

Eradicate Corruption- ‘Build a New India’

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(A booklet on vigilance issues and good practices)

(सतर्कता विषय एवं समुचित प्रयास संबंधित एक पुस्तिका)



INTRODUCTION

Corruption and fraud are generally interlinked. In fact corruption is a special type of fraud and treated as such in many jurisdictions. Fraud has a legal (criminal) connotation. The responsibility for the prevention and detection of fraud and error rests primarily with the management through the implementation and continued operation of accounting and control systems designed to check fraud. Field offices should carry out independent risk assessment. Some of the high risk areas are contracts of service/procurement, inventory and asset management, sanctions/clearances, performance operation, revenue receipts, cash management, general expenditure, grants, financial statements, operating information,

- **Characteristics of Fraud**

Fraud should be distinguished from error. The distinguishing factor between fraud and error is whether the underlying action is intentional or unintentional. For example, following actions amount to error and not fraud.

- A mistake in gathering or processing data from which financial statements are prepared,
- An incorrect accounting , estimate arising from oversight or misinterpretation of facts; and
- A mistake in the application of accounting principles relating to measurement, recognition, classification, presentation or disclosure.

The meaning and nature of Fraud can be understood by referring definitions.

- Fraud is an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.
- Fraud involves deliberate misrepresentation of facts and / or significant information to obtain undue or illegal financial advantage.

Fraud involving one or more members of management or those charged with governance is referred to as “management fraud”, fraud involving only employees of the entity is referred to as “employee fraud”. In either case, there may be collusion within the entity or with third parties outside of the entity.

Ample caution needs to be exercised before terming an act as “Fraud”. For an act to come within the ambit of “Fraud” following elements are required to be present.

- The act is intentional on the part of one or more individuals working in collusion with each other;
- The object of the act is to obtain or give illegal advantage in violation of the laws, rules and guidelines existing on the subject;
- The intention, collusion and object of obtaining illegal advantage will have to be present when a particular act is committed. An act committed in good faith, which by subsequent turn of events, proves to be incorrect or based on wrong information is not fraud;
- The advantage or benefits to an individual or a group of individuals will have to be tangible and not notional or presumptive; and
- Normally, any such act would cause loss to exchequer or be against public interest.

Fraud may involve:

- Manipulation, falsification or alteration of records or documents;
- Misappropriation/misapplication of assets;
- Suppression or omission of the effects of transactions from records or documents;
- Recording of transaction without substances; and misapplication of accounting policies.

Characteristics of Corruption

Corruption is a complex issue. Following definitions indicate the nature of corruption.

- Corruption involves behaviour on the part of officials in the public and private sectors, in which they improperly and unlawfully enrich themselves and / or those close to them, or induce others to do so by misusing the position in which they are placed
 - Corruption is the abuse of public power for personal gain or for the benefit or a group to which one owes allegiance

An act of corruption would comprise of one or more of the following elements,

- There must be at least two parties, viz. The person who offers the reward or inducement and the party accepting it;
- There must be misuse of office or position of authority for private gain;

- There is either an offer and / or acceptance of inducements;
- An attempt to solicit an offer or inducement or reward as benefit for performance of an official act;
- Any act through which public or entity property is dishonestly misappropriated;
- There may be an attempt to camouflage; and
- Corruption involves breach of trust.

Nexus between fraud and corruption

Corruption and fraud are not mutually exclusive. There is, in most cases, a nexus between the two.

- I. Fraud is most likely to involve deliberate misrepresentation of information that is recorded and summarised by an entity; its impact can be compared to an accounting error and would involve issues such as measurement, occurrence and disclosure. Fraud poses a serious problem because it is normally accompanied by efforts to cover/ falsify/ misdirect the entity records and reporting. Thus fraud can be directly affected the financial statements and records of the entity.
- II. Quite often, the efforts to misrepresent may involve the management itself. When management gets involved in the perpetration of fraud, the activity assumes the proportion or the additional bearing of corruption, Fraud and Corruption are therefore interlinked, although certain types of fraud do not necessarily qualify for being viewed as corruption and can be perpetrated by an individual or a small group to cover lapses.
- III. One problem which corruption poses for audit is that it is linked with the acts of bribery. It is possible to conceive of situations where bribery may have a direct impact on financial statements. For example, where a tax officer collects a bribe from an entity to provide a tax relief or where an entity pays an influential decision- maker a bribe to secure contract. In such situations the issue of proper disclosure is involved because the corrupt practice of the illegal payment/ expense is normally covered up through accounting, compliance or reporting fraud.
- IV. In some cases, corruption may have only a consequential, and not a visible and direct effect on the accounting records, for example, when the quality specifications are compromised in a supply order to benefit a supplier.
- V. In many instances corruption does not necessarily reflect in the transactions that are recorded and reported by the entity. This especially applies to situations where a position of authority or discretion available under rules is misused by an official. Such corruption does not normally get reflected in information.

VI. Both fraud and corruption are without proper authority and involve breach of trust and therefore are illegal and irregular. They also involve an element of non transparent conduct or behaviour. In fact corruption is a special type of fraud and treated as such in many jurisdictions.

