

Compendium of Instructions
on
Election Expenditure Monitoring
(January - 2014)



ELECTION COMMISSION OF INDIA

FOREWORD

It is true that multi-party democracy cannot function without use of money, which is essential for election campaigns, but it is also conceded at all hands that the abuse of 'Money Power' entails certain risks like uneven playing field, lack of fair competition, political exclusion of certain sectors, co-opted politicians under campaign debts and tainted governance with rule of law undermined. Keeping in view the said risks, the election expenditure monitoring mechanism was put in place by the Commission, for conduct of free and fair elections after discussions with the stakeholders like the political parties, media and civil society organizations. This Compendium of Instructions on election expenditure monitoring was issued for the first time during general election in Bihar in 2010. The said Compendium is updated before every general election, incorporating the changes made during the process of each election.

2. The gist of instructions and copy of all instructions relating to Election Expenditure Monitoring are given in Part-I and Part-II of this compendium. It delineates the role of political parties, candidates, Election officials and Observers and mentions the relevant case laws pertaining to the election expenditure, thus providing a ready reckoner to the election officials, candidates and political parties. This Compendium guides the officers of various Law enforcement agencies about their role during election process.

3. Curbing the use of money power during election process is a very challenging job in view of its inherent complexities involved. The process is still evolving and requires tremendous efforts and cooperation from all stakeholders in order to ensure the purity of the elections. This compendium has also stood the test in the High Courts and in the Apex Court. Besides giving a perspective on the challenges faced during the elections, this compendium seeks to provide a comprehensive picture about Commission's efforts in dealing with this challenge.

Dated: 24.01.2014

Sd/-
(P.K. DASH)
Director General
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1. Introduction:

Section 77(1) of the Representation of the People Act, 1951 makes it mandatory for every candidate to the House of the People or a State Legislative Assembly to keep a separate and correct account of all expenditure incurred or authorized by him or by his election agent, between the date on which he was nominated and the date of declaration of the result of election, both dates inclusive. The total of the said expenditure shall not exceed such amount as may be prescribed under Section 77(3) of R.P. Act, 1951. Under Section 77(2), the account shall contain such particulars as may be prescribed. Rule 90 of the Conduct of Elections Rules, 1961 prescribes varying limits of election expenditure for Parliamentary and Assembly Constituencies in each of the States and Union Territories. Particulars, which have to be shown in the account, are prescribed in Rule 86 of those Rules. The ceilings on expenditure as prescribed are enclosed at **Annexure 1**. Failure to maintain the account is an electoral offence under Section 171-I of the Indian Penal Code.

The incurring or authorizing of expenditure in excess of the limit prescribed under Section 77(3) of R.P. Act, 1951 is a corrupt practice with reference to Section 123(6) of the R.P. Act, 1951. The beneficial object sought to be achieved by making the incurring or authorizing of election expenditure in excess of the prescribed limit as a corrupt practice was elucidated by the Supreme Court in *Kanwar Lal Gupta vs Amar Nath Chawla* (AIR 1975 SC 308), as follows:

“... The object of the provision limiting the expenditure is two fold. In the first place, it should be open to any individual or any political party, howsoever small, to be able to contest an election on a footing of equality with any other individual or political party, howsoever rich and well financed it may be, and no individual or political party should be able to secure an advantage over others by virtue of its superior financial strength....

The other objective of limiting the expenditure is to eliminate, as far as possible, the influence of big money in the electoral process. If there was no limit on expenditure, political parties would go all out for collecting contributions... The pernicious influence of big money would then play a decisive role in controlling the democratic process in the country....”

According to Section 78 of R.P. Act, 1951, every contesting candidate is required to lodge a true copy of the account of his election expenses with the District Election Officer (DEO) within 30 days of the declaration of the result of the election. Failure to lodge the account of election expenses within the time and in the manner required by law without good reason or justification may result in disqualification of

the candidate concerned by the Election Commission of India under Section 10A of R.P. Act, 1951.

The Supreme Court has held in L.R. Shivaramagowde Vs. T.M. Chandrashekar - AIR 1999 SC 252 that the Commission can go into the correctness of the account of election expenses filed by the candidate and disqualify a candidate under Section 10A of the Representation of the People Act, 1951 in case the account is found to be incorrect or untrue. Thus not only a candidate is required to keep his election expenses within the ceiling prescribed by law, he has also to maintain a day to day and true account of his election expenditure in the prescribed manner, present the account for inspection by the Observer, RO or authorized person and submit it to the DEO concerned within 30 days of the declaration of the result. Exceeding the prescribed ceiling of expenditure can be a ground for an election petition against a winning candidate. The legal provisions regarding election expenditure are set out in **Annexure-1** of this Compendium. Instructions have been issued by the Commission from time to time on monitoring of election expenditure and its scrutiny. This Compendium brings together at one place the relevant provisions of law and instructions to be followed scrupulously by election officers, observers, candidates and political parties for effective monitoring and scrutiny of election expenditure.

2. Types of Election Expenditure:

Election expenditure can be broadly put in two categories. The first type is the election expenditure, which is allowed under the law for electioneering, subject to it being within the permissible limit. This would include expenditure connected with campaigning like on public meetings, public rallies posters, banners, vehicles, advertisements in print or electronic media etc. The second category of the expenditure is, on items which are not permitted under law. For example, distribution of money, liquor, or any other item to the electors with intent to influence them comes under the definition of bribery and is an offence under the IPC and corrupt practice under the R.P. Act, 1951. The expenditure on such items is illegal. Yet another form of expenditure which is coming to the fore in recent times is on Surrogate Advertisements, *Paid News* etc. The purpose of election expenditure monitoring is, therefore, twofold. For the first category of expenditure, it must be ensured that all election expenditure on permitted items is truthfully reported and considered while scrutinizing the expenditure account submitted by the candidates. As far as the second category of expenditure including surrogate advertisements,

paid news etc., is concerned, it is obvious that it will never be reported by the political parties/ candidates. The systems should be robust enough to catch such expenditure as well, and not only include it in the account of election expenditure, but also take action against the wrongdoers under the relevant provisions of the law, including lodging of complaints before the police/ competent magistrate, if required.

3. Election Expenditure Monitoring mechanism:

For monitoring day to day election expenditure incurred by the candidate, election expenditure mechanism will be put in place in each constituency. Maintenance of the day to day account of election expenditure by the candidate is mandatory. Though the account of election expenditure is required to be submitted within 30 days from the date of the declaration of the result, the monitoring has to be done on a regular basis during the campaign period for it to be of any use. After the campaign is over it will be difficult to get any evidence of election expenditure. Since, the DEO is required under the law to scrutinize and submit a report to the Commission after the election, it is primarily the duty of the DEO to collect proper evidence during election campaign, based on which it will be decided whether any expenditure is left out in the statements of accounts submitted by the candidates. The following will be the structure of the Expenditure monitoring mechanism:

3.1. Structure of Election Expenditure Monitoring Mechanism:

3. 1. 1. Expenditure Observers (EO) :

The Expenditure Observers shall be appointed by the Commission for specified constituencies to observe the election expenses by the candidates. There shall be at least one Expenditure Observer for each district, but each Expenditure Observer ordinarily shall not have more than five Assembly Constituencies under his observation.

3.1.2. Assistant Expenditure Observers (AEO):

Assistant Expenditure Observers (AEO) shall be appointed for each constituency on date of notification of election by the DEO and if change is suggested by the Expenditure Observer, the same shall be carried out. The AEO shall be of the rank of Group B Officer or equivalent in other Central Government Services. If the officers of Income Tax Dept. are engaged by the Investigation Directorate for the seizure of cash and goods, then such names should not be requisitioned for the AEO's duty. If there is absence of such officers in the district then officers of the State Treasury or Finance Department may be nominated. He should preferably be a local officer,

posted within the same district or nearby but whose work place and home town should not be in the same Constituency. He will be provided with a vehicle, one personal security and a local SIM card, office space in the office premises of the RO, as he will be coordinating with all the teams, nodal officers and the Expenditure Observer. If the HQ of the AEO is different from the constituency, he shall be provided with lodging and boarding in the constituency. He shall claim the Daily allowance as admissible to him and shall be paid by DEO/RO

3.1.3. Video Surveillance Teams (VST):

One or more Video Surveillance Teams shall be deployed for each Assembly Constituency/ Segment consisting of minimum one official and one videographer. If necessary, more number of teams may be deployed on the recommendation of Expenditure Observer. Assistant Expenditure observer shall be personally supervising videography of sensitive events and big public rallies in the constituency. If more than one public rally is organized on the same day, more than one video teams will be deployed to record the procession and the rally.

3.1.4. Video Viewing Team (VVT):

There shall be a Video **Viewing Team** for each Assembly Constituency/Segment with one officer and two clerks.

3.1.5. Accounting Teams (AT):

There shall be at least one Accounting Team for each Assembly Constituency/Segment consisting of one official and one Assistant / Clerk. The personnel of the Accounting Team should be drawn from the accounts sections of various Government departments, or Public Sector Undertakings.

3.1.6. Complaint Monitoring Control Room and Call Centre:

A 24X7 Call Centre will be established in the Control Room at the district level to operate from the date of announcement of election. The call center will be given toll free telephone number with 3 or 4 hunting lines which will be widely publicized for the public to inform corrupt practices related to election. A senior officer will be put in-charge of the control room and call center who will be responsible for receiving and recording the complaints and passing them on to the officer concerned or the flying squad for action without any delay. The call center will be provided with sufficient staff to man the telephone lines round the clock.

3.1.7. Media Certification and Monitoring Committee (MCMC) :

There shall be a Media Certification and Monitoring Committee in each district. This

will be in expansion of the existing Committee at the level of Returning Officer already in place for certification of advertisements in electronic media created vide Commission's letter No.509/75/2004/JSI, dated 15th April 2004. (**Annexure-17**). As per the instruction dated 27th August, 2012 (**Annexure-70**), of the Commission:

The District level CMC shall be formed in each district with the following members:

- (a) DEO/RO (of Parliamentary Constituency)
- (b) ARO(not below SDM)
- (c) Central Govt. I & B Ministry official (if any in the district)
- (d) Independent Citizen/Journalist as may be recommended by PCI
- (e) DPRO/District Information Officer/equivalent – Member Secretary

The State level MCMC shall comprise of the following officers:

- (a) The Chief Electoral Officer, Chairman
- (b) Any Observer appointed by the Election Commission of India
- (c) One expert to be co-opted by the Committee.
- (d) Officer of Indian Information Service (IIS), (at the level of US/DS) posted in the State/UT, representing a media Department of Government of India as separate from the expert at (c) above.
- (e) Independent citizen or journalist as nominated by PCI (if any)
- (f) Addl/Jt CEO in charge of Media (Member Secretary).

3.1.8. Flying Squads (FS):

There shall be three or more dedicated Flying Squads under each Assembly Constituency/Segment for tracking illegal cash transactions or any distribution of liquor or any other items suspected of being used or bribing the voters. The Flying Squads will consist of one Senior Executive Magistrate as the Head of the Team, one Senior Police Officer of the Police Station, one videographer and 3 to 4 armed police personnel. They are to be provided with a dedicated vehicle, mobile phone, a video camera and necessary Panchnama documents required for seizure of cash or goods.

3.1.9. Static Surveillance Team (SST):

There shall be three or more surveillance teams under each Assembly Constituency with one Magistrate and three or four police personnel in each team. This team shall put check posts and keep watch on movement of large quantities of cash, illegal liquor, any suspicious item or arms being carried in their area. The entire process of checking shall be videographed.

3.1.10. Expenditure Monitoring Cell:

The DEO shall appoint one senior officer not below the rank of SDM/ADM conversant with the accounting as the Nodal Officer of the Expenditure Monitoring Cell. All teams mentioned above and the Nodal Officer shall constitute the Expenditure Monitoring Cell.

3.1.11. The CEO shall appoint one senior officer in his office, not below the rank of Jt. CEO for coordination on expenditure monitoring with Commission, training of expenditure related personnel and political party functionaries, coordination with all the DEOs and other enforcement agencies.

4. Functions of different teams in Expenditure Monitoring Mechanism:

4.1.1. Expenditure Sensitive Constituency (ESC):

On the basis of past history, profile of the constituency and other developments, the CEO shall identify the constituencies which are prone to high expenditure and corrupt practices. Such constituency will be termed as “Expenditure Sensitive Constituency”. For such constituencies, there will be two Assistant Expenditure Observers, two Flying Squads, more number of static surveillance teams and video surveillance teams. The CEO should facilitate effective functioning of the teams engaged in expenditure monitoring work. The list of such constituencies should be sent to the Commission well in advance.

4.1.2. Expenditure sensitive pockets (ESP):

The expenditure sensitive pockets are to be identified in consultation with the Expenditure Observer (during first visit), on the basis of the literacy or economic development or the number of complaints in the last election. Such pockets are to be kept under close vigil by the SSTs during last three days before elections.

4.2. Expenditure Observers

4.2.1. Visit of the Expenditure Observer:

The Expenditure Observer shall reach the constituency on the day of the notification of elections for duration of 3 clear days. During this visit he shall meet all the teams, engaged in election expenditure monitoring. If Expenditure Observer is not satisfied with the performance of AEO he shall ask for change and the DEO shall provide additional list of officers; he may change AEOs depending on their suitability. He shall also train all officials about the new procedure and ensure that the teams are properly equipped. He shall coordinate with DEO, S.P, Nodal Officers of Police, Income Tax and State Excise and other enforcement agencies. He will leave the constituency after submitting poll preparedness report.

