

E-Auction Notice

1. E-auction in two cover system are invited by the Deendayal Port Authority, Gandhidham for the **"SALE OF DUTY FREE CREDIT SCRIP ISSUED BY DGFT UNDER SERVICE EXPORT FROM INDIA SCHEME (SEIS) FOR VALUE OF Rs.62,83,41,772.00"**.

2. Details of e-auction can be downloaded from DPA website www.deendayalportauthority.gov.in, www.mstcecommerce.com or from Central Public Procurement Portal www.eprocure.gov.in/cppp/

3. All intending bidders for participating in E-Auction will have to register with MSTC in their portal www.mstcecommerce.com by paying applicable registration fees. User ID & password for log-in to e-Tendering portal www.mstcecommerce.com will be issued by MSTC on completion of registration process. Bidders registered with MSTC can participate in the e-auction.

4. Pre-Bid Earnest Money Deposit (EMD) Rs.62,83,418/- is to be remitted to MSTC, using **"e-Payment"** gateway in buyer's login.

Pre-Bid Earnest Money Deposit (EMD) as mentioned against respective lots is to be remitted to MSTC, using "Pay Pre-Bid EMD" Link" in buyer's login.

NEW METHOD OF PRE BID PAYMENT

PRE BID REQUIREMENT :

(1) For Participation in this auction the prospective bidders must submit Pre Bid EMD amount given above with MSTC using the "PAY PRE-BID EMD" Link inside their MSTC Login Home Page only

PRE BID EMD PAYMENT PROCEDURE :

-> Click on "PAY PRE-BID EMD" Link given inside your MSTC ecommerce Scrap e-Auction Login Home Page.

-> Enter the required PRE-BID amount as mentioned in auction catalog against Lots / auction.

-> Click on Proceed to Payment

-> Fill the bank details of Saving/Current/OD account which is in Company's Name.

-> Print RTGS Mandate Form and transfer the amount.

Pre-Bid EMD must be paid by the bidder (NEFT/RTGS) using the "PAY PRE-BID EMD" link only. DO NOT PAY PRE-BID EMD BY "E-PAYMENT" LINK OR DD/PO.

Refund to Bidder as per their online request will also be processed from MSTC, Head Office, Kolkata on the next working day using the "EMD REFUND REQUEST" link which shall be active only between 6:00 a.m. to 12:05 p.m. one day after close of e-Auction.

This amount can be used as Pre-Bid EMD only & can not be used for any other purpose. Pre Bid EMD paid through any other method shall subsequently be refunded without activating the bidder and the bidder shall not be able to participate in e-A.

In case of non-submission of balance amount towards the contract Pre-Bid EMD converted to Security Deposit is liable to be forfeited. The details of the same have to be shared with MSTC @ megha@mstcindia.co.in & sraocdc@deendayalport.gov.in

5. The bidders shall participate in the e-auction strictly in accordance with the **General Terms and conditions, Buyer Specific terms and conditions** and **Special Terms and conditions** of the Auction Catalogue published in the e-auction portal of MSTC.

6. Time schedule for various activities in connection with this tender will be as follows:

Availability of E-Auction catalogue:

www.deendayalport.gov.in, www.eprocure.gov.in/cppp, www.mstcecommerce.com from

.....

Opening of Techno-Commercial bid on _____

E-Auction date and time: ____

SALE OF SCRIPS THROUGH E-AUCTION**SCHEDULE OF E-AUCTION (SOE)**

a. E-AUCTION NO.	Deendayal Port Trust/1/Gandhidham/23-24/997
b. MODE OF AUCTION	E-auction System (Online Part I –Techno Commercial Bid and Part II - Price Bid(E-AUCTION)) through www.mstcecommerce.com website
c. DPA REF NO	FA/CS/DFCS/2022
d. Date of NIT available to parties to download	29.03.23 to 26.04.23
e. Earnest Money Deposit	Rs. 62,83,418/- to be remitted to MSTC, using " e-Payment " gateway in buyer's login.
f. Last date of inspection	17-04-2023
g. Last date of submission of EMD	It is advised to submit the pre bid EMD at least one day prior to e-auction date to avoid last minute hassles. Delay in transfer of payment is solely the responsibility of the bidder.
h. Last date for upload of documents	17-04-2023
i. E-auction date	27.04.23 Time 12:00 to 16:00 with an auto-extension of 8 minutes.

