SPE was not in a position to take up.
c) Cases of corruption handed over by SPE for departmental action, owing to lack of sufficient/relevant evidence for prosecution.

102.3 The Zonal Vigilance Organization was under the administrative control of the Chief Security Officer.

102.4 Railway Corruption Enquiry Committee - The wheels of time – and corruption – moved on and the next milestone of anti-corruption efforts was the appointment of "The Railway Corruption Enquiry Committee" by the Ministry of Railways on 9th September 1953. This was a parliamentary committee, with Acharya J.B.Kripalani as its chairman. Its brief was to look at the entire gamut of corruption issues on Indian Railways: extent of corruption among Railway employees in public dealings, methods of corruption adopted by them, causes of corruption, responsibility of the public, loopholes in rules & regulations that left room for corruption, and administrative & legal measures to eradicate this evil. The Committee submitted its report, consisting of 152 recommendations, on 9th July 1955. The Ministry of Railways accepted 143 recommendations. It was on the recommendations of the Kripalani Committee that the existing anti-corruption departments were re-organized for greater effectiveness and re-named as "Vigilance" units. These Vigilance units were established on all Zonal Railways in 1956 and were placed under senior scale officers.

102.5 Administrative Vigilance Division - It has already been mentioned earlier that the SPE was established in 1946. However, this organization could not become very effective, owing to its organizational defects and resistance to its activities from various ministries. Accordingly, it was decided to establish an organization in the Ministry of Home Affairs which would assume overall responsibility to direct and coordinate anti- corruption activities of all the Ministries in the Government of India. This organization was named the Administrative Vigilance Division, which began functioning in August, 1955.

102.6 Central Investigation Agency - A "Central Investigation Agency'' began functioning in the Railway Board from February, 1957, with Director (Vigilance) as its administrative head. This agency was entrusted with functions of collecting intelligence, investigating important cases of corruption amongst Railway officers, making any other inquiries given to it, and liaison with SPE and State Police in important investigations.

102.7 In December 1957, the Railway Board transferred administrative control of the Vigilance organization from the Chief Security Officer to the Senior Deputy General Manager (SDGM) at the level of each Zonal Railway. In the same year, separate Vigilance Engineering cells were created on Zonal Railways, consisting of a senior-scale Railway Engineer and an Accounts Officer, in order to investigate into complaints pertaining to engineering work. Much later, in 1965, Vigilance Stores cells were also added to the Zonal Organization.

102.8 Despite various measures having been taken to combat the menace of corruption, the public – and Parliamentary – perception was that there was still a long way to go before this problem could be tamed. Several Members of Parliament gave vent to these feelings while participating in the debate on demands for the Ministry of Home Affairs in June 1962. They referred to the growing menace of corruption in administration. While replying to the debate on 6th June 1962, Shri Lal Bahadur Shastri, Minister for Home Affairs, proposed establishment of a committee of MPs and Government officials to review the problem of corruption and make recommendations in this regard.

102.9 Committee on Prevention of Corruption (Santhanam Committee) -Thus was born the "Committee on Prevention of Corruption", under the chairmanship of Shri K.Santhanam, Hon'ble MP. This committee made several far-reaching recommendations, the foremost of which was the establishment of the Central Vigilance Commission (CVC). The CVC came into being in February 1964 as the apex agency to advise and guide Central Government agencies in the field of vigilance.

102.10 Administrative Reforms Commission - The Santhanam Committee also recommended that there should be a separate Member Vigilance in the Railway Board (with the status of Secretary to the Government of India) who would have full control over the Vigilance Organization on Zonal Railways. The rationale for this was that he would be able to act with authority and independence in all Vigilance matters on the Indian Railways, being subject to the jurisdiction of CVC. However, this recommendation was not accepted. The Santhanam Committee had reviewed the issue of corruption in great detail and provided the blue print for action in this sphere. Years later, in 1970, the issue of corruption was revisited by the Administrative Reforms Commission. While discussing the Vigilance set-up on Indian Railways, this Commission recommended that there should be a Director General of the Vigilance Organization in the Railway Board, who should work directly under the Chairman, Railway Board. At the Zonal level, it was suggested that the Vigilance Organization should work in close consultation with General Managers – however, there was no objection to Zonal Vigilance having direct dealings with Director General of Railway Board Vigilance, provided the General Manager was kept duly informed. The Commission also pointed out that the respective Heads of Department were vested with the responsibility of checking corruption, and that Vigilance needed to keep them informed about vigilance matters in their respective spheres.

102.11 Task Force on Vigilance - The Ministry of Railways established a "Task Force on Vigilance" in June 1977 to review the entire range of issues relating to corruption on the Indian Railways, as also to report on the follow-up action taken on the recommendations of the Kripalani Committee. This task force consisted of three senior officials of the Vigilance Directorate. Its report was submitted in February, 1978, which consisted of 275 recommendations. Most of these recommendations were accepted.

103 PRESENT STRUCTURE OF THE VIGILANCE ORGANIZATION ON INDIAN RAILWAYS

103.1 The structure of Vigilance on Indian Railways has been moulded over the years by recommendations of various Committees, as mentioned above. At

present, the Vigilance Organization on Indian Railways is headed by Principal Executive Director (Vigilance) [earlier known as Adviser, Vigilance], who is the Chief Vigilance Officer, Ministry of Railways, and reports to Chairman, Railway Board. He is a link between the Ministry of Railways and CVC. He is in the rank of Additional Secretary, Government of India. He is assisted by a team of Officers & staff in the Vigilance Directorate of Railway Board. At present, there are five Executive Directors belonging to the Accounts, Engineering, Electrical and S&T, Stores & Traffic disciplines – they are in turn assisted by Directors/Joint Directors/Deputy Directors. There is also a post of Director Vigilance (P), which has traditionally been manned by IPS officers. The organizational chart of the Vigilance Directorate at the apex level in the Railway Board is shown in Annexure 1.1. Duties of various functionaries are given in para 104.

103.2 At the level of Zonal Railways, the Vigilance Organization is headed by the Senior Deputy General Manager (SDGM), who is also designated as the Chief Vigilance Officer of the Zonal Railway. In Production Units & Public Sector Undertakings attached to the Ministry of Railways, the Vigilance Organization is headed by a Chief Vigilance Officer (although the CVC refers to the CVOs as Vigilance Officers only). The CVO reports directly to the General Manager/Head of the Unit. He is generally in the rank of Joint Secretary to the Government of India. He is assisted by Vigilance officers drawn from various disciplines of Railway services – Chief Vigilance Officers (Senior Administrative Grade), Dy. Chief Vigilance Officers (Selection Grade/Junior Administrative Grade), Vigilance Officers (Senior Scale) and Assistant Vigilance Officers (Junior Scale) – and inspectors, watchers, office staff etc. The exact composition of Vigilance officials varies across Railways. The representative structure of the Vigilance organization on Zonal Railways, Production Units and PSUs is shown in Annexure 1.2.

103.3 In the case of small units/PSUs, it may not always be possible to have a full time Chief Vigilance Officer. In that case, an officer with relatively less executive responsibilities is made in-charge of Vigilance work in that unit – in such cases, it is to be ensured that he is not given additional charge of sensitive matters, like dealing with tenders, selections, arbitrations, etc. In the case of small attached units, a contiguous unit having a full-fledged Vigilance set-up is made responsible for Vigilance functions of that unit as well. Details are shown in Annexure 1.3.

103.4 There is also a full-fledged enquiry organization under the administrative control of SDGM, to deal with D&A (Discipline & Appeal) enquiries arising from Vigilance cases. This organization is manned by Enquiry Officers (Sr. Scale), Assistant Enquiry Officers (Junior Scale) and Enquiry Inspectors.

104 FUNCTIONS & RESPONSIBILITIES OF VIGILANCE FUNCTIONARIES IN RAILWAY BOARD

While it is difficult to outline an exhaustive list of functions & responsibilities of Vigilance functionaries, as the sphere of Vigilance is ever-evolving, an indicative list is as under:

(i) Undertake prompt investigation of authenticated complaints, with special emphasis on Presidential & PMO references, CA-iii references (Procedure for handling CA-iii references has been included as Annexure 1.6), CVC-referred

complaints, complaints appearing in the media and serious complaints, involving malafide intent, sent by members of the public.

(ii) Carry out checks, with follow-up investigations, on serious cases of irregularities, based on source information.

(iii) Ensure speedy processing of Vigilance cases at all stages. Undertake regular review of these cases.

(iv) Ensure that charge sheets are prepared accurately, without any loopholes, and relevant documents are carefully sorted out and sent promptly to the Inquiry Officer.

(v) Ensure prompt appointment of the Presenting Officer (PO) and the Inquiry Officer (IO) for DAR inquiries.

(vi) Ensure that DAR inquiries are conducted expeditiously by Inquiry Officers, who are under the administrative control of SDGMs.

(vii) Process the IO's report properly and expeditiously for obtaining final orders of the Disciplinary Authority.

(viii) Ensure that the Central Vigilance Commission (CVC) is consulted at all relevant stages (details in Chapter II & VI), in an expeditious manner.

(ix) Ensure prompt submission of returns to CVC.

(x) Maintain close liaison with CVC, CBI and the Department of Personnel & Training.

(xi) Take appropriate and expeditious action with regard to Court cases.

(xii) Ensure that proper assistance is given to CBI for investigation of cases.

(xiii) Develop a system of collecting intelligence about malpractices being committed in the Organization.

(xiv) Scrutinize reports of Parliamentary Committees, Audit Reports, proceedings of both Houses of Parliament, news items in the media, annual property statements, etc. to obtain information about irregularities that pertain to the Organization.

(xv) Keep a close watch on the functioning & integrity of personnel in the Vigilance department itself.

(xvi) Undertake review of existing rules & procedures, with a view to plug loopholes and suggest systemic improvements to curb corruption.

(xvii) Maintain close surveillance on officials of doubtful integrity, and those who are on the 'Agreed' and 'Secret' lists.

(xviii)Arrange regular and surprise inspections at sensitive work units, which are susceptible to corruption.

(xix) Monitor adherence to aspects of Conduct Rules relating to integrity.

(xx) Disseminate awareness about Vigilance, through Vigilance bulletins, seminars, workshops, lectures, etc.

(xxi) Undertake regular inspection of the Vigilance branch.

105 DUTIES OF THE CVOS ON THE RAILWAYS

(i) The duties and functions mentioned in para 104 for the CVO of the Ministry of Railways would also ipso facto be applicable to the CVOs of Zonal Railways to the extent they are concerned with these functions.

(ii) In addition to the functions stated in (i) above, the CVOs will scrutinize all the complaints and source information received in zonal vigilance. They will further ensure that a time schedule is drawn up by the concerned Dy. CVOs/VOs with their VIs, for all the investigations to be conducted by Railway Vigilance and that all such investigations are finalized promptly and the investigation reports submitted to Railway Board in the cases involving gazetted officers within two months in case of PIDPI/CVC referred complaints.

(iii) The CVOs will also carry out a periodical review of all the DAR cases with the CPO/ Dy.CPO(G), etc.

(iv) He must also ensure that preventive checks are carried out and the minimum number prescribed in this regard viz. 40 preventive checks per year per Vigilance Inspector is strictly observed. Some of the preventive checks should also be carried out by the Dy.CVOs/ VOs/ AVOs personally.

(v) The CVO must also carry out inspection of his Vigilance Branch at least once a year.

(vi) They must also ensure that enquiries by the EO/ EIs (Vig.) and other Enquiry Officers are conducted expeditiously and that EO (Vig.)/ EI (Vig.) submits four enquiry reports per month.

(vii) Periodical meetings should also be held with the Dy.CVOs/ VOs with a view to discussing pendency and expediting disposals.

(viii) Periodical meetings should be held with SPs/ SPE/ CBI concerned.

(ix) To frame, review and furnish periodically the agreed list, the secret list, and the list of undesirable contact persons to Railway Board.

(x) To appoint Dy.CVOs/ VOs/ AVOs and EOs after obtaining the approval of the CVO of the Ministry of Railways.

(xi) To ensure that the tenure of VOs/ VIs is not normally exceeded and no extensions are granted without prior specific approval of the Authority.

(xii) To ensure that the Dy.CVOs/ VOs etc, including the CVO himself do not sit on any Tender Committee or Selection Committees as per rules in force.

(xiii) Periodical Lectures and talks with officers DRMs/HODs, and Staff in Zonal Training School to spread Vigilance education.

106 ROLE OF SUPERVISORY OFFICERS

(i) It is the duty of every officer holding a Supervisory post in any organisation to take all possible steps to ensure the integrity and devotion to duty of all officials for the time being under his control and authority.

(ii) The supervisory officer ensures that officers for the time being under his control maintain absolute integrity. A column has been introduced in the proforma for Annual Performance Appraisal Report (APAR) of officials in which the supervisory officer reports on the integrity of the officer reported upon. If any suspicion arises upon the integrity of officials under his control, further action is taken as per guidelines issued in this regard.

107 ASSOCIATION OF CVO WITH OTHER ORGANISATIONAL MATTERS

107.1 Participation in decision making or close association of CVO or the vigilance staff in such matters over which they might be required, at a later stage, to sit in judgment from vigilance point of view, should be avoided. Therefore, CVO and the vigilance functionaries should not be a party to decision-making processes, which are likely to have vigilance sensitivity, as this may result in conflict of interest. However, advice can be tendered on some policy matters especially those requiring implementation of preventive vigilance measures.

107.2 While it may not be difficult for full-time vigilance functionaries to comply with this requirement, the compliance of these instructions could be achieved in respect of part-time vigilance functionaries by confining their duties, other than those connected with vigilance work, as far as possible, to such items of work that are either free from vigilance angle or preferably serve as input to vigilance activities such as inspection, audit, etc.

108 APPOINTMENT OF OFFICERS/STAFF FOR VIGILANCE WORK

108.1 In terms of Para 2.2 of CVC Manual 2021, there is an en-cadred post of full time CVO in few Departments viz., CBDT, CBEC, Department of Posts and Railway Board. The PED/Vigilance (Chief Vigilance Officer/Ministry of Railways) is appointed only after prior consultation with the CVC. Prior consultation with CVC is also necessary if a change of CVO is sought.

108.2 All other Gazetted Officers in the Vigilance Organization are appointed only after obtaining prior clearance from the PED (Vigilance). Vigilance Inspectors and staff in a Vigilance unit are posted after the approval of the Chief Vigilance Officer of the Unit.

108.3 Zonal Railways are also allowed to create posts of Vigilance Inspectors, charged to Civil Engineering, Electrical and S&T construction projects. (Details in Annexure 1.5)

109 DUTIES OF FUNCTIONARIES IN THE VIGILANCE DIRECTORATE, RAILWAY BOARD

109.1 **Executive Director Vigilance (Engineering)**

(i) Deals with cases of Engineering and Mechanical Departments

(ii) Furnishes vigilance status of officials of Engineering and Mechanical Departments

(iii) Deals with vigilance cases pertaining to tenders of Engineering and Mechanical Departments

(iv) Deals with all matters of Vigilance policy.

(v) Processes banning of firms of Engineering and Mechanical Departments

(vi) Processes intake of Vigilance Inspectors on deputation basis in the Vigilance Directorate, and posting of Vigilance officers on Zonal Railways.

(vii) Deals with recruitment of Hawaldars & Sainiks in the Vigilance Directorate.

(viii) Deals with staff matters in the Vigilance Directorate.

(ix) Nodal Officer for preparation of Agreed & Secret lists.

(x) Organizes training courses for Vigilance Officers and Vigilance Inspectors.

(xi) Organizes SDGMs' conferences.

(xii) Arranges printing of Vigilance Bulletins.

(xiii) Coordinates dispatch of returns to CVC.

(xiv) Processes statistical information, publicity etc.

(xv) Keeps a watch on working of the Inquiry Organization on various Zonal Railways.

(xvi) Nominates Inquiry Officers for DAR inquiries in cases of Gazetted Officials.

EDV(E) is assisted by Director Vigilance (Engineering) I & II, Director Vigilance (Mechanical) and Dy. Director (Vigilance I & III), and Vigilance I, III branches. Director Vigilance (Mechanical) assists EDVE in all the administrative and policy functions of the Vigilance Directorate which have been indicated above.

109.2 **Executive Director Vigilance (Traffic)**

(i) Deals with all cases of the Traffic Department other than irregularity in selections involving Traffic Officers.

(ii) Organizes checks in spheres of Traffic Undercharges, Mass Contact Areas, Commercial Contracts, etc.

(iii) Deals with all cases of misuse of duty pass, privilege pass, PTO and all other types of passes.

(iv) Deals with vigilance cases pertaining to tenders of the Commercial Department.

(v) Furnishes vigilance status of officials of the Traffic Department.

EDV(T) is assisted by Director Vigilance (Traffic)-I and Director Vigilance(Traffic)-II, Dy. Director Vigilance (Vig-II & Traffic), Assistant Vigilance Officer(Traffic) and Vigilance-II & Vigilance (Special Squad) branches.

109.3 **Executive Director Vigilance (Stores)**

(i) Deals with all cases relating to the Stores Department.

(ii) Deals with all cases of purchase through Stores Department, including purchases of the Medical Department.

(iii) Deals with computerization in the Vigilance Organization.

(iv) Furnishes vigilance status of officials of the Stores Department.

EDV(S) is assisted by Director Vigilance (Stores), Joint Director Vigilance (Confidential), Joint Director Vigilance (Stores), Dy. Director Vigilance (Confidential), Vigilance-IV and Vigilance Confidential Branches. Director Vigilance (Stores) is also the nodal CPIO for RTI in Vigilance Directorate.

109.4 **Executive Director Vigilance (Accounts)**

(i) Deals with all cases of Accounts, Personnel, Medical and General Administration Departments.

(ii) Deals with all cases of irregularities in selections, except those done by Railway Recruitment Boards (RRBs).

(iii) Furnishes vigilance status of officials of Accounts, Personnel & Medical Departments.

EDV(A) is assisted by Dy. Director Vigilance (A&P, i.e. Accounts & Personnel), and the Vigilance IV branch.

109.5 **Executive Director Vigilance (Electrical)**

(i) Deals with cases of Electrical and S&T departments.

(ii) Furnishes vigilance status of officials of Electrical and S&T departments.

(iii) Deals with Vigilance cases pertaining to tenders of Electrical and S&T departments in which Convener is from Electrical and S&T department.

(iv) Processes cases of banning of firms pertaining to Electrical and S&T departments.

(v) Updation of website of Vigilance Directorate.

(vi) Organises checks in spheres pertaining to Electrical and S&T departments.

Executive Director Vigilance (Electrical) is assisted by Director Vigilance (S&T), AVO (Electrical) and Vigilance III(4) branch in performance of these activities.

109.6 **Director Vigilance (Police)**

(i) Deals with all cases of the Security Department, Intelligence Branch, Railway Recruitment Boards, Members of Railway Board, Officers of the level of Directors and above in Railway PSUs and Vigilance Personnel.

(ii) Maintains liaison with CBI & Police.

(iii) Furnishes vigilance status of officials of the Security Department, Intelligence Branch, Railway Recruitment Boards, Railway Board Officials and Vigilance Department.

DV(P) is assisted by Director Vigilance(I), Joint Director (R&SC) (i.e. RRB & Security), and Dy. Director Vigilance (Confidential), and the Vigilance Confidential Branch. Director Vigilance(I) also handles Training, CPGRAMS and reports to EDVE for these subjects.

110 DUTIES & RESPONSIBILITIES OF VIGILANCE OFFICIALS

110.1 The Vigilance officials are authorized to enter any of the premises of Indian Railways, including its PSUs, inspect any records and take possession of such documents, materials or stores under the control of Railway as are necessary in connection with the investigation of a case as per procedure.

110.2 The Vigilance officials are authorised to check the Ticket/Travel Authority/ Pass of passengers under section 54 of Indian Railways Act, 1989.

110.3 The Vigilance officials are authorized to check the cash of any railway official, who is required to declare his private cash and take the statement(s) of any official(s) /passenger(s)/ user(s)/ contractor(s). While conducting checks on officials dealing with cash, Vigilance officials are empowered to check places where possibility of keeping cash exists. This will also extend to recovery of Government currency notes from suspect officials in case of Departmental Decoy Checks and Traps.

110.4 Vigilance officials are authorized to tender requisition to non-gazetted officials of Railways to witness or to assist or to associate with the checks. The tendered officials, in such cases, need not seek any prior permission from their higher authorities for assisting vigilance officials. For assistance of a Gazetted officer, the request should be from a Vigilance Officer only.

110.5 Officers and staff of all Departments shall render every assistance to Vigilance officials in the discharge of their official duties.

110.6 While going for inspection, check or investigation, Vigilance Inspectors should carry with them a current and valid Identity Card to show to the parties concerned before proceeding with the checks.

111 VIGILANCE BULLETIN

111.1 A Vigilance bulletin is brought out periodically on Zonal Railways. It highlights major vigilance cases involving irregularities, violation of rules and procedures, malpractices, misuse of powers etc. as detected during vigilance checks and investigations. It also contains write-ups on policy matters and guides Railway personnel on extant rules & procedures, helping them to avoid possible mistakes.

Annexure–1.1

ORGANIZATIONAL SET UP CHART OF VIGILANCE DIRECTORATE, RAILWAY BOARD

PED/VIG	EDVE	DVE-I DVE-II	DDV3 SO V3-1 SO V3-2
		DV-M	DD V1 DD V3 SO V1
	EDVL	DV(S&T)	AVO-L SO V34
	EDVT	DVT-I	AVO-T DD V2 DDVT SO V2(1) SO V2(2)
		DVT-II	SO VSS-1 SO VSS-2
	EDVS	DVS	JDVS
		JDVC	SO VC
	EDVA	DDV-A&P	SO V4-1 SO V4-4
	DVP	DV-I	DDVC
		JDV-R&SC	

EDV(E) Looks after Engineering and Mechanical Departments, Agreed List/Secret List, Policy Matters & Co-ordination.

EDV(L) Looks after Electrical and S&T Departments.

EDV(T) Looks after Traffic Department

EDV(S) Looks after Stores Department

EDV(A) Looks after Accounts, Personnel, Medical & General Administration Departments

DV(P) Looks after RRB, Security Department, cases of Members/Railway Board, vigilance personnel, cases of officers of PSUs (CMDs & Board level appointees) and co-ordination with CBI.

Annexure –1.2

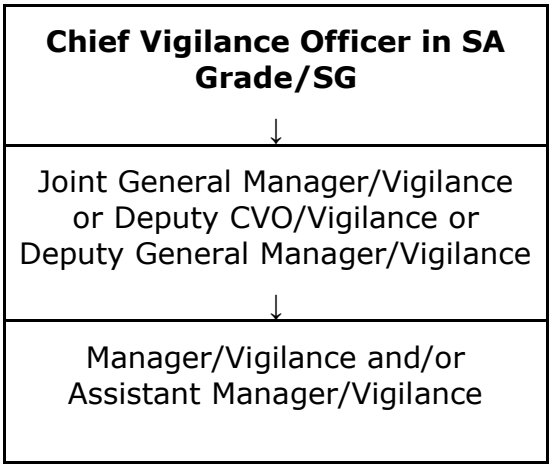
Representative Vigilance Organization of Zonal Railways

SDGM	DY.CVO(T)	VO(T) or AVO(T)
	DY.CVO(E)	AVO(E)
	DY.CVO(S)	VO(M) or AVO(M)
	DY.CVO(A)	AVO(P)
	DY.CVO(ELEC) or DY. CVO(S&T)	

Organisation of Vigilance Department in Production Units/other Units

Chief Vigilance Officer in SA Grade
↓
Deputy Chief Vigilance Officer in SG/JA Grade and/or Vigilance Officer in Senior Scale/Junior Scale
↓
Vigilance Inspectors

Organisation of Vigilance Department in PSUs



Annexure-1.4

VIGILANCE SET-UP IN OTHER RAILWAY ORGANISATIONS ATTACHED TO ZONAL VIGILANCE

ZONAL RAILWAY	ATTACHED UNITS
Central Railway	Metropolitan Transport Project, Mumbai, Indian Railways Institute of Civil Engineering, Pune; Indian Railways Institute of Electrical Engineering, Nasik
Eastern Railway	RRB/Malda, Indian Railways Institute of Mechanical and Electrical Engineering, Jamalpur
Northern Railway	RRB/Chandigarh, RRB/Jammu Tawi, Indian Railways Institute of Transportation Management, Lucknow; National Rail Museum, New Delhi; Central Organisation for Modernization of Workshops (COFMOW), Indian Railways Organisation for Alternative Fuels, New Delhi
North Eastern Railway	RRB/Gorakhpur
Northeast Frontier Railway	RRB/Guwahati, General Manager (Const.)/ Guwahati.
Southern Railway	RRB/Chennai, RRB/Trivandrum, Metropolitan Transport Project, Chennai
South Central Railway	RRB/Secunderabad, Indian Railways Institute of Signal Engineering & Telecommunication, Secunderabad;
South Eastern Railway	RRB/Kolkata, RRB/Ranchi
South East Central Railway	RRB/Bilaspur
Western Railway	RRB/Ahmedabad, RRB/Mumbai, National Academy of Indian Railways, Vadodara
East Central Railway	RRB/Patna, RRB/Muzaffarpur
North Central Railway	RRB/Allahabad
West Central Railway	RRB/Bhopal
South Western Railway	RRB/Bangalore
East Coast Railway	RRB/Bhubaneshwar
North Western Railway	RRB/Ajmer

NOTE: The complaints received/forwarded against officials of Workshop Projects should be investigated by the respective zones in which the projects are located and investigation reports sent to Board Vigilance for further processing along with the comments of the concerned CAO/Head of Organisation.

Annexure 1.5

D&G Charges in various Work Estimates

No 2017/E&R/3(2)/2 dated 04-03-2020

Annexure 1.6

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS
(RAILWAY BOARD)
Office Order No. 28 of 1997

Subject: Level and time limit for disposal of CA-iii references received by MR/ MOS(R)

Queries are being received by Chasing Cell from various officers and Branches regarding the level of disposal of CA-iii references addressed to Minister of Railways/Minister of State for Railways.

2. At present, the following categories are being marked by MR/MOS(R) Cell on the letters received in their respective Secretariats:-

Category - A	All Communications received from VIPs víz President of India, Vice-President of India, Governors, Central Ministers, Ministers from States, MPs, MLAs and Councillors
Category - B	Letters received from other VIPs like Ex-Central Ministers, Ex-Ministers from States and Ex-MPs etc.
Category - M	All communications on which MR/ MOS(R)'s remarks are made.
Category – C	Letters seen by PS to MOS (R) but not covered under A, B and M above
Category - O	All communications received in MR/MOS(R) Secretariat, but not covered under A, B, M and C above.

3. Draft replies or position in respect of communications marked Categories "A" and "M" are to be put up to MR/ MOS (R) for consideration

4. Draft replies or position in respect of communications 'B' to be put up to MR/MOS(R) secretariat in the light of Office Order No. 52 of 1996.

5. Reference under Category 'C' and 'O' may be disposed of at the level of AMs/Executive Directors/Directors/Jt. Directors concerned, depending on the merits of the case.

6. As laid down under Office Order No. 23 of 1997, replies to the communications should be issued within 10 days where no information is required from the Railways, and within 15 days where information is required to be obtained from Railways.

7. Kindly ensure strict compliance of the above instructions.

(Prakash Gokhale)

Deputy Secretary (Parliament)

No. 88/CS/CDN/1799 - Dated 03.06.1997

Chapter II CVC AND ITS JURISDICTION

201 VIGILANCE AGENCIES

Anti-corruption measures of the Central Government are responsibility of (i) the Central Vigilance Commission [hereinafter referred to as the Commission] (ii) Administrative Vigilance Division [AVD] in the Department of Personnel & Training; (iii) Central Bureau of Investigation [CBI]; (iv) Vigilance units in the Ministries/ Departments of Government of India, Central Public Sector Enterprises and other autonomous organisations [hereinafter referred to as Department]; (v) Disciplinary Authorities; and (vi) Supervisory Officers.

202 CENTRAL VIGILANCE COMMISSION

(a) *Genesis:* The Central Vigilance Commission was set up by the Government of India by a *Resolution, dated 11.2.1964* in pursuance of the recommendations made by the Committee on Prevention of Corruption *[popularly known as Santhanam Committee]*. Further, it was in pursuance of the directions of the Hon'ble Supreme Court in the case of *Vineet Narain vs. Union of India [CWP 340-343 of 1993]* that the Commission was accorded statutory status with effect from 25.8.1998 through "*The Central Vigilance Commission Ordinance, 1998*". It was followed by *CVC (Amendment) Ordinance dated 27.10.1998, CVC Ordinance dated 8.01.1999, DoPT Resolution No. 371/20/99-AVD-III dated 04.04.1999 and DoPT Resolution No. 371/20/99-AVD-III dated 13.08.2002*, while the CVC Bill was under the consideration of the Parliament. Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave assent on 11th September 2003. Thus, the Central Vigilance Commission Act, 2003 (No.45 of 2003) came into effect from that date.

(b) *Set-up:* In terms of the provisions contained in Section 3 & 4 of CVC *Act, 2003*, the Commission shall consist of a Central Vigilance Commissioner [Chairperson] and not more than two Vigilance Commissioners [Members]. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President by warrant under his hand and seal for a term of four years from the date on which they enter upon their offices or till they attain the age of sixty-five years, whichever is earlier. The Commission is assisted by a Secretary who is appointed by the Central Government.

203 JURISDICTION OF CENTRAL VIGILANCE COMMISSION

203.1 Jurisdiction under Section 8 of CVC Act, 2003:

For the purpose of clause (d) of Section 8(1) of *CVC Act, 2003*, the Commission's jurisdiction extends to such category of public servants as defined under Section 8(2) of the Act and subsequent notifications issued by the Central Government from time to time.

Clause 8(1)(g) of the *CVC Act, 2003* requires the Commission to tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, such Government companies, societies and local authorities owned or controlled by the Central Government or otherwise and for this purpose the Commission's jurisdiction is coterminus with those provided under Section 8(2) of *CVC Act, 2003*.

203.2 The following categories of public servants [hereinafter referred to as Category 'A' officers] fall within the jurisdiction of the Commission in terms of sub-section (2) of Section 8 of CVC Act, 2003:

(a) Members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;

(b) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1) of Section 8 of *CVC Act, 2003*.

(c) On a reference made by the Lokpal under proviso to sub-section (1) of section 20 of the *Lokpal and Lokayuktas Act, 2013*, the persons referred to in clause (d) of sub-section (1) shall also include–

(i) members of Group B, Group C services of the Central Government;

(ii) such level of officials or staff of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued under this clause, all officials or staff of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred in clause

(d) of sub-section (1)of Section 8 of *CVC Act, 2003*.

203.3 At present, the following levels of officers have been notified by the Central Government for the purpose of clause (b) of sub-section (2) of Section 8 of CVC Act, 2003 (DoPT Notifications vide S.O. 371(E) dated 18.3.2004 & S.O. 1538(E) dated 12.9.2007):

(i) Officers of Scale V and above of Public Sector Banks; (Scale V is in the range of Rs. 59,170-66,070 in most banks as on 01.01.2015)

(ii) Chief Executives and Executives on the Board and other officers of E-8 and above in respect of Schedule 'A' and 'B' Public Sector Undertakings;

(E-8 Scale in Sch. 'A' & 'B' CPSEs is in the range of Rs. 51,300 – 73,000 effective from 01.01.2007 pursuant to pay revision after 6th CPC)

(iii) Chief Executives and Executives on the Board and other officers of E-7 and above in respect of Schedule 'C' and 'D' Public Sector Undertakings; (E-7 Scale in Sch. 'C' & 'D' CPSEs is in the range of Rs. 43,200 – 54,000 effective from 01.01.2007 pursuant to pay revision after 6th CPC)

(iv) Officers in Grade 'D' and above in respect of RBI, NABARD and SIDBI; (As on 01.01.2015 the Grade 'D' Scale in RBI is Rs. 39,850 – 46,150)

(v) Managers and above in General Insurance Companies;

(vi) Senior Divisional Managers and above in Life Insurance Corporations; and

(vii) Officers drawing salary of Rs. 8700/ -p.m. and above on Central Government D.A. pattern, as on the date of the notification (*DoPT* Notification dated

12.9.2007) and as may be revised from time to time in Societies and other Local Authorities.

204 JURISDICTION OVER OTHER CATEGORIES IN SPECIAL CASES

(a) *Composite cases:* In composite cases, Commission's advice would be necessary in respect of all officers of the Central Government or an organisation under it, irrespective of their level, if they are involved in the same matter in which Category 'A' is involved.

(b) *Difference of opinion:* The Commission's advice would also be necessary in cases of difference of opinion between the disciplinary authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the Commission if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments. *(CVC Circular No. 98/VGL/15 dated 16.04.2004)*.

(c) *Complaints under PIDPI Resolution:* For the purpose of *Public Interest Disclosure and Protection of Informer Resolution 2004*, the Commission's jurisdiction extends to any employee of Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government irrespective of the category or class or group of employees.

(d) *Below Group 'A' Gazetted officers of Central Government:* In terms of *GoI Resolution, dated 11.02.1964*, the Commission's jurisdiction extended to Group 'A' and Group 'B' gazetted officers of the Ministry or Department and equivalent level of officers in organisations. However, after the enactment of *CVC Act, 2003*, the jurisdiction of Commission extends to the officers as described in paras above. Further, in respect of cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice before issue of *CVC Circular No. 98/VGL/15 dated 16.04.2004*, the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which coincides with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or a Group 'A' officer. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not conform to the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum of punishment to be imposed).

205 FUNCTIONS AND POWERS OF CENTRAL VIGILANCE COMMISSION

205.1 The functions and powers of the Commission, laid down in Section 8(1) of the CVC Act, 2003, are as under:

(a) To exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the *Prevention of Corruption Act, 1988* or an offence with which a public servant specified in sub-section (2) of Section 8 of CVC Act, 2003 may, under the *Code of Criminal Procedure, 1973*, be charged at the same trial;

(b) To give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of

the *Delhi Special Police Establishment Act, 1946*; Provided that while exercising the powers of superintendence or giving directions to, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of any case in a particular manner;

(c) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988; or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

(d) To inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

(e) To review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or the public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;

(f) To review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

(g) To tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(h) To exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government: Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

205.2 The functions and powers of the Commission as laid down in some other Sections of CVC Act, 2003 are as under:

(a) Power relating to inquiries: Section 11 of CVC Act, 2003 provides that the Commission, while conducting any inquiry referred to in Section 8(1) (c) and (d) of CVC Act, 2003, shall have all the powers of a civil court trying a suit under the Cr.P.C., 1973 and in particular, in respect of the following matters, namely: –

(i) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing Commissions for the examination of witnesses or other documents; and

(vi) any other matter which may be prescribed.

(b) *Tender advice on Report of inquiry:* Report of inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission and on receipt of such report and after taking into consideration any other factors relevant thereto, the Commission would tender its advice to the Central Government and Corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government, as the case may be, as to the further course of action. They shall take appropriate action after taking into consideration the advice of the Commission and in the event of disagreement, the reasons shall be recorded in writing and communicated to the Commission.

(c) *Call for Reports & returns:* In terms of Section 18 of *CVC Act, 2003)*, the Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities. Presently, Monthly Report, Annual Report and Quarterly Progress Report (QPR) are required to be submitted to the Commission in prescribed proforma.

(d) *Mandatory consultation by Central Government:* The Central Government shall, in making any rules or regulations governing the vigilance or disciplinary matters relating to persons appointed to public services and posts in connection with the affairs of the Union or to members of the All-India Services, consult the Commission. (Section 19 of *CVC Act, 2003)*

(e) *Annual report of Commission:* The Commission is to present annually to the President a report as to the work done by it within six months of the close of the year under report. The report shall contain a separate part on the functioning of the Delhi Special Police Establishment in so far as it relates to Section 4(1) of the *Delhi Special Police Establishment Act, 1946*. On receipt of such report from the Central Vigilance Commission, the President shall cause the same to be laid before each House of Parliament. (Section 14 of *CVC Act, 2003)*

205.3 **Residuary functions under CVC Resolution of 1964:** In terms of Section 24 of the CVC Act, 2003, the Commission continues to discharge the functions entrusted to it vide GoI Resolution dated 11.02.1964, in so far as those functions are not inconsistent with the provisions of the Act. Thus, the Commission continues to perform the following functions:

(a) *Appointment of CVOs:* The Chief Vigilance Officer in Ministries/ Departments (whether fulltime or part-time) will be appointed in consultation with the Central Vigilance Commission and no person whose appointment as the Chief Vigilance Officer is objected to by the Central Vigilance Commission will be so appointed. *(DoPT OM No. 371/32/97-AVD. III dated 28.11.1997* and *para 6 of the GoI Resolution dated 11.02.1964*

(b) *Writing APARs of CVOs:* In terms of *DoPT OM No. 122/2/85-AVD.I dated 28.01.1986* and para 7 of *GoI Resolution dated 11.02.1964*, the Central Vigilance Commissioner would assess the work of the CVO which would be recorded in the character rolls (APARs) of the officer concerned. As laid down in *DoPT OM No. 11059/2/93-AIS (III) dated 13.03.1993 and 14.04.1993*, the Central Vigilance Commissioner would add his remarks in the APARs of the CVO of Public Sector Undertakings/ Organisations as the accepting authority. However, in respect of the CVOs of the Ministry/ Departments such assessment would be recorded on a separate sheet and added to the APARs of the CVO concerned.

(c) *Commission's advice in Prosecution cases:* In cases in which the sanction for prosecution is required to be accorded in the name of the President under any law, the Commission will advise the Ministry/ Department concerned and it would be for that Ministry/ Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned.(para 2(vii) of *GoI Resolution dated 11.02.1964)* and the guidelines issued by *DoPT* vide *OM No. 134/2/85*

AVD-I dated 15/17.10.1986 and OM No. 399/33/2006-AVD-III dated 06.11.2006).

(d) *Resolving difference of opinion between the CBI and the administrative authorities:* In terms of the *DoPT* guidelines and GoI Resolution referred to in sub-para (c) above, in cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the CBI, the case will be reported to the Commission and the authority will take further action after considering the Commission's advice. In cases recommended by the CBI for Departmental action against such employees as do not come within the normal advisory jurisdiction of the Commission, the Commission will continue to resolve the difference of opinion, if any, between the CBI and the competent administrative authorities as to the course of action to be taken.

Provided that in cases falling under the categories mentioned in sub-para (c) and (d) above and where the administrative authorities do not propose to accept the advice of the Commission for grant of sanction for prosecution, it should be referred to *DoPT* for a final decision as laid down in the *DoPT OM dated 15/17.10.1986*.

(e) *Entrusting cases to CDIs:* The Commission has the power to require that the oral inquiry in any Departmental proceedings, except the petty cases, should be entrusted to one of the Commissioners for Departmental Inquiries borne on its strength or such other officer as it may deem fit. (Para 2 (viii) of *GoI Resolution dated 11.02.1964)*

(f) *Advising on procedural aspects:* If it appears that the procedure or practice in a Department or Organisation is such as it affords scope or facilities for corruption or misconduct, the Commission may advise the Department or the Organisation concerned that such procedure or practice be appropriately changed, or changed in a particular manner.(Para 2 (x) of *GoI Resolution dated 11.02.1964)*

(g) *Review of Procedure and Practices:* The Commission may initiate at such intervals as it considers suitable, the review of procedures and practices of administration in a Department or Organisation in so far as they relate to

maintenance of integrity in administration. (Para 2 (xi) of *GoI Resolution dated 11.02.1964)*

205.4 **Functions under PIDPI Resolution 2004**: CVC is the designated authority under Public Interest Disclosure and Protection of Informer Resolution 2004 to receive complaint alleging corruption against any employee of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and to take further action thereon including recommending disciplinary and criminal proceedings. Commission is also empowered to take appropriate action for protection of informer.

205.5 **Inputs on Vigilance Status of officers for appointment to key positions:** DoPT vide its OM No. 104/33/2005-AVD-I dated 29.10.2007, No.11012/11/2007-Estt.A dated 14.12.2007andNo. 27(5) – EO/88 (ACC) dated 04.08.1988 has laid down that while considering cases for grant of vigilance clearance for the purpose of empanelment of AIS officers of any particular batch, for members of Central Civil Services/ Central Civil posts, Board level positions in Public Sector Enterprises, the comments of the Central Vigilance Commission may be obtained. Further, Commission's Circular No. No. 3(v)/99/4 dated 12.07.1999 provides that vigilance clearance shall also be obtained from the Commission in respect of all candidates/ officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a Board level or below Board level post at that point of time.

205.6 **Capacity Building Programmes:** Commission organises training programmes for the CVOs and for its own personnel. It conducts a monthly lecture by eminent person which is web-cast live.

205.7 **Vigilance Awareness Week:** Commission vide its Circular No.3(v)/99/11 dated 23.06.2000 has declared that the week in which 31st October, which is the Birth anniversary of Sardar Vallabh Bhai Patel, the first Home Minister of India falls, shall be observed as "Vigilance Awareness Week" with a view to spread awareness among citizens regarding the fight against corruption and their role. Every year in August/ September, the Commission issues a Circular for observance of Vigilance Awareness Week by the Ministries/ Departments/ Organisations with specific theme. The Circular lays down the measures to be taken during the week which, inter alia, includes organising workshops, seminars, debate, competition, slogan/ essay writing, cartoon, painting, etc. at micro level such as school, colleges, institutes, etc. News Letter: Central Vigilance Commission brings out its quarterly newsletter "VIGEYEVANI" to create awareness against corruption, besides sharing its activities with all the stakeholders against corruption.

205.8 **Assistance to Constitutional Courts:** Whenever directed to do so, the Commission has assisted the Hon'ble Supreme Court of India or the High Courts in specific cases, e.g. cases relating to allocation of 2G spectrum, allocation of coal blocks, works executed in connection with CWG 2010, etc.

206 ORGANISATIONAL STRUCTURE OF COMMISSION

206.1 In terms of Section 3(4) of CVC Act, 2003, the Central Government appoints a Secretary to the Commission to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

206.2 In terms of Section 7 of CVC Act, 2003, the Central Government, in consultation with the Commission, makes rules with respect to the number of members of the staff of the Commission and their conditions of service.

206.3 In terms of Section 13 of CVC Act, 2003, the expenses of the Commission, including salaries, allowances and pensions payable to the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, is charged on the Consolidated Fund of India.

206.4 The Commission is assisted in discharge of its functions by a Secretariat headed by the Secretary. At present, there are four Additional Secretaries. Besides, there are two Chief Technical Examiners who assist the Commission in technical matters. The major Branches/ Units of the Commission are:

(a) Vigilance: There are nine Vigilance Branches, each of them under a Director/ Deputy Secretary level officer who are in turn supervised by the respective Additional Secretaries. The Vigilance Branches process the complaints and cases pertaining to the various Ministries/ Departments or Organisations falling under Commission's jurisdiction and communicate advice of the Commission.

(b) Confidential: It handles complaints received under PIDPI Resolution.

(c) Co-ordination: It deals with policy matters, Annual Report, research, CVO's appointment, Vigilance clearance, matters pertaining to superintendence over CBI, etc.

(d) CDI Unit: To assist the disciplinary authorities in the expeditious disposal of oral inquiries, the Ministry of Home Affairs appointed Officers on Special Duty [later re-designated as Commissioners for Departmental Inquiries] on the strength of the Administrative Vigilance Division. On the recommendation of the Committee on Prevention of Corruption, the Commissioners for Departmental Inquiries were transferred to work under the control of the Central Vigilance Commission. The officers designated as CDIs undertake the function of conducting oral inquiries in individual disciplinary cases on behalf of the Disciplinary Authority.

(e) Inquiry Wing: Deals with direct inquiries into complaints conducted by the Commission under Section 11 of *CVC Act, 2003*.

(f) Vigilance Audit: Deals with audit of CVO's set-ups & its functioning in various Departments/ organisations by the officers of the Commission.

(g) Administration: It comprises of Establishment, Cash, General matters, Library and Hindi cell.

(h) Legal: It deals with matters involving legal issues.

(i) RTI: Nodal division for RTI matters and processing RTI Appeal cases.

(j) IT: Maintaining and implementing e-governance.

(k) Training: Deals with training of CVOs and others on vigilance administration and organising knowledge workshops, etc.

(l) CTE Organisation: It is the technical wing of the Commission headed by Chief Technical Examiners. It provides assistance and advice to the Commission on technical matters and issues relating to procurement. It carries out inspection of civil, electrical and horticulture works of the Central Government Departments, Central Public Sector Enterprises, CPSB and FIs,etc. (Refer Chapter IX of CVC Vigilance Manual 2017 for details on CTE Organization)

207 ADVISORY FUNCTIONS OF COMMISSION—A SUMMARY

207.1 Matters where the Commission tenders its advice to the competent authority in the following cases —

(a) when a request for grant of previous sanction necessary for prosecution is made by an investigating agency to the competent authority in respect of specified categories of public servants, and

(b) for initiating Departmental proceedings and before taking a final decision in the vigilance case against the specified category of public servants.

