

GUIDELINES FOR HANDLING OF COMPLAINTS

Introduction

1. The **Defence Procurement Procedure (DPP)** aims to ensure expeditious procurement of the approved requirements of the Armed Forces. While achieving the same, it also aims at demonstrating the highest degree of probity and public accountability, transparency, free competition and impartiality. Despite endeavour to ensure fairness and procedural correctness, complaints related to various procedural aspects and allegations on corrupt practices, breach of integrity related issues etc. are received from various sources.

2. At present, the complaints received are being handled as per the general guidelines of Central Vigilance Commission (CVC) and DoP&T on the subject. However, considering the unique nature of Defence Capital Acquisition cases, there is a need to put in place a well-defined 'fit-for- purpose' framework for handling of complaints to achieve the stated objective of DPP. Fair and speedy disposal of complaints will not only benefit the procurement process but also give confidence to the vendors, who are partners to the Ministry of Defence in the acquisition cycle.

3. The capital acquisition procedure is an elaborate exercise involving concerted and synergized efforts of different agencies. Therefore, acquisition related complaints, if not handled and resolved promptly, have a cascading effect on finalisation/implementation of critical defence projects. It is, therefore, all the more necessary that complaints are processed promptly in a well defined systemic manner. These guidelines lay down an unambiguous operating procedure for handling of complaints, clearly defining expected roles/responsibilities at various levels, which will make the system more robust and obviate undue delay in the capital acquisition programme.

Aim

4. The aim of these guidelines is to lay down a well defined procedure for complaints handling in a time bound manner, aligned to the CVC/ DoP&T guidelines. In keeping with the Govt policy, complaints will be handled in a transparent manner.

Layout

5. These guidelines are covered under the following heads:-

- I. Types of Complaints.
- II. Processing and disposal of complaints.
- III. Procedure for processing Complaints other than anonymous/ pseudonymous.
- IV. Addressal by Ombudsmen.
- V. Parallel processing of Case.
- VI. Protection to Whistle Blowers.
- VII. Powers in special cases.

I. TYPES OF COMPLAINTS

6. An analysis of complaints, representations or references received in the past has shown that these mainly fall in the following categories:-

(a) Complaints by Public.

- i. Complaint where the identity of the complainant is known / well established or complaint is delivered in person. This will also include complaints from public representatives / VIPs.
- ii. Complaint where the identity of the complainant is not known / pseudonymous complaints.

(b) Complaints by Competing Vendors.

7. A reference received from a vendor alleging injustice or impropriety in application of provisions of DPP would be treated as a complaint. Receipt of information about malpractice, misconduct or corruption on the part of any entity involved in the acquisition process would also be considered as a complaint.

II. PROCESSING AND DISPOSAL OF COMPLAINTS

Complaints by Public

8. All complaints need to be processed and disposed off in an appropriate and time bound manner so that the concerned acquisition scheme is not delayed, while the genuine complaint is addressed and action is taken on priority basis.

9. **Complaint where the identity of the complainant is known / well established or complaint is delivered in person.** At times, complaints are received from public representatives/VIPs, retired Government Servant/Defence Officers, NGOs, Activists etc. Receipt of all such complaints will be acknowledged. The complainant will also be requested to provide additional information and/or evidence on which the complaint is based, wherever required, so that the same can be verified/ enquired to reach a logical conclusion. A draft format for acknowledgment of the complaint and requesting for additional information and/or evidence in support of complaint is given at **Appendix 'A'**. In case the complainant writes back disowning the complaint, the complaint will be treated as an anonymous complaint. If genuineness of the complainant is confirmed, action as per Para 5.III of the Guidelines will be taken for disposal of the complaint.

10. **Complaint where the identity of the complainant is doubtful or the complaint is pseudonymous.** In case of complaint from an unknown or doubtful source, attempt will be made to confirm the genuineness of the complaint. In this regard, the complaint will first be sent to the address indicated on complaint letter for confirmation. 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 the reminder, if nothing is heard, the said complaint will be treated as anonymous complaint. If a communication sent to the address of the complainant is returned undelivered or the address is verified to be false, the complaint may be treated as anonymous or pseudonymous complaint. If the genuineness of the complainant is confirmed, action as per Part III of the Guidelines will be taken for disposal of the complaint.