List of Annexures

Terms & Conditions :- Annexure – I

Important Instructions for e-Auction :- Annexure – II

Special Terms & Conditions:- Annexure –III

Declaration of Auctioner/Bidder:- Annexure –IV

Proforma of Pre-Contract integrity pact:- Annexure –V

Format for authorization letter :- Annexure –VI

ANNEXURE - 1

TERMS & CONDITIONS

1. Electronic Auctions (e-Auctions) in two cover system are invited by **DEENDAYAL PORT AUTHORITY** for selling of scrip's.
2. Details of Auction can be downloaded from website www.mstcecommerce.com or from Central Public Procurement Portal www.eprocure.gov.in/cppp/.
3. All intending bidders for participating in E-Auction will have to register with MSTC in their portal www.mstcecommerce.com, by paying applicable registration fees Rs.1000/- plus applicable GST, for a period of one Year. After paying the above registration fee, the same should be intimated to MSTC official through mail along with required documents for activation of their login ID. Bidders registered with MSTC can only participate in the e-auction.
4. The Pre-Bid EMD is to be submitted as per the schedule mentioned above before the due date of e auction. Bidders should also upload the required documents within the prescribed time in MSTC website against said E-auction number by using their login ID and password.
5. The Bidder shall participate in the e-auction strictly in accordance with the **General Terms and conditions, Buyer Specific terms and conditions** and **Special Terms and conditions** of the Auction Catalogue published in the e-auction portal of MSTC.
 - a. Time schedule for various activities in connection with this Auction will be as follows:
 - i. **Availability of e Auction Document:**www.deendayalport.gov.in,www.mstcecommerce.com, &www.eprocure.gov.in/cppp/ from _____ to.
6. **Opening of requisite documents submitted by bidders by DPA will be on _____.**
7. **The qualified bidders will be allowed to participate in the E-auction dated: _____, _____ to _____ hrs**

FA& CAO
DEENDAYAL PORT AUTHORITY

ANNEXURE –II

INSTRUCTIONS ON E-AUCTIONING PROCEDURES

This is an e-Auction event of DPA. The e-Auction service provider is MSTC Limited.

Bidders willing to participate in this E-Auction are required to go through the entire auction catalogue.

A) Process of e-Auction:

The process involves registration of bidders with **MSTC e-Auction portal**. For this purpose any willing bidder is required to apply online through the MSTC website www.mstcecommerce.com.

1. Only after registration, the bidder(s) can submit his/their bids electronically. Electronic bidding for submission of Price bid over the internet will be done.
2. Bidders are to make their own arrangement for bidding from a PC connected with internet. Neither DPA nor MSTC shall be responsible for making such arrangement.

SPECIAL NOTE: BOTH PRICE BID & DOCUMENT UPLOADING ARE TO BE SUBMITTED ONLINE AT www.mstcecommerce.com

- 1) Bidders are required to register themselves online with <https://www.mstcecommerce.com/auctionhome/seis/index.jsp>

E-AUCTION→Sale of duty credit scrips→ Registration → Register as Bidder →Filling in details and creating own user-id and password→ Submit.

- 2) Bidders will receive a system generated mail confirming their registration in their e-mail id which will be provided during filling in the registration form. Bidder has to submit required documents such as PAN CARD, GST NO, BANK DETAILS, IT RETURNS etc to MSTC for activation of USERID. **Bidders are requested to submit their bids with sufficient time in hand. They should not wait for the last minute to avoid any problem.** In case of any clarification, bidders are advised to contact DPA/MSTC (before the closing of the e-Auction).

Contact Person MSTC

1. Ms.Megha Sinha
Phone Number- 0265-
2339672/2310606
Mob-7044067736

Email id: megha@mstcindia.co.in

Contact person at DPA

Shri. Jigar Thackkar Deendayal Port Authority CDC Section, First floor, Room No. 101 Seva Sadan-III New Kandla 75748 94392	<u>Details of other contact person if any</u> No
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- A) Part I) UPLOADING OF DOCUMENTS: All the required documents as per tender should be uploaded in the system using login and password within the prescribed timelines. Also submission of Pre-Bid EMD has to be done within the given timelines.

The documents will be downloaded and scrutinized by DPA. Bidders fulfilling the required criteria will be qualified for E-auction.

