



# **Guidelines for Suspension of Business Dealings with Suppliers/ Contractors**

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**(ABRIDGED VERSION)**

## **SOURCING STRATEGY & POLICY**

**BHARAT HEAVY ELECTRICALS LIMITED**  
**NEW DELHI**

### **PREAMBLE**

In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers/ contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc. Suspension of Business Dealings could be in the form of Debarring a supplier/ contractor or a bidder or an applicant for registration as a registered supplier. For this purpose, the following guidelines shall be followed across all BHEL units/ divisions/ regions (here in after referred to as Units). These guidelines are not exhaustive but enunciate broad principles governing action against such suppliers/ contractors.

### **SCOPE**

- a. For the purposes of these Guidelines, Company means the Bharat Heavy Electricals Limited.
- b. These Guidelines will be applicable to Supplier (which will include vendors, suppliers and contractors) i.e. to say:
  - i. An entity that has applied for registration in any Unit of the Company for any material/service category.
  - ii. A bidder in a tender notified by the Company;
  - iii. An entity which has been awarded a contract.

**Note:** The term "Tender" or "Contract" referred to in sub-clause (ii) and (iii) as above, refers to tender or contract notified or awarded, as the case may be, by the Company, in terms of the Purchase Policy or the Works Policy of the Company.

For the bid(s) floated on GeM, the action for suspension will be dealt as per the incident management policy of GeM.

- c. Any action under these Guidelines shall be without prejudice to all remedies available under the contracts with the Suppliers or other legal provisions.
- d. If a Supplier, who has participated in a tender/ entered into a contract with BHEL as an Agent/ Trader/ Dealer/ Stockist/ Distributor/ Channel partner etc. (hereinafter referred to as Agent) of an identified Principal/ OEM/ Mills/ Works/ Plants (hereinafter referred to as Principal) for that bid/ contract, then action as per these guidelines can be undertaken against the Principal as well as Agent as appropriate.
- e. In case of the supplier being a Sole Proprietorship firm or a Partnership firm, action under these Guidelines shall be taken against both:
  - i. The Sole Proprietorship firm and the Sole Proprietor; or, as the case may be;
  - ii. The Partnership firm and all the partners thereof.

Accordingly, action will be taken under these guidelines against any other Sole Proprietorship firm owned by the same Sole Proprietor. Similarly, action under these guidelines will also be taken against another Partnership firm comprising of the same or some of the same Partners (but not including any new Partner) or a Sole Proprietorship firm owned by the same Partner(s).

- f. In respect of consortiums and unincorporated Joint Ventures/ Association of Persons (AOP)/ Body of Individuals (BOI), action under these guidelines shall be taken against the defaulting consortium partners and defaulting members of the unincorporated Joint ventures/ Association of Persons (AOP)/ Body of Individuals (BOI).

### 1.0 **Suspension of business dealing with Suppliers**

The following category of suspensions have been provided in these guidelines depending upon the gravity of the omission or commission by the Supplier.

- a. Debarment within the unit for specific item(s)/ material category(ies)/ type of work(s) for six months.
- b. Debarment within the unit for all item(s)/ material category(ies)/ type of work(s) for one year
- c. Debarment across BHEL for all items/ material category(ies)/ type of work(s) for two years.

The Supplier may be debarred, as detailed hereinafter on the basis of one or more of the category wise reasons as enumerated hereunder:

**1.1. Debarment within the unit for a specific item(s)/ material category(ies)/ type of work(s) shall be imposed for six months in the following cases, if**

- i. In the last three consecutive supplies of a specific material category, average quality rating, as provided in the supplier performance rating (SPR) as per SEARP, falls below 80% of the quality weightage. This is irrespective of supplies against PO(s) having single/ multiple delivery schedules.

*Note: Not applicable in cases for erection works of Power Sector Regions, where separate guidelines for evaluation of capacity of bidders is being followed.*

- ii. Two consecutive delays, for reasons of delay attributed to the Supplier, in execution of the contracts where delay occurred is such that
  - a. prescribed maximum LD time limits of the contracts is exceeded or
  - b. delay period has equaled/ exceeded half the original delivery period specified in the contracts

whichever among the above is earlier.

iii.

