



Government of West Bengal
Irrigation & Waterways Department
Jalasampad Bhavan, 1st Floor, Western Block
Bidhannagar, Salt Lake City, Kolkata 700 091

No.03-W/2017-18

Dated, 18th May, 2017

MEMORANDUM

Sub: Suspension including Debarment of Bidders/Contractors/Agencies/Suppliers/ Consultants participating in works, consultancy & procurement tenders/quotations for their false declaration or forgery or falsification of bid documents or failure to execute committed contract or for their failure to perform contractual obligations under Irrigation & Waterways Department, Government of West Bengal.

The Government has been considering for some time past to introduce penal measures against the bidders/agencies/contractors/consultants/suppliers, both during bidding and selected for execution of public works, for their false declarations or forgery or falsification of bid documents submitted in bids or failure to execute committed contract or failure to perform contractual obligations and thereby resulting in considerable delay in execution of the public works or procurements or execution of faulty work.

Now, after careful consideration of the entire matter, the Government in the Irrigation & Waterways Department is pleased to prescribe a detailed procedure for taking penal measures of suspension and/ debarment of suppliers, bidders/contractors/agencies/consultants who are participating in the tendering processes as well as those selected for execution of public works/procurement/consultancy work for their false declaration or forgery or falsification of records & documents submitted or failure to execute committed Contracts/Agreement or failure to perform contractual obligations and thereby resulting in delay in execution of public works or execution of faulty work. The detailed guidelines are annexed herewith.

This order takes immediate effect.

By order of the Governor

Encl: Annexure


(K. Chattopadhyay)
Secretary

Memo No. 74 /1(8) - IB
IW/P/IB/MISC-03/2017-18

Dated, 18th May, 2017

Copy forwarded for information to:

1. P.S to Hon'ble Minister-in-Charge
Irrigation & Waterways Department
2. Principal Accountant General (A&E), West Bengal
Treasury Buildings, 2, Government Place (West), Kolkata 700 001

3. Principal Accountant General (Audit), West Bengal
Treasury Buildings, 2, Government Place (West), Kolkata 700 001
4. Accountant General, West Bengal, Economics & Revenue Sector Audit
5th Floor, MSO Building, CGO Complex
Block DF, Sector-I, Bidhannagar, Kolkata 700 064
5. Principal Secretary
Irrigation & Waterways Department
6. Principal Secretary
Public Works Department
NABANNA
325, Sarat Chatterjee Road, Howrah 711 102
7. Secretary
Finance (Audit) Department, Group-T
NABANNA
325, Sarat Chatterjee Road, Howrah 711 102
8. Financial Advisor
Irrigation & Waterways Department

Encl: Annexure

Se
(D. SenGupta)
Joint Secretary to the
Government of West Bengal

Memo No. 74 /3(12) - IB
IW/P/IB/MISC-03/2017-18

Dated, 18th May.2017

Copy forwarded for information and necessary action to:

1. Chief Engineer (South)
Irrigation & Waterways Directorate
2. Chief Engineer (West)
Irrigation & Waterways Directorate
3. Chief Engineer (South West)
Irrigation & Waterways Directorate
4. Chief Engineer (North)
Irrigation & Waterways Directorate
5. Director of Personnel & Ex-officio Chief Engineer
Irrigation & Waterways Directorate
6. Chief Engineer (Design & Research)
Irrigation & Waterways Directorate
7. Chief Engineer (North East)
Irrigation & Waterways Directorate
8. Chief Engineer
Teesta Barrage Project
Irrigation & Waterways Directorate
9. Law Officer
Irrigation & Waterways Department

10. Executive Engineer
DVC Study Cell
Irrigation & Waterways Directorate


He is requested to create a link in the '**Home Page**' of Departmental website wbiwd.gov.in, and upload & update the list of debarred/penalised contractors/bidders in accordance with the procedure and format prescribed under clause 6 of this Order.

✓ 11. Shri Sujay Saha
Executive Engineer
Irrigation & Waterways Department

He is requested to upload this order in the Departmental website.

12. Officer-in-Charge
NIC, Help Desk, Jalsampad Bhawan, Salt Lake

Encl: Annexure


(A. Ghosh) 18.5.2017
Deputy Secretary to the
Government of West Bengal

ANNEXURE

1.0 Scope

The procedure as laid down in subsequent paragraphs shall govern the suspension / debarment of suppliers, contractors and consultants (“Contractors” for brevity) involved in Government procurement (an act of buying goods, works and services including consulting services from external agencies through tendering or quotation) for offenses or violations committed during competitive bidding and contract implementation, for the works under Irrigation & Waterways Department, Government of West Bengal.

2.0 Prohibition on Suspended / Debarred Persons / Entities to participate in the bidding of Projects under the Irrigation & Waterways Department

A person / entity that is suspended / debarred by a procuring entity (an officer authorized by the Irrigation & Waterways Department for procurement) shall not be allowed to participate in any procurement process under Irrigation & Waterways Department during the period of suspension / debarment unless the same has been revoked. Such ineligibility will also extend to any legal entity that the person / entities directly or indirectly controls.

