

Presentation
on Vigilance Perspective on Public Procurements

Basics of Vigilance

Vigilance- Essential part of Management

Focus-Integrity and ethical behaviour

Principle-Every officer is a Vigilance Officer

Aim- To build clean and efficient work Culture

Vigilance Training	To provide conceptual framework to deal with practical situation in working efficiently and to face the challenges successfully
Preventive Vigilance	- Adoption of package of measures to improve systems & procedures to eliminate/ reduce corruption, promote transparency & ease of doing business. – Para 401 of IRVM 2018. - Purpose of vigilance activity is not to reduce but to enhance managerial efficiency & efficacy of an organisation.
Elements of Well being	Knowledge of rules & regulation -------- Confidence Honesty -- Peace and Happiness Sincerity ---------- Support

Corruption - Improper or selfish exercise of power & influence attached to a public office or to a special position one occupies in public life. – Santhanam Committee.

Misconduct - Wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to consequences of one's act.

Offence - Any Act or omission made punishable by any law for the time being in force. – Sec 3(38) of General Clauses Act 1897

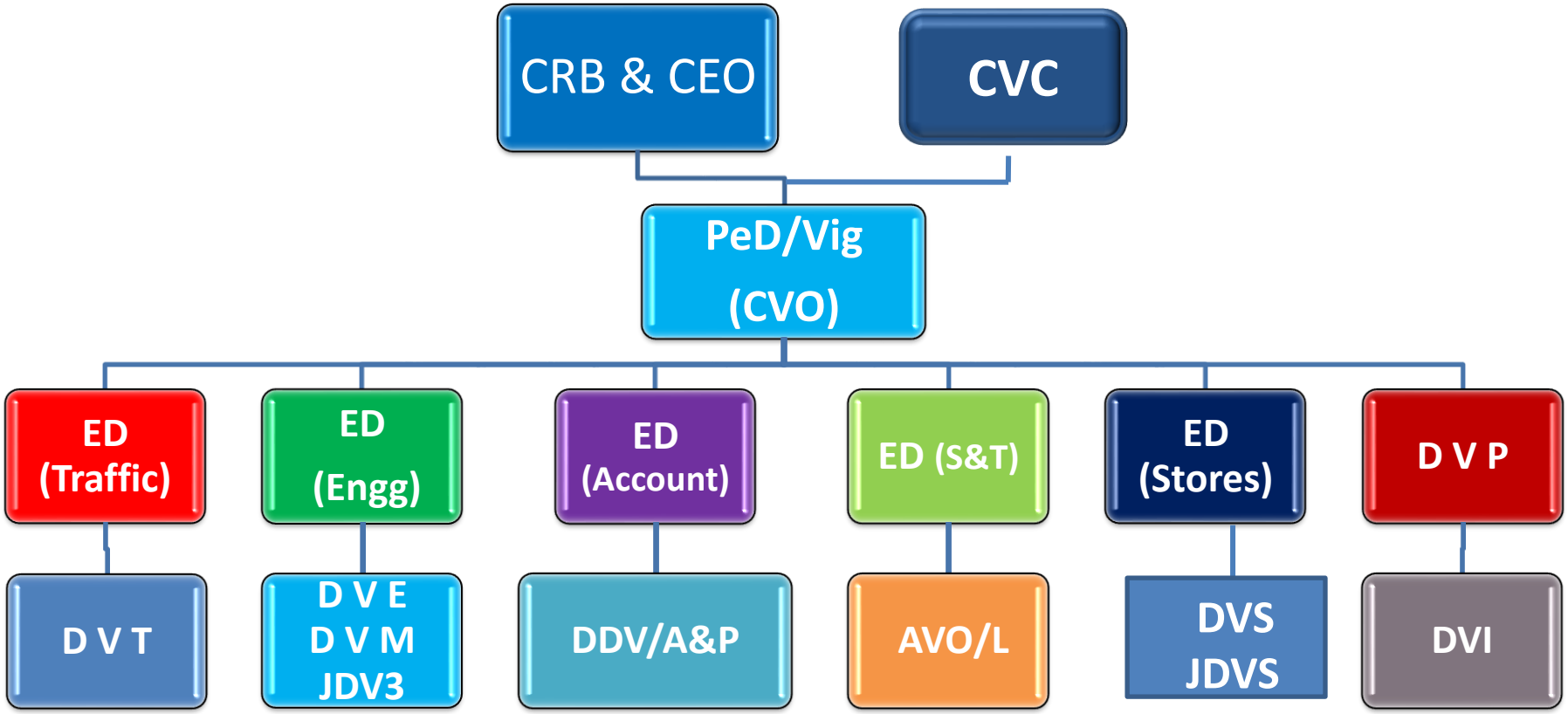
OFFICIAL REASONS – SANTHANAM COMMITTEE

- **Personal Discretion**
- **Cumbersome Procedures**
- **Delays (**encourage speed money)
- **Overburdening of Officials**

Evolution of Vigilance

- ✓ *1946 – DSPE Act was passed.*
- ✓ *1947 – PC Act was passed*
- ✓ *1948 – Anti Corrution Depts on Zonal Rlys.*
- ✓ *1956 – Renamed as Vigilance Units.*
- ✓ *1957 – Vigilance Unit in Rly Bd created.*
- ✓ *1957 – Vigilance brought from Chief Security Officers to SDGM's control.*
- ✓ *1963 – CBI created*
- ✓ *1964 – CVC formed as per Santhanam Committee recommendations.*
- ✓ *1988 – PC Act*
- ✓ *2003 – CVC Act passed by Parliament.*
- ✓ *2018 - Amended PC Act*