11. To ensure transparency and due diligence, complaints falling in the two categories mentioned at Paras 9 and 10 above, along with the result of enquiry into their genuineness, will be posted on MoD website by the concerned SHQ. However before putting the details on MoD website it will be ensured that any confidential information, as decided by the SHQ, is blacked out.

Procedure for Processing Anonymous /Pseudonymous complaints

12. Anonymous complaints will not be taken cognizance of as they may be the handiwork of vested interests and made with mala-fide intent. All anonymous/pseudonymous complaints shall be treated in line with CVC and DoP&T guidelines in vogue, and they will be filed in a separate folder.

13. In accordance with the CVC and DOPT guidelines for handling complaints, the following procedure will be followed in the MoD and SHQ for dealing with anonymous / pseudonymous complaints relating to capital acquisition cases:-

- (a) Anonymous complaints will be filed, irrespective of the nature of allegations.
- (b) Handling of pseudonymous complaints will be done as per procedure given in Para 10.
- (c) While putting up main procurement case to RM at CFA approval stage, the folder containing Anonymous/Pseudonymous complaints pertaining to the case shall also be enclosed and it will be accordingly specially highlighted in the noting sheet.

14. Complaints received by SHQ “only”, for cases below Rs 150 Crore, will be dealt in the same manner as in Para 13 by the Vice Chiefs.

Complaints by Competing Vendors

15. These are originated by any of the participating or competing vendors. Differing perceptions in procedural impropriety/self interests/a genuine case of injustice may prompt such complaints. A vendor, having any complaint should raise the complaint, within two weeks of receipt of related communication or information by him from the concerned authorities. Such complaints mainly relate to procedural

issues at different stages, i.e. RFP, TEC, FET, CNC etc and shall be processed as given below.

16. While genuine complaints serve the objective of ensuring probity and transparency in the procurement process as also resulting in reduction of corruption and saving money for the government, non genuine complaints have the potential to divert resources, delay procurement cases and cause loss to the buyer. Therefore, the complainant must adduce cogent evidence to prove its genuineness. In case the complainant fails to do so, the complaint may be treated as vexatious or frivolous. In case vendors' complaint is felt to be vexatious or frivolous by MoD or SHQ as the case may be, a show cause notice will be issued by Acquisition Wing or SHQ to the vendor asking him to render full and verifiable facts in keeping with existing Para 6.8 of Annexure I to Appendix H of DPP-2013. From the reply of the vendor, if it is prima facie established that the complaint is vexatious or frivolous by MoD or SHQ, the same will be referred to Ombudsmen. Based on the findings of Ombudsmen appropriate action will be initiated against the vendor with approval of RM.

17. In case of complaints by competing vendors, the complaint and the result of the enquiry will not be posted on the MoD website as it may violate confidentiality pertaining to the vendors bid, technical details of the equipment or requirement for secrecy.

18. **Integrity Pact Bank Guarantee (IPBG).**

(a) Vendors would be required to furnish IPBGs as under which will be valid for period of three years from the date of submission of offer:-

Value of the Project	Value of IPBG
Below Rs. 20 Crore	Nil
Rs. 20 Crore to 100 Crore	Rs. 5 Lakh
Rs. 100 Crore to 300 Crore	Rs. 1 Crore
Rs. 300 Crore to 5000 Crore	Rs. 5 Crore
Greater than Rs. 5000 Crore	Rs. 10 Crore

(b) In case a vendor unilaterally decides to withdraw from procurement scheme or has been declared non-compliant and if he wishes to withdraw his IPBG, he may do so after 45 days, provided he gives an undertaking that he has no complaints in the case.

III. PROCEDURE FOR PROCESSING COMPLAINTS **OTHER THAN ANONYMOUS/ PSEUDONYMOUS**

19. It is imperative that the complaints received in the Ministry of Defence are objectively examined in a timely, transparent and well-defined manner, addressing the issues brought up in the complaint. All complaints, except those which are anonymous/ pseudonymous, will be processed as per the procedure given below.