The documents to be uploaded in the said serial wise :-

1	ANNEXURE V - Pre-Contract Integrity Pact duly signed and sealed in all pages.
2	Notarized copy of the certificate of incorporation/ registered partnership deed/Banker's certificate for proprietorship concern towards proof of legal entity. (As per Clause No.7.1.1 of Special Terms and Conditions ANNEXURE - III)
3	Self attested copy of PAN and GST Registration Certificate. (as per Clause No.7.2 of Special Terms and Conditions ANNEXURE - III)
4	Notarized copy of valid Import Export Certificate issued by the competent authority (as per Clause No.7.3 of Special Terms and Conditions ANNEXURE - III)
5	<p>a) The annual turnover during the preceding three financial years ended 31.03.2022 of the bidder shall not be less than the Scrip value in any year for the last three years. The Annual Turnover certificate should be issued by a practicing Chartered Accountant.</p> <p>b) The net worth of the bidder as per the audited financial statement for the year ended on 31.03.2022 should be positive. (Net worth = Paid up share capital plus Free Reserves and surplus minus Miscellaneous Expenditure to the extent not written off and carry forward losses and Intangible Assets. The certificate of Net Worth should be issued by a practicing Chartered Accountant (As per Clause 7.4 to 7.42 of Special Terms and Conditions ANNEXURE - III)</p>
6	ANNEXURE – IV – Declaration by the bidder duly signed and sealed and witnessed

- (B) Part II Price Bid: All the Technically qualified bidders shall be allowed for bidding in the e auction.

- i. Note:iii) Unit of Measure (UoM) will be percentage as indicated in the e-Auction
- ii. Floor Rate to be quoted as a percentage of value of scrip. Those who quote the highest percentage at the end of E-auction will be the H1 bidder.

Submission of online Bid:

- 1) Bidder should use their user Id and password to login in the website,
- 2) Bidders have to upload the documents using **"UPLOAD PREBID DOC"** against the respective E-auction. Bidder can select the number of files to be uploaded. If the file size is big then it can be uploaded in small size.
- 3) Bidders will have to quote in percentage of the face value of the scrip upto two decimals on the face value of the scrip. The amount shall be rounded off to nearest whole number.(for example : If the scrip value is RS 1000, bidder submits 92.43 in the bid column(%) then the face value of the scrip will be 924.3 Say Rs. 924.00.
- 4) Bidder can view the last bid and increase their bid accordingly. Minimum increment will be 0.01 % or as mentioned in the auction floor. Once the bidders submit the percentage, face value of the bid will be calculated and same will be reflected in the Bid amount below the Bid column.
- 5) If someone bids in the last 8 Minutes, then the closing time will extend by 8 more minutes from the last received bid.
- 6) Bid history will show the last ten bids.

ANNEXURE - III
SPECIAL TERMS AND CONDITIONS

1. Special terms and conditions will over ride General Terms and conditions and Buyer Specific terms and conditions wherever they differ.
2. FA&CAO, **DEENDAYAL PORT AUTHORITY, Gandhidham**, the owner / seller, will be hereinafter referred to as DPA and MSTC Ltd., the Selling Agent of DPA will be hereinafter referred to as MSTC.
3. Pre Bid EMD: Earnest Money Deposit (EMD) Rs. 62,83,418.00 is to be remitted to MSTC, through Pay Pre Bid EMD Link as mentioned in e-Auction Catalogue
4. Bidders, who have not remitted Pre-Bid EMD in MSTC account as per the given procedure and not uploaded Integrity Pact duly sealed and signed on each page in format given in Annexure V, will not be allowed to participate in the e-auction.
5. Price quoted should be strictly on the basis of "ALL EXCLUSIVE RATES (Excluding GST and any other statutory levies as applicable which shall be to the buyer's account)".
6. Validity of Bid: The bid shall be valid for a period of 30 days from date of e-auction.

7. Eligibility Criteria:

The bidder should be a single legal entity registered in India as a company under the Indian Companies Act or a Partnership firm registered under the Partnership Act of 1932 or a proprietorship firm.

Bidders shall have to upload notarized copy of the certificate of incorporation /registered partnership deed/Banker's certificate for proprietorship concern towards proof of legal entity.

The bidder shall have valid PAN/GST registration and shall upload self attested copy of PAN and GST Registration Certificate.

The bidder shall have a valid Import Export Certificate with a valid Importer Exporter Code issued by the competent authority and shall upload notarized copy of the same.

The annual turnover during the preceding three financial years ended 31.03.2022 of the bidder shall not be less than the Scrip value in any year for the last three years. The Annual Turnover certificate should be issued by a practising the Chartered Accountant.

Self attested copy of relevant audited Balance Sheet and P&L A/c for the last three years to be uploaded, or Provisional Balance sheet and P&L A/c duly certified by a practising Chartered Accountant.