Organisation Structure – RB Vig

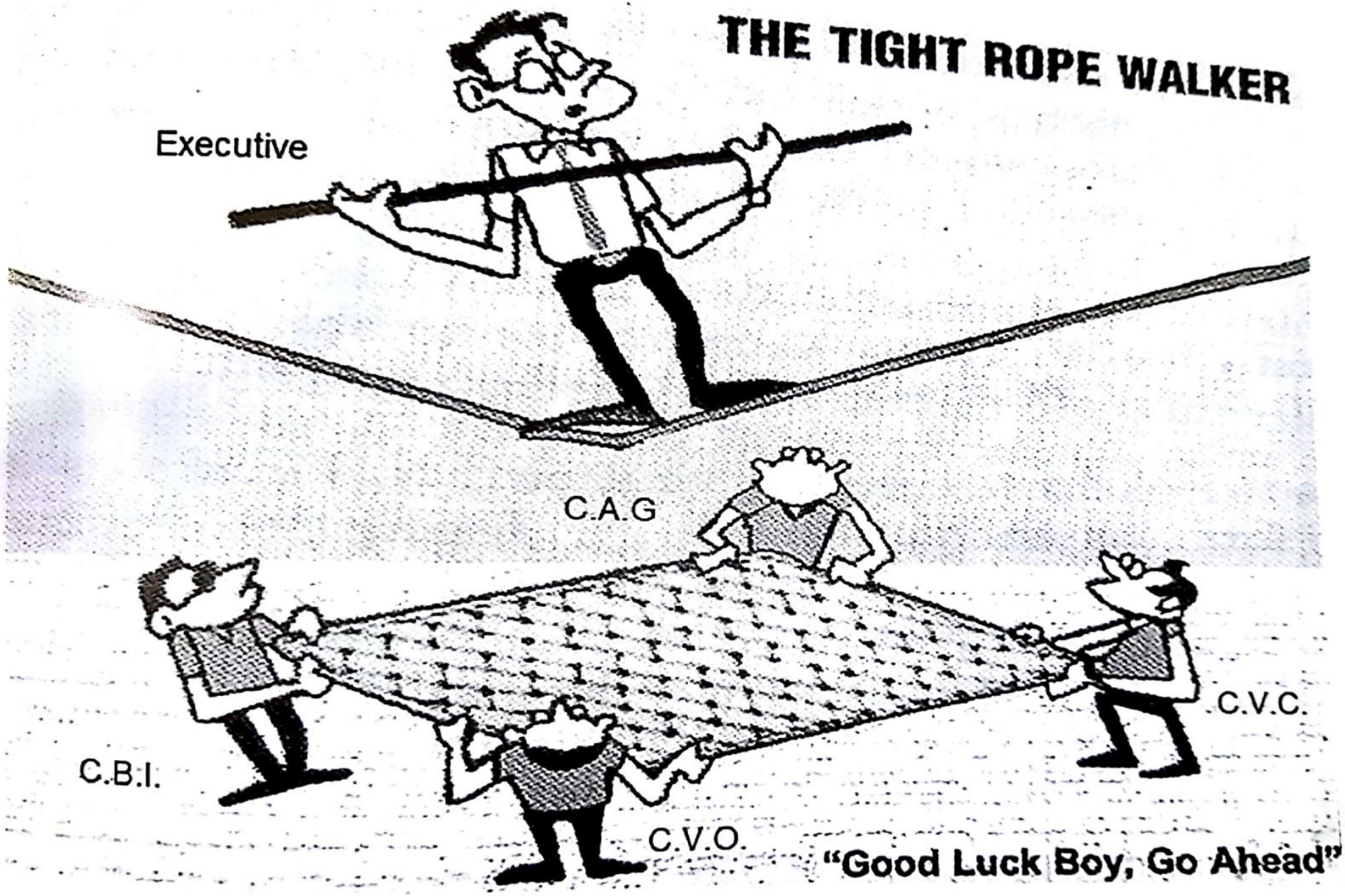


Vigilance Role

- ✓ ***Preventive Vigilance***
- ✓ ***Participative Vigilance***
- ✓ ***Probing Vigilance***
- ✓ ***Protective Vigilance***
- ✓ ***Punitive Vigilance***

Raison D'etre of Vigilance

- ✓ *Promoters of Integrity & SIs (System Improvements).*
- ✓ *Probers of Complaints/PCs.*
- ✓ *Protectors of the Upright.*
- ✓ *Preventers of Malpractices.*
- ✓ *Punishers of the Corrupt (through DA).*


THE TIGHT ROPE WALKER