207.2 Previous sanction for prosecution—Consultation with Commission:

Commission tenders its advice:

(a) When the CBI or the other investigating agency recommends sanction of prosecution, in cases of officers in which sanction of prosecution is required to be accorded in the name of the President.

(b) In cases in which an authority other than the President is competent to accord sanction for prosecution, and that authority does not propose to accord sanction, the Commission tenders its advice for resolution of difference of opinion.

(c) Proposals from the State Government seeking prosecution sanction in respect of AIS officers against cases investigated by CBI or other investigating agency on matters pertaining to the affairs of the State Government are received in Government of India, as competent authority. The Central Government may refer such matters to the CVC to tender its advice.

207.3 Advice in departmental proceedings i.e. First Stage Advice, Second Stage Advice and reconsideration of advice.

207.4 Deviation from/ non-implementation of Commission's advice:

(a) When the Disciplinary Authority deviates from or does not implement Commission's advice, the CVO may bring it to the notice of the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

(b) When the Appellate Authority's order is at variance with Commission's advice, the CVO may forward a copy of Appellate Authority's Order to the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

207.5 Exemption from consultation in certain circumstances:

(a) In complaints referred by the Commission for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the Commission, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the

CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance. *(Circular No. 009/VGL/056 dated 28.01.2010)*

(b) In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in the case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the Commission wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the Commission for advice). *(CVC Circular No. 009/VGL/056 dated 28.01.2010)*

(c) In cases where the disciplinary authority (DA), on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice in respect of officers falling within the jurisdiction of the Commission, the second stage consultation with the Commission is not required. However, the CVO in all such cases is required to forward a copy each of the IO's findings and the final order issued by the DA in the case for Commission's record. *(Circular No. 08/12/14 dated 03.12.2014)*

(d) In cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice prior to the enactment of *CVC Act, 2003*, the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or a Group A' officer. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not conform to the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum of punishment to be imposed). *(CVC Circular No. 98/VGL/15 dated 16.04.2004)*

207.6 Expectations from CVO while delegating powers under para above: While delegating powers to the Ministries/ Departments/ Organisations to handle vigilance cases against certain categories of employees, the Commission expects that (i) appropriate expertise would be available to the CVOs; (ii) the CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed of expeditiously; and (iii) the punishment awarded to the concerned employee would be commensurate with the gravity of the misconduct established on his part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also review it through the monthly information system (monthly reports), etc. If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the reviewing authority or may give such directions as it considers appropriate.

208 COMMISSIONERS OF DEPARTMENTAL INQUIRIES (CDI)

In cases of major penalty against gazetted officers, the CVC mentions in its advice whether the DAR inquiry will be conducted by an Inquiry Officer to be nominated and appointed by the Ministry of Railways (RIOs – i.e. Railway Inquiry Officer), or by CDIs, who function under CVC. In case there is no specific mention of this fact, it is presumed that the Ministry of Railways would nominate an RIO, from amongst a panel that it maintains. In case the inquiry is conducted by a CDI, its report is submitted to Railway Board, which calls for comments of the Zonal Railway Vigilance and DA's provisional views.

209 MODE OF COMMUNICATION BETWEEN MINISTRIES/ DEPARTMENTS & CVC

The mode of communication between Ministries/Department & CVC should be by way of referring (sending & receiving) files. However, if in any case the CVC or the Ministry/Department does not wish to move the concerned file, a self contained note or letter may be sent in the form of Office Memorandum. In the context of the Ministry of Railways, Zonal Railways cannot make a direct reference to CVC – all cases have to be routed through Railway Board Vigilance to the CVC.

210 STATEMENTS/RETURNS TO BE SUBMITTED TO CVC

210.1 CVC is empowered to call for reports, returns and statements from all Ministries/Departments in order to exercise general check & supervision over Vigilance and anti-corruption work in various Ministries/Departments. In pursuance of this, CVC calls for monthly reports, quarterly reports and annual reports in a prescribed format from all the Ministries/Departments within its jurisdiction. This format has been advised to all the Vigilance wings in the Ministry of Railways vide letter No.2004/V-1/RET/8/1 dated 16.8.2004. As regards monthly reports, data should be compiled for the period from 26th of the previous month upto 25th of the month for which the report is being prepared, and the report should be sent so as to reach Board's office by the last day of the month.

210.2 Statements are sent to CVC regarding cases in which the implementation of its advice is pending. In this regard, the following may be noted:

1. Cases pending implementation of CVC's first stage advice would mean,

(a) In major penalty cases -till the appointment order of the IO and PO is received.

(b) In minor penalty cases -till the order of imposition of penalty is received.

2. Cases pending implementation of CVC's second stage advice would mean - till the order of imposition of penalty is received.

211 INTENSIVE EXAMINATION BY CHIEF TECHNICAL EXAMINER (CTE)/CVC

211.1 The Chief Technical Examiner's Organisation was created in 1957 in the then Ministry of Works, Housing and Supply for examining works being executed by the Central Public Works Department. With the creation of Central Vigilance Commission (CVC), the administrative control of this Organisation was transferred to it on 01.11.1964. The jurisdiction of this Organisation is co-terminus with that of CVC. As such, works of (1) all the Departments of

Government of India and Union Territories and (2) Central Public Sector Undertakings can be examined by this organisation.

Guidelines for Intensive Examination by CTEO are available on CVC website as the document "Guidelines on Intensive Examination of Procurement & Other Contracts, 2014"

http://www.cvc.nic.in/sites/default/files/cteguide_ie.pdf

211.2 The CTE's organization has unfettered powers to examine works of any magnitude, irrespective of whether these are original or repair works. However, since its resources are limited, it generally examines works of a large size only. It is in view of this that all the Chief Vigilance Officers of the Departments of Govt. of India, Union Territories, Central Public sector Undertakings, other autonomous and similar bodies are required to furnish Quarterly Progress Reports (QPR) in respect of ongoing/ completed procurement contracts for the quarter by 15th day of the month following the end of the quarter. In the CVC Circular No. 15/07/12, issued vide Letter No.98-VGL-25/18 dated 30.07.2012 the current monetary limits for reporting the contracts in QPRs are defined. The threshold limits are as follows:

(a)	Civil Works	Rs.5 Crores & above
(b)	Turnkey Works Projects	
(c)	Stores and Purchase	
(d)	Public –Private Partnership (Cost/Revenue values)	
(e)	Sale of goods/scrap/land	
(f)	Electrical/Mechanical Works/ Maintenance/Service Contracts Including Electronics/Instrumentation/ Telecommunication/Manpower supply, etc.	Rs.1 Crore & above
(g)	Medical Equipment	Rs.50 lakh & above
(h)	Consultancy Contracts	Rs.1 Crore & above
(i)	Horticulture Works	Rs.10 lakh & above
(j)	Supply of Medicines	4 largest value contracts

The QPRs should be submitted both in soft copy through e-Mail at **qpr.te.general@nic.in** as well as in hard copy, separately for each subcategory of procurement cases mentioned above. For contracts below the threshold value, CVO is required to conduct CTE type inspections and intimate the outcome to the Commission through their regular monthly/ quarterly reports. The SDGMs/Chief Vigilance Officers should, therefore, ensure that such returns are furnished to the CTEs by the stipulated dates. There may be occasions when the SDGMs/Chief Vigilance Officers come to know from their own sources about certain serious irregularities committed by public servants in various works. In

view of this, they have been given the freedom to recommend examination of particular works (mainly from the vigilance angle) in their reports to CTE.

211.3 After going through returns furnished by CVOs, the Chief Technical Examiners select certain works for intensive examination and inform the concerned CVOs about it. They ask the CVOs for relevant records, such as certified true copies of (a) contract documents, (b) the latest running account bills paid to contractors, etc. When the programme of actual intensive examination of works is finalized by the CTE, the concerned CVO is informed about it. The CVO is expected to make available all relevant documents and records, as may be necessary, to the CTE's team examining the works.

211.4 SDGMs/CVOs are also required to carry out technical examination of (a) works and (b) supply/purchase, service, and consultancy contracts on the pattern of CTE/CVC and furnish progress thereof to Railway Board.

212 ACTION TO BE TAKEN ON CTE's REPORTS

212.1 After carrying out intensive examination of works, the CTE's organization sends an inspection report to the concerned SDGM/ Chief Vigilance Officer. The SDGM/CVO should obtain comments of various officers (of appropriate level) posted at the site of work or in the office, on this inspection report. CVC has prescribed a time schedule

212.2 Following time schedule should be adhered by all concerned

(i) Submission of documents by CVO : 30 days from the date of issue of letter by CTEO.
(ii) Issue of IE report by CTEO : 30 days from the date of Inspection.
(iii) First reply by CVO to IE Para : Within 60 days from the date of issue of IE report.
(iv) Rejoinder to CVO's reply : 30 days from the date of reply.
(v) Reply to CTEO's rejoinder by CVO : 45 days from the date of issue of rejoinder.
(vi) Submission of I.R. by CVO : 3 months from the date of issue of the reference by the Commission.

212.3 The comments should include:

(i) A statement regarding correctness of facts stated in the report. If some of the facts are not correct, this should be clearly brought out. The correct facts in this regard should also be indicated, if these are at variance with facts mentioned in the report.
(ii) A detailed justification for acts of commission or omission brought out in the report.
(iii) Comments on explanations received from the concerned technical officers.

212.4 Replies to the observations and rejoinders of the CTE's Organisation should be sent promptly to CTE/CVC. This should be sent within three months of the date of dispatch of the report/rejoinder.

212.5 SDGMs/Chief Vigilance Officers should arrange to undertake similar and complete examination in cases where the examination done by the Chief Technical Examiner's Organisation was only a representative one. They should

thereafter act upon the findings of such examination and, where necessary, consult the CTE.

212.6 The defects pointed out in CTE's report should be rectified either by the contractor or otherwise (at the risk and cost of contractor, wherever possible).

212.7 Minor irregularities brought out in the report should be got regularized by the competent authority after investigating into the bonafides in each case and finding out reasons for these irregularities. Appropriate preventive measures may be taken for future and the defaulters suitably warned so that such irregularities do not recur.

212.8 SDGMs/Chief Vigilance Officers should arrange to have recoveries effected in cases where over payments are pointed out in CTE's report. Recovery statements should be submitted, duly supported by analysis of rates at which recoveries have been effected. Such recoveries should not be postponed till payment of the final bill. In case there is any difficulty in recovering the full amount of over payment, as pointed out by CTE's organisation, then the agreed amount of recovery should at least be effected from the next bill paid.

212.9 In cases where the work is treated as substandard in CTE's report, sanction of the competent technical authority for accepting such substandard work may be obtained and the rate of payment suitably reduced. Before sanctioning such reduced rate statements, the structural soundness and functional adequacy of the sub-standard work should be established.

212.10 In respect of paras which are specifically referred to the SDGMs/CVOs by the CTE for investigation from a vigilance angle, they should treat such communication as a complaint. In order to investigate it, in case a competent engineer is not available in his organisation, the SDGM/CVO should get an independent and reliable engineer appointed to assist him in identifying and seizing the relevant records, preparing scrutiny notes thereon, fixing responsibilities, drafting memos, calling for explanations of the indicated officials and preparing scrutiny notes on the explanations received. Each lapse should be dealt with separately. After investigation, the case should be referred to CVC through Railway Board for its first stage advice, along with a self contained note and other relevant documents, as done in cases of other Vigilance Investigation Reports. Even if the SDGM/CVO comes to the conclusion that no vigilance angle is involved, the matter has to be referred to the CVC for its first stage advice, treating the complaint as having emanated from CVC.

212.11 The CTE might suggest preventive measures in certain areas as a safeguard against malpractices or corrupt practices, as also to plug loopholes in procedures, rules, regulations, etc. In such cases, the SDGM/CVO should arrange to have suitable directions issued by the Chief Executive/Head of the Department and furnish copies of these directions to the CTE's Organisation.

http://www.cvc.nic.in/sites/default/files/cteguide_ie.pdf

Refer to CVC Vigilance Manual 2017, Chapter IX on Chief Technical Examiner's Organisation.

213 STANDARD OPERATING PROCEDURE REGARDING LEGAL CASES WHERE CENTRAL VIGILANCE COMMISSION HAS BEEN MADE RESPONDENT ALONGWITH THE ORGANIZATIONS CONCERNED

213.1 The guidelines issued vide CVC's Circular No. 11/09/2016 dated 05. 10. 2016 lay down the action to be taken whenever the Commission is made a respondent in a legal/court case. The actions include keeping the Commission apprised of the court case; protecting the interests of the Commission and its officers as mandated under Sections 8, 17 and 15 of the CVC Act, 2003; getting the names of the Commission and its officers deleted from the list of respondents; and also about seeking the specific comments and advise of the Commission, if the need arises to argue/debate a particular case in respective courts.

213.2 If such an eventuality arises, SDGMs/CVOs should ensure that the matter is brought to the notice of Board Vigilance immediately, so that the required information/ consultation with the Commission can be carried out. Communications of this nature should reach Board Vigilance in an envelope specifically and prominently marked. "CVC RELATED COURT MATTER". The concerned section in Board Vigilance will thereafter process the case further on top priority.

http://www.cvc.nic.in/sites/default/files/lese18102016.pdf

Chapter III CENTRAL BUREAU OF INVESTIGATION

301 EVOLUTION

Special Police Establishment [SPE] was set up in 1941 to investigate bribery and corruption in transactions of the War and Supply Department of India during World War II with its Headquarters in Lahore. Delhi Special Police Establishment Act was brought into force in 1946 which enlarged its scope to cover all Departments of the Government of India. Its jurisdiction extended to the Union Territories, and could be further extended to the States with the consent of the State Governments involved. Central Bureau of Investigation (CBI) was set up through a Home Ministry Resolution No. 4/31/61-T dated 1.4.1963 & SPE became one of the constituents of CBI. The Central Government has been empowered under Section 5 to extend to any area (including Railway area) in a State not being a Union Territory, the powers and jurisdiction of members of the DSPE for the investigation of any offence or classes of offences specified in a notification under section 3 of the DSPE Act subject to the consent of the Government of the concerned State, under section 6 of the Act.

302 JURISDICTION OF CBI VIS-À-VIS STATE POLICE

The Special Police Establishment of CBI (Ant-Corruption Division) enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Code of Criminal Procedure, 1973. However, to avoid duplication of effort, an administrative arrangement has been arrived at with the State Governments according to which:

(a) Cases, which substantially and essentially concern Central Government employees or the affairs of the Central Government, even though involving State Government employees, are to be investigated by the SPE. The State Police is, however, kept informed of such cases and will render necessary assistance to the SPE during investigation;

(b) Cases, which substantially and essentially involve State Government employees or relate to the affairs of a State Government, even though involving certain Central Government employees, are investigated by the State Police. The SPE is informed of such cases and it extends assistance to the State Police during investigation, if necessary. When the investigation made by the State Police authorities in such cases involves a Central Government employee, the requests for sanction for prosecution of the competent authority of the Central Government will be routed through the SPE. (Refer to Chapter 17 of CBI Crime Manual)

303 PRESENT STRUCTURE, JURISDICTION & FUNCTIONS OF CBI

303.1 At present, CBI has the following Divisions:-

1. Anti Corruption Division
2. Economic Offences Division
3. Special Crimes Division
4. Directorate of Prosecution/ Legal Division
5. Administration Division

6. Policy & Coordination Division

7. Central Forensic Science Laboratory

303.2 CBI derives its power of investigation from the Delhi Special Police Establishment (DSPE) Act, 1946. As per section 2 of the Act, DSPE has the jurisdiction to investigate offences in Union Territories only. However, its jurisdiction can be extended by the Central Government to other areas, including Railways and States. As per section 3 of the Act, the Special Police Establishment is authorised to investigate only those cases, which are notified by the Central Government in the Official Gazette from time to time. Besides notifying offences under 69 Central and 18 State Acts, 231 offences under the Indian Penal Code have also been notified by the Central Government in this regard. Cases under the Prevention of Corruption Act, 1988, are investigated by CBI under the superintendence of the Central Vigilance Commission.

303.3 Director, CBI, as Inspector General of Police, Delhi Special Police Establishment, is responsible for the administration of the organisation. He has been provided security of tenure of two years by the CVC Act, 2003. The CVC Act also lays down the mechanism for selection of Director, CBI, and other officers of the rank of SP and above in CBI.

303.4 CBI functions under the Department of Personnel, Ministry of Personnel, Pension & Public Grievances, Government of India. The following broad categories of criminal cases are handled by the CBI:

1. Cases of corruption and fraud committed by public servants of all Central Government Departments, Central Public Sector Undertakings and Central Financial Institutions.

2. Economic crimes, including bank frauds, financial frauds, Import, Export & Foreign Exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items, etc.

3. Special Crimes, such as cases of terrorism, bomb blasts, sensational homicides, kidnapping for ransom and crimes committed by the mafia/ underworld.

304 ENQUIRY/INVESTIGATION BY CBI

304.1 Enquiry or investigation into Complaints alleging corruption and related malpractices is taken up by CBI either after verification of information collected from its own sources [SIR-Source Information Report], or obtained from the members of the public or from public servants, or on the basis of complaints referred to them by the Commission, administrative authorities or the courts.

304.2 Once a decision has been taken to refer the case to Special Police Establishment [SPE/ CBI], unless there are special reasons to the contrary, the complaints, which are to be investigated should be handed over to them at the earliest stage. Apart from other considerations, it is desirable to do so to safeguard against the possibility of the suspect public servant tampering with or destroying incriminating evidence against him. The SPE, however, should not take up inquiries or register a case where minor procedural flaws are involved. They should also take a note of an individual officer’s positive achievement so

that a single procedural error does not cancel out a lifetime of good work. However, law does not bar investigation of such cases.

304.3 In cases, in which the information available appears to be authentic and definite so as to make out a clear cognizable offence or to have enough substance in it, the C.B.I. may register a regular case (R.C.) straightaway under Section 154 of the Code of Criminal Procedure, 1973.

304.4 If the available information appears to require verification before formal investigation is taken up, a Preliminary Enquiry (P.E.) may be made in the first instance. As soon as the preliminary enquiry reveals that there is substance in the allegations, a regular case may be registered.

304.5 The SPE will normally take into confidence the head of the Department or office concerned, before taking up any enquiry (PE or RC), or as soon after starting the enquiry as may be possible according to the circumstances of each case. This will also apply in case a search is required to be made of the premises of an officer. (Refer para 17.13-Chapter-17 of Crime Manual of CBI)

304.6 **Forwarding copies of FIR/ PE Registration Report to administrative authorities:** As soon as the Preliminary enquiry (P.E.) or a Regular case (R.C.) is registered, a copy of the P.E. Registration report or the F.I.R. will be sent by the SPE confidentially to the head of the Department and/or the administrative Ministry concerned and the Chief Vigilance Officer of the organisation concerned. In the case of officers of Public Sector Enterprises or Public Sector Banks, etc., a copy of the P.E.R.R. or the F.I.R. will be sent to the head of the Organisation concerned.

304.7 The results of investigation of the PE and/or RC would be one of the following:

(i) The results are grave enough to launch prosecution – in such cases, sanction for prosecution will be processed. [This aspect has been dealt with in detail under Para 312 of the Vigilance Manual].

(ii) Sufficient evidence may not be available to launch prosecution but facts of the case may warrant departmental action – in that case, CBI will forward its report to CVC and the concerned Department/Ministry (in case of gazetted officers), and to the concerned Department/Ministry only (in case of non-gazetted officials). Details are spelt out in Para 314 of the Vigilance Manual.

(iii) No irregularity is observed – CBI decides to close such cases and advises CVC and the concerned Department/Ministry (in case of gazetted officers), and the concerned Department/Ministry only (in case of non-gazetted officials) about it.

304.8 The administrative authorities also receive complaints/information regarding alleged irregularities of public servants working in their jurisdiction. These authorities have to decide whether the allegations should be looked into departmentally or by the CBI. As a general rule, trap cases, allegations involving offences of bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, cases involving outsiders or other serious criminal offences or those requiring expert Police Investigation (such as cases of possession of disproportionate assets or cases in which a number of nonofficial witnesses are to be examined) should be referred to the CBI for investigation. A

prompt reference is necessary in such cases to safeguard against the possibility of a suspect officer tampering with or destroying incriminating evidence against him.

304.9 The following procedure may be adopted for referring of cases by the Zonal Railways/ Production Units/ Other Units to CBI for investigation:

(i) For officials/officers upto the level of Selection Grade, the case shall be referred to CBI with the prior approval of the General Manager/Managing Director. However, if there is difference of opinion between the SDGM/CVO and the General Manager/Managing Director, the case shall be referred to the PED (Vigilance) for taking a final view in the matter; and

(ii) For officers in SA Grade and above, the case shall be referred to CBI after taking approval of PED (Vigilance), Railway Board. Cases should be referred by the Zonal Vigilance/Production Units/Other Units through their General Managers/Managing Directors to the PED (Vigilance) for his approval. Case of disagreement shall also be referred to PED (Vigilance), Railway Board for his final view in the matter.

304.10 Once a case is referred to and taken up by CBI for investigation, further investigation must be left to CBI. Parallel departmental investigation should be avoided. Further action by the Department should be taken on completion of investigation by CBI, on the basis of their report.

305 CO-OPERATION WITH CBI

Administrative authorities are expected to cooperate fully with CBI, especially with regard to the following aspects:

305.1 **Records**

Utmost cooperation is required in the matter of supplying necessary records. In case of other than classified records, the Head of Department should ensure that the SP/CBI or his authorized representative is shown all relevant records. In case CBI asks for original documents, this should be ordinarily made available, while keeping in view that day-to-day departmental work is not hampered – if required, the departmental authority may keep an attested or photostat copy of these documents. Records should be made available promptly – within 15-30 days of receiving CBI's request –in order to avoid delay in CBI's investigations. If it is not possible to hand over records within a month owing to some special reasons, then the matter should be brought to the notice of CBI by the authority which has the records, specifying reasons for such delay. The authority should also inform the Chief Vigilance Officer of the concerned Ministry

305.2 In case of classified/graded documents/records, sanction of the competent authority to release these documents should be obtained promptly by the concerned administrative authority. Then, the following guidelines should be adhered to:

(i) Top secret documents should be handed over only to gazetted officers of CBI (it may be noted that inspectors of CBI are not gazetted officers).

(ii) Secret and confidential documents should be given to gazetted officers of CBI or an inspector of CBI, if he is specially authorized by SP/CBI for this purpose.

(iii) A temporary receipt should be obtained whenever any graded document is handed over to an officer of CBI, who will be asked to comply with provisions of Para 27 (a, b, c & e) of the pamphlet, "Classification and Handling of Classified Documents, 1958".

(iv) The originator of the graded documents/record should also be informed.

(v) Where original documents cannot be made available to the Investigating Officer, he should be given photostat/attested copies, along with a certificate by an officer that the original documents are in safe custody, out of the reach of the suspect official and that these will be produced whenever required.

305.3 **Witness**

If the CBI requests for the presence of any official for examining him during an investigation, the administrative authority should direct him accordingly. If it is not possible for him to be present on the specified date and time, then the administrative authority should inform CBI about it and direct the official to appear before CBI at the earliest opportunity. The CBI ordinarily examines a gazetted officer at the place where he is posted, unless he has to be shown a number of documents, the movement of which is considered hazardous.

305.4 **Accommodation, communication and transport facilities**

The investigating officers of CBI should be provided with suitable accommodation in Rest Houses on payment, as applicable in case of officers on duty. They should also be provided with transport and communication facilities at extant rates.

306 ACTION TO BE TAKEN WHEN BRIBE IS OFFERED

306.1 Occasions may arise when a public servant is offered or is likely to be offered bribe. It is not enough for him to refuse the bribe and later report the matter to higher authorities. When he suspects an offer of bribe, he should tactfully postpone meeting the bribe-giver and contact SP/CBI, or SP/senior most police officer of his district, for laying a trap. The Head of the Department should also be informed about it. If it is not possible to lay a trap, the bribe-giver may be detained for some time and any person(s) who are readily available may be requested to witness the transaction and overhear the conversation between the bribe-giver and the public servant.

306.2 The Head of the Department should maintain an impartial position. He should not act as an agent of the CBI, either by arranging for money or by being a witness to the transaction.

307 TRAP CASES

307.1 Whenever CBI desires to lay a trap for a public servant who is expected to accept a bribe, it will give prior information to the concerned Head of the Department/Office. In case circumstances do not permit, CBI will furnish details of the case to the Head of the Department/Office immediately after the trap.

(i) During the trap, it is essential that responsible and impartial person(s) witness the transaction and/or overhear the conversation of the suspect public servant. All public servants, particularly gazetted officers, should assist and witness a trap, whenever they are approached by the CBI to do so. Refusal to assist or witness a trap will be regarded as breach of duty, making the officer liable to disciplinary action. On the request of CBI, the Head of the Department/office will depute a suitable person(s) to be present at the scene of the trap.

(ii) The Government servants who are caught accepting a bribe in a trap case by the CBI/Police should invariably be placed under suspension. The total period of suspension will not exceed 6 months in normal circumstances.

308 SUSPENSION

308.1 CBI may recommend to the concerned Disciplinary Authority, either during the course of investigation or while suggesting prosecution/departmental action, that the suspect officer may be suspended. A decision in this matter should be taken after careful examination of the case. Public interest should be the sole guiding factor and the Disciplinary Authority should take into account all relevant factors before deciding whether or not to suspend the official. However, it may be appropriate to place a Government servant under suspension in the following conditions:

(i) Where continuance in office of the Government servant will prejudice the investigation, trial or inquiry (e.g. apprehended tampering with witnesses or documents);

(ii) Where the continuance in office of the Government servant is likely to adversely affect discipline in his office;

(iii) Where the Government servant is involved in a public scandal and it is necessary to place him under suspension to demonstrate the policy of the Government to deal strictly in such matters;

(iv) Where serious allegations have been made against the Government servant, and the preliminary inquiry has revealed a prima-facie case against him, that would justify his prosecution or major penalty departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

308.2 Suspension may also be desirable in certain cases of misdemeanour, for example, moral turpitude, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain, serious dereliction of duty resulting in considerable loss to the Government, desertion of duty, refusal or deliberate failure to carry out orders of superior officers, etc.

308.3 **Revocation of Suspension in CBI/ACB cases**

Such suspension cases should closely be monitored by the Suspending Authorities and can be taken up for revocation at the appropriate time, keeping in view the provisions contained in Railway Servants(Discipline & Appeal) Rules, 1968 to this effect including the following:

(i) CBI/ACB should be consulted before revocation of suspension;
(ii) Where the proceedings (Court/Disciplinary) lodged against the public servant is not likely to be concluded shortly, say within two to three months;
(iii) Where delay in finalization of proceedings is not attributable to the charged officials;
(iv) After the official's suspension is revoked, he should be transferred to a place which is sufficiently far-off from the place where he was trapped so that he does not hamper the proceedings;
(v) This will apply to all Railway servants, gazetted or non-gazetted.

308.4 An order revoking the suspension in case of gazetted officers involved in CBI/ACB trap cases also be endorsed to the Vigilance Directorate of the Railway Board, invariably.

309 TRANSFER OF AN OFFICER ON THE REQUEST OF CBI

309.1 CBI may request for the transfer of a public servant when it is investigating serious charges against him. This recommendation is made when it is absolutely necessary for the purpose of investigation. CBI specifies reasons for the request, which is made by an officer, not lower in rank than SP.

309.2 When the concerned Department has administrative difficulties in meeting this request, then the matter should be discussed and settled at the local level. However, if differences remain, then discussion should be done at a higher level. If differences still persist, then the matter should be discussed by the Administrative Ministry with the Joint Secretary, Administrative Vigilance Division, Department of Personnel.

309.3 Such transfers should be tackled by balancing the need for discretion on the part of the concerned Ministry and facilitating smooth investigation by CBI.

310 ASSISTANCE TO CBI BY TECHNICAL OFFICERS

310.1 CBI may require assistance of technical officers, e.g. engineers, accountants etc., in cases which are of technical nature. The concerned Administrative Ministry/Department/ Undertaking should fully cooperate with CBI in this matter, when a request is received from it. In the Vigilance Department of Indian Railways, separate Vigilance Cells exist to deal with matters pertaining to all departments – personnel of these cells should assist the CBI, when asked to do so. CBI also takes the assistance of the Chief Technical Examiners' Organization, which functions under the CVC, in cases of Civil & Electrical works, and Stores purchase contracts.

311 PROSECUTION

311.1 Prosecution should be the general rule in cases of bribery, corruption or other criminal misconduct, or cases involving substantial loss to public funds, which are found fit to be sent to Court after investigation.

312 PREVIOUS SANCTION FOR CRIMINAL PROSECUTION

[Subject to modification in the context of "The Prevention of Corruption (Amendment) Act, 2018" notified on 26-7-2018]

312.1 Requirement of sanction: Section 19 of the Prevention of Corruption Act, 1988 lays down that no Court shall take cognizance of an offence punishable

under Sections 7,10,11,13 and 15 of Prevention of Corruption Act, 1988 alleged to have been committed by a Public Servant, except with the previous sanction of the authority competent to remove him from his office.

312.2 Guidelines for the Sanctioning authorities: On receipt of a request for grant of Previous sanction necessary for prosecution under section 19 of Prevention of Corruption Act, 1988 from the CBI or other investigating agencies and while processing such requests, all the Ministries/ Departments/ Organisations shall take decisions expeditiously and in accordance with the guidelines issued by the Commission vide CVC Circular No. 005/VGL/11 dated 12.05.2005,28.03.2012 and 25.05.2015.

312.3 The Hon'ble Supreme Court has in its judgements in various cases, particularly in the cases of Vineet Narain & others Vs Union of India, 1997, and CBI Vs Ashok Kumar Agarwal, 2013, laid down detailed guidelines to be observed while considering request for grant of sanction for prosecution. Commission vide Circular No. 005/VGL/11 dated 12.05.2005, 28.03.2012 and 25.05.2015 has summarised the Supreme Court's guidelines which are to be observed by the administrative authorities while considering request for grant of sanction for prosecution. As per the directions of the Apex Court, a time limit of 3 months has been fixed for grant or refusal of sanction for prosecution and 4 months where the opinion of Attorney General or of any other law officer in AG's office is sought.

312.4 The guidelines as summarised in the CVC Circular No. 005/VGL/11 dated 12.05.2005 are hereunder:

(i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to 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.

(ii) 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.

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

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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.

312.5 The guidelines issued vide Commission's Circular No. 005/VGL/11 dated 25.05.2015 are hereunder:

(i) The prosecution must send the entire relevant record to the sanctioning authority including the FIR disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/ document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.

(ii) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

(iii) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

(iv) The order of sanction should make it evident that the authority had been aware of all relevant facts/ materials and had applied its mind to all the relevant material.

(v) In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

312.6 **Procedure for sanction for prosecution of Railway servants:** Prior sanction for prosecution of a public servant before a Court of Law for acts of criminal misconduct is required to be accorded by the competent authority either under Section 19 of Prevention of Corruption Act or Section 197 (1) of the Criminal Procedure Code. When the CBI is of the view that prosecution should be launched, and if such sanction is required under the law to be issued in the name of the President, it forwards copies of its investigation report to CVC and the Railway Board and requests the Ministry of Railways to accord sanction for prosecution of a Railway servant charged for such offences, with complete particulars and documentary evidences to enable the competent authority to comprehend the gravity of the misconduct and to take a suitable decision by independent application of mind. The competent authority to grant sanction for prosecution is the one who is competent to remove the Railway Servant from service at the time of launching of the proceedings.

312.7 It is mandatory to obtain CVC's advice in such cases involving a gazetted officer who is a Presidential appointee, namely, a Group 'A' officer. CVC's advice is also required in composite cases, involving Group 'A' officers and Group 'B' officers/non-gazetted officials. However, if the case pertains to Group 'B' officers and/or non-gazetted officials, CVC's advice would not be necessary unless the Ministry of Railways proposes to differ from CBI's recommendation to grant sanction.

312.8 In case of Group 'A' officers and officer of Group B officiating in Group A, the Ministry of Railways has to adhere to the time limit of three months for grant or otherwise of sanction for prosecution in terms of the orders of the Supreme Court in Vineet Narain and Others. (CVC's Circular 05/03/15 dated 16.4.2015). In view of this, Zonal Railways have to furnish their comments to Railway Board within 15 days of the receipt of request from CBI.

312.9 In cases of Group 'B' officers and non-gazetted officials, in which authority other than the President is competent to sanction prosecution, that Authority shall within 15 days formulate its tentative views regarding the action to be taken. No consultation with CVC is required if the competent authority agrees with CBI for granting sanction for prosecution. However, if the competent authority does not propose to accord sanction, then it is necessary to consult CVC. In these cases, comments have to be furnished by Railway Board to CVC, for which Zonal Railways have to send their comments to Railway Board within 15 days so as to process the case to CVC. If CVC has recommended grant of sanction and the competent authority proposes not to grant sanction, the case should be referred to DoPT for final decision.

312.10 In case the Competent Authority for sanction of prosecution is the President, the CVC will advise the Ministry/Department and after considering the advice of CVC, that Authority will take a decision as to whether or not the prosecution should be sanctioned. In case the authority decides to sanction prosecution, then it issues a Speaking Order in this regard, the layout of which has been standardized and communicated to all Vigilance Wings of the Ministry of Railways vide letter No.97/V-1/VP/1/2 Pt.A dated 17.12.2003. This is detailed in Annexure 3.1 to this chapter. In case the competent authority proposes not to accept CVC's advice of either grant or decline of sanction of prosecution, then the case should be referred to the Department of Personnel & Training (DOPT) for final decision. Where two or more Government servants belonging to different Ministries/Departments or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to DoPT for resolution of the conflict, if any, for final decision. In this regard, the DoPT OM No.372/6/2017-AVD-III dated 01.03.2019 shall be referred as detailed in Annexure 3.2 to this chapter.

312.11 Sanction for prosecution for a retired public servant, with respect to offences committed by him while he was in service, will be as per provisions

of "The Prevention of Corruption (Amendment) Act, 2018" notified on 26-7-2018.

312.12 In cases where there are several co-accused, and sanction for prosecution for a few of them is required to be issued in the name of the President and, for others, by other authorities, the CBI sends its final report in such cases in respect of all the accused officers to CVC, and simultaneously endorses copies of the report to the concerned Ministries/Departments. In the case of Presidential sanction for prosecution, the procedure as described earlier will be followed. As regards other officers, CVC advises the concerned competent authorities to accord sanction for their prosecution. In such cases, the CBI will not file charge sheets in a piecemeal manner. All charge sheets will be filed together by CBI in the Court(s) with competent jurisdiction against the officers involved, after sanction for prosecution has been received for all the concerned officials.

312.13 In cases where the General Managers or their subordinates are the sanctioning authority, the case along with all relevant papers, comments on CBI's report (if not agreed to, then with reasons thereof) should be forwarded to Railway Board within 15 days of receiving the report.

312.14 The sanction for prosecution of Group 'A' officers and Group B officers officiating in Senior Scale is within the competence of Minister of Railways, while that of Group 'B' officers is within the competence of the concerned Board Member.

312.15 The authorities competent to issue sanction for prosecution for Group C officers in the Zonal Railway are ADRMs, Branch Officers, PHODs and General Managers according to the rank and posting of the officials. (Ref:-D.O. Letter No.97/V1/Meet/6/2 dated 14.12.1998)

312.16 The formal sanction for prosecution order for Officers is issued by the Secretary Branch in Railway Board as per format in Annexure 3.1.

313 WITHDRAWAL OF PROSECUTION

313.1 Once a case has been lodged in a Court for prosecution, it should be allowed to proceed to its logical end. However, the investigating agency or the public prosecutor can initiate a proposal for withdrawal of prosecution for some legal reasons. In such cases, the Ministry of Law should be consulted and its advice accepted.

313.2 The accused can also request for withdrawal of prosecution. This request should generally not be entertained, except when certain fresh facts have arisen or attention is drawn to hitherto unnoticed facts, which might alter the contours of the case. The Ministry of Law should be consulted in such cases.

313.3 In cases in which prosecution was sanctioned on the advice of CVC, the Commission should be consulted again before the matter is referred to the Law Ministry.

313.4 Rule 7 of the Government of India (Transaction of Business) Rules, read with item (g) of the 2nd Schedule to these Rules, provides that any proposal to withdraw prosecution (which was instituted by the Government of India) in

contravention of the competent legal advice (i.e. advice of the Ministry of Law), should be brought before the Cabinet.

314 DEPARTMENTAL ACTION ON CBI's INVESTIGATION REPORT RECOMMENDING DEPARTMENTAL ACTION

314.1 In cases where the available evidence is insufficient for criminal prosecution and offences are less serious, the CBI forwards its investigation report to the concerned Ministry/Department, recommending Regular Departmental Action (RDA).

314.2 In case of **gazetted officers**, one copy of the report, along with copies of relied upon documents (or their gist/extracts), is sent by CBI to CVC. The CBI also sends copies of the report to Railway Board and to GM (Vigilance) of the concerned Zonal Railway. The Railway Board has to furnish its comments on the report to CVC within one month. In such cases, the Zonal Railway should furnish its comments to Railway Board within 15 days, along with relevant service particulars of all the concerned officers. CVC examines the report, as well as Railway Board's comments, and advises Board about the action to be taken. No further departmental fact-finding should normally be necessary in such cases. If Board's comments do not reach CVC within the stipulated time frame, then CVC can tender its advice on the basis of documents available with it. If there are any special circumstances, then Board can approach CVC for extension of the time-limit for furnishing its comments.

314.3 In case of **non-gazetted officials**, CBI forwards its report to the concerned Disciplinary Authority. No further departmental fact-finding should normally be necessary in such cases. However, should any clarification/ additional information be required, CBI may be requested to furnish it.

314.4 The CBI's report is a confidential document and should not be produced before the Inquiry Officer or a Court of Law. Privilege can be claimed in a Court of Law under Section 123/124 of the Evidence Act. No direct reference should be made about the CBI's report in the statements/affidavits filed in the Courts of Law. Reference to these statements/affidavits may be restricted to the material which is contained in the charge sheet served on the accused public servant.

315 SUPPLY OF DOCUMENTS BY CBI TO THE DISCIPLINARY AUTHORITY

315.1 In order to avoid delay in initiating action on CBI's report, the concerned SP/CBI sends the Relied Upon Documents to Railway Board in cases involving gazetted officers, and to the Chief Vigilance Officer of the concerned Zonal Railway in cases against non-gazetted officials, as soon as CBI's report is dispatched to the Railway Board/Zonal Railway. Ordinarily, these are original documents, with CBI keeping photostat copies thereof. However, in case the CBI does not wish to part with the original documents, it sends attested copies of these documents, or their extracts or a gist of their contents. In case the disciplinary authority wishes to see the original documents, CBI may be requested to make them available for inspection. In case these documents are not capable of being copied or of getting a gist prepared, the disciplinary authority may inspect these documents in consultation with CBI. In case certain documents, required for the RDA, are held up in a Court of Law, CBI will persuade the Court to part with the documents temporarily or to give photostat copies thereof.

However, if this is not possible and if the accused public servant insists on seeing the original documents, then the possibility of inspecting these documents in the Court should be examined, in consultation with CBI.

316 DRAFT CHARGE SHEET

316.1 In cases where RDA is recommended by CBI, its investigation report may be accompanied by the draft Articles of Charges, statement of imputations, list of relied upon documents and witnesses. In case draft charge sheet has not been sent by the CBI, the same may be drafted by Railway along with list of exhibits/ witnesses, etc. However, where the departmental functionaries, owing to the technicalities or intricacies involved in a case, face a real/ genuine problem or difficulty in preparing charge-sheets, the same can be taken up with the CBI appropriately. Needless to say that such instances should be few and far between i.e. exceptions only. A copy of the charge sheet, as served on the charged official, will be endorsed to CBI.

317 APPOINTMENT OF PRESENTING OFFICER

317.1 The Disciplinary Authority may appoint an officer, as the Presenting Officer (PO) simultaneously with the appointment of the Inquiry Officer (IO), in order to avoid delays. The investigating officer should not be appointed as the Presenting Officer.

317.2 PO shall be appointed from within the organization, even in cases investigated by the CBI .

317.3 The PO needs to attend every hearing, but in case he cannot be present on any occasion, the DA has to appoint a substitute PO, not below the PO's rank, to present the case. This substitute PO should not have associated himself with investigation of the case at any stage.

317.4 In case CBI requests that the Investigating Officer of the case should be associated with the departmental inquiry, then the IO will inform the local Head of the CBI about the date of inquiry and ask the investigating officer to meet him on a suitable date in advance, along with all relevant records, so that he can assist the IO by explaining the case and clarifying points of doubt. The Investigating Officer will be shown the written statement of defence and asked to offer his remarks thereupon. His assistance may also be taken to secure relevant records and ensure the presence of witnesses. However, it is not appropriate to associate the Investigating Officer formally with the inquiry process, as this would not let the inquiry process remain purely departmental. However, if the IO considers it useful, without any prejudice to the defence, then he may ask CBI to depute any officer, other than a lawyer or the Investigating Officer, to be present at the inquiry. This officer will lead the evidence by examining witnesses and cross-examining defence witnesses

318 DOCUMENTS TO BE MADE AVAILABLE TO CBI AFTER DEPARTMENTAL PROCEEDINGS

318.1 The following documents should be made available to CBI on conclusion of Departmental proceedings:

(i) A copy of CVC's advice
(ii) A copy of IO's report and disagreement memo, if any.

(iii) A copy of UPSC's advice and the Disciplinary Authority's view on it.
(iv) A copy of the final order passed by the Disciplinary Authority.

319 DIFFERENCE OF OPINION BETWEEN CBI AND ADMINISTRATIVE AUTHORITIES

319.1 In case of **gazetted officers**, CBI sends a copy of its investigation report to CVC, which advises the concerned Administrative Ministry about the form of action, after obtaining its comments (1st stage advice). Also, on conclusion of the DAR inquiry, if there is a disagreement of DA with CVC's first stage advice, the IO's report, along with disagreement memo, if any, and DA's provisional views are sent to CVC, which advises about the final action to be taken in the matter (2nd stage advice). The Disciplinary Authority normally acts in accordance with CVC's advice, in which case there would not be any difference of opinion between CBI and the Administrative Authority (i.e. if CVC has agreed with CBI's recommendation). However, in case there is a difference which persists, then ultimately the view of the Disciplinary Authority will prevail. In case his view is different from that of CVC, then it shall be the prerogative of CVC to include it as a case of non-compliance of its advice, in its Annual Report, which is tabled on the floor of both Houses of Parliament.

319.2 In case of **non-gazetted officers**, if there is a difference of opinion between CBI and the concerned Administrative Authority, then the case will be referred to CVC . The CVC will examine the case thoroughly, and after going through all relevant records and evidence, it will tender its advice in the matter. The Disciplinary Authority normally acts in such a manner that there is no difference of opinion between CBI and the Administrative Authority. However, in case there is a difference which persists, even after reconsideration once by CVC, then ultimately the view of the Disciplinary Authority will prevail. In case his view is different from that of CVC, after one time reconsideration by CVC, then it shall be prerogative of CVC to include it as a case of non-compliance of its advice, in its Annual Report, which is tabled on the floor of both Houses of Parliament.

320 GRANT OF IMMUNITY/PARDON

320.1 In case of **gazetted officers**, if the CBI finds during an investigation that a public servant has made a full and true disclosure implicating himself and others, and that such statement is free from malice, it may recommend to CVC that the person may be granted immunity from departmental action or punishment. CVC will consider CBI's recommendation, in consultation with the concerned Administrative Authority, and will tender its advice in the matter. CBI will follow CVC's advice.

320.2 In case of **non gazetted officials**, CBI may send a similar recommendation to the concerned Ministry. If there is a difference of opinion between CBI and the Ministry, then the matter will be referred to CVC for resolution.

321 LIAISON BETWEEN CBI AND THE ADMINISTRATIVE AUTHORITIES

321.1 It goes without saying that there is a strong need for close liaison and cooperation between CBI and Vigilance Officers of Ministries/Departments. This is required both at the macro level (to monitor progress of cases in totality) and the micro level (i.e. on a case-to-case basis). Also, both the CBI and Vigilance

officers receive information about activities of officials from various sources – such information should be cross- checked, so that officials of both wings are well informed about developments. Both agencies should move in tandem to combat the menace of corruption.