The net worth of the bidder as per the audited financial statement for the year ended on 31.03.2022 **should be positive**. (Net worth = Paid up share capital plus Free Reserves and surplus minus Miscellaneous Expenditure to the extent not written off and carry forward losses and Intangible Assets. The certificate of Net Worth should be issued by the practicing Chartered Accountant

8. All the documents uploaded should be forwarded in hard copy, to the Financial Advisor & Chief Accounts Officer, Finance Department, DPA in such a way that the Hard copy of the documents reach DPA within 3 working days of uploading.
9. Price shall be quoted by way of percentage of the face value of the scrip upto two decimals.
10. Taxes, duties, other statutory levies, if any, applicable on the sale of scrip shall be borne by the bidder and comply with the statutory provisions in sale/purchase/utilisation/ monetization of the Scrip.
11. Price quoted shall be without any condition. Offers with any deviations/conditions will be summarily rejected.
12. Evaluation of Bids:

After Closing time of document submission, documents submitted by each bidder, to prove eligibility criteria will be scrutinised. Offers which do not satisfy eligibility criteria will be rejected.

Bidders who have satisfied the eligibility criteria will be allowed to bid in the E-auction.
13. Successful bidder will be finalized from among the qualified bidders based on highest percentage offered. The offered value is arrived by applying the percentage on the face value of the scrip.
14. The amount quoted in the bid by the bidder shall be firm and fixed till complete execution of the contract.
15. Once the offer is accepted and Letter of Award is issued to the successful bidder, the quoted price shall be valid till the completion of contract.
16. DPA reserves full and final authority to withdraw or cancel the bidding process. DPA reserves the right to accept/reject any bid or part thereof without assigning any reasons.
17. It is the responsibility of successful bidder to apply for telegraphic Release Advise (TRA) by their own and comply with any other procedural requirement/formalities as per Foreign Trade Policy & Procedures/Customs provisions for utilization of SEIS Scrip within the scrip validity period. Bidder while submitting the offer shall ensure and examine the related procedural requirement and statutory provisions for the same. Bidder shall also quote bid after careful analysis of e-auction catalogue and submission of their offer online implies that the bid quoted is after taking into consideration all the costs involved towards buying/ transfer/utilization of the scrip

offered for sale. All such related expenses/cost will be the sole responsibility of the bidder and the bidder will indemnify DPA on all such expenses/cost/levy etc.

18. The details of the he Duty Credit Scrip issued by DGFT under SEIS are as under :

Sr. No.	Scrip/Authorization No. and date	Value of Scrip (Rs.)	Validity
1	3711000142 Dated 09/01/2023	Rs. 26,03,82,365.00	08.01.2024
2	3711000147 Dated 19/01/2023	Rs. 36,79,59,407.00	18.01.2024
Total		Rs. 62,83,41,772.00	

19. **Letter of Award:** Once the offer is accepted by DPA, a sale intimation letter will be forwarded by the MSTC to the successful H1 bidder and a formal Letter of Award to the Successful H1 bidder for sale of the scrip will follow from DPA through E-mail and post. The date of e-mail from DPA will be construed as the date of issue of Letter of Award.

20. The letter of award along with General Terms & conditions, Buyer Specific terms & conditions and Special terms & conditions shall constitute a binding contract.

21. Terms of Payment:

Pre Bid EMD submitted by the highest bidder will be adjusted in the quoted value of scrip. MSTC will transfer the same to DPA after recovery of its charges through RTGS/NEFT to DPA.

Initial payment: 10% of total value of Scrip offered by the successful bidder after adjusting EMD amount shall be paid by the bidder in the form of RTGS/NEFT to DPA within next working day from the date of issue of letter of award by DPA.

Final Payment: Balance amount shall be paid by the bidder in the form of RTGS/NEFT within 10 working days from the date of issue of letter of award by DPA to the successful bidder. In case of default in payment within the above mentioned period, EMD and the initial 10% payment will be forfeited and the Letter of Award will be cancelled.

21 Bank details for payment of Final Payment to DPA is as follows:

Name of Bank	State Bank of India
Branch	Gandhidham Kutch
IFSC Code	SBIN0000373
ACCOUNT TYPE	CURRENT
ACCOUNT NUMBER	10316591671

22 Delivery of Scrip: The Successful bidder is required to depute his authorized representative for taking delivery of the original scrip. Scrip will be delivered to the authorized representative on production of letter of authorisation in the format prescribed by DPA (Annexure VI). The scrip, tax invoice and DPA's Letter of Transfer will be issued to the authorized representative of the successful bidder after

ascertaining the receipt of the full value of the bid amount and furnishing the authorization letter to receive the same.

