

Government of West Bengal  
Public Works Department  
Works Branch

**M E M O R A N D U M**

No.547-W(C)/1M-387/15

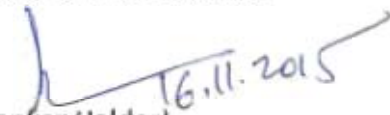
Dated 16<sup>th</sup> November, 2015

**Subject: Suspension and Debarment of Contractor, Supplier and Consultant participating for public works under Public Works Department**

The Government has been considering for some time past to introduce penal measures to the bidders and agencies selected for executing public works for their false declaration or forgery or falsification of records submitted or failure to execute committed contract or for their failure to perform contractual obligations and thereby resulting delay for execution of the public works or execution of faulty works.

Now, after careful consideration of the entire matter, the government is pleased to prescribe detailed procedure for taking penal measures of suspension and debarment of suppliers, contractors and consultants who are participating in the tender process as well as selected for execution of public works for their false declaration or forgery or falsification of records submitted or failure to execute committed contract or for their failure to perform contractual obligations and thereby resulting delay in execution of the public works or execution of faulty works. The detailed guidelines are annexed herewith.

By Order of the Governor

  
(Sankar Haldar) 16.11.2015


Joint Secretary to the Government of West Bengal  
Public Works Department

No.547/1(200)- W(C)/1M-387/15

Dated 16<sup>th</sup> November, 2015

Copy forwarded for information and necessary action to:-

1. Principal A.G. (A&E), West Bengal.
2. The Finance Department, Govt. of West Bengal, Group-T / Budget.
3. The E-in-C & Ex-Officio Secretary, Public Works Department.
4. The F.A., Public Works Department.
5. The Joint Secretary (Technical), Public Works Department.
6. The Joint Secretary (Administration), Public Works Department.
7. The Joint Secretary (Personnel), Public Works Department.
8. The Chief Engineer, \_\_\_\_\_  
Directorate.
9. The Superintending Engineer, \_\_\_\_\_ Circle, P. W. / P. W.  
(Social Sector) / P. W. (R) Directorate.
10. Technical Secretary, Public Works Department.
11. The Executive Engineer, \_\_\_\_\_ Division, P. W. / P. W.  
(Social Sector) / P. W. (R) Directorate.
12. The Assistant Engineer, \_\_\_\_\_ Sub-Division, P. W. / P.  
W. (Social Sector) / P. W. (R) Directorate.
13. The Executive Engineer, IT Division, PW Dte. He is requested to upload in Departmental  
website.
14. Guard File.

  
Joint Secretary to the Government of West Bengal  
Public Works Department

No.547/2(5)- W(C)/1M-387/15

Dated 16<sup>th</sup> November, 2015

Copy forwarded to:

1. The Sr. P.S. to the Chief Secretary to the Government of West Bengal.
2. The P.S. to Hon'ble M.I.C., P. W. Department.
3. Principal Secretary, Finance Department.
4. The Principal Secretary, Public Works Department.

  
Joint Secretary to the Government of West Bengal  
Public Works Department

**PROCEDURE FOR SUSPENSION AND DEBARMENT OF SUPPLIERS, CONTRACTORS AND CONSULTANTS**

**1. 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 for offenses or violations committed during competitive bidding and contract implementation, for the works under Public Works Department, Government of West Bengal.

**2. PROHIBITION ON SUSPENDED / DEBARRED PERSONS/ENTITIES TO PARTICIPATE IN THE BIDDING OF GOVERNMENT PROJECTS/CONTRACTS OF THE DEPARTMENT.**

A person/entity that is suspended / debarred by a procuring entity shall not be allowed to participate in any procurement process under Public Works Department during the period of suspension / debarment unless the same has been revoked.

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 a suspended / debarred joint venture or consortium shall, likewise, not be allowed to participate in any procurement process under Public Works Department during the period of suspension / debarment unless the same has been revoked.

*(The same must be invariably mentioned in procurement notice.)*

**3. DEFINITION OF TERMS:-**

**3.1 Bidder:-** A Person /Contractor /Agency /Joint Venture /Consortium/ Corporation participating in the procurement process and/or a Person /Contractor /Agency /Joint Venture /Consortium/ Corporation having an agreement/contract for any procurement with the department shall be referred as bidder.