A joint venture or consortium which is suspended / debarred or which has suspended / debarred member(s) and/or partner(s) as well as a person / entity who is a member of suspended / debarred joint venture or consortium shall, likewise, not be allowed to participate in any procurement process under Irrigation & Waterways Department during the period of suspension / debarment unless the same has been revoked. Such ineligibility will also extend to any legal entity that the joint venture or consortium as well as its constituent partner(s) controls.

3.0 Grounds for Suspension and Debarment

- 3.1 Submission of eligibility requirements false information or falsified documents.
- 3.2 Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening or any other stage of the bidding process.
- 3.3 Unauthorized use of one’s name / digital signature certified for purpose of bidding process.
- 3.4 Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favour.

- 3.5 All other acts that tend to defeat the purpose of the competitive bidding such as lodging false complaints about any bidder, posting baseless allegation about any officer duly authorized by the Department, restraining any interested bidder to participate in the bidding process etc.
- 3.6 Refusal to accept an award after issuance of 'Letter of Acceptance' or enter into contract with the Government without justifiable cause.
- 3.7 Refusal or failure to post the required performance security / earnest money within the prescribed time without justifiable cause.
- 3.8 Subcontracting of the contract or any part thereof without prior written approval of the procuring entity.
- 3.9 Failure solely due to fault or negligence of the Contractor, to mobilize and start work within the specified period as mentioned in the 'Letter of Acceptance' / 'Letter of Acceptance cum Work Order' / 'Work Order' / 'Notice of Process' / 'Award of Contract' etc., ultimately resulting in rescindment of contract.
- 3.10 Failure to fully and faithfully comply with the contractual obligations without valid cause, or failure to comply with any written lawful instruction of the procuring entity or his representative(s) pursuant to the implementation of the contract, ultimately resulting in rescindment of contract.
- 3.11 For the procurement of goods, unsatisfactory progress in the delivery of the goods by the manufacturer, supplier or distributor arising from his fault or negligence and/or unsatisfactory or inferior quality of goods, vis-à-vis as laid down in the contract.
- 3.12 For the procurement of consulting services, poor performance by the consultant arising due to non-deployment of competent technical personnel, defective design resulting in substantial corrective measures in design and/or construction at a later date, failure to deliver critical outputs within the specified time, specifying materials of substandard or inappropriate or way above acceptable standards.

4.0 Degree of Offense

- 4.1 First degree of offense: Offenses committed under the categories stated in Sl. Nos.3.1 to 3.12 shall be considered as first degree of offense.
- 4.2 Second degree of offense: Any one of the offenses as mentioned under 4.1 above, committed by a particular contractor by more than one occasion, shall be considered as second degree of offense.

5.0 Penalty for Offense

Penalties for various offenses depending on their degrees and classification shall be as per the provisions shown in the following Table.

Degree of offense	Category / classification of offense	Penal provisions	Special penal provisions
1st degree	Any of the offenses stated in sub-clauses 3.1 to 3.5 under Clause-3 (Grounds for suspension and debarment).	<p>I. If the offense is detected during technical evaluation;</p> <p>(i) Forfeiture of earnest money.</p> <p>(ii) Debarment for a period of six months.</p> <p>II. If the offense is detected after award of contract and if the offender happens to be the agency selected for the work and such selection has been made on the basis of forged / false documents which could not be detected during the selection process due to oversight;</p> <p>(i) Forthwith termination of contract and determination of contract value in accordance with the provision under Clause-3(ix)(c) of WBF No.2911.</p> <p>(ii) Debarment for a period of six months.</p>	<p>If the offense is detected after completion of the work and payment of final bill,</p> <p>(i) Declaration of the credential earned by submission of false / forged documents or by unfair means as "null and void", so that the credential cannot be used in future for securing other works in the I&W Department.</p> <p>(ii) Debarment for a period of six months.</p>
1st degree	Any of the offenses stated in Clauses 3.6 and 3.7.	<p>(i) Forfeiture of Earnest Money.</p> <p>(ii) Debarment for a period of one year.</p>	—
1st degree	Any of the offenses stated in Para 3.8 to 3.12 above.	<p>(i) Termination of contract and its determination in accordance with Clauses 2 and 3 of WBF No.2911 or as per relevant clauses of Contract Agreement for Consulting Services and procurement of goods.</p> <p>(ii) Debarment for a period of two years.</p>	—
2nd degree	All categories	Period of debarment will be twice the corresponding period for 1 st degree offense, in addition to other penal provisions for 1 st degree offense	—