Executive
C.A.G
C.B.I.
C.V.O.
C.V.C.
"Good Luck Boy, Go Ahead"

Cardinal Principles of Procurement

- **Equity, Fairness & Transparency in Process**

Decisive Factors

- **Reasoned speaking Order, Bonafide Intent, Reputation.**

Reasoned Speaking Order

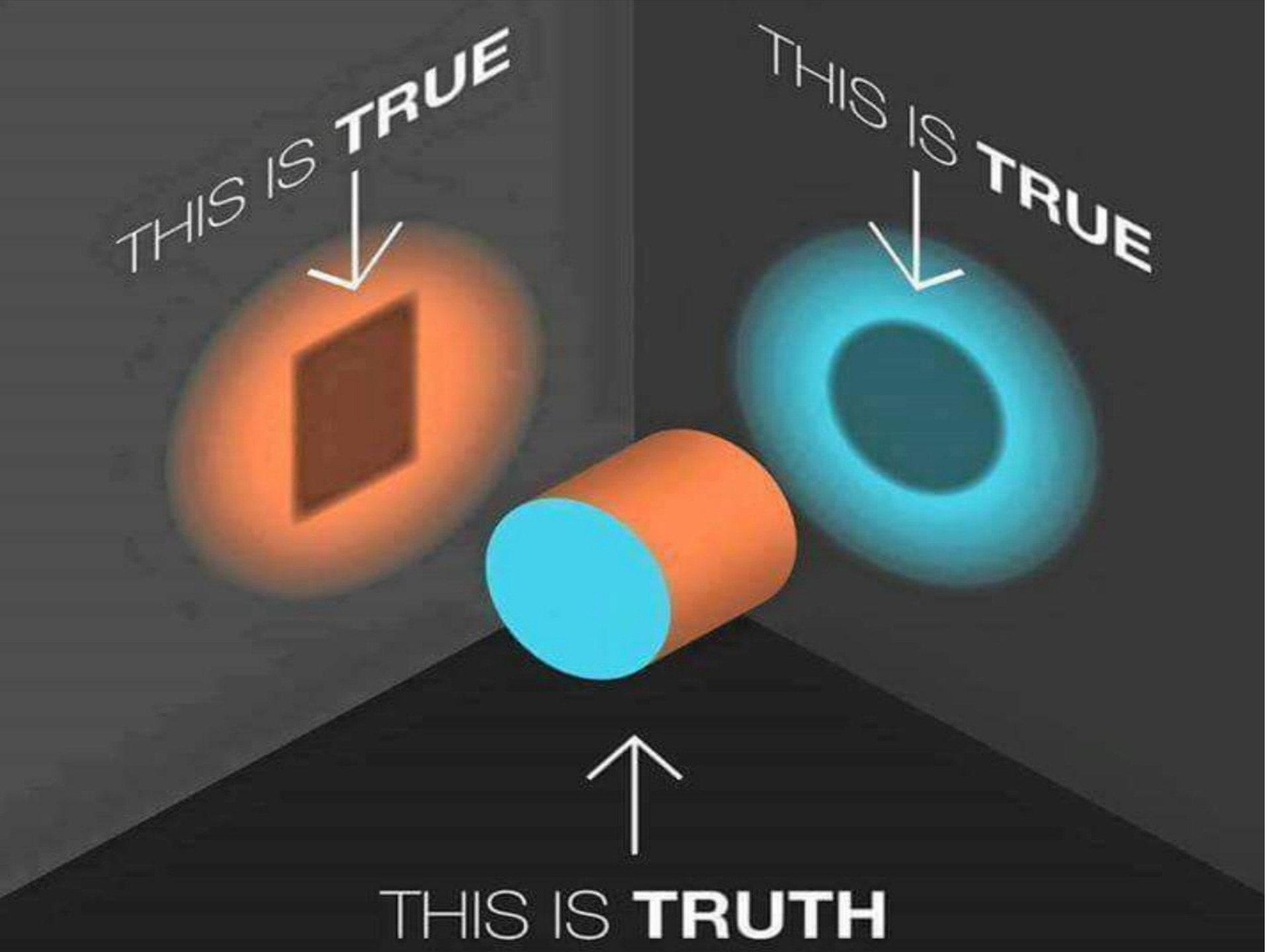
- **Hon'ble SC – Civil Appeal No. 2153 of 2010**
  - ✓ **Intelligible – Self contained reasons.**
  - ✓ **Proper – No Gaps in reasoning.**
  - ✓ **Adequate – Degree of Particularity.**

