



भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
रेलवे बोर्ड (Railway Board)



No. 2021/RS(G)/779/17(E 3380016)

नई दिल्ली New Delhi Dated: 09.11.2022

The General Managers, All Indian Railways/PUs, NF(C), CORE
DG/RDSO/Lucknow, NAIR/Vadodara,
PCAO, DMW/Patiala, COFMOW/NDLS,
CAO, WPO/Patna, RWP/ Bela.

Sub: Debarment Instructions for Ministry of Railways

Ref: Department of Expenditure O.M. No. F.1/20/2018-PPD dated 02.11.2021

Indian Railway Vigilance Manual provided the basis for dealing with the debarment proposals received from various procuring units/vigilance.

Department of Expenditure, Ministry of Finance vide its OM dated 02.11.2021, in suppression to all earlier instructions, has issued debarment guidelines on debarment of firms from participation in any procurement process.

Henceforth debarment in M/o Railways shall be dealt with as per guidelines issued by DoE and following additional instructions. In case of any conflict, debarment guidelines of DoE would prevail.

1. Competent Authority for approval for debarment for Ministry of Railways shall be concerned Additional Member. In case Additional Member is not in position, Concerned Board member may nominate concerned Principal Executive Director or Executive Director as Competent Authority.
2. Proposals for debarment shall be sent by procuring units to concerned Directorate in Railway Board. Proposals for debarment out of vigilance/SPE/CBI cases shall be sent by concerned Vigilance Dte of Railway Board to concerned Directorate in Railway Board.
3. Debarment proposals from procuring units shall invariably include opinion of the Vigilance Branch of that procuring unit when complicity of Railway Officers/Staff in the irregularities/fraud indulged in by the firms is suspected by the procuring unit.
4. Debarment proposals from procuring units should contain/enclose detailed information as per format enclosed (**Annexure I**). The proposal should be vetted by the Law Officer and should have the approval of the concerned PHOD. In case it is proposed to debar the firm across all Ministries/Departments, the proposal would be forwarded to concerned directorate of Railway Board with the approval of General Manager. For proposals from Vigilance Dte of Board, proposal shall be approved by PED/Vigilance. Complete proposal along with all the documents should be attested by SAG or above level officer
5. In cases where details regarding Partners/Proprietors/Directors etc. of the firm and also of allied firms could not be linked earlier with the debarment proposal, these details should be furnished promptly by the concerned proposing unit, as and when such information comes to its knowledge.
6. Before sending the proposal to Board for debarment, the unit should remove the name of the firm from its list of approved/registered/empanelled suppliers, if applicable.
7. The debarment proposal will be examined in Board by the concerned Directorate to examine the adequacy of the facts necessary for issue of Show Cause notice to the firm concerned.

8. Any clarification or additional/supplementary information sought by Board from the firm shall be through the concerned PHOD of the field unit. In vigilance related cases, the information shall be called through vigilance/PHOD, as applicable or considered necessary.
9. Show Cause notice (format as per **Annexure-II**) shall be issued to the delinquent firm indicating clearly the charges (based on the facts as can be proved) through registered post (and also email, if available). In case no reply to the show cause notice is received from the firm within the stipulated time (30 days), followed by reminder for 10 days more, action for processing the case ex-parte against the firm should be initiated. Subsequently, an opportunity shall be given to the firm for in-person hearing (oral hearing) by fixing a date for hearing. Hearing should be held at the level of minimum Director (or Joint Director if Director is not posted) level officer in Board. Brief for the same shall be prepared and jointly signed by the Director (or joint Director as applicable) and representative of the firm attending the hearing. Firm's reply to show cause notice and their submission in oral hearing will be examined.
10. Views/comments of the concerned proposing unit may also be called on the representation/oral hearing of the firm and duly considered. For cases out of vigilance/CBI/SPE etc, views/comments of Vigilance Dte. may be obtained, if considered necessary. The views/comments so received shall not be binding.
11. Based on above, case should be processed for approval of Competent Authority for debarment of the firm or otherwise.
12. Debarment order, when issued, shall be in the proforma as per **Annexure III**. Debarment shall be effective from the date of issue of the Debarment order. Debarment order shall specify the specific time period for which it will be effective. The order shall also mention name of the allied firms and names of all the partners/proprietors/directors/all members etc. of the firm and its allied firms. In case of JV/consortium, name of all the partners shall be mentioned. If details regarding partners/proprietors/directors/all members & partners of JV/consortium, etc. of the firm and its allied firms, come to notice at a later date, those shall be circulated to all. Debarment order will also indicate the reason(s) in brief that led to debarment of the firm. The fact that the representation has been considered and oral hearings have also been conducted (as applicable) should invariably be mentioned in the debarment order. If no representation was received in response to the show cause notice or the firm has not availed the opportunity of oral hearing given to it, the same should invariably be indicated in the debarment order.
13. Debarment Order will be applicable to all units of Ministry of Railway including field units, subordinate/attached offices, autonomous bodies, CPSUs, etc. under the Ministry of Railways and will be sent to them. Firm shall also be informed about debarment order through registered post (and also email, if available). A copy of debarment order shall be sent to CRIS and CEO/GeM. Order of debarment shall be uploaded on the website of Indian Railways, i.e. indianrailways@gov.in and IREPS portal.
14. The debarred firm, including its allied firms, shall be debarred from participation in any procurement process of Ministry of Railway, including all field units, subordinate/attached offices, autonomous bodies, CPSUs, etc. under Ministry of Railway. No contract of any kind whatsoever shall be placed with the debarred firm including its allied firms.
15. Any representation from the debarred firm shall be dealt with by the concerned directorate in Board. The revocation of debarment order before expiry of debarment period, if there is adequate justification for the same, shall be done with the approval of concerned Board member.
16. Court cases arising out of debarment orders issued shall be processed/dealt with by the concerned procuring unit
17. In case it is considered that the misconduct is grave enough and there are sufficient/strong evidence on record to believe that the firm has been engaged in activities requiring debarment across all Ministries/Departments , after issue of debarment order for Ministry of Railway and with specific approval of concerned Board Member, the proposal shall be expeditiously sent by concerned Directorate to Secretary/Expenditure with a self-contained note, all relevant documents and clear recommendations regarding debarment across all Ministries and period thereof.
18. CPSEs/attached offices/autonomous bodies under Ministry of Railways shall independently deal with the debarment cases pertaining to their organization as per para 8 and 10 of the DOE order. In cases where it is considered that the misconduct is grave enough and there are