- a. Overall SPR (Supplier Performance Rating) in that particular Unit in line with SEARP falls below 60% of the specific material category.
- b. Bids of contractors (in PS-MSX portal) shall not be considered (if average score of last six months falls 60% or below as per guidelines for evaluation of capacity of bidders formula).

Note: – for (b), No specific period of Debarment shall be applicable.

iv.

- a. Supplier works are under strike/ lockout for a period of more than three months.
- b. Contractor has resorted to wanton stalling of work, strikes, picketing etc. during currency of the contract.

**1.2. Debarment within the unit for all item(s)/material category(ies)/ type of work(s) shall be imposed for One year in the following cases, if**

- i. Supplier tampers with tendering procedure affecting ordering process.
- ii. Supplier has misused BHEL documents/ drawings/ technical information or has breached the confidentiality agreement with BHEL.
- iii. after placement of order, Supplier fails to execute the contract.
- iv. within warranty period as per contract, Supplier continues to supply low/ less/ non-performing equipment/ services, repetitive failures, remains non-responsive.
- v. Wherever any part or full scope of supply/ work/ service has been awarded at the Risk and Cost of the defaulting vendor and the unexecuted value of scope for which the Risk and Cost action taken is more than 5% of the contract value.

- vi. After price bid opening but before placement of order, Supplier withdraws his offer or varies it in any manner within the validity period.
- vii. In spite of warnings, the Supplier persistently violates or circumvents the provisions of labour laws/ regulations/ rules or other statutory requirements.
- viii. Violation of Section 2, read with Section 3 of Integrity Pact, which are not covered in the list of defaults as per guidelines.

**1.3. Debarment across BHEL shall be imposed for two years in following cases, if**

- i. Supplier has made false declaration and/ or provided false information and/ or forged documents **or** has forged BHEL documents, certificates etc. for securing business, meeting PQR or for enlistment in BHEL or with other customers.
- ii. Supplier is found to be involved in cartel formation or in any other act so as to influence the bidding process or influence the price of the tender.
- iii. The Supplier has indulged in malpractices or misconduct such as bribery, corruption and fraud, pilferage, coercion, etc.
- iv. The Supplier is found guilty by any court of law for criminal activity/ offences involving moral turpitude in relation to business dealings.
- v. Supplier is found to have obtained any internal information/ documentation of BHEL by unauthorized means.
- vi. The foreign Principals along with the representing Agent shall be debarred together if information submitted jointly by them about their precise relationship, commission/ remuneration etc. payable/ receivable and other particulars as asked by BHEL, as per the extant guidelines regarding dealing with Agents of Foreign Suppliers is found false/ incorrect, at any stage.

- vii. Supplier has, damaged, failed to return free issue materials/ tools etc. of BHEL, for which recovery could not be affected against such materials, or substituted free issue materials/ tools etc. of BHEL.
  - viii. Supplier has been declared insolvent or is under dissolution/ insolvency proceedings so as to affect the execution of work.
  - ix. The Supplier has tarnished/ maligned the image of BHEL or unfairly acted in a manner prejudicial to the commercial interest of BHEL or breached the confidentiality of the vital information with an intent to prejudice the interest of BHEL.
- 1.4. A Supplier can also be debarred with the approval of Director (E, R&D) provided a direction to this effect has been received from the administrative ministry of the Government.
- 2.0 Reason(s) for debarring a Supplier as above are only illustrative and not exhaustive. Depending upon the gravity, the competent authority may decide to debar a Supplier for any other adequate and sufficient reason.
- 3.0 **Procedure**
- 3.2 If prima-facie evidence or sufficient grounds exist for suspension, a 'show-cause notice' shall be issued to the Supplier giving a notice period of 15 days.
- 3.4 **Interim Suspension:**

In appropriate cases for justifiable reasons, fresh enquiries (including consideration of existing offers) can be stopped by the Unit with the approval of the authorities mentioned as follows from the date of issue of show-cause notice pending final decision by the competent authority. In case a Supplier submits a representation requesting for lifting of the Interim Suspension, then, the same shall be considered.