- 4.2.2.** He shall again visit the constituency for the second time, on the date immediately after the date of withdrawal of candidatures and shall remain in the constituency during the entire campaign period, and shall leave the constituency only after the poll. If he is performing the function of the General Observer, he will leave the constituency only after scrutiny of Form 17-A, and ensuring that the Presiding Officer's diary is complete and the strong rooms are sealed. He may also be required to stay till the completion of counting.
- 4.2.3.** The Expenditure Observer shall once again visit the district on 30th day after the declaration of results and stay in the district for 7 clear days to assist the DEO in scrutinizing the statements of accounts of election expenditure submitted by the candidates after the declaration of results. The DEO shall facilitate that all candidates/agents lodge the account within 30 days of declaration of result.
- 4.2.4. Role of Expenditure Observer:**
Expenditure Observers are the eyes and ears of the Commission for monitoring of election expenditure. Expenditure Observer shall supervise and guide the entire election expenditure monitoring personnel engaged in the constituency. He shall guide the DEO in imparting final training of all the expenditure monitoring personnel.
- 4.2.5.** He shall supervise the functioning of Assistant Expenditure Observers. There may be more than one Assistant Expenditure Observer for a constituency, depending on the requirement. He shall give final training to the Assistant Expenditure Observers. He shall periodically inspect the functioning of all the teams engaged in expenditure monitoring and wherever there is laxity or irregularities in functioning of any of the teams, he shall bring it to the notice of the DEO. The DEO shall take corrective steps immediately on the recommendation of the Expenditure Observer.
- 4.2.6.** He shall inspect the expenditure register of each candidate at least three times during the campaign period and give his comments on the discrepancies. The dates of inspection should be fixed in such a way that the gap between two inspections should not be less than 3 days and the last inspection should be fixed not before 3 days from the poll day, so that major campaign expenditure is covered under inspection
- 4.2.7.** He shall supervise the maintenance of the Shadow Observation Register for each candidate.
- 4.2.8.** He shall coordinate with the Investigation Directorate of the Income Tax Dept., Nodal Officer of Police, Nodal Officer of State Excise Dept., and ensure that there is

free flow and exchange of information among all the agencies. On receipt of information from any agency, action is to be taken promptly by the law enforcement agencies concerned. In case action is not taken in time by any agency, he shall immediately bring it to the notice of the Commission, with copy to CEO.

4.2.9. In case of any seizure by the Surveillance Teams, Flying Squads, Investigation Directorate of Income Tax or by Police or State Excise Dept., he shall fax the report to the Commission on the same day with copy to CEO.

4.2.10. He shall be mentioning the suppression of campaign expenditure, if any, vis a vis the shadow observation register, noticed during inspection of day to day account of the candidates. In this regard Order of the Commission issued on 14th March, 2013 (Annexure-74), for formation of District Expenditure Monitoring Committee and decision on the replies of the candidates shall be followed. He shall ensure that a copy of this order is served on all candidates. During his last visit, he shall assist the DEO in submitting the Scrutiny Report correctly. In case, he does not agree with the DEO, he shall mention all the reasons citing evidences, in the space mentioned for his comments on the DEO's Scrutiny Report.

4.2.11. If any candidate during all the inspections has reported "nil" expenditure either on public rally or posters/pamphlets or media expenses or vehicles expense, though he had obtained permission from the DEO, to hold such public rallies or use vehicles etc., such cases shall be brought to the notice of the DEO and Returning Officer with copy to the CEO immediately after each inspection, mentioning the names of such candidates and the heads of expenditure where it is shown as "nil".

4.2.12. Expenditure Observer Reports

He shall submit (i) Arrival and Departure Report within 24 hours (**Annexure 2**), (ii) First report on the third day of his first visit i.e., after the date of notification.(**Annexure 3A**), (ii) Second report within 24 Hrs after withdrawal of candidature during the 2nd visit.(**Annexure 3B**), (iii) Third report after the poll (**Annexure 4**) and (iv) Fourth and final report after his 3rd visit as per proforma mentioned at **Annexure 5**.

He shall also inform to the MCMC, all the instances of suspected Paid News brought to his notice independently by any source, on the same day for necessary action. Besides, he shall report to the Commission, in his Expenditure Report III (**Annexure - 4**) all the instances of Paid News as decided by the MCMC, and forward a photocopy or CD/DVD of the Advertisement/Paid News to the Commission, with copy to the

CEO.

4.3.1. Assistant Expenditure Observer:

He shall be deployed in the constituency from the date of the notification and will not leave the constituency without the permission of the Expenditure Observer. There shall be at least one Assistant Expenditure Observer for each Assembly Constituency/Segment. But in expenditure sensitive constituencies, there may be two or more Assistant Expenditure Observers - one for outdoor recording of events and other for coordination with the teams.

4.3.2. The Assistant Expenditure Observer shall see reports of the video CDs, read all the complaints and reports with respect to each candidate, and study the Shadow Observation Register (See para 5.1 with regard to the maintenance of Shadow Observation Register) and the Candidate's Expenditure Register. He shall supervise the maintenance of the Shadow Observation Register and Folder of Evidence. The Assistant Expenditure Observer shall be trained by the DEO before arrival of EO and he shall work under his supervision and guidance of EO. He shall ensure that all the expenditure related reports/ orders in respect of each candidate are obtained from all the teams engaged in Expenditure Monitoring and are properly reflected in the candidate's day to day accounts of Election Expenditure. In case of complaint of corrupt practice, he shall pass on the same to the flying Squads for immediate action and inform the Expenditure Observer immediately. The flying squads shall report to him about action taken on each complaint. If no action is taken by the squad or there is delay in taking action, he should bring it to the notice of Expenditure Observer, who in turn shall report to the Commission with copy to the DEO and CEO. If he thinks that the SST are not working in proper arterial roads, he may suggest changes.

4.3.3. He shall submit a daily report to the Expenditure Observer on all his activities as per **Annexure-6**. Till the EO reaches the Constituency, the AEO shall submit his report to DEO/RO which shall be brought to the notice of the EO afterwards. The folder of evidence will have all records of the evidences collected during the campaign. He shall make it available to the Expenditure Observer at the time of inspection of the candidate's register for election expenses. In case of any evidence of suppression or understatement of expenses in candidate's register, the Assistant Expenditure Observer shall bring it to the notice of the Expenditure Observer and through him to the candidate appropriately during the inspection. For any understatement of

expenditure in the candidate's register, the Expenditure Observer shall give his remarks in the candidate's register during inspection and put his signature. The same shall be noted in the Shadow Observation Register and the signature of the election agent/ candidate obtained on it. Such discrepancy should be referred to the R.O. on the same day, who shall issue notice to the candidate on the same day as per order of Commission, dated 14th March,2013 (**Annexure-74**) In case of any difficulty, the Expenditure Observer in turn shall inform the Commission and seek its guidance.

4.3.4. The Assistant Expenditure Observer shall also assist the EO and also the DEO in submission of his scrutiny report to the Commission. He shall remain present during the third visit of Expenditure Observer to the district and shall assist him in his task.

4.3.5. The Assistant Expenditure Observer co-ordinate with the Media Certification and Monitoring Committee (MCMC) at the distinct level and report to the Expenditure Observer about its effective functioning. If all the cables/channels/newspapers are not being watched by this committee, it should be brought to the notice of the Expenditure Observer/Commission immediately with copy to the DEO and CEO.

4.3.6. If any campaign related public rally/procession/event could not be videographed due to unavailability of videographer, the Assistant Expenditure Observer shall mention such incident in Shadow Observation Register. If any advertisement in print or electronic media is not reported by the media committee, the Assistant Expenditure Observer shall obtain a copy and mention it in Shadow Observation Register.

4.4.1. Video Surveillance Teams:

The Video Surveillance Team shall be properly trained and oriented to capture all the expenditure related events and evidences. The Video Surveillance Team, at the beginning of the shooting shall record in voice mode the title and the type of the event, date, place and the name of the party and candidate organizing the event. It shall videograph the vehicles/event/poster/cut-outs etc. in such a way that the evidence of each vehicle, its make and registration number, number of furniture, size of rostrum, banner, and cutout etc. can be clearly seen and the expense thereon can be calculated. Wherever possible, statements of the drivers and passengers of the vehicle should also be recorded to prove that the vehicle was used for election purpose, if such vehicles are parked outside the venue of rally.

4.4.2. During the shooting of the event, the video team shall also record in voice describing the estimated number and type of vehicles, chairs/ furniture/ lights/

loudspeakers etc., the approximate size of rostrum/banner/poster/cutout etc. used in the event. It will then be easier for the Video Viewing Team to cross check with reference to the visuals and estimate the expenditure of the event. They will also record the speech and other events to monitor whether any Model Code of Conduct (MCC) violation has occurred.

- 4.4.3.** The video surveillance team shall prepare a Cue Sheet at the time of recording in the format given in **Annexure -7**. This cue sheet should be given to the viewing team along with the recorded CD. The video CD should have identification number, date and name of the Staff/officer and should always be kept with the cue sheet. The purpose of maintaining a cue sheet is to see at a glance the evidence available in the CD and also to view the relevant part of the evidence in a short time.
- 4.4.4.** In case of more than one event or public rally or procession on the same day, appropriate number of video teams should be deployed and the DEO will provide all logistics required by the Assistant Expenditure Observer.

4.5. Video Viewing Team:

The Video Viewing Team shall make CDs in house out of the video recordings, captured by video surveillance Teams. Video recordings should not be given to any outside agency for editing or any other purpose to avoid manipulation by any outsider.. The video CDs captured by video surveillance team shall be viewed by the Video Viewing Team daily for identifying expenditure related issues and MCC related issues. They shall submit, on the same day and in any case not later than the next day, their reports related to expenditure to the Accounting Team/ Assistant Expenditure Observer. In expenditure related reports, the team will put the registration number of all the vehicles and their make, size of the dais, the number of chairs, size of the text in Banner/Poster, size and number of cut-outs and all other items of expenditure captured in the video. The reports/observations related to the MCC shall be submitted by this team to the General Observer/RO. The Accounting Team and the Assistant Expenditure Observer shall put the rates for expenditure, calculate total expenditure based on the video evidences and make entry in the Shadow Observation Register for the candidate concerned. The same shall be compared with the candidate's register when that is produced before the Expenditure Observer for verification. As explained earlier, any suppression or omission shall be pointed out for corrective measures in writing by the R.O.

immediately within 24 hours.

4.5.1. Police Observers:

In expenditure sensitive constituencies, Police Observers not below the rank of Dy. I.G. level from outside the State shall be deployed to supervise the operation of Flying Squads, and Static Surveillance teams, in the region comprising of a few districts. The Police Observers shall ensure that all the complaints are promptly acted upon by the Flying Squad in a fair and impartial manner and the Static Surveillance teams work effectively. It shall be ensured that there is no multiple checking of a vehicle or person and the proper counter check is put to keep watch on the officials engaged in checking. He shall also ensure that the person from whom seizure is effected, is given proper acknowledgment and also the details of authority, to whom he has to appeal. A copy of the Daily Activity Report by the Flying Squad and Static Surveillance Team will be forwarded to him on the same day. If he is not satisfied with the functioning, he will coordinate with the Nodal Police Officer of the State and the CEO to have central police force in the teams. In case the problem is not sorted out, he shall report to the Commission immediately.

4.5.2. The Police Observer shall report in the constituency on the date of notification and shall remain till the end of the poll. The Arrival and Departure Report along with the Police Observer Report-I and Police Observer Report-II will be sent to the Commission with a copy to the CEO. **(Annexure 51 and 52)**

4.5.3. The Police Observers shall also coordinate with Expenditure Observers regarding expenditure matters and with General Observers regarding MCC matters. He shall also coordinate with the officers of Investigation Directorate of Income Tax Department and officers of State Excise Department.

4.5.4. In case of any apprehension of law and order problem or large scale complaints about distribution of cash or gifts or liquor, he shall keep the Commission informed about remedial measures taken by him.

4.5.5. Awareness Observer

Awareness Observer will be deployed by the Commission during the election process. In case the MCMC have any doubt regarding suspected cases of paid news, the Awareness Observer may be consulted.

4.6.1. Flying Squads (FS) and Static Surveillance Teams (SST)

For the purpose of maintaining purity of elections, the Election Commission of India has issued a Standard Operating Procedure (S.O.P) for Flying Squads, Static

Surveillance Teams and Check Posts, constituted for keeping vigil over excessive campaign expenses, distribution of items of bribe in cash or in kind, movement of illegal arms, ammunition, liquor, or antisocial elements etc. in the constituency during election process, as per **Annexure-73** and Daily Activity Reports to be furnished by the FS and SST in the formats enclosed with it. The members of each Flying Squad and Static Surveillance Team to the extent possible should not assigned duty for more than 8 hrs in a day and to be dismantled immediately after poll/repoll.

- 4.6.2.** The Seized amount will not be treated as election expenditure of the candidate till the case filed in the court is decided finally and till such time it shall not be entered in Shadow Observation Register. The Complaint/FIR copy shall be kept in the folder of evidence. (Commission's Instruction no. 76/Instrucitons/2013/EEPS/VoIV dated 18th April, 2013, **Annexure 54**)

4.7. Expenditure Sensitive Pockets (ESP)

- (i) The DEO and SP in consultation with the Expenditure Observer shall identify the Expenditure Sensitive Pockets in the constituency. These areas should be under 24x7 surveillance by the SSTs during the last three days of poll. There shall be mix of CPF in the SST during this period.
- (ii) Where information is received that a candidate is indulging in high election expenditure, such candidate should be *put* under video surveillance all the time.

4.8 Standard Operating Procedure for checking helicopters/Private aircrafts –

The Bureau of Civil Aviation Security vide its O.M. No. CAS-7 (15)/2012/Div-I (Election), dated 03.07.2013 and Addendum No. CAS-7(15)/2012/DIV I (Election), dated 25-07-2013 (**Annexure 53 and 53A 53B**) has issued instruction in supersession of all other instructions recommending the following steps:

Pre-embarkation checks at Commercial Airports:

- (i) During election process, all rules and procedures with regard to frisking and checking of persons and baggage should be strictly enforced without any exception. All passengers (excepting those who are exempted under the Rules) and all the baggage (excepting that which is exempted under the Rules), boarding any aircraft/helicopters including commercial/ chartered flights will pass through the pre-embarkation security checks area of operational airports of the State going of Polls.
- (ii) No prior permission for landing or take off of chartered aircrafts (including fixed wing aircrafts) and helicopters at commercial airports shall be required from District

Election Officer (DEO) or Returning Officer (RO). The Air Traffic Control (ATC) in commercial airports shall inform the Chief Electoral Officer (CEO) of the State and the DEO of the district, in which the airport is located, about the travel plan of chartered aircrafts or helicopters as early as possible, preferably half an hour in advance.