sufficient/strong evidence on record to believe that the firm has been engaged in activities requiring debarment for either Ministry of Railway as a whole or across all Ministries/Departments of Govt of India, after issue of debarment order for their organization and with specific approval of head of the organization (CEO/CMD/MD), the proposal shall be expeditiously sent to the concerned Directorate in Board with a self-contained note, all relevant documents and clear recommendations regarding debarment for Ministry of Railway as a whole or across all Ministries/Departments of Govt of India and period thereof.

19. Debarment proposals received in concerned Directorate of Board upto 10 days from the date of issue of these instructions(called old proposals) shall be dealt as per the process being followed earlier to these instructions being issued. Debarment proposals received after this date (called new proposals) shall be dealt as per these instructions
20. The Competent authority for approval of debarment for all proposals (new/old) shall be as per these instructions (i.e. AM or PED/ED as applicable).
21. However, provisions of DoE O.M. dated 02.11.2021 shall be applicable for all proposals (new/old). Debarment order shall also be issued accordingly.
22. These instructions shall be applicable for all types of contracts.
23. Necessary changes may be made in the Tender Documents.

These instructions are issued in consultation with Engineering and Vigilance directorate and approval of Railway Board.

D.A.: As above.


(Chandan Kumar)
Director Railway Stores (IC)
Railway Board

LIST FOR DISTRIBUTION

Directors of all CTIs,
CMDs /MDs of all Railway PSUs/ autonomous bodies/ societies,
PFAs, PCMMs, PCEs, PFAs, PCMEs, PCEEs, PCSTEs, All Indian Railways & PUs, COFMOW,
CORE, WPO/Patna and RWP/Bela
Sr. Prof. (Material Management), NAIR, Vadodara, ED (Stores), RDSO, Lucknow
Chief Commissioner, Railway Safety, Lucknow
Zonal Railway Training Institute, Sukadia Circle, Udaipur

Copy to:

The Genl. Secy., AIRF, Room No. 248, & NFIR Room No. 256-C, Rail Bhavan
The Secy. Genl., IRPOF, Room No. 268, FROA, Room No. 256-D & AIRPOA, Room No. 256-D Rail Bhavan.

Copy to:-

PSOs/Sr. PPSs / PPSs / PSs to :

MR, MOSR(D), MOSR(J)

CRB&CEO, M(TRS), M(Infra), M(O&BD), M(F), Secretary/RB, DG (RHS), DG (RPF), DG(HR), DG(Safety)

Advisor/IMR, EDPG/MR, OSD/MR and OSD/Co-ord/MR.

All AMs, PEDs & Executive Directors of Railway Board.