Bonafide Intent

Whether a person of common prudence working within the ambit of rules & regulations would have taken decision in the prevailing circumstances is criteria for deciding bonafides of the case". - Para 512.4 of IRVM 2018

VIGILANCE ANGLE – Para 512 of IRVM

Para 512.1 Criminal Mis-conduct	Demanding or accepting illegal gratification.
	Obtaining valuable thing by corrupt or illegal means or abusing one's position.
	Possession of disproportionate assets.
	Forgery, cheating or misappropriation.
Para 512.2	Gross or willful negligence.
	Reckless Decision making.
	Blatant violation of systems & procedures.
	Excessive discretion without public interest.
	Failure to inform controlling authorities of required transactions & issues on time.
	Cause of undue loss or concomitant gain
512.3	Undue or unjustified Delay


THIS IS TRUE
THIS IS TRUE
THIS IS TRUTH

Wednesbury Reasonableness in Decision Making

Whether ?

- **Authority considered factors which should not have been taken into account.**
- **Authority failed to consider factors that should have been taken into account.**
- **Decision was so unreasonable no reasonable authority would ever consider imposing it.**

Preventive Vigilance Areas

Paras of IRVM 2018

- ✓ ***406 - Civil Engineering***
- ✓ ***407- Mechanical, Electrical and S&T***
- ✓ ***408- Traffic and Commercial***
- ✓ ***409- Stores***
- ✓ ***410- RPF***
- ✓ ***411- Personal***
- ✓ ***412 - Accounts***
- ✓ ***413- Medical***