- (iii) However, during election process, the ATC shall keep record of all such chartered aircrafts or helicopters, landing and taking off from commercial airports, time of landing, time of take off and passenger manifest, route plan etc. The ATC shall make a copy of this information available to the CEO of the State concerned and to DEO of the district, in which airport is located, within 3 days, after the date of landing/take off and the CEO/DEO shall make such information available to the Expenditure Observer for making necessary verification during inspection. The ATC shall also make the record available for inspection by Expenditure Observer whenever required.
- (iv) All baggage, including hand baggage, of persons/passengers (not exempted under the Rules) but permitted to avail the facility of vehicle for going up to aircraft shall also be screened by CISF/State/UT police without any relaxation.
- (v) The CISF or police authorities of the State or Union Territory on detection of cash, exceeding Rs.10 lakhs or bullion, weighing 1 kg or more in the baggage of aircrafts, flying to or from the Poll bound State, shall instantaneously report to the Income Tax Department.
- (vi) The Income Tax Department, on receipt of information shall make necessary verification as per the Income Tax Laws and take necessary measures if no satisfactory explanation is given. They shall also inform the Election Commission / Chief Electoral Officer / District Election Officer concerned, before release of any such cash or bullion.
- (vii) The law enforcement agencies, like CISF, State Police and Income Tax Department shall develop their internal Standard Operating Procedure (SOP) in such a way that the entire event right from detection till seizure or release at the airport is captured by close circuit TVs/ Video Camera. For this purpose the CCTVs shall be installed in all commercial airports in places where the cash/ bullion is detected counted/ seized and also in the interrogation chambers of the law enforcement agencies including Income Tax Department Such recording of CCTVs / Video Camera shall be preserved with the Airport Operator/ Authority for a period of 3

months and when required, be made available to the Election Commission/CEO.

Checks at Non-commercial Airports/helipads :

- (viii) At remote/uncontrolled airports/helipads, the flying squad or police authorities of the State/UT in coordination with pilot of the aircraft shall carry out the screening/physical checking of all baggage coming out of the craft (excepting the handheld purse or pouch by any passenger). Any unauthorized arms, contraband goods, cash exceeding Rs.50,000/- belonging to any candidate or agent or party functionary shall be investigated and considered for seizure as per order of Hon'ble Supreme Court in Election Commissioner vs Bhagyoday Janparishad & Ors. WP No. 231/2012, dated 09.11.2012. However, it is clarified that frisking of body of any passenger shall not be done at the time of disembarkation at such remote uncontrolled airports/helipads, unless there is specific information about unauthorized arms or contraband goods, etc., being carried by the person.
- (ix) At remote/uncontrolled airports and helipads, application will have to be made either by the candidate or by the political party to the DEO concerned, at least 24 hours before landing, mentioning the details of travel plan, place of landing in the district and names of passengers in the aircrafts/helicopters so that DEO can make adequate arrangements for security, law and order issues and also to make available the coordinates of the helipad. On receipt of such application, DEO shall issue permission on the same day on priority basis.
- (x) Every candidate shall also inform the Returning Officer concerned in writing within five days after the landing of aircraft/helicopter, in his constituency about the hiring charges paid/payable to the company owning/leasing the aircraft/helicopter, the names of passengers and name of the political party. (if the party has borne the expense for the hiring)
- (xi) Passengers, crew and baggage to be transported in General Aviation/Chartered/Private aircrafts and aircrafts owned or hired by state governments shall be emplaned through the normal pre-embarkation security check procedure as is applicable to scheduled flights. Similarly normal disembarkation channel shall be followed and exit of such passengers and baggage shall not be allowed through any other gate of the airport. Movement of exempted category passengers is to be coordinated in advance for smooth passage but their hold baggage will be screened.
- (xii) Baggage (except the handheld purse or pouch by any passenger) of arriving

passengers, crew in respect of General Aviation/Chartered/Private aircrafts and aircraft owned or hired by state governments shall be screened/physically checked randomly by CISF/ASG or State Police where deployed. The X-BIS may be provided on arrival by the airport operator CISF/ASG shall arrange to deploy additional manpower, If necessary for this duty:

- (xiii) Airport operators manning the In-line Baggage Screening System (IBSS) and the aircraft operators engaged in screening of baggage through stand alone X-BIS shall report the detection of an unauthorized arms to police and suspicious money/bullion to Income Tax Officer(s) posted at the airports in poll going states without any delay; and
- (xiv) It will be the responsibility of District Magistrate / SP to prevent transport of unauthorized arms, contraband goods and suspicious money/bullion in General Aviation/ Chartered/ Private aircrafts and aircraft owned or hired by state governments operating to/from remote/ uncontrolled airports/helipads to poll going states during election process.

4.9.1 Nodal Officer at Police Headquarters:

One officer of the level of Inspector General at the Police Head Quarters of the state as selected by the Commission shall be notified as the Nodal Officer for coordination with all flying squads, SSTs, all law enforcement agencies and with the Commission. The CEO will send a panel of three names of IG rank, who have not been admonished by ECI earlier. His office telephone/fax number and mobile number shall be intimated to the Expenditure Observers, Investigation Directorate, Excise Department and other law enforcement agencies during election. He shall train all master trainers of districts, who in turn shall train all personal engaged in Flying Squad or SST. He shall be responsible for coordination with other law enforcement agencies, engaged in the election expenditure monitoring.

- 4.9.2** He shall compile the seizure reports by the **FSs** and **SSTs** sent by the SPs of districts and send the composite Daily Activity Report as per **Annexure-8, 8A & 9** by fax to the Expenditure Monitoring Cell of Commission every day, with copy to CEO.

4.10. Accounting Teams:

- 4.10.1.** The accounting teams shall work under the guidance of the Assistant Expenditure Observer for maintaining the 'Shadow Observation Register' and 'Folder of Evidence' of each candidate of the Assembly Constituency / Segment. They shall enter the items of expenditure, as reported to them and put the notified rates against

each item and calculate the total expenditure on the items for each candidate. The format of `Shadow Observation Register` is given at **Annexure-11**.

4.10.2. There are cases when election campaign material is used after filing of nomination, though it might have been paid for before the nomination is filed. The Team shall ensure that the expenditure on all the election campaign material which is used after the filing of nomination is included in the Shadow Observation Register, though the payment for it may have been made before filing of nominations. Similarly, the expenditure on rally or procession in connection with filing of nomination should be shown as part of the election expenditure.

4.11. Complaint Monitoring Control Room and Call Centre:

There shall be a Call Centre for registering complaints and a Control Room for communication between various functionaries involved in expenditure monitoring in each district. All voice complaints made by any public/whistle blower should be entered in the complaint register with timings noted against each complaint.. The expenditure related complaints are to be passed on immediately to the officer concerned of the Flying Squad with intimation to the Expenditure Observer, and in case of MCC related complaints, a copy is to be passed on to the General Observer. A register should also be maintained in the format given in **Annexure 13**, with the name and address of the complainant, nature of complaint, timing of complaint and action taken on the complaint by the Control Room. The Expenditure Observer and General Observer shall inspect this register from time to time to ensure that the control room functions smoothly and the complaints are passed on instantly for further necessary action.

4.11.1. Media Certification and Monitoring Committee (MCMC) :

As already directed vide Commission letter No. 491/Media Policy/2010,dated 23rd Sept 2010 in relation to the measures to check Paid News (**Annexure-45**), the expanded and reconstituted committee at the District level, besides carrying out the already assigned work of certification of advertisements, will also monitor both print and electronic media including cable networks, and record either in CD or DVD/ keep a photocopy of all advertisements / paid news / election related news of the contesting candidates/political parties. The DEO shall ensure that this Committee is provided with all the national and local newspapers, having wide circulation in the constituency, three to four TV sets with connections of all the local and national News channels and one recording device and separate rooms so

that they can watch and record all the advertisements/discussions related to the election.

4.11.2. The Commission vide its letters No. 509/75/2004/JS-I, dated 15th April, 2004 (**Annexure-17**) and No. 509/75/2004/J.S.-1/Vol.II/RCC,dated 21st November 2008 (**Annexure-26**) had directed that the advertisements of political nature on TV Channel, cable networks, radio, including the FM Channels, during the period when Model Code of Conduct is in operation, can only be made after prior clearance from Scrutiny Committee constituted by the Chief Electoral Officer concerned for the purpose. Application for such proposed advertisements shall contain the following details:

- (i) Cost of production of the advertisement;
- (ii) Approximate cost of proposed telecast/ broadcast of such advertisement on a television channel or cable network/ Radio with the break-up of number of insertions and rate proposed to be charged for each insertion;
- (iii) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s) or political party/ parties;
- (iv) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate; and
- (v) A statement that all the payments have been made by way of cheque or demand draft.

4.11.3. Whenever the District Level Committee or the committee constituted by the CEO, grants permission for any advertisement, it shall forward a copy of the permission along with all expenditure details to the concerned DEO and the accounting team which will include the expenditure in the Shadow Observation Register.

4.11.4. The political party/ candidate shall have to submit the details of expenditure on the telecast/ broadcast in electronic media and advertisement/ paid news in print media. If the MCMC finds that any advertisement has been made in TV, Radio, Cable Network, FM Channel, in favour of any candidate without proper permission, they shall inform the RO immediately.

4.11.5. If the MCMC finds any advertisement or advertorial published in Print Media, it will bring it to the notice of expenditure observer and a copy of the same will be placed in the folder of evidence. The expenditure on this advertisement will be mentioned in the Shadow Observation Register and intimated to the candidate during inspection of

his register. As per section 127 A of the R.P. Act, 1951, no person shall print or publish or cause to be printed or published any election pamphlet or poster, handbill or other document without mentioning the name and address of the printer and the publisher, and without obtaining declaration from the publisher which is attested by two persons. It is the responsibility of such press to deliver a copy of the declaration along with copy of the document to the DEO/CEO, within a reasonable time after printing the document. As per instructions of the Commission vide No. 491/Media/2012 dated 08.06.2010 (**Annexure 29A**) and **3/09/2007/JS-II dated 16.10.2007 (Annexure 29D)**, printing other documents for the purpose of section 127A includes any advertisement inserted in news paper and “Paid News” published in any news paper. For violation of this provision, the penalty on the printer or the person is six months of imprisonment or fine up to Rs.2000/-. Therefore, the R.O. shall issue notice to candidate bringing to his notice such advertisements published and the notional expenditure involved in the advertisement and whether declaration/authorisation has been given by him for printing such material. hereafter, the matter will be taken up with such mediahouse, for printing advertisement, in violation of section 127 A of R.P. Act 1951. In this regard Commission’s instructions contained in its letter no.509/75/2004/JSI/VoIII/RCC, dated 21-11-08 given at **Annexure-26**, may also be followed. The format for application of Advertisement and Certification of Advertisement for telecast are also enclosed at **Annexure 27** and **28**.

4.12.1. Paid News:

The Paid News has been defined by Press Council of India as ‘any news or analysis appearing in any media (Print and Electronic) for a price in cash or kind as consideration’. The Commission has decided to go by this definition. The ECI circular No.491/Media/2010 dated 8th June 2010 sets out the approach to Paid News and the action that needs to be taken. (**Annexure-29A**).The MCMC shall see all the newspapers, print media, electronic media, cable network, mobile network and other modes of mass communication, like bulk SMSs etc., (**Annexure 63**) and keep record of the advertisements, advertorials, messages, discussions and interviews relating to the candidates and parties. This committee will submit a Daily Report with respect to each candidate in a format given in **Annexure-12** to the accounting team with copy to RO and Expenditure Observer with respect to expenditure incurred by the candidate on election advertising including the assessed cases of Paid News, along

with supportive paper cuttings/clippings, recordings of relevant TV and Radio advertisements, which will also be included in the Shadow Observation Register. The RO will issue notice to the candidate with regard to the incidents of Paid News in consultation with the Expenditure Observer for not showing the expenditure on such publication. The Expenditure Observer shall send a report of Paid News along with copy thereof to the Election Commission within 24 hours.

- 4.12.2.** The CEO shall obtain standard rate cards from the TV channels/Radio Channels/ News Papers, broadcasting/circulated in the State/ UT, six months before due date of expiry of Lok Sabha/State/UT assembly. Such rate cards will be given to the Accounting Team for calculation of rates of advertisements. The Accounting Team will calculate the expenditure involved at the DAVP/DPIR rate, whichever is lower, and will mention it in the Shadow Observation Register. The Expenditure Observer will bring such discrepancies to the notice of the candidate/his election agent at the time of inspection and mention the discrepancies in the expenditure on account of Paid News in the remarks column of the Register of election expenses of the candidate.
- 4.12.3.** The copies of all such notices along with the paid news should be displayed in the notice board of R.O and the District Election Website/ CEO Website. The copies of the same can be given to any member of public on payment of Rs.1/- per page.
- 4.12.4.** In case of dispute by the candidate in admitting the expenditure on account of paid news, such cases may be considered in appeal by the State level committee already envisaged in Commission's circular dated 8th June 2010, which has been again expanded and reconstituted, and the membership notified by Commission's separate circular vide letter no. 491/Media/2009 dated 18.03.2011 (**Annexure-29B**). The Commission has issued guidelines putting time frame for appeal against decision of MCMC to State Level MCMC and also the procedure involved vide its letter no.491/Paid News/2012/Media,dated 27th August,2012 (**Annexure-70**)
- 4.12.5.** In order to bring uniformity in dealing with the instances of alleged *Paid News* and advertisements on TV/Cable Channels owned by political parties or their functionaries/ office bearers, the Commission vide its letter No.491/Media/2011 (Advt, dated 16-08-2011 (**Annexure 29 C**) has directed the CEOs of all the states to issue the following guidelines: -
1. Six months before the due date of expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio

channels/newspapers, broadcasting/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and forwarded to the Commission. Similar action shall be taken in respect of any news channel, newspaper, etc., introduced within this said period of six months.

2. The Media Certification and Monitoring Committee (MCMC) at District level and State level will monitor all political advertisements in relation to candidates, either overt or covert, and will intimate the Returning Officer for issue of notices to candidates for inclusion of notional expenditure based on standard rate cards in their election expenses account, even if, they actually do not pay any amount to the channel/newspaper, that is otherwise the case with “Paid News”. This will also include publicity by or on behalf of candidate by Star Campaigner (s) or others, to impact his electoral prospects. A copy of the notice will also be marked to Election Expenditure Observer.
3. In case of bye-election to Parliamentary or Assembly constituency, the standard rate card will be obtained by the District Election Officer concerned immediately on announcement of the bye-election and Media Certification and Monitoring Committee (MCMC) will take due action immediately afterwards.
4. Like in the case of “Paid News”, the Chief Electoral Officer and District Election Officers will brief political parties and media houses about the above guidelines before the commencement of the election campaign.
5. In case of any technical doubt relating to the application of the standard rate card, the matter would be referred to the DAVP, Ministry of I&B, Govt. of India for advice.