Room No. 363, Rail Bhawan, Raisina Road, New Delhi-110001

FORMAT OF DEBARMENT PROPOSAL FROM PROCURING RAILWAY UNIT

1	Name of the firm & address:	
2	Date of Registration/approval on the Railways:	
3	Whether registered as MSME and registration details	
4	Detailed reasons for proposal of Debarment:	
5	Definite recommendations about the specific period (as per the provisions in the enclosed DOE O.M.), for which debarment is proposed to be applicable and justification	
6	Justification for debarment and period of debarment	
7	Draft statement of charges/misconduct indicating clearly and precisely the charges/misconduct which should be based on facts as can be proved, distinct from mere allegations, along with investigation report of the SPE/Vigilance, if any.	
7.1	Draft show cause notice to the firm	
8	Whether the firm has been removed from the List of approved/registered suppliers:	
9	Constitution of the firm (Public Ltd./Private Ltd./Partners/JC/Consortium):	
10	Name of the Directors/Partners/Proprietors:	
11	Names and details of Allied firms	
12	Names of partners/proprietors/Directors of allied firms	
13	Whether proposed action will create difficulty due to firm being sole supplier on proprietary basis, details thereof	
14	Whether proposed action will create difficulty due to the category of items dealt by firm have inadequate number of sources. If yes, details thereof	
15	Comments of vigilance as applicable	

16	Whether proposed to debar across All Ministries/departments. If yes, justification for the same.	
17	Departmental Investigation report, if any	
18	Investigation report of SPE/Vigilance, if any	
19	Approval of PHOD/GM as applicable	
20	Enclose all relevant documents	

FORMAT for SHOW CAUSE NOTICE

भारत सरकार **GOVERNMENT OF INDIA**
रेल मंत्रालय **MINISTRY OF RAILWAYS**
(रेलवे बोर्ड) **(Railway Board)**

SHOW CAUSE NOTICE**No.****Dated****Sub: Debarment of M/s and its allied firms**

M/s. are hereby informed that(Procuring entity) had placed the following Purchase orders on them for supply of the following materials/Equipments.

Details of Stores Indented

Purchase Order No. and date	Description of the materials

It has been observed that M/s.indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the Government of India proposes to debar M/s. and also its allied firms, if any, from participation in any procurement process under this Ministry for a period of(in words) months/years

M/s. and also its allied firms are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s.and also allied firms may make in this regard will be considered. Such representation should be made in writing and submitted in duplicate so as to reach the undersigned not later than days from the date of issue of this memorandum. In case no representation is received by the date mentioned above, it will be presumed that M/s.and also its allied firms have no representation to make against the proposed action and a final decision shall be taken on merit of this case.

Receipt of this memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature

Name

Designation & Address

To

M/s.....

FORMAT OF DEBARMENT ORDER

भारत सरकार **GOVERNMENT OF INDIA**
रेल मंत्रालय **MINISTRY OF RAILWAYS**
(रेलवे बोर्ड) **(Railway Board)**
DEBARMENT ORDER

No.

Dated

To

M/s.....

Sub: Debarment of M/s and its allied firms

Ref:

1. This Ministry's Memorandum No.dated.....

2. Your letter No.dated.....

The representation made by you vide your letter no.....dated..... and submissions made by you during oral hearing on -----have been carefully considered and Ministry of Railways (Railway Board) have decided to debar you and your allied firms from participation in any procurement process under this Ministry for a period ofmonths/years from the date of this debarment order.

Reason (in brief) for debarment of firm:	
Hearing conducted: oral/ex-parte	
Name of the Directors/Partners/Proprietors	
Name of Allied firms covered under this order	
Names of partners/proprietors/Directors of allied firms	

Please acknowledge receipt of this order.

DA: A copy of reasoned order

Yours faithfully,

(Signature of Issuing Authority)

(Name)

Designation of Issuing Authority

(For and on behalf of Government of India)

Copy to:

All Railway Units, Autonomous bodies, Attached/subordinate offices, CPSUs under Ministry of Railway
MD/CRIS, CEO, GeM

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 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".

20. Debarment in any manner does not impact any other contractual or other legal rights of the procuring entities.
21. The period of debarment shall start from the date of issue of debarment order.
22. The Order of debarment will indicate the reason(s) in brief that lead to debarment of the firm.
23. Ordinarily, the period of debarment should not be less than six months.
24. In case of shortage of suppliers in a particular group, such debarments may also hurt the interest of procuring entities. In such cases, endeavor should be to pragmatically analyze the circumstances, try to reform the supplier and may get a written commitment from the supplier that its performance will improve.
25. All Ministries/ Departments must align their existing Debarment Guidelines in conformity with these Guidelines within two months of issue of these Guidelines. Further, bidding documents must also be suitably amended, if required.

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