Responsibility of the Management

i. It is the responsibility of those charged with governance of the entity to ensure, through oversight of management, that the entity establishes and maintains internal control to provide reasonable assurance with regard to reliability of financial reporting, effectiveness and efficiency of operations and compliance with applicable laws and regulations.

ii. In relation to fraud, it is important to recognise that the responsibility for the prevention and detection of fraud and error rests primarily with the management of the entity through the implementation and continued operation of accounting and control systems designed to check fraud. The responsibility for adequate and timely disclosure of any cases of fraud and corruption rest with the management and the responsibility of ensuring reliability and results of operation must include concerns arising from risk of fraud and corruption. The management is expected to document the system established for prevention, detection, response, and follow up and reporting of fraud and corruption.

(Source:- Order of C&AG of India no 585/CA-IV/36-2006 dated 6.10.2006 and No126/Audit (AP)-2004 dated 6th September 2006)

***INTRODUCTION OF INTERNAL CONTROL SYSTEM FOR PREVENTION AND
ERADICATION OF FRAUD***

Concerns were raised by the Comptroller and Auditor General and Ministry of Finance regarding sound Internal Control Mechanism in Autonomous Bodies. In this context Internal Audit Wing {O/o Principal Chief Controller of Accounts, Ministry of Human Resource Development vide office Memorandum no: IA/IR/2016-17/Circular/Culture/42 dated 02.06.2017} issued instruction on Internal control Mechanism in Autonomous Bodies under Ministry of Culture. It is felt that there is a strong need for strengthening the Internal Control Mechanism in the Autonomous Bodies to bring financial discipline. New General Financial Rule 2017 has been made effective from 8th March 2017. Rules 229 to 238 of GFR enumerate the provisions for effective Internal Control and Internal Audit Mechanism for such bodies.

Ministry of Culture (vide letter no F No. 7-3/2017-zcc dated 6th June 2017 ref Annexure-1 General (ii)) directed that AB should designate an officer of appropriate level to render financial advice whose concurrence should be obtained for sanction and incurring of expenditure. The financial limits upto which such concurrence is mandatory may be drawn up by the organisation. The Chief Executive Officer of the organisation will be responsible for overall financial management of the organisation.

In this context following observations are being made from past experiences so as to streamline and introduce adequate internal control mechanism for bringing financial discipline in the Organisation.

As per General Financial Rules (GFR) every Officer incurring or authorizing expenditure from public moneys should be guided by high standards of Financial Propriety. Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by subordinate disbursing officers. Among the principles on which emphasis is laid are the following:-

- i. Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of expenditure of his own money.
- ii. The expenditure should not be prima facie more than the occasion demands.
- iii. No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.
- iv. Expenditure from public moneys should not be incurred for the benefit of a particular person or a section of the people.

Remedial measures for prevention and eradication of fraud and Corruption

➤ **Delegation of Financial power of the Director (of EZCC) was approved by the FC& EB/GB in its meeting (FC 27th July 2012 & EB/GB 21st August 2012) which empowers the Director with unlimited Financial and Administrative power. For exercising adequate financial control/management of the organization there should be a specified limit of Financial and Administrative powers of the Director. A specific guideline should be there in respect of casual/contractual appointments in Group-C/MTS cadre.**

➤ Some areas i.e. especially Financial matters etc relating to Programme, maintenance section should be immediately decentralised so that pilferage and wastage of Government money can be avoided. In this context following course of action is submitted for approval:

- ❖ Adoption of Internal Audit Wing Instruction (2nd June 2017) with immediate effect.
- ❖ Formation of a separate cell that will look after issue of work order etc for each and every programme with the approval of the Director/ Head of the Office.
- ❖ This separate cell will be manned by one senior most employee/ officer of EZCC, one representative from Accounts section, Deputy Director (progr), Deputy Director (F&A) and the Director of the centre.

- ❖ Selection of Artists/ troupes may be done by an independent committee under the chairmanship of the Director. Programme Coordinators/Programme Officers may submit their suggestions to the committee for approval of the Director.
- ❖ Sending /issuing letters to the troupe leaders may be put up well in advance by Programme Coordinators/ Programme Officers for approval of the Director.
- ❖ Submission of requisition for actual requirement (i.e stage, light, sound, hall etc) by Programme Coordinators/ Programme Officers to programme cell may be made well in advance. At least three weeks' time may be given to the Programme cell for finalization of work order etc. as per GFR norms.
- ❖ **E-Tender & Gem system must be adopted and followed before finalising and issuing work orders to any agency.**
- ❖ Work orders must be issued only to the parties having trade licence for more than ten years having good credentials and registered with GST . In absence of trade licence no and GST registered no. no work order should be issued to the parties.
- ❖ All work orders should be approved by the Director well in advance (minimum 21 days) i.e before commencement of the programme.
- ❖ Programme Coordinators / Officers should only be responsible for supervising and making ready stage, light, sound, ambience and smooth organizing of programmes.
- ❖ Accounts section will be responsible for scrutiny and making payment after receipt of duly certified (by PCs/PAs/ Programme Officers) bills of agencies, artists etc.
- ❖ Above procedure will also be applicable for maintenance, civil, electrical section for any sort of work involving expenditure of Rs 50,000.00 and above. The cell constituted for observing MoC's directives for observing economy in expenditure and to prevent fraud and fraudulent payment will be solely responsible for financial management.

Source document/Orders:- C&AG's order and directives including Ministry of Culture's orders/directives on control of fraud and imposition of Internal Control and checks there against.

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