4.12.6. Monitoring of Campaign through Electronic/ Print Media including Cable Network:

The MCMC shall closely watch the campaign through Electronic/ Print Media including Cable Network, radio etc. and a pre-certification is done in case of advertisement in electronic media. A meeting shall be taken by the DEO with the political parties and also with the representative of news papers and in case of Print Media clarify to them that all the advertisements issued/published by them would have to be properly owned as per section 127 A of R. P. Act, 1951 and any practice of surrogate advertising shall be dealt with sternly. The DEO shall take particular care

to alert political parties, candidates and media that 'news reports' based on 'payments', generally described as Paid News shall be accounted through MCMC and they must refrain from such practice. The DEO shall also explain the new Expenditure Monitoring Mechanism and related legal provisions. He shall request the political parties to exercise self-restraint and thorough Political Parties, advise all their candidates to exercise similar restraint on expenditure. At the state level, the Chief Electoral Officer shall do the same exercise.

4.12.7. If the advertisement for general party propaganda with photo or appeal of the leader (Star Campaigner) within the meaning of section 77 of the R.P.Act, 1951), is made in print and electronic media, without any reference to any candidate, then expenditure on such general party advertisement shall be booked to the account of the political party. If such leader happens to be a candidate in any constituency, the expenditure on such general party propaganda, even if it contains his photo, in print and electronic media, shall not be booked to the account of such leader, as it is in the nature of general party propaganda, without having any reference to his constituency. (Commission's letter NO.76/Instructions/2012/EEPS dated 20th January, 2012, at **Annexure 58**)

4.12.8. The Commission has issued Code of Conduct for Television broadcasts in connection with election as per **Annexure-72**.

4.12.9. Instructions of the Commission with respect to use of Social Media in election campaigning:

The Commission has issued detailed guidelines on Social Media on 25th October, 2013 (Letter No. 491/SM/2013/Communication) which mentions about furnishing details of social media accounts by the candidates in the affidavit filed during nomination. The Commission also brought the political advertisements to be issued on social media sites under the purview of pre certification. The Commission further instructed that candidates and political parties shall include all expenditure on campaigning, including expenditure on advertisements on social media, both for maintaining a correct account of expenditure and for submitting the statement of expenditure. (**Annexure 80**)

4.13 Expenditure Monitoring Cell:

(i) The Nodal Officer of Expenditure Monitoring Cell in the district headquarters will coordinate with the DEO for providing adequate manpower and facilities of office space and equipments. The Nodal Officer will train the manpower engaged

in various teams of the expenditure monitoring work well in advance, before the notification of election. The DEO can deploy any other officer or employee whose services are required for expenditure monitoring.

- (ii) The Expenditure Monitoring Cell shall be responsible for video graphing all public meetings/rallies political parties/potential candidates during the period between announcement of election by ECI and notification of election. All such expenditure incurred by political parties as per the video CDs/DVDs are to be calculated by this Cell and handed over to DEO for estimating the expenditure by the political parties, during such period. Although this expenditure is not to be included in candidate's register, the party has to show this expenditure to the Commission, within 75 days of Assembly Poll or 90 days of Lok Sabha poll. The CEO shall collect district-wise report as to the total expenditure by the party during this period and also the period up to declaration of result and forward to the Commission within 45 days of declaration of result.
- (iii) The Toll free number in complaint Monitoring Cell shall be given wide publicity encouraging the public to register complaints.

5. Procedure for Expenditure Monitoring:

The following monitoring procedure shall be followed during election process:

5.1. Maintenance of Shadow Observation Register and folder of evidence:

A Shadow Observation Register for each candidate shall be maintained by Accounting Team in the format as enclosed at **Annexure 11**. This Register will be maintained in hard copy and/or in excel sheet, with print outs (kept serially, page numbered) and the observed expenditure as captured by various teams/reports of Expenditure Monitoring. The purpose of this Register is to cross check items of the major expenses incurred and reported by the candidate.

5.1.2. The accounting teams shall get information on daily basis from the Video Surveillance Teams, Video Viewing Teams, MCMC, SSTs and FSs, and complaint monitoring Control Room. The Accounting Team shall work under the overall guidance and supervision of the Expenditure Observer and Assistant Expenditure Observer.

5.1.3. Assistant Expenditure Observer shall make daily inspection of the Shadow Observation Register for each candidate and ensure that all expenditure reported by different teams of Expenditure Monitoring are entered in this Register. In case of any discrepancy or laxity, the same should be immediately reported to the

Expenditure Observer.

5.2. Folder of Evidence:

The folder of evidence shall be maintained by the Accounting Team along with each Shadow Observation Register. All pieces of evidence collected against any expenditure entered in the Shadow Observation Register shall be kept in this folder and cross referenced with it. All pages are to be numbered and signed by the Assistant Expenditure Observer. This folder shall include video or audio CDs, copies of posters, pamphlets etc., newspaper advertisements and *Paid News* cuttings, copies of bills and vouchers, copies of reports made by various officers with respect to expenditure, copies of documents submitted by the candidate, copies of the complaints relating to expenditure and inquiry reports on these complaints, the notices issued to candidate by the RO relating to expenditure monitoring and the replies received, FIRs filed relating to the expenditure of the candidate etc..

5.3. If it is found that a candidate incurred or authorized expenditure on prohibited items, action should be taken against the candidate under relevant provisions of the law. For example, if it is found that a candidate has distributed money or any item in kind, to influence voters, a complaint should be lodged against him on the same day before the Police/ in the competent Court under the provisions relating to bribery in IPC. In addition, this expenditure should also be entered in the Shadow Observation Register along with the evidence and the details of FIRs filed are to be entered in the Shadow Observation Register. A report is to be sent to the Commission within 24 hours by the Expenditure Observer about such incidents.

5.4.. The Shadow Observation Register can be shown to the candidate or his representative and any member of the public only up to the period for which inspection of the Register of election expenditure maintained by the candidate has been done and not before inspection of accounts of the said date. If the expenditure reported in the Register of election expenditure maintained by the candidate is less than the amount mentioned in the Shadow Observation Register, it shall be brought to the notice of the candidate or his representative at the time of inspection, in writing in his register itself under the signature of the Expenditure Observer and also making such noting in Shadow Observation Register and obtaining the signature of the candidate/ his representative. The candidate or his agent shall be served a notice in writing on the same day by the RO for such discrepancy. A copy of the notice shall be put on the notice board of the RO for information of the public. Any member of

the public shall be entitled to obtain a copy of the notice on payment of a fee of Re 1/- per page. A copy of the notice and the reply received from the candidate or his election agent shall be kept in folder of Evidence and mentioned in Shadow Observation Register. Replies received shall be put on the notice board of the RO and copies of these shall also be made available to the public on payment of Re 1 per page. The copies of notices so issued and replies received, if any, shall be marked to the DEMC with Expenditure Observer, DEO and Dy. DEO for forming opinion about the truthfulness of the account of expenditure submitted by the candidate after the declaration of results. The latest instructions of the commission should be followed.

5.5.1. Monitoring of Public Meetings, Rallies etc.

Any candidate or his representative, who applies for permission for a public meeting or a rally shall also submit an expenditure plan in the format given in **Annexure-16** along with the application for permission.

5.5.2. A copy of this expenditure plan shall be given by the DEO along with copy of permission letter to the officer sent on duty for maintenance of law and order to that public meeting or rally and also to the Assistant Expenditure Observer for making necessary arrangements for videography of the events.

5.5.3. The accounting team will calculate separately, the expenditure incurred in each of the public meetings or rallies on the basis of notified rates and keep the folder of evidence which are collected by way of photographs, video recording and statements etc.

5.5.4. All expenses relating to rally or procession organized while filing nomination shall be included in the accounts of the candidate.

5.5.5. Commission has issued instruction No. 76/Instruction/2011/EEM.dated 07.04.2011 (Annexure 56) that when members of public voluntarily attend a public rally/procession/public meeting of candidate(s) by using their own personal vehicle, without receiving any payment or reimbursement from anybody, it shall not be included in the expenditure of the candidate. However, the personal vehicles used in the rally or public meeting for campaign purpose by putting flags or banners or poster for the benefit of any candidate(s) shall be included in the expenses of the candidate(s). If the commercial vehicles bearing commercial registration number are used for rally or public meeting of any candidate(s) the expenditure on such vehicles shall be included in the account of the candidate(s).

5.5.6. One personal vehicle owned and used by the candidate(s) for campaign purpose

shall be treated as campaign vehicle and notional expenditure on fuel and driver salary as per the market rate shall be included in the accounts of the candidate(s). In case other vehicles, owned by the candidate(s) are used for campaign purpose, then the notional expenses as per the notified rate for hiring of such vehicles shall be calculated by the candidate(s).

5.5.7. The use of flags, caps, mufflers with party symbol has been clarified in Question No. 72 of FAQ on Model Code of Conduct. The expense on such items of flags, mufflers or caps with party symbol shall be accounted for by the party concerned as its election expense. If they bear the name(s) or photo(s) of candidate(s), it shall be added to the accounts of the candidate. However, supply and distribution of main apparels like saree, shirt, T-shirt, dhoti etc. by party/candidate is not permitted as it is bribery of voters.

5.5.8. ECI instruction No. 464/INST/2011/EPS dated 28-03-2011 (**Annexure 77**) has clarified that the expense on the vehicle of the district level party office bearers/leaders (other than star campaigners) for the purpose of their visit to multiple ACs within the district for electioneering shall not be included in the accounts of candidate(s). It is further clarified that if the district functionary himself is a candidate, contesting from the same district and such vehicle is used for movement in the constituency from where he is contesting, or such vehicle is used for campaign for any particular candidate(s), then the hiring charges of the vehicle shall be included in the accounts of the candidate(s) using the vehicle for campaign purpose.

5.5.9. Permission for public rally shall not be given, if the candidate does not produce his accounts for inspection, without valid reasons. A show cause notice shall be issued and served for not producing accounts, before the permission for public rally is rejected. However, if the candidate produces the accounts for inspection, then permission for public rally shall be granted forthwith. This will act as deterrence against dummy candidates, who are not serious in contesting elections.

5.6.1. Expenditure on travel expenses of Star Campaigners:

As per section 77 of the R.P.Act 1951, the expenditure incurred by the leaders of a political party on account of travel by air or by any other means shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate. Explanation (2) of the section defines political leaders to include 40 persons of a recognized political party and 20 persons of a party other than the

recognized political party, i.e., registered unrecognized parties, whose names have been communicated to the Chief Electoral Officer and Election Commission of India within a period of 7 days from the date of notification. Such political leaders as communicated to the CEO and the ECI are known as Star Campaigners. The Chief Electoral Officer after receiving the information during the prescribed period regarding list of star campaigner from Recognized Political Party/Other than Recognized Political Party shall make it available to all Returning Officer/DEO/Expenditure Observer and place it on their website.

5.6.2. In the event of public rally or meeting by the star campaigner, if the candidate or his election agent shares the dais with the star campaigner/ other dignitary, then the entire expenditure on that rally other than the travel expenses of the star campaigner should be added to the candidate's expenses. If the candidate is not present on the dais but the banners/posters with name of the candidate or the photographs of the candidate are displayed at the site of public rally or the name of the candidate mentioned by the Dignitary/Star Campaigner, then also the entire expenditure in the public rally other than the travel expenses of the star campaigner will be added to the candidate's account of election expenses. If there is more than one candidate, sharing the dais or displaying banners or posters with their names in rally/meeting, then the expenses on such rally/meeting should equally be divided among all such candidates. The RO should pass on the information about the other candidates present in the rally to the respective ROs, for making necessary entry of expenditure in the Shadow Observation Register of such candidates.

5.6.3. Helicopter or Aircraft Expenses: One of the major items of election expense is by way of hiring helicopters and aircrafts. As per Commission's instructions, if the name of star campaigner of the political party has been intimated to the Commission & CEO within 7 days of notification of election, then the travel expense of the Star campaigner will not be added to the expenditure of the candidate. If the candidate(s) is/are sharing the transport facility with the star campaigner, then 50% of the expenditure and if more than one candidate(s) is sharing the facilities then 50% of the travel the expenditure is to be apportioned among those candidates. **(Commission's letter no. 76/Instructions/2012/EEPS Vol. I, dated 22nd January, 2014 Annexure -47)**

5.6.4 (a) If any attendant including security guard, medical attendant, or any other person including any member of the party, who is not a candidate in the constituency

concerned, or any representative of the electronic or print media, travels with the leader (star-campaigner) of the political party in his vehicle/aircraft/helicopter etc., then the travel expenses of such leader shall be wholly booked to the account of political party, provided that such person(s) sharing the transport with the leader (star campaigner) does not play any role in election campaign for the candidate in any manner. However, if any such person(s) sharing the transport with the leader plays any role in election campaign for the candidate(s) in any manner then 50% of the travel expenditure of the leader shall be apportioned to such candidate(s).

(b) The names of leaders of the political party (star campaigners), as defined in Explanation 2 of section 77 (1) of the R. P. Act, 1951 are to be communicated to the Election Commission of India and the Chief Electoral Officer of the State by the political party, within a period of seven days from the date of notification for such election and such leaders are entitled to the benefits provided under section 77 of the R. P. Act, 1951, from the date on which the list including his name is received by the Election Commission of India and by the Chief Electoral Officer of the State concerned.

(c) If the leader (star campaigner) is a part of any rally, organised outside his constituency, he is entitled to the exemption provided under Explanation 1 of section 77(1) of the R. P. Act, 1951. However, if the leader (star campaigner) is also contesting election in any constituency, then he is not entitled to any benefit u/s 77 of the said Act, for the travel expenses incurred within his own constituency and the expenses on meeting or rally organised by him in his constituency including the travel expenses are to be added to his account of election expenditure.

(d) If the rally/meeting is organised in the constituency of the leader (star campaigner), where the leader shares the dais with other contesting candidates, then the meeting expense is to be apportioned to the election expenditure of the leader and all such candidates. However, if, he (star campaigner) is taking part in a rally/ meeting, along with other contesting candidates of his party outside his constituency, then the meeting expense shall be apportioned to the election expenditure of all such candidates, for whose election campaign, such rally/meeting is organised and no part of such rally/meeting expense, organised outside his constituency shall be added to the election expense of the leader (star campaigner). **(Commission's letter no. 76/Instructions/2012/EEPS Vol. I, dated 22nd January, 2014 Annexure 47).**

5.6.5. If a star campaigner of another political party /a party in alliance with the party of the candidate attends the rally and takes the name of the candidate or shares dais with the candidate then the travel expense of that campaigner of allied party up to the constituency is not exempt and should be added to the candidate's expenses. In this regard Commission's instructions contained in its letter no.437/6/2008-CC & BE, dated 24-10-08, relating to use of helicopters are enclosed at **Annexure-25**.