322 AGREED LIST/SECRET LIST

322.1 One of the measures to combat corruption is to maintain watch on the activities of public servants who are of doubtful integrity. For this, two lists namely 'Agreed List' and list of public servants of gazetted status of doubtful integrity also known as 'Secret List' are prepared by Railway Board Vigilance annually in accordance with the directives of Department of Personnel and Training and Central Vigilance Commission.

322.2 The Secret List is prepared in the light of criteria laid down for the purpose namely (a) Officers convicted in a Court of Law on a charge of lack of integrity or for an offence involving moral turpitude but on whom in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed. (b) Officers awarded departmentally a Major Penalty : (i) On charge of lack of integrity or (ii) On charge of gross dereliction of duty in protecting the interests of Government although the corrupt motive may not be capable of proof; or (c) Officers against whom proceedings for a Major Penalty or a Court Trial are in progress for alleged acts involving lack of integrity or moral turpitude; or (d) Officers who were prosecuted but acquitted on technical grounds, and in whose case, on the basis of evidence during the trial, there remained a reasonable suspicion against their integrity.

322.3 **Exceptions**: The following will be excluded for this purpose:

(a) Officers who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.
(b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
(c) Officers who have been convicted for offences not involving lack of integrity or moral turpitude.
(d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, minor violation of Conduct Rules and the like.

322.4 Names once included in Secret List will not be removed until a period of three years has elapsed. The period of three years, for which the name will be current on the list, will count from the date of punishment in disciplinary proceedings or from the date of conviction in a Court Trial.

322.5 Due to issue of this list on annual basis, names of those officers, who are advised major penalty action by CVC in the intervening period, do not find place in the Secret List. Similarly, some officers may continue to be on the Secret List even when either exonerated or taken up for minor penalty action subsequent to inquiry. Such cases should be brought to the notice of GM/PHOD by the concerned SDGM/CVO. In case of major penalty action, the General Manager/PHOD should shift such officers from sensitive seats, if occupied by them. Likewise, in case of exoneration or minor penalty action on an officer already borne on Secret List, PHOD/General Manager may consider his posting on a sensitive seat on the advice of SDGM.

322.6 Agreed List is prepared annually in consultation with CBI and contains the names of such Officers whose integrity and honesty is under a cloud.

322.7 The Agreed List is prepared in consultation with the CBI every year. The Agreed List is meant only for the purpose of intensive vigilance and carrying out preventive checks. As regards the procedure, CBI/Railway Vigilance at the Branch/Zonal levels respectively should make out preliminary Agreed Lists and also the list of officers on which there is no agreement. After they are signed by both of them, they would be transmitted to their respective Head Offices viz. CBI Headquarters Office at New Delhi and Vigilance Directorate, Railway Board. These lists will be further discussed by Vigilance Directorate with CBI Headquarters and final Agreed List will be communicated to the CBI Headquarters Office and the Zonal Railways. The CBI will in turn also send list to their concerned local units.

322.8 The purpose of maintenance of these lists is to take such administrative action as is necessary and feasible in the type of cases mentioned below:

(a) Transfer from a "Sensitive" post.

(b) Non nomination to Selection Committees

(c) Non nomination to Tender Committees

(d) Non appointment as Arbitrators

(e) Non nomination as Inquiry Officers

(f) Non sponsoring of names for foreign assignments/deputations

(g) Refusal of permission for commercial re-employment after retirement.

(h) Refusal for re-employment in Public Sector Undertakings.

322.9 In the event of an Officer whose name is borne on the lists being transferred to another Railway, the General Manager/SDGM concerned should intimate to his counterpart in the other Railway the fact of the Officer's name being on the list, endorsing a copy of the letter to Railway Board Vigilance.

322.10 While giving vigilance clearance for various purposes like Promotions, Deputations, and Training etc. the fact that the officer is borne on current Agreed List or current Secret List should also be intimated.

322.11 One of the administrative actions required to be taken in case of Agreed List/Secret List borne officers is transfer from sensitive posts. For this purpose, all posts of Head of Departments and posts as per list enclosed in Annexure 8.1 of this Manual are to be considered as "Sensitive". This list is not exhaustive and General Managers on their own may also treat any other post not mentioned in the list as "Sensitive" and inform Railway Board Vigilance. Officers borne on Agreed/Secret List should not be posted to these sensitive posts and in the event of an officer included in these lists holding such a position, his immediate transfer should be arranged. However, where inescapable, the following conditionality should apply:

(a) Officers borne on Agreed/Secret List should not be nominated on any Selection/Screening Board/Committee, Tender Committee or as Arbitrators or Inquiry Officers.

(b) Such officers should not deal with important financial matters where there is scope for improper exercise of discretion. Such cases can either be dealt with by the next higher authority himself or marked to some other officer in the equivalent grade, but not borne on Agreed/Secret List. They can, however, be permitted to deal with financial matters of small value subject to test check by the next higher authority to the extent possible.

322.12 In order to prevent the incidence of the Officers borne on Agreed List/Secret List being nominated to serve as members of selection committee/tender committees, the following steps may be taken :-

(a) List of officers borne on Agreed List/Secret List may be sent to PHODs/DRMs/CWMs concerned. The list of entire Railway will be maintained by the SDGM.
(b) For nomination of any officer on a tender committee or selection, this list should invariably be referred to before nominations are made in the Division. DRM may also advise the co-ordinating branch officers, names of such officers as soon as the Agreed/Secret list is received from Headquarters.
(c) In the Headquarters Office, where selection committees, tender committees are nominated by HODs they may be advised that the same should be done in consultation with PHOD, who is provided with a list of the officers of his department figuring either on Agreed List or Secret List. This will avoid the situation of any of the officers on either of these lists getting nominated as a member of either the selection committee or the tender committee.
(d) The appointment of arbitrators, inquiry officers and nomination of selection committee for Group 'B' exams are done by the General Manager. These nominations/appointments should be routed through SDGM/CVO who should scrutinize the same and bring to the notice of General Manager if any of the appointed/nominated officers figure on either Agreed List or Secret List so that timely remedial action can be taken.

322.13 The Zonal Vigilance should conduct some checks on the work done by Officers borne on these lists while they were working on sensitive posts.

322.14 The extant instructions arbitrate that the Agreed List should be kept strictly confidential.

322.15 Agreed Lists of points and places of corruption

Agreed Lists shall be prepared of points and places where corrupt practices are prevalent. It may be emphasized that these are not lists of all those points and places where there is scope of likelihood of corruption but only of those where corruption is believed to exist in substantial measure. The preparation of these Agreed Lists of points and places of corruption must necessarily be done by SDGM/CVO of Railways/PUs in consultation with those in the field i.e. PHODs/DRMs. The CBI will settle and prepare these lists locally after discussion with the concerned SDGM/CVO, at the beginning of the calendar year and the list shall be sent to Railway Board vigilance for monitoring after approval of General Manager.
It may be clarified that-
(a) "Points" are those items of work and those stages at which decisions are taken or orders are passed, which provide scope for corruption, e.g., processing of tenders, appraising, grant of quota certificates, etc.

(b) "Places" would be Sections, Sectors, Units of an Office / Department /Undertaking.

322.16: Appreciation Reports

Appreciation Reports are prepared by CBI in consultation with the SDGMs/CVOs, highlighting the organizational structure, and points / places of corruption, modes of corruption in various Departments/units including the modus operandi of the suspected officers. After the preparation of the lists, the following actions are required to be taken: -

(a) Quiet and unobtrusive watch by the CBI, followed by joint surprise checks, as and when considered appropriate.
(b) Collection of information about specific instances of bribery and corrupt practices by the CBI so as to start open enquiries.
(c) Closer and more frequent scrutiny and inspection by SDGMs/CVOs of the work done at these points and places.
(d) Surprise checks by the Department officials.

322.17: List of Unscrupulous Contractors, Suppliers, Firms And Clearing Agents

The list will be prepared of unscrupulous contractors, suppliers, firms and clearing agents, who are suspected of indulging in corrupt practices. These lists are to be prepared by SDGMs/CVOs in consultation with concerned PHODs/DRMs. They need not be 'Agreed' Lists. Copies of these lists should be sent to the CBI for its information. The CBI on its part will pass on to the Departments, Undertakings or Administrations concerned any information regarding corrupt practices of contractors, suppliers, firms and clearing agents for their information and for considering as to whether the name of any such contractor, etc. should be brought on their lists. More details may be seen in Para 6.17 of CVC Manual 2021.

323 LISTS OF SUSPECTED NON-GAZETTED STAFF

A decision has been taken by the Board to prepare a 'list of suspected non gazetted staff' also to enable the Railways for organizing preventive checks more fruitfully by concentrating on them where suspicion is aroused. The following procedure has been adopted for the preparation of these lists by the Railways.

(i) The lists should generally include staff working in Level 6 and above. Staff in lower grades employed in posts of sensitive nature and dealing with public especially in Commercial, Stores, Engineering, S&T, Electrical, Bill passing staff of Accounts Departments etc. are also to be covered.

(ii) The lists are to be drawn personally by DRM/Head of Departments, of the staff working under them, about whose integrity there is some suspicion or complaints and these will thereafter be passed on to the CVOs of the Railways every year.

(iii) The lists will be scrutinized by the CVOs/Dy. CVOs who can supplement by additional names, if required. These lists will be sent to Board's office for information every year.

(iv) SP/SPE/CBI concerned, can also be consulted while drawing these lists to suggest any addition. These lists are meant only for preventive checks on the staff's (borne on the List) activities, where they are posted.

(v) The Head of Departments/DRMs will scrutinize the various transactions reported in Rule 13 and 18 of relevant Service Conduct Rules by the staff included in the lists.

(vi) These lists will be revised every year.

324 UNSCRUPULOUS CONTACT-MEN/WOMEN

324.1 The CBI will prepare list of unscrupulous contact-men/women who are suspected of resorting to corrupt or irregular practices in their dealings with official agencies. The names of persons on these lists will be communicated by the CBI to the Ministries. SDGMs/CVOs may also suggest the name of any such person operating in the Zonal Railways for inclusion in the list to Railway Board which shall give all such names to CBI, Departments and Public Undertakings concerned. The list of such UCMs is communicated to all GM's of Zonal Railways & PUs by CVO of Ministry of Railways. These lists are being complied with the following objectives:

(i) The information contained in this list will be utilized when considering cases for accrediting representatives.

(ii) The Ministries, Departments, Undertakings concerned will issue directions to their officers to be careful and cautious in dealings with unscrupulous contact men/ women whose names are on this list, avoid associating with them socially and accepting entertainments and gifts from them.

(iii) The CBI will exercise an in-obtrusive check on the activities of such contact men/women and try to collect information, about specific instances of malpractices in which they are involved. (Letter No.79/Vig-1/Meet/1/2 dated 25.1.1980)

325 RAILWAY SECTIONAL OFFICERS

325.1 In order to provide technical assistance to CBI, the institution of Railway Sectional Officers (RSO) is in vogue. There are at present 16 posts of Railway Sectional Officers i.e. one in each Zone on Railways. These posts are in the cadre of the Railway, but administrative control rests with the CBI. The posts of RSOs are filled by Railway personnel belonging to various disciplines of railway working, the selection to which is done by the CBI. The procedure followed by the CBI in selecting the RSOs is as follows:-

(i) A reference should be made to the Railway authorities with the request to send a panel against the existing or possible vacancies during the year.

(ii) In calling for panels from the Railway authorities, they should be requested to intimate the scales of pay of various categories of staff. In making selection of candidates from the panel nominated by the Railways, due regard should be paid to the scales of pay, qualifications, experience, present pay and status. It is desirable that the scales of pay may be more or less analogous to the scale of pay of RSO.

(iii) Service particulars of the nominees showing educational qualifications, services in various posts and ranks, experience, present pay and allowance, scale of pay in which the pay is being drawn, whether permanent or temporary, should be obtained from the railway authorities.

(iv) Normally selection should not be made of those officials who have already served in the CBI and have come back to Railways.

(v) The tenure of officers selected for the post of RSO with CBI should normally be 4 years. Beyond that period, the deputation period may be extended upto 6 years in exceptional circumstances with the approval of Railway Board. After expiry of 4 years, the deputation would automatically stand terminated unless proposals for the extension of tenure is sent to Board's office at least 3 months before the expiry of 4 years' tenure and sanction for extension is received by due date. (No proposal for post-facto approval for extension of deputation period will be entertained.)

Annexure-3.1

Sub: Standard layout of speaking order for grant of "sanction for prosecution" and "sanction order".

A copy of the standard layout of the speaking order for grant of sanction for Prosecution and the sanction order is as below:

(a) Standard lay-out of Speaking Order for Grant of sanction for Prosecution

"I have gone through the investigation report of the CBI/(Name of the CBI Zone) in case No.RC _____against Shri/Smt. _____ (name and designation) as well as other relevant records/aspects of the case. After careful consideration of the matter in the light of full facts and records of the case, I am of the considered view that this is a fit case for launching prosecution proceedings against Shri/Smt. _____(name and designation) in the competent Court of Law. Sanction is hereby accorded for prosecution of Shri/Smt._____(name and designation)."

(Designation of Sanctioning Authority)

Annexure-3.1 (contd.)

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No. RC……..
SANCTION ORDER

(Facts of the case)

And whereas, the said act constitutes the commission of offences punishable under section 7 and 13(2)r/w 13(1)(d) of Prevention of Corruption Act, 1988 (Act 49 of 1988).

And whereas the President of India being the Competent Authority for removing the said (Name and Designation) from service, after fully and carefully examining the materials i.e. records relevant to the said allegations placed before him, and considering the facts and circumstances of this case, considers that the said (Name) should be prosecuted in the Court of Law for the said offence/offences.

Now, therefore, the President of India does hereby accord sanction u/s 19(1) of Prevention of Corruption Act, 1988 for the prosecution of the said (Name and Designation) for the said offences and any other offences punishable under other provisions of law in respect of the aforesaid facts and for taking cognizance for the said offences by the court of competent jurisdiction.

BY ORDER AND IN THE NAME OF THE PRESIDENT OF INDIA
Place: New Delhi
Date: (Name)

Joint Secretary (Establishment)
Railway Board

Annexure-3.2

No. 372/6/2017-AVD-III
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
***

North Block, New Delhi
Dated 1st March, 2019

OFFICE MEMORANDUM

Subject: Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution - regarding

In supersession of this Department's OM No. 134/2/85-AVD-I dated 15/17-10-1986, the following guidelines are laid down for strict compliance while dealing with disagreement between the Disciplinary Authority (DA) and the Central Vigilance Commission (CVC) in cases of granting Sanction for Prosecution.

2. The work relating to according of Central Government's sanction for the prosecution of any person in a case investigated by the Central Bureau of Investigation (CBI) which was centralised in the Department of Personnel and Training, has since been decentralised and vested in the Ministry/Department concerned vide Cabinet Secretariat's Notification No. CD-826/86, dated the 30th September, 1986.

2.1 The CBI recommends prosecution of persons only in those cases in which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.

2.2 The following guidelines may be kept in view while dealing with cases of sanction of prosecution:

(i) In cases in which sanction for prosecution is required to be accorded in the name of the President, the CVC will advise the Ministry/Department concerned and it would be for that Ministry/Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned;

(ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, vide para 2(vi)(b) of the Government Resolution by which the CVC was set up and the CVC's letter No. 9/1/64-DP dated 13th April, 1984;

Contd...2/-

(iii) In a case falling under (i) above, if the CVC advises grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to this Department for final decision;

(iv) In a case falling under (i) above, if the CVC declines sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice and proposes to grant sanction for prosecution, the case should be referred to this Department for a final decision.

(v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to this Department for final decision;

(vi) Where two or more Government servants belonging to different Ministries/Departments, or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to this Department for resolution of the conflict, if any, for final decision.

3. This issues with the approval of Competent Authority.

(Manmeet Kaur)
Under Secretary to the Govt. of India
Tel No. 2309 4541

To:

1. All Ministries/Departments of the Government of India as per standard list
2. Prime Minister's Office, South Block, New Delhi
3. NIC, DoPT for uploading on the website of this Department

Copy to:

1. Secretary, CVC, Satarkta Bhawan, New Delhi
2. Director, CBI, North Block, New Delhi
3. Other as per standard list.

कार्मिक एवं प्रशिक्षण विभाग
Deptt. of Personnel & Trg.
प्राप्ति और निर्गम अनुभाग
Receipt & Issue Section
05 MAR 2019
जारी किया/ISSUED
हस्ताक्षर/Sig.

Chapter IV PREVENTIVE VIGILANCE

401 THE CONCEPT OF PREVENTIVE VIGILANCE

It is adoption of a package of measures to improve systems and procedures to eliminate/ reduce corruption, promote transparency and ease of doing business. Preventive vigilance involves systemic improvements which besides reducing corruption also lead to better operational results. It is a tool of management and good governance and therefore, it is the duty of the management as a whole, and not of the CVO alone. Indeed, it can be said that it is the duty of every employee.

401.1 Causes of corruption: Preventive vigilance is aimed at identifying, tackling/ addressing the root cause of corruption within the organisation. The common causes of corruption, inter alia, could be:

(a) Excessive regulation & licensing.

(b) Complicated rules and regulations.

(c) Monopoly over delivery of goods/ services.

(d) Lack of transparency.

(e) Lack of accountability.

(f) Too much discretionary power.

(g) Poor regulatory framework.

(h) Poor grievance redressal mechanism.

(i) Very low rate of detection of corruption.

(j) Lack of condemnation of corrupt practices by the public.

(k) Absence of a formal system of inculcating values, ethics & integrity.

(l) Inadequacy of regular/ periodic/ surprise checks.

(m) Rigid bureaucratic framework/ processes.

(n) Lack of awareness about rights, duties, procedure to complain, rules, laws, etc.

401A – e-vigilance

e-Vigilance is a modern tool of watchfulness, prevention and detection by leveraging of modern technology. e-Vigilance ensures compliance of laws, rules and instructions in governance activities by means of inbuilt system of machine intelligence, and thereby detecting violations, if any. It also ensures integrity, transparency and equity in the functioning of Government and public entities which are epitome of good governance. (Refer to Chapter 12 of CVC Manual 2021 for detailed instructions).

402 POTENTIAL AREAS OF CORRUPTION

Preventive vigilance is aimed at tackling the areas vulnerable to corruption within the organisation. Although potential areas of corruption are specific to organisations/ sectors, there are some broad areas common to all organisations,

which need special attention while putting in place a system of preventive vigilance. These relate to:

(a) *Procurement:* Procurement is a vast area ranging from procurement of store materials & services to execution of infrastructure projects. It is one of the major corruption prone areas in all organisations.

(b) *Sale of goods and services:* The disposal of goods (the reverse of procurement) and services is also a major area of corruption in some organisations. Similarly, allocation of scarce and/ or precious natural resources is an area of corruption.

(c) *Human resource management:* Human resource management is common to all organisations and the processes relating to recruitment, promotion, transfer and posting are prone to manipulation and corruption.

(d) *Delivery of services to public:* Although not common to all Public Sector Organisations, major Government Departments are involved in delivery of services which are a potential area of corruption.

(e) *Enforcement:* The enforcement of Acts, Rules and Regulations is also an area vulnerable to corruption mainly due to lack of awareness among citizens and ineffective grievance redressal mechanism.

403 PREVENTIVE VIGILANCE MEASURES

Preventive vigilance measures can broadly be categorized as:

(a) *Simplification and standardisation of rules:* Simplification and standardisation of rules and procedures results in elimination of discretion and arbitrariness, which in turn reduces corruption. Identifying areas involving exercise of discretion which are not governed by guidelines together with a complete review of existing rules and regulations needs to be undertaken to introduce clarity and accountability. Similarly, simplification and standardisation of forms/ application also reduces scope for corruption.

(b) *Leveraging technology:* Technology as an enabler for fighting corruption has been effectively demonstrated. E-procurements, E-payments, use of websites for dissemination of information and creating awareness, use of CCTV in places of public dealing, use of GPS enabled devices/ RFIDs, use of appropriate analytical tools, computer assisted audit techniques for detecting frauds are examples of how technology strengthens the system of preventive vigilance.

(c) *Automation:* Using IT as an enabler for reducing corruption along with business process re-engineering is recognized as an effective tool of preventive vigilance. Automation reduces interface/ interaction between public officials and common public. It also removes monopoly in delivery of services and personal discretion, reducing the opportunities for discretion thus leading to reduction in corruption. Therefore, the organisations should strive to reduce interface of officials with common public/ customers by way of automation/ online services. However, IT systems are not an end in themselves; they are the means to an end. It follows therefore that there is a need to develop a system of alerts as also a response mechanism.

(d) *Business Process Re-engineering (BPR):* BPR is very important as it helps the organisations rethink how they do their work and in the process, encourages a full-scale re-creation of processes in order to meet the objectives of the

organisation. Existing processes may be re-engineered to even prevent leakage of revenue.

(e) *Transparency:* Transparency removes the information gap between the public and public officials which in turn reduces corruption. The website of the Department/ Organisation should contain rules & regulations, contact details of officials and all other information useful for common public/ customers.

(f) *Accountability:* There is no fear of punitive action due to lack of accountability. A system with clear accountability and assigned responsibility at each level is necessary not only for smooth functioning but increased transparency, efficiency and for ensuring effective punitive action in case of misconduct.

(g) *Control & Supervision:* Regular and routine inspections, surprise inspections, audit and reviews keep a check on aberrant and corrupt behaviour. A list of points and areas prone to corruption will facilitate the purpose of organising checks and streamlining procedures. A structured interaction between vigilance and internal audit will enable better monitoring and also help identify potential problem areas.

(h) *Early detection of misconducts:* Early detection of misconducts apart from bringing to light the damages to the system, will enable recouping the loss wherever possible and facilitate control of further damage.

(i) *Time-bound and effective punitive action:* Punitive (disciplinary or criminal) action within short period of occurrence of misconduct and finalisation of such cases in a time-bound manner resulting in award of exemplary and adequate (commensurate with gravity of misconduct) punishment deters others from committing such misconduct. Delays and inefficiencies in such proceedings encourages and emboldens others to take risk of committing misconduct under the belief that nothing would happen to them.

(j) *Providing necessary infrastructural facilities:* Non-provision of adequate infrastructural facilities such as accommodation, conveyance, utilities, etc. also induce corruption.

(k) *Training & Awareness:* Capacity building and sensitization at all levels and across all functional areas is important. Public officials should be made aware of their duties and responsibilities, code of conduct, rules and regulations through regular training and awareness programmes. A list of Dos & Don'ts for employees/ officials is a simple yet effective tool. Likewise, familiarization with Standard Operating Procedures relating to different spheres of activity will enhance awareness and reduce procedural violations/ inadvertent errors arising out of a lack of awareness. Knowledge sharing initiatives such as publishing/ circulating information relating to areas where fraud/ misconduct has been detected and sharing information on best practices are other effective awareness generation methods for more effective preventive vigilance. There should also be an effort to create awareness among all stakeholders.

(l) *Conducive work environment:* Conducive work environment for preventive vigilance may include drawing up a list of sensitive posts, rotation policy for sensitive posts, identification of persons of doubtful integrity and keeping them away from sensitive posts/ public dealing. It would be necessary also to create an environment that promotes ethical behaviour. Protection to Whistle Blowers must be ensured in order to bring to light cases of corruption.

(m) *Awareness among public:* If public is made aware of their rights, and also of the rules and regulations, then they are able to resist unfair treatment and arbitrary behaviour by public officials. Public should be encouraged to demand the services due to them and to raise their voice when their rights are denied or powers are misused by public officers. Organisations should prominently display information relevant/ useful to the common public on their office notice board/ website.

(n) *Inculcating Moral Values:* Inculcating ethical behaviour among public, particularly the younger generation is an important tool of preventive vigilance. Vigilance Awareness Week (VAW), celebrated every year during the last week of October is aimed at creating such awareness. This opportunity should be utilized by all CVOs/ Organisations to create awareness among public as well as among its own officials regarding need for imbibing right values.

404 INTEGRITY PACT

404.1 Integrity Pact (IP) is an important tool of preventive vigilance which is aimed at preventing corruption and ensuring integrity in public procurement. The Central Vigilance Commission is the nodal authority for the implementation of Integrity Pact in India. It addresses not only bribery, but also other corrupt practices such as collusion and bid rigging. IP is a written agreement between the Government/ Government Department/ Government Company, etc. and all the bidders agreeing to refrain themselves from bribery, collusion, etc. If the written agreement is violated, the pact describes the sanctions that shall apply. These include:

(i) Loss or denial of contract;

(ii) Forfeiture of the bid or performance bond;

(iii) Liability for damages;

(iv) Exclusion from bidding on future contracts(debarment); and

(v) Criminal or disciplinary action.

404.2 Integrity Pact has a monitoring system which provides for independent oversight. The Central Vigilance Commission nominates Independent External Monitors (IEMs) to monitor implementation of Integrity Pact. Thus, IP in its present form has three players –

(i) The Principal or the Company/ Department,

(ii) The Vendor, and

(iii) The Independent External Monitor (IEM).

(a) In order to ensure transparency, equity and competitiveness in public procurement, the Commission has been recommending adoption of Integrity Pact (IP) and implementation by Government organisations. CVC through its *Office Order No. 41/12/07 dated 04.12.2007 and No. 43/12/07 dated 28.12.2007* as well as *Circular and No. 24/08/08 dated 05.08.2008* recommended adoption of Integrity Pact to all the organisations and provided basic guidelines for its implementation in respect of major procurements in Government Organisations. A Standard Operating Procedure (SOP) was issued by the Commission vide *Office Order No. 10/5/09 dated 18.05.2009*.

(b) The Commission issued clarifications regarding the appointment, tenure and eligibility criteria of IEMs vide *Circular No. 008/CRD/013 dated 11.08.2009 and No. 009/VGL/016 dated 19.04.2010*. The review system for IEMs was modified vide *Circular No. 008/CRD/013 dated 13.8.2010* and clarification regarding tenure of IEMs was issued by the Commission vide its *Circular No. 011/VGL/053 dated 23.07.2012*.

(c) *Department of Expenditure vide OM No. 14 (12)/2008– E-II (A) dated 19.07.2011*, issued guidelines to all Ministries/ Departments/ Organisations including their attached/ subordinate offices and autonomous bodies for implementation of IP. Also, vide *OM No. 14 (12)/2008 – E- II (A) dated 20.07.2011*, the Department of Expenditure requested Department of Public Enterprises for issuing directions to the Central Public Sector Enterprises for use of IP.

(d) 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.

For details on implementation procedure, CVC Manual 2017, Chapter X may be consulted in addition to latest circulars on the issue.

404.3 Adoption of Integrity Pact is presently under the consideration of the Ministry of Railways. Most Railway PSUs have, however, already adopted Integrity Pact.

405 PREVENTIVE VIGILANCE AREAS

Each Vigilance Inspector in the Zonal Railway Vigilance organization and in the Vigilance Directorate of Railway Board is expected to conduct at least 10 preventive checks in every quarter. The various sensitive areas for the preventive checks in important Railway departments have already been earmarked and circulated to the Railways. The areas for Preventive checks are given under department-wise. However, these may not be treated as comprehensive and Vigilance officials should add more areas based on experience and requirement.

406 PREVENTIVE CHECKS – CIVIL ENGINEERING

(i) Surprise checks of original ground levels recorded by IOWs/AENs in connection with execution of earthwork in major construction projects. These checks are to be taken up immediately after the levels are recorded by the AENs, but before the commencement of earthwork by the contractors.
(ii) Quality and quantity checks of running payments for earthwork based on lump sum measurements recorded by the AENs. These checks may be done in those subdivisions where the AENs do not enjoy a good reputation. Payments done for earthwork carried out beyond design profile should also be checked.
(iii) Checks on ballast supplies in regard to quality, quantity and gradation of ballast, particularly those taken along the cess. It is needless to say that such checks should be done immediately after the measurements have been recorded by the AENs in the Measurement Books and before the stacks are disturbed. It should be checked whether instructions regarding non-simultaneous collection and training out of ballast, maintenance of plot registers, stacking of ballast on level ground and height of stacks is being followed or not.
(iv) In so far as ballast collections at the depots/station yards are concerned, the check should cover the quantity measured, quality and gradation of ballast,

whether the ballast is being loaded fully in the hoppers/wagons and also whether the hoppers/wagons are completely emptied in the section. In case of wagon measurement, it is to be especially checked whether wagon is being loaded to predetermined level or not.

(v) Checks of hidden measurements in respect of bridge works, construction of building etc. should be carried out as far as possible, while the works are in progress and before the foundations are covered.

(vi) Checks on stores of IOWs particularly on crucial items of building material such as cement, steel, GI Pipes etc. may be done particularly on those stations where information is available that the IOW or AEN or any other officer having a control on that IOW is building his private house. Detailed checks should be preceded by intelligent discreet enquiries.

(vii) Scrutiny of tender files, particularly those that have been dealt with by officers who do not enjoy a good reputation. Delays in finalization are to be critically examined. It should also be checked whether eligibility criteria have been correctly interpreted or not. In case of tenders for ballast supply, it should be checked whether test reports of ballast samples have been submitted or not, whether in the schedule mention of machine crushed/ hand broken ballast is there or not.

(viii) Zonal contracts should be especially checked whether all the items provided in the contract are being operated or not. It should also be checked whether separate rates for transportation items with lead more than 10 Km have been obtained or not.

(ix) Track works being executed through contractors need special checks, especially about quality of output and about misuse of Railway labour by the contractor in connivance with Railway officials. Released materials from the track renewals need to be checked.

(x) Quality and quantity checks on the works executed e.g. blanketing works, concreting works, brick works etc. Checks should also be conducted on raw materials being used. It should be checked whether contract conditions in regard to quality aspects are being implemented or not.

(xi) Quality check on the works executed in concrete sleepers plants.

(xii) Checks on materials including P. Way fittings being passed by material passing authorities such as AENs, Supervisors and other Inspecting Agencies.

(xiii) Checks on variations in quantities especially positive variation in abnormally high rated (AHR) items and negative variation in abnormally low rated (ALR) items.

(xiv) Checks on test checks conducted and their mention in Measurement Books.

(xv) Checks on scrap accountal and scrap delivery.

(xvi) Checks on PWI stores in regard to accountal and disposal of new as well as released P. Way material.

(xvii) Checks on BRI stores in regard to accountal and disposal of new as well as released bridge materials.

(xviii) Checks on establishment records of employees especially leave records, service records etc.

407 PREVENTIVE CHECKS MECHANICAL, ELECTRICAL AND S & T ENGINEERING

1. Train Lighting and C&W Depots

(i) Whether the deficiencies of Electrical/Mechanical fittings of passenger coaches are correctly noted in the daily diaries with reference to spot physical

checks of such deficiencies by the Vigilance. Cases where deficiencies as noted by the TL/C&W staff in their diaries have been inflated and/or where excess materials have been drawn vis-à-vis the actual deficiencies should be adequately highlighted to HODs apart from recommending and watching punitive action against the defaulting staff.

(ii) Whether proper procedures are being followed for disposal of scrap and rolling stock particularly with respect to accountal of excluded fittings and recovery of these fittings from the purchaser.

(iii) Whether proper procedures are being followed for weighment of gas cylinders both Full and Empty to guard against short-deliveries of industrial gases from suppliers and to ensure return of Empty cylinders. Weighment of empty cylinder will indicate the 'Tare' i.e. Empty weight of the cylinder which when subtracted from the 'Gross' i.e. Full weight of the cylinder will give the exact quantity of gas contained in the cylinder.

(iv) Sealing of electrical energy meters, installed for private bodies/ outside agencies at Railway stations and Railway quarters etc. to be checked to prevent leakage of electricity.

(v) Check proper billing and recovery of electrical energy charges and also recovery of arrears from private bodies/outside agencies and from occupants of Railway quarters etc.

(vi) Checks on establishment records of employees especially leave records, service records etc.

(vii) Whether proper checks are being conducted on quality and quantity of work being carried out by contractors.

(viii) Whether Railway labour and the materials are not being misused/ siphoned off for use of contractors.

(ix) Whether proper procedure is being followed for arriving at estimated rates and finalization of tenders.

2. Workshops & Production Units

(i) Abuses of incentive scheme and unauthorised manufacture of articles for personal/commercial purposes.

(ii) Malpractices in the accountal of materials/components drawn from stores, particularly the non-ferrous ones and also on recovery and accountal of nonferrous borings/chips.

(iii) Misappropriation of non-ferrous materials along with shop floor sweepings by the garbage removal contractors/outside cleaning agencies in collusion with the workshop/RPF staff.

(iv) Proxy punching of gate attendance cards and unauthorised absence of workshop staff during working hours.

(v) Whether proper procedures are being followed for monitoring of trial/development orders placed by the competent authority.

(vi) Whether proper procedures are being followed for disposal of scrap and rolling stock particularly with respect to accountal of excluded fittings and recovery of these fittings from purchaser.

(vii) Whether proper procedures are being followed for weighment of gas cylinders both full and empty to guard against short deliveries of industrial gases from suppliers and to ensure return of completely empty cylinders. Weighment of empty cylinder will indicate the 'Tare' i.e. Empty weight of the cylinder which when subtracted from the 'Gross' i.e. Full weight of the cylinder will give the exact quantity of gas contained in the cylinder.

(viii) Checks on establishment records of employees especially leave records, service records etc.
(ix) Whether proper procedure is being followed for arriving at estimated rates and finalization of tenders.
(x) Sealing of electrical energy meters, installed for private bodies/outside agencies at Railway stations and Railway quarters etc. to be checked to prevent leakage of electricity.
(xi) Check proper billing and recovery of electrical energy charges and also recovery of arrears from private bodies/outside agencies and from occupants of Railway quarters etc.

3. Loco Sheds

(i) Accountal of HSD oil and other lubricants. Checks on availability of calibration charts for different types of tank wagons and storage tanks; functioning of flow meters and other fuelling equipment maintained by oil companies monthly and quarterly.
(ii) Checks as to whether joint procedure orders are being followed for the proper accountal of HSD oil and whether correct debits and record keeping is being done; gross checks of entries in trip cards and registers maintained at fuelling installations.
(iii) Checks on adherence to Board's instructions regarding prescribed stock verification at various levels of fuel and lubricants; periodical trials/reviews for fixing/revising trip rations and adequacy of action against Drivers/Shunters found guilty of bursting trip rations frequently or misreporting of quantity of fuel recorded in the trip cards.
(iv) Whether proper procedures are being followed for monitoring of trial/ development orders placed by competent authority.
(v) Checks on procedures followed for repair of sub-assemblies/components by local trade.
(vi) Checks on whether materials procured through Stores are conforming to specifications prescribed in the purchase orders and whether attempts are being made for local repair/modifications before acceptance of such materials.
(vii) Checks on frequency and quantity of materials indented through non-stock indents/ requisitions placed by the sheds.
(viii) Whether proper procedures are being followed for disposal of scrap and rolling stock particularly with respect to accountal of excluded fittings and recovery of these fittings from the purchaser.
(ix) Whether proper procedures are being followed for weighment of gas cylinders both full and empty to guard against short deliveries of industrial gases from suppliers and to ensure return of completely empty cylinders. Weighment of empty cylinder will indicate the 'Tare' i.e. Empty weight of the cylinder which when subtracted from the 'Gross' i.e. Full weight of the cylinder will give the exact quantity of gas contained in the cylinder.
(x) Whether proper procedure is being followed for arriving at estimated rates and finalization of tenders.
(xi) Whether materials being received against POs or works contracts are being inspected properly and whether proper action is being taken against firms for supplying substandard materials.
(xii) In case of acceptance of materials with specifications at variance with those in POs, whether approval of competent authority along with cost adjustment, if required, is being made.

(xiii) Checks on establishment records of employees especially leave records, service records etc.
(xiv) Sealing of electrical energy meters, installed for private bodies/outside agencies at Railway stations and Railway quarters etc. to be checked to prevent leakage of electricity.
(xv) Check proper billing and recovery of electrical energy charges and also recovery of arrears from private bodies/outside agencies and from occupants of Railway quarters etc.

4. Preventive checks in Divisions and Construction Units for Mechanical, Electrical and S&T works

(i) Scrutiny of tender files, particularly those that have been dealt with by officers who do not enjoy a good reputation. Delays in finalization to be critically examined, as also the projection of the demand.
(ii) Checks to be carried out in the area where transformers and other machinery are getting repaired through the contractors.
(iii) Checks should also be exercised in mass rejection of material during execution on the shop floor.
(iv) Quality checks on the works executed as well as supplies (quantity checks) received for Railway electrification works.
(v) Checks of estimates, particularly regarding the materials shown as to be released from the work and the quantities actually released. It is generally seen that for imported items like cables, the releases in the estimates are given on a very rough basis usually on the higher side and do not correspond to the actuals at site.
(vi) Misuse of Railway labour and materials on the contractual works.
(vii) Checks on the materials inspected and received by consignees for the supplies received from trade including those from Government Undertakings.
(viii) Checks on works executed through the contractors specifically where tender document is incomplete with respect to drawings and specifications.
(ix) Checks of stores of SI, TI & ELF particularly in respect of accountal of materials released and their further disposal. Non-ferrous items like copper, brass, bolts, nuts, cable pieces etc. are regular releases in the S&T branch and it is necessary to find out whether they are properly accounted for or not, sent to the scrap depots or not, whether acknowledgments have been obtained or not? Where copper line wires are being replaced by ACSR conductors, it will be necessary to watch the release and disposal of copper wires in respect of quantities.
(x) Checks on whether proper procedure is being followed in measurements, passing of bills and whether test checks by officers are being carried out and being indicated in Measurement Books.
(xi) Checks on whether entries in Measurement Books are being made by designated officials or not and whether materials are being passed by competent authorities or not.
(xii) Check whether acceptance letter/contract agreement is being vetted by finance.
(xiii) Check whether provisions of 1268E regarding variation in quantity of work during the execution are being followed or not. Check variations in quantities especially positive variation in abnormally high rated (AHR) items and negative variation in abnormally low rated (ALR) items.
(xiv) Comparison of rates obtained through works contracts and through Stores contracts.

(xv) Checks on establishment records of employees especially leave records, service records etc.
(xvi) Whether proper procedure is being followed for arriving at estimated rates and finalization of tenders.
(xvii) Sealing of electrical energy meters, installed for private bodies/outside agencies at Railway stations and Railway quarters etc. to be checked to prevent leakage of electricity.

408 PREVENTIVE CHECKS- TRAFFIC AND COMMERCIAL MATTERS

This is not an exhaustive list, but only indicative in nature. The major areas for Preventive Checks can be the following:

(i) Assessment Deliveries: Checks should be aimed at finding out if there are any deviations from extant instructions on the subject, which may lead to malpractices in assessment of damage to goods/parcels. Checks may also be exercised to see if there is frequent incidence of claims at a particular station showing sizable gap between the damage assessed and the damage actually accrued and amount finally paid, on verification/negotiation by the Claims Branch, and if any particular employees in such cases indicate undue consideration to certain parties. It may also be seen whether the assessing authority was physically present during assessment. Whenever there is a sizable gap between the preliminary assessments done by a lower authority and that finalized by the higher authority, reasons thereof must be examined thoroughly.

(ii) Auction Sales: The objective during the check should be to ascertain whether the prescribed procedure is being followed, due prior notification to public is made, reserve price in cases of articles of value are fixed and to see generally if reasonable amounts are being realized during auctions, keeping in view the nature, quality and quantum of goods. Unconnected wagons lying beyond reasonable time must be paid special attention. Disposal of commodities of such wagons (if they contain valuable articles or some other articles fit for household usage) should be thoroughly examined, in order to check whether they were appropriately disposed off as per rules.

(iii) Issue of exaggerated DD messages leading to payment of fictitious claims: Checks may be so arranged as to confirm if there is deliberate attempt on the part of any staff to show exaggerated extent of damage in the DD messages. It would be advisable to reweigh and observe the condition of certain damaged packages which may be lying on hand, and compare the results with particulars shown in the DD messages concerned. Proper dispatch of DD message must be ensured. Checks should also be conducted to ascertain whether the DDM register is closed every day as envisaged in para 1732 of IRCM Vol-II, in order to stop its fictitious use which may result in fictitious claims.

(iv) Concealment of Wharfage and Demurrage: A major area of malpractice is in the sphere of concealment of demurrage and wharfage charges at Goods Sheds, siding and Parcel Offices by manipulating the placement and release timings of wagons and by not recording the time of unloading of consignments on the platforms and wharfs. Checks may also be done so as to cross check with other documents of the station for verifying the correctness of timings recorded. Checks should also be conducted to ascertain whether there is any delay in making available the inward consignments for delivery.

(v) Irregularities in allotment of wagons: These checks would include scrutiny of priority register and allotment register to find out whether the commodity to be loaded was placed in the correct priority.

(vi) Issuance of Clear RRs: Checks should be conducted to find out whether 'clear' RRs are being issued even when loading is not supervised by Railway Staff. In such cases, there may be short loading by the consignor and short certificate will be issued by the Railway Staff which will result in claims.

(vii) Mis-declaration of Consignments: Contents of the consignment should be checked to find out if the consignee is misdeclaring the contents of the consignment for getting lower class rate or for booking the consignments in violation of any restriction or ban e.g salt for human consumption and salt for industrial use, bran, husk etc.

(viii) Placement of Wagons: The objective of this check is to ascertain whether rakes are placed on spurs at the station immediately on their arrival or otherwise. If there is any delay, it should be ascertained whether this delay is on account of reasonable operational reasons or otherwise. Line capacities for placement must be cross checked with the actual placements. Placement on open platforms, leaving covered sheds unutilized during a season other than the Monsoon season must be checked, to find out whether the practice was to save higher wharfage charges of a particular customer/ group of customers, or it was for some reasonable operational problems.

(ix) Electronic In-Motion Weighbridges (EIMW): The objective of this check is to ascertain whether weighbridge where rakes are weighed functional. It must be ensured that they are calibrated periodically or after any repairs and are being certified by legal metrology department. Further it may also be checked that proper data are input for wagons etc and also the speed of the train as should be maintained is being recorded. In case of failures action being taken for ensuring early rectification of faults in weigh bridge.

(x) Overloading in wagons: Checks should be conducted to ascertain whether rakes are being weighed at weighbridges and result thereof is advised to the destination or otherwise. Realisation of undercharges (raised after the weighment) should be confirmed.

(xi) Delivery Book

a. Checks should be conducted to ascertain whether 'short certificate' has been issued even when the consignee/ authorized agent took delivery under clear signature.

b. It should also be checked whether consignments have been delivered on Indemnity Notes even when the original Railway Receipt was lying with the Bank.

(xii) Delivery on G.I.Bonds: Checks may be conducted to see whether consignments are being delivered in the absence of P.W.Bills on the strength of G.I.Bonds, but the original P.W.Bills are not being collected within 10 days from the date of delivery. Cases in which Original P.W. Bills are not collected must be cross checked with the Missing Goods Report certificates, issued by the station.

(xiii) Ticket Checking

a. Frequent checks should be conducted in the trains to see that unscrupulous ticket checking staff are not carrying unauthorized passengers on empty berths, against roadside quota or 'Not Turned Up' passengers. It should

particularly be checked whether 'Not Turned Up' passengers are marked as such in the chart.

b. Travelling authority of passengers must be checked minutely to find out whether such authority is valid. Reservations done against pre-bought tickets should be specifically checked.

c. Special checks should be organized to detect whether unsocial elements block seats/ berths in general compartments by spreading towels/ sheets and hand these over to passengers on receipt of illegal money. In some cases, discreet observations may be made to find out the identity of staff with whose connivance these malpractices may be taking place. If necessary, the assistance of police may be sought with a view to eliminate such organized malpractices.

d. Checks on EFR fraud.

e. Checks to be conducted on the aspect of remittance of EFR earnings.

f. TA bills of the Ticket checking staff to be checked.

(xiv) Self Printing Ticket Machines/ Unreserved Ticket System

a. In case of SPTM/UTS, the non-issued and cancelled tickets should be physically tallied with the statement being printed daily to take care of fraudulent refund.

b. Random collection of tickets issued from SPTM/UTS should be done enroute and at the destination. Verification may be done to find out whether these tickets were issued from the terminal marked on them, and whether the fare, distance etc. are correct. Accountal of these tickets at the terminal should be checked. Defacing, stamping and alteration made on the tickets should be paid special attention in the check.

c. Random number printed on SPTM tickets collected at the destination station should be checked, since a unique random number is generated for each destination on a particular date. SPTM printed number on the tickets should be tallied with the preprinted numbers appearing on the stock to find out any mismatched ticket. Particulars of mis-matched tickets should be cross checked with details available in the hard copy.

d. Checks may be conducted on the working of the 'thin client' system.

e. Checks should be conducted to scrutinize disposal of lost ticket rolls. It may specifically be checked whether rolls shown as lost are being used by the staff at the terminals.

f. Cash transactions of UTS Counters to be checked.

