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Dated: 2nd June, 2010

Circular No. 21/05/10

Subject: Delay in initiating Disciplinary Proceedings.

During Intensive Examination of contracts/complaints by CTEO/CVC or CVOs of various organizations excess payments to the contractors have been observed which may be either due to ambiguity in the contract or misinterpretation of various clauses of the contract. In some of the cases variations in the contract clauses or specifications are allowed without financial adjustments, thus, giving undue benefit to the contractors.

2. In such cases, two-fold action is normally recommended by CVC-
- (i) for identifying the officials responsible for making excess payments involving vigilance angle.
 - (ii) to recover such excess payments from the contractors.

In number of cases contractors invoke arbitration to avoid such recoveries and in addition submit huge claims to deter the authorities from making recoveries. CVOs in such cases delay the process of identifying the officials citing reference to arbitration as an excuse and the organization also fails to affect the recoveries citing reference to arbitration by the contractor.

3. In view of above, following directions are hereby issued:

- (a) Whenever, any excess payment is detected, it should be recovered from the contractor from the available amount at the first opportunity following due procedure prescribed in the contract, unless any stay has been granted by any Court.
- (b) Reference to arbitration should not be linked with investigation and for identifying the officials responsible for lapses/excess payment involving mala-fide intentions/vigilance angle. CVOs should immediately investigate the case to identify the officials for lapses attributable to them and should approach the Commission for first stage advice without any delay.



(V.K. Gupta) 2/6/10
Chief Technical Examiner