- 23 Bidder shall pay applicable taxes, if any, to DPA in addition to the quoted value. Any other fees, stamp duty, cost of transfer, sale shall be in to the account of the Bidder. Presently the rate of GST on Duty Scrip is 0.00% as per GST Provisions vide Notification No.35/2017 dt.13th October, 2017 of Ministry of Finance, Government of India. Any statutory changes in the rates of duty/ tax/ levy/ charges etc. shall be borne by the buyer.
- 24 Period of Contract: The whole process of the sale/purchase formalities are required to be completed within 10 working days from the date of placement of the Letter of Award for the sale of the subject scrip.
- 25 Forfeiture of Earnest Money Deposit (EMD): The Earnest Money Deposit submitted with the Auction shall stand forfeited in the event:-

The Bidder fails to accept the Letter of Award issued by DPA.

The Bidder fails to make payment and take delivery of scrip within the stipulated time.

- 26 The submission of a bid in the e Auction by a Bidder implies that they have read all instructions and have made themselves aware & conversant with the scope of work and Terms & conditions of the contract, and DPA/MSTC will not therefore be liable on any account in case the bidder defaults in the contract.
- 27 Termination Clause: DPA reserves its right to terminate the contract for any reason at its absolute discretion including but not limited to the following:

If the Bidder is adjudicated insolvent by a Competent Court or files for insolvency or if the Bidder being a company is ordered to be wound up by Court of Competent Jurisdiction.

The Bidder commits any breach of the terms of this contract/ Auction document.

If any charge sheet is filed by a competent authority of the Government against the Auctioneer or the company, or the Bidder is convicted by a criminal court on grounds of moral turpitude.

If the Bidder defaults in payment as stipulated in this Auction.

- 28 In the event of failure on the part of the Auctioneer at any time, to fulfil the contractual obligations of DPA, of which DPA shall be the sole judge, DPA reserves the right to forthwith terminate the contract and in such case the loss/expenses, if any, suffered by the DPA, the Bidder will be liable to pay such sums. In such case the initial payments made, if any, will also be forfeited.
- 29 Force Majeure: Neither party hereto shall be held responsible for any delay or failure to perform any or all of the obligations imposed upon such party caused by Force Majeure. In such a case, the time for performance of such obligations of the other

party, to the extent that they are directly or indirectly affected by such occurrence, will be extended by a period equal to that time. Notification of a circumstance of Force Majeure shall be given by Fax/e-mail addressed to the other party within 10 working days of its occurrence. Only the following shall be considered as Force Majeure if they intervene before contractual delivery date and impede performance. Acts of God, war, revolutions, fire, floods, epidemics, quarantine restriction, freight embargoes and acts of State (excluding power cuts). However, should such a delay even if due to reason of Force Majeure be protracted for more than one 1 (month), DPA may cancel the contract, subject to the consent of the Bidder, at no charge to DPA.

- 30 Changes in constitution of firm: In the case of a Auction by partners, any change in the constitutions of the firm shall be forthwith notified by the bidder to the FA&CAO for his information.
- 31 Jurisdiction: This agreement including all matters connected with this Auction/ contract shall be governed by the Indian Law both substantive and procedural, for the time being in force and shall be subject to the exclusive jurisdictions of Indian Courts at Mangalore.
- 32 Arbitration: Any dispute or difference whatsoever arising between the Parties out of or in relation to the construction, interpretation, application, meaning, scope, operation, performance or effect of this Auction/ contract or the validity or breach thereof, there shall first be an attempt to mutually settle the same amicably. If however, the said settlement is not possible within a period of 30 days from the date of notice then such dispute shall thereafter be referred to a Sole Arbitrator, to be appointed/nominated by DPA. The venue of the said Arbitration shall be at Mangalore. And the provision of the Arbitration and Conciliation Act, 1996 as amended by Amendment Act 2015 shall apply to the said proceedings. The Award of the Arbitrator shall be final and binding upon both the parties.
- 33 Canvassing in connection with the e-auction is strictly prohibited and the e-auctions submitted by those who resort to canvassing will be liable for rejection. A declaration to the effect should be submitted / uploaded in the portal as Annexure IV.
34. Pre-Contract Integrity Pact (IP) shall cover this e-auction throughout its various phases, and IP would be deemed as a part of the e-auction through an appropriate provision. The bidder should submit/ upload in the portal the 'Pre-Contract Integrity Pact' (Annexure-V) to be executed between the bidder and DPA along with the Bid. Bids not accompanied with duly signed "Pre-Contract Integrity Pact" shall be rejected. IP would be implemented through the Independent External Monitor (IEM), Shri S.K. Sarkar, IAS (Retd.) and Shri Saurabh Chandra, IAS (Retd.)