Processing of complaints in respect of procurement cases under delegated powers of SHQs/IDS/CGHQ

19.1 Complaints received in the Ministry of Defence in respect of cases falling under delegated powers of SHQs/IDS/CGHQ, will be handled in the following manner:-

- (i) Acquisition Wing will forward the complaints to respective CFAs in the SHQ/IDS/CGHQ.
- (ii) The CFA will direct the concerned Directorate (of SHQ/IDS/CGHQ as the case may be) to enquire and submit a factual report on the complaint. The CFA will get the factual report examined and dispose off the complaint by taking appropriate action after having obtained opinion of Ombudsmen wherever so required.

19.2. Complaints received directly by SHQs/IDS/CGHQ will be examined within 30 days of receipt of complaint to the extent possible and disposed off. Complaints by competing vendors shall be disposed off as at Paras 15, 16 and 17 above.

Processing of complaints in respect of procurement cases other than those under delegated powers

19.3. Complaints related to the procurement cases other than those under delegated powers will be processed in the following manner:-

(i) Complaints relating to the capital acquisition will be marked to the Acqn Wing for further processing. In the Acqn Wing, the complaints related to technical aspects, i.e., RFP, TEC, FET etc will be handled by respective TMs, and those pertaining to other procurement stage(s) after FET, i.e., CNC stage, will be handled by respective JS&AMs.

(ii) The TMs/JS&AMs, as the case may be, will forward the complaint to the concerned SHQ for comments/factual report. The concerned SHQ will get the complaint examined and, with the approval of PSO, forward its comments/recommendations to the concerned TM/JS&AM, as the case may be. All the above activities at SHQ will be completed within 30 days of receipt of complaint.

(iii) The TM/JS&AM will further examine/analyse the comments forwarded by SHQ. They may obtain views/advice of the concerned FMs in MoD (Finance), wherever so required, and thereafter will submit the file with their recommendations for approval of RM. Complaints by competing vendors shall be disposed off as per procedure given at Para 16 above.

(iv) Complaints received from public representatives/VIPs will also be examined and processed in a similar manner and, in addition to the acknowledgement as per **Appendix 'A'**, a reply to the complainant would also be submitted for consideration of RM/Defence Secretary, as the case may be, as required under the procedure for the disposal of VIP references

(v) All the above activities will be generally completed within a period of 60 days of receipt of complaint.

IV. ADDRESSAL BY OMBUDSMEN

Appointment of Ombudsmen

20. MoD and Service Headquarters should separately maintain a panel of independent experts. One or more experts may be selected as Ombudsmen to whom complaints may be referred to if deemed necessary. Individuals selected as Ombudsmen will be on the panel for a tenure of two years and will not be repeated. The procedure for appointment of Ombudsmen shall be notified by MoD separately.

Referral of cases to Ombudsmen

21. In addition to the referral of cases by MoD to Ombudsmen, complainant vendors will be at liberty to request for referring their complaint to the Ombudsmen. Whenever a complaint is referred to the Ombudsmen, he/they shall always be required to rule on the aspect of the complaint being vexatious or not.

V. PARALLEL PROCESSING OF ON-GOING PROCUREMENT CASES

22. In all cases, the acquisition scheme shall be progressed independent of processing of the complaint. Procurement case will be processed for final approval unless CVC specifically asks for withholding the CFA approval.

VI. PROTECTION TO WHISTLE BLOWERS

23. Protection to whistle blowers shall continue to be available as per the extant provisions of CVC guidelines.

VII. POWERS IN SPECIAL CASES

24. Notwithstanding these Guidelines, RM/ Defence Secretary may require any complaint to be enquired into in such manner as may be directed by them.

DRAFT ACKNOWLEDGEMENT

Subject : _____

1. This is to acknowledge receipt of your letter No ____ dated ____ on the subject mentioned above.

2. While the matter is being examined, you are requested to kindly provide additional information and / or evidence, if any, in support of your complaint, to facilitate processing of the case. If such information or evidence is available with any person in your knowledge, he may be advised to approach us directly.

3. In accordance with the Complaint handling guidelines of the Ministry of Defence, the substance/subject matter of the complaint, along with the findings of the investigation, will be posted on MoD website (www.mod.nic.in) for wider dissemination.