6.0 Procedure of Suspension and Debarment

6.1 Initiation of Action, Notifications, Hearings and Reporting.

- (a) The procurement entity (the tender / bid/ quotation inviting authority) either on his own or on any other information made available to him in writing / through e-mail regarding committing any of the offenses by any of the bidders stated in sub-clauses 3.1 to 3.5 under Clause-3 (Grounds of Suspension and Debarment), will initiate an enquiry by sending a Notice to the bidder against whom the allegation has been made, in writing or by e-mail within three working days of the receipt of complaint, directing him to depose before the TEC in person with necessary papers / justifications. The Notice shall contain the statement of accusations and/or the original documents sought for verification. The respondent bidder, shall, within three working days of receipt of the notice (either in writing or through e-mail) shall appear in person before the TEC, with a written reply, containing adequate justification, facts and figures and also the original documents sought for by the TEC. In case the respondent bidder fails to appear before the TEC on the specified date, without prior intimation in writing or through e-mail, seeking extension of dates (maximum three more working day/s) with adequate justification, the TEC will take suo moto action based on the available document(s) / record(s) collected by the TEC from various sources.
- (b) If the allegations are found to be substantive and genuine by the TEC, it shall submit its recommendation, to the Chief Engineer concerned, stating the degree and category of offenses, justification submitted by the agency and penal measures recommended for the offense, in the following format.

Name of the Firm	Address	Impugned Tender / Quotation No.	Grounds for suspension and debarment in accordance with Clause-3 of the Govt. order of the I&WD	Degree of offense (1st or 2nd), as per Clause-4 of the Govt. order	Explanation of agency	Recommended penal measures as per Table below Clause-5 of the Govt. order
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Note: Government Order means Order No. ____ Dated ____.

- (c) In case offenses are related to categories stated under sub-clauses 3.6 to 3.12, i.e. pertaining to post-evaluation period, the concerned Superintending Engineer, on receipt of a report from the concerned Engineer-in-charge under his control, will submit its recommendations to the concerned Chief Engineer in the above stated format.

- (d) It is clarified that the procurement process shall not generally be suspended in case of mere receipt of allegations pertaining to the categories stated under sub-clauses 3.1 to 3.5. If, after enquiry, the allegations are substantiated against the bidder who has secured the contract, appropriate penal measures in accordance with the Table below Clause-5 shall be taken. The bid / tender / contract may be cancelled and procurement process shall be initiated afresh. However, in case of emergent works, where cancellation / termination of bid / tender / contract may frustrate the very purpose of execution of works due to time constraint, Letter of Acceptance / Letter of Invitation / Notice to Proceed shall not be issued till disposal of the complaints.
- (e) Establishment of offenses committed under sub-clauses 3.6 to 3.12 shall warrant forthwith cancellation / termination of tender / bid / contract and taking up measures stated in the Table below Clause-5.
- (f) In case of false allegation / complaints made by any of the bidders / entities, provision of sub-clause 3.5 shall be invoked and action inviting a reference to the provisions of Table below Clause-5, but restricted to debarment for a period of six months shall be taken against the bidder / entity making such false allegation.

6.2 Publication of the list of Debarred Persons / Entities

The Chief Engineer concerned, on receipt of recommendations from the TEC [as stated in sub-clause 6.1 (b)] or from the concerned Superintending Engineer [as stated in sub-clause 6.1 (c)], will immediately place the matter before the Departmental Tender Committee (DTC) for concurrence and will bring out an order, defining, inter-alia, the specific time period of debarment, in the following format.

Reference No. & date of Order of Chief Engineer	Name of Debarred Firm / Entity	Address	Grounds for debarment (within three sentences)	Period of debarment from (date/month/year) to (date/month/year)
(1)	(2)	(3)	(4)	(5)

The DTC will reserve the right to modify the recommendations of the TEC and it may, if felt necessary, also summon the impugned bidder / entity to depose before the DTC for defending his case. Order of the Chief Engineer, shall be circulated to the Secretary of the Department, all Chief Engineers and the nodal officer, e-governance, for uploading the order in the departmental website www.wbiwd.gov.in. **In addition to this, the nodal officer, e-governance of the I&WD shall also maintain and update a list of debarred contractors in the departmental website, under a new link "List of Debarred Contractors" to be created in the homepage, as per the Table shown in Clause 6.2.**

7.0 Status of Debarred Contractors

- (a) If the Debarment Order of the Chief Engineer is issued prior to date of issue of “Letter of Acceptance” / “Letter of Invitation” / “Notice to Proceed”, for any procurement, the debarred bidder shall not be qualified for award of the bid and such procurement process will be dealt as per existing norms, by simply excluding the erring bidder.
- (b) If the Debarment Order is issued after issue of the orders stated in sub-clause 7(a) above and actions stated at sub-clause 6.1 shall be taken, and the tender / contract shall be cancelled..
- (c) However, if the offense committed by the debarred contractor is not connected anyway with any ongoing or awarded project, and if that project has been secured on the basis of valid and genuine credentials, contract of such project shall not be prejudiced by the said Debarment Order.


D SenGupta
Joint Secretary to the
Government of West Bengal