FINANCIAL ADVISOR &
CHIEF ACCOUNTS OFFICER
DEENDAYAL PORT AUTHORITY

**FA & CAO
Deendayal Port Authority
Finance Department
Gandhidham.**

AUCTION FOR "TRANSFER OF DUTY CREDIT SCRIP ISSUED BY DGFT UNDER SERVICE EXPORT FROM INDIA SCHEME (SEIS) FOR VALUE OF Rs. 62,83,41,772.00"

DECLARATION BY THE BIDDER

(To be filled up, signed with seal, scanned, uploaded and attached)

1. I/We, _____ (Name of bidder) having examined the Auction Document (No. _____) and fully understood its content including the Instructions on e-Auctioning procedures, Instructions to Auctioneers, General conditions to be satisfied by bidders & special conditions to be satisfied, Evaluation criteria, hereby submit the Auction for transfer of duty credit scrip for the year 20__-20__ issued by DGFT under SEIS with face value of Rs. _____ through Auction.
2. I/We accept all the terms & conditions of the Auction Document (E-AUCTION No. _____).
3. I/We have deposited requisite Earnest Money for the said Auction as per procedure mentioned in Schedule of Auction.
4. I/We submitted/ uploaded copies of the required documents as mentioned in the Auction document.
5. I/We have quoted the rate for buying the SEIS duty Credit Scrip issued by DGFT.
6. I/We/ any of the consortium members have not been debarred by the Central / any State Government or Quasi-Government Agency or PSU in India
7. I / We declare that:-
 - a. I / We have examined and have no reservations to the Auction Document issued by DPA thereon.
 - b. I / We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt, fraudulent or coercive practices to influence the evaluation process of the Auction.
8. I / We understand that DPA reserves the right to accept or reject any Auction and to annul the Auctioning process and reject all Auctions at anytime without any

liability or any obligation for such acceptance, rejection or annulment without assigning any reason thereof.

9. I / We hereby undertake that we will abide by the decision of DPA in the matter of examination, evaluation and selection of successful Auctioneer and shall refrain from challenging or questioning any decision taken by DPA in this regard.

Date

Signature of the bidder with office seal

Date

Witness

Sl No.	Name	Address	Signature
1			
2			

INTEGRITY PACT

Between

Deendayal Port Authority (DPA) hereinafter referred to as **"The Principal"**

and

..... (Name of The bidders and consortium members) hereinafter referred to as **"The Bidder / Contractor"**

Preamble

The Principal intends to award, under laid down organizational procedures, contract(s) / concession(s) for Tender No. The Principal values full compliance with all relevant laws of the land rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s).

In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
 - (a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - (b) The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - (c) The Principal will exclude from the process all known prejudicial persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC / PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 - Commitments of the Bidder(s) / Contractor(s)

- (1) The Bidder(s) / Contractor(s) commits themselves to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commits

themselves to observe the following principles during participation in the tender process and during the contract execution.

- a. The Bidder(s) / Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in tender process or the execution of the contract or to any third person any material or other benefit, which he / she is not legally entitled to, in order to obtain in exchange of advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b. The Bidder(s) / Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids, or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c. The Bidder(s) / Contractor(s) will not commit any offence, under the relevant Prevention of Corruption Act / Indian Penal Code / PC Act; further the Bidder(s) / Contractor(s) will not use improperly, for purposes of competition, or personal gain, or pass on to others, any information or document provided by the Principal, as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d. The Bidder(s) / Contractor(s) of foreign origin shall disclose the name and address of the Agents / Representatives in India, if any. Similarly, the Bidder(s) / Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s) / Contractor(s). Further, as mentioned in the Guidelines all the payments made to Indian agent / representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at (page Nos. 7-20)
 - e. The Bidder(s) / Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with the award of the contract.
 - f. Bidder(s) / Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The Bidder(s) / Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts.

If the Bidder(s) / Contractor(s), before award or during execution has committed a transgression through a violation of Section-2 above, or in any other form, such as to put their reliability or credibility in question, the Principal is entitled to disqualify the Bidder (s) / Contractor(s), from the tender process, or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings". Copy of the "Guidelines on Banning of business dealings" is placed at (Page No. 7-20).