Thrust Areas for Preventive checks

Part of Preventive Vigilance Measures

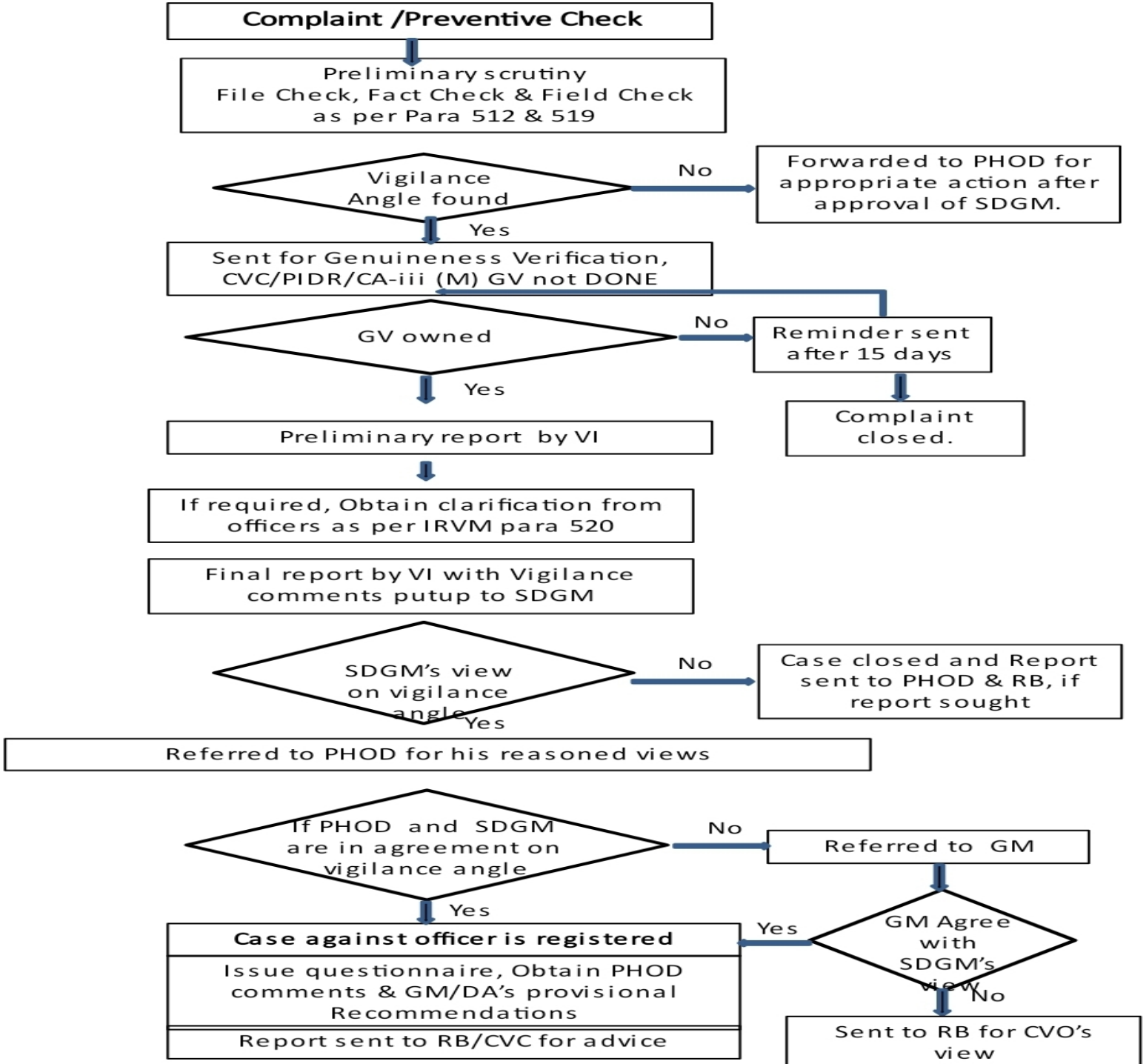
Identification of root cause of corruption

Annual exercise to identify potential thrust areas

Thrust Areas are targeted for preventive checks

Thrust Areas – 2021 broadly cover:-

- ***IRWCMS Contracts / Online IREPS Procurements / Auctions***
- ***Mass Contact Areas / Commercial Areas***
- ***Payments / Fund allocations / Recovery / Accounts***
- ***Functioning of installations / Weigh Bridges***
- ***Recruitments / Records / Selection / Service data***
- ***Medical Exam / PME /Referral / Medicines***