**3.2 Bid Evaluation Committee (BEC in short):**

a) "Bid Evaluation Committee" for the bids invited by the Executive Engineer will be comprising of i) Concerned Executive Engineer inviting bids as chairperson and convener, ii) Divisional Accounts Officer as member and iii) Concerned Assistant Engineer as member.

b) "Bid Evaluation Committee" for the bids invited by the Superintending Engineer will be comprising of i) Concerned Superintending Engineer as chairperson and convener, ii) Concerned Executive Engineer as member, iii) T.A to Superintending Engineer of concerned Circle or any other Executive Engineer of the Circle as member, iv) Divisional Accounts Officer/ Divisional Accountant as member.

The Bid Evaluation Committee, as constituted by the Department from time to time.

**3.3 Consolidated Debarment List:-** A list prepared by the Department containing the list of bidders debarred by the Public Works Department, Government of West Bengal. The list would be displayed on website of the Department

**3.4 Contract implementation:-** A process of undertaking a project in accordance with the contract documents.

**3.5 Debarment:-** An administrative penalty, in addition to the contract provision, disqualifying a bidder from participating in any procurement process under Public Works Department, Government of West Bengal for a given period.

**3.6 Debarred Bidder: -** A Bidder who was disqualified by the competent authority of the Public Works Department, Government of West Bengal.

**3.7 Department: -** Public Works Department, Government of West Bengal.

**3.8 Debarment Committee (Committee competent for issuing Debarment Order) :-**

The "Debarment Committee" will be comprising of the (i) The Engineer in Chief & Ex-Officio Secretary, Public Works Department as chairperson and convener, (ii) The Chief Engineer, Head Quarter, Public Works Directorate as member and (iii) The Chief Engineer, Head Quarter, Public Work (Roads) Directorate as member, iv) The Financial Advisor, Integrated Finance Branch, PWD as member, v) For electrical works, the Chief Engineer, Electrical/ for NH works, the Chief Engineer, NH/ for Social Sector works, the Chief Engineer, Social Sector as member.

The Debarment Committee is authorized to decide to place alleged bidders under debarment.

**3.8 Entity :-**

A Person /Contractor /Agency /Joint Venture /Consortium/ Corporation participating in the procurement process and/or a Person /Contractor /Agency /Joint Venture /Consortium/ Corporation having an agreement/contract for any procurement with the department shall be referred as entity.

**3.10 Offence: -** A violation or breach of a law, regulation, laid down procedure, etc.

**3.11 Procurement: -** It is the act of buying goods, services or works from an external source. It is favorable that the goods, services or works are appropriate and that they are **procured** at the best possible cost to meet the needs of the acquirer in terms of quality and quantity, time, and location.

**3.12 Procuring Entity / Authority: -** The officer authorized by the Public Works Department, Government of West Bengal, for procurement.

**3.13 Suspension:-** Temporary disqualification of a bidder from participating in the procurement process of Public Works Department for a period of 6(six) months when an offence is made out against a bidder.

### **3.14 Suspension Committee (Committee competent for issuing Suspension Order):-**

“Suspension Committee” will be comprising of i) Zonal Chief Engineer, of the concerned Directorate, as chairperson and convener, ii) Assistant Chief Engineer (Monitoring), of the concerned Directorate as member and iii) Concerned Superintending Engineer, of the respective wing, as member.

For NH works, the Zonal Chief Engineer, P.W (Roads) Directorate will act as Chairperson and Convener and for Electrical and Social Sector works, the Zonal Chief Engineer, P.W. Directorate will act as Chairperson and Convener of the Suspension Committee as stated above.