(xv) Reservation Offices

a. Checks may be aimed at detection of any existing malpractices in allotment of berths/seats generally and it may especially be seen if 'Regret Slips' as provided for are being issued, and if there is any indication of staff involvement in unauthorized blocking of seats/berths and consequent transfer of tickets

b. Checks should be aimed to stop entry of touts. In case of pre-bought tickets, the proper travel authority should be ensured. In case of party booking and change of names, checks should be conducted to ensure that permission of the competent authority has been taken. Print out of change of name in case of computer reservation should be scrutinized. In case of special cancellation, it should be probed whether the permission of competent authority has been taken and test check may be done regarding the situation leading to special

cancellation. Checks may be done on the lockers/cabinets of the staff to detect irregular availability of requisition forms and tickets.

c. The requisition slips of the counter that have been dealt with, should be checked whether these are filled up properly, dealt sequentially, these have proper stamp and I/C No. of the RTSA agents etc. It is also to be checked whether reservation staff is indulging in touting activities. This can be verified by checking these requisition slips one by one – a check-point can be to see if several forms are filled up in the same handwriting.

d. Requisition slips pertaining to 'Tatkal' reservations should be checked to find out whether more than one requisition slip of the same person has been dealt with.

(xvi) Departmental Catering

a. Checks may be done on the (1) issues and accountal of store materials (2) purchase of consumable items from the local market (3) conformance of the quality and quantity of food stuff being supplied with extant provisions.

b. Checks should try to find out whether private sales are being carried out through commission vendors and other departmental units in a manner in which the Railway is denied its due share of profits.

c. Checks should be done to examine whether items being supplied are as per the contract or the laid-down schedule. The quantity, quality, trade mark of the supply being done should be checked vis-à-vis the scheduled orders.

d. Checks to be conducted on Catering Contracts which should include the aspect of License period/execution/security deposit/license fee/ quality and quantity of food items/ overcharging /selling of non permitted food stuffs etc.

(xvii) SLR leasing

a. Frequent checks should be conducted to find out whether SLR is loaded beyond 4 tonnes per compartment of SLR or its marked carrying capacity.

b. Checks should be conducted to find out whether day to day leasing is being resorted to rather than long term leasing for longer than the stipulated period. It should be also checked whether any effort has been made to give the SLRs on long term leasing or not.

c. It should be checked if penal clauses are being invoked for cases of non-loading by the party.

d. It should be checked whether leasing has been resorted to from any intermediate station without obtaining 'No-objection certificate' from the originating point.

(xviii) Contracts

a. Check should be conducted to ensure that all earning/service contracts pertaining to commercial matters are processed and finalized without any delay and in a transparent manner. It should specifically be checked whether such delay is deliberate and beneficial to the existing contractor. Intentional delays facilitating running of contracts at lower rates should be thoroughly examined.

b. It should be ensured that tender conditions were appropriately framed and conveyed to the bidders in the Notice Inviting Tender. Any deviation from the published terms and conditions must be examined in detail. In cases where

the scope of the work has been changed, it may be checked that every bidder has been given equal opportunity. It should also be checked that terms and conditions of a limited tender are not framed to favour a specific party.

c. Checks should be conducted to find out if allotment of contracts is as per extant provisions.

d. It should also be checked whether the tender has been discharged on flimsy ground to favour the existing contractor.

(xix) Round trip VP leasing: It should be checked whether freight is collected at both the originating and destination station. It should also be checked if empty VPU/VPHs are being supplied for loading, as per the contract. Action taken on the party's failures to load the VPU/VPH in either/both directions should be scrutinized in this check. It should be especially checked if penal clauses relating to non-loading by the party are being enforced.

(xx) Leasing/Licensing of Commercial plots: It should be checked if commercial plots are leased/licensed as per extant instruction. It may also be checked that the grounds for renewal of licensing are in order, and are under orders of the competent authority.

(xxi) STD/ISD/PCO Booths: Checks should be conducted at STD/ISD/PCO booths to ascertain whether the contractor is overcharging the passengers and using more than the permitted number of connections. It should also be checked whether rates and opening hours have been displayed or not.

(xxii) Miscellaneous: It should be also checked whether non- implementation of new instructions is causing loss to Railway Revenue.

(xxiii) Checks on the Overtime claimed by Traffic department

409 PREVENTIVE CHECKS - STORES MATTERS

(i) Checks on purchase of stores as to proper assessment of quantity, mode of tendering, selection of firms, verification of antecedents of firms, examination of offers etc. Updating web-site with details of contracts concluded.

(ii) Checks on proper procedure of issue of tenders including bulletin tenders, availability of tenders on web-site, tender opening etc., maintenance of list of registered suppliers. Checks on records/ procedure in Sample section.

(iii) Checks on the Receipt and Inspection of Stores, for proper quantitative and qualitative inspection both in the Stores Depots and at consumer ends in respect of direct dispatch orders.

(iv) Checks on the local purchase both by the stores depots and the consuming departments as to the genuineness of the sources of purchase and reasonableness of prices etc.

(v) Checks on the stores held in stock both by the Stores Depots and by the imprest holders/ consumers as to pilferages, misappropriation etc., pairing of issue notes, maintenance of proper accountal and checking pending stock sheets.

(vi) Checks on distribution of imprest stores in respect of correct indenting and delivery of stores.

(vii) Receipt and accountal of returned stores/ scrap, particularly costly non-ferrous materials to avoid leakage or misappropriation.

(viii) Checks on the disposal of scrap/ condemned rolling stock in regard to lot formation, identification, definition, quantification, condemnation certificates, survey sheets, list of excluded components, adequacy of publicity, reserve prices, proper delivery and supervision by stores, Accounts, and R.P.F., weighment etc. with a view to prevent sales at unreasonably low prices, pick and choose, material

substitution, unauthorized delivery, refunds of sale value due to non-availability of material etc.

(ix) Checks on the indenting and supply of printed card tickets and SPTM/ Computer tickets by ticket printing presses with a view to prevent leakage of blank tickets, printing of tickets by unauthorized sources, duplicate/ triplicate tickets, leakage of tickets in transit etc.

(x) Check in the General Printing Presses with a view to prevent leakage of stationery and forms, money value documents, unjustified off-loading of work to trade etc.

(xi) Checks on the issue of raw materials to shops/ firms against work/ fabrication orders vis-à-vis the finished goods/ parts returned after manufacture including the wastage parameters etc. with a view to prevent leakage and misappropriation of such raw materials or materials loaned to firms.

410 PREVENTIVE CHECKS - RPF

(i) Checking of General Diary of the post.

(ii) Cross checking of cases of compensation claim on account of pilferage/thefts with RPF records to ensure that proper D.D. reports are sent to them by the concerned commercial staff in cases and the same are brought on record and followed up for registration of cases and investigation to prevent malpractices in payment of claims in collusion with the commercial/RPFstaff.

(iii) Checking of defective seal wagon checking register and seal checking memo book to check cases of interpolation/tampering and other irregularities.

(iv) Checking cases against suspect railway employees which should have been referred for departmental action or which had been referred to the department concerned but no proper action has actually been taken.

(v) Preventive checks of records of movement and fuel consumption of vehicles owned by RPF/RPSF and deployment of manpower.

411 PREVENTIVE CHECKS - PERSONNEL DEPARTMENT

(i) Selection and Promotions

(ii) All facets of selections/promotions as laid down in Codes/Manuals and extant instructions.

(iii) Recruitment

(a) Checks on recruitment of class-IV staff in particular appointment of substitutes and staff on compassionate grounds, maintenance of CL Registers, Service Cards, screening of muster rolls.

(b) Not offering employment in the order of merit from the list of duly empanelled candidates.

(c) Failure to observe instructions regarding medical examination and verification of antecedents.

(d) Passing over an empanelled candidate on flimsy grounds.

(iv) Pay, Travelling Allowance & Overtime etc.

(a) Deliberate failure to deduct income-tax from pay bills though clearly due, in some cases only while recoveries may be made for others.

(b) Recoveries of advances or deductions deliberately not made or postponed only for the favoured employees.

(c) Drawals of house rent allowance even for employees in occupation of Railway/Government quarters/Rest houses/inspection carriage. In such cases it will be found that there would be lack of co-ordination between the section drawing the bill and the section allotting quarters. Further, there would be a failure to obtain prescribed certificates from employees concerned.

(d) A cross check with diaries of the staff concerned may reveal irregularities in the T.A. claims.
(e) Excessive booking of staff for overtime without the supervisor exercising proper checks or bringing to the notice of officer in charge.
(f) In workshops drawing incentive bonus on days on which overtime also has been claimed for one and the same employee.
(v) Passes & PTOs
(a) Drawals of passes by false declaration of ages of family members/dependent relatives. A crosscheck with family particulars given for other purposes like PF/Pension nomination forms may prove useful.
(b) Drawal of passes for non-existent family members, dependent relatives. A crosscheck with declaration made for income tax purpose may reveal irregularities of this type.
(c) Issuing Passes/PTOs out of turn showing favouritism to some while applications for other might be unduly delayed.
(d) Drawals of passes for ineligible members like employed or overaged sons or married daughters.
(vi) Advances
(a) False declaration of purposes for which advances is required.
(b) Deliberate failure by dealing staff to obtain certificate of proper utilisation of the advance.
(c) Payment of advance to wrong parties, particularly in the case of illiterate Class IV staff.
(d) Payment of instalments of House Building Advance against fraudulent certificates of utilisation progress.
(vii) Service Records
(a) Connivance of staff concerned who deliberately do not enter penalties, suspension etc. in the relevant columns of the service sheet.
(b) Deliberately ignoring orders of penalty withholding increments.
(c) Leave account of staff should be checked.
(d) Review of Service Records with particular reference to the manipulation of entries in the first page, missing photos.

412 PREVENTIVE CHECKS - ACCOUNTS DEPARTMENT

(i) Whether there is delay in passing of bills, such as Stores Bills, Engineering Bills, S.S. Bills, OT Bills etc.
(ii) Whether necessary checks are carried out on the bills received from different departments.
(iii) Whether any preference is given in passing bills of any particular contractor or supplier.
(iv) Whether necessary checks are carried out while passing pay sheets.
(v) Whether necessary checks are being exercised in passing TA bills, overtime bills, running allowance, night duty allowance bills etc.
(vi) Whether recoveries are affected promptly, regularly and correctly in cases of advances, such as provident fund advance, cycle advance, fan advance, motor car advance, house building advance, festival advance etc (so far as accounts staff are concerned).
(vii) Whether there is any delay in passing personnel bills, such as PF advance, settlement dues etc.
(viii) Whether payments to staff in relation to advances and withdrawals and retirement benefits are properly witnessed so as to ensure that fraudulent payments against fictitious applications are not made.

(ix) Whether while passing supplementary bills due to arrears of pay, proper remarks are being recorded on the original bills to prevent the bills being passed more than once.
(x) Surprise checks of cash in hand with Cashiers and Pay Clerks, Booking/Goods Clerks, Booking/Goods Clerks and other station staff etc. to ensure that the same is correct as per records.
(xi) Whether proper checks are carried out on all station returns received in the office and debits raised timely where necessary.
(xii) Whether the opening balance in the PF ledgers at the commencement of the year is properly checked and attested by SO (Accounts) and countersigned by Accounts Officer.

413 PREVENTIVE CHECKS - MEDICAL DEPARTMENT

(i) Checks of ground stock of costly drugs and cross check with entries in the costly drug register and check on issue/disposal of expiry date medicines.
(ii) Check on the spurious drugs-whether such checks being carried out by hospital authorities-follow up action for substandard quality drugs.
(iii) Check on the ground stock of important items pertaining to the linen store and procedure for condemnation and disposal of condemned items.
(iv) Checks in respect of local purchases with particular reference to need thereof, following of proper procedure as given in Pharmacopia and other manuals, purchase within the power of the respective officers, checking of the tenders if such procedure has been adopted.
(v) Check on ground stock kitchen stores-proper procedure for condemnation and disposal of wastages etc.
(vi) Check on the supply of diet for in-patients-recovery of diet charges as per procedure.
(vii) Checking of the report pertaining to the various medical examination of candidates and patients, issue of certificates, observance of the laid down procedures regarding marking of attendance etc. with particular emphasis on:-
(a) Proper maintenance and custody of sick/fit certificate books, issue of certificate books, issue of certificates in chronological orders with proper dating and without leaving blank certificates in the book.
(b) Mention of temporary unfitness.
(c) Corresponding entries in the Out Patient Department.
(d) Check of cases of discharge for non-attendance of the patients and prompt intimation in that regard to Department concerned.
(e) Checking of entries in the Sick Attendance Register and proper marking of attendance as per rule.
(viii) Procurement of high cost medical equipments-procedure for procurements- their usefulness- maintenance of records for their usage.
(ix) Check on the treatment of outsiders in the hospital and maintenance of records there of, checking about sanctions for such treatments, recovery of necessary advance and timely payments and receipt as well as the adjustments of doctor’s share in connection with such cases.
(x) Checking from the doctors as to whether they are maintaining the Visit Diaries/Books prescribed in respect of the fees obtained by them for treatment of families of railwaymen at their residences.

Chapter V HANDLING AND PROCESSING OF COMPLAINTS

501 INTRODUCTION

501.1 The genesis of any vigilance investigation can be traced to information received either through written complaints or what is known as source information (where a complainant does not want to commit his complaint to writing or wants to remain in the background). Common sources of the origin of complaints/information are listed in the following paras but these are illustrative, and not exhaustive.

502 SOURCE OF COMPLAINTS

502.1 Information about corruption, malpractice or misconduct on the part of public servants may flow to the administrative authority, the Commission, the CBI or the police authorities from any of the following or other sources:

a) Central Vigilance Commission.
b) CBI and other police authorities when they do not intend to investigate the complaint.
c) Any railway administrative authority.
d) Ministries and Departments of the Central or State Governments.
e) The President's Secretariat and the Prime Minister's Office.
f) MPs/MLAs/VIPs, individuals and social and other organisations.
g) Complaints made under Public Interest Disclosure and Protection of Informers Resolution, 2004.
h) Complaints received from employees of the organisation or from the public
i) Departmental inspection reports and stock verification surveys
j) Scrutiny of annual property statements
k) Scrutiny of transactions reported under the Conduct Rules
l) Reports of irregularities in accounts detected in the routine audit of accounts; e.g. tampering with records, over-payments, misappropriation of money or materials, etc.
m) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies, etc.
n) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings
o) Proceedings of the Houses of Parliament
p) Complaints and allegations appearing in the press, etc.
q) Source information, if received verbally from an identifiable source, to be reduced in writing
r) Intelligence gathered by agencies like CBI, ACB, Lokayuktas, etc.
s) Complaints received through e-mail

502.2 In addition, the Chief Vigilance Officer concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting information about any malpractice and misconduct among the employees. Similarly, CVOs in all the organisations must also scrutinise the news items relevant to their organisation

on a continuous basis to check whether any cases of corruption are revealed in them. Information gathered from reports, returns, news-papers, etc. will be included under the term "complaint" and will be dealt with in the same way as letters of complaints. Information received verbally will be reduced to writing and dealt with similarly. Information gathered in such a manner should be reduced to writing and registered in the Vigilance Complaints Register in Indian Railways Integrated Vigilance Information System (IRVINS) database at a suitable stage.

502.3 Information about corruption and malpractices on the part of Public Servants may also be received from their subordinates or other Public Servants. While normally a Public Servant is required to address communications through the proper official channel, there is no objection to entertaining direct complaints or communications giving information about corruption or other kinds of malpractices. While genuine complainants should be afforded protection against harassment or victimisation, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe Departmental action or launching criminal prosecution against such complainants.

503 COMPLAINTS RECEIVED FROM CENTRAL VIGILANCE COMMISSION (OTHER THAN PIDPI)

503.1 Complaints received for investigation from the Central Vigilance Commission for investigation and report must be investigated on priority and in all cases the investigation reports should be sent to the Board within 8 weeks as time given for submission of Reports to CVC is 12 weeks. In case, if it is not possible to complete the investigation and refer the matter to the Commission within three months, **the CVO should seek extension of time stating specific reasons/constraints in each case, within 15 days of receipt of reference from the Commission**. Such requests from the CVO should be submitted with the approval of the CRB & CEO of Indian Railways.

503.2 Some complaints are forwarded to the SDGM/CVO by the Commission/ Railway Board for necessary action. The Commission/ Railway Board expects the CVO to scrutinize the complaints sent by the Commission/ Railway Board for necessary action and decide action on such complaints within a period of one month from the date of receipt of complaint from the Commission.

503.3 Complaints referred to CVOs for necessary action must be referred back to the Commission/ Railway Board for advice, if they have been investigated and a vigilance angle has come to notice against an officer falling under the jurisdiction of the Commission. If any such complaints are taken up for inquiry/ investigation by the CVO, the time limit of 12 weeks for completion of investigation and submission of report would apply. Otherwise such complaints require no further reference to the Commission/ Railway Board and are to be disposed after taking necessary action. CVO should update the status of complaints sent for necessary action on IRVINS.

503.4 In respect of references made by the Commission to the CBI/ Ministries, etc. for clarification and/ or comments, the same should be sent to the Commission within 6 weeks.

504 COMPLAINTS RECEIVED UNDER PIDPI

504.1 Department of Personnel and Training's Resolution No. 89 dated 21st April, 2004, commonly known as Public Interest Disclosure and Protection of Informers Resolution, 2004, envisages a mechanism by which a complainant can blow a whistle by lodging a complaint and also seek protection against his victimisation for doing so. The Central Vigilance Commission and the CVO of Ministry or Department is the designated agency to receive complaints from whistle blowers under the PIDPI Resolution.

504.2 Complaints received from the Commission under the PIDPI Resolution are not required to be verified for genuineness by the CVO as the process of verification/confirmation is completed in the Commission on receipt of the complaint under the PIDPI Resolution. Therefore, these should be taken up for investigation by CVO on their receipt from the Commission. Such complaints shall, in other words, be treated as registered, immediately on receipt. The Department is required to send its report to the Commission within one month from the date of receipt of the reference.

504.3 In pursuance of the aforementioned Resolution, the CVC had issued the following public guidelines relating to the receipt of complaints:-

(i) the complaint should be in a closed/secured envelope .
(ii) the envelope should be addressed to Secretary, Central Vigilance Commission and should be superscribed "Complaint under The Public Interest Disclosure." If the envelope is not superscribed and closed it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
(iii) Commission will not entertain anonymous/pseudonymous complaints.
(iv) the text of the complaint should be carefully drafted so as not to give any details or clue as to his/her identity. However, the details of the complaint should be specific and verifiable.
(v) in order to protect the identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable; it will take the necessary action, as provided under the Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

504.4 Complaints received under PIDPI should be given the top most priority and investigations into such complaints should be completed within eight weeks as time given for submission of Reports to CVC is 12 weeks. In case, if it is not possible to complete the investigation and refer the matter to the Commission within three months, **the CVO should seek extension of time stating specific reasons/constraints in each case, within 15 days of receipt of reference from the Commission**. Such requests from the CVO should be submitted with the approval of the CRB & CEO of Indian Railways.

504.5 CVOs of Ministries have also been made designated authorities by DoPT to receive complaints under PIDPI. Procedure for handling of complaints under the

Public Interest Disclosure and Protection of Informers (PIDPI) Resolution dated 21.4.2004 to be followed by the designated authority (CVOs of Ministries/Departments) is as under:

(i) The 'Designated Authority' shall authorize an officer not below the level of Section Officer (SO) for receiving complaints under the PIDPI Resolution.
(ii) All envelopes super-scribed with 'Complaint under the Public Interest Disclosure' will be opened by the SO/In-charge, so authorized, in presence of the 'Designated Authority'.
(iii) The identity of the complainant would be confirmed by the SO/In-charge by writing a letter to him/her.
(iv) After the identity is confirmed, both, 'Designated Authority' and the SO/In-charge, will ensure that the identity of the complainant is removed from the body of the complaint and the dummy complaint given a number along with central registry diary number along with central registry diary number with which the original complaint can be traced back.
(v) The original complaint would be kept in a safe/almirah. The custody of the almirah will remain with the concerned Section Officer and at no time that complaint can be accessed without proper authority from the 'Designated Authority'.
(vi) The dummy complaint so made would be submitted to the 'Designated Authority' who would take the decision whether the matter requires to be looked into further and report is to be called in the matter from any quarters. (Separate files may be opened for each complaint).
(vii) While considering the complaints the 'Designated Authority' would take no action on complaints relating to administrative matters like recruitment, promotion transfers and other related issues. However, in case of serious complaints of irregularity in these matters, the same could be brought to the notice of the Secretary/Head of the Organisation for taking appropriate action.
(viii) In such cases where a decision has been taken to call for a report, a maximum time limit of 2 weeks may be given. In case no reply is received within two weeks, a reminder should be sent at the level of the 'Designated Authority'. If no reply is still received, the second reminder after 2 weeks should be sent at the level of the Secretary. If no reply is still received the 'Designated Authority' may call for an explanation and recommend administrative action for deliberate delay.
(ix) On receipt of the report, the concerned SO/In-charge will put up the matter to the 'Designated Authority' who shall investigate in to the complaint and prepare an investigation report within two weeks.
(x) The 'Designated Authority' would submit the investigation report along with his recommendation to the Central Vigilance Commission for further direction.
(xi) Meanwhile, the 'Designated Authority' shall ensure that no punitive action is taken by any concerned Administrative authority against any person on perceived reasons/suspicion of being "Whistle Blower".
(xii) Subsequent to the receipt of Commission's directions to undertake any disciplinary action based on such complaints, the CVO has to follow up and confirm compliance of further action by the DA and keep the Commission informed of the delay, if any.
(xiii) The Section Officer/In-charge should maintain a separate list for the complaints received under the 'PIDPI Resolution' and enter the information in the

computer system and monitor their progress periodically and put up the same to the 'Designated Authority' every 2 weeks.
(xiv) Wherever the complainant has alleged victimization/harassment the 'Designated Authority' should ensure that if the identity of the complainant somehow becomes known he/she should not be harassed/victimized by way of frequent transfers etc.
(xv) In case a complainant seeks protection and reports that his life is in danger, the 'Designated Authority' would examine the same and send his recommendation to the CVC to take up the matter with the Nodal Officers of respective States/UTs appointed by the Ministry of Home Affairs/State Governments for the purpose of providing security cover to the whistle blowers.

504.6 **PIDPI complaints received at Zonal Railway/PU level** - It is advised that complaints under the "Public Interest Disclosure and Protection of Informers (PIDPI) Resolution" received directly by the SDGMs/CVOs of Zonal Railways/PUs/PSUs, shall be forwarded to the Chief Vigilance Officer/Ministry of Railways for further necessary action, without opening the envelope. Further action will be processed by Railway Board.

504.7 For details on PIDPI please refer to Annexure 5.2 and CVC Vigilance Manual 2017.

505 ACTION ON AUDIT REPORTS INCLUDING CAG PARAS, NEWS ITEMS, ETC.

505.1 The reports of internal audit, statutory audit and Comptroller & Auditor General are important tools of preventive vigilance as they provide an independent periodic check of the efficacy of the internal controls within the organisation and create awareness about areas at risk of fraud or weak controls. The Commission has advised CVOs to look into all such reports with the objective of identifying vigilance issues. As a strategy of good governance, the Commission has been advising all Government organisations to evolve a strong internal audit mechanism.

505.2 The audit report of the C&AG many a time reveals not only administrative and financial irregularities but also actual cases of misconduct and corruption. The C&AG reports are generally well documented and would be useful in bringing the corrupt public servants to book. The valuable information available through the C&AG's reports in the form of documented cases of misconduct or corruption call for prompt action on the part of the disciplinary authorities. (CVC Circular No. 3(V)/99/14 dated 16.05.2001)

505.3 CVOs in all the organisations must scrutinise internal and external audit reports including audit report of the C&AG to check whether any cases of misconduct or corruption are revealed in them. In all such cases, immediate action must be initiated against the public servants concerned through the standard practice of referring vigilance cases to CVC. (CVC Circular No. 3(V)/99/14 dated 16.05.2001)

505.4 All serious cases of malpractices reported by C&AG which are perceived to have a vigilance angle would also be sent to the Commission for examination and follow up action. On receiving such references from C&AG, the Commission would take follow up action with the disciplinary authorities. In this way, it will be ensured that the cases of corruption and issues having a vigilance angle are not

lost sight of and there is effective synergy between C&AG and the Commission to strengthen the system to fight corruption.

506 COMPLAINTS BY EMAIL

506.1 – Deleted.

507 ACTION ON COMPLAINTS RECEIVED FROM MEMBERS OF PARLIAMENT AND DIGNITARIES

507.1 References received from Members of Parliament and Dignitaries are to be dealt as per procedure laid down in Central Secretariat Manual of Office Procedure brought out by the Department of Administrative Reforms and Public Grievances. It has, however, been noticed that a number of complaints are being received using letter heads of Members of Parliament/ VIPs and with forged signatures of the Hon'ble MPs/ VIPs. Hence, as a measure of abundant caution and to provide adequate protection to the officers against whom such complaints have been made, confirmation shall be sought from the dignitary regarding the making of the complaint. On receipt of confirmation, the complaint shall be dealt with on priority as per the procedure referred to above. (Para 3.9 of CVC Manual 2017)

508 VERIFICATION OF GENUINENESS

508.1 Every complaint is required to be verified for genuineness. This may be done by one or both of the following methods:-

(i) addressing the complainant through a registered letter (acknowledgement due), asking him to confirm, within the time detailed in para 509.5, that he has made the complaint.

(ii) by deputing an authorised official to personally contact the complainant.

508.2 Where a complaint, received from a VIP, has been forwarded to the railways with a positive endorsement by, or on behalf of the Minister, asking for a report, the investigations may be undertaken without verification of genuineness.

508.3 The verification of genuineness is not required to be done in cases of complaints forwarded by the CVC for investigation and complaints received under the Public Interest Disclosure and Protection of Informers (**PIDPI**) Resolution.

509 ANONYMOUS AND PSEUDONYMOUS COMPLAINTS

509.1 The pre-requisite for investigation of a complaint, is that the complaint should be signed and contain the name and address of the complainant. Any complaint that does not bear the name and address of the complainant is an anonymous complaint. A complaint which does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint.

509.2 The procedure for handling anonymous/ pseudonymous complaints has been modified in view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informer's Resolution – 2004 (PIDPIR). Relevant instructions on this have been issued vide DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013.

509.3 No action should be taken on anonymous/ pseudonymous complaints in line with Commission's Circular No. 07/11/2014 dated 25.11.2014, and such complaints should be filed.

509.4 Any complaint that does not bear the name and address of the complainant is an anonymous complaint. No action is to be taken on anonymous complaints by the Ministries/ Departments/ Organisations, irrespective of the nature of allegations, and such complaints should be filed. Such complaints shall not be treated as registered complaints.

509.5 Similarly, no action is to be taken by the Ministries/ Departments/ Organisations in the case of complaints which are treated as pseudonymous. A complaint that does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint. Pseudonymous complaints will be referred to the complainant for confirmation/ genuineness verification and if no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days of sending the reminder, if still no response is received, the said complaint may be filed as pseudonymous by the concerned Ministry/ Department. The relevant Circulars on the subject are CVC's Circular No. 07/11/2014 dated 25.11.2014, DoPT OM No. 104/76/2011-AVD.I dated 18.10.2013 and CVC's Circular No.03/03/16 dated 07.03.2016.

510 ACTION AGAINST PERSONS MAKING FALSE COMPLAINTS

510.1 If a complaint against a public servant is found to be malicious, vexatious or unfounded, it should be considered seriously whether action should be taken against the complainant for making a false complaint.

510.2 Under Section 182 of the Indian Penal Code, 1860, a person making false complaint can be prosecuted. Section 182 reads as follows:

"Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

510.3 If the person making a false complaint is a public servant, it may be considered whether Departmental action should be taken against him as an alternative to prosecution.

510.4 Under section 195(1)(a) of Code of Criminal Procedure, 1973 a person making a false complaint can be prosecuted on a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

510.5 In respect of complaints received by the Commission, while dealing with the matters if it comes across any such false complaint, the Commission may advise the administrative authority concerned about appropriate action to be taken. Regarding complaints received by the Departments/ organisation, the administrative authorities may also, at their discretion, seek the advice of the Commission in respect of such cases involving public servants.

511 WITHDRAWAL OF COMPLAINTS

Some complainants, after confirming the complaint made by them, make a request for withdrawing the same or stopping the inquiry/ investigation by the Commission/ organisation. It is to be noted that once a complainant confirms the complaint and action has been initiated for inquiry/ investigation by the Commission/ organisation, it is not permissible to withdraw/ stop such enquiry/ investigation even if the complainant withdraws his complaint. The allegations contained in the complaint have to be taken to its logical conclusion irrespective of complainant's request for withdrawal of the complaint.

512 DEFINITION OF VIGILANCE ANGLE

512.1 Vigilance angle is obvious in the following acts:

a) Demanding and/ or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.

b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence.

c) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.

d) Possession of assets disproportionate to his known sources of income.

e) Cases of misappropriation, forgery or cheating or other similar criminal offences.

512.2 There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or wilful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority/ superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals/ a party or parties; these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

512.3 Any undue/ unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.

512.3A Managing Conflict of Interest **-** (a) The Conflict of interest flows from the principle of Natural Justice that 'No one should be the judge in his / her own case

(Nemo judex in causa sua)'. It leads to biases. Bias means an act which leads to unfair activity whether in a conscious or unconscious stage in relation to the party or a cause or case. That is where the conflict of interest arises. The Conflict of interest issue is an emerging area of concern in public governance. A conflict of interest occurs when an individual's personal interests – family, friendships, financial, or social– could compromise his or her judgment, decisions, or actions in the workplace. It arises when a public servant is involved in a particular matter as part of his official duties with an outside organization with which he also has a financial interest, i.e., the employee's (i) spouse, (ii) children & other relations, (iii) general partner, (iv) an organization in which the employee serves as its chief, officer, director, trustee, partner, or employee, etc. or (v) a person or organization with which the employee is negotiating for prospective or has an arrangement for prospective employment.

(b) Railway Conduct rules 1966, Railway Pension Rules 1993, other statutes or guidelines governing the service conditions of Railway servants appropriately address the conflict-of-interest issue. Prompt action should be taken for violation of such rules, statutes or guidelines under DAR 1968. (Refer Paras 1.4A & 11.7 of CVC Manual 2021).

512.4 The purpose of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk-taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/ operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.

512.5 It would be quite unfair to use the benefit of hind-sight to question the technical merits of a managerial decision from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organization. Therefore, a distinction has to be made between a business loss which has arisen as a consequence of a bona-fide commercial/ operational decision, and an extraordinary loss which has occurred due to any malafide, motivated, reckless performance of duties or any act involving elements of mens rea (guilty intent). While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

512.6 It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion/ perception or an error of judgment simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (Union of India vs. J. Ahmed AIR 1979 SC 1022). Such failures may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.

512.7 The Commission has decided that the CVOs, while sending the case to the Commission for advice against the lapses of officers exercising quasi-judicial

powers, should examine critically whether the criteria laid down by Hon'ble Supreme Court in K.K. Dhawan's case was attracted or not. The following criteria was laid down:

(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
(ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;
(iii) If he has acted in a manner which is unbecoming of a Government Servant;
(iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
(v) If he had acted in order to unduly favour a party;
(vi) If he had actuated corrupt motive, however, small the bribe may be.

512.8 Absence of vigilance angle in various acts of omission and Commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules.

512.9 Administrative misconduct such as lack of punctuality, drunken behaviour at work, insubordination, etc. would be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its rights to initiate appropriate penalty proceedings against erring employees. (CVC Office Order No.23/04/04 dated 13.04.2004)

512.10 Thus, the CVC gives advice only in such cases in which there is a vigilance angle. In other cases, where it concludes that the lapses do not attract vigilance angle, necessary disciplinary action will have to be taken by the concerned disciplinary authority under conduct/disciplinary rules, as deemed appropriate. These cases are not to be referred to CVC for any further advice.

[Note: Please read Para 1.4 of CVC Manual 2017]

513 REGISTRATION AND RECORDING OF COMPLAINTS

All complaints on receipt shall chronologically be recorded in the computerized database of the recipient vigilance unit.

514 EXAMINATION OF COMPLAINTS

514.1 Anonymous/ Pseudonymous complaints shall be filed in accordance with provisions contained in Para 509.

514.2 The process of determining whether or not a complaint is pseudonymous shall be governed in terms of the provision specified in Para 509.5.

514.3 Any complaint from a person known to make frivolous complaints (unreliable complaint) may be filed with the approval of the SDGM/CVO.

514.4 Complaint containing allegations devoid of any vigilance angle shall be forwarded to the administrative department concerned for necessary action with the approval of the CVO/SDGM.

514.5 Complaints received under the PIDPI Resolution, the CVC Act etc. and/ or where the CVC or CVO of the Ministry itself calls for a report shall be treated as a signed complaint and taken up for investigation and dealt with as indicated in paras 503 and 504.

514.6 Complaints received from the Central Vigilance Commission where the Commission has called for an investigation and report shall be treated as signed complaint (not required to be verified for genuineness) and taken up for investigation. Such complaints shall, in other words, be treated as registered, immediately on receipt. In such complaints, if an Officer is specifically named, the bio-data and ID of the officer should be uploaded in IRVINS within 72 hours of the receipt of the complaint by dealing section of Railway Board, irrespective of the Investigating Unit.

514.7 Verified complaints, not covered under sub paragraphs above, meriting a vigilance investigation, shall duly be registered and taken up for investigation. Vigilance Units of Zonal Railways/PUs/ RDSO shall report/upload in IRVINS, instances of positive verification of complaints and other progress made during course of investigation on real-time basis so that the complaints do not get lost sight of. Registration of a case against officials (in IRVINS) would be done only with the approval of the competent authority as laid down in para 521. The bio-data of officials against whom cases are registered should be uploaded in IRVINS within 72 hours of the registration of case.

514.8 Registered complaints against officers in Senior Administrative or higher grades shall be brought to the notice of:

(i) The General Manager in case of officers posted on Zonal Railways.

(ii) GM/CAO in case of officers posted in PUs.

(iii) DG in case of officers posted in RDSO and NAIR.

(iv) Directors/Principals in case of officers posted in various Training Institutes.

(v) Head of the Office in case of other Units.

(vi) Concerned Board Member in case of officers posted in the Railway Board.

514.9 Complaints alleging victimization or harassment of suppliers/contractors, who have complained against the organization, should be treated seriously and the complainants should be protected by ensuring that they do not suffer on this account in future contracts/assignments. Similarly, complaints from employees against their superiors may be treated as source information and the names of the complainants should be concealed to protect them from victimization.

514.10 Complaints sent on any e-mail ID of officers of the vigilance department will not be entertained or taken cognizance of by the vigilance department. (Refer Para 3.3 of CVC Manual 2021 on complaint handling policy)

515 DECISION MAKING LEVEL (IN BOARD)

515.1 Where complaints have been received in the Board's office, the same are diarized in the Confidential Section and thereafter submitted to the concerned officer to decide on the course of action. The level of decision making in regard to such complaints is as follows:-

Complaints against	Decision making level
(i) Officers above SA Grade	PED (Vigilance). Such complaints are submitted to PED (Vigilance) by the concerned EDV/DVP with their recommendations
(ii) SA Grade Officers	Concerned EDV/ DVP. Such complaints are submitted to EDV by the concerned DV/JDV/DDV with their recommendations
(iii) Officers/Officials below SA Grade	Concerned DV (in case DV/ JDV is not in position, then the concerned JDV/ DDV)
(iv) PIDPI complaints received in the Ministry of Railways (other than those forwarded by CVC)	PED (Vigilance). Such complaints are submitted to PED (Vigilance) by DDVC after verifying their genuineness.

515.2 When the final orders are passed on the complaint, the same is returned to the Vigilance Confidential Section. The final orders passed, along with the section to which the complaint pertains, are entered on the data base for complaints and the complaint is forwarded to the concerned branch for processing it further. In case of repeated complaints, the data base enables the Confidential Section to locate the earlier references.

515.3 After the complaint is opened the same is to be put up for information to PED (Vig), if it is involving the officers of the rank of SA Grade, and to concerned Board Member for cases against officers of the rank above SA Grade.

515.4 When the complaints are processed by Vigilance Confidential Section, the following classifications are accorded (a) CA-iii cases (b) important cases with clear marking as to whether they are cases under the CVC Act or PIDPI cases (c) others.

515.5 The complaints are disposed of in the following manner:

(a) Refer to Railway/PSU/PU for investigation & report to be sent by target date. Genuineness verification may be done by the Railway/PSU/PU.
(b) Refer to the Railway/PSU/PU for investigation & report. Genuineness verification is not to be done by the Railway/PSU/PU.
(c) Refer to the Railway/PSU/PU for disposal and reporting back only if involvement of a Gazetted Officer is found.
(d) To be investigated by the Railway Board. Genuineness Verification to be done and details to be sought.

(e) To be dealt with by Railway Board and Genuineness Verification is not required.
(f) To be filed.
(g) To be sent to the concerned Directorate dealing with the subject as the matter does not pertain to Vigilance Directorate.
(h) Refer to CBI/SPE.

515.6 In respect of such complaints received by the Railway Board and forwarded to the Railway/PSU/PU, the letter forwarding the complaint also contains directions as to the action to be taken. The Railway/PSU/PU will act according to these directions.

516 COMPLAINTS AND DECISION MAKING LEVEL AT RAILWAY/UNIT LEVEL

516.1 Where complaints have been received in the Railways/Units, the same are diarised in the Confidential Section and thereafter submitted to the concerned officer to decide on the course of action. The level of decision making in regard to such complaints is as follows:

Complaints against	**Decision making level**
(i) Officers above SA Grade	SDGM/ CVO (who will keep the GM informed)
(ii) SA Grade Officers	SDGM/ CVO through Dy CVO/ VO/ AVO
(iii)Officers/Officials upto Selection Grade	Concerned Dy CVO through VO/ AVO or SDGM/ CVO through VO/ AVO when VO/ AVO reports directly to SDGM/ CVO

516.2 When the final orders are passed on the complaint, the same is returned to the Section authorised to handle the complaints. The final orders passed, along with the section to which the complaint pertains, are entered on the data base and the complaint is forwarded to the concerned branch for processing it further. In case of repeated complaints, the data base enables the Dak/Confidential Section to locate the earlier references.

516.3 After the case is opened the same is to be put up for information to SDGM, if it is involving the officers of the rank of SA Grade, and to the General Manager for cases against officers of the rank above SA Grade.

516.4 When the complaints are processed by Dak/Confidential Section, the following classifications are accorded:- (a) CA-iii cases, (b) important cases with clear marking as to whether they are cases under the CVC Act or PIDPI cases (c) others.

516.5 According to the categorization of a particular case, the target dates for investigations are assigned by the concerned Dy CVO according to the instructions issued by Board.

516.6 Then complaints are disposed of in the following manner:-

(i) Investigations entrusted to an Inspector.
(ii) To be filed for want of adequate verifiable details. Frivolous complaints are to be closed with the approval of SDGM/CVO.
(iii) To verify the genuineness first and details sought before taking any further decision.
(iv) To be passed onto the concerned Administrative Department dealing with the subject if no vigilance angle is involved.
(v) To be referred to CBI /SPE wherever required.

517 TARGET DATES FOR PROCESSING OF INVESTIGATION REPORTS IN CASES OF COMPLAINTS OTHER THAN CVC REFERRED COMPLAINTS

517.1 There should be no inordinate delay in submission of investigation reports arising out of complaints. The following time frame should be followed for conducting investigation and processing/sending the investigation report (other than CVC referred complaints for investigation and report).

(a) **Four months** for conducting detailed investigation (inclusive of time consumed for obtaining clarifications from or issuing questionnaire to the suspected officials),

(b) **One month** for processing and sending the recommendation to the Board Vigilance and

(c) **One month** for processing the case in Railway Board (Vigilance).

517.2 The time frame for submission of investigation reports in CVC referred cases is given in paras 503.1 and 504.4.

518 DEPARTMENTAL TRAP CASES - PROCEDURE & GUIDELINES

518.1 Apart from the CBI, the Railway Vigilance department also carries out decoy checks. These checks require careful planning, selection, execution and documentation for success. The need for a very good information network and regular flow of information from the field cannot be over emphasized, for it is only this that leads Vigilance to the right person at the right time.

518.2 The spot for the trap should be selected very carefully after thorough ground work. If one has studied the field conditions well, then one would know which are the vulnerable locations and who are the regular extorters. For example, checks on booking windows are most rewarding when there is a huge rush at the windows and the booking clerks help themselves to extra cash by way of keeping the change, dropping of cash etc. Similar would be the case in an overflowing train during the vacation period.

518.3 The selection of the decoy has also to be done very carefully. If he is a Government Servant, he should have a clear past and should not have any enmity against the person who is to be trapped. If the decoy is a non-Government person, then he should be adequately informed of the purpose of this trap. The decoy should be one who would always stand with the Vigilance agency under all circumstances and not be bought over or pressurized by the trapped person. He would have to be told before-hand that his commitment in

the case would last along while, he would face cross examination in the subsequent inquiry process and, hence, should be willing to cooperate with the Vigilance till the very end.
Decoy selected for departmental trap cases should not be an offici al of the Vigilance Department.

518.4 In addition, the Investigating Officer/Inspector should immediately arrange one or more officials (gazetted or non-gazetted or a combination of gazetted & non-gazetted) to act as independent witness/witnesses. It is imperative that all Railway employees should assist and witness a trap, whenever they are approached by the Vigilance branch. Refusal to assist or witness a trap without sufficient reason can be construed as breach of duty, making the person liable to disciplinary action.

518.5 Proper execution of the trap is very important. The following important points should be kept in view:

(i) One or more responsible and impartial witness/witnesses must hear the conversation, which should establish that the money was being passed as illegal gratification. This would squarely meet the likely defence of the accused that the money was actually received as a loan or something else.

(ii) The transaction should be within the sight and hearing of the independent witness/witnesses.

(iii) There should be an opportunity to catch the culprit red-handed immediately after the bribe money has changed hands so that the accused may not be able to get rid of it.

(iv) The witnesses selected should not have appeared as witnesses in earlier cases of the department. It is safer to take as witness a Government employee who belongs to some other department.

(v) It is preferable to take a written complaint from the decoy. The complainant must specifically give the name of the person receiving the money, motive for receipt, the actual amount, date, time and place of the transaction.

518.6 Prior to the trap, the decoy should present the money, which he will give to the target officer/employee as bribe money on demand. A memo should be prepared by the investigating officer/inspector in the presence of the independent witnesses and the decoy indicating the numbers of the Government Currency (GC) Notes for legal and illegal transactions. This memo should be signed by the decoy, independent witness/witnesses and the investigating officer/inspector. Another memo, for returning the GC notes to the decoy, should be prepared for paying the bribe to the delinquent employee on demand. This memo should also be signed by the decoy, witnesses and the investigating officer/inspector. A pre trap memorandum should be prepared narrating the sequence of events and signed by all concerned.

518.7 At the time of the check, the independent witness/witnesses should take up position in such a place where they can see the transaction and also hear the conversation between the decoy and the delinquent employee, so as to satisfy themselves that money was demanded, given and accepted as bribe.

518.8 After money has been passed by the decoy to the delinquent employee as bribe, the investigating officer/inspector should disclose his identity and demand, in the presence of the witnesses, to produce all money including private, Railway and bribe money. Then, the total money produced should be verified from relevant records and a memo be prepared for seizure of money. The recovered notes should be kept in an envelope, sealed in the presence of the witness, decoy, the accused and to the extent possible, his immediate superior, who should be called as witness, in case the accused refuses to sign the recovery memo and sealing of notes in the envelope. It is crucial to seize supporting relevant documents immediately after the trap. A post trap memorandum should be prepared indicating the details of the events which had occurred and signed by all present.

518.9 As far as possible, a site plan should also be prepared indicating the important features of the trap, namely, where the trap was laid, the position of eyewitnesses, the delinquent official, the position of decoy and the relative distance from each other.

518.10 It is essential to follow the due procedure in cases of decoy checks. Procedural lapses enable the accused to get the benefit of doubt in the inquiry proceedings. Several cases of decoy checks have finally not resulted in the desired punishment on the employee because of these lapses.

518.11 It is essential that a successful decoy check should be followed to its logical conclusion, namely - the issue of a major penalty charge sheet which should eventually entail imposition of penalties of compulsory retirement, removal or dismissal from service. Rule 6 of the RS(D&A) Rules specifies dismissal/removal for proven cases of bribery & corruption. The Executive and Vigilance wings need to cooperate in making the tool of decoy checks a very effective deterrent to the wrongdoer, and not take up a confrontationist approach which would ultimately benefit him.