Complaint /Preventive Check
Preliminary scrutiny
File Check, Fact Check & Field Check
as per Para 512 & 519
Vigilance
Angle found
No
Forwarded to PHOD for
appropriate action after
approval of SDGM.
Yes
Sent for Genuineness Verification,
CVC/PIDR/CA-iii (M) GV not DONE
GV owned
No
Reminder sent
after 15 days
Yes
Complaint
closed.
Preliminary report by VI
If required, Obtain clarification from
officers as per IRVM para 520
Final report by VI with Vigilance
comments putup to SDGM
SDGM's view
on vigilance
angle
No
Case closed and Report
sent to PHOD & RB, if
report sought
Yes
Referred to PHOD for his reasoned views
If PHOD and SDGM
are in agreement on
vigilance angle
No
Referred to GM
Yes
Case against officer is registered
Issue questionnaire, Obtain PHOD
comments & GM/DA's provisional
Recommendations
Report sent to RB/CVC for advice
Yes
GM Agree
with
SDGM's
view
No
Sent to RB for CVO's
view

Advices Tendered to DA

FSA tendered on Investigation Report

RCA, if new facts highlighted by DA from 1 month of FSA

SSA tendered on CO's Defence or Inquiry report.

SSA shall be sought by DA when DA differs from FSA.

No RCA on SSA.

- ***SDGM tenders advice for Non-Gaz cases***
- ***PED/Vig tenders advice for promotee officers cases***
- ***CVC tenders advice for all Gr-A composite cases.***
- ***DA must obtain SSA, if he differs from FSA.***
- ***DA's decision is final. Vigilance can seek Revision.***
- ***Deviation cases with CVC are tabled in Parliament.***

Case Study-Manipulation of MCD (Mean Commencement Date) & Irregular Refund of SD & License fees

Source

Irregularities regarding a commercial publicity tender to favour a Private Agency received from CBI

Earning contract of Commercial publicity at a specific station for a period-of 3 years with License fee of Rs.65 lakhs p.a with annual escalation of 10%

Contract Agreement to be signed within 30 days of LOA . MCD to be fixed within 30 days from signing of agreement or actual commencement whichever earlier

No action taken on signing of contract Agreement for fixing MCD as per tender conditions nor was the actual commencement of works was informed by concerned Station in charge, thereby extending undue favour to the contractor by way of not paying license fee for almost a year.

The charged officials released the SD of Rs.6,50,000/- and license fees of Rs.39,32,500/- to the party showing it as Earnest Money of unsuccessful bidders with a forged letter number

RDA taken and Prosecution sanction of the responsible Railway officials under PC Act in the case was granted

Takeaways

1. in the earning contracts must be signed within stipulated time and MCD to be fixed as per the Tender conditions.
2. Exercise of adequate checks and precautions at every stage.

Case Study - Splitting of Work, Arbitrary Cancellation of Tender & Playing with Eligibility Criteria

Tender for Qtr invited at Rs.4.97 cr in JAG Jurisdiction

35% of Eligibility – Rs. 1.74 Cr

3 Days prior to opening, Tender cancelled without reasons by SG officer without knowledge of JAG & without TAA approval.

Tender value revised to Rs.4.26 Cr

35% of Eligibility – Rs. 1.49 Cr

Agency "X" was L1 & had credential of Rs.1.5 cr

On FI, original work of Rs.8.32 cr was splitted into 2 tenders, Rs.4.97 Cr & Rs.3.35 Cr.

Rs. 3.35 Cr Tender was already invited & Agency "X" was L1 there also.

SG Officer issued Major Penalty

Take aways -

1) No Splitting of works. RB circular Dt.21.06.04

2) TAA should record reasons before cancelling tender CVC circular Dt. 24.03.05.

3) No favoritism. RSC Rule – 3.1

Case Study- Fraud in UTS tickets

Source

During PC ,10 mismatched tickets (issued from a particular station were recovered from on board passengers of unreserved coaches.

On Scrutiny , 07 tickets were found to be low value tickets converted into high value tickets through non issue.

Modus Operandi

Step 1:Second class ordinary ticket for the value of Rs. 10/- generated but printing of the same was not allowed by interrupting printer or by removing ticket roll to save 'blank stationary.

Step 2: High value ticket generated but print of the same was taken on the 'blank' stationary previously saved i.e. previous stock number.

Step 3: Non issued High value ticket by citing reason of printing error.