Section 4 - Compensation for Damages

- (1) If the Principal has disqualified the Bidder(s), from the tender process prior to the award, according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit / Bid Security.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor, liquidated damages of the Contract Value or the amount equivalent to Security Deposit / Performance Bank Guarantee, whichever is higher.
- (3) The Bidder(s) agrees and undertakes to pay the said amounts, without protest or demur, subject only to condition that, if the Bidder(s) / Contractor(s) can prove and establish that the termination of the contract, after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder/Contractor shall compensate the principal, only to the extent of the damage in the amount proved.

Section 5 - Previous transgression

- (1) The Bidder declares that, no previous transgressions occurred in the last three years with any other company in any country confirming to the anti-corruption approach or with any other Public Sector Enterprises in India, that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of Business dealing".

Section 6 - Equal treatment of all Bidders / Contractors

- (1) In case of a Joint Venture, all the partners of the Joint Venture will enter into agreement with identical conditions as this on which all Bidders.
- (2) There is no provision of sub-contract in the tender, any violation of the same, Contractor shall be held solely responsible for the same.

Section 7 - Criminal charges against violating Bidders / Contractors

If the principal obtains knowledge of conduct of a Bidder or Contractor or of an employee, or a representative, or an associate of a Bidder or Contractor, which constitutes corruption, or if the Principal has substantive suspicion, in this regard, the Principal will inform the same to the Chief Vigilance Officer (CVO) and the CVO will take further necessary action as deemed fit in accordance with the CVC Manual.

Section 8 - External Independent Monitor

- (1) The Principal appoints Shri Sarkar, IAS (Retd.) and Shri Saurabh Chandra, IAS (Retd.) as Independent External Monitor for this pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representative of the parties and performs his / her functions neutrally and independently. The Monitor would have access to all Contact documents, whenever required. It will be obligatory for him / her to treat the information and documents of the Bidders / Contractors as confidential. He / she reports to the Chairperson of the Board of the Principal.
- (3) The Bidder(s) / Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Bidder / Contractor will also grant the Monitor, upon his / her request and demonstration of a valid interest, unrestricted and unconditional access to the project documentation. The Monitor is under contractual obligation, to treat the information and documents of the Bidder / Contractor with confidentiality.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s) / Contractor(s) with confidentiality. The Monitor has also signed declaration on "Non-Disclosure of Confidential Information" and of "Absence of Conflict of Interest". In case of any conflict of interest arising at a later date, the IEM shall inform Chairman, DPA and recues himself / herself from that case
- (5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder / Contactor. The parties offer to the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he / she will so inform the Management of the Principal and request

the management to discontinue, or take corrective action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

- (7) The Monitor will submit a written report to the Chairperson of the Board of the Principal, within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to the Chairperson of the Board of the Principal, a substantiated suspicion of an offence under relevant IPC / PC Act and the Chairperson of the Board of the Principal has not, within reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- (9) The word "**Monitor**" would include both singular and plural.

Section 9 - Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidder and exclusion from future business dealings.

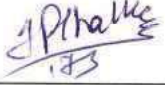
If any claim is made / lodged during this time, the same shall be binding and continue be valid despite the lapse of this Pact as specified above, unless it is discharged / determined Chairperson of the Principal.

The Pact duration in respect of unsuccessful Bidders shall expire after 6 months of the award of the contract.

Section 10 - Other Provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Gandhidham, Gujarat.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Bidder / Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement, turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

- (5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail.



 (For & on behalf of the Principal)
Sr. A.O. (C.D.C.)
Deendayal Port Authority
 वरि. लेखा अधिकारी (सी.डी.सी.)
 दीनदयाल पोर्ट प्राधिकरण
 (Office Seal)

(For & on behalf of the
 Bidder/Contractor)

(Office Seal)

Place : Gandhidham
 Date : ____/____/20__

Witness-1: (From principal side)
 (Name & Address)


 13/23
 Shri. Hitesh Thakker
 Sr. Accounts Officer
 Deendayal Port Authority.