518.12 As per Railway Board's Circular No. RBE 251/1998, the employees caught on successful trap check are to be suspended and transferred out of Division as a matter of policy.

518.13 The decoy money should be retained only till serving of the NIP i.e., closure of the case. The decoy money should thereafter be deposited in "Accounting Head 'A-190' under Demand No. 03-General Superintendence and Service". A complete record of such cases, including details of the currency used as decoy money, should be retained as record for a subsequent period of ten years.

519 PROCEDURE OF INVESTIGATION

519.1 After it has been decided that allegations contained in a complaint should be investigated or a preventive check is to be done, a preliminary investigation should be made to determine whether there is any substance in the allegations/source information. If the information can be verified from documents, files or other records, such records should be secured for scrutiny. If such scrutiny reveals evidence in support of the allegations, the documents or records should be taken over by Vigilance to secure them from being manipulated or tampered. Where such documents are required for day to day functioning, and

it is not possible, for any reason, for the concerned department or official to function using authenticated copies, vigilance may retain authenticated copies for investigation. The originals may be returned to the department/official concerned, who should be made responsible for safe custody and production thereof as and when required.

519.2 Seizure of files/records may be done by the Vigilance officials of the Vigilance Directorate in the Ministry of Railways and that of the Vigilance Organizations of the Zonal Railways/PUs/PSUs etc. for carrying out prompt investigation of complaints and to carry out preventive checks, if required.

519.3 If the allegations are very serious and there is a possibility of tampering of records by the suspect officials they may be placed under suspension as per extant rules on suspension under D&AR Rules.

519.4 In complaints relating to works or stores, etc. involving field sites, a site inspection or surprise check should be carried out at the earliest to ensure on the spot verification of facts and to take suitable steps to ensure that any evidence in support of the allegations is not tampered with. If tampering of records is apprehended, the question of seeking transfer of the staff concerned may also be considered with the assistance of the head of the department or head of the concerned office.

520 SEEKING OF CLARIFICATIONS ISSUED IN COURSE OF INVESTIGATION

520.1 During the course of preliminary investigation, it may be necessary to seek clarifications from officials/witnesses in some cases. Such instances of clarifications taken from officials/witnesses shall be called **"Clarifications in connection with the investigation"**. Such officials/witnesses shall not be required to give their complete bio-data and shall be required to only give their full name, date of birth, designation, grade and date since working in the present post, below the signature at the end of the **"Clarifications in connection with the investigation".**

520.2 **Clarifications by Officials** of the concerned department/office who are concerned with, or have knowledge of the matter under investigation, should either be done orally or they can be asked to give a written statement of the facts in their knowledge. The full record of the oral questioning should be prepared and signed by the person questioned (in token of confirmation of his statement) and by the officer/inspector who conducted the questioning. Facts revealed in this process must also invariably be cross checked with documentary or other collateral evidence to ensure the proper basis of the allegation. In the event it is necessary to make inquiries from employees of any other government department or office, the Vigilance will seek the assistance of the concerned department for this purpose. **This questioning is for seeking clarification and understanding the issue. No case shall be registered against any of the officials who have been asked to give their opinion/clarification on the issues raised.**

520.3 The names of such officials/witnesses are not to be mentioned in the tabular statement provided at the end of investigation reports. Needless to say, names of such officials/witnesses are not to be uploaded on the IRVINS database

and no closure advice is required to be sought/ given in the case of officials/witnesses.

521 REGISTRATION OF A CASE AGAINST RAILWAY OFFICIALS

521.1 A vigilance case will be registered against an official when the approval of the SDGM/CVO/GM has been taken for issuing QUESTIONNAIRE (which is different from Clarification) to the accused officials after investigations have established that prima facie a case exists against the concerned official for irregularities committed by him. In this context, the following guidelines may be observed for issuing Questionnaire to the officials while carrying out investigation of complaints or after conducting preventive checks.

(i) for officials up to the level of Selection Grade, the SDGM of a Zonal Railway and the Chief Vigilance Officer of a Production unit are empowered to give prior approval for issuing Questionnaire.
(ii) for complaints/checks involving officials in Senior Administrative Grade or higher, prior approval of the General Manager may be obtained for issuing Questionnaire.
(iii) for complaints forwarded by the Central Vigilance Commission or the Prime Minister's Office and in respect of CA-iii references, seeking prior approval may be dispensed with and Questionnaire may be issued straight away if required, in order to expedite investigations and the consequent disposal of the complaint received.

521.2 Before registering a case and issuing a Questionnaire, however, it is necessary for vigilance officials to establish that the matter has a Vigilance Angle. In order to have a comprehensive picture of the entire case, it is thus important that the views of the PHOD on Vigilance Angle are also taken before the case is registered against an officer. Therefore, the following procedure may be followed:

(i) SDGM/CVO may first examine the case/complaint from the standpoint of Vigilance Angle and, in case no Vigilance angle is prima-facie found, the case may be sent to PHOD concerned for taking appropriate action as per the disciplinary procedure under the service rules on the administrative omission/lapses which may have been identified in the Preliminary Investigation Report of Vigilance and for ensuring system improvement. However, cases referred by CVC, PMO, RB etc, for investigation and submission of Report, are required to be submitted to Railway Board Vigilance after following due procedure for further necessary action/advice duly incorporating the views of the PHOD(s).

(ii) In case, SDGM/CVO arrives at an opinion that the case involves Vigilance Angle, SDGM should record such views and then refer the case to the PHOD(s) concerned for his/their reasoned views on the existence of vigilance angle. The PHOD may, if required, consult DRM/CWM etc. However, in the interest of ensuring that the vigilance investigation is not delayed and processed as expeditiously as possible, it is important that the PHOD(s) concerned give his/their views within a period of 14 days. If this is not done, the case may be withdrawn from PHOD(s) and processed further without the views of the PHOD(s). It is also important that the PHOD(s) concerned maintain the requisite confidentiality in the matter so that the reputation of the officer, identity of complainant and critical issues requiring investigation are not adversely affected or compromised**.** If PHOD does not agree with SDGM regarding presence of

vigilance angle duly bringing new facts and incase SDGM agrees with PHOD, such cases should be sent to Railway Board for information of PED/Vig.

(iii) In case of a disagreement between PHOD and SDGM/CVO, the matter should be put up to the General Manager for his views. In case of difference of opinion between SDGM/CVO and the General Manager, the case should be referred to PED/ Vigilance i.e. the CVO of the Ministry of Railways for taking a final view on the matter in terms of the provisions of the Indian Railways Vigilance Manual and extant CVC guidelines.

521.3 In the case of non-gazetted officials, SDGM may consult PHOD concerned before taking a final view on registration of a case.

522 ISSUE OF QUESTIONNAIRE AFTER REGISTRATION OF CASE

522.1 There is a difference between seeking **"Clarifications"** as opposed to issue of **"Questionnaire"** as explained in para 520 and 521, and a case is treated as registered against an official only when a decision has been taken to issue a **"Questionnaire"**.

522.2 Questionnaire may be served to the suspect official(s) in consonance with the principles of natural justice, after registering a case. This affords an opportunity to the concerned official(s) to explain and counter the allegations against him. If the official refuses to respond, this fact must be clearly recorded in the final Investigation Report.

522.3 The names of all accused officials who are issued a "Questionnaire" should be part of the tabular statement that incorporates the names of all accused in the investigation report. Due procedure is required to be followed for logical closure in such cases.

522.4 The opportunity of a Questionnaire **may not** be given in the following circumstances:-

(a) Where there is sufficient documentary evidence available to clinch the allegations against the suspect railway servant which he is not likely to be able to controvert.

(b) where the railway servant is due to retire but is non-cooperative and it is necessary to finalise the report and issue a charge sheet before he retires, or in those cases where a railway servant has already retired but the case being investigated is shortly becoming time barred for action under the Pension Rules.

523 ADVICE OF CLOSURE OF VIGILANCE INVESTIGATION

523.1 As per extant instructions, a vigilance case is registered against an official once the approval of the competent authority has been taken for issuing Questionnaire after investigations have established that prima facie a case exists against the concerned official for irregularities committed by him. If no action is finally contemplated, a "Closure Advice" in the format below should be sent to the concerned official to whom the Questionnaire was issued. The closure advice, where applicable, shall be issued only after the course of action is finally decided by the competent authority as per prescribed procedure (including consultation with CVC or Railway Board Vigilance, as required) and it should be signed by a vigilance officer not below the JA Grade. The closure advice shall be issued after approval by the SDGM/CVO.

SAMPLE TEXT OF CLOSURE ADVICE

Sub: Vigilance investigation in case.....

Ref: Vigilance questionnaire sent to you vide letter No.....

Dated:

On the basis of evidence/information currently available with Vigilance Branch, no action is contemplated against you in the above mentioned case. This is, however, without prejudice to taking up investigations in future, if fresh evidence/details become available.

( )

Dy.CVO/

For General Manager (Vig)

524 PREPARATION AND SUBMISSION OF THE INVESTIGATION REPORT

524.1 After the investigations are completed, a self contained report should be prepared in the following format:-

Title: Vigilance Report (as per CVC's format vide CVC Circular no 9/11/2017 dated 28-11-2017 http://cvc.nic.in/sites/default/files/rcad291117.pdf)

(i) Case Number (here Railway Board's reference and CVC's case number should also be given if the complaint has been forwarded by Board)
(ii) Complaint Registration Number generated by IRVINS
(iii) Source
(iv) Gist of Allegation(s).
(v) Facts of the case
(vi) Observations
(vii) Response of the officials concerned
(viii) Counter to the response
(ix) Conclusion.
(x) Responsibility of officials
(xi) Recommendation for action
(xii) Recommendation for system improvement

525 PROCEDURE FOR SUBMISSION OF REPORT TO THE SDGM/ PHODS AND OBTAINING THE RECOMMENDATION OF THE CONCERNED DISCIPLINARY AUTHORITIES AND GENERAL MANAGER

525.1 Except in cases involving gazetted officers or cases referred to the Zonal Railways/ PUs by Railway Board, the Vigilance Officer will submit his report in the above format duly following the guidelines mentioned by the CVC Circular no 9/11/2017 dated 28-11-2017, along with his recommendations in regard to responsibility of each official to the SDGM/CVO who will in turn forward the report to the concerned disciplinary authority along with his recommendation on the action to be taken/system improvement to be effected in cases involving only non gazetted officials. The disciplinary authority will decide whether to accept the recommendations and take action. In case he disagrees with the recommendations, he can:-

(i) either reject them giving detailed reasons.
(ii) take further action after seeking necessary clarifications from vigilance, if required.
(iii) seek further investigations in the matter.

Final decision by the Disciplinary Authority will be taken after consulting Vigilance.

525.2 In cases where any action is proposed against Gazetted Officers, the SDGM/CVO will forward the findings of the investigation to the concerned Principal Head of Department for his views on the case. After obtaining the PHOD's views, the SDGM/CVO will sum up the investigations and submit the case to the General Manager for his recommendations. The General Manager will give his recommendations in regard to the conclusions contained in the report, quantum of responsibility of each officer/official, the gravity of the various acts of omission or commission and whether these deserve formal disciplinary action

(major penalty or minor penalty) or the ends of justice would be met by suitable administrative action.

525.3 The General Manager is also required to give his specific comments in regard to the presence or absence of vigilance angle. It is necessary that even in those cases where the allegations are not substantiated, the investigation report should indicate views of the GM on vigilance angle since a view on the aspect of the existence or otherwise of the vigilance angle has to be jointly examined by the DA & CVO of the Ministry.

525.4 Based on conclusions contained in the report, the General Manager will recommend

(i) quantum of responsibility of each officer/official,
(ii) the gravity of the various acts of omission or commission and whether these deserve formal disciplinary action (major penalty or minor penalty) or the ends of justice would be met by suitable administrative action or whether he proposed no action or transfer of the official out of the Division/Railway
(iii) The existence or otherwise of a "Vigilance Angle" in the matter.
(iv) Handing over the case to other agencies like the CBI etc., wherever necessary with full justification
(v) In cases where the role of firms is also involved, whether he proposes any action against the firm like delisting, suspension, banning etc.

525.5 Recommendation for action (non-gazetted officials) in composite cases will be given by the SDGM duly following the above guidelines

525.6 **System improvement**:-This should be proposed by the concerned Vigilance Officer and approved by the SDGM/ General Manager. System improvement, if immediately implementable should be implemented straightaway after the approval of the General Manager without waiting for approval of Board/ CVC .

525.7 There may be occasions where a Railway investigates a complaint relating to an officer who has since been transferred to another Railway. In such a case, the Railway will complete the investigation and obtain the remarks of the PHOD concerned. The PHOD may send his comments within 15 days after receipt of the said complaint case. Thereafter, the investigation report along with the PHOD's comments and vigilance views may be sent to the Railway on which the officer is currently working to enable the General Manager to furnish his recommendations on the action required to be taken. The same principle will be followed in cases where more than one officer may have been transferred from the railway which investigated the case. There may arise a situation where the Railway official is on deputation to a PSU or posted on another Railway and the alleged irregularity may have occurred during his tenure in the PSU/Railway. In such a scenario, the CVO of the concerned PSU/Railway where the case has generated, shall furnish his views whenever the same is requested by the parent Railway of the charged official. The above procedure may also apply to regular departmental proceedings.

525.8 Some cases are investigated by the Railway Board Vigilance as per para 601, and in such cases for officers up to Selection Grade, comments of the PHOD and the views of the General Manager of the Railway on which the officer complained against is working will be obtained before the case is referred to the

Central Vigilance Commission for first stage advice. Where, however, the officer is in Senior Administrative Grade or higher, where the Disciplinary Authority is the Board/President, the case will be referred to CVC and a reference to the concerned PHOD or GM for comments may be made only if considered necessary.

525.9 **Investigation of Complaints against Officers already on deputation to other Ministries/PSUs**-There may be occasions when complaints are received, and investigated against an officer who is already on deputation to other Ministries/PSUs. Such complaints may be investigated after verification of genuineness. The comments on the investigation report will be furnished by the PHOD and General Manager of the Railway where the concerned officer was working prior to proceeding on deputation. The case will, thereafter, be processed in Board's office like other cases of Group A officers before sending to CVC as detailed in Chapter VI.

525.10 **Reports on Preventive checks**: Based on source information, preventive checks are conducted by Zonal Railways/Production Units in the same manner as the investigation of complaints, except that the verification of genuineness of the complaint is not necessary. If a preventive check is conducted against non-gazetted officials, then the finalisation of the reports is within the competence of the SDGM/CVO of the Zonal Railways or Production Units. In case a preventive check is conducted against a gazetted officer and a questionnaire has been issued to him, i.e. a case has been registered, the preventive check report has to be forwarded to Railway Board, even if no irregularity is observed in the check and no one is held responsible. The closure of any preventive check against gazetted officers, where no action is warranted, is within the competence of CVO of Ministry of Railways i.e. PED (Vigilance).

525.11 All the reports sent to Board irrespective of whether they require CVC reference or not should invariably be in the following format. The details of which are in the CVC Circular no 9/11/2017 dated 28-11-2017.

Annexure A - Vigilance Report as per the format and comments/ views of various authorities (refer para 524.1)

Annexure B - Assurance Memo

Annexure C - Format of bio-data of the Officers against whom Commission's advice is sought

Annexure D - Report in the prescribed tabular form

Annexure E - Brief summary of the case

Annexure F - Draft memoranda of charges and statement of imputations and draft memoranda for administrative action, draft suspension/banning proposal

Annexure G - A soft copy containing the annexures listed above should be sent in the form of CD or transferred through the Vigilance portal.

The said report containing all the above annexures should be entered in the IRVINS System after incorporating the relevant recommendations against all the officials involved in the case as per the details filled in the tabular statement below, duly assigning card numbers for gazetted officers and PF numbers for non gazetted officials. The case should be transferred through IRVINS application after assigning the relevant stage.

S. No	Name & designation of the suspected officer	Allegations in brief	Findings of the investigation/ inquiry on each allegation	Defence of the suspected officer	Comments/ recommendations of the DA	Comments/ recommendations of the CVO
1	2	3	4	5	6	7

525.12 The Railway Board will take final view on registering a case or not for all officers- Group A and B if there is disagreement at Zonal Railway/PU level between SDGM/CVO and GM.

526 CASES INVOLVING GROUP 'B' (NON-GAZETTED) AND GROUP 'C' STAFF ONLY (i.e. NOT INVOLVING ANY GAZETTED OFFICER).

In these cases CVC advice is not required. These cases which are also known as non-CVC cases be dealt as under:-

526.1 In minor penalty cases, if DA proposes to exonerate or impose any administrative action instead of a minor penalty, consultation with vigilance would be necessary. In such cases, DA has to first record his provisional views and consult Vigilance organization once giving reasons for disagreement with Vigilance advice. Vigilance Organisation should examine and furnish their comments to DA on such references. Normally vigilance organization is expected to furnish their comments to DA within two weeks of receipt of such references. Even if after this consultation, DA is not in agreement with views of Vigilance, then DA is free to proceed and pass speaking order for exoneration/imposition of penalty. The copy of the NIP/ exoneration advice is required to be promptly sent by DA to Vigilance along with its speaking order and reasons of disagreement within a week of passing such orders. Vigilance organisation may seek a revision by referring the case to RA, if considered necessary. However, such a revision would not come in the way of vigilance clearance of staff.

526.2 For major penalty cases, the vigilance case will get closed once the DA has imposed any of the major penalties and sends copy of NIP along with its speaking order to Vigilance Organisation. No consultation with Vigilance is necessary where DA intends to impose penalty in accordance with first stage advice of Vigilance Organisation. However, where punishment is not considered adequate, the vigilance organization can later seek a revision by referring the case to RA as per extant procedure. Such revision would, however, not come in the way of vigilance clearance of staff.

526.3 For major penalty cases, where DA proposes to exonerate or impose a minor penalty, consultation with vigilance would be necessary. In such cases, DA has to first record his provisional views and consult Vigilance organization once giving reasons for disagreement with Vigilance advice. Vigilance Organisation should examine and furnish their comments to DA on such references. Normally vigilance organization is expected to furnish their comments to DA within two weeks of receipt of such references. Even if after this consultation, DA is not in agreement with views of Vigilance, then DA is free to proceed and pass speaking order for exoneration/imposition of penalty. Copy of the NIP/ exoneration advice is required to be promptly sent by DA to Vigilance

along with its speaking order and reasons of disagreement within a week of passing such orders. Vigilance organisation may seek a revision by referring the case to RA, if considered necessary. However, such a revision would not come in the way of vigilance clearance of staff.

526.4 The procedure for consultation with Vigilance once as described would also be applicable in major penalty cases when appellate/ revising authority proposes to exonerate or impose a minor penalty.

526.5 Procedure as described above would also be applicable for the cases investigated by Board Vigilance and referred to ZR/PU for further action. However, in cases of disagreement of DA/Appellate Authority/RA, Zonal Railway Vigilance has to send case to Board Vigilance along with their comments for consultation.

526.6 SDGM/CVO may put up details of cases where penalty imposed by DA/AA/RA is either at variance with vigilance advice or considered inadequate to General Manager, once every quarter, for his information endorsing a copy to PED (Vig), Railway Board.

527. Composite cases involving Group 'C' or 'B' along with Group A officers (Also called composite CVC cases)

527.1 In minor penalty cases, no consultation with Vigilance/CVC is necessary if punishment proposed to be imposed by DA is in line with CVC advice. However, in cases of deviation, case is required to be sent to CVC for reconsideration along with provisional views of DA and Vigilance comments thereon. Vigilance Units should promptly (say within two weeks) send the cases to Board Vigilance for seeking CVC's reconsidered advice. DA is however, free to pass speaking order and issue NIP if he is still not in agreement with CVC's reconsidered advice. Copy of this NIP alongwith reason of his disagreement should be promptly sent to Vigilance for onward transmission to CVC. CVC can include this case in its Annual Report that is submitted to Parliament and can be discussed by Hon'ble MPs.

527.2 In major penalty cases, after completion of Inquiry, cases of disagreement between DA and CVC's first stage advice are required to be referred to CVC for second stage advice along with IO's report, provisional views of DA and Vigilance comments. Vigilance case is closed once DA imposes penalty in accordance with CVC's second stage advice and furnishes a copy of NIP to Vigilance for onward submission to CVC. However, if DA differs with CVC's second stage advice **there is no scope for reconsideration**. DA can pass speaking orders and issue NIP. A copy of NIP along with reasons of disagreement is required to be sent to Board Vigilance for onward submission to CVC. CVC can include this case in its Annual report that is submitted to Parliament and can be discussed by Hon'ble MPs.

528 COMPOSITE CASES INVOLVING GROUP 'C' STAFF ALONGWITH GROUP 'B' OFFICER(S)

528.1 Same procedure as prescribed for CVC composite cases detailed above would be applicable except that the case would be decided at the level of PED(Vig) and would not be referred to CVC.

529 CONSULTATION WITH CVC AT THE APPEAL/REVISION STAGE

529.1 Sometimes, after imposition of the punishment by the Disciplinary Authority, the Charged Official makes an appeal. The Appellate Authority is expected to keep the advice tendered by the Commission and decide on the appeal accordingly. In case, the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO of the Ministry will report this to the Commission, which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

529.2 For non-CVC cases, same procedure may be followed and only deviation statement may be sent by SDGM/CVO to Railway Board.

530 Vigilance comments

Vigilance comments are to be offered only when the case is processed for seeking first stage advice/second stage advice (in case DA is in disagreement with first stage advice)/reconsidered advice/when DA/AA/RA specifically desires from vigilance for appreciating the case in an objective manner.

Annexure 5.1

Time Limit for Investigation and Submission of Investigation Reports

<table>
<tr><td></td><td>Type of complaints</td><td>Time Schedule</td></tr>
<tr><td>(i)</td><td>PIDPI/CVC referred complaints</td><td>Investigation Report in the prescribed format must be sent to Railway Board within 2 months from the date of receipt of complaint for further processing of the case as Railway Board is required to send Report to CVC within 3 months.</td></tr>
<tr><td>(ii)</td><td>A model time table for disciplinary cases initiated as a result of vigilance investigation in consultation with the CVC is as under:</td><td>
<table>
<tr><td>1*</td><td>Issue of chargesheet after receipt of CVC's 1st stage advice by the Railway</td><td>30 days</td></tr>
<tr><td>2</td><td>Service of chargesheet</td><td>10 days</td></tr>
<tr><td>3</td><td>Inspection of RUDs</td><td>30 days</td></tr>
<tr><td>4</td><td>Submission of written statement of defence, list of defence witnesses & list of defence documents</td><td>20 days</td></tr>
<tr><td>5</td><td>Decision to hold the inquiry after receipt of the defence</td><td>30 days</td></tr>
<tr><td>6</td><td>Nomination of IO/PO in consultation with CVC/Railway Board</td><td>15 days</td></tr>
<tr><td>7</td><td>Appointment of IO/PO</td><td>15 days</td></tr>
<tr><td>8**</td><td>Completion of inquiry and submission of report</td><td>120-180 days</td></tr>
<tr><td>9</td><td>Obtaining CVC's 2nd stage advice after receipt of inquiry report, in case of disagreement between DA and CVC's advice</td><td>45 days</td></tr>
<tr><td>10***</td><td>Decision of DA and imposition of punishment</td><td>3-60 days</td></tr>
<tr><td>11</td><td>Total</td><td>345-435 days</td></tr>
</table>
* Add another 45 days for issue of chargesheet wherever President/Railway Board is the Disciplinary Authority
** Upper time limit for cases involving more than one charged official.
*** Upper time limit is for cases to be considered by more than one DA. Add another 270 days for decision by President in consultant with UPSC.
</td></tr>
</table>

		A major penalty D&AR case initiated on vigilance advice should normally be finalized in 12-15 months by the Railways. However, where the charge sheet is issued by the Board and final decision is to be taken by the President in consultation with the UPSC, the time taken may be 25 ½ months. It may be reiterated that the above "model" time schedule is not mandatory as it may not be possible to follow it in each and every case as each disciplinary case has its own characteristics.

Annexure 5.2

PIDPI RESOLUTION

In 2004, in response to a Writ Petition (Civil) No. 539/2003 filed after the murder of Shri Satyendra Dubey, the Supreme Court directed that a machinery be put in place for acting on complaints from whistle-blowers till a law is enacted. Pursuant to that, the Government of India vide Gazette Notification No. 371/12/2002-AVD-III dated 21.04.2004 r/w Corrigendum dated 29.04.2004 notified the Public Interest Disclosure and Protection of Informers Resolution (PIDPI), 2004 which gave the powers to the Commission to act on complaints from whistle-blowers. The PIDPI Resolution has the following main provisions: ¬

(a) The Commission is authorised as the Designated Agency to receive written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government;
(b) Any public servant or a person including an NGO can make written disclosure to the designated agency except those referred in clauses (a) to (d) of Article 33 of Constitution;
(c) The designated agency may call for further information or particulars from the persons making the disclosure;
(d) Anonymous complaints shall not be acted upon;
(e) The identity of the complainant will not be revealed unless the complainant himself has disclosed his identity;
(f) The Head of the Department/ Organisation to keep the identity of informant secret if he comes to know about it;
(g) The designated agency may call the comments/ explanation of the Head of Department/ Organisation on the disclosure made;
(h) The designated agency may seek the assistance of CBI or the police authorities to complete the investigation pursuant to the complaint received;
(i) The designated agency on finding the allegation of misuse of office or corruption substantive, shall recommend appropriate action to the concerned Department or Organisation;
(j) If the informant feels he is being victimised, he may make an application before the designated agency seeking redress in the matter. The designated agency may give suitable directions to the concerned public servant or the public authority;

(k) If on an application or on the basis of information gathered, the designated agency is of the opinion that the complainant or the witness need protection, it shall issue appropriate directions to the concerned Government authorities; and

(l) In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

Pursuant to the PIDPI Resolution, 2004, the Commission vide Office Order No. 33/5/2004 dated 17.05.2004 issued guidelines and Public Notice on the procedure to be followed for filing whistle-blower complaints under the PIDPI Resolution, 2004.

Subsequent to the Resolution of 2004, the DoPT vide Notification No. 371/4/2013-AVD.III dated 14.08.2013 partially amended the PIDPI Resolution. The amendment, inter alia, authorised the Chief Vigilance Officer of the Ministries or Departments of Government of India to act as the Designated Authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or Department. The amendment also authorised the Central Vigilance Commission to supervise and monitor the complaints received by the designated authority. The amendments have the following provisions: ¬

Para 1A- The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorised as the designated authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or the Department.

Para 7A- Either on the application of the complainant, or on the basis of the information gathered, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated authority, shall take up the matter with the Central Vigilance Commission, for issuing appropriate directions to the Government authorities concerned.

Para 11A- The Central Vigilance Commission (CVC) shall supervise and monitor the complaints received by the designated authority.

PROTECTION TO WHISTLEBLOWERS

According to the PIDPI Resolution, following provisions have been made for protection of Whistle Blowers: ¬

(a) Clause 6 - If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency (CVC) seeking redress in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

(b) Clause 7 - Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.

(c) Clause 11 – In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

The Commission, after receipt of representation(s) from Whistle Blowers about threat to their life, takes up the matter with the Ministry of Home Affairs, the Nodal Agency, to undertake the responsibility of providing security cover to the genuine Whistle Blowers. On the advice of the Ministry of Home Affairs, State Governments/ UTs have appointed Nodal Officers and details of such officers nominated by State Governments are furnished to the Commission from time to time by the Ministry of Home Affairs.

As regards protection against victimisation or harassment within the Department, the Commission forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

SUPERVISION AND MONITORING OF DESIGNATED AUTHORITY

Keeping in view the Clause 11A of Resolution dated 14.08.2013 (amendments to its earlier PIDPI Resolution) which says that the Commission shall supervise and monitor the complaints received by the designated authority, a report on PIDPI complaints including cases of alleged harassment/ victimisation received by the Chief Vigilance Officers of the Ministries or Departments of the Government of India are required to be sent to the Commission by the CVOs of the Ministries/ Departments.

Chapter VI PROCESSING OF VIGILANCE CASES IN RAILWAY BOARD

601 INVESTIGATION OF CASES BY RAILWAY BOARD VIGILANCE

601.1 Certain cases are investigated by the Railway Board Vigilance. These relate to complaints referred for investigation by the Hon. Minister/Minister of State for Railways, Members of the Railway Board or CVC . These are generally complaints received from very important members of the public or complaints relating to very senior officers or concerning officers in Railway units not having a separate vigilance set up. In such cases, before taking up investigation it must be ensured that the concerned Railway is not already seized of the matter, as parallel investigations must be avoided. If the Railways are already looking into the complaint, a decision has to be taken whether to let them continue the investigations or to take them over. In the latter case, all records etc. will be handed over by the Railway to the Board's Inspectors.

601.2 **Seizure of records** – Investigating Inspectors of the Vigilance Directorate of Railway Board are authorized to enter any of the Railway offices, record statements of the officials concerned, who are expected to render them all possible assistance in the proper discharge of their official duties. They are also empowered to seize all relevant documents, collect complete factual information against issue of proper 'Seizure Memo'. They are also authorized to take statements from such officials as may be considered necessary. No separate written authority is required for this. It is however, expected that Vigilance Officials will carry Identity Cards issued by Vigilance Department and identify themselves. As regards recording statements of officers by Inspectors, this should be restricted, as far as possible, up to the level of Senior Scale Officers. For officers of higher grades, it is desirable that they are examined by the concerned DDV/JDV/DV/EDV, depending on the circumstances of the case and the seniority of the officer concerned. The investigations will be conducted and report prepared as laid down in Chapter V.

602 PROCESSING OF CASES

In cases where allegations were investigated against non gazetted officials, at the behest of Board, the final disposal of the report vis-à-vis action to be initiated or closure will be at the level of the concerned Executive Director. Where, however, the case is dealt by a Joint Director or Director who reports directly to PED (Vigilance), the final decision on such cases will be taken by PED (Vigilance).

602.1 Gazetted cases investigated by Zonal Railways should be sent to Railway Board Vigilance with the comments of SDGM and the concerned PHOD along with recommendation of the General Manager with specific comments about

involvement or absence of vigilance angle in the case and the proposed course of action for Officers.

602.2 The cases received in Board are dealt as under:

(i) Composite or individual cases upto Group 'B' officers (including those officiating on ad-hoc basis in the Senior Scale) where questionnaire has been issued/ action has been recommended, shall be put up to PED/V as Chief Vigilance Officer of the Ministry of Railways for 1st/2nd stage Vigilance advice.
(ii) Cases involving Group 'A' officers upto SG where the GM is the Disciplinary Authority and has concluded that there is a vigilance angle shall be submitted to PED/V for his recommendations and thereafter sent to CVC for their advice. Other cases where it has been concluded that there is no vigilance angle, shall be finalized at the level of PED/V as Chief Vigilance Officer of the Ministry of Railways in terms of extant instructions on dealing with cases which have no vigilance angle.
(iii) Composite or individual cases involving SAG and above Officers where it has been concluded that vigilance angle is present shall be submitted to concerned Board Member as Disciplinary Authority for his recommendations on the role of the SAG and above Officers and thereafter sent to CVC for their advice. Other cases where it has been concluded that there is no vigilance angle, shall be finalized at the level of CVO and concerned Board Member i.e. the DA, in terms of extant instructions on dealing with cases which have no vigilance angle.

602.3 The level of initial examination, channel of submission and level of final disposal of reports received in Railway Board in respect of gazetted officers shall be dealt with in Board's office, based on the level of the Disciplinary Authority, as under:

SN	Nature of Case	Channel of Submission	Level of final disposal in Railway Board
1.	Composite or individual cases upto Group 'B' officers (including those officiating on ad-hoc basis in the Senior Scale).	DDV/JDV→DV→ EDV	PED (Vigilance)*
2.	Cases involving Group 'A' officers upto SG found fit for closure or where action is proposed.	DDV/JDV→DV→ EDV	PED (Vigilance)*
3.	Composite or individual cases involving SAG and above officers.	DDV/JDV→DV→ EDV & PED(Vigilance)	Concerned Board Member**

The above channels of submission are equally applicable in the case of investigations/checks conducted by the Board's Vigilance.

Note:

* As the case has already come through the Disciplinary Authority i.e. the General Manager.

** As the concerned Board Member is the Disciplinary Authority.

602.4 After the report is considered as per the above channel of submission and a course of action has been decided upon, the case is required to be referred to the Central Vigilance Commission for its first stage advice. The following are the exceptions to this provision, and in these cases the case need not be referred to the CVC for advice:

(i) Cases where the highest level of officer against whom action is recommended is a Group 'B' officer upto the level of Senior Scale and there is no difference of opinion between DA & CVO.

(ii) If it is concluded that the matter does not have a vigilance angle, and the views and recommendations of the PED/V Railways are in line with the views of the DA. (CVC Circular dt. 27/4/2015)

http://www.cvc.nic.in/sites/default/files/015msc016.pdf

603 CASES REQUIRED TO BE SENT BY RAILWAY BOARD TO CVC FOR ADVICE

(i) In all cases, including complaint cases and preventive check cases, involving Group 'A' Officers where findings of investigation report (including views of DA) prima facie indicate an element of vigilance angle, reference shall be made to the Commission.

(ii) In all cases referred by CVC for investigation and report, reference will be made to the Commission irrespective of whether the investigation report prima facie indicates a vigilance angle/corruption or not.

(iii) In all cases arising out of complaints and preventive checks relating to Group 'A' Officers where there is difference of opinion between the CVO and the DA as to the presence of vigilance angle, the matter as also inquiry reports on complaints having vigilance angle, though unsubstantiated, would continue to be referred to the Commission for first stage advice.

(iv) Written complaints/disclosures (Whistle Blower Complaints) received under Public Interest Disclosure and Protection of Informers' Resolution (PIDPI), 2004 or the Whistle Blower's Protection Act, 2011 would also continue to be handled/processed by CVOs in terms of the existing prescribed procedures or as amended from time to time.

(v) Cases of Group 'B' officers (including those officiating on adhoc basis in the senior scale) and Group 'C' officials, shall be sent to the CVC for their first stage advice in case they are involved in a composite case alongwith a Group 'A' Officer and the findings of investigation report prima facie indicate vigilance angle/corruption.

604 CASES REQUIRED TO BE SENT TO RAILWAY BOARD BUT MAY NOT BE SENT TO CVC

(i) In all cases where case is registered against an official arising out of complaints and preventive checks relating to category 'A' officers as well as composite cases wherein category 'B' officers are also involved, which are not referred by the CVC for investigation and report and where it has been indicated in the inquiry/investigation report that the allegations, do not indicate prima facie vigilance angle/corruption and relate to purely non-

vigilance/ administrative lapses, the SDGM/ CVO's report recommending administrative/ disciplinary action/closure would be submitted to the DA and subsequently after obtaining the views of the GM/DA, the case will be submitted to Railway Board. If it is concluded that the matter does not have a vigilance angle, such cases may be finalised by Railway Board if views and recommendations of the CVO of Ministry of Railways are in line with the views of the DA.

(ii) All other cases where the senior most officer is a Group 'B' officer and case has been registered or action has been recommended (including Group 'B' Officer officiating on adhoc basis in senior scale), shall be sent by Zonal Railway/PUs to Railway Board Vigilance for obtaining the first stage advice of Chief Vigilance Officer of the Ministry of Railways.

(iii) All cases referred by Railway Board to Zonal Railways where a report has been called for.

(iv) It may be seen from (i) and (ii) above that all cases registered against any officer must be referred by SDGM/CVO to Railway Board Vigilance.

(v) While delegating the powers of tendering advice in the case of Group 'B' officers to PED (Vigilance) as the Chief Vigilance Officer of the Ministry of Railways, CVC has also observed that it may depute its officers to conduct Vigilance Audit through on site visits, monthly reports etc. If it comes across any matter, which in its opinion has not been handled properly, it may recommend its review or give appropriate directions.

605 CASES NOT REQUIRED TO BE REFERRED TO RAILWAY BOARD

All other cases/complaints (excluding cases/complaints covered under paras above 603 and 604) can be disposed off by the Chief Vigilance Officer of the concerned Railway Unit.

606 FIRST STAGE ADVICE OF CVC / PED(VIGILANCE)

The advice of the CVC obtained after consideration of the investigation report is commonly known as the first stage advice. This is required to be taken for all Officers falling under the jurisdiction of the CVC as given in para 603.

In cases where the highest officer involved is a Group 'B' Officer, first stage advice is tendered by PED(Vigilance).

606.1 The advice of the CVC , obtained after consideration of the investigation report is commonly known as the first stage advice. The first stage advice can be for any of the following courses of action:-

(i) Initiation of formal disciplinary proceedings either under minor penalty proceedings or major penalty proceedings, depending on the gravity of the charges.

(ii) Administrative action like counselling, warning, etc.

(iii) Treating the case as not having a vigilance angle and leaving it to the department for action as deemed fit

(iv) Closure

606.2 Item (iii) of para 606.1 above implies that CVC leaves it to the Board/Railway to take further action. Such action may include formal disciplinary

proceedings. Such cases need not be referred at any subsequent stage to the CVC but action will be finalised by the Zonal Railways/PUs in consultation with PED(Vigilance). The same procedure is followed where PED(Vigilance) tenders his/her first stage advice except for item (iii) above, where final action taken is required to be reported to Railway Board Vigilance.

606.3 The CVC's first stage advice is conveyed to the Railway/PU concerned for further necessary action. However, there may be cases where there is a difference of opinion between the DA and the CVC. In such cases, where the CVC's advice is at variance with DA's recommendations, the following two courses of action are available:-

(i) to accept the Commission's advice by the concerned DA and get action initiated accordingly; or
(ii) refer the case back to the Commission seeking reconsideration of the first stage advice. Such a course of action also requires concerned DA/ Board Member to record detailed reasons why Commission's advice cannot be accepted and needs reconsideration.

606.4 It is stated that the Commission has decided that no proposal for reconsideration of the Commission's advice would be entertained unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges levelled against an officer. Such new facts should be substantiated by adequate evidence and should also be explained as to why the evidence was not considered earlier, while approaching the Commission for its advice. The proposal for reconsideration of **first stage advice**, if warranted, should be submitted at the earliest but within **two months** of receipt of the Commission's advice. The proposal should be submitted by the disciplinary authority or it should clearly indicate that the proposal has the approval of the disciplinary authority.

606.5 The Commission will tender its advice on such requests for reconsideration and may either agree and modify its advice or reiterate its earlier advice. Where the difference of opinion persists despite reconsideration, the disciplinary authority, namely, the General Manager/ concerned Board Member will take a final decision, duly recording reasons for disagreement with the CVC 's advice. Such cases of disagreement may be reflected in the Annual Report of the CVC, laid in the Parliament.

606.6 ***Information to be submitted for obtaining Commission's first stage advice:*** **While seeking first stage advice of the Commission, following material should be submitted:**

(i) A self-contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self-contained note is meant to supplement and not to substitute the sending of files and records.

(ii) The bio-data of the officer concerned;

(iii) Other documents required to be sent for first stage advice:

(a) A copy of the complaint/source information received and investigated by the CVOs;

(b) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;

(c) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/ acceptable, and the conclusions of the investigating officer;

(d) Statements of witnesses and copies of the documents seized by the investigating officer;

(e) Comments of the Chief Vigilance Officer and the Disciplinary Authority on the investigation report {including investigation done by the CBI and their recommendation};

(f) A copy of the draft charge sheet against the SPS along with the list of documents and witnesses through which it is intended to prove the charges;

(g) Assurance memo.

(CVC Circular No. 14/3/ 06 dated 13.03.2006: Reference to the Commission for its advice-Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice)

(CVC Circular No. 21/8/09 dated 06.08. 2009: References to the Commission for first stage advice- procedure regarding)

607 PROCEDURE FOR OBTAINING SECOND STAGE ADVICE

607.1 First stage advice of the Commission/ PED (Vigilance) is obtained on the investigation report and second stage advice is obtained, in case of disagreement between DA and CVC, before the final decision is taken in disciplinary proceedings arising out of first stage advice. The Central Vigilance Commission and PED Vigilance (Railway Board) render first and second stage advice for officers falling within their respective jurisdictions. In all cases, including composite vigilance cases, second stage advice is to be tendered by the authority that gave first stage advice. This includes cases where the first stage advice may have been for pursuing either major penalty action or minor penalty action.

607.2 In cases in which major penalty action is initiated on CVC's first stage advice, immediate action is taken to issue the charge sheet, after which progress at various stages of disciplinary proceedings is closely monitored. On completion of the inquiry, the Railway Inquiry Officer (RIO) concludes whether or not the charges are proven.

607.3 In cases where the DA, on conclusion of the disciplinary proceedings, proposes to take action in line with the first stage advice of the Commission/ PED(Vigilance) and the imposition of proposed penalty is within her/his competence, second stage advice is not required to be obtained. The DA should straightaway impose the penalty by issuing a reasoned speaking order. In all such cases, SDGM/CVO should forward an Action Taken report along with the copy of the IO report where relevant and the final order issued by the DA for the record of Board Vigilance and the Commission.

607.4 In cases where the DA in Zonal Railway/Production Unit proposes to take action in line with the first stage advice of the Commission/ PED (Vigilance), but is not competent to do so, the case is to be referred to the competent disciplinary authority in Railway Board.

607.5 In cases where the DA, either at Zonal Railway/Production Unit or Board Level, proposes to take any action that is at variance with the first stage advice of the Commission or PED Vigilance (Railway Board), the case along with the Disciplinary Authority's detailed note giving reasons for his provisional decision and vigilance comments thereon, must be sent for obtaining second stage advice of CVC or PED Vigilance (Railway Board), as relevant.

607.6 In the case of non-gazetted staff figuring in composite vigilance cases, reference to the Commission or PED (Vigilance) is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

607.7 ***Materials to be furnished for second stage advice:*** **Following material should be furnished to the Commission while seeking its second stage advice:**

(i) A copy of the charge sheet issued to the public servant;

(ii) A copy of the Inquiry Report submitted by the Inquiring Authority (along with a spare copy for the Commission's records);

(iii) The entire case records of the inquiry, viz. copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;

(iv) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the Inquiring Authority and also on further course to be taken on the Inquiry Report.

(CVC Circular No. 14/3/06 dated 13.03.2006-Reference to the Commission for its advice- Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice reg.)

(CVC Circular No. 0001/DSP/1 dated 10.02.2003-Non-acceptance of the Commission's advice in the matter of appeals)

607.8 After the inquiry findings are put up to the DA. There are two conditions now:

(i) DA is in agreement with CVC's advice

The DA takes action to implement CVC's advice.

(ii) DA proposes action which is contrary to CVC's advice

The entire case file is sent to Railway Board by Zonal Railway containing the IO's report, **DA's provisional views and Vigilance comments**. In case the DA disagrees with some findings of the IO, then he prepares a disagreement memo on aspects of such differences with the IO, mentioning reasons for it. In such

cases, the disagreement memo is also a part of the documents that arrive in the Board's office from Zonal Railway. These are scrutinized and commented upon by Board Vigilance. In case the concerned Member, Railway Board, is the DA of the official, then the Member's views are obtained on file. If the Member is not the DA, then his views are not taken. After this, the case is sent to CVC for its 2nd stage advice. CVC examines the entire case and gives its 2nd stage advice in the form of action to be taken against the charged official. The following alternatives are possible:

a) **CVC disagrees with DA's provisional view:** The case is put up to DA. If the DA at this stage agrees with CVC, then action is taken to implement CVC's advice. If the DA disagrees with CVC, **there is no scope for reconsideration.** DA will take a final decision, duly recording reasons for disagreement with the CVC's advice. Such cases of disagreement may be reflected in the Annual Report of the CVC, laid in the Parliament.

b) **CVC agrees with DA's provisional view:** In this scenario, the case is sent to Zonal Railway/ Board (as the case may be) for implementation of CVC's 2nd stage advice. In this case, the IO's report, along with disagreement memo, if any and CVC's advice, is conveyed to the charged official who is given an opportunity to represent against the IO's report and disagreement memo, if any. Then, the case is put up to DA for his final orders.

608 DEVIATION CASE TO BE REPORTED TO COMMISSION

608.1 When the Disciplinary Authority deviates from or does not implement Commission's advice, the CVO may bring it to the notice of the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

608.2 Sometimes after imposition of the punishment by the Disciplinary Authority, the charged official makes an appeal. The Appellate Authority is expected to keep in view the advice tendered by the Commission and decide on the appeal. In case the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO will report this to the Commission, which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

608.3 When the Appellate Authority's order is at variance with Commission's advice, the CVO may forward a copy of Appellate Authority's Order to the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

(CVC Circular No. 000/DSP/1 dated 10.02.2003 regarding non-acceptance of the Commission's advice in matter of appeals)

608.4 **Exception:** In respect of a Presidential appointee, if the Disciplinary Authority proposes a penalty and where UPSC is required to be consulted, the Commission's advice is not required. However, in respect of a Presidential appointee, if the Disciplinary Authority proposes exoneration, the Commission's second stage advice is required to be obtained.