5.6.6 All expenditure including lodging/boarding expenses of star campaigners in the constituency where they campaign for any candidate shall be included in the expenditure account of that particular candidate, provided that -

- (a) the Star Campaigners/Campaigners have actually campaigned for the candidate, and
- (b) the Star Campaigners/Campaigners have incurred such boarding and lodging expenditure while remaining in a commercial hotel or lodge for the purpose of election campaign of the candidate irrespective of the fact whether the payment is made by such candidate or not.

The market value of such commercial boarding and lodging is to be calculated towards the election expenditure of the candidate, even if the boarding and lodging is provided as complimentary. If the star campaigner while availing the boarding and lodging in one constituency, travels to another constituency to campaign for other candidates, then the lodging and boarding expense will be proportionately distributed as the expense of those candidates. A notice may be issued in all such cases and it should be processed accordingly. (Commissions letter No.464/AP- HP & AP-LA/BE/2011/EEM dated 3rd June 2011, at **Annexure 55**)

5.7.1. Monitoring of printing of pamphlets, posters etc.

The District Election Officers shall, within three days of the announcement of elections by the Commission, write to all the printing presses in their districts, pointing out the requirements of Section 127-A of RP Act 1951, and informing them that any violation would invite stern action including the revocation of the license of the printing press under the relevant laws of the State. They should be specially instructed to indicate clearly in the print line the names and the addresses of printer and publisher of any election pamphlets, posters, and such other material printed by them. Copy of the printed material and the declaration of the publisher as required under section 127A(2) of R P Act 1951 is to be sent by the printer to the DEO and if it is printed in State Capital, then to the CEO within 3 days of such

printing. Detailed instructions on the subject are contained in the Commission's letter no. 3/9/(ES008)/94-JS-II dated 2nd September 1994 (**Annexure-18**).

5.7.2. If the posters, banners, flags, stickers, etc., with photo or appeal of the leaders (Star Campaigner within the meaning of section 77 of the R.P.Act, 1951) without any reference to any particular candidate are used during the elections, the expenditure shall be booked to the account of the political party. If however, the leader happens to be a candidate in any constituency, then the proportionate expenditure on such items, actually used in his constituency, shall be accounted for in his election expenses. (Commission's letter NO.76/Instructions/2012/EEPS dated 20th January, 2012, at **Annexure-58**)

5.7.3. As soon as the DEO receives any election pamphlets or posters, etc., from a printing press, he shall examine whether the publisher and the printer have complied with the requirements of law and directions of the Commission. He shall also cause one copy exhibited on his notice board so that all political parties, candidates and other interested persons may be able to check whether the requirements of law have been complied with.

5.7.4. In all such cases where there is violation of the provisions of Section 127-A of R P Act 1951, complaint should be filed by the DEO against the offenders in the competent court. These cases should be given wide publicity and pursued vigorously in the courts concerned. Copies of the printed materials along with the statements showing cost of printing should be given to the accounting teams for inclusion in the Shadow Observation register.

5.8.1. Monitoring of use of vehicles during electioneering:

Each candidate shall submit before the R.O., details of all vehicles proposed to be used by him for his election campaign. The R.O. will issue permits on the same day. The vehicle permit obtained from the concerned RO is to be displayed on the front screen of the vehicle. Two-wheelers (Motorbikes, Scooters, Mopeds), Cycle Rickshaw, etc. are also vehicles for the purposes of these instructions and the permit in such cases is to be shown on demand. These details should be given to the accounting teams for inclusion in the Shadow Observation Register.

5.8.2. If a vehicle is found being used for campaigning without written permission of the RO, it shall be considered unauthorized campaigning for the candidate and will

attract penal provisions of Section 171H of the Indian Penal Code. It shall therefore be immediately taken out of the campaigning exercise. In addition, the expenditure on this vehicle will also be added in the Shadow Observation Register.

5.8.3. The permission given for the use of vehicle during election is to be withdrawn by the RO immediately, if the candidate has not submitted his account for inspection, in spite of notice by the RO, and the permission shall not be granted till the accounts are submitted for inspection by the candidates. Commission's instructions given in its letters no. 576/3/2005/JSII, dated 29-12-2005 at **Annexure-30** may also be followed for further guidance.

5.8.4. If the vehicle for which permission is given to a particular candidate is being used for campaign purpose by or for another candidate, then the permission has to be withdrawn and the vehicle is to be seized by the Flying Squad. Report should also be given by Flying Squad to the Assistant Expenditure Observer for adding the expenditure in the hands of the candidate who was actually using this vehicle.

5.9. Monitoring of expenses on constructions of barricades and rostrums etc.

If expenses on construction of barricades/ rostrums etc. are made by the Government agencies on account of security considerations, it should be booked as expenditure of the candidate in whose constituency the meeting takes place. If a group of candidates are present at the dais at the time when the leader of a political party addresses such a meeting, the expenditure will be apportioned equally amongst them. The District Election Officer shall obtain the details of expenditure from the concerned Government agencies within three days of the event and intimate to the candidates, their respective share of expenditure and mark a copy to the Accounting Team for entering in the Shadow Observation Register. In case any private agency is engaged in construction of rostrum or barricade, the R.O. shall call for the information of expenditure from such agency within three days. If any travel agency is engaged to provide the transport facility, the R.O. shall call for the expenses details from such agencies within 3 days. This information will also be intimated to the R.O. and the D.E.O. of the constituency/ district if any such candidate belongs to another district. Commission's instructions contained in its letter no. 76/2004/JS-II, dated 10-04-2004 shall also be followed regarding expenditure incurred on barricades and rostrums etc.(**Annexure-31**).

- 5.9.1** (i) If the Video Van is used by the political party during election process for general party propaganda without mentioning the name of any candidate or without photo of candidate except star campaigner of any constituency, then it shall be booked to party account, which shall be reported within 75 days by the party after completion of election in case of Assembly election or within 90 days in case of Lok Sabha election. (Commission's letter no. 76/Instructions/2012/EEPS/Vol. I dated 9th February, 2012, at **Annexure 62**)
- (ii) If the name(s) or photo(s) of candidate(s) are displayed or any posters/banners of the candidate(s) are displayed thereon and the van is used in his constituency, then the expenditure has to be accounted for by such candidate(s).

5.10. Other Monitoring Mechanism :

5.10.1. Monitoring of Accounts of Self Help Groups, NGOs etc.

There have been complaints pertaining to Self Help Groups, NGOs etc. being made conduits by the political parties/ candidates for distribution of money/ materials and are being utilized for election campaigns. In as much as the revolving fund/ economic assistance is channelised through the DRDAs, it should be easily possible to monitor the SHGs closely so as to ensure that they are not utilized for distribution of money/ materials which is a corrupt practice and an electoral offence with reference to the provisions of the RP Act, 1951 and the IPC. The DEOs shall call for report on alternate day of the SHG /NGO activities in their district during the election process.

5.10.2. Checking Distribution of gift articles/ serving of food in Marriage/ Community

Halls:

There are frequent complaints of Marriage Halls/ Community halls or other big Halls being utilized in the past for distribution of gift articles (like dhotis/ sarees)/ serving of food etc. The use of Marriage Halls/ Community Halls and similar places during election period should be kept under watch by the District electoral machinery with reference to the purpose of booking for which some evidence (like marriage invitation) must be obtained so that there is no camouflage of expenses for election purposes. The DEOs shall collect daily reports of such bookings and see that no fake party is being organized for influencing the voters. Report of any suspicious booking/event should be handed over to the Assistant/Dy. Director of Income Tax, in charge of the district, who will examine the expenses from Income tax

angle. Large scale feeding under the cloak of “Annadanam” outside places of worship will give room for suspicion that serving of food is being resorted to influence the voters on the eve of the election, which is a corrupt practice and an electoral offence with reference to Section 123 of the Representation of the People Act, 1951 and the provisions in Chapter IX-A of IPC. The CEOs/ DEOs should ensure that in case of any suspicion about feeding on a large scale, necessary steps should be taken to prevent it.

5.10.3. A doubt has been raised with regard to participation of candidates in the community kitchens (langar, bhoj, etc.) organised by religious communities in their religious institutions as a matter of customary practice and the bhoj/feast, etc. offered as a matter of social practice following a ritual ceremony, like, marriage, death, etc. As per the Commission’s instruction No. 76/Instruction/2011/EEM dated 05.12.2011 (**Annexure 60**) expenditure on the community functions shall be treated as the election expenses of a candidate and added to account of the candidate, if any contesting candidate(s) attends the community kitchen (in whatever name has been called) either organised by him or by any other person **to entertain the electors.** However, this instruction does not apply to community kitchens/langars, etc. organised by religious communities within their religious institutions as a customary practice or the bhoj/feast, etc. offered by any person (other than the candidate) in the normal course to celebrate any ceremony like, marriage, death, etc., and the expenses incurred on such community kitchen/ langar / bhoj/feast, etc. shall not be included in the election expenses of the candidate, provided that the candidate participates there in the normal course as a normal visitor. It shall further be ensured that the candidate does not make any financial contribution for arranging such community kitchen, etc. and no political campaign in any manner is undertaken at such community kitchen, etc. The restrictions on the community kitchens, etc., as mentioned above, shall be over after the completion of poll/ repoll in the constituency.(Commission’s Instruction letter No. 76/Instruction/2011/EEM,dated 5th December, 2011 **Annexure 60**)

5.10.4. Checking Distribution of Tokens to be exchanged for gifts or cash or distribution of money through various means:

Another form of corrupt practice in respect of which there have been complaints in the past relates to distribution of tokens by parties/candidates to the voters. It is also

reported that token distribution is done at the time of Aarti offering or in meetings/functions and pawn brokers are used as channels for bribing the voters. In order to ensure that there is no scope for misuse, token distribution through any method including in meetings/ functions held for election campaigning or social gatherings should be checked by collecting proper evidences and lodging police complaints. The DEO should arrange meeting with citizen forum, volunteers, Nehru Yuva Kendras and other NGOs to get appropriate information in right time about such activities. The DEO shall also collect the list of pawn brokers and keep them under close watch including involving the Assistant Director / Deputy Director Income tax in charge of the district for necessary action under Income Tax Act.

5.10.5. Checking distribution of cash by candidates/political parties along with disbursement of wages under any Government scheme:

Representations were received in the Election Commission alleging that money was being given on the eve of the elections by political parties/ candidates to workers over and above the wages due under the Govt. Schemes like Rural Employment Scheme, and various other schemes of Government to influence the voters. It is to be noted that while poor people are not put to hardship due to the Model Code of Conduct, the disbursement of any cash by political parties / candidates in addition to wages to which the workers are entitled under the Scheme, is not permissible. This is a corrupt practice and an electoral offence. The District Election Officers should monitor the disbursement of wages and other benefits under Government schemes so as to ensure that there is no payment of cash or gift article by any candidate/ political party along with the wages under the Scheme. It is also noticed that the cash benefits (both arrears and advance amount) under the Government schemes are disbursed on the eve of elections, to bring influence on the electors. It will be the responsibility of DEOs to ensure that no such arrear or advance is disbursed within 72 hours of the day of poll.

5.10.6. Monitoring of Production, Storage and Distribution of liquor during elections:

In order to curb the liquor menace, the following actions shall be initiated from the date of the notification of elections till the date of poll:-

- (i) The production, offtake, Stock Limits of Licensed Stockists, Daily receipt and off take of retail sellers of IMFL/Beer/Country Liquor and Opening and Closing time of Liquor Vending Shops should be closely monitored with reference to the

production figures in previous year.

- (ii) Intensive vigil over inter state movement of vehicles at RTO Check Posts and border check posts by Excise staff should be kept by special enforcement staff under the State Excise Department who are deputed round the clock from the date of notification till the completion of Poll/ Repoll. All distilleries and warehouses in the State shall be put under 24X 7 CCTV monitoring with police guard, to ensure that no liquor is released without proper license . Stern action should be taken against any illicit storage or transportation of illicit liquor in the State. Inter State co-ordination among Excise Commissioners with bordering States should be done for monitoring of inter state movement of IMFL, Beer and Country Liquor.
- (iii) District Level Nodal Officers and State Level Nodal Officer of Excise Department should be identified to monitor the above aspects, conduct raids to seize illicit liquor.
- (iv) The District Level Nodal Officer will submit report on alternate day as per the proforma given in **Annexure- 22** of this Compendium for IMFL, Beer and Country Liquor in separate forms to State Level Nodal Officer with copy to the DEO and Expenditure Observers. State Level Nodal Officer of Excise Department will, in turn, submit the alternate day Report on excise activity of the entire State to the CEO in the same proforma with copy to the Commission.
- (v) The Commission's Instruction No. 76/Instructions/EEPS/2013/Vol.VIII, dated 14th November, 2013 addressed to DEOs, SPs and all Observers for prevention of Storage and illegal distribution of liquor during elections and furnishing the daily report by the DEOs on it, may also be brought to the notice of all concerned (**Annexure 22 A**). The DEO and District Excise Officer are required to submit daily report in the prescribed format to the CEO and Nodal Officer, Excise Department

5.10.7. Monitoring of cash withdrawal from Banks:

The DEO shall ask all the banks to submit daily report on suspicious withdrawal of cash from bank account of any individual person during election process. The Commission vide its letter No. 61/Complaints/AP-LS/2012/EEPS dated 19th July,2012(**Annexure-64**) has directed the DEOs to call for the following suspicious transactions from the bank:

- (i) Unusual and suspicious cash withdrawal or deposit of cash in a bank account exceeding Rs. 10 lakh during the process of election, without any such instance of deposit or withdrawal during the last two months.

- (ii) Unusual transfer of amount by RTGS from one bank account to the accounts of several persons in a district/constituency during the election process without any precedent of such transfer.
- (iii) Any deposit of cash or withdrawal of cash exceeding Rs. 1 lakh from bank account of candidates or spouse or his dependants, as mentioned in the affidavit filed by candidates which is available in CEO's website.
- (iv) Any withdrawal of cash and deposit of cash exceeding Rs. 1 lakh in the account of the political party during the election process.
- (v) Any other suspicious cash transactions, which might be used for bribing the electors.

