



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

(AA/MM/SB/01 Rev: 01)

(17<sup>th</sup> Sept, 2013)

**(ABRIDGED VERSION)**

**CORPORATE MATERIALS MANAGEMENT**

**BHARAT HEAVY ELECTRICALS LIMITED**

**NEW DELHI**



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

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### 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 with them, 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. Suspension could be in the form of hold, de-listing or banning a supplier/ contractor.

### SCOPE

- a. These guidelines will be applicable to all contracts and would apply to all Suppliers/ Contractors (hereinafter referred to as Supplier) having business dealings with BHEL and shall be without prejudice to all remedies available under the contracts with the Suppliers.
- b. If a bidder who has entered into a contract with BHEL or has participated in the tender as an Agent/ Trader/ Dealer/ Stockist/ Distributor 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.
- c. In case of the Supplier being a partnership firm, action under these guidelines shall be taken against the firm and all the partners.
- d. 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 consortium partners and members of the unincorporated Joint ventures/ Association of Persons (AOP)/ Body of Individuals (BOI).

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

Depending upon the gravity of the omission or commission by the Supplier, the Supplier may be either put on hold for future enquiries for specific material category/ item or delisted or banned as detailed hereinafter.

#### **2.0 Hold (Product-level for a maximum period of one year (not less than six months) for a particular Item/ Work/ Mat. Cat.)**

A Supplier may be put on hold for future enquiries for specific material category/ items/ works for a specific unit on the basis of one or more of the following reasons:

- i) Before placement of order, Supplier does not honour his own offer or any of its conditions within the validity period.
- ii) In the last three consecutive supplies of a specific material category, average quality rating as at the end of the previous calendar month falls below 80% of the quality weightage. This is irrespective of supplies against PO(s) having single/ multiple delivery schedules.
- iii) 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 reached/ exceeded or
  - b) delay period has equaled/ exceeded the original delivery period specified in the contractswhichever among the above is earlier.
- iv) Supplier performance rating in line with SEARP falls below 60% of the specific material category.
- v) Supplier fails to respond against three consecutive tenders. ('Regret letter' from the Supplier is to be considered as response)
- vi) Supplier fails to settle any outstanding on account of material (including short return)/ scrap or on any other account.
- vii) Supplier works are under strike/ lockout for a period of more than six months.

### 3.0 De-listing (Unit-level for a period of two years)

A Supplier may be de-listed i.e. removed from the list of registered Suppliers of a Unit for all categories of material on the basis of one or more of the following reasons:

- i) Supplier in any way tampers with tendering procedure affecting ordering process.
- ii) Supplier has misused BHEL documents/ drawings or has breached the confidentiality agreement with BHEL.
- iii) After placement of order, Supplier fails to execute the contract.

### 4.0 Banning (Company-level for a period of three years)

A Supplier can be banned from doing any business with all Units of BHEL on the basis of receipt of evidence of one or more of the following reasons:

- i) Supplier is found to be responsible for submitting fake/ false/ forged documents, certificates, or information or has resorted to unethical, illegal means in getting the contract.
- ii) In spite of warnings, the Supplier persistently violates or circumvents the provisions of labour laws/ regulations/ rules and other statutory requirements.
- iii) Supplier is found to be involved in cartel formation or in any act so as to influence the bidding process or influence the price.
- iv) The Supplier has indulged in malpractices or misconduct such as bribery, corruption and fraud, pilferage etc.
- v) The Supplier is found guilty by any court of law for criminal activity/ offences involving moral turpitude in relation to business dealings.
- vi) The Supplier is declared bankrupt, insolvent, has wound up or been dissolved; i.e. ceases to exist for all practical purposes.
- vii) Supplier is found to have obtained any internal information/ documentation of BHEL by unauthorized means.
- viii) A decision has been taken by the administrative ministry of the Government to ban business dealings with a Supplier and such decision has been communicated to BHEL.
- ix) The foreign Principals along with the representing Agent shall be banned together if information submitted 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.
- x) Supplier has substituted, damaged, failed to return, or unauthorizedly disposed off free issue materials/ tools etc. of BHEL.

### 5.0 Procedure

- 5.2. 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. To enable the Supplier to understand and reply to the notice, the "Show-Cause Notice" shall briefly mention the facts of the matter stating that an action under these guidelines has been proposed.



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- 5.3. If no response is received from the Supplier within 15 days, the committee may decide to recommend suspension of business dealings.
- 5.4. If the Supplier responds, the committee will consider the reply and recommend suspension or otherwise.
- 5.5. Before recommending suspension, personal hearing by the Committee would be provided to the Supplier, if so requested by the Supplier.
- 5.8. Whenever a decision is taken for suspension, the Unit shall inform the Supplier regarding (a) the reasons for suspension, (b) the period of suspension and (c) that the onus shall be with the Supplier to inform BHEL regarding the corrective/ preventive actions taken to address the reasons which has led to its suspension.
- 6.0 Competent authority for Imposition/ Lifting of suspension**
- 6.4. Pending approval of Banning, no fresh enquiry will be issued to the Supplier in question by the concerned unit having recommended the banning action to Corporate Office.
- 8.0 Contractual obligations:**
- 8.1. Contractual obligations already entered into with a Supplier before the date of issue of the order of Hold and Delisting, shall not be affected.
- In ongoing cases where Techno-commercial Bid (Part – I) are under evaluation and any of the participant Supplier has been put on Hold or Delisted then the tender may be processed excluding the bid of that Supplier. However, if Price Bid (Part – II) has been opened and that Supplier happens to be L-1, then re-tendering is to be resorted to.
- The case of running rate contracts where multiple POs are placed against a single rate contract and due to any reason if it is decided to put the Supplier on hold/ delisting, further purchase orders against this rate contract are not to be placed on the Supplier during the period of hold/ delisting in the user unit.
- 8.2. All existing contracts with the banned Supplier shall normally be short closed by BHEL.
- Once the order for banning is passed, existing offers/ new offers of the Supplier shall not be entertained.



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- 12.0** List of banned Suppliers will be hosted on BHEL's website. The 'date of suspension' and 'period of suspension' along with following note shall be mentioned on the website:

'As per extant BHEL policy guidelines, the decision to lift the ban/ otherwise will be considered only on receipt of communication from the firm to respective BHEL unit, about corrective/ preventive actions taken, along with request to lift the ban. Hence, ban will continue till such time its name appears in above list.'

- 13.0** The Supplier shall be informed regarding any decision of suspension of business dealings or its restoration by concerned Unit within 15 days of the approval.
- 14.0** Where a Supplier has been de-listed/ banned, its sister concerns/ other allied companies under the same management should also be on the watch list for concurrent review of their performance and care should be taken that any Partner/ Director of the firm/ company of the Supplier under suspension does not get registered under different firm/ company name.

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