

Email

Director Neigrhms

Fw: Guidelines on debarment of firms from bidding - compliance report.**From :** sonortheast@yahoo.com

Tue, Aug 23, 2022 12:25 PM

Subject : Fw: Guidelines on debarment of firms from bidding - compliance report.

1 attachment

To : Director Neigrhms <director-neigrhms@gov.in>, georgianpd@gmail.com, deyharendra@gmail.com, kumar sambit76 <kumar.sambit76@gmail.com>, drsanta@rediffmail.com, Prof Nepram Sanjib Singh <ms.rims-mn@gov.in>, rimsimpahal18@gmail.com, ripans aizawl <ripans.aizawl@gmail.com>

Reply To : North East <sonortheast@yahoo.com>

Sir,

Enclose please find herewith the above for compliance.

With Regards

SO (NE)

Mr Dabset
Please check
circulate
please
he
23/8

----- Forwarded message -----

From: Budget Section <budgethsection@gmail.com>

To: "mayukh.paul88@gov.in" <mayukh.paul88@gov.in>; "tanu.jaswani89@nic.in" <tanu.jaswani89@nic.in>; "amitkumar.sharma@gov.in" <amitkumar.sharma@gov.in>; "cl.mawi85@nic.in" <cl.mawi85@nic.in>; mohfw trauma <mohfwtrauma@gmail.com>; "ncd2mohfw@gmail.com" <ncd2mohfw@gmail.com>; Vaccine Institute <vaccine.institute@gmail.com>; SAWRU SINGH <hospital1.sec-mohfw@gov.in>; "nvbdcp.budget@gmail.com" <nvbdcp.budget@gmail.com>; "mentalhealth-mohfw@gov.in" <mentalhealth-mohfw@gov.in>; "sotc-mohfw@gov.in" <sotc-mohfw@gov.in>; "sopmjay-mohfw@gov.in" <sopmjay-mohfw@gov.in>; North East <sonortheast@yahoo.com>; Durgesh Gupta <section-ini1-mohfw@gov.in>; INI2 SECTION <ini2section1@gmail.com>; "suidi.hau@nic.in" <suidi.hau@nic.in>; "training-mohfw@nic.in" <training-mohfw@nic.in>; "ahssection@gmail.com" <ahssection@gmail.com>; "ddap539@gmail.com" <ddap539@gmail.com>; Sonia Nayan <me2-mohfw@gov.in>; PH Division MoHFW <publichealth2@yahoo.com>; "mepsection@gmail.com" <mepsection@gmail.com>; "food-mohfw@gov.in" <food-mohfw@gov.in>; Hospital Section <hospital2section@gmail.com>; "ccdmothfw@gmail.com" <ccdmothfw@gmail.com>; "rchdivision548@gmail.com" <rchdivision548@gmail.com>; "ncdcellmohfw@gmail.com" <ncdcellmohfw@gmail.com>; "drugsdiv-mohfw@gov.in" <drugsdiv-mohfw@gov.in>; "section.nursing53@gmail.com" <section.nursing53@gmail.com>; "policymohfw@gmail.com" <policymohfw@gmail.com>; "emrdghs@gmail.com" <emrdghs@gmail.com>; "ashish.sarin@nic.in" <ashish.sarin@nic.in>; "cash.health@nic.in" <cash.health@nic.in>; "praoadmnh-mohfw@gov.in" <praoadmnh-mohfw@gov.in>; "rajpalbhatia123@gmail.com" <rajpalbhatia123@gmail.com>; "amita.void64@nic.in" <amita.void64@nic.in>; "johnson.masih63@nic.in" <johnson.masih63@nic.in>; "phih.section@gmail.com" <phih.section@gmail.com>; "cghs3section@gmail.com" <cghs3section@gmail.com>; "s.kashyap84@nic.in" <s.kashyap84@nic.in>; "op.singh27@nic.in" <op.singh27@nic.in>; "ak.kureel@nic.in" <ak.kureel@nic.in>; mso-mohfw <mso-mohfw@nic.in>; "ncdcbudget2013@yahoo.com" <ncdcbudget2013@yahoo.com>; "jk.ambwani.naco@gmail.com" <jk.ambwani.naco@gmail.com>; DDG TB <ddgtb@rntcp.org>; Dharam Parkash <prakash.d@nic.in>

Sent: Monday, 22 August, 2022, 12:49:07 pm IST**Subject:** Guidelines on debarment of firms from bidding - compliance report.