The DEO shall ensure that the reports are received regularly from banks and the same are handed over to Expenditure Observer for analysis and investigation, if any may be conducted through the FS or through the Investigation Directorate of income Tax to see that the money is not used in election process.

In case any suspicious nature of withdrawal of large amount of cash is noticed, necessary action may be taken and the information about large amount exceeding Rs.10 lakh shall be passed on by the DEO to the Nodal Officer Income Tax Dept.{at O/o The DGIT(Inv.)} or Assistant/Dy. Director of Income Tax in charge of the district for necessary action under Income Tax laws.

5.10.8 Standard Operating Procedure for transportation of cash by ATM Vans and others

In pursuance of 'SOP' prescribed by the Ministry of Finance (Department of Financial Services), copy enclosed as per **Annexure-66**. It is reiterated that the Banks should follow the following procedure for transportation of Cash scrupulously :-

- (i) The bank shall ensure that the cash vans of outsourced agencies/companies carrying that bank's cash shall not, under any circumstances, carry cash of any third party agencies/individuals except the banks. Towards this, the outsourced agencies/companies shall carry letters/documents etc. issued by the banks giving details of the cash released by the banks to them and carried by them for filing the ATMs and delivering cash at other branches, banks or currency chests.
- (ii) The personnel of the outsourced agencies/companies accompanying cash van shall carry identity card issued by the respective agencies.
- (iii) The aforesaid procedure has been stipulated for the reason that during the period of

election if the authorised officials of the Election Commission (District Election Officer or any other authorised official) intercepts the outsourced agency/company's cash van for inspection, the agency/company should be in a position to clearly show to the Election Commission through document and also physical inspection of the currency that they have collected the cash from the banks for the purpose of replenishing the bank's ATMs with cash or delivery of the cash to some other branches of the banks or currency chest on the instructions of the bank.

(iv) The aforesaid procedure shall be part of the standard operating rules and procedure of banks for transport of cash. **(Annexure-66)**

5.11 With regards to information of suspicious or illegal cash, foreign currency and Fake Indian Currency Notes (FICN) etc. found during elections a reference may be made to the relevant enforcement agencies in the district.

The investigation Directorate of Income Tax Department shall be deployed during elections and they shall perform the functions as mentioned in ECI letter No76/Instructions/EEPS/2013/VolII, dated 16th January, 2013 **(Annexure-65)** The Daily Activity Report shall be forwarded by the Asst./ Dy. Director of Income Tax (Inv.) as per the revised format **(Annexure-24)**, to the Nodal Officer at the O/o DGIT (Inv.) / DIT(Inv.) concerned who will in turn compile the reports and send it to Election Commission every alternate day, with copy to CEO.

6. Maintenance of accounts by candidates:

6.1. Procedure for maintaining accounts of election expenses by the contesting candidates:

6.1.1. As per section 77 of the R.P.Act, 1951, every candidate during an election shall either by himself or by his selection agent, keep a separate and correct account of all expenditure in connection with the election, incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

6.1.2. Section 78 of the R P Act 1951 provides that every candidate has to lodge a true account of his election expenses maintained under Section 77 of the R P Act 1951, with the District Election Officer within 30 days from the date of declaration of result of the election. In the computation of this 30 days period, the date of declaration of result of election is excluded. The Commission has clarified vide its letter No. 76/95/J.S.II dated 10-04-1995 (copy enclosed at **Annexure-20**) that in fairness to the contesting candidates, they will be permitted to file their election

expenses in English, Hindi or the local language (s) in which the electoral rolls are printed. For this, it has to be ensured that all contesting candidates get the forms/ registers/ extracts of rules relating to lodging of their returns of accounts of election expenses in the approved regional language for electoral rolls and no candidate complains that he was not aware of the statutory requirements relating to filing the returns of election expenses and he is able to maintain his day to day account properly. Various instructions of the Commission issued from time to time for the guidance of the contesting candidates are given in **Annexure 36 to 46**.

6.2.1. Separate Bank Account to be opened by each candidate for election expenditure: (Annexure 79 letter no.76/Instruction/2013/EEPS/Vol.IV, dated 15th October, 2013)

In order to facilitate monitoring of election expenditure, each candidate is required to open a separate bank account exclusively for the purpose of election expenditure. This account shall be opened any time at least one day before the date on which the candidate intends to file his nomination papers. The Account Number of this bank account shall be communicated by the candidate in writing to the RO at the time of filing of his nomination. All election expenditure shall be made by the candidate only from this bank account. All money to be spent on electioneering shall be deposited in this bank account irrespective of its funding from any source including candidate's own fund. A certified copy of the account statement of this bank account shall be given by the candidate to the DEO along with the statement of the account of expenditure at the time of filing of the Abstract Statement, after declaration of results. Wherever the candidate has not opened the bank account or not intimated the bank account number, the RO shall issue a notice to all such candidates to comply with the Commission's instructions.

6.2.2. The bank Account can be opened either in the name of the candidate or in the joint name with his election agent for the purpose of election expenditure. The bank account should not be opened in the joint name with any family member of the candidate or any other person, if he/she is not the election agent of the candidate.

6.2.3. The bank account can be opened anywhere in the state. The accounts can be opened in any of the banks including the co-operative banks or in the post offices. The existing bank account of the candidate should not be used for this purpose as it has to be a separate bank account for election purpose.

6.2.4. The DEOs will issue suitable instruction to all banks or post offices to ensure that

they open dedicated counters for election purpose to facilitate prompt service to the candidates in opening of bank accounts. They should also allow withdrawals and deposits from the said account on priority during the election period.

6.2.5. The Commission has issued Instruction No. 76/Instruction/2011/EEM dated 7.4.2011 (**Annexure-56**) that the candidate shall incur all election expenses by crossed account payee cheque, from the bank account opened for election purpose. However, if the amount payable by the candidate(s) to any person/entity, for any item of expenditure, does not exceed Rs. 20,000/- during the entire process of election, then such expenditure can be incurred in cash, by withdrawing it from the bank account opened for the purpose of election. All other payments are to be made by Account payee cheque from the said bank account.

6.2.6. The candidates are required to deposit all the amount meant for election expenses in the separate bank account opened for the purpose of election and all their election expenses are to be incurred from the said account. The Commission has clarified that if the separate bank account is not opened before nomination for election expenses or any amount is spent, without depositing the same in the said bank account, it will be treated that the candidate has not maintained the account “in the manner prescribed”.

6.3.1. Register of Election Expenditure to be maintained by the candidate:

Each candidate is required to maintain a day to day account of his election expenditure in a Register as in **Annexure-14**, given to him by the Returning Officer at the time of filing of nomination papers. **This Register shall consist of three parts: (i) Register of day to day accounts in Part A, in white pages, (ii) Cash Register as Part B, in pink pages and; (iii) Bank Register as Part C, in yellow pages.** The candidate shall have to submit this very Register in the said three Parts for inspection by the Expenditure Observer at least three times during the campaign period.

6.3.2. Every page of the register must be numbered and a certificate must be given by the RO on the first and last page of the Register about the total number of pages in the register. The Register should have sufficient number of pages for the entire campaign period. However, if the Register gets filled up earlier, the candidate can ask for a supplementary Register and the RO shall issue a supplementary Register to him in the same format. The candidate shall give an acknowledgement for having received these registers. The District Election Officer should obtain a copy of such

receipts from the Returning Officer.

6.3.3. Procedure to fill up the Register of Day to Day Accounts of Election Expenses, Cash and Bank Register.

(A) Register of Day to day Accounts:

This register, meant for the entire election expenses comprises of 9 columns and is required to be filled up date wise on day to day basis. Whenever no expenditure has been made on any particular date, `NIL` should be mentioned against that date. Besides correctly filling up all columns, care should also be taken to fill up the total amount of expenses (including both paid and outstanding) incurred/ authorised on every date. The value of goods or services in kind received from any source and used for electioneering of the candidate shall also be mentioned. In fact, this register will contain the entire election expenditure incurred/ authorised by the candidate/ election agent/the party/ any other person. Regarding source of such expenses, any amount incurred/authorised by the candidate from his own fund should be mentioned in the relevant column. Amount received from political party or incurred or authorised by political party either in cash or in kind shall be mentioned in the column meant for the purpose. Source of any amount either received in cash or in kind from any person or entity other than political party shall be mentioned in the separate column meant for this purpose.

(B) Cash Register :

All the amounts received in cash from any source including withdrawal from any Bank account of the candidate are to be entered date wise in cash register from the date of nomination to the date of declaration of results. Name and address of person, or entity from whom amount is received in cash shall be entered in receipt column of the cash register. If the amount is withdrawn in cash from the Bank account opened for the election purpose, the same should also be shown in the Receipt Columns with appropriate description. All expenses incurred in cash shall be entered in Payment Columns. When any amount of cash is deposited in the bank account of the candidate the same shall also be entered in the payment columns, `Nil` should be mentioned against the date wherever no receipt or payment has been made. Date wise cash balance is required to be shown. If cash is given to any person or any branch office of the candidate, the same should be clearly mentioned. Efforts should be made as far as possible to make all payments through cheques and avoid carrying huge amount of cash in the constituency during election campaign.

(C) Bank Register:

The candidate shall deposit the entire amount, meant for election expenses received from any source including his own fund, in the bank account opened for the purpose of election. All the election expenses are to be incurred by issuing cheques from this bank account only. However in case of minor expenses, where it is not possible to issue cheque, the amount can be withdrawn in cash and payments are to be made with proper vouchers. Details of deposits, withdrawals and daily balance shall be entered in respective columns of the Bank Register. `Nil` should be mentioned against the date wherever no deposit or withdrawal has been made.

6.3.4 Appointment of Additional Expenditure Agent on part of candidate

Under the existing instruction of the Commission, every candidate is permitted to appoint an additional agent in the prescribed format (**Annexure-49**) assisting the candidate in the various expenditure related matters. A person who is disqualified under the law for being chosen as, and for being, a Member of Parliament or State Legislature and who cannot be appointed as Election Agent u/s 40 the R. P .Act, 1951, should not be appointed such an additional agent. The general prohibition against appointing minister/MP/MLA/MLC/Mayor or Corporation/Chairman or Municipality/Zila Parishad , as any agent for a candidate , would also apply for such additional agent. It may be noted that such additional agent would be for the purpose of performing only the non-statutory duties and not the duties that the election agent, appointed under section 40 read with rule 12 of CE Rules, 1960, is authorized to perform on behalf of the candidate.

7. Inspection of the Election Expenditure Register:

- 7.1** The RO shall organize a meeting of all candidates immediately after the allotment of symbols, and properly explain to them, the legal provisions relating to election expenditure and consequences of failure to comply with the provisions of law. The Assistant Expenditure Observer/Expenditure Observers will be present in the meeting. The RO shall also give a copy of these instructions regarding expenditure monitoring to each candidate both in English and vernacular language.
- 7.2.** The RO shall prepare a schedule for inspection of Expenditure Register of each candidate, by the Expenditure Observer, or a senior officer designated by the RO in consultation with the Expenditure Observer for the purpose. The candidate is required to produce the register either in person or through his election agent or any other person duly authorized by him before the Expenditure Observer/designated

officer for inspection at least three times during the campaign period. The gap between two inspections should be at least three days. This schedule shall be given wide publicity through Press. For convenience, for each candidate the timing of inspection may be specified between 10.A.M to 5 P.M. Timing should be fixed in such a way that the work should be completed before 7 P.M. The inspection should be done either in the office room of the R.O. or any other conference room/office chamber. The last inspection should be fixed not before 3 days from the day of poll. After every inspection during the election process, the day to day election account register of candidate shall be scanned till the date of inspection and uploaded onto the DEO's portal with link provided to the CEO's website besides displaying photocopy on notice board. (Commission's letter no. 76/Instructions/2013/EEPS/Vol. VIII, dated 25th October, 2013, **Annexure-48**).

- 7.3. On the days fixed for inspections of Register of a candidate, the Assistant Expenditure Observer assigned to keep a watch on the expenditure in that constituency should be present, along with the Shadow Observation Register and Folder of Evidence.
- 7.4. If a candidate or his agent does not produce his election expenditure Register for inspection on the day fixed for this purpose, a notice shall be issued to the candidate by the R.O in writing informing him that if he fails again to produce the Register for inspection on the day specified in the notice, it shall be presumed that he has failed to maintain day to day account of election expenditure as required under Section 77 of RP Act 1951. This notice shall be given widest possible publicity and a copy shall be displayed on the notice board of the R.O. If in spite of the notice the candidate fails to produce the register of election expenditure for inspection, a complaint under Section 171-I of IPC shall be filed in the competent Court. Besides this, the permission given to the candidate for use of vehicles during election should be withdrawn, if the candidate does not produce the register after three days of service of the notice. The withdrawal of permission for use of vehicles shall be intimated to all the Surveillance Teams and Flying Squads and displayed on the notice board.
- 7.5. Publicity should also be given that members of the public can be present during inspection of expenditure Registers and that anybody can obtain a copy of the expenditure Register of any candidate on payment of Re.1 per page from the Returning Officer. The inspection of Registers should be done, as far as possible, by

the Expenditure Observers only. Where the inspection of Register is carried out by a designated officer, other than the Expenditure Observer due to some unavoidable reasons, the Expenditure Observer shall be kept apprised of the outcome of each such inspection and the reasons for such inspection by any other officer.

7.6. District Expenditure Monitoring Committee (DEMC) as per Order of the Commission, dt. 14.03. 2013 (refer Annexure-74):

(i) If the Returning Officer or any officer authorised, is in receipt of information during election process that any candidate has incurred or authorised certain expenditure and has not shown either a part or whole of it in his day to day accounts of election expenditure, maintained by him under section 77(1) of the Representation of People Act,1951 or has not produced the said accounts for inspection on the scheduled date before the authorised officer or Expenditure Observer, then the Returning Officer shall issue a notice alongwith the evidence thereof to the candidate preferably within 24 hours of the date of receipt of information or inspection of accounts mentioning the details of expenses, which are not shown truly or correctly in day- to-day account or informing him that he failed to produce his account as the case may be. However, in case of suspected Paid News items, where notice is issued or is being issued by the Returning Officer as per the recommendation of the Media certifying and Monitoring Committee (MCMC), such items shall not be covered in this notice.

(ii) Such candidate may reply to the notice within 48 hours, explaining the reasons for omission or default which is brought to his notice. In cases where the candidate accepts the facts of suppressed expense mentioned in the notice, the same shall be added to his election expenses.