(CVC Circular No. 17/12/12 dated 07.12.2012)

609 EXEMPTION FROM CONSULTATION IN CERTAIN CIRCUMSTANCES

609.1 In complaints referred by the Commission for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the Commission, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance. (Circular No. 009/VGL/056 dated 28.01.2010)

609.2 In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in the case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the Commission wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the Commission for advice). (CVC Circular No. 009/VGL/056 dated 28.01.2010)

609.3 In cases where the Disciplinary Authority (DA), on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice in respect of officers falling within the jurisdiction of the Commission, the second stage consultation with the Commission is not required. However, the CVO in all such cases is required to forward a copy each of the IO's findings and the final order issued by the DA in the case for Commission's record. (Circular No. 08/12/14 dated 03.12.2014)

610 RECONSIDERATION OF ADVICE

610.1 As already indicated in paras 606.3, 606.4 and 607.8, the Commission may be consulted for **reconsideration of its 1st stage only**. The Commission entertains the reconsideration proposal only for one time at **first** stage and strictly when there are new facts which have not been considered by the Commission earlier.

610.2 In cases in which CVC has advised Administrative action in its first stage advice and if there is disagreement between the CVC and the DA i.e. the DA proposes to deviate and take a decision at variance with CVC's advise, need not be referred to the Commission for reconsideration. However, such cases shall be brought to the notice of the Commission.

610.3 **Procedure for seeking reconsideration of Commission's Advice**: The Commission's advice is based on inputs received from the organisation and where the Commission has taken a view different from the one proposed by the organisation, it is on account of the Commission's perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. Therefore, proposal for reconsideration of the Commission's advice may not be submitted unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/ charges levelled against an officer. *(CVC Circular No. 15/4/08 dated 24.04.2008-Reference to the Commission for reconsideration of its advice- regarding)*

610.4 The reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA, the Commission will not entertain any reconsideration proposal. Such cases will be treated only as "deviation" from and non-acceptance of Commission's advice.

610.5 In the case of non-gazetted staff figuring in composite vigilance cases, reference to the Commission or PED (Vigilance) is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

610.6 Cases of disagreement between DA and CVC, where the DA is the President only required to be referred to DoP&T for resolution. (Board's letter No.2012/V-1/CVC/1/2 dated 12/07/2016) RBV No.04/2016

611 COPIES OF THE INQUIRY REPORT

There is a stipulation on the number of copies of the inquiry report to be sent to various agencies at different stages.

(i) The Railway Inquiry Officer will send 5 copies of Inquiry Report to the "Authority" who ordered the inquiry or to his Secretariat.

(ii) The "Authority" will send 4 copies to SDGM/ CVO of the Railway/ Production Unit for obtaining 2nd stage advice of the CVC (in case of disagreement between DA and CVC). He should not send any copy to the charged official for obtaining his representation at this stage.

(iii) SDGM/ CVO will forward the report in 3 copies to the Board (Vigilance) with his comments. He may retain one copy of the report with him.

(iv) Board (Vigilance) after examination of the report will forward 2 copies of the report to CVC with its comments.

(v) CVC will scrutinize the report and return one copy of the IO's report to Board along with their second stage advice (in case of disagreement between DA and CVC).

612 CASES TO BE DEALT AT THE LEVEL OF ZONAL RAILWAY/PRODUCTION UNIT ON CONCLUSION OF DISCIPLINARY PROCEEDINGS ARISING OUT OF FIRST STAGE ADVICE

As mentioned in para 609.2, in cases where the Disciplinary Authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which is in line with the first stage advice of the Commission or PED Vigilance, such cases need not be sent to CVC/ Railway Board for Second Stage Advice. Such cases, where the action proposed by the DA is in line with the first stage advice, may be dealt at the level of SDGM/CVO and the DA concerned in the Zonal Railway/Production Unit. However, SDGM/CVO should forward an Action Taken report along with the copy of the IO report where relevant and the final order issued by the DA for the record of Board Vigilance and the Commission.

612.1 By partially dispensing with the requirement of seeking second stage advice with regard to paragraph above, it is expected that

(i) The SDGM/CVO would be in a position to exercise proper check and supervision over such cases and would ensure that cases are disposed off expeditiously within the time norms stipulated by the Commission;

(ii) The punishment awarded to the concerned officer is commensurate with the gravity of the misconduct established on his/her part.

612.2 It is reiterated that instructions relating to second stage advice apply in all cases where the CVC or PED Vigilance has given their first stage advice. Hence this would include cases where the first stage advice may have been for pursuing either major penalty action or minor penalty action. Even in the case of non-gazetted staff figuring in composite vigilance cases, reference to the Commission or PED Vigilance is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

613 CONVEYING DA's ORDER TO CVC AND CONSULTATION WITH CVC

613.1 The final order passed by the DA/President is conveyed to the CVC in the form of an Office Memorandum.

613.2 At the appellate stage, consultation with the CVC is not necessary so long as the appellate authority, while modifying the penalty imposed by the Disciplinary Authority on the advice of the CVC, still remains within the parameters of the 'major' or 'minor' penalty earlier advised by the CVC. (Department of Personnel & Administrative Reforms Confidential O.M. No.118/2/78-AVD I dated 19.02.1979 circulated with Board's Confidential letter No.76/Vig-I/CVC/2/2 dated 20.04.1979) but the decision of the appellate authority is entered in the IRVINS database.

613.3 In cases where the decision of the appellate authority is in variation from the CVC 's advice, then the details of the case in the form of a OM along with a copy of the speaking order of the Appellate Authority is conveyed to the CVC for their information.

613.4 All cases of disagreement /deviation from CVC's advice which are not being referred to DoPT by the authorities concerned shall be reported by PED/Vig & CVO to the CRB & CEO. All such actions should be completed within a period of two months from the date of issue of orders by the Disciplinary Authority.

614 COPY OF CVC ADVICE TO THE CONCERNED EMPLOYEE

614.1 When the CVC's second stage advice is obtained, a copy thereof may be made available to the concerned employee, along with the IO's report, to give him an opportunity to make representation against IO's findings and the CVC's advice, if he desires to do so. Para 7.27, CVC Manual 2017 (CVC Circular No. 99/VGL/66 dated 28.09.2000 - Making available a copy of CVC's advice to the concerned employee)

615 DAR ACTION AGAINST GAZETTED OFFICERS ON THE VERGE OF RETIREMENT

The Central Vigilance Commission had requested to formulate a Standard Operating Procedure (SOP) in cases where the Commission's advice is for DAR action against retiring and retired officers.

615.1 For cases involving Gazetted Officers on the verge of retirement i.e., within next four months, the procedure to be followed will be as under-

(i) Anonymous/Pseudonymous complaints received against officers should be dealt accordingly as per procedure given in para 509.

(ii) In cases where minor procedural lapses have been committed by the officer and Disciplinary Authority is of the view that the lapses may be condoned or that the action warranted is at best counseling or other administrative action such cases may be forwarded to Board for further action with suitable remarks.

(iii) In cases where the lapses committed by the defaulting officers have been pinpointed and the extent and nature of irregularity are such that minor penalty action is warranted and the case is becoming time-barred within the next 4 months, charge-sheet for only major penalty may be issued before sending the case to Board. While forwarding such cases, the General Manager of the Railway may indicate separately that major penalty charge-sheet is being issued against such officers since it would take some time before the first stage advice from CVC is obtained. However if the case is not likely to be time-barred, Railways may forward the case to Board for further action with the recommendations of the General Manager.

(iv) Where lapses committed by defaulting officers have been pinpointed and the extent and nature of irregularities are such that major penalty action is warranted, Railways will issue major penalty charge-sheet and forward the case along with the recommendations to Board for further action.

615.2 **Commisssion expects that all retirement cases should be received by the first week of the month of superannation of the officer(s) concerned. CVC would emphasize that all retirement cases for advice should be received in the Commission by 10th of every month by 5 PM. Further, if 10th is a holiday, by the next working day. It is thus advised that CVOs/SDGMs should ensure submission of cases of officer/official atleast two months before retirement for processing in Board Vigilance and obtaining advice of CVC.**

CHAPTER VII VIGILANCE STATUS FOR MANAGEMENT DECISIONS

701 ENSURING INTEGRITY OF PUBLIC SERVANTS

There is hardly any need to emphasize the importance of ensuring the integrity of public servants for a clean administration. It is necessary for the officer-in-charge of the administration to satisfy himself about the integrity of an officer/official before clearing the proposal for his promotion, confirmation, deputation, foreign assignment, etc. For this purpose, vigilance status of an officer/official is required to be furnished by Vigilance to Administration from time to time to enable Administration to take further action in accordance with extant rules and regulations governing the purpose for which the vigilance status has been provided by vigilance.

702 VIGILANCE STATUS FOR DEPUTATION, AWARD, POSTING, PROMOTION, RETIREMENT and VARIOUS NOMINATIONS

702.1 Vigilance will furnish the following information, for the purposes listed in para 702.2,

(i) all current vigilance cases under investigation or in which disciplinary proceedings are pending;

(ii) all substantiated vigilance case(s) finalised during the last 10 years;

702.2 The above information is required to be provided as Vigilance status of the officers for various purposes as listed in the following paras:

(i) Deputation of Railway Servants including foreign assignment

(ii) Training of Railway servants abroad

(iii) Awards

(iv) Posting as GM/equivalent, Board Members including CRB, Central Deputation at Jt. Secretary and above level

(v) Postings/Promotions/Special assignments (Special Assignments include sensitive important postings which need not necessarily be postings on immediate promotion such as DRMs, AGMs, etc.)/ Confirmation

(vi) Normal retirements/Voluntary retirements/ Resignations etc.

(vii) Posting to Railway Board/ RDSO and other offices directly under the administrative control of the Board

(viii) Nomination as Examiner/Member of Selection Committee

703 COMPLETE VIGILANCE HISTORY

703.1 Vigilance will furnish complete vigilance history of the official for following purposes:

(i) Re-employment/ extension of service/ commercial employment after retirement

(ii) Premature retirement through review/Compulsory Retirement

(iii) Posting of SDGMs/CVOs and Officers in the Vigilance Directorate/Vigilance Organisation of the Railways

Para 703.2: Vigilance history shall not include cases, closed without action by CVC/CVO due to absence of vigilance angle.

704 NO-OBJECTION CERTIFICATE FOR ISSUE OF PASSPORT/VISA/EX-INDIA LEAVE

Vigilance will furnish information on all current vigilance cases under investigation or in which disciplinary proceedings/ proceedings in Court of Law as a result of vigilance action are pending;

705 ENGAGEMENT OF CONSULTANTS AND EMPLOYMENT/ RE-EMPLOYMENT OF RETIRED RAILWAY OFFICERS IN THE PSUS UNDER MINISTRY OF RAILWAYS

Engagement of consultants and employment/ re-employment of retired Railway Officers in the PSUs under Ministry of Railways **cannot** be done for:

a) Persons borne on **current** 'Agreed/Secret' list.

b) Persons involved in any current vigilance/CBI cases or against whom disciplinary or prosecution proceedings are in process.

c) Persons who had been imposed a major penalty or two or more minor penalties or against whom administrative action has been taken three times or more or who have been imposed one Minor Penalty and against whom two administrative actions have been taken as a result of vigilance/CBI action while in service on Railways.

d) Persons against whom minor penalty has been imposed during the preceding 5 years for serving officers and last 5 years of service for retired Officers

e) Persons against whom administrative action has been taken during the preceding 5 years for serving officers and last 5 years of service for retired Officers

NOTE: If any officer appointed as Consultant is subsequently detected to be involved in a Vigilance/CBI case, action will be taken as per extant guidelines.

706 EMPANELMENT OF SERVING/ RETIRED RAILWAY OFFICERS AS ARBITRATORS

Empanelment of serving/ retired Railway officers as Arbitrators **cannot** be done for:

a) Persons borne on **current** 'Agreed/Secret' list

b) Persons involved in any current vigilance/CBI cases or against whom disciplinary or prosecution proceedings are in process

c) Persons who had been imposed a major penalty or two or more minor penalties or against whom administrative action has been taken three times or more or who has been imposed one Minor Penalty and against whom two administrative actions have been taken as a result of vigilance/CBI action while in service on Railways

d) Persons against whom minor penalty has been imposed during the preceding 5 years for serving officers and last 5 years of service for retired Officers

e) Persons against whom administrative action has been taken during the preceding 5 years for serving officers and last 5 years of service for retired Officers

NOTE:

(i) If any officer appointed as Arbitrator is subsequently detected to be involved in a Vigilance/CBI case, action will be taken as per extant guidelines.

(ii) The officers working in the Vigilance Organisation should not be considered for appointment as Arbitrators, even if empanelled, as per extant guidelines.

707 VIGILANCE CLEARANCE IN REGARD TO BOARD LEVEL/ HIGHER THAN BOARD LEVEL APPOINTEES FOR PUBLIC SECTOR ENTERPRISES UNDER MINISTRY OF RAILWAYS

707.1 For appointment to Board level/ higher than Board level posts in Public Sector Enterprises under Ministry of Railways, Vigilance clearance will be required to be obtained from Central Vigilance Commission even if any of the candidate(s) is/ are holding a Board level post at the time of consideration.

707.2 The names of all the candidate officers recommended by PESB for appointment to any Board level/ higher than Board level position will be forwarded to CVO of the Ministry who after scrutinizing the records will forward the same to Central Vigilance Commission for obtaining the clearance of the Commission.

707.3 In case any of the proposed candidates is not from Railway, the same shall be brought to the notice of the CVO of the Ministry giving details of the past experience of the candidate so that the concerned organizations can be contacted

for obtaining the Vigilance history of the candidate before referring the matter to Central Vigilance Commission for clearance.

(Authority: CVC's OM NO. 3(V)/99/4 dated 12th July, 1999).

708 IMPORTANT ISSUES REGARDING POSTINGS/ VIGILANCE STATUS

(i) Officers borne on 'Agreed/ Secret List' should not be posted as SDGMs and Vigilance Officers. Postings of SDGMs/Officers in Vigilance Directorate will require clearance from Chief Vigilance Officers of the Ministry (PED/Vigilance).

(ii) Officers borne on 'Agreed/ Secret List' should not be sent on deputation

(iii) Officers borne on 'Agreed/ Secret List' should not be posted to Board/RDSO or in sensitive posts

(iv) Where disciplinary cases are in progress or the officer is undergoing punishment, the officers should not be posted to positions carrying special pay.

(v) Vigilance status for the purpose of appointment of Serving/ Retired officers as Arbitrators on Zonal Railways/ Production Units would be handled by respective vigilance units while Railway Board vigilance would handle the requirements of PSUs in the matter.

709 VIGILANCE STATUS OF NON- GAZETTED STAFF

In respect of Non- Gazetted staff, vigilance organization would only furnish the current vigilance position about the employees to the executive branch for taking further action in accordance with the extant instructions.

Chapter VIII IMPORTANT ISSUES

801 MONITORING OF VIGILANCE RELATED D&AR CASES-COORDINATION BETWEEN VIGILANCE AND THE ESTABLISHMENT BRANCHES

801.1 The SDGMs of Zonal Railways and CVOs of PUs of the Indian Railways are entrusted with the task of Vigilance administration. Monitoring the progress of disciplinary action cases arising out of vigilance investigations and ensuring timely, logical and complete closure of such cases constitutes an important part of this function. It has been observed that the time taken in finalizing the disciplinary process continues to be a cause for concern and requires closer monitoring especially in view of the inter-departmental nature of such proceedings.

801.2 To enable closer monitoring of such proceedings, it is required that the SDGMs/CVOs of Zonal Railways/Production Units should hold a periodic Review Meeting with the CPOs of their concerned Zonal Railways/Unit for monitoring of such cases. In addition, suitable similar mechanisms may be evolved for cases pending at Divisional level. This meeting would need to be held in a formal, organized manner with a pre-determined agenda. The agenda must include the status of all pending cases and must record the progress made since the last meeting. The objective of the meeting would be to reach a fair and logical closure to all pending cases expeditiously. The minimum periodicity of this meeting is to be once every quarter. The frequency may be increased on need basis.

802 ROLE OF E(O)I BRANCH OF RAILWAY BOARD IN VIGILANCE RELATED DAR CASES

802.1 In all vigilance related disciplinary cases where Railway Board or the President is the disciplinary/appellate authority, E(O)I is the nodal branch for processing such cases as per procedure laid down in the Railway Servants (Discipline & Appeal) Rules, 1968.

802.2 In cases where charged officer is of the level of SAG or above (excluding Members of Railway Board), Railway Board is the disciplinary authority (DA) right from the initiation of the disciplinary proceedings up to its finalization. Similarly in respect of cases involving initiation of departmental proceedings for cut in pension/gratuity against gazetted officers where President is the disciplinary authority, E(O)I is the nodal Branch.

802.3 Any correspondence made between Secretary Branch/Establishment branch of Railway Board and Personal Branch of Zonal Railways pertaining to DAR/CBI prosecution cases, arising out of vigilance investigation, a copy shall be marked to SDGM of the concerned Railway as well as Railway Board Vigilance for further follow up so as to reduce undue delays.

803 PROCEDURE FOR MINOR PENALTY PROCEEDINGS

(a) After the Competent disciplinary authority decides to initiate disciplinary proceedings, E(O)I arranges issue of chargesheet to the charged officer. In respect of minor penalty proceedings, in case the charged officer wants to scrutinize the documents mentioned in the charge memorandum, the same are made available for inspection (depending on their relevance to the disciplinary case) to the charged officer through the concerned General Manager or through Vigilance Directorate of Railway Board.

(b) After receipt of defence statement of the charged officer, case is submitted to the disciplinary authority for deciding whether in view of charged officer's submissions he needs to be exonerated or punished. In case, it is decided to punish the officer, the nature of penalty is specified by the DA while passing the speaking order.

(c) The disciplinary authority's speaking order is conveyed to the charged officer by E(O)I through the concerned Railway/Production Unit.

804 PROCEDURE OF MAJOR PENALTY PROCEEDINGS

(a) After the competent disciplinary authority decides to initiate disciplinary proceedings, E(O)I arranges issue of chargesheet to the charged officer. On receipt of defence statement by the charged officer denying the charges, E(O)I puts up the case to the disciplinary authority for decision whether disciplinary proceedings should be dropped at this stage by exonerating the officer, or to hold departmental inquiry to arrive at the truth or otherwise on the articles of charges. The disciplinary authority can also decide to impose a minor penalty on the charged officer if warranted based on the facts and circumstances of the case.

(b) If it is decided by the disciplinary authority to exonerate the charged officer or to impose only a minor penalty on him, the orders are communicated to the CO by E(O)I through the concerned Railway/Production Unit.

(c) In cases where disciplinary authority decides to remit the case to inquiry, E(O)I shall arrange issue of appointment orders of Inquiry Officer (IO) and Presenting Officer (PO) with the approval of the disciplinary authority.

(d) After receipt of IO's report, the case is put up by E(O)I to the disciplinary authority for tentative acceptance or otherwise of the findings contained in the IO's report. In case for any article of charge, the disciplinary authority deems fit to disagree with the IO's findings, then a Disagreement Memo with the approval of the disciplinary authority is finalized and IO's report along with disagreement memo is communicated to the charged officer for submission of representation thereon. In case where IO's findings are not accepted as such by the disciplinary authority, the same is forwarded to the CO by E(O)I to enable him to submit his representation thereon. In appropriate cases, the DA may also remit the case for further inquiry and resubmission of a fresh report to him.

(e) After receipt of charged officer's representation on the IO's report and disagreement memo, if any, E(O)I puts up the case to the disciplinary authority i.e., Railway Board for passing a speaking order and if the case warrants any penalty, for imposing the penalty which is within its competence. The penalty orders or the orders exonerating the CO, as the case may be, as per Board's decision are communicated by E(O)I to the concerned Railway/Production Unit.

(f) In case, the intended penalty does not fall within the competence of the Railway Board, it shall make recommendation to the President for deciding the case by imposing penalty as considered appropriate by the President. The President takes a final decision, in consultation with the UPSC which is then communicated to the charged officer by E(O)I again through the concerned Railway/Production Unit.

804.1 **Cases referred to the Higher Authority because of competency problem**: In cases where the disciplinary authority is the designated Railway officer on the Zonal Railways, and after following the inquiry procedure prescribed under Rule 9 of RS(D&A)Rules, 1968, that authority decides to impose a penalty which is not within its competence (e.g. imposition of a major penalty on a Group 'A' officer which is not within the competence of the General Manager of a Zonal Railway and can be imposed by the Railway Board or the President only, and similarly proposals for imposition of cut in pension or gratuity of a Railway officer which can be done by the President only), the concerned Railway/Production Unit sends formal recommendation to E(O)I seeking competent authority's decision. Such cases are processed by E(O)I following the same procedure in consultation with the UPSC as applicable to SAG and above level officers by the Railway Board enumerated in para 802.2.

804.2 **Disciplinary action arising out of conviction by a Court of Law**: Disciplinary case emanating out of conviction of a Railway Officer by a Court of Law, are processed by E(O)I. After Railway Board/ President's provisional decision, a Show Cause Notice under Rule 14(i) of RS(D&A) Rules, 1968 is issued to the charged officer. On receipt of charged officer's representation against the Show Cause Notice, the case is again submitted by E(O)I to the Railway Board for a final decision. In case, President is the competent disciplinary authority issuing the Show Cause Memorandum, the case is decided by the President, in consultation with the UPSC for which the case is processed in E(O)I Section. Finally, the orders as per the disciplinary authority (Railway Board or the President) is communicated by E(O)I to the concerned officer through the Railway /Production Unit concerned.

804.3 **Appeals** : Wherever Railway Board or the President is the prescribed Appellate Authority under the Railway Servants (Discipline & Appeal) Rules, 1968 - the appeals preferred by the Group 'B' officers against the penalties imposed by the General Managers of Zonal Railway which fall within the competence of the Railway Board and against penalties imposed against Group 'A' officers by General Manager for which appeal lies with the President and against the penalties imposed by Railway Board within its competence against which also appeal lies with the President - E(O)I processes the case in consultation with the UPSC, wherever required. E(O)I obtains Appellate Authority's decision on the appeal and communicates to the appellant through the concerned Railway/Production Unit.

804.4 **Review Petitions, Memorials, Petitions to the President**: E(O)I processes the review petitions in terms of provisions made in the RS(D&A) Rules on the same lines applicable to processing of appeals. Petitions and Memorials/Petitions to the President are dealt with by E(O)I in terms of provisions made in the Indian Railway Establishment Code, Volume I.

805 STANDARD OF PROOF IN DEPARTMENTAL PROCEEDING

While taking such decision in departmental proceeding, the disciplinary authority should bear in mind that a departmental proceeding is inherently different from a criminal trial, and that the standard of proof required is based on the principle of 'preponderance of probabilities' rather than 'proof beyond reasonable doubt'.

806 LIST OF PENALTIES

The list of penalties for reference is placed here. The weblink may be checked for latest rules.

http://www.indianrailways.gov.in/railwayboard/uploads/directorate/establishment/downloads/D_A_Rules.pdf

Clause 6 in PART III of DAR Rules is reproduced below for ready reference.

Penalties and Disciplinary Authorities

Clause 6- Penalties – The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Railway servant, namely:-
Minor Penalties

(i) Censure

(ii) withholding of his promotion for a specified period;

(iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of orders;

(iii-a) Withholding of the Privilege Passes or Privilege Ticket Orders or both;

(iii-b) Reduction to lower stage in the time scale of pay **by one stage** for a period not exceeding three years, without cumulative effect and not adversely affecting his pension;

(iv) Withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay.

Major Penalties

(v) Save as provided for in clause (iii-b) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

[vi] Reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Railway servant during such specified period to the time-scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –

*[a] the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and

[b] the Railway servant shall regain his original seniority in the higher time scale of pay, grade, post or service;

(vii) Compulsory retirement;

(viii) Removal from service which shall not be a disqualification for future employment under the Government or Railway Administration;

(ix) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government or Railway administration.

Provided further that in case of persons found guilty of possessing assets disproportionate to known sources of income or found guilty of having accepted or having obtained from any person any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, one of the penalties specified in clauses (viii) or (ix) shall ordinarily be imposed and where such penalty is not imposed, the reasons therefore shall be recorded in writing.

807 ADMINISTRATIVE ACTION

(a) **Warning - Power to Administer:** Administration of 'Warning' is not a recognised penalty under the Discipline and Appeal Rules. It is an administrative action by which a superior authority expresses his criticism and disapproval of the work/conduct of the person warned and is designed to point out the defects noted with a view to enabling that person to make an effort to remedy them. The warning may be administered verbally or in writing (depending on the circumstances of each case), as the competent authority may decide.

It would follow that any superior authority has the power to administer a warning to an official subordinate to it. It is, however, desirable that the authority administering the warning is not normally one lower than that which initiates the APAR on the official so warned. Any representation received against these

administrative actions may be disposed off by an authority superior to the authority serving the memorandum.

(Reason: RBV 19/2010)

(b) **Recorded Warning - Procedure for Administration**: In a case where the competent authority decides to administer a written warning and a copy thereof is proposed to be placed on the person's APAR, it is only fair that the person concerned is given a chance to explain the reasons, if any, which led him to do the acts of omission or commission disapproved of. Further action to administer the warning may be taken only after the reply of the railway servant concerned is considered by the competent authority but not found acceptable. The railway servant concerned has also a right to represent against an order of recorded warning.

(Board's letters No. 2004/V-1/DAR/1/3 dated 16.8.2004 and No. 2005/V-1/DAR/1/3 dated 6-10-2005)

(c) **Warning after Disciplinary Proceedings**: Where disciplinary proceedings have been initiated, "Warning" should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the Railway servant, at least the penalty of "censure" should be imposed.

{Board's letter No.E (D&A) 92 RG6-149 (A) dated 21-1-1993}

(d) **Other warnings:** Warnings are also administered as a result of preliminary investigation/enquiries into allegations of irregularities initiated with a view to determine whether regular disciplinary proceedings should be started against any person or persons. If the disciplinary authority is satisfied that the enquiry revealed no cause for instituting regular disciplinary proceedings, 'Warning' may be administered to the accused, in consultation with the Central Vigilance Commission whenever required and in consultation with the CVO of the Ministry whenever required or the CVO of the unit concerned in case of Non-Gazetted Official.

Counselling may be done verbally or in writing. The written memo/letter of counselling should be guiding, educative and helping in nature and may not be drafted in warning tone, which would be resented. Show cause notice should not be issued in such cases. If counselling is done verbally, the officer doing so shall keep a record in the file as to when and where the counselling was and the points on which it was done. Vigilance should in all cases insist on obtaining confirmation to the effect that the counselling (verbal or in written) has actually been done.

(Reason: Board's letter No. 89/V1/VP/1/1 dt. 21.5.1990)

808 INSTRUCTIONS FOR PLACING OF WARNINGS/ DISPLEASURE ETC. IN THE APAR/ PERSONAL FILE

The following instructions should be borne in mind and followed while recording or placing warnings on the APAR/Personal file.

(a) Warning - A warning may be either oral or written; where warning is oral there is no need of mentioning it in the APAR Files etc., of the official. A written warning may be either recorded or unrecorded in the APAR File. Warning is recorded in the APAR only when the competent disciplinary authority specifically decides it to be so for good and sufficient reasons but before a recorded warning is administered, it is necessary that the official concerned had

been given an opportunity to explain the lapses for which the warning is administered. If, however, the warning is intended to be unrecorded, though written, the communication should not obviously, be mentioned by the reporting officer in the APARs unless such a mention is really necessary for a truly objective assessment of the official's work.

(b) Conveying displeasure - This, like warning, is an action of a corrective nature to be resorted to when the lapse on the part of the official is such that it may be considered necessary to convey to the official the sense of displeasure over it but is not serious enough for administering a warning. Such displeasure is actually communicated in the form of a letter and a copy of it may, if so decided, be placed on the Service Record of the official. Therefore, on the question whether displeasure should be recorded or not, the criterion can be the same as that for recorded warning.

(c) Bringing lapses and short-comings to the notice of the official, admonishing, cautioning, counselling, etc. - The above mentioned actions also have no penal element in that they are intended to assist the official concerned to correct his faults and deficiencies. These are, therefore, not to be recorded in the APAR of the official. There should scarcely be any occasion for the reporting officer also to refer to these in the APARs, unless the reporting officer considers it absolutely necessary for a truly objective assessment. However, if any of the above actions has to be mentioned in the Service Record of the officer, it should be done after issuance of a show cause notice; otherwise there is no necessity of issuing show cause notice. The employee would be entitled to represent against such administrative action. The format for issuing memorandum of admonishing/ counselling/ cautioning/ warning (as the case may be) is circulated to the Railways vide Board's letter No.2004/V-1/DAR/1/3 dated 16.8.2004.

{Board's letter No. E (D&A) 77RG-20 dated 10-5-77, 2004/V-1/ DAR/1/3 dated 16.8.2004 and 2005/V-1/DAR/1/3 dated 6-10-2005)}

Note:- Regarding issuing of a warning/recorded warning after the conclusion of disciplinary proceedings, provisions contained in paras 807 (c) and 808 (a) of this Manual may be kept in view by the competent disciplinary authority. Instructions issued by the Ministry of Railways (Railway Board) vide their letters No. E (D&A) 92 RG6 - 149 (A) dated 21-01-1993 and No. E (D&A) 92 RG6 - 149 (B) dated 21-01-1993 may be referred to. None of these administrative actions, including 'Government Displeasure' can be taken against a Retired Railway Servant

{Railway Board's letter No. E(D&A) 2003 RG6-35, RBE No. 56/2008}

809 ROLE OF ESTABLISHMENT (D&A) BRANCH OF RAILWAY BOARD

809.1 Under the Schedule of Powers related to the non-gazetted staff, the disciplinary cases are, by and large, finalised at the Railways' level and in the normal course, no cases of non gazetted staff are dealt in Board's office. However, there are two exceptions to this, viz. (a) Mercy Petitions to the President under Rule 31 of the Railway Servants(Discipline and Appeal) Rules, 1968 and (b) proceedings for cut in pensionary benefits under Rule 9 of the Railway Services(Pension) Rules, 1993. Such cases are dealt in the Establishment Directorate {E(D&A) Section} of the Railway Board's office. The procedure, in brief, is as follows:-

809.2 **Mercy Petitions:** The procedure for dealing with such petitions is given in detail in Appendix II to the Indian Railway Establishment Code, Volume I. Where it is decided that the case warrants consideration of the petition and modification of any penalty already imposed, the case is submitted to the Minister of State for Railways. Along with his recommendations and all the relevant records, the case is referred to the UPSC for advice, since orders are to be passed in the name of the President. On receipt of the UPSC's advice, the case is again submitted to the Minister of State for Railways for acceptance, and final orders are issued.

809.3 **Pension cut:** This is governed by the provisions of Rule 9 of the Railway Services (Pension) Rules, 1993, and is used in case of grave misconduct or loss caused to the railway due to negligence, or in cases where the retired railway servant was facing prosecution on criminal charges while in service and was convicted after he had attained the age of superannuation. Proceedings are deemed to commence on the date of issue of charge sheet or date of suspension in departmental cases and from the date of taking cognisance of the charge sheet by a competent Court in criminal proceedings.

809.4 There can be two scenarios in respect of proceedings arising otherwise than as a result of conviction:

(a) **The charge sheet under this rule is issued after retirement:** In this case, the prior approval of the Minister of State for Railways has to be obtained on behalf of the President and the charge memorandum issued. No action can be taken in respect of any offence committed more than four years prior to the initiation of such proceedings. An officer of the concerned department, to which the retired employee belongs, is nominated as disciplinary authority for the purpose of issue of the chargesheet and for all interlocutory steps like consideration of defence, conduct of inquiry proceedings etc. After completion of the inquiry proceedings, and obtaining CVC's advice (in vigilance cases) and after giving the charged official an opportunity to represent against the findings of the IO, the case is submitted to the Minister of State for Railways for a tentative view and thereafter referred to UPSC for advice. Such reference to UPSC is accompanied by all relevant records and a standard proforma containing the service particulars along with a check list of documents. UPSC's advice, when received, is considered by Minister of State for Railways and in case he accepts the advice, as to the quantum of cut in pension, the final orders are issued. In case of disagreement on this issue, which persists even after reconsideration of the case by UPSC, the case is referred to DOP&T. DOP&T's advice is considered again by MOS(R) and he takes a final decision based on this advice.

(b) **Where proceedings are already in progress at the time of retirement:** All the steps up to the receipt of the representation of the charged official against the IO's findings and the disciplinary authority's provisional views thereon are processed on the concerned Railway and the case is then referred to Board to obtain the advice of the UPSC on the quantum of punishment, as detailed above.

809.5 **Cases of Conviction**: In cases of conviction, conduct leading to conviction is sufficient ground for cut in pension and the case is referred to UPSC for advice after giving an opportunity to the convicted employee to represent against the proposed action.

810 ROLE OF PERSONNEL BRANCH OF ZONAL RAILWAYS IN VIGILANCE RELATED DAR CASES

810.1 **Zonal Vigilance puts up CVC/CVO's first stage advice to General Manager for acceptance or otherwise for cases where the first stage advice varies with that of provisional recommendations of GM (before forwarding the case for first stage advice).** In other cases, zonal vigilance forwards CVC/CVO's 1st stage advice in respect of Gazetted officers to Dy.CPO/Gaz. along with draft charge sheet. Draft charge sheet for major penalty should accompany authenticated copies of Relied Upon Documents (RUDs). In the case of administrative actions, draft of show cause notice (SCN) or draft counseling memo should be sent along with 1st stage advice.

810.2 Dy.CPO/Gaz. puts up 1st stage advice along with fair charge sheet to DA for consideration and signature of charge sheet, if acceptable. Dy.CPO then arranges serving of charge sheet to CO and obtains his acknowledgement.

810.3 Representation of CO on the charge sheet is put up by 'P' branch on DAR file to DA through SDGM.

810.4 DA records his speaking order on the charges, in the case of minor penalty charge sheet. In the case of major penalty charge sheet, DA remits the case for oral enquiry or if he differs with CVC's 1st stage advice, he records his provisional views on Vigilance file, for **second stage advice** of CVC/CVO. Cases of **second stage advice** are advised to SDGM for sending them to Railway Board.

810.5 If the case is remitted to enquiry, SDGM advises names of IO and PO to Dy.CPO/Gaz. for their appointment by DA. Dy.CPO arranges issue of these appointment orders.

810.6 IO after completing DAR enquiry, submits the report in five copies to the authority issuing his appointment order. The IO report is sent by 'P' branch to SDGM for obtaining CVC's 2nd stage advice (in case of disagreement between DA and CVC). SDGM examines the inquiry report on Vigilance file and puts it up to DA along with Vigilance comments for recording DA's tentative views on the Vigilance file.

810.7 SDGM then sends IO's report and connected documents and Vigilance comments along with findings of DA on each article of charge and DA's tentative views to Railway Board for obtaining CVC's 2nd stage advice(in case of disagreement between DA and CVC).

810.8 CVC's 2nd stage advice is communicated to Dy.CPO/Gaz. through SDGM. Dy.CPO puts up this advice to DA through SDGM, who connects Vigilance file for DA's consideration. DA orders serving IO's report along with Disagreement memo, if any, to CO. Disagreement memo, if required, is prepared taking into consideration CVC's 2nd stage advice.

810.9 CO's representation is then called on IO's report and tentative disagreement memo of DA. CO's representation is then put up by 'P' Branch on DAR file to DA through SDGM for recording DA's findings and his decision. In case of DA's disagreement with CVC's 2nd stage advice**, there is no scope for reconsideration.**

810.10 If disagreement still persists between DA and CVC, DA may take a final view duly recording reasons for disagreement. This is taken as a case of disagreement between CVC and Ministry and CVC is advised about it. CVC may include the case in its Annual Report, which is placed on the floor of both Houses of Parliament and can be discussed by Hon'ble MPs.

810.11 In the cases of NGOs involved in Composite case, CVC's 1st stage advice is sent by Vigilance to DRM/HOD/Head of extra Divisional unit for taking DAR action clearly mentioning that it is a CVC case so that appropriate procedure, applicable to CVC cases, is followed by DA. In major penalty cases, CVC's 2nd stage advice is necessary in case of disagreement between DA and CVC even for NGOs involved in composite case. In the case of disagreement of DA with CVC's second stage advice, case may be sent to CVC for reconsideration with provisional views of DA and reasons for disagreement recorded on Vigilance file.

810.12 **Regarding Quantum of punishment:** In cases where the Disciplinary Authority agrees with the advice of the Vigilance Department for imposing a major or minor penalty, there is no further need to consult the Vigilance Department regarding the quantum of the punishment. It may be noted that DA has to apply his/her own mind in each case as per common prudence.

811 SUSPENSION

811.1 A railway servant is said to be under suspension when he is debarred from exercising the powers and discharging the duties of his office for the period the order of suspension remains in force.

811.2 Suspension is not a penalty under the D&A Rules.

811.3 **Competent Authority:** The authorities who are competent to place a Railway Servant under suspension are specified in Schedules I, II & III appended to the Railway Servants (D&A) Rules, 1968. However, in exceptional circumstances, any authority specified in any of the Schedules may place any subordinate railway servant specified therein, under suspension, provided that where any action is taken under the foregoing proviso the authority concerned shall forthwith report to the authority competent to place such railway servant under suspension, the circumstances in which the order was made and obtain his approval. Explanation-For the purposes of this rule, in respect of a railway servant officiating in a higher post, the competent authority shall be determined with reference to the officiating post held by such railway servant at the time of taking action. (Rule 4 of the RS (D&A) Rules, 1968)

811.4 Circumstances under which suspension is resorted to have been indicated in Rule 5 of RS (D&A) Rules, 1968.

811.5 A railway servant may be placed under suspension when disciplinary proceedings against him are contemplated or are pending or where, in the opinion of the competent authority, he has engaged himself in activities prejudicial to the

interest of the security of the State or when a case against him in respect of any criminal offence is under investigation, enquiry or trial.

811.6 The following instructions have been issued in regard to placing a railway servant under suspension in certain specified circumstances:

(i) A railway servant who is caught red-handed in a case while accepting illegal gratification should invariably be placed under suspension. (Board's confidential letter No. E(D&A) 85 RG6-15 dt. 16.4.85)

(ii) In the following type of cases, there may be adequate justification for placing a railway servant under suspension at the stage indicated against each type of case:

a) trap cases (please see (i) above)

b) in a case where on conducting a search, it is found that a railway servant is in possession of assets disproportionate to his known sources of income and it appears prima-facie that a charge under section 13 of the Prevention of Corruption Act, 1988(Act 49 of 1988) could be laid against him immediately after the prima-facie conclusion has been reached.

c) in a case where a charge-sheet accusing a railway servant of specific acts of corruption or an offence involving moral turpitude is filed in a criminal court immediately after the filing of such a charge-sheet.

d) in a case where, after investigation by the CBI, a prima facie case is made out and pursuant thereto, departmental action for major penalty has been initiated and a charge-sheet has been served on him alleging specific acts of corruption or gross misconduct involving moral turpitude immediately after the charge-sheet has been served on the railway servant.

811.7 **Review of orders of suspension in trap cases**: The review of the orders of suspension in those cases where a railway servant is trapped while accepting illegal gratification is detailed in Para 308 of Chapter III of this Manual, which may please be referred to.

812 ROLE OF INQUIRY OFFICERS

812.1 The latest instructions are available on Indian Railways website http://www.indianrailways.gov.in/railwayboard/view_section.jsp?lang=0&id=0,1,304,366,390,419

812.2 The Inquiry Officers may also consult the Chapter VII of the CVC Vigilance Manual 2017. While consulting the manual published by the Central Vigilance Commission, it may be borne in mind that the procedure mentioned therein are applicable in Central Civil Services but the spirit of the rules/ regulations mentioned therein are applicable in Railway cases also, particularly regarding the role and functions of the Inquiry Officer in conducting disciplinary proceedings.

813 PANEL OF RAILWAY INQUIRY OFFICERS

813.1 A panel of RIOs is formed at the Vigilance Directorate with approval of PED (Vigilance). RIOs are paid an honorarium for the Inquiries conducted by them. The honorarium is presently linked to the time taken in submitting the Inquiry Report which must be complete in all respects and accepted by the DA. This panel

is prepared by the Railway Board on the basis of the recommendations received from the Zonal Railways and other Railway Units from amongst the SAG and Selection Grade Officers who have clean vigilance record.

813.2 Retired officers wishing to be empanelled as Inquiry Officers are required to submit their application and bio-data to PED/Vigilance, either directly or through Zonal Railway/ Units. It is expected that officers applying for empanelment as RIOs have accepted the terms and conditions which have been specified. The onus of conducting enquiries and submitting Inquiry Reports complete in all respects rests with the RIO.

(http://indianrailways.gov.in/railwayboard/uploads/directorate/vigilance/Circulars/2015/RBV_06_15.pdf)

814 NOMINATION OF RAILWAY INQUIRY OFFICERS

Nomination of RIOs by DAs at Zonal Railways/PUs is done through SDGM/CVO who puts up a panel of upto three RIOs for the consideration of DA. The names of all empanelled RIOs are uploaded on IRVINS with contact details. Where DA is Board Member, a panel of RIOs is put up by Vigilance Directorate to the concerned Board Member for nominating the RIO.

815 HONORARIUM FOR INQUIRY OFFICERS

(Based on Railway BOARD'S LETTER NO. 2012/V-1/DAR/6/12, RBV 06/2015 DATED 07/10/2015)

815.1 Quantum of honorarium for retired and serving Inquiry Officers engaged in conducting departmental inquiries arising out of vigilance investigations against railways servants:

CATEGORY	TIME TAKEN TO COMPLETE INQUIRY		366 DAYS & BEYOND
	0-180 DAYS	181-365 DAYS	
RETIRED IO– RETIRED IN SG & ABOVE	60,000	30,000	15,000
RETIRED IO – RETIRED IN JAG & BELOW, UPTO THE RANK OF GROUP 'B' GAZETTED	30,000	15,000	7,500
SERVING IO– IN SG & ABOVE	21,100	12,500	6,000
SERVING IO– IN JAG & BELOW, UPTO SENIOR SUPERVISORY LEVEL	12,500	6,000	3,000

1) It has been assumed that 15 days will be required to start the Inquiry period and accordingly, time taken will begin to be calculated from the 16th day after the date of issue of the Appointment Order. The date of receipt of report

will be taken as the date of completion of inquiry, for the purpose of calculating the honorarium provided the inquiry report is complete in all respects.

2) In case the inquiry cannot be conducted on account of a court order, the period from the date of imposition of court order to the date of vacation of the said order shall not be considered for the purposes of calculating the calendar days taken to complete the inquiry.

3) Besides the above, an amount of Rs.100/-(Rs. Hundred only) will be permitted as contingency expenditure to meet the courtesy requirement of serving Tea/Biscuits etc. for each sitting of the Inquiry. This expenditure will be incurred by the Presenting Officer, duly certified by the Inquiry Officer and will be reimbursed to the Presenting Officer by the Railway Administration. In case expenditure is incurred by the Inquiry Officer, the amount should be reimbursed to him directly.

4) Postage/Stationary charges will be borne by the concerned Railway Administration.

5) In case of Retired Inquiry Officer, the departmental inquiries are to be conducted at the Headquarters of the Zonal Railways etc. and the duties and responsibilities entrusted to the inquiry officers would not involve any travel in normal circumstances. However, in cases where the travel becomes inescapable, and so approved by the Competent Authority, the rate of TA/DA will be the same as applicable to the serving Railway Officers of equivalent rank.

6) In case of Retired Inquiry Officers, where the duties and responsibilities involve a travel for conduct of departmental inquiry under the D&AR Rules, the Competent Authority may grant travel authority in the form of Special Duty Pass for self, spouse and attendant as per Railway Board's letter No. E(W)/2000/PS 5-1/24 dated 30.01.2012(i.e. RBE No. 12/2012)

7) Expenses made by the Inquiry Officer towards fax and telephone call charges shall be reimbursed to him on actual, on certification by Inquiry Officer, subject to a maximum of Rs.250/- (Rs.Two Hundred and fifty only) per inquiry report.

8) This honorarium is not applicable to Investigating Officers/Investigating Inspectors posted in the Enquiry Cell of Zonal Railways/Production Units.

815.2 **Terms and conditions for appointment of Inquiry Officers to conduct departmental inquiry**, under Railway Servants (Discipline & Appeal) Rules, 1968, in cases arising out of vigilance investigations against railway servants. (based on Annexure-ii of Board's letter no.2012/V-1/DAR/6/2 dated 07/10/2015)

A: SPECIFIC TERMS AND CONDITIONS FOR RETIRED INQUIRY OFFICERS:

A1. The Inquiry Officer should not be more than 70 years of age on the first day of July of the year of his empanelment.