**Note:** Amongst others, in cases where recommendation for suspension of a supplier has been received from CBI/ Vigilance or any other



investigating agency, the supplier may be immediately put on Interim Suspension for all fresh enquiries in the concerned unit pending final decision.

- 3.6** If no response to the show cause notice is received from the Supplier within 15 days, the committee may decide to recommend suspension of business dealings or otherwise on the basis of the available evidence on record.
- 3.7** If the Supplier responds, the committee will consider the reply and recommend suspension or otherwise.
- 3.8** Personal hearing by the Committee would be provided to the Supplier, if so requested by the Supplier or if so required. The minutes of the discussions shall be signed immediately with the supplier after conclusion of such discussions and placed in the file. In case, the supplier does not sign the minutes or, as the case may be, does not attend the personal hearing, then, record notes of discussion shall be issued to the Supplier on the same day duly recording such facts.
- 3.10** In case more than one act or omission is alleged to have been committed by the Supplier, then, the case shall be dealt with for all such acts or omissions together as a case of higher category of suspension (as applicable) and will be accordingly placed before the Committee competent to deal with the higher type of suspension. However, the suspension to be imposed on the Supplier will be as per the highest category of act or omission that is/are established ultimately.

**3.13**

**Note 2:** In cases of Fraud (as defined in the Fraud Prevention Policy), unit may consider appropriate action as per BHEL's Fraud Prevention Policy.

**Note 3:** Wherever it comes to notice that the supplier considered for suspension in a given category, was earlier debarred by BHEL in the



same category, in such cases, the period of debarment for the given supplier will be doubled for the given category.

**4.0** The suspension order shall become effective from the earlier of the following events:

a. the date of its issuance;

Or,

b. In case fresh enquiries have been put on Interim Suspension as stipulated in para 3.4 then, from the date when the Interim Suspension was implemented.

**5.0** **Contractual obligations:**

**5.1** **Treatment of Contracts with Suppliers in Debarment (specific to unit level debarment cases) (applicable for the user unit only):**

**5.1.1** Contracts already entered into with a Supplier before the date of issue of the order of debarment shall not be affected.

**5.1.2** Depending upon the type of debarment, in ongoing cases where Techno-commercial Bids are under evaluation and any of the participant Supplier has been debarred, then the tender may be processed excluding the bid of that Supplier. However, if Price Bid has been opened and that Supplier happens to be L-1, then re-tendering is to be resorted to, excluding the Supplier.

**5.1.3** The case of running framework agreement (FA) where multiple POs are placed against a single FA and if the Supplier has been debarred, further purchase orders against this FA are not to be placed on the Supplier during the period of debarment depending on the type of debarment.

### 5.2 Treatment of Contracts with Suppliers Debarred across BHEL:

- 5.2.1** Contracts already entered into with a Supplier before the date of issue of the order of debarment across BHEL shall not be affected. Once the order for debarment across BHEL is passed, existing offers/new offers of the Supplier shall not be entertained.

### 6.0 Lifting of Suspension

Lifting of Suspension is to be **automatic** after the period of suspension is over. As the debarment Order across BHEL will result in automatic cancellation of registration, re-registration will be required as per Clause 12.0 of the Guidelines. In cases where BHEL has suffered direct financial loss like, supplier has damaged, failed to return free issue material of BHEL etc., such suppliers shall not be considered in the procurement process of BHEL unless the loss is recovered from the supplier.

- 9.0** List of Suppliers debarred across BHEL shall be hosted on BHEL's website.

- 12.0** Registration of supplier debarred across BHEL shall be deemed to have been cancelled automatically. Supplier once debarred across BHEL shall have to seek fresh registration in the respective BHEL unit(s) on lifting of debarment across BHEL.

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*Note: Text pertaining to procedures/ guidelines, internal to BHEL have not been included in the "Abridged version".*