(iii) If the candidate or his election agent disputes the suppressed expenditure, mentioned in the notice, he shall submit the reply mentioning the reasons for disagreement and the same shall be forwarded to the District Expenditure Monitoring Committee (DEMC) consisting of the following:

1. Expenditure Observer in charge of the Constituency
2. DEO
3. Dy. DEO/Officer in charge of Expenditure Monitoring of the District.

(iv) The DEMC shall decide the case after examining the evidence mentioned in the notice and reply of the candidate thereto, preferably within 72 hours from the date of receipt of the reply from the candidate, whether such suppressed expenditure shall be added or not to the election expenses account of the candidate.

(v) After the order by DEMC, the DEO may consider to include such expenses in the election expenditure account of such candidates while sending the scrutiny report under Rule 89 of the C.E. Rules, 1961 on election expenditure of the candidate to the Commission after the election.

(vi) If any item of expenditure authorized/ incurred by the candidate or his agent after the last date of inspection of his account is not shown correctly in his election expenses statement submitted within 30 days of declaration of result, as compared with the expenses recorded in the Shadow Observation Register, a notice shall be issued and served on the candidate or his agent by DEO preferably within 24 hours of submission of the account by the DEO. The candidate shall submit his reply to the DEO within 48 hours of the receipt of such notice explaining his position.

(vii) If the candidate does not submit any reply on the suppressed amount of election expense or submits reply disagreeing with such suppressed amount, the DEO, in consultation with the Expenditure Observer, shall decide the case after considering such reply and intimate his decision on the said amount of election expenditure to the candidate/agent and also mention the same in his scrutiny report submitted to the Commission. The notice, the reply by the candidate to the notice and decision of the DEO shall be displayed on the notice Board.

8. Meeting of the CEO, DEO with the political parties and Media and meeting of the RO with the candidates.

8.1 The CEO shall hold meeting with all political parties at state level within three days of announcement of election and explain the new Expenditure Monitoring Measures. He shall also handover a copy of the compendium of Expenditure Monitoring Instructions both in English and local language.

8.2 The CEO shall hold a meeting with all media houses and journalists at state level and explain the provisions of section 127 A R.P Act 1951 and the instructions of ECI on advertisement and Paid News. He shall also hand over the copy of compendium of Election Expenditure Instruction to them

- 8.3** The DEO shall hold a meeting of all the recognized National and State Level political parties within 3 days of announcement of elections by the Commission. In this meeting, the DEO shall explain all the legal provisions and instructions of the Commission relating to election expenditure and its monitoring and consequences of failure to comply with them. The DEO shall also give a copy of this Compendium of Instructions, revised format of affidavit for declaration of asset and liability and the rates of items of election expenditure to the representative of each recognized National and State level political party.
- 8.4** The DEO shall also discuss the rates of various items of election expenses with them and notification of rates should be done after considering the opinion of all political parties. If the rates are different for cities and rural area, then such differential rates are to be notified.
- 8.5** The RO shall hold a meeting of all the candidates immediately after allotment of symbols. In this meeting, the RO shall explain all the legal provisions and instructions of the Commission relating to election expenditure, its monitoring and the consequences of failure to comply with them. The RO shall also give a copy of this Compendium and notification of rates of items of election expenditure to each candidate. For advertisement in the local or national dailies/ magazines (English/Regional), rates of the DAVP/DPIR rates shall also be communicated to the candidates. The Assistant Expenditure Observer or Expenditure Observer shall also attend this meeting along with the RO.

9. Training of the election agents of the candidates on expenditure monitoring and maintaining the Registers:

- 9.1.** One day facilitation training programme will be organized by the RO and Assistant Expenditure Observer for training of all election agents of the candidates either on the same day of meeting with the candidates or a day after, in order to explain the modified procedure of maintaining registers on various expenses and dates of inspection.
- 9.2.** On the Procedure to make entry in the registers, the Expenditure Observer shall organise training for all agents, just before the date of first inspection. A sample Guidelines note for making entry in the register is also attached alongwith the registers.

10. Expenditure by Political Parties and other persons:

- 10.1** Section 77(1) of the Representation of the People Act, 1951, provides that every

candidate contesting election shall keep a correct account of all election expenditure incurred or authorized by the candidate or his election agent. The expenditure incurred on travel by leaders of a political party whose names have been communicated to the Commission and Chief Electoral Officer within 7 days from the date of issue of notification of election as required under Explanation-2 to Section 77(1) is not deemed to be expenditure incurred or authorized by a candidate of that political party for the purpose of the said section. If such intimation is not received from the party within the stipulated time, the expenditure on travel of such leaders shall be added to the candidate's expenditure.

10.2. The Supreme Court, in its judgment in *Kanwar Lal Gupta Vs. Amar Nath Chawla* (A.I.R. 1975 SC 308), dated 10-04-1974 has held that the expenditure incurred by the political party which can be identified with the election of a given candidate, as distinguished from the expenditure on general party propaganda, would be liable to be added to the expenditure of that candidate as being impliedly authorized by the candidate. The expenditure incurred by a political party on advertisements, in connection with any election could be categorized into the following:

(i) Expenditure on general party propaganda seeking support for the party and its candidates in general, but, without any reference to any particular candidate or any particular class/group of candidates.

(ii) Expenditure incurred by the party, in advertisements etc., directly seeking support and / or vote for any particular candidate or group of candidates.

(iii) Expenditure incurred by the party, which can be related to the expenditure for promoting the prospects of any particular candidate or group of candidates.

10.3. Applying the ratio of the judgment in Kanwarlal Gupta's case, it is clarified that in the case of any advertisement by political parties, whether in print or electronic or any other media, falling in category (i) above, which is not relatable to the election of any particular candidate or a given group of candidates, the expenditure may be treated as expenditure of the political party on general party propaganda. In the cases of expenditure falling in categories (ii) and (iii) above which is relatable to a particular candidate or group of candidates, the expenditure shall be treated as expenditure authorized by the candidate concerned and such expenditure shall be accounted for in the election expenditure of the said candidate or group of candidates.

- 10.4.** The travel expenses of a leader of a political party covered under Explanation-2 to Section 77(1), will still be accounted for in the election expenditure of the candidate where such leader happens to be himself a candidate. When he goes out of his constituency to other constituencies or comes back to his own constituency from other constituencies as a star campaigner, the expenditure on his travel from his constituency to other constituencies and back would fall within the exempted category. Once he reaches his constituency and travels within his own constituency, expenditure on such travel would be liable to be accounted for by him in his election expenditure.
- 10.5.** The lump sum amount given either in cash or in kind by the political party shall be reported by the party as well as the candidate in his day to day accounts and the abstract statement of election expenses, required to be filed within 30 days of declaration of result. .
- 10.6.** The expenditure in kind, like party posters or banners or advertisements, without the name or photograph of the candidate is to be shown as party expenditure by the political party. Even the party expenditure during the period after announcement of election by ECI and before notification of election, has to be shown by the political party as its election expenditure. The political party shall forward its election expenditure in prescribed format along with scanned soft copy to the Election Commission within 75 days of Assembly poll or 90 days of Lok Sabha poll.
- 10.7** The expenses after the poll and before the date of counting, which can be said to be in connection with the election shall alone be accounted for by the candidates as per section 77 of the Representation of the People Act, 1951. After the poll, the expenses on travel of a Star Campaigner or a candidate (not connected with his election) shall not be added to the expenses of any candidate. If the Star Campaigner/Candidate visits his constituency, where he has contested the election, the travel expenses within the constituency for overseeing the counting arrangements before, or on the date of counting shall be added to his account. The travel expenses outside the constituency will not be added to his account. If the political party is bearing travel expenses of a Star Campaigner outside his constituency, the said expense shall be shown by the political party in the accounts submitted to the Commission within 75 days of the completion of election.(Commission's Instruction No. 76/Instructions/2012/EEPS dated 9th February, 2012 enclosed at **Annexure 59**). The reporting format of the Political

Parties has been modified vide Commission's letter No.76/EE/2012-PPEMS dated 21st January, 2013(**Annexure 75**)

10.8 Observation of Political Party Expenditure :

The Expenditure of Political Party in General Party propaganda from the date of announcement of election till the date of declaration of result should be watched by the district authorities through the Flying Squad(s). Though the Expenditure on General Party propaganda should not be added in Candidate's expenditure yet observations recorded with evidence should reported in the prescribed **Annexure-19** to the CEO within 45 days of declaration of results of election.

11. Scrutiny of the Statement of Accounts and the DEO's Report to the Commission

11.1 Under Rule 89 of the Conduct of Elections rules, 1961 the District Election Officer has to report to the Commission whether the candidate has lodged his account of elections expenses, and whether in his opinion such account has been lodged within time and in the manner required by the Act and the Rules. The DEO shall send the candidate wise scrutiny report and summary report of all the candidates as per the format enclosed as **Annexure 21** to CEO of the State immediately within 7 days of their receipt. He shall follow the Order of the Commission, no. 76/ Instructions/ EEPS/2013/Vol I, dated 14th March,2013(**Annexure-74**) and letter no. 76/Instrucitons/2013/EEPS/VolIV, dated 24th December, 2013 (**Annexure 61**) regarding procedure laid down for preparation of scrutiny Report & summary report in respect of accounts of election expenses of the candidate, before sending the scrutiny report to the CEO. Where the DEO is of the opinion that the account of the election expenses of any candidate has not been lodged in the manner required by the Act and the rules and he has the reason to believe that the expenditure statement submitted by the candidate is not a true account of his expenditure, then the DEO shall record the reason and report to the Commission that the Account statement is not in the manner prescribed. He shall obtain the comments of Expenditure Observer, original account of election expenses of that candidate including the vouchers and his comments citing defects in the said account before forwarding to CEO and he shall retain a photocopy of such account.

11.2. Scrutiny of accounts shall be done by the DEO to determine whether the account submitted by the candidate is a true account of his election expenditure or the candidate has hidden or undervalued some part of his election expenditure. The

Expenditure Observer, the Assistant Expenditure Observer and the Nodal Officer of Expenditure Monitoring Cell will help the DEO in the examination of accounts and preparation of his report to the Commission in modified form. The Shadow Observation Register and the Folder of Evidence should be taken into account while examining the accounts and forwarding the DEO's report to the Commission. The account of expenditure submitted by the candidate should be compared with the Shadow Observation Register. All notices issued earlier to the candidate or his election agent and replies received, if any, must be considered as evidence during scrutiny of account by the DEO. All the remarks made by the Observers or any other officer in the expenditure register of the candidate or on any other authorized document should be taken into consideration while scrutinizing the correctness of the account of elections expenses filed by the candidates. The Expenditure Observer shall give his comments on the Scrutiny Report. If he does not agree with the DEO, he shall mention the facts citing the evidences, in the space mentioned in the DEO's Scrutiny report in Row 12 (**Annexure 21**), which is seen by the Commission for issuing notice.

11.3. During scrutiny, if the DEO finds that the expenditure in respect of any item or event as per the Shadow Observation Register is higher than the figure reported by the candidate, and the notices have not been issued by the RO earlier, then he will direct the RO to issue notice to such candidate as per Order of the Commission, no.76/Instructions/EEPS/2013/Vol I, dated 14th March,2013(**Annexure-74**) and reply of the candidate shall be considered in District Expenditure Monitoring Cell (DEMC) before sending final report, mentioning such discrepancy and evidences gathered during the election period. It may be ensured that the notices are served properly and acknowledgments are duly obtained. If the candidate fails to respond to the notice validly served on him within the time stipulated for this purpose in the notice, the DEO shall send his report to the Commission through CEO with his appropriate comments. Complaints with respect to election expenditure and reports of inquiry on these complaints should also be considered during the scrutiny.

11.4 The Expenditure Observer, during his third visit shall send to the Commission his 4th and final report (Annexure 5) and simultaneously he has to give his comments in the prescribed para and the DEO's report based on the facts mentioned in the `Shadow Observation Register` and `Folder of Evidence`. He has to ensure that the same has been incorporated in the DEO's Scrutiny Report (Annexure 21). In

case of any item of expenditure not considered in the DEO's report, he shall bring it to the notice of the DEO asking him to incorporate the same in his report to the Commission and make suitable comments on the DEO's report.

- 11.5** The abstract statement of accounts filed by the candidates, within 30 days of declaration of result shall be scanned and put in the website within 3 days of receipt. This has to be strictly adhered to as the time limit for filing election petition is 45 days. The DEO shall ensure that scrutiny report of DEO is entered in EEMS Software within 3 days of the preparation of the scrutiny and summary report. The DEO shall finalise his scrutiny and summary reports by/before 37th day from the date of declaration of the result and forward the same to the CEO's Office preferably by the 38th day.

12. Report by the CEO

The CEO shall examine scrutiny and summary report submitted by the DEO, and shall forward the same to the Commission within two weeks after receiving the report from the DEO along with additional comments if he/she feels so. (**Annexure 61**)

13. Role of the Returning Officer in Expenditure Monitoring:

Returning officer shall ensure that the revised combined format of Affidavit for filing criminal records and asset and liability statement by the candidates is made available to all potential candidates. He shall also give the expenditure register, duly signed and page numbered, to the candidates at the time of filing of nomination papers. He shall hold a meeting of all candidates immediately after the allotment of symbols to explain the process of expenditure monitoring, legal provisions relating to election expenditure and consequences of non-compliance of these provisions. He also issues the permission letters promptly to the candidates as required under the law or rules.

- 13.1.** He shall notify the dates for inspection of accounts by the Expenditure Observer during the campaign period, and shall issue notices to the candidates to explain any discrepancy between the candidate's expenditure register and the Shadow Observation Register as advised by EO. He shall also supervise complaint monitoring system and ensure that every complaint is inquired into within 24 hours of receipt.
- 13.2.** He shall ensure that all the documents required to be put on the notice board of the RO under these or any other instructions, rules or law are put on the notice board.

He shall ensure that the copies of documents when demanded are given immediately to members of the Public on payment of the prescribed fee.