A2. The panel will be reviewed every year. The R.I.O. will be depanelled on attaining the age of 70 years. However, he will be allowed to complete the ongoing Departmental Inquiries already entrusted to him, even if he has crossed the age of 70 years.

A3. The Inquiry Officer shall not engage himself/herself in any other professiona work or service, which is likely to interfere with the performance of his/her duties as Inquiry Officer. He/She should be in sound health, physically and mentally.

A4. Inquiry proceedings will be conducted only in the office premises of the concerned railway so allotted to the Inquiry Officers. A room with furniture and lockable almirahs, will be allotted to the Retired Inquiry Officer in the concerned office on the days of Inquiry.

A5. Where the duties and responsibilities involve travel for conduct of departmental inquiry under the D&AR Rules, the Competent Authority may grant travel authority in the form of Special Duty Passes in the same class to which serving officers of equivalent rank are entitled, while on duty and one attendant in sleeper/second class from the place of the residence to the Zonal Railway headquarters, where the departmental inquiry is conducted or to the place near the residence of retired charged officer, where inquiry is conducted owing to ill health of the charged officer and in the case of training from the place of their residence to the place where the training programmes are conducted or for any other official purpose in this connection.

B: GENERAL TERMS AND CONDITIONS FOR SERVING/RETIRED INQUIRY OFFICERS:

B1. The Inquiry Officer shall maintain strict secrecy in relation to the documents he receives or information/data collected by him/her in connection with the Inquiry and utilise the same only for the purpose of Inquiry in the case entrusted to him/her. No such documents/information or data are to be divulged to any one during the Inquiry or after presentation of the Inquiry Report. The Inquiry Officers entrusted with the Inquiries will be required to furnish an undertaking to maintain strict secrecy and confidentiality of all records/documents/proceedings, etc. All the records, reports, etc. available with the Inquiry Officer shall be duly returned to the authority which appointed him as such, at the time of presentation of the report.

B2. The IO will be entrusted with inquiries, on case to case basis, by the Disciplinary Authority.

B3. The Inquiry Officer will be eligible for the amount of honorarium as specified only in case of those inquiry reports that are complete in all respects.

(i) It has been assumed that 15 days will be required to start the Inquiry and accordingly, the time taken to complete the inquiry will be deemed to have started on the 16th day after issue of appointment order.

(ii) The date of receipt of report with due acknowledgement will be taken as deemed date of completion of inquiry for the purpose of calculating the number of days taken to complete the inquiry provided that the inquiry report is complete in all respects. The completeness of the inquiry report is to be checked by the Personnel Branch/Branch dealing with the concerned D&AR case.

(iii) Instances have come to notice that in some cases, the Disciplinary Authority may require the Inquiry Officer to carry out further re-inquiry or fresh inquiry on some charges. For this, while submitting the Inquiry Report to the Disciplinary Authority, an undertaking may be given to the DA by the Inquiry Officer that he shall **carry out the subsequent directions of the DA to**

carry out further inquiry, if any, in terms of Rule 10 of the RS(D&A) Rules, 1968.

(iv) In case the Inquiry cannot be conducted on account of a court order, the period from the date of imposition of court order to the date of vacation of the said order shall not be considered for the purposes of calculating the calendar days taken to complete the inquiry.

B4. An Inquiry Officer when entrusted with a composite case comprising both gazetted and non-gazetted officials, will be required to conduct inquiry against all gazetted and the non-gazetted officials. However, honorarium payable for inquiry against each charged official (whether gazetted or non-gazetted) shall be the same as mentioned in Annexure-I of letter No. 2012/V-1/DAR/6/2 dated 07.10.2015.

B5. Payment of honorarium to Inquiry Officers shall be made by the Zonal Railways in accordance with Board's letter No.2012/V-1/DAR/6/1 dated 11.12.2012.

816 HANDLING OF VIGILANCE CASES IN PUBLIC SECTOR UNDERTAKINGS

816.1 The jurisdiction of Central Vigilance Commission is co-terminus with the executive powers of the Union and it exercises superintendence over Vigilance administration of various Ministries of Central Government or Corporations established by/or under any Central Act, Government Companies, Societies and Local authorities owned or controlled by that Government.

816.2 The Vigilance cases arising out of investigation conducted in cases involving officers upto two levels below Board of Directors is required to be referred to CVC for its advice.

816.3 The cases involving Railway Officers (Gr. 'A') on deputation to PSUs/PSEs are required to be submitted to Railway Board for obtaining CVC's advice.

816.4 The complaints against Board level appointees and above may be investigated by CVO of the Ministry of Railways. CVO of Ministry of Railways may, however, seek factual report against the Board level appointees from CVO of PSUs/PSEs and the latter will send the same to the CVO of the Ministry of Railways after endorsing a copy of the report to CMD to keep him informed of the development. However, if the CMD himself is the subject matter of investigation, the CVO of PSEs need not endorse a copy of the report to him. It will then be the responsibility of the CVO of the Ministry of Railways to obtain the version of the CMD (qua suspect person) at the appropriate time.

816.5 As the works in PSUs are being executed for Indian Railways, Railway Vigilance has the authority to investigate the matter related to complaints.

816.6 Considering the fact that there is a separate vigilance organization for each PSU, there appears no need for carrying out preventive checks/ CTE type inspection/ investigation of routine complaints. However, in cases where complaint is of serious nature and requires immediate investigations, zonal vigilance may undertake the investigation after taking the approval of PED/Vigilance, Railway Board.

816.7 Registered complaints or cases, where a decision has been taken to conduct detailed investigation against officers of Railway PSUs i.e. Board level appointees and above (including CMD), shall be brought to the notice of CRB & CEO. The progress made in such cases shall be reported by PED/Vig to the CRB & CEO for his information.

817 POSTING AND TENURE OF OFFICERS IN THE VIGILANCE ORGANISATION

817.1 Posting of Vigilance Officers is done with the approval of PED (Vig.)

817.2 Reference seeking Board's approval for posting of officers in the Vigilance Organisation should be addressed by the SDGMs to the PED (Vigilance), who is the CVO of the Ministry of Railways. While submitting the proposals, SDGMs should ensure that the officer is chosen carefully in consultation with the PHOD concerned.

817.3 The officer recommended should have a good record of service with adequate experience in the particular department. Names of atleast two or three suitable officers should be recommended alongwith their complete Confidential Report dossier, if not already available in the Board's office.

817.4 Tenure of Vigilance Officers/ Enquiry Officers on the Railways should be four years from the date of their posting in keeping with the Railway Board Policy of tenure of officials on sensitive posts. In case it has to be extended beyond four years, Board's prior approval should be obtained.

817.5 In addition, posts in Railway Board and its subordinate offices, including RDSO, are tenure posts. Such posts have tenure of five years for Selection Grade and Senior Administrative Grade officers. For these posts, tenure policy shall continue to be followed.

818 POSTING & TENURE OF VIGILANCE INSPECTORS/ INVESTIGATING INSPECTORS/ ENQUIRY INSPECTORS ON ZONAL RAILWAYS/PUs

818.1 Posting of officials in the Vigilance Organisation of the Zonal Railways should be made in consultation with the CVO concerned.

818.2 These posts have been kept as tenure posts. The normal period of tenure should be 4 years which could be extended upto 6 years in individual cases meriting such a consideration by the GM of the concerned Railway/ Production Unit etc. based on the recommendation of the concerned CVO.

818.3 The four year term (extendable to six years) should be the overall period which a railway servant or one taken on deputation from other department or State Government can spend in the Vigilance Organisation. As an example, if a railway servant had worked as a VI in a Zonal Railway and thereafter also in the Vigilance Directorate of the Railway Board for a total period of four years in all, he should not be continued further in the Vigilance Organisation except in individual cases of special merit and that too upto a maximum of six years for one period. However, the tenure for Enquiry Inspector will be independent of the

period spent by them earlier in the Vigilance Organisation in other capacities such as I.I.s /V.I.s, etc

818.4 Railways/PUs etc. in exceptional cases may recommend to the Board extension of tenure beyond six years of any individual cases of Vigilance Inspectors etc. provided any one of the following criteria is fulfilled:

(a) the person is due to retire within a period of one year or so and it may not be convenient for him to rehabilitate himself during this period in his parent department;

(b) no suitable person could be selected inspite of positive efforts made by the Railway and it is intended to extend his tenure by a short period to cover the process of selection, etc. (actual efforts of the railway already made be listed)

(c) due to very good cases of investigation against senior people, it is feared that the Vigilance Inspector may be victimized on rehabilitation and efforts to find an alternative position for him have so far failed. The efforts made and genuine reasons for which the fear exists, will have to be enunciated.

(d) In such cases, prior approval of the CVO of the Ministry of Railways would be required before continuing the V.I./I.I. beyond six years.

819 ROTATION OF OFFICIALS WORKING IN SENSITIVE POSTS

819.1 **Posts which are classified as sensitive, warrant the rotation of officials as per extant instructions, list is at Annexure 8.1. This list is not exhaustive and General Managers on their own may also treat any other post not mentioned in the list as "Sensitive" and inform Railway Board Vigilance.**

819.2 The official who has been transferred from a particular post under the 'policy on rotation of officials working in sensitive posts' should not be posted back on the same seat for a minimum period of two years.

820 SELECTION OF INVESTIGATING INSPECTORS IN RAILWAY BOARD

820.1 Vacancies of Investigating Inspectors in the Railway Board are filled by drafting suitable persons from the different disciplines of Railway working for which purpose a notification is issued and applications are called for. Those recommended by the SDGMs/CVOs are subjected to a written test followed by Vigilance Aptitude and Computer Knowledge Test by a duly constituted Selection Committee. As applicable to Vigilance Inspectors of the Zonal Railways, Investigating Inspectors in the Vigilance Directorate, Railway Board hold their post on a tenure basis, the period of tenure being four years extendable to six years in individual case of special merit. The Recruitment Rules framed for filling the posts of Investigating Inspectors in the Railways Board clearly lay down the categories of persons who can be considered for appointment as Investigating Inspectors in Railway Board.

820.2 **Grades applicable to Vigilance Inspectors/ Investigating Inspectors:** The Grades approved by the Pay Commission and accepted by the Government for Vigilance Inspectors/Investigating Inspectors are Level 6 and 7 of Pay Matrix.

820.3 A Written test and a Vigilance Aptitude and Computer Knowledge Test may be conducted as part of selection procedure. The distribution of Marks for selection is stated below:

S.No	Criteria	Distribution of mark
1	Written Examination	50
2	Vigilance Aptitude & Computer Knowledge Test	30
3	APARs for the last 3 years (OS-5, VG-4,GD-3 & Average-2)	15
4	Academic Qualification (Engg. Degree/PG-5, Diploma in Engg./Graduate-3 & Under Graduate-1)	05
	Total	**100**

Candidates who obtain at least 60% marks in the written examination will be called for appearing in the Vigilance Aptitude & Computer Knowledge Test. The above instruction may be followed for selections for the Posts of Vigilance Inspectors in Zonal Railways also.

821 SELECTION OF VIGILANCE INSPECTORS IN ZONAL RAILWAYS

821.1 In terms of Board's letter No. E57/VGI-155 dated 01.02.1960, the posts of Vigilance Inspectors are to be treated as ex-cadre post and filled by suitable persons with a flair for Vigilance work. They should be of proven integrity. Vigilance history and reputation of the official should be checked minutely. However, applicants in the following situations can also be considered for the post of Vigilance Inspectors:

(a) Where a person was issued a major/minor penalty Charge-sheet in a vigilance case but was subsequently exonerated at a later stage in consultation with Vigilance.

(b) Where a staff who was issued verbal/recorded warning or counseling in a vigilance case.

(c) Where a staff was issued verbal/recorded warning or counseling in a vigilance case and at a subsequent stage was exonerated in consultation with Vigilance.

821.2 Zonal Railways/other units may notify the vacancy circulars for seeking applications from eligible candidates from across Indian Railways for filling the vacancies of Vigilance Inspectors. It may be specified that only those applicants who fulfill the eligibility criteria would be considered and that, on completion of their tenures would be repatriated to their parent cadres on the Railway where they hold lien. Selection of outside candidates as Vigilance Inspectors on another

Railway will be strictly for the period of their tenure and will not entitle them to any rights to further postings/promotions or change of lien to the Railway/Unit where they are selected as Vigilance Inspectors.

821.3 If the Zonal Railway/Unit is unable to fill up the vacancies of Vigilance Inspectors as a result of inadequate response in two successive notifications, SDGMs/CVOs may request the PHODs from the departments concerned to give a list of three eligible candidates to be considered for filling up of vacancy of a Vigilance Inspector. Posting of Vigilance Inspector in the Vigilance Organization of the Zonal Railway will be made out of these names recommended by the PHOD with the approval of the General Manager. It must be ensured that the official recommended should have proven integrity and a good record of service with adequate experience in the particular department.

821.4 Similarly in case of two failed attempts for selection of investigating Inspector (Vig.) in Railway Board, a panel of volunteers may be sought from SDGMs and appointment of Investigating Inspector (Vig.) in Railway Board may be done from this panel by Railway Board

821.5 The normal establishment rules applicable to regular selection posts need not be applied in the case of selection of Vigilance Inspectors, but the panel so drawn, is to be approved by the Chief Vigilance Officer of the Railway/PU personally. For filling up of a vacancy of a Vigilance Inspector, the normal procedure of considering candidates from the respective departments (e.g. Civil Engineering, Traffic, Stores, Electrical, S&T, Mechanical Engineering, Personnel, Accounts etc.) should be followed. Along with these candidates, the Vigilance Inspectors of the particular discipline already working in the lower grade in the Vigilance Organisation may also be considered provided they are eligible on the basis of their grade in their own cadre in their department.

821.6 It is also necessary for the SDGM as Chief Vigilance Officer to keep a constant watch over the work of Inspectors so that the staff who have not met the grade or who are otherwise considered unsuitable for continuing in the Vigilance Organisation are repatriated to their parent departments at the earliest possible stage. In any case, the performance of each Inspector should be reviewed a little before he completes two years in the Vigilance Organisation and thereafter further extension and tenure, if warranted, should be made only on a year to year basis with a similar review before every such extension is decided upon. Such a review and extension should be subject to the personal approval of the SDGM as the Chief Vigilance Officer.

821.7 At the time of initial appointment of any person as the member of the investigating staff of the Vigilance Organisation, it should be made clear to that person that the posting in the Vigilance Organisation is on a purely temporary basis and that the Railway Administration has a right to repatriate the person at any time and without assigning any reason even if he has not completed initial period of tenure or extension, if any, granted thereto. It is necessary that the order of appointment or the order of posting to the Vigilance Organisation as also any other communication to the person concerned in this connection, is so worded that no staff will have or can claim a legal right to continue in a post in the Vigilance Organisation either indefinitely or for a specific period.

822 PROTECTION AGAINST VICTIMIZATION OF VIGILANCE OFFICIALS

822.1 Independence of the vigilance officials is the foundation for effective vigilance administration in any Organisation. They cannot function without fear or favour if they perceive any victimization, as a consequence of their working in Vigilance Organisation. The Commission has viewed seriously certain instances of harassment and attempts of victimization of vigilance officials of certain Organizations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organization, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that "those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries". The Committee had also recommended that "those working in Vigilance Organisation should have an assurance that good and efficient work in the Vigilance.

822.2 The Commission has considered the problem of possible victimization of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his APAR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVOs response before coming to any conclusion on the need to investigate such complaints.

822.3 In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8(1) (h) of the CVC Act:

(i) All personnel in vigilance Units will be posted only in consultation with and the concurrence of the CVOs. Any premature reversion before the expiry of their tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

(ii) The APAR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.

(iii) Since the problem of victimization occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:

(a) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his APAR shall not be written by such officer(s).

(b) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not

less than five years from the date of reversion from the vigilance department.

(c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and Chief Executive of the Organization to the Commission if they perceive any victimization as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the Vigilance department.

822.4 The CVO should report promptly to the Commission, the details of any real or perceived victimization of any official who is working in the vigilance unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Units, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/ superseded in matters of promotion.

823 TRAINING OF VIGILANCE OFFICIALS

823.1 **Training Courses for SDGMs/CVOs**: At least one course for training of newly inducted SDGMs/CVOs should be conducted every year.

823.2 **Training Courses for Vigilance Officers/Non-vigilance Officer**s: At least one training course for untrained Vigilance Officers of Vigilance Directorate of Railway Board and those of the vigilance organizations of the Zonal Railways is conducted every year. Since some of the non-vigilance officials e.g. Dy CPO/G and Dy CAOs etc. are also handling vigilance cases at various stages of the laid down procedure, they are also included in the said training course for smooth functioning of the system.

823.3 **Training Courses for Railway Inquiry Officers (RIOs**): At present, retired Railway Officers of Selection Grade and above up to the age of seventy years, subject to their clean past, are empanelled for their subsequent appointment as Railway Inquiry Officers (RIOs), under fixed terms and conditions, for conducting Departmental Inquiry in DAR cases, involving Gazetted Railway Officers or a combination of Gazetted and non-Gazetted Railway Officials (Composite cases). However, before being entrusted with a departmental inquiry, they have to undergo a training course conducted by the Vigilance Directorate to make them familiar with the latest procedures laid down in this regard.

823.4 **Training Courses for Vigilance Inspectors/Investigating Inspectors**: At least one training course is conducted for untrained Vigilance Inspectors of the Zonal Railways and the Investigating Inspectors of the Vigilance Directorate of Railway Board to upgrade their skills in the matter of investigation and the related procedures.

823.5 **Vigilance Education**: The Chief Vigilance Officer/Deputy Chief Vigilance Officers/ Vigilance Officers/Inquiry Officers etc. must deliver lectures at the Zonal Training Schools etc. on the aspects concerning 'Vigilance' during the periods allotted on the subject of 'Vigilance' in each of the Induction/ Refresher/Promotional training courses so as to spread Vigilance education amongst the Railway officials and to make them aware about the likely pitfalls in their professional disciplines as also about the various provisions of the Railway Services (Conduct) Rules and the Railway Services (Discipline & Appeal) Rules.

Some minimum period has also been fixed which has to be allotted in all the training courses at the Zonal Training School etc. for coverage of the Vigilance aspects in service.

824 ISSUE OF IDENTITY CARDS TO VIGILANCE OFFICIALS

While going for inspection, check or investigation, Vigilance Inspectors should carry with them a current and valid Identity Card to show to the parties concerned before proceeding with the checks.

825 CVC's DIRECTIVES ON PUTTING THE TENDERS/CONTRACTS ON WEBSITE

In order to bring about greater transparency in the procurement and tendering processes, the CVC has stressed the need for widest possible publicity. For bringing improvement in Vigilance administration, to curb malpractices in tender related matters, the CVC in exercise of powers conferred on it under Section 8(1)(h) has issued detailed instructions for compliance by all government departments, PSUs, etc., over which the Commission has jurisdiction. These instructions are with regard to cases, where open tender system is resorted to for procurement of goods and services or for auction sale etc. of goods and services for putting them also on the website.

826 WEBSITE OF CVC

The address of the CVC's website is www.cvc.nic.in. The hard copies of the directives/ instructions and also the publications of the Commission can be downloaded from the website. Complaints on corruption can also be lodged on the website.

827 PRESERVATION OF VARIOUS TYPES OF RECORDS OF VIGILANCE DEPARTMENT

After considering the prevailing practice of various Zonal Railways, the following period is stipulated for preservation of various types of records in the Vigilance Department:-

S.No.	Types of Records	Period of retention
1.	Policy files	Permanently
2.	SPE/CBI cases	10 years after closure*
3.	Cases which resulted in to major penalty (GOs & NGOs)	10 years after closure*
4.	Cases which resulted in to minor penalty (GOs & NGOs)	5 years after closure*
5.	Cases referred to other departments for action as deemed fit or administrative action such as warning, counselling, recorded warning for GOs & NGOs and for recoveries, system improvements & banning of business	3 years after closure*
6.	Cases of complaints which did not result in to any action	3 years after closure*
7.	Preventive Checks conducted & closed without action	One year after closure*
8.	Anonymous/pseudonymous complaints filed	One year after closure*
9.	Vigilance clearance files/other Misc. files	One year

*Closure: Any case may be treated as closed when all the actions such as prosecution, DAR action, administrative action, recoveries, banning of business, system improvement etc. as approved by the competent authority are concluded.

828 RIGHT TO INFORMATION ACT, 2005

828.1 Judgement/Orders providing relaxation under RTI Act 2005:-

Some of the judgment and orders of High Court and Central Information Commission (CIC) have given relaxation from furnishing copies of file notings of Vigilance files. These may be adequately quoted for seeking relaxation, if any.

a) CIC in Case No.CIC/AT/A/2009/0617 dated 16.09.2009 and in Case No. CIC/AT/A/2010/0757 dated 12.11.2010 held that the file-notings in vigilance files cannot be authorized to be disclosed as these amounted to information confidentially held by the public authority and thereby came within the scope of Section 11(1) read with Section 2(n) of the RTI Act. The same has also been upheld by CIC in their decision No. CIC/AT/A/2012/003366/VS/06272 dated 24.02.2014.

b) CIC vide its decision in case No.CIC/SS/A/2011/000657 dated 27.6.2011 had also opined that the file notings (Vigilance Files) are exempt from disclosure

u/s 8(I)(h) of the RTI Act. Such files notings constitute inter-departmental communications concerning vigilance enquiry and information received from 3rd parties. The enquiry committee's deliberations can quite possibly be based on the matter contained in such file notings, the disclosure of which may impede or obstruct the process of inquiry as those officials who apprehend of being charged at the end of the whole inquiry may try to interfere in the process of inquiry by using iniquitous tactics, by trying to tinker with material evidence, by influencing material witnesses or by unduly influencing the members of the Inquiry Committee inter-alia. Viewed from the other perspective, in case the inquiry culminates into regular departmental proceedings, the charged official will have a right to access these documents in the impending inquiry proceedings under relevant rules. Thus, the authenticated copies of File Notings cannot be provided to the Appellant.

c) Delhi High Court's decision in LPA No.618/2012 dated 06.11.12 in the matter of disclosure of information under the provision of RTI Act, relating to disciplinary cases has observed that the disciplinary orders and the documents in the course of disciplinary proceedings are personal information within the meaning of Section 8(1)(j) and the disclosure of which normally has no relationship to carry public activities or public interest and disclosure of which would cause unwarranted invasion of the privacy of the individual. Section 8(1)(j) exempts from disclosure personal information irrespective of with whom it is possessed and from whom disclosure thereof is sought. CVC vide their Circular No. 07/04.2014 dated 04.04.2013 had circulated extracts of the above judgement to all Chief Vigilance Officers for making use of the same.

828.2 RIGHT TO INFORMATION ACT, 2005

(1) The Right to Information Act, 2005 was enacted by the Government for providing right to every citizen to secure access to information under the control of the Public Authority concerned. Every Public Authority covered under the RTI Act, 2005 receives a large number of applications from the public, seeking information on various issues and the requested information is to be given by the Central Public Information Officers (CPIOs)/ Public Information Officers (PIOs) concerned of the Public Authorities. Under the provisions of RTI Act, 2005, an Applicant has the right to make an Appeal to the first Appellate Authority of the Public Authority concerned, in case, he is not satisfied with the reply/ information provided to him by the CPIO/ PIO concerned.

(2) The necessity for First Appeal arises due to the fact that there are shortcomings/ ambiguities in the reply/ information provided by the CPIO/ PIO of the Public Authority concerned. However, it has been observed that sometimes the First Appeal is made by the Appellant out of ignorance of the provisions of RTI Act, 2005 or his/ her lack of clarity about the scope and limitation of the provisions of RTI Act, 2005.

(3) Central Information Commission (CIC) is authorised under the RTI Act, 2005 to receive and enquire into a complaint and/ or decide on Second Appeal relating to deficiencies in supply of information to the RTI Applicants by the Public Authority concerned. If the points mentioned in para below are kept in view by the various Public Authorities, while replying to RTI Applicants, it may be useful in increasing the level of satisfaction among the RTI Applicants and increased awareness among the Applicants about the provisions, scope and limitations of RTI Act, 2005. With the increased knowledge about the provisions of RTI Act,

2005, the Applicants would be in a better position to make RTI Applications in an unambiguous manner, thus making it easier for the Public Authorities also to provide an appropriate, clear and specific reply to the Applicants, in letter and spirit of the provisions of RTI Act, 2005.

(4) Common shortcomings noticed in the replies given by the CPIOs/ PIOs to the RTI Applicants and corrective measures thereon to be taken by the authorities concerned are as under:

(i) Many a time, while rejecting the Applicant's request for information sought by him, the reasons for such rejection/ denial of the information are not given by the CPIOs/ PIOs concerned, which is a violation of Section 7(8)(i) of the RTI Act, 2005. The CPIOs simply quote the Section of the RTI Act, 2005, under which the information is being denied or they state that the issue raised by the Applicant does not constitute 'information' as defined under Section 2(f) and 2(i) of the RTI Act, 2005, which is not sufficient. The 'reasons', why exemption is being claimed from disclosure and/ or why the issue raised does not constitute 'information' and the relevant rulings of the CIC and/ or constitutional courts, etc., must be explained to the Applicants.

(ii) In cases where the information is denied and the Applicant's request is being rejected, the period during which an Appeal may be preferred and the particulars of the Appellate Authority are not mentioned in the reply to the Applicant, which is a mandatory requirement under Section 7(8)(ii) and 7(8)(iii) of the RTI Act, 2005, in such cases. The CPIOs/ PIOs should provide these details to the Applicants, in case, information/ a part thereof is being denied to the Applicants.

(iii) Sometimes the reply to the Applicants is given in perfunctory manner, without verifying the records of the organisation concerned. The information as sought by the Applicants, should be given to them after checking the records thoroughly.

(iv) Adherence to the time limit is essential in handling Applications received under RTI Act, 2005. RTI Act, 2005 has specified time limits for different stages and actions to be taken on Applications received by the Public Authority concerned. Any applications/ part(s) thereof, which are required to be forwarded to other Public Authorities, should normally be forwarded within 5 days of the receipt of the Application, in accordance with Section 6(3) of the RTI Act, 2005.

(v) Under Section 11 of the RTI Act, 2005, notice to the third party is to be given only for that information pertaining to third party, which has been treated as confidential by it. Such notice is to be given within 5 days of the receipt of the request and a final decision regarding providing the information is to be taken by the CPIO concerned, within 40 days of the receipt of the request.

(vi) In many cases the CPIOs/ PIOs delay the reply to the Applicants beyond 30 days' time limit prescribed under Section 7(1) of the RTI Act, 2005, without assigning any reason either on file and/ or without informing the Applicant. In case, it is not possible to give the information to the Applicant within 30 days, the CPIOs/ PIOs should send an interim reply within 30 days', informing the Applicants about the delay.

(vii) Sometimes there is delay in providing information to the Applicants on the ground that the relevant files are under submission with the higher authorities.

In such cases, the CPIOs/ PIOs should withdraw the files 'temporarily' for providing information to the RTI Applicants.

(viii) The CPIOs/ PIOs while denying the information to the Applicants must records the reasons in the file also to justify the denial/ rejection of the request of the Applicant.

828.3 Many times, a question arises regarding disclosure of information pertaining to disciplinary action/ proceedings/ show-cause notices/ punishments awarded to a public servant and financial details of a public servant. The Hon'ble Supreme Court of India in its judgment in Special Leave Petition (Civil) No. 27734 of 2012 in the case of Girish Ramchandra Deshpande Vs. Central Information Commission and Others has ordered that—

"The petitioner herein sought for copies of all memos, show cause notices and censure/ punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above mentioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act, 2005.

We are in agreement with the CIC and the Courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/ punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act, 2005. The performance of an employee/ officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, 2005, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act, 2005.

We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest.

That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed".

828.4 The above decision of the Hon'ble Supreme Court of India may be kept in view while deciding about disclosure of information relating to disciplinary action/ proceedings/ show cause notices/ punishments awarded to a public servant and financial details of a public servant.

Circular no 03/03/2017 dated 10-3-2017 by CVC on repeated information seekers http://www.cvc.nic.in/sites/default/files/cic_cvc250614_1.pdf

The Central Information Commission, vide its decision No. CIC/AD/A/2013/001326- SA dated 25.06.2014 has thus, decided that:- "(i) No scope of repeating under RTI Act. (ii) Citizen has no Right to Repeat. (iii) Repetition shall be ground of refusal. (iv) Appeals can be rejected"

829 INTEGRITY PLEDGE

To foster probity and integrity in public life, the Central Vigilance Commission has launched an 'Integrity Pledge' which can be taken electronically by the citizen as well as by Organisations. It can be accessed on the Commission's website at www.pledge.cvc.in.

By taking the Integrity pledge, citizens commit to uphold highest standards of honesty & integrity by following probity and rule of law in all walks of life, to neither take nor offer bribe, to perform all tasks with honesty and transparency, act in public interest and report any incident of corruption to appropriate authority.

Similarly, by taking the integrity pledge, organisation viz., corporate/ entities/ firms, etc., would affirm their commitment to eradicate corruption and to uphold highest standards of integrity & good governance by promoting a culture of honesty and integrity in the conduct of their activities. Organisations would pledge to neither offer nor accept bribe, commit to good corporate governance based on transparency, accountability and fairness, adhere to relevant laws, rules and compliance mechanisms in the conduct of business, adopt a code of ethics for all its employees, sensitise their employees of laws, regulations, etc., relevant to their work for honest discharge of their duties, provide grievance redressal and Whistle Blower mechanisms for reporting grievances and fraudulent activities and protect the rights and interests of stakeholders and the society at large.

The Commission acknowledges citizens and organisation taking the Integrity Pledge, for their commitment to the cause of anti-corruption, through a certificate of commitment.

829.1 INTEGRITY PLEDGE FOR CITIZENS

I believe that corruption has been one of the major obstacles to economic, political and social progress of our country. I believe that all stakeholders such as Government, citizens and private sector need to work together to eradicate corruption.

I realise that every citizen should be vigilant and commit to highest standards of honesty and integrity at all times and support the fight against corruption.

I, therefore, pledge:

- To follow probity and rule of law in all walks of life;

- To neither take nor offer bribe;
- To perform all tasks in an honest and transparent manner;
- To act in public interest;
- To lead by example exhibiting integrity in personal behaviour;
- To report any incident of corruption to the appropriate agency.

829.2 INTEGRITY PLEDGE FOR ORGANISATIONS

We believe that corruption has been one of the major obstacles to economic, political and social progress of our country. We believe that all stakeholders such as Government, citizens and private sector need to work together to eradicate corruption.

We acknowledge our responsibility to lead by example and the need to put in place safeguards, integrity frameworks and code of ethics to ensure that we are not part of any corrupt practice and we tackle instances of corruption with utmost strictness.

We realise that as an Organisation, we need to lead from the front in eradicating corruption and in maintaining highest standards of integrity, transparency and good governance in all aspects of our operations.

- We, therefore, pledge that:
- We shall promote ethical business practices and foster a culture of honesty and integrity;
- We shall not offer or accept bribes;
- We commit to good corporate governance based on transparency, accountability and fairness;
- We shall adhere to relevant laws, rules and compliance mechanisms in the conduct of business;
- We shall adopt a code of ethics for all our employees;
- We shall sensitise our employees of laws, regulations, etc. relevant to their work for honest discharge of their duties;
- We shall provide grievance redressal and Whistle Blower mechanism for reporting grievances and fraudulent activities;

830 FORENSIC SCIENCE AS A TOOL FOR ENQUIRY/ INVESTIGATION

(1) Forensic science deals with scientific methods of investigation and collection of evidence. Normally, several branches of Forensic Science like forensic medicine, computer forensic, forensic pathology, forensic ballistics, etc., are employed for investigation of complex criminal cases. Forensic Science can also be gainfully employed in vigilance investigations too for collection of evidence, better appreciation of the cases and fixing of responsibilities. Organisations could explore improving the quality of their investigations through use of forensic tools and expertise for ascertaining facts that could be crucial for arriving at definite conclusions in cases. In case of need, certain professional organisations can also be approached to help application of forensic tools for investigation purpose.

(2) During investigating of fraud/ corruption cases, various forensic techniques are used for analysis of physical and electronic evidence. Conventional methods are mainly used to prove the authenticity of the documents available; this typically involves examination of physical documents for matching of handwriting and signatures, matching/ establishing age of paper and ink to analyse the evidence by comparison and to establish erasures or substitution of documents and restoration of obliterated writing.

(3) Examination and analysis of documents available in physical form may require opinion of GEQD (Government Examiner of Questioned Documents). The following types of examination are carried out by the GEQD:

(a) to determine the authorship of the questioned writings by a comparison with known standards/ accepted documents;

(b) to detect forgeries in questioned documents;

(c) to determine the identity of questioned typescripts by comparison with standards;

(d) to determine the identity of seal impressions;

(e) to decipher erased (mechanically or chemically) or altered writings;

(f) to determine whether there have been interpolations, additions or overwriting and whether there has been substitution of papers;

(g) to determine the order or sequence of writings as shown by cross strokes and also to determine the sequence of strokes, creases or folds in the questioned documents where additions are suspected to have been made;

(h) to detect any tampering in wax seal impressions;

(i) to decipher secret writings;

(j) to determine the age of documents and other allied handwriting problems.

Services of the Document Division of Central Forensic Science Laboratory (CFSL), CBI or other forensic laboratories of Central /State Government or NABL accredited laboratories may also be used for this purpose.

Annexure-8.1

List of Sensitive Posts

1. Engineering Department (JAG & above)

I. Zonal Railway Headquarters

PCE, CAO, CTE, CBE, CETP, CETM, CE (Const), Dy. CE (Const)., Dy. CE (Works), Dy. CE(TM) , Dy. CME(TP), Dy. CE (Bridges)

II. Division Level

Sr. DEN (Coord) , Sr. DEN (Line), Dy. CE(TM), Dy.CE (Const)

III. Engineering Workshops

CWM, Dy. CE (Bridge Workshop)

IV. RDSO

ED(QA) Civil, Dir (QA) Civil, Director (Civil)

In some of the Railways, some of the SAG, JAG officers who are holding the post of CE (Planning), CGE or Dy. CE (Planning) or Dy.CE (Works) might also be dealing with the tenders, and then they will also come under the category of sensitive post.

2. Electrical Department (JAG & above)

I. At Headquarter level

(i) CEE

(ii) CEE/RS

(iii) Dy. CEE/RS

(iv) CEGE & CESE (Some Railways do not have the post of CESE)

II. At Divisional level

(i) Sr. DEE/ Loco shed

(ii) Sr. DEE/G

III. In Construction

(i) CEE/ Construction

(ii) All Dy. CEE/ Construction but for posts in HQ Construction.

IV. CLW

(i) CEE dealing with tenders.

V. COFMOW

(i) CEE

3. Mechanical Department (JAG & above)

I. In the Zonal Railway

CME, CWE, CRSE (Coaching), CRSE (Freight), CMPE (Diesel), CME (Planning), Dy. CME (Diesel), Dy. CME (Coaching), Dy. CME (Freight), Dy. CME (Workshop).

II. In the Division.

Sr. DME (Diesel), Sr. DME (Power), Sr. DME (Coaching)

III. In the Workshops

CWM, Dy. CME

IV. In the Production Units.

CME, CME (Production), CME (Design), Dy. CME

V. In RDSO

EDS/MP, EDS/ Carriage, EDS/ Wagon, EDS/ QA, EDS/ Testing ,Director/ Coaching, Director/ Wagon, Director/ Motive Power,Director/ I & L (Delhi, Bombay, Kolkata and Lucknow).

VI. In COFMOW

CME, Dy. CME

At some of the places, some of the SAG/ JAG officer may not be dealing with any tender/ contracts. In such cases, the posts may be excluded from the list of sensitive posts.

4. S & T Department (JAG & above)

I. At Headquarters

CSTE, CSTE (Construction), CSTE/ Projects, CCE, Dy. CSTE/ Micro-Wave/ Maintenance, Dy. CSTE/ Management Information System.

II. At Field level

Sr. DSTE, DSTE, Dy. CSTE/ Construction, DSTE/ Construction, Dy. CSTE/ Projects, Dy. CSTE/ Tele/ Projects, DSTE/ Projects.

III. In RDSO

ED/QA/S&T, Director/S&T/ Inspection, Bangalore, Director/S&T/ Inspection, Mumbai, Director /S&T/Inspection, Kolkata, Director/ S&T/ Inspection, Delhi, Director/ I&L/ Delhi, Director/I&L/ Kolkata, Director/ I & L/ Mumbai

5. Traffic & Commercial Department

I. Zonal Railway Head Quarters

COM, CCM, CFTM, CCO, Dy. CCM (Claims), Dy. HOD/ HOD allotting Catering and leasing contracts.

II. Divisional Level

Sr. DOM, Sr. DCM, CTM/ Dy.CTM/ Area Superintendent.

III. Training Centres

Principal, ZTC

Sensitive posts involve dealing with customers, contractors and selections.

Officer debarred from sensitive posts should not be nominated as Convenor of Tender Committee and Selection/ Screening Committee.

6. Accounts Department (JAG & above)

I. Zonal Railway Headquarters

All FA&CAOs i.e. FA&CAO, FA&CAO (Const), FA&CAO(WST), FA&CAO(F&B)

Dy. FA&CAO(Stores), Dy. FA&CAO(Workshop), Dy. FA&CAO (Traffic Accounts), Dy. FA&CAO(F&B), Dy. FA&CAO(Const), Dy. CAO(G), Chief Cashier.

II. Divisional level

Sr. DFM

III. In RDSO

ED/ Finance Dir/ Finance Jt. Dir/ Finance

Note : * All Finance & Accounts Officers on Zonal and Divisional levels are on sensitive posts.

7. Stores Department (JAG & above)

All posts are sensitive except the following posts:

Secretary to COS

Posts manned by Stores Officer in EDP Centre.

Dy. CMM/ IC in Headquarters, wherever he is not dealing with purchase work also.

8. Security Organization (JAG & above)

Zonal Headquarters : CSC/Addl. CSC, Staff Officer to CSC

Division : Sr. DSC, DSC

9. Medical Department

(i) Medical Superintendents and Chief Medical Superintendents of all Railway Hospitals

(ii) Posts on which Doctors are nominated to conduct PME and Medical Examination of new recruits

(iii) Posts on which Doctors are made in charge of Hospital Medical Stores and dealing with local purchases

(iv) Posts on which Doctors are dealing with contracts relating to Sanitation/ cleaning etc.

(v) Deputy Chief Medical Directors/Additional Chief Medical Directors.

(vi) The Chief Health Directors handling procurement of medicines/surgical stores.

10. Personnel Department

a) CPO b) CPO (A) c) Dy. CPO (Gaz) d) Dy. CPO (HQ) or (NG) e) Dy. CPO (Rectt) f) Dy. CPO(Constn) g) All posts in Divisions/PUs like Sr. DPO/DPO are sensitive

11. Railway Board

PED/Loco, PED/LM, PED/Finance, ED/LM, EDF/C, EDF/S, ED/FX-I, ED/FX-II, EDE(GC), EDE(RRB), ED/Health, EDTk(P), EDTk(M), EDTk(MC), EDME/Coaching, EDME/Freight, ED/Traction, ED/RE, EDEE(G), ED(TD), ED(Signal), Director/LM, DF/Stores, DF/Comml., DE(GC), Director/Health, DME/Coaching, DME/Traction, DME/Freight, DME/PU, Director/Tele, DIG/Admn, DIG(RS), All Directors and Dy Directors in Security Dte, ASC/Intelligence, JS, DS(G), DS(D), DS (Confdl), Director/Sports, Director (I&P), DD/JD E(GP), SO/DD (Sports), SO/Stationery, SO/DD (Development Cell), SO/DD (Track Branch), SO/DD/JD Training, DD/Public Relations, DDF(LM), DD/Sports, DD/Finance (Stores), US/Protocol, US (Admn), DD/Finance (Stores), PAO, SO/Transport Cell, OSD/Sr. PPS/PPS/PS to CRB, Board Members, AMs, DGs, Secretary, Railway Board

All Posts in Stores Directorate except DRS(IC), DDS(G), SO/RS(IC), SO/RS(G), All Posts in Traffic Directorate.

All gazetted and non gazetted posts (except Presenting Officers) in Vigilance Directorate.

12. Vigilance Department

All Gazetted and non-gazetted Posts (except Presenting Officers) in Vigilance Department of Railways/Production Units

13. Railway Recruitment Boards

Chairman, Member Secretary/RRB

14. General Management

GM, AGM, DRM, ADRM

Chapter IX USEFUL INFORMATION

901 RELEVANT CLAUSES OF RAILWAY SERVICES (PENSION) RULES-1993

Please refer to this for latest guidelines

http://www.indianrailways.gov.in/railwayboard/uploads/codesmanual/pensionrule/main.pdf

Rule 8 Pension subject to future good conduct- (1)(a) Future good conduct shall be an implied condition of every grant of pension and its continuance under these rules.

(b) The appointing authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy five per mensem.

(2) Where a pensioner is convicted of a serious crime by a court of law, action under sub-rule (1) shall be taken in the light of the judgment of the court relating to such conviction.

(3) In a case not falling under sub-rule (2), if the authority referred to in sub-rule (1) considers that the pensioner is prima facie guilty of grave misconduct, it shall, before passing an order under the sub-rule (1)

(a) serve upon the pensioner a notice specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit , within fifteen days of the receipt of the notice or such further time not exceeding fifteen days as may be allowed by the appointing authority, such representation as he may wish to make against the proposal; and

(b) stake into consideration the representation, if any, submitted by the pensioner under clause (a).

(4) Where the authority competent to pass an order under sub-rule (1) is the President, the Union Public Service Commission shall be consulted before the order is passed.

(5) An appeal against an order under sub-rule (1), passed by any authority other than the President shall, in consultation with the Union Public Service Commission, pass such orders on such appeal, as he deems fit.

Explanation: In this rule the expression-

(a) "serious crime" includes a crime involving an offence under the Official Secrets Act, 1923 (19 of 1923);

(b) "grave misconduct" includes the communication or disclosure of any secret official code or password or any sketch plan, model, article, note, documents or information, such as is mentioned in section 5 of the Official Secrets Act, 1923

(19 of 1923) which was obtained while holding office under the Government so as to prejudicially affect the interests of the general public or security of the State.

Rule 9 Right of the President to withhold or withdraw pension.

(1) The President reserves to himself the right of withholding or withdrawing a pension or gratuity, or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Railway, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement;

Provided that the Union Public Service Commission shall be consulted before any final orders are passed.

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred seventy five per mensem.

(2) The departmental proceedings referred to in sub-rue (1) -

(a) if instituted while the railway servant was in service whether before his retirement or during his re-employment, shall after the final retirement of the railway servant, be deemed to be proceeding under this rule and shall be continued and concluded by the authority by which they commenced in the same manner as if the railway servant had continued in service.

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President;

(b) if not institute while the railway servant was in service, whether before his retirement or during his re-employment-

(i) shall not be instituted save with the sanction of the President;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which and order in relation to the railway servant during his service.

(1) In the case of a railway servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in rule **10** shall be sanctioned.

(Authority: Railway Board's letter No. F(E)III/99/PN 1/(Modification) dated 23.5.2000)

(4) Where the President decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one third of the pension admissible on the date of retirement of a railway servant.

(5) For the purpose of this rule -

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the railway servant or pensioner, or if the railway servant has been placed under suspension from an earlier date or on such date; and

(b) judicial proceedings shall be deemed to be instituted-

(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognisance, is made; and

(ii) in the case of civil proceedings, on the date the plaint is presented in the Court.

Rule 10 Provisional Pension where departmental or judicial proceedings may be pending.

(1) (a) In respect of a railway servant referred to in sub-rule (3) of Rule 9, the Accounts Officer shall authorise the provisional pension not exceeding the maximum pension which would have been admissible on the bases of qualifying service up to the date of retirement of the railway servant or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension.

(b) The Provisional pension shall be authorised by the Accounts Officer during the period commencing from the date of retirement upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the railway servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon; provided that where departmental proceedings have been instituted under the provisions of the Railway Servants Discipline and Appeal Rules, 1968, for imposing any of the penalties specified in clauses (i), (ii), (iii a) and (iv) of rule 6 of the said rules, the payment of gratuity shall be authorised to be paid to the railway servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such railway servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

902 RELEVANT INSTRUCTIONS FROM MINISTRY OF FINANCE

(i) General Financial Rules, 2017

(ii) General Financial Rules, 2005

(iii) Manual for Procurement of Goods, 2017

(iv) Manual for Procurement of Consultancy & other Services, 2017

(v) Manual on Policies and Procedures for Purchase of Goods, 2006

(vi) Manual on Policies and Procedures for Procurement of Works, 2006

(vii Manual of Policies and Procedure of Employment of Consultants, 2006

903 CHECK LIST FOR PUBLIC PROCUREMENT PROCESS

The compendium of checkpoints in public procurement for the purpose of ensuring fairness, equity and transparency is available as *'Illustrative Check Points on Various Stages of Public Procurement'* issued by CTEO/CVC on the CVC website. This check list is illustrative and intended to serve as a guide to executives dealing with procurement or vigilance activities.