----- Forwarded message -----

From: **Budget Section** <budgethsection@gmail.com>

Date: Mon, Aug 22, 2022 at 10:37 AM

Subject: Guidelines on debarment of firms from bidding - compliance report.

To: <asfa-mhfw@nic.in>, Ms Gayatri Mishra <g.mishra@nic.in>, Nirmal Kumar Bhagat <nirmalk.bhagat@nic.in>, <indra.kumar39@nic.in>

Respected Sir/Madam,

The Ministry of Finance, Department of Expenditure, Procurement Policy Division has forwarded a copy of above mentioned guidelines for implementation by Program Divisions of Ministry.

With Regards,

(Trilok Singh)

Section Officer

Budget Division

Ministry of Health & Family Welfare,

Nirman Bhawan, New Delhi-110011.

Email id - budgethsection@gmail.com

Tel. No. 011-23062865.

 **Guidelines.pdf**
3 MB

Ministry of Health & Family Welfare
Department of Health & Family Welfare
Budget Division

Nirman Bhawan, New Delhi

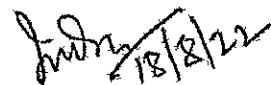
Dated the 18th August, 2022

Office Memorandum

Subject: Guidelines on debarment of firms from bidding-compliance report.

The undersigned is directed to refer to OM No. F.1/20/2018-PPD dated 02.08.2022 of Ministry of Finance, Department of Expenditure, on the above cited subject and to say that instructions contained in the guidelines on debarment of firms from bidding in terms of Rules 151 of General Financial Rules (GFRs) 2017 must be implemented to by a attached/subordinate offices, autonomous bodies as well as Central Public Sector Undertakings under administrative control of this Ministry. A copy of the said O.M. is forwarded for necessary action.

Encl: As above.



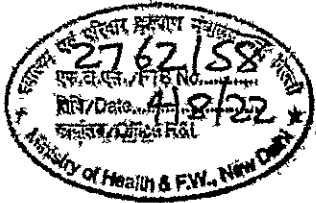
(Naorem Indrakumar Singh)
Under Secretary to the Govt. of India

To

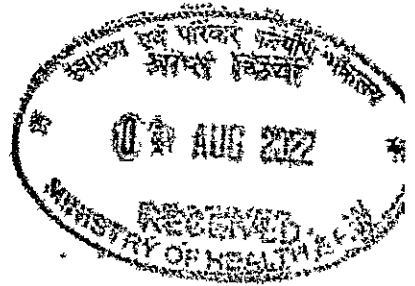
All Programme Divisions
Ministry of Health & Family Welfare

Copy for information to:

PPS to AS & FA/ PPS to JS(Budget)/ PS to Director (Budget).



No.F.1/20/2018-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division



264-C, North Block, New Delhi.
2nd August, 2022.

Office Memorandum

Subject: Guidelines on debarment of firms from bidding – compliance report.

Department of Expenditure (DoE) vide OM No.F.1/20/2018-PPD dated 02.11.2021 issued "Guidelines on Debarment of firms from Bidding," in terms of Rule 151 of General Financial Rules (GFRs), 2017 (copy enclosed).

2. These guidelines contain provisions regarding debarment by the concerned Ministry/ Department as well as debarment across all Ministries/ Departments. These debarment guidelines are applicable to all Central Ministries/ Departments, their attached/ subordinate offices, autonomous bodies as well as Central Public Sector Undertakings. The Guidelines stipulates that all organizations will implement these instructions within two months of issuance of these instructions.

3. However, it has come to the notice of this Department that many organizations are yet to implement these Guidelines. It is requested to confirm these instructions have been implemented in your Ministry/ Department, all attached/ subordinate offices, autonomous bodies as well as all Central Public Sector Undertakings under administrative control of your Ministry/ Department. Please send confirmation latest by 31.08.2022.

ly
02/08/22
Kanwalpreet
Director (Procurement Policy)
Tel.: 23093811
email: kanwal.irss@gov.in

To

Secretaries of all Central Government Ministries/ Departments.
Financial Advisers of Central Government Ministries/ Departments

ASLFA *11/8/22*
Sh. Sharma
Sh. Narendra *12/8/22*
C. / Ldaa
DIA / (B)
USC / (A) *10/8/22*
CCA *80/15*
Wahid *11/8/22*
6/8/22
8-8-22

No.F.1/20/2018-PPD
Government of India
Department of Expenditure
Ministry of Finance
Procurement Policy Division

169-A, North Block, New Delhi,
2nd November, 2021.