13.3. It is decided by the Commission that the affidavits on declaration of Assets and liabilities by the candidates of recognized political parties are put on the website on the same day. The affidavits in respect of other candidates may be put within one day after scrutiny of nominations. (**Annexure 76**)

13.4. He shall issue notices to the defaulting candidates, as suggested by the Expenditure Observers.

13.5. He shall ensure that after seizure by FS and SST, FIR/ complaint is filed promptly.

14. Role of the District Election Officer (DEO).

14.1. It is the responsibility of the DEO that the entire expenditure monitoring mechanism runs effectively in the district. The DEO shall be assisted by various teams of the Expenditure Monitoring Cell. The DEO shall extend all help including logistics to the Expenditure Observer and the Assistant Expenditure Observers in performing their functions. Since use of money vitiates the electoral process and leads to violence and other electoral offences and malpractices, he should not neglect this area. In fact, effective control on election expenses will result in smooth conduct of elections. The DEO shall provide logistical support to all the expenditure monitoring teams.

14.2 The DEO in meeting with political parties shall discuss the rates of various items of election related expenses and obtain their views before notification. The rates for urban and rural areas may be different. The prevalent rates shall be considered. Similarly, the DEO shall fix the refreshment expenses of the workers or, the polling agents/counting agents appointed by the candidates during election process. The DEO shall also obtain hourly rates of helicopters/aircrafts used for the purpose of rally by candidates/star campaigners/other dignitaries, which will be notified by the DEO.

14.3 The DEO shall notify the rates of items of election expenditure, the standard rate charts of newspapers, TV and other Media. If the rates are not available, then DAVP/DPIR rates of advertisement in the local/national dailies/magazines (English/Regional) shall be notified by DEO within 3 days of announcement of election on which election expenditure will be assessed. In this regard Commission's instructions given in its letter No. 76/2004/JSII, dated 17-03-2004 (**Annexure - 44**) may also be followed for further reference.

- 14.4.** He shall hold a meeting/one day workshop of all recognized National and State level Political Parties within 3 days of the announcement of elections by the Commission to explain the process of expenditure monitoring, legal provisions relating to election expenditure and consequences of non-compliance of these provisions. He shall handover a copy of compendium on Expenditure Monitoring Instructions, revised format of affidavits and other instructions.
- 14.5.** He shall be responsible for the proper functioning of the Complaint monitoring control room and call center in the district.
- 14.6** He shall provide the logistical support to the officers of the Investigation Directorate of Income Tax and other law enforcement agencies. He shall make arrangement for lodging and boarding, vehicles and security of all officers, engaged in expenditure monitoring cell.
- 14.7.** He shall scrutinize the statement of accounts of election expenditure submitted by each candidate after the declaration of results with the help of the Expenditure Monitoring Cell with the assistance and support of the Expenditure Observer and submit a report to the Commission through the CEO within 45 days of the declaration of the results in the prescribed format as per **Annexure –21**.
- 14.8.** The DEO shall submit a monthly report of the pending cases, where accounts are not submitted or are defective, to the CEO by the 2nd day of every month in the format given in Annexure-23 for monitoring of cases of the election expenditure. The CEO shall compile the reports sent by the DEOs, and send to the Commission, a consolidated report by the 5th day of every month.
- 14.9.** The Expenditure of Political Party in General Party propaganda from the date of announcement of election till the date of declaration of result should be watched by the district authorities through the Flying Squad(s). Though the Expenditure on General Party propaganda should not be added in Candidate's expenditure yet observations recorded with evidence should be reported in the prescribed **Annexure-19** to the CEO within 45 days of declaration of results of election. This may be done in consultation with the Expenditure Observer.

15. Action at the level of the Commission Headquarters :

- 15.1.** After receiving reports from the DEOs through the CEO, the Commission shall examine each report and decide on what action needs to be taken in each case. This action can be any one of the following: -
- (a) If the Commission deems fit, it may accept the account submitted by the

candidate as being within time and in the manner required by the Act and the Rules.

(b) If the Commission considers that a candidate has failed to submit his account within time or in the manner required by the Act and the Rules, the Commission shall issue a notice to the candidate to show cause as to why he should not be disqualified u/s 10 A of the R.P.Act, 1951.

15.2. The notice shall be served on the candidate by the DEO, and the evidence of having served the notice shall be forwarded by the DEO to the Commission. The Commission after considering the reply, if any, received from the candidate will pass appropriate orders.

16. Role of Political Parties:

16.1. The National and State level political parties should send the list of their Star Campaigners to CEO and ECI within 7 days of notification of election.

16.2. The political parties are required to file the statement of their election expenses with the ECI within 75 days of Assembly election or 90 days of elections to Lok Sabh the statement of election expense should include all lump sum amounts given to the individual candidates, the expense on travel of Star Campaigners and other party functionaries, details of expenses on banners, posters, dais, cutouts arches and hoardings, advertisement in Press and Electronic media etc., both for general party propaganda and for individual candidates. This also includes a consolidated statement including number of aircrafts used and sorties made during election in the State for election campaign, name of company which hired/provided the aircraft, flight period, and the money paid/payable to the company leasing/providing the aircraft, including copy of the vouchers. These instructions are contained in the Commission's letter no. 76/EE/2012/PPEMS dated 21st January 2013 at **Annexure 75.**

16.3 For conduct of free and fair poll, all political parties should avoid transactions in cash. All party functionaries should be advised not to carry large amount of cash in the constituency during the election campaign. The parties are required to exercise self-restraint in election expenditure and advise their candidates for doing so. (**Annexure 78**, letter no. 76/Instructions/2010/371-463 dated 20th October, 2010)

16.4. The parties should submit before the ECI, the list of donations received in the relevant forms and in stipulated time. They should also audit their accounts and file their income tax returns in the **prescribed time**, mentioning details of receipts and expenses.

17. Training :

- 17.1.** In depth training of all the officers involved in the process of expenditure monitoring is needed. CEO will prepare State specific training material in English, Hindi (in Hindi speaking states) and vernacular language and send the English version to the Commission for approval. Once it is approved, it shall be handed over to the trainers in each district.
- 17.2.** The CEO will appoint a Joint/Addl. CEO, who will be in charge of the Expenditure Monitoring Cell and Training on expenditure. He will be the Master Trainer who will be trained by the Commission. The DEO will appoint one ADM/SDM level officer to be the Nodal officer of Expenditure Monitoring of the district. The Joint/Addl. CEO will train all the District Level Nodal officers. The Nodal Officer of expenditure monitoring cell of each district in turn will be in charge of the training of all the officers to be deployed in various teams such as Control Room/Call Center, Accounting Team, Video Viewing Team, Video Surveillance Team, Media Monitoring Team, Police Personnel of the Surveillance Team under each Police Station and Assistant Expenditure Observer.
- 17.3.** Training of the officers on expenditure monitoring shall begin as soon as elections are announced by the Commission, but the training of FS and SST shall be done before three months from the date of expiry of the Assembly/Parliament. There will be at least two trainings for every officer involved in expenditure monitoring. First training will be given by the Nodal Officer of the Expenditure Monitoring Cell under the supervision of the DEO and the second training by the Nodal Officer. The AEOs will be briefed by the Nodal Officer of Election Expenditure Monitoring of DEO before the notification date. Equal emphasis should be given in the training to the explanation of legal provisions, filling up of forms, and the procedural aspects of expenditure monitoring.
- 17.4.** After scrutiny of nominations, the Nodal Officer along with the Assistant Expenditure Observer shall train all the election agents of the candidates about the new procedure. They shall explain how to maintain the day to day accounts, cash register and bank register and also the procedure to file the final accounts after the declaration of results.
- 17.5.** It will be the responsibility of the DEO, to arrange one-day facilitation training programme for all the election agents/candidates and the personnel engaged for receiving the accounts, within one week before the final date of submission of the

account of election expenses. The Nodal Officer of the Expenditure Monitoring Cell and Assistant Expenditure Observer should be associated in the training programme to explain the procedure, the forms and affidavits to be filed and frequently noticed defects. Consequence of not filing or filing incomplete forms or not filing in the manner prescribed or not showing correct accounts shall also be explained to the candidates/agents.

17.6. The DEO shall issue a letter just after declaration of results to all the candidates for lodging the account within 30 days of declaration of result and shall mention the date of facilitation training in that notice.

17.7. Adequate number of officers who have experience in handling the accounts shall be appointed to receive the statements of accounts. The Nodal Officer of the Expenditure Monitoring Cell will train these officers in such a way that they facilitate the candidate/his agent in filing correct statement with all procedural requirements.

The scope of the training will be as follows:

(A) Procedural requirements for lodging of the accounts:

The candidate has to submit the Abstract Statement as per **Annexure – 15** along with the Register of day to day accounts, bills & vouchers and the supporting affidavit. The abstract statement comprises of Part I to Part IV together with acknowledgement form and followed by Schedule 1 to 9 thereof. In these schedules, the details of election expenditure incurred / authorized by the candidate or party or others on various items, source of candidate's funds have to be shown. All parts and schedules thereof should be properly filled up and wherever it is not applicable, the candidate shall write `nil` or `not applicable.`

(B) The documents required along with the Abstract Statement :

Register for day-to-day accounts of election expenditure as inspected by the Observer shall be submitted in original along with the vouchers. If vouchers are not attached for any item, an explanation, as to why it was not practical to obtain the required vouchers, must be given by the candidate. All bills and vouchers should be signed either by the candidate or his election agent.

- (i) The Parts I to IV and schedules 1 to 9 of the Abstract Statement must be signed by the candidate himself.
- (ii) Copy of the bank statement as certified by the candidate or his election agent should also be attached.

- (iii) Affidavit should be signed by the candidate himself as per the format and submitted with Abstract statement.
- (iv) Acknowledgement as prescribed by the Commission indicating date and time of receipt of accounts of election expenses should be given by the officer deputed by the DEO for this purpose.
- (v) In case of discrepancies on any item of expenditure which was pointed out by the Expenditure Observer or the R.O at the time of inspection of the Register, the explanation along with the reason for the discrepancy on such items should be annexed separately.
- (vi) Copies of the notices issued by the R.O and explanation furnished in respect of Election Expenditure should be enclosed.
- (vii) It should be made known to the candidate or his election agent that under statutory provisions, even a candidate who has lost the election has to lodge his account of election expenses within the stipulated time and in the manner prescribed otherwise he is liable to be disqualified .

(C) Consequences of defective statements:

Submitting statements which are not correct and true, may result in issuance of notice by the Commission for default that may lead to disqualification for 3 years for being a member of, and also for being chosen as a member to, either House of the Parliament or State Legislatures under section 10A of the R.P.Act, 1951.

17.8. The officer present at the counter for receiving the accounts should check whether the account submitted by the candidate or his agent is complete in all respects and is duly certified by the candidate. A certificate by the election agent is not sufficient. It should also be checked that all the documents which are required to be submitted along with the account statement, such as register, abstract statements (Part I to IV and schedules 1 to 9 including affidavit), bills and vouchers are enclosed with the account. Bills and vouchers should be signed by the candidate. If incomplete accounts are lodged, the defects may be mentioned in acknowledgement receipt itself and should be pointed out to the candidate or his election agent on the spot, with instructions to file correct and complete accounts within the time prescribed by law.

17.9. Under Rule 87 of the Conduct of Elections Rules, 1961, the DEO is required to affix a notice on the notice board within two days from the date on which a candidate lodges his account of election expenses, specifying therein the names of

the candidate and the date on which the accounts were lodged. Copy of the Abstract Statement of Account of election expenditure filed by the candidates and the first runner up in each constituency should be put on the notice board of the DEO within two days of such filing. Copies of accounts may be obtained by any member of the Public on payment of a fee of Re. 1 per page.

18. Election Expenditure Statement of the Candidate on the CEO`s Website and EEMS Software

18.1 Scanned copy of the Abstract Statement (Part I to Part IV and schedule 1 to 9) of all the candidates along with copies of all notices issued by the RO, if any, and the replies thereto, during election period, must be put on the website of the CEO, positively within 3 days of lodging of account of election expenses by the candidate, for wider dissemination of information to all public. An instruction may be issued in this regard by the CEO to all DEOs, that the summary of account of election expenses (Abstract Statement) be put on the website of the CEO within 3 days of receipt of the account of election expenses of the candidate under single caption, namely, **“General Election to the Legislative Assembly, 2013(Name of the State) - Candidates` Election Expenditure`”**. Any delay in this regard should be strictly avoided. Preparatory activities like providing linkage to all the DEOs on CEO`s website may be completed well before the due date for poll in the constituency.

18.2 The scrutiny report of DEO for each candidate is to be entered in EEMS Software, by the office of the DEO within 3 days after submission of DEO`s Scrutiny Report.

19. Compilation of Seizure Reports

19.1 To ensure that all records regarding seizures made during the elections are maintained properly and correctly, the Chief Electoral Officers have to compile the details of seizure in the prescribed formats (**Annexure 50**) after taking necessary inputs from the Nodal Officer of Police, IGP, DEOs etc. and DG Income Tax (Inv), **and furnish the same to the Commission on the day of poll** . Simultaneously the Nodal Officer of the Police , Nodal Officer of the Excise Department and Nodal Officer of Income Tax Department will send their separate consolidated report of seizure made during election process on the day of poll in prescribed format (**Annexure67, 68, 69**)

19.2 The date wise sub totals of seizure of each category for the District, the person from whom it has been seized and the authority to which it has been handed over (each

seizure to be shown separately) will be maintained by the CEO office and only the consolidated total figures shall be sent to Election Commission of India in the proforma enclosed.

19.3 The CEO shall send monthly progress report of the seized amount/articles and Status of FIRs registered during the election campaign to the Commission, by 7th day of the succeeding month.

19.4 After the statement of election expenditure is filed by the political parties, the CEO shall compare DEOs reports on party expenditure with the statement of election expenses of Political Parties, by down loading the statements from the ECI website. If there is any discrepancy in the statement, report may be sent to the Commission by the CEO.

20. Ethical Voting campaign by the CEO and DEO

The campaign for ethical voting shall be done in advance, by the CEO and each DEO. Efforts should be made to involve the participation of college/school student/civil society organizations / RWAs and others to spread the message of ethical voting. The initiative shall include :

- (i) Debate Competition, Poster Competition,, Cartoon Competition, Seminars, Jingles etc.
- (ii) Signing of Sankalapa Patra
- (iii) Awareness Campaign by way of Rally, etc.
- (iv) Sensitizing public about the legal provisions and Toll free number for lodging complaints
- (v) Initiative by Campus Ambassadors//icons

Special efforts should be made to educate the voters about the provision of section 171 B of IPC, which makes offer and acceptance of bribe punishable with imprisonment upto 1 year. Leaflets, handbills, posters highlighting the provisions should also be distributed in this regard by the DEO to make the electorate aware of the legal provisions.

21. The instructions should be brought to the notice of all concerned