904 COMPILATION OF GUIDELINES ON PUBLIC PROCUREMENT

Guidelines issued by CTEO/CVC on public procurement, from time to time, are available at *www.cvc.nic.in*.

905 DOPT INSTRUCTIONS ON SERVICE RULES

The circulars issued by DoPT on Service and related issues can be found at https://dopt.gov.in/notifications/oms-and-orders under heading SERVICE.

906 HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES

Handbook issued by DOPT for Inquiry Officers and DAs can be found at https://dopt.gov.in/sites/default/files/Vigilance_Handbook-2013.pdf.

907 JUDGMENTS INFORMATION SYSTEM

The Judgments Information system consists of the Judgments of the Supreme Court of India and several High Courts. In the case of the Supreme Court all reported Judgments which are published in SCR Journal, since its inception i.e. 1950 till date are available. The Judgments reported in SCR till 1993 also have head-notes. The judgments reported in SCR in 1994 and later have only text of judgments without head-notes.

http://judis.nic.in/

908 INDIA CODE

https://indiacode.nic.in/

It is a database of all Central enactments which are in force and their subordinate legislations made from time to time. With the help of this system, retrieving of any Central Act and its relevant subordinate legislations of one's interest in an

up-to-date form has been simplified and made extremely user-friendly and accessible at push of few buttons.

It also contains Legislations enacted by the States and Union Territory Administrations along with their relevant subordinate legislations.

Chapter X SUSPENSION & BANNING OF BUSINESS DEALINGS ETC. OF SUPPLIERS AND BUILDING CONTRACTORS

A. STANDARDISED CODE FOR SUPPLIERS (Authority: Department of Supply O.M. No. 13/38/65-V dated 14.9.1971, Railway Board's Secret letter Nos. 69/Vig.I/I/56 (ii) dated 17.3.1972, V4/75/Policy/ST/46 (ii) dated 27.12.1975 & V4/75/POLICY/ST/46 (iii) dated 29.12.1975)

Note: The Executive Departments will be issuing guidelines on the subject based on reference by Vigilance Directorate to Additional Member (Civil Engineering) and Additional Member (Railway Stores) vide letter no. 2018/V-1/1/1 dated 09-07-2018. Till such guidelines are issued, the provisions of this Chapter X of IRVM 2018 shall stand good. Thereafter the provisions of this Chapter will be replaced by the Executive Guidelines issued on the subject of Suspension and Banning of Business dealings etc. with Suppliers and Contractors.

1001 PROCEDURE

All Ministries, Departments and Offices of the Central Government shall follow this Code and shall not maintain any separate Code of their own.

1002 DEFINITIONS

Some terms which have been used in the following paras are defined below for clarity:

(i) Firm: The term 'firm' used in the Code includes an Individual or Person, a Company, a Cooperative society, a Hindu Undivided Family and an Association or Body of persons, whether incorporated or not, engaged in trade or business.

(ii) Proprietor: This term includes Directors of a Private Limited Company, members of a Hindu Undivided Family, a member of an Association of persons and a Director of a Public Limited Company.

(iii) Allied Firm : All concerns which come within the sphere of effective influence of the banned/suspended firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:

(a) Whether the management is common;

(b) Whether majority interest in the management is held by the Partners or Directors of the banned/suspended firm;

(c) Whether substantial or majority shares are owned by the banned/suspended firm and by virtue of this, it has a controlling voice.

No reference to this Code shall be made in any circumstances in any communication to any party outside the Government or in any pleading or affidavit filed in a Court.

1003 APPROVED LIST OF SUPPLIERS

(i) Every Ministry/Department/Office, which makes regular purchases, should maintain an up-to-date list of approved suppliers, after taking into consideration their financial standard, capacity, past performance etc.

(ii) As recommended by the Stores Purchase Committee, it is desirable that there should be coordination between the Directorate General of Supplies & Disposals and other Departments of the Government of India with a view to prepare a common list of suppliers. For this purpose, the DGS&D will make available to the Ministries/Departments the list of the approved suppliers maintained by them and also periodically, the amendments made to that list.

1004 REGISTRATION

The Head of Office or any other authority nominated by him will be competent to include the name of a firm in the list of approved suppliers maintained by that Office. Such competent authority may also lay down the conditions and formalities, which have to be satisfied by a firm before its name can be included in the list of approved suppliers. Such an authority will also be competent to order the removal of a firm from the list of approved suppliers.

1005 REMOVAL

A firm may be removed by the Competent Authority (Head of the Department or any other authority nominated by him) from the list of approved suppliers if, on account of its performance or other disabilities, it is no longer considered fit to remain on the approved list. Such orders will be endorsed to other Government Departments.

1006 CONDITIONS FOR REMOVAL

Removal from the list of approved suppliers may, at the discretion of the Competent Authority, be ordered if a firm:

(a) fails to execute a contract or fails to execute it satisfactorily;
(b) no longer has the technical staff or equipment considered necessary;
(c) fails to furnish income-tax clearance certificate if required under the rules; or
(d) is declared bankrupt or insolvent or its financial position has become unsound and in the case of Limited Company, it is wound up or taken into liquidation.

1007 COMMUNICATION OF ORDERS

(i) Orders removing a firm from the list of approved suppliers should be communicated to it together with reasons therefore. It should, however, be made clear in the orders that it is open to the firm henceforward to tender as an unregistered firm.

(ii) A firm, with whom business dealings have been suspended or banned, shall be automatically removed from the list of approved suppliers.

1008 CERTAIN CLARIFICATIONS

(i) In respect of a firm which is registered for more than one item, orders regarding removal on account of reasons mentioned at (c) and (d) of para 1006 above shall apply in respect of all items but in the case of reasons (a) and (b), however, orders regarding removal may be made applicable in respect of one or more items, as may be relevant.

(ii) Once removed, the name of a firm may not be registered on the approved list unless it satisfies the normal registration requirements and the Competent Authority is satisfied that the firm should be registered.

(i) Tenders received from a firm, whose name has been removed from the list of approved suppliers, may be given the same consideration as is given to tenders from unregistered parties.

1009 PROCEDURE FOR REMOVAL FROM THE LIST OF APPROVED SUPPLIERS

The following procedure will be followed:

(a) The authority competent to issue orders in this regard is the Head of the Office or any other authority nominated by him. However, before taking such an action, a Show Cause Notice in the proforma given in Annexure-10.2 indicating clearly and precisely the charges/misconduct which should be based on facts as can be proved as distinct from mere allegations, will have to be issued to the firm under the signature of the Head of the Office or any other authority nominated by him. The final decision, taken only after perusing the representation of the firm, if any, received in reply to the Show Cause Notice, should be communicated to the firm under the signature of the Head of the Office or any other authority nominated by him. Reasons for taking such action are required to be incorporated in the final orders issued and these orders must specifically mention the fact that the reply to the Show Cause Notice, if any, has been considered by the concerned Head of the Office.

(b) For the purpose of application of para 1007 (ii), i.e. automatic removal of a firm, with whom business dealings have been suspended/banned, from the list of approved suppliers, the procedure mentioned in sub-para (a) above would not be required to be followed.

1010 SUSPENSION

Suspension of business may be ordered where pending full inquiry into the allegations; it is not considered desirable that business with the firm should continue. Such an order may be passed:

(i) If the firm is suspected to be of doubtful loyalty to India;

(ii) If the Central Bureau of Investigation or any other investigation agency recommends such a course in respect of a case under investigation;

(iii) If Ministry/Department is prima-facie of the view that the firm is guilty of an offence involving moral turpitude in relation to the business dealings which if established, would result in business dealings with it being banned.

1011 COMPETENCE OF AUTHORITY

(i) (a) An order of suspension on account of doubtful loyalty shall be passed by the Ministry of Commerce.

(b) Such an order shall also be endorsed to and given effect to by all

Ministries/Departments. Such an order shall also be extended to all the allied firms.

(ii)(a)An order of suspension for other reasons shall be passed by the Ministry concerned.

(b) Such an order shall cover all the Attached/Subordinate Offices of the Ministry passing the order but it shall not be circulated to the other Ministries/Departments. The order shall, however, be extended to the allied firms.

1012 PROCEDURE FOR SUSPENSION

The following procedure will be followed:

(a) Suspension of business will be ordered in terms of and in the manner indicated in paras 1010, 1026 & 1027.

(b) Suspension of business can be ordered only by the Railway Board except in cases where the order of suspension is on account of doubtful loyalty in which case the orders will be passed by the Ministry of Commerce.

(c) Proposals for suspension of business should be made after obtaining the personal approval of the Controller of Stores or concerned Head of Department as the case may be. They should contain the detailed information and should be accompanied by the documents referred to in para supra.

(d) Before sending to the Board proposals for suspension or banning of business, the Railways etc. should remove the name of the defaulting firm from their list of approved suppliers.

1013 BANNING

Banning of business dealings with a firm shall be of two types:

(i) Banning by one Ministry including its Attached and Subordinate Offices.

(ii) Banning by all Ministries including their Attached and Subordinate Offices.

1014 BANNING BY ONE MINISTRY

(i) An order of the first type for banning business dealings with a particular firm shall be passed by the Ministry concerned. It will, however, be open to it, before such order is issued to consult the Ministry of Commerce, if necessary.

(ii) Such an order may be passed in cases where the offence is not considered serious enough to merit a banning order of the second type, but at the same time, an order removing the name of the firm from the list of approved suppliers is not considered adequate.

(iii) It shall be passed for a specified period.

(iv) It shall be extended to the allied firms also.

(v) It shall not be circulated to other Ministries/Departments but shall cover all the Attached/Subordinate Offices of the Ministry issuing the order. A copy of the order should, however, be sent to the Ministry of Commerce and to the Directorate General of Supplies and Disposals, New Delhi, marked for attention of the Deputy Director (Registration). 50 copies of the orders should also be sent to the DIG (P), CBI, New Delhi.

(Authority:Department of Supply O.M. No. 13 (68)/65-V dated 21.02.1976)

(vi) No contract of any kind whatsoever shall be placed with a banned firm including its allied firms, by the Ministry/Department issuing the order and its Attached and Subordinate Offices after the issue of a banning order. DGS&D will also not place 141 order on firms with whom business dealings have been banned/suspended by the individual Ministries in respect of indents received from them. Contracts concluded before the issue of the banning order shall, however, not be affected by the banning order.

(Authority:Department of Supply O.M. No.13 (38) 65-V dated 10.9.1975)

(vii) The banning order shall be communicated by Ministries to the Public Sector Undertakings under their administrative control.

(Authority:Department of Supply O.M. NO. 13 (7)/64-V dated 21.02.1977)

1015 BANNING BY ALL MINISTRIES

(a) An order for banning business dealings with a firm for all Ministries implies that all Departments/Ministries/Offices of the Government of India are forbidden from dealing with that firm.

(b) The grounds on which such banning may be ordered are:

(i) If security considerations including question of loyalty to the State so warrant.

(ii) If the proprietor of the firm, its employee, partner or representative is convicted by a Court of Law following prosecution for offences involving moral turpitude in relation to the business dealings.

(iii) If there is strong justification for believing that the proprietor or employee or representative of the firm has been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation, evasion or habitual default in payment of any tax levied by law; etc.

(iv) If the firm continuously refuses to return government dues without showing adequate cause and Government are satisfied that this is not due to a reasonable dispute which would attract proceedings in arbitration or Court of Law, and

(v) If the firm employs a government servant, dismissed/removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt government servants.

(c) Competence of Authority:

(i) Banning of firms and the revocation thereof shall be ordered by the Ministry of Commerce.

(ii) A banning order passed in respect of a firm shall be extended to all its allied firms.

(iii) Such an order shall be endorsed to and automatically implemented by all Ministries/Departments including their Attached and Subordinate Offices.

(d) Banning order – A banning order shall specify:

(i) The specific period (permanent, if required) for which it will be effective; and

(ii) The names of all the Partners, Directors etc. of the firm and its allied concerns.

(e) Some Important Clarifications:

(i) No contract of any kind whatsoever shall be placed with a banned firm, including its allied firms by all Ministries/Departments/Offices of the Government of India, State Governments and PSUs after the issue of a banning order. Contracts concluded before the issue of banning order shall, however, not be affected by the banning order. Particular care should be taken to see that the

same firm does not appear under a different name to transact business with Government. Even in cases of risk purchase, no contract should be placed on a banned firm.

(ii) Applications for export/import licenses from a banned firm will be dealt with in accordance with the provisions of the Export/Import Act and will not be affected by a banning order issued under this Code. It will, however, be open to the Ministry of Foreign Trade as distinct from the CCI&E to ban business dealings with a firm that has been guilty of malpractices involving moral turpitude in relation to its export/import activities.

(iii) The supply of controlled raw materials including imported raw materials will not be denied to a banned firm. The allotment of such raw materials shall be regulated by the law/rules governing their allocation.

(iv) A banning order will be circulated to all Ministries/Department in accordance with the following procedure:

(a) Ministry of Commerce will circulate it to:

(i) All other Ministries/Departments of the Central Government.

(ii) All Offices under its control.

(iii) All the State Governments.

(b) Other Ministries and Departments will in their turn communicate the order to Offices and PSUs under their control. (Authority: Department of Supply O.M. Nos. 13/7/64-V dated 21.02.1977 and 27.02.1977)

(v) The quotations/tenders submitted by a firm involved in bribery or allied criminal cases as advised by CBI should not be left out of consideration until orders for banning/suspending business dealings with the firm have been passed.

(Authority: Department of Supply O.M. No. 13 (4)/79-V dated 19.7.1979)

1016 SHOW CAUSE NOTICE

(a) Before issue of orders of removal from the list of approved suppliers or suspension/ banning of business dealings, a Show Cause Notice shall be served on the firm and their representation, if any, in reply thereto, considered.

(Authority: Department of Supply O.M. No. 13 (88)/65-V dated 30.6.1975)

(b) The purpose of issuing the Show Cause Notice is only that the firms concerned should be given an opportunity to explain their stand before any action is taken by the Government Departments. It is not intended that the proceedings should prolong in the form of a regular trial. All that is required in such cases is that the grounds on which action is proposed to be taken should be disclosed to the party inviting representation and after considering that representation, orders may be passed. Such orders require only the subjective satisfaction of the authority that passes the final orders.

(Authority: Department of Supply O.M. No. 13 (38)/65-V dated 11.02.1976)

(c) In case no reply to Show Cause Notice served on a contractor/firm is received within a stipulated time, action for processing ex-parte against the concerned contractor/firm should be initiated and processed expeditiously and final orders for punishment, if any, be passed expeditiously within reasonable time.

(Authority: Railway Board's letter No. 77/VIG-I/Banning/Works/II dated 09.9.1980)

1017 REVOCATION OF ORDERS

(i) An order for banning/suspension passed for a certain specified period shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation, except that an order of suspension/banning passed on account of doubtful loyalty or security consideration shall continue to remain in force until it is specifically revoked.

(ii) An order of banning for the reasons mentioned at para 1015 (b) (ii) above may be revoked if, in respect of the same facts, the accused has been wholly exonerated by a Court of Law.

(iii) A banning/suspension order may, on a review be revoked by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case.

(iv) An order for banning/suspension for a certain specified period shall not mean automatic restoration of a firm as a registered supplier and each case should be examined afresh on merits by Railways concerned for registration as approved supplier as per normal procedure prescribed in that regard.

(Authority: Railway Board's letter No. 76/RS (G)/164/16 dated 13.02.1979)

1018 COMMUNICATION TO FIRMS

The decision regarding removal from registration/suspension/ banning of business dealings taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply thereto, should be communicated to the firm concerned..

1019 CLEARING AND TRANSPORT ORGANISATION

Action against clearing and transport organisations may also be taken under the provisions of this Code.

1020 REVIEW

The Ministries/Departments concerned may, on representation of appeals from the firm or even otherwise review banning/suspension orders

1021 MAINTENANCE OF UP-TO-DATE LIST

The Ministry of Commerce shall be responsible for keeping up-to-date list of firms against whom orders of banning of the second type have been issued and circulate every quarter a list of additions and deletions during the previous quarter to all other Ministries.

1022 CLASSIFICATION OF ORDERS

Banning and suspension orders shall be classified as "Confidential".

(Authority: Department of Supply O.M. No. 13 (38)/65-V dated 23.3.1976)

1023 PROCEDURE TO BE FOLLOWED BY RAILWAYS, PRODUCTION UNITS, ETC. FOR BANNING OF BUSINESS APPLICABLE TO ALL MINISTRIES

The following procedure will be followed:

(a) Such cases for banning of business applicable to all Ministries will be processed in the Railway Board's Office on receipt of proposals for banning of business from the Railways or the CBI. Orders banning business in such cases will be issued by the Ministry of Commerce and copies thereof will be circulated by the Railway Board (RLO) to the Zonal Railways and others concerned.

(b) Proposals from the Railways should comprise a draft statement of charges/ misconduct indicating clearly and precisely the charges/misconduct, which should be based on facts as can be proved, as distinct from mere allegations, along with the investigation report of the SPE or Vigilance, if any. The proposal will also contain definite recommendations for the specific period (permanent, if required) for which banning of business is proposed to be applicable. The proposal should be vetted by the Law Officer and have the personal approval of the General Manager and should be accompanied by a statement in the proforma as per Annexure 10.1 and the relevant records.

(c) The names of Proprietors/Partners/Directors of the firm and the details of the allied firms to whom the banning of business orders would be made applicable will also be indicated in such proposals.

1024 PROCEDURE TO BE FOLLOWED BY RAILWAYS, PRODUCTION UNITS, ETC. FOR BANNING OF BUSINESS APPLICABLE TO ONE MINISTRY

The following procedure will be followed:

(a) The Ministry of Railways (Railway Board) is competent to order banning of business applicable to Railways/Production Units. Such an order will be applicable to all Railways/ Production Units and other Offices subordinate to the Railway Board and PSUs under Ministry of Railways.

(b) Such an order will be passed in terms of para 1014.

(c) Proposals for banning of business applicable only to Ministry of Railways (including Zonal Railways, Production Units, etc.) will be made in the same form and manner as indicated in para 1023 (b) supra except that the personal approval of the Controller of Stores/Head of Department to the proposal would be sufficient.

(d) The order for banning of business with a firm issued by the Railway Board will not be circulated to other Ministries/Departments. A copy of the banning order will be sent by the Board (RLO) to the Ministry of Commerce and to the Directorate General of Supplies and Disposals, New Delhi, marked for attention of the Deputy Director (Registration). 50 copies of the banning order should also be sent by RLO to the DIG (P), CBI, New Delhi.

1025 EXTENSION OF BANNING ORDERS TO ALLIED/SISTER CONCERNS

While furnishing particulars in regard to allied/sister concerns for extending the banning orders to them in terms of para 1014 (iv) and 1015 (c) (ii) read with para 1002 (iii), the following legal opinion obtained on the judgment of the Supreme Court in the case of G. Narayana Raju vs. Chamaraju and others should be taken into consideration:

"Any member of a joint family business can start a business or acquire property without the aid of joint family, and such business or acquisition would be his. Such acquisition may or may not be thrown into the common stock or blended with the joint family property. There cannot be any presumption that a business standing in the name of any member of the joint family is a joint family business.

The Supreme Court have, in the case of G. Narayana Raju led by his legal representative vs. G. Chamaraju and others, have observed that unless it could be shown that the business in the hands of the coparcener grew with the assistance of the joint family property or joint family funds or that the earnings of the business were blended with the joint family estate, the business remains free and separate".

However, the fact of a firm being an allied concern of a banned firm should be kept in view while such a firm approaches for initial registration and the Department can decline to register such allied firms.

1026 PROCEDURE TO BE FOLLOWED IN RAILWAY BOARD'S OFFICE FOR SUSPENSION/BANNING OF BUSINESS APPLICABLE TO MINISTRY OF RAILWAYS ONLY

The following procedure will be followed:

(a) The proposals received from the Railways, Production Units or the CBI recommending suspension/banning of business dealings with a firm will be processed by the concerned Branches in the Vigilance Directorate. They shall obtain Board's prima-facie decision regarding the proposed suspension/banning of business and the tentative period thereof. The relevant portion of Board's order and the noting will then be extracted from the concerned file and a separate file opened to process this aspect exclusively also bringing out on the file the relevant facts appearing against the firm/contractor leading to Board's provisional decision. The case will then be examined and put up to the concerned officer to examine the adequacy of the facts necessary for a Show Cause Notice being issued to the firm concerned, and if any supplementary information is necessary, the same shall be obtained expeditiously either by the Vigilance Directorate themselves or through the concerned Railway Vigilance Branch or the CBI, as found expedient. When all details are available, the concerned Directorate or Railway Liaison Officer (RLO) as the case may be, will be advised of the position and a draft Show Cause Notice with complete details of the case shall be sent to them in the proforma given in Annexure 10.3. A Show Cause Notice indicating clearly the charges (based on the facts as can be proved) should be issued by the concerned Directorate to the delinquent firms. In case, no reply to Show Cause Notice is received from the firm within stipulated time, action for processing exparte against the concerned firm should be initiated. After submission of written reply to Show Cause Notice by the firm, the concerned officer should also give opportunity to hear them in person by fixing a date for hearing. Firm's reply to the Show Cause Notice and their submission in oral hearing will be examined in consultation with Vigilance Directorate for obtaining Board's final decision in the matter as considered necessary. The banning order when issued shall be in the proforma Annexure 10.4A. A copy of banning order should be sent to the Ministry of Commerce and to the Directorate General of Supplies & Disposal, New Delhi, marked for attention of Deputy Director (Registration). Notice of banning order will also be sent to all Zonal Railways, Production Units, Subordinate Offices and PSUs under Ministry of Railways in the proforma as per Annexure 10.4. 50 copies of the banning order shall also be sent to the DIG (P), CBI, New Delhi. The firm shall also be separately advised of the decision regarding removal/suspension/banning of business taken in reply to their representation, if any, in terms of para 1018. As regards any further representation from the firms, business dealings with whom have been suspended or banned, the same shall be processed by the Vigilance Directorate but if any reply is considered necessary to

be sent to the firm, the same shall be sent by the RLO. The Court cases arising out of the banning orders issued shall be processed by the RLO in consultation with the Vigilance Directorate. The Show Cause Notice and the reply to firm's representation in terms of para 1018 will be issued by RLO.

(b) The proposals for banning of business etc. with suppliers initiated by the concerned Branches on the Railways on their own, which do not attract any vigilance angle from the point of view of involvement of Officers/Staff therein but wherein the competence for taking the proposed action lies with the Ministry of Railways, shall be sent by the Railways to the concerned Directorate in the Board's Office or the Railway Liaison Officer, as the case may be, who shall process them for obtaining Board's orders thereon. Such proposals by the Executive Branches shall, however, be invariably routed through the Vigilance Branch of that Railway when complicity of Railway Officers/Staff in the irregularities/fraud indulged in by the stores suppliers etc. is suspected by the concerned Branch of the Department. In such cases, the proposals will be processed in the Board's Office by the Vigilance Directorate as indicated above.

(Authority: Board's Secret letter No. 77/VIG-I/Banning/Stores/1 dated 27.01.1978)

(c) The proposal received from Railway/Production Unit should also indicate details regarding Partners/Proprietors of the firm as also of allied/sister concerns so that the same is incorporated in banning order itself. In cases where the banning is processed in Railway Board's Office arising out of an investigation by Vigilance Directorate or the CBI etc., these details should be furnished to the concerned Directorate/RLO promptly by the concerned Railway/Production Unit on receipt of banning order to enable the former to forward the details to all Railways in a follow-up communication with minimum time gap.

(Authority: Railway Board's letter No. 77/VIG.1/Banning/Stores/1 dated 12.11.1980)

(e) In the cases where banning/suspension orders have been passed by the Ministry of Railways against a firm as applicable to the Railway alone, the DGS&D will place no orders on such firms in respect of Railways' demands. This has been agreed to by the Department of Supply under their O.M. No. 13 (38)/65-V dated 10.9.1975.

1027 PROCEDURE TO BE FOLLOWED IN RAILWAY BOARD'S OFFICE FOR BANNING OF BUSINESS APPLICABLE TO ALL MINISTRIES OF THE GOVERNMENT OF INDIA

The following procedure will be followed:

On the basis of the proposal submitted by the Railways, Production Units, etc. in terms of para 1023 (b) supra or the CBI, as the case may be, the Vigilance Directorate will prepare a self contained note which will be submitted to the Board. After Board's approval of the note, the proposal will be sent to the Ministry of Commerce that will take further action for issue of Show Cause Notice, issue of final orders etc.

B. STANDARDISED CODE FOR BUILDING CONTRACTORS

1028 PROCEDURE

This Code is for dealing with building contractors. All Ministries, Departments and Offices of the Central Government shall follow this Code and shall not maintain

any separate Code of their own. This Code enunciates the broad guiding principles governing registration, promotion, demotion, removal, suspension of business and banning of business of contractors. (Annexure 10.5)

(Authority: Ministry of Works & Housing O.M. No. 113011/1/72-W.4 dated 20.9.1976)

1029 SAFEGUARD

No reference to this Code shall be made in any circumstances in any communication to any party outside the Government or in any pleading or affidavit filed in a Court.

1030 CODE FOR BUILDING AND WORKS CONTRACTS

The salient features of this Code are as under:

(a) Registration: Every Engineering Department should maintain a list of approved contractors to whom the works should normally be entrusted and these lists should be reviewed periodically to weed out those who have not secured works for three consecutive years.

(b) Demotion to Lower Class/Suspension of Business/Removal from the Approved List: The registering authority can demote a contractor to a lower class, suspend business with a contractor for an indefinite period pending full inquiry into the allegations or remove from the approved list, a contractor, who has failed to execute a contract or executed it unsatisfactorily, misconducted himself, violated any important condition of contract, is litigious by nature, persistently violates the Labour Regulations and Rules, etc. provided such action is taken (except in case of demotion to a lower class for which no Show Cause Notice is indicated in the Code) after serving upon the contractor/firm a Show Cause Notice in the form as per Annexure 10.6 and after considering the representation of the contractor/firm thereof.

(c) Banning:

(i) Banning of business dealings with a firm/contractor so far the Ministry of Railways including its Attached and Subordinate Offices is concerned; it can be done only by this Ministry. If the banning of business is to be extended to all Ministries/ Departments, prior approval of the Ministry of Urban Development is necessary.

(ii) However, before banning order is issued by the Ministry, procedure as indicated in para 1030 (b) is to be followed.

(iii) Banning of business with a contractor by all Ministries may be ordered where there are sufficient and strong evidence on record to believe that the contractor/firm or his employee has been guilty of malpractices such as bribery, corruption, fraud, pilfering or unauthorised use or disposal of government materials issued for a specific work etc. Action for banning business should be taken only where it is established that the offence was committed in order to secure advantage to the contractor and not where the object may be to secure advantage to any employee or representative of the contractor personally.

(d) Suspension as a prelude to Banning:

Wherever banning is contemplated, the registering authority may suspend business dealings with the firm as a prelude to banning after following the procedure as indicated in para 1030 (b).

(e) Communication to the Firm:

(i) The decision regarding removal from registration/suspension of business/ banning of business dealings taken after the issue of a Show Cause Notice and considering the representation, if any, in reply thereto, should be communicated to the firm concerned along with a reasoned order. The fact that the representation has been considered should invariably be mentioned in the communication.

(ii) A reasonable time of 30 days for representation should be given. If no reply is received, the decision may be taken ex-parte, however, the fact that no reply was received to the Show Cause Notice should invariably be indicated in the final communication to the firm.

(f) Procedure to be followed by the Railways/Production Units, etc. for Demotion to Lower Class, Suspension/Removal from Approved List:

The following procedure will be followed:

(i) As demotion to lower class, removal from the approved list or suspension of business is within the competence of the registering authority, the action shall be taken by the Railways/Production Units, etc. at their level provided such action is taken (except in case of demotion to a lower class) after serving upon the contractor/firm a Show Cause Notice and after considering the representation, if any, submitted by the contractor/firm thereto. In cases arising out of vigilance investigation, the Railway Vigilance should initiate the proposal for action by the concerned administrative (registering) authority of the Railway/Production Units, etc. The communications to the firm shall, however, be addressed by the registering authority.

(ii) Copies of the orders of demotion/suspension of business/removal from the list, with a memorandum of reasons therefore, shall be sent by the concerned Department to its Subordinate Units and other contiguous Railways/Units.

(iii) For the purpose of this Code, the powers of the registering authority as referred to above shall be exercised by the concerned HOD or an authority nominated by him.

(g) Procedure to be followed by Railways/Production Units, etc. for Banning of Business with a Contractor/Firm:

The following procedure will be followed:

(i) All cases of banning of business with building contractors will be dealt with by the Ministry of Railways. The Railways/Production Units, etc., therefore, should send their proposals with a self-contained note, which should also contain particulars of all the Partners and allied firms, including their addresses, a draft Show Cause Notice in form as per Annexure-10.7 with a statement of charges/misconduct, to the Railway Board for further action. All such proposals initiated on the basis of the Vigilance or CBI reports and the proposals initiated by the concerned Executive Branches on the Railways on their own where complicity of the Railway Officers/Staff in the irregularities, frauds indulged in by the building contractor is suspected by the concerned Head of the Department,

should be sent to the Vigilance Directorate through the Railway's Vigilance Branch. However, such proposals initiated by the concerned Executive Branches on the Railways on their own which do not attract any vigilance angle from the point of view of involvement of Officers/Staff therein, shall be sent by the Railways to the concerned Directorate in the Board's Office. The communications to and from the contractor/ firm shall, however, be routed through the Railway concerned.

(ii) Banning order when issued shall be applicable to all Railways/Production Units, Subordinate Offices and PSUs under Ministry of Railways to whom copies of the orders shall be sent.

(iii) For banning business by all the Ministries with a contractor/firm, the same procedure as referred in para (g) (i) above shall apply, except that prior approval of Ministry of Urban Development would be necessary before serving the Show Cause Notice upon the firm concerned and also before issuing final order of banning of business with the contractor/firm.

(iv) Where banning is contemplated/ ordered, separate action for removal from the list of approved contractors is not called for. It would be automatic, once the banning order is issued.

(h) Restoration:

Upgrading a demoted contractor, lifting the ban on business, restoration of registration, withdrawal of suspension of business, etc. may be considered at an appropriate time on merits of each case by the authority, which had passed the original orders. Copies of the restoration orders shall be sent to all those Offices including the Ministry of Urban Development where copies of penal orders had earlier been sent.

(i) Procedure to be followed in Railway Board's Office:

The following procedure will be followed:

(i) The proposals for banning of business dealings with the firm/contractor on receipt from the Railways/Production Units and CBI shall be processed by the Vigilance Directorate or the concerned Directorate of the Railway Board, as the case may be, to obtain Board's provisional orders regarding the banning of business and the tentative period thereof. In the cases processed by the Vigilance Directorate, the relevant portion of the Board's orders and the noting will then be extracted from the concerned vigilance file and shall be forwarded to the concerned Directorate along with a draft Show Cause Notice with a statement of charges/misconduct. The Show Cause Notice will be issued to the firm/contractor through the Railway under signature of Executive Director of the concerned Directorate for and on behalf of the Government of India. The Show Cause Notice should give a clear margin of 30 days for the reply by the firm/contractor. On receipt of the reply, the same shall be processed by the concerned Directorate for obtaining Board's orders or shall be sent to the Vigilance Directorate with their comments for obtaining final orders of the Board, as the case may be. The Vigilance Directorate will examine the contractor/firm's reply as well as the comments of the concerned Directorate and put up the case to Board along with their comments, if any, for final orders of the Board.

(ii) If no reply is received from the firm/contractor within the stipulated period, then after expiry of the notice period, the papers shall be dealt with by

the concerned Directorate or sent to Vigilance Directorate as the case may be, for obtaining Board's final orders.

(iii) In the cases dealt with by the Vigilance Directorate, Board's final orders shall then be extracted and recorded on the file of the concerned Directorate for issuing final communication to the concerned contractor/firm. The final communication shall be signed by Executive Director of the concerned Directorate for and on behalf of the Government of India and shall be sent to the firm/contractor through the concerned Railway/Production Units in the proforma as per Annexure 10.4A. The final communication is required to indicate the reasons for banning business and the fact that the representation of the firm/contractor has been considered, should invariably be mentioned in the communication.

(iv) As the banning would be applicable to all the Railways/Production Units, etc. under the Ministry of Railways, copies of the banning order should be circulated to all the Railways/Production Units, Subordinate Offices, PSUs under Ministry of Railways in the proforma as per Annexure-10.4.

(v) When the Ministry considers that the offence of contractor/firm is so grave that the banning order should also extend to other Ministries, prior approval of the Ministry of Urban Development will have to be obtained by Vigilance Directorate or the concerned Directorate as the case may be, before serving a Show Cause Notice upon the firms/contractor concerned and also before final orders are passed. However, the final orders will be issued by the Ministry of Railways itself sending 50 copies of the final orders together with the reasons for the action taken and also the names of the Partners and list of allied concerns coming within the effective influence of the contractor to the Ministry of Urban Development and Ministry of Commerce for transmission to the other Ministries of Central Government responsible for major construction works and to State Governments, who will, in turn issue the necessary instructions to the Departments under their control for immediate secession of all future business with the said firm. However, no such orders banning business shall be circulated to other Ministries if the banning order is applicable to only the Ministry of Railways, including its Attached and Subordinate Offices. 50 copies of every banning order passed by the Ministry of Railways shall be sent to DIG (P), CBI, New Delhi.

(j) Restoration:

The restoration of business shall be considered at an appropriate time on the merits of the case by the authority that had passed the original orders. Copies of the restoration orders shall also be sent to the Ministries/Offices where earlier orders of banning business had been sent. When revocation of a banning order by all Ministries is to be done, prior approval of the Ministry of Urban Development would be necessary.

(Authority:Board's Secret Letter No. 77/Vig.1/Banning/Works/2 dated 22.8.1977 and Secret Office note of same No. dated 23.8.1977)

1031 GENERAL

In cases where a firm/contractor is involved in any undesirable action or practice and where the case is not to be referred to Railway Board, (i.e. in cases of Non-Gazetted staff arising of Railway itself), a paper should invariably be put up by Railway Vigilance to concerned HOD with facts of the case and recommendations from CVO so that he may consider and decide course of action against the firm

under his competence. If action for banning of business is warranted, the matter should be referred to Railway Board.

In cases involving Gazetted Officers, where investigation reports are sent to Railway Board, the CVO of the Railway may send the facts of the case along with his recommendations in a self-contained note to the concerned HOD who will process appropriate action in the meantime within his competence and furnish his views in regard to any further action for banning of business. The vigilance recommendations in this regard with approval of General Manager should also be included in their report.

(Authority: Railway Board's letter No. 77/Vig.1/Banning/Works/2 dated 15.7.1980)

ANNEXURE-10.1

Para 1023 (b)

SUSPENSION OF BUSINESS/BANNING OF BUSINESS APPLICABLE TO RAILWAY MINISTRY, BANNING OF BUSINESS APPLICABLE TO ALL MINISTRIES

Name of the firm & address

Constitution of the firm (Public Ltd./Private Ltd./Partners

Names of Directors/Partners/Proprietors

Date of Registration on the Railways; and \

Whether registered with other Railways/NSIC etc.

Period for which action is proposed

Whether the proposed action will create difficulties in procurement of items such as spare parts for machinery for which the firm may be the sole supplier on proprietary basis. Also if the proposed action would dry up already limited sources of supply of any vital materials

Whether the firm has been removed from the list of approved suppliers

Name (s) of the allied firms or sister concerns

This has the personal approval of General Manager/Head of Department

Head of Department

ANNEXURE-10.2

Para 1009

Registered A.D.

M E M O R A N D U M

M/s …….. are hereby informed that the

…… Railway/Production Unit has placed the following order(s) on

them for the supply of the following materials/equipment:

DETAILS OF THE STORES INDENTED

Order No. and Date Description of materials Quantity

It has been observed that M/s …….. indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the …….. Railway/Production Unit proposes to remove M/s …….. from the list of approved suppliers for a period of ……..... M/s…….. are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s …….. may make in this

regard will be considered. It should be made in writing and submitted so as to reach the

undersigned not later than …….. In case no representation is received by the date mentioned above, it wil be presumed that M/s …….. have no representation to make against the action proposed and final decision shall be taken on merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature ……..

Name ……..

Designation & Address ……..

(This should be signed by HOD)

To,

M/s ……..

ANNEXURE-10.3
Para 1026 (a)

Registered A.D.

M E M O R A N D U M

M/s …….. are hereby informed that the …… Railway/Production Unit has placed the following order(s) on them for the supply of the following materials/equipment:

DETAILS OF THE STORES INDENTED

Order No. and Date	Description of materials	Quantity

It has been observed that M/s…….. ……..indulged in the malpractices/irregularities as detailed in the enclosed statement of charge/misconduct.

In the circumstances, the Government of India proposes to ban/suspend business dealings for a period of……..by the Indian Railways and Production Units, etc. with M/s ……..and also their allied/sister concerns, if any. M/s …….. are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s …….. may make in this regard will be considered. Such representation should be made in writing and submitted so as to reach the undersigned not later than ……..... In case no representation is received by the date mentioned above, it will be presumed that M/s ……..…….have no representation to make against the proposed action and a final decision shall be taken on merit.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charge/Misconduct

Signature ……..……

Name ……..……

Designation & Address …….

(For & on behalf of Government of India, to be signed by HOD)

To,

M/s ……..……..

ANNEXURE-10.4
Para 1026 (a) & 1030 c(iii)
CONFIDENTIAL
GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
RAILWAY BOARD
Rail Bhawan, New Delhi-110 001
No.
Dated:
Sub: Banning of business dealings with M/s ……..……..

1. M/s …….. were served with a Memorandum and statement of charges/misconduct for banning of business dealings with them for malpractices in supply of ……..…….. against contract No. ……..……..…….. dated ……..……

2. Reply to the Memorandum submitted by M/s …….…… vide letter dated …….…….. has been considered in detail by the competent authority who has concluded that M/s…….…….. have indulged in malpractices.

3. It has, therefore, been decided by Ministry of Railways (Railway Board) to ban business dealings with M/s …….……. and their allied/sister concerns/partners for a period of …….…….years commencing from …….……. by Indian Railways and Production Units etc.

4. Details of the Proprietors/Partners of the firm are given below/will be advised as soon as are known.

5. Details of the Allied/Sister firms are given below/will be advised as soon as the same are known.

6. Above mentioned facts shall not be conveyed to the firm(s) or persons not concerned.

Signature …….…….
Name ……..……..
Designation & Address …….…….

ANNEXURE-10.4 A

Para 1026 (a) & 1030 c(iii)

CONFIDENTIAL
REGISTERED A.D.
GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
RAILWAY BOARD
Rail Bhavan,New Delhi-110 001

No.

Dated:

To,

M/s ……..……..

Sub : Banning of business dealings with M/s…….....

Ref :

1. This Ministry's Memorandum No. ……dated .....

2. Your letter No. …….…… dated .....

The representation made by you under your letter quoted above has been carefully considered and the Ministry of Railways (Railway Board), New Delhi have

decided to ban business dealings with you for a period of …….…… years with effect from …… Copy of reasoned order is enclosed.

Please acknowledge receipt of the letter.

DA: A copy of reasoned order

Yours faithfully,

Signature of the Issuing Authority

…….……..

(Name)

Designation of the Issuing Authority

(For and on behalf of Government of India)

ANNEXURE-10.5

Para 1028

THE GUIDELINES ABOUT THE CONTENTS AND PROCEDURE, SHOW CAUSE NOTICE REFERRED TO IN CLAUSE 6.1 AND 7.5 OF THE STANDARDISED CODE

(a)	Which Officer should give the Show Cause Notice	The registering authority is competent authority to issue Show Cause Notice
(b)	Period of Notice	The period of notice should be 30 days
(c)	Manner of Service	Notice should be served by Registered Post.
(d)	Persons to be served with the notice	Notice to be served on the contractor concerned
(e)	Brief ground for giving the Show Cause Notice	Be indicated enumerating instances of bad workmanship and other
(f)	Manner of considering the reply	The registering authority should consider the replies and take decisions in consultation with the authorities mentioned in the Code

(g)	How and to what extent the decision is to be communicated	The decision be communicated to the concerned party by registered A.D.

ANNEXURE-10.6

Para 1030 (b)

Registered A.D.

M E M O R A N D U M

M/s …….. are hereby informed that the …… Railway/Production Unit had awarded contract (s) to them for execution of the work (s) as shown here under:

Details of the Contract (s) Awarded

Agreement/Work Order No. and Date	Description of the work(s) required to executed	Value

It has been observed that M/s …….. indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the …… Railway/Production Units proposes to *remove from the approved list of contractors/suspend business dealing with contractor M/s ……..for a period of …… M/s …… are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s …….. may make in this regard will be considered. It should be made in writing and submitted so as to reach the undersigned not later than …….. In case no representation is received by the date mentioned above, it will be presumed that M/s…….. have no representation to make against the proposed action and a final decision shall be taken on merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature ……

Name ……

Designation & Address …….……

…….……

(This should be signed by HOD)

To,

M/s …….……..

* delete whichever is not applicable

ANNEXURE-10.7

Para 1030(g)

Registered A.D.

M E M O R A N D U M

M/s …….…….. are hereby informed that the …… Railway/Production Unit had awarded contract (s) to them for execution of the work(s) as shown here under:

Details of the Contract (s) Awarded

Agreement/Work Order No. and Date	Description of the work (s) required to be executed	Value

It has been observed that M/s ……..…… indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the Government of India proposes to ban business dealings with M/s…….…… and also with their allied/sister concerns/and partners on All Indian Railways and Production Units etc. under the Ministry of Railways for a period of ……..……. M/s ……..…… are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s ……..… may make in this regard will be considered. Such representation should be made in writing and submitted so as to reach the undersigned not later than …… In case no representation is received by the date mentioned above, it will be presumed that M/s……..……have no representation to make against the proposed action and a final decision shall be taken on merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature …….……

Name …….……

Designation & Address …….……

……..……..…….

(To be signed by Executive Director/Railway Board,

For and on behalf of Government of India)

To,

M/s …….……..

Protocol for updating the Indian Railways Vigilance Manual-2018

Whenever revision or addition of any provision in IRVM is issued, the following protocol may be followed for proper linking and convenience to user.

1. In the subject of the letter issued for modification reference must be given to the Para which is to be modified e.g.

Sub: Para 109 on Vigilance Bulletin – Modification/ Addition/ Revision - ……

2. The modified/ revised para must be printed in print space of **5.5 inch by 8.5 inch (14 cm by 21.5 cm)** only as that is the print size of IRVM 2018. This will enable users to paste the modification on the print copy easily.

SAMPLE SIZE (Height of Box should be not more than 8.5 inch or 21.5 cm)
Font: Times New Roman- Size 12
Width of Text- 5.5 inch or 14 cm

Para **109 VIGILANCE BULLETIN (Modified vide RBV No.….dated……..)**
A Vigilance bulletin is brought out periodically on Zonal Railways. It highlights major vigilance cases involving irregularities, violation of rules and procedures, malpractices,

misuse of powers etc. as detected during vigilance checks and investigations. It also contains write-ups on policy matters and guides Railway personnel on extant rules & procedures, helping them to avoid possible mistakes.

3. All the letters or RBVs issued should be hyperlinked at the correct location in the web version of the manual and also the text of the modification should be mentioned there clearly indicating that this is a modified para vide RBV number issued on date.

4. The RBV's list on website should carry the subject which should contain the exact subject line of the letter.

5. This RBV list should have a hyperlink on the page displaying the IRVM on website.

6. IRVM is displayed on website with the PDF of Print Version and also DOCX/HTML version alongwith PDF for Tablet/Mobile view which will be created from the DOCX version. Thus for each revision the DOCX/HTML version may be updated with hyperlink of RBV and revised text.

7. V-1 Section is the coordinating section for the IRVM. DD-V1 will be the nodal officer. DVM will monitor changes being made on the web version and ensure their correctness and accuracy.

(No. 2016/V-1/IRVM/1/1 dated 7-9-2018)

(Rajnish Kumar)
Director Vigilance (Mech)

DD-V1