OFFICE MEMORANDUM

Subject: Guidelines on Debarment of firms from Bidding

Attention is drawn towards Rule 151 of General Financial Rules (GFRs), 2017 regarding 'Debarment from Bidding' which is reproduced as under:

(i) A bidder shall be debarred if he has been convicted of an offence—

- (a) under the Prevention of Corruption Act, 1988; or*
- (b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.*

(ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.

(iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/ Department will maintain such list which will also be displayed on their website.

(iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment.

2. This department has received a reference from Department of Commerce with a proposal that the task of universal banning of firms as per Rule 151 (ii) of GFRs as above may be undertaken by Department of Expenditure or should be decentralized to individual line Ministries/ Departments as DGS&D had been wind up on 31.10.2017. Central Public Procurement Portal (CPPP) or the Department of Expenditure can then maintain a master data of all such banned firms and it can be made available in public domain.

3. In context of above, all issues regarding debarment have been reviewed in consultations with major procuring Ministries/ Departments and it is decided to issue attached 'Debarment Guidelines' in suppression to all earlier instructions on this subject.

4. This issues with the approval of Finance Secretary.



2.11.21

(Sanjay Aggarwal)

Advisor/ Procurement Policy Division

Email: sanjay.aggarwal68@nic.in

Tel: 23093224

To,

Secretaries, All Central Ministries/ Departments.

Secretary/ Department of Public Enterprises with a request to circulate these instructions to all Central Public Sector Undertakings (CPSUs).

Guidelines on Debarment of firms from Bidding

1. The Guidelines are classified under following two types:
 - (i) In cases where debarment is proposed to be limited to a single Ministry, the appropriate Orders can be issued by that Ministry itself, thereby banning all its business dealing with the debarred firm.
 - (ii) Where it is proposed to extend the debarment beyond the jurisdiction of the particular Ministry i.e. covering to all central Ministries/ Departments, the requisite Orders shall be issued by Department of Expenditure (DoE), Ministry of Finance (MoF).

Definitions

2. **Firm:** The term 'firm' or 'bidder' has the same meaning for the purpose of these Guidelines, which includes an individual or person, a company, a cooperative society, a Hindu undivided family and an association or body of persons, whether incorporated or not, engaged in trade or business.
3. **Allied firm:** All concerns which come within the sphere of effective influence of the debarred firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:
 - a. Whether the management is common;
 - b. Majority interest in the management is held by the partners or directors of banned/ suspended firm;
 - c. Substantial or majority shares are owned by the banned/ suspended firm and by virtue of this it has a controlling voice.
 - d. Directly or indirectly controls, or is controlled by or is under common control with another bidder.
 - e. All successor firms will also be considered as allied firms.
4. The terms "banning of firm", 'suspension', 'Black-Listing' etc. convey the same meaning as of "Debarment".

Debarment by a Single Ministry/ Department

5. Orders for Debarment of a firm(s) shall be passed by a Ministry/ Department/ organizations, keeping in view of the following:
 - a. A bidder or any of its successors may be debarred from participating in any procurement process for a period not exceeding two years.
 - b. Firms will be debarred if it is determined that the bidder has breached the code of integrity as per Rule 175 of GFRs 2017.

- c. A bidder can also be debarred for any actions or omissions by the bidder other than violation of code of integrity, which in the opinion of the Ministry/ Department, warrants debarment, for the reasons like supply of sub-standard material, non-supply of material, abandonment of works, sub-standard quality of works, failure to abide "Bid Securing Declaration" etc.
 - d. It shall not be circulated to other Ministries/ Departments. It will only be applicable to all the attached/ subordinate offices, Autonomous bodies, Central Public Sector Undertakings (CPSUs) etc. of the Ministry/ Department issuing the debarment Order.
 - e. The concerned Ministry/ Department before issuing the debarment order against a firm must ensure that reasonable opportunity has been given to the concerned firm to represent against such debarment (including personal hearing, if requested by firm).
 - f. Secretary of Ministry/Department may nominate an officer at the rank of Joint Secretary/Additional Secretary as competent authority to debar the firms.
 - g. Ministry/ Department that issued the order of debarment can also issue an Order for revocation of debarment before the period of debarment is over, if there is adequate justification for the same. Ordinarily, the revocation of the Order before expiry of debarred period should be done with the approval of Secretary concerned of Ministry/Department.
 - h. The Ministry/Department will maintain list of debarred firms, which will also be displayed on its website.
 - i. Debarment is an executive function and should not be allocated to Vigilance Department.
6. Code of Integrity as contained in Rule 175 of the GFRs is reproduced as under:

No official of a procuring entity or a bidder shall act in contravention of the codes which includes

(i) prohibition of

- (a) making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.*
- (b) any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.*
- (c) any collusion, bid rigging or anticompetitive behavior that may impair the transparency, fairness and the progress of the procurement process.*
- (d) improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.*
- (e) any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.*
- (f) any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.*
- (g) obstruction of any investigation or auditing of a procurement process.*

(h) making false declaration or providing false information for participation in a tender process or to secure a contract;

(ii) disclosure of conflict of interest.

(iii) Disclosure by the bidder of any previous transgressions made in respect of the provisions of sub-clause (i) with any entity in any country during the last three years or of being debarred by any other procuring entity.

7. It is possible that the firm may be debarred concurrently by more than one Ministry/ Department.

8. Ministries/ Departments at their option may also delegate powers to debar bidders to their CPSUs, Attached Offices/ Autonomous Bodies etc. In such cases, broad principles for debarment in para 5 as above are to be kept in mind. Debarment by such bodies like CPSUs etc. shall be applicable only for the procurements made by such bodies.

9. Similarly, Government e-Marketplace (GeM) can also debar bidders upto two years on its portal.

10. In case of debarments under para 8 as above, revocation the debarment orders before expiry of debarred period should be done only with the approval of Chief Executive Officer of concerned CPSUs etc.

Debarment across All Ministries/ Departments

11. Where a Ministry/ Department is of the view that business dealings with a particular firm should be banned across all the Ministries/ Departments by debarring the firm from taking part in any bidding procedure floated by the Central Government Ministries/ Departments, the Ministry/ Department concerned, should after obtaining the approval of the Secretary concerned, forward to DoE a self-contained note setting out all the facts of the case and the justification for the proposed debarment, along with all the relevant papers and documents. DoE will issue the necessary orders after satisfying itself that proposed debarment across all the Ministries/ Departments is in accordance with Rule 151 of GFRs, 2017. This scrutiny is intended to ensure uniformity of treatment in all cases.

12. The firm will remain in suspension mode (i.e. debarred) during the interim period till the final decision taken by DoE, only in the Ministry/ Department forwarding such proposal.

13. Ministry/ Department before forwarding the proposal to DoE must ensure that reasonable opportunity has been given to the concerned firm to represent against such debarment (including personal hearing, if requested by firm). If DoE realizes that

sufficient opportunity has not be given to the firm to represent against the debarment, such debarment requests received from Ministries/ Departments shall be rejected.

14. DoE can also give additional opportunity, at their option, to firm to represent against proposed debarment. DoE can also take suo-moto action to debar the firms in certain circumstances

15. No contract of any kind whatsoever shall be placed on the debarred firm, including its allied firms by any Ministries/ Departments/ Attached/Subordinate offices of the Government of India including autonomous body, CPSUs etc, after the issue of a debarment order.

16. DoE will maintain list of such debarred firms, which will be displayed on Central Public-Procurement Portal.

Revocation of Orders

14. An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.

15. A debarment order may be revoked before the expiry of the Order, by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.

Other Provisions (common to both types of debarment)

16. No contract of any kind whatsoever shall be placed to debarred firm including its allied firms after the issue of a debarment order by the Ministry/ Department. Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of tender (first bid, normally called as technical bid, in case of two packet/two stage bidding) nor debarred on the date of contract. Even in the cases of risk purchase, no contract should be placed on such debarred firms.

17. If case, any debar firms has submitted the bid, the same will be ignored. In case such firm is lowest (L-1), next lowest firm shall be considered as L-1. Bid security submitted by such debarred firms shall be returned to them.

18. Contracts concluded before the issue of the debarment order shall, not be affected by the debarment Orders.

19. The Debarment shall be automatically extended to all its allied firms. In case of joint venture/ consortium is debarred all partners will also stand debarred for the period specified in Debarment Order. The names of partners should be clearly specified in the "Debarment Order".