This resulted in accountal of less fare in the system but a high value ticket was sold to the passenger and the difference was misappropriated thereby causing loss of revenue to Railways

Takeaways

1. Use of Automatic Ticket Vending Machines to be encouraged among passengers.
2. Ticket checking activities to be intensified at Stations .

Case Study - Irregularities in recording of measurements in MBs with old dates

Works at LCs awarded in 2008

30% Bills paid in 2008, no further work

Till 2015, no communication with executives.

Agency claimed in 2015, Rs1.20 cr due was yet to be paid

On verification 03 record measurements of dates 2009 entered in old MB for Rs.1.2 cr by XEN/C who has retired in Sept'15

In MB, XEN/C of 'A' designation recorded 2015's designation, say 'B'.

Hand writings were sent to GEQD & report confirmed MB writings of 2009 were actually entered in 2015.

Site checks proved that no works executed by agency.

Retd . XEN, SSE were issued major penalty & Agency banned for 5 years

Take away- Works should be finalised after completion/ expiry of currency.

Now- IRWCMS is launched for online monitoring of contracts.

Case Study - Non-Timely conclusion of Contract & Processing of improper Variation

Tender on "Boulder launching Apron" for face value Rs.9.74 cr.

Contract awarded in 2012 at (-) 41%, 5.76 cr.

No Progress till 2017.

Currencies extended FIVE times in Casual Manner.

In 2017, Variation proposal for inclusion of 2 NS items.

1 NS Item – Rs. 3.1 crores (54% of CV) - sand Item.

2 NS Item – Rs. 2.24 cr (39% of CV) – Concrete Item

The scope of work is changed.

Original Eligibility is vitiated.

Take aways -

1) Estimate shall be prepared realistic ally as Per Para 702 & 703 of Eng Code, RB letters Dt.17.01.01 & 17.09.97 (Para ix)

2) Signing Authority should extend currency as per Clause 17 of GCC & RB Circular Dt.16.01.18.

3) Variation under 1265 of Eng Code is permitted to complete original scope of work.

4) Action under Clause 62 of GCC shall be initiated.

Areas of concern

- Selection & Evaluation of Answer sheets
- Quality of OHE equipment, S&T cables
- Non-fare revenue leakages (Earning Contracts)
- Limited vender base and cartelization
- Claims settlement cases under sec 124A
- Electronic in motion Weigh Bridges
- Data checking in IPAS
- Manpower Contracts
- Misuse of staff, passes etc

Transparency on Indian Railways

Most of services facilitated without human interface:-

- Booking of reservation(PRS) – 62% on-line, unreserved tickets (UTS)
- E-Procurements in Store and Works Contract of materials (IREPS)
- Store Contract - 3.46 lakh tenders total Rs. 97677 Cr in 2018-19
- Works Contract – 42,000 tenders total Rs 88,000 cr in 2018-19
- Railways adopted Govt e-Marketplace (GeM), for procurement of common use goods and services (Rs. 360 cr 2018-19)
- E-Reverse Auction has been adopted – Stores > 5 cr & Works > 50cr
- Auction - 33,740 lots Rs. 4,174 Cr through e-auctions in 2018-19
- Railways- the first Central Government organisation to introduce large-scale Online Applications & Computer Based Tests(CBT's)
- Exam for recruitment against 90000 vacancies in 2018.
- 2.67 cr applicants- Exam successfully conducted
- Entire process from applications, fees, bio-metrics, jumbled questions/ answers, results , grievance redressal successfully done.

Digital initiatives in Contract matters (Works & Stores)

- e-TC module and e-LoA Module to bring transparency in tender finalization.
- Implementation of Indian Railways Works and Contracts Management System (IRWCMS)-Completed in O/L
- Digitizing work contracts commencing from issue of LoA upto finalization of contract
- Launch of Shramik Kalyan Portal to ensure minimum wages (SKP)

Achievements of Vigilance Directorate for 2020

- 1669 complaints were investigated , Total Complaints received=6036
- 9198 preventive & decoy checks conducted.
- 22 prosecution sanctions given to CBI.
- Rs. 190 cr of revenue leakage was prevented.
- 322 special checks on scrap disposal resulted in earning of Rs.90 cr.
- 2954 officials taken up under DAR for misconducts.
- Several officials protected from vexatious, frivolous & malicious complaints.

Thank you all