## **4. GROUNDS FOR SUSPENSION AND DEBARMENT**

- 4.1. Submission of eligibility requirements containing false information or falsified documents.
- 4.2. 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.
- 4.3. Unauthorized use of one's name/digital signature certificate for purpose of bidding process.
- 4.4. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favour.
- 4.5. Refusal or failure to post a self-declaration to the effect of any previous debarment imposed by any other department of State Government and / or Central Government.
- 4.6. All other acts that tend to defeat the purpose of the competitive bidding such as lodging false complain about any bidder, lodging false complain about any officer duly authorized by the department, restraining any interested bidder to participate in the bidding process, etc.
- 4.7. Assignment and subcontracting of the contract or any part thereof without prior written approval of the procuring entity.
- 4.8. Whenever adverse reports related to adverse performance, misbehavior, direct or indirect involvement in threatening, making false complaints etc damaging the reputation of the department or any other type complaint considered fit by the competent authority of the department, are received from more than one officer or at more than one occasion from individual officer.
- 4.9. Refusal or failure to post the required performance security / earnest money within the prescribed time without justifiable cause.
- 4.10. Failure in deployment of technical personnel, engineers and / or work supervisor having requisite license/ supervisor certificate of competency as specified in the Contract.

4.11. Refusal to accept an award after issuance of "letter of acceptance" or enter into contract with the government without justifiable cause.

4.12. Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period as mentioned in the "Letter of Acceptance", "Letter of Acceptance cum Work Order", "Work Order", "Notice to Proceed", "Award of Contract", etc.

4.13. Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the procuring entity or its representative(s) pursuant to the implementation of the contract.

4.14. For the procurement of consultancy service/ contracts, poor performance by the consultant of his services arising from his fault or negligence. Any of the following acts by the consultant shall be construed as poor performance.

- i. Non deployment of competent technical personnel, competent engineers and /or work supervisors;
- ii. Non deployment of committed equipment, facilities, support staff and manpower; and
- iii. Defective design resulting in substantial corrective works in design and/or construction;
- iv. Failure to deliver critical outputs due to consultant's fault or negligence; and
- v. Specifying materials which are inappropriate and substandard or way above acceptable standards leading to high procurement cost.
- vi. Allowing defective workmanship or works by the contractor being supervised by the consultant.

4.15. 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 a vis as laid down in the contract.

4.16. Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof without lawful and/or just cause.

## **5. CATEGORY OF OFFENSE:-**

5.1. First degree of offense:- Sl. No. 4.1 to 4.16 to be considered as first degree of offense.

5.2. Second degree of offence:- Any one of the offences as mentioned under 5.1 above, committed by a particular bidder/contractor/supplier by more than one occasions, be considered as second degree of offense.

In addition to the penalty of suspension / debarment, the bid security / earnest money posted by the concerned bidder or prospective bidder shall also be forfeited.

*(The same must be invariably part of the process of evaluation of bids.)*

## 6. PENALTY FOR OFFENSE:-

6.1. For committing 1<sup>st</sup> Degree of offense:- Disqualifying a bidder from participating in any procurement process under the Public Works Department, Government of West Bengal up to 2(two) years.

6.2. For committing 2<sup>nd</sup> Degree of offense:- Disqualifying a bidder from participating in any procurement process under the Public Works Department, Government of West Bengal for a period of 3(three) years.

## 7. PROCEDURE OF SUSPENSION AND DEBARMENT DURING THE PROCUREMENT PROCESS:

### 7.1 Initiation of Action, Notifications and Hearings.

Any bidder or procurement authority on his own or based on any other information made available to him may initiate the process of suspension / debarment proceedings by filing a written complaint with the **Bid Evaluation Committee** and such filing of written application has to be done within forty eight hours from the date and time of publication of the result of technical evaluation of any bid.

a) Upon verification of the existence of grounds for suspension / debarment, the chairperson of **Bid Evaluation Committee** shall immediately notify the bidder concerned either electronically through his registered e-mail id or in writing to his postal address, advising him that:

i) A complaint has been filed against him and prima facie material has been found, which may lead to suspension/ debarment.

ii) He has been recommended to be placed under suspension / debarment by the **Suspension Committee**, stating the grounds for such.

iii) The said bidder within three days from the date of issue of such notification by the **Bid Evaluation Committee**, may approach the chairperson of **Suspension Committee** by submitting all required documents in his favour for a hearing. Any application made thereafter would not be entertained.

Such notice should contain the e-mail id and the postal address of the Chairperson of the Suspension Committee.

- b) After receiving the recommendation for suspension from **Bid Evaluation Committee**, the **Suspension Committee** shall issue a notice to the alleged bidder, electronically through his registered e-mail id, to submit all relevant documents in support of his defense within three working days after issuance of the notice of the **Suspension Committee**. The **Suspension Committee** will conduct the hearing within seven working days from the date of receipt of the documents from the alleged bidder. If no appeal has been received from the alleged bidder or after hearing if found sufficient ground for suspension the **Suspension Committee**, will suspend the alleged bidder from participating in the procurement process under the Public Works Department for a period of 6 (six) months from the date of issuance of Suspension order. The Chairperson of the **Suspension Committee** shall issue the Suspension Order within 7(seven) days from the last date of hearing and shall notify the bidder concerned either electronically through his registered e-mail id or in writing to his postal address. The chairperson of **Suspension Committee** shall also inform the decision to all concerned.

If sufficient reasons for suspension are not found, the **Suspension Committee** would reject the recommendation of **Bid Evaluation Committee** and would allow the bidder to take part in the tendering process.

If the bidder is suspended, the **Suspension Committee** would recommend debarment of the bidder and forward the case with all documents to the **Debarment Committee** for further action.

- c) The **Debarment Committee** upon receipt of the recommendation of the **Suspension Committee** shall scrutinize the documents. The **Debarment Committee** will hold a hearing of the alleged bidder and issue necessary order within 10(ten) working days from the last date of hearing. The **Debarment Committee** if satisfied after hearing shall forward the case to the Department for order of debarment. The Department in due course will issue Debarment Order disqualifying / prohibiting the erring bidder from participating in the bidding / procurement of all projects under Public Works Department, Government of West Bengal for a specified period. The alleged bidder shall be intimated accordingly either electronically through his registered e-mail id or in writing to his postal address. Otherwise the **Debarment Committee** may reject the recommendation of the **Suspension Committee**. The chairperson of **Debarment Committee** shall also inform the decision to all concerned.

## 8. PROCEDURE FOR DEBARMENT DURING THE CONTRACT IMPLEMENTATION STAGE:

- a) Upon termination of contract due to default of the bidder, the Engineer-in-charge shall recommend for debarment to the **Bid Evaluation Committee**. The **Bid Evaluation Committee** shall submit his recommendation of debarment of the alleged bidder along with a detail report stating clearly the reasons for debarment to the **Debarment Committee** within thirty days from the date of termination of contract. The alleged bidder shall be intimated accordingly either electronically through his registered e-mail id or in writing to his postal address. The chairperson of **Bid Evaluation Committee** shall also inform the decision to all concerned.



b) The **Debarment Committee** upon receipt of the recommendation of the **Bid Evaluation Committee** shall scrutinize the documents. The **Debarment Committee** will hold a hearing about the matter from the bidder and issue necessary order within 10(ten) working days from the last date of hearing. The **Debarment Committee** if satisfied after hearing shall forward the case to the department for order of debarment. The department in due course will issue Debarment Order disqualifying / prohibiting the erring bidder from participating in the bidding / procurement of all projects under Public Works Department, Government of West Bengal for a specified period. The alleged bidder shall be intimated accordingly either electronically through his registered e-mail id or in writing to his postal address. Otherwise the **Debarment Committee** may reject the recommendation of the **Bid Evaluation Committee**. The chairperson of **Debarment Committee** shall also inform the decision to all concerned.

#### 9. STATUS OF SUSPENDED / DEBARRED BIDDER:-

a) Bidder placed under suspension/ debarment by the competent authority will not be allowed to participate in any procurement process, within the period of suspension/debarment, in any procurement process under Public Works Department. The earnest money of the suspended bidder shall stand forfeited to the Government.

b) If the Suspension/Debarment Order is issued prior to the date of issue of "Letter of Acceptance", "Letter of Acceptance cum Work Order", "Work Order", "Notice to Proceed", "Award of Contract", etc for any bid, the suspended/ debarred bidder shall not be qualified for award for the said bid and such procurement process will be dealt with as per existing norms by simply excluding the erring bidder.

c) If the Suspension/ Debarment Order is issued after award of a government project/contract to the debarred bidder, the awarded project/contract shall not be prejudiced by the said order provided that the said offense(s) committed by the debarred bidder is not connected with the awarded project/contract.

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