Sr. SR. ACCOUNTS OFFICER
 वरि. लेखा अधिकारी
 DEENDAYAL PORT TRUST
 दीनदयाल पोर्ट प्राधिकरण

Witness-2 : (From bidder/contractor side)
 (Name & Address)

- The bidder has to execute Integrity Pact agreement with Deendayal Port Authority and Shri S.K. Sarkar IAS (Retd.) and Shri Saurabh Chandra, IAS (Retd.) has been nominated as Independent External Monitor and respectively. for the Integrity Pact whose address is as under:
- Shri S.K. Sarkar, IAS (Retd.)
 B-104, Nayantara Aptt.,
 Plot 8 B, Sector-7, Dwarka,
 New Delhi - 110 075.
 Mobile No. 9811 49324
 Email : sksarkar1979@gmail.com
- Shri Saudrabh CHandra, IAS (Retd.)
 A-9, Sector - 30,
 Noida (U.P.) - 201 201.
 Mobile no. 9871 322133
 Email : saurabh7678@yahoo.co.in

AUCTION FOR "TRANSFER OF DUTY CREDIT ISSUED BY DGFT UNDER SERVICE EXPORT FROM INDIA SCHEME (SEIS) FOR VALUE OF Rs. 62,83,41,772.00"

Format for Authorization letter

To
The Financial Advisor & Chief Accounts Officer
DEENDAYAL PORT AUTHORITY,
Gandhidham

Dear Sir,

Sub: Authorisation to take delivery of the Letter of Award/ Original Scrip
and Authorisation Letter to DPA— reg.

We would request you to issue the original SEIS Scrip from DPA to the Authorised representative. For the purpose, we hereby authorize Mr....., having Employment ID Card No._____ & PAN / Aadhaar No....., whose passport size photograph and signature is attested below, to receive the original SEIS Scrip and the Letter of Transfer from DPA.

Signature of the authorized representative:

Attested by

Signature of the Authorised
signatory with seal

We hereby undertake that the acknowledgement issued by the above authorized representative will be binding on us and further hereby undertake that we will comply with all the terms and conditions of Auction and statutory requirement for proper utilization of scrip and we shall be held responsible for any mis-utilisation of the scrip issued to us.

For..... (bidder company/firm name)

Signature of the Authorised
Signatory with Seal.

Note :- The Authorised signatory should carry his/her original ID as well as PAN / Aadhaar which has been specified in the authorization letter.

GUIDELINES ON BANNING OF BUSINESS DEALINGS

(Effective from 01/01/2023)



DEENDAYL PORT AUTHORITY

(Formerly known as Kandla Port Trust) GANDHIDHAM -
KUTCH - GUJARAT - 370 201.

Sr. No.	CONTENTS	Page
1.	Introduction	9
2.	Scope	9-10
3.	Definitions	10-11
4.	Initiation of Banning / Suspension	11-12
5.	Suspension of Business Dealings	12-13
6.	Grounds on which Banning of Business Dealings can be initiated	13-15
7.	Banning of Business Dealings	15-18
8.	Department / Division wide Hold on participation of the Agency in Tenders	18
9.	Show-cause Notice	18-19
10.	Appeal against the Decision of the Competent Authority	19
11.	Circulation of the names of Agencies with whom Business Dealings have been banned	19-20
12.	Saving	20

1. Introduction

"Board" of Deendayal Port Authority (DPA) constituted by the Central Government in accordance with sub-section (1) of section 3 of the Major Port Authorities Act, 2021, has to ensure preservation of rights enshrined under the above Act. DPA has also to safeguard its commercial interests. DPA is committed to deal with Agencies, who have a very high degree of integrity, commitment and sincerity towards the work undertaken. It is not in the interest of DPA to deal with Agencies who commit deception, fraud or other misconduct while participating in tenders/in the execution of contracts awarded/orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on DPA to observe principles of natural justice before banning the business dealings with any Agency.

Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity for hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

The objective of these guidelines is to have a common procedure for Banning of Business Dealings with Agencies across the Company.

2. Scope

These guidelines are applicable to the sale and procurement of goods & services including contracts / projects across all the Departments and Divisions of DPA.

The General Conditions of Contract (GCC) of DPA provide that DPA reserves the rights to keep on hold participation in tenders or to ban business dealings if any Agency has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.

Similarly, in the case of sale of material, there is a clause in Sale Order to deal with the Agencies / customers / buyers, who indulge in lifting of material in unauthorized manner. This should also include all activities including unauthorized selling of the material. If such a stipulation does not exist in any Sale Order, the same may be incorporated.

However, absence of such a clause as mentioned at para 2.2 & 2.3 above does not in any way restrict the right of the Board (DPA) to take action / decision under these guidelines in appropriate cases.

The procedure for (i) Board wide Hold on participation of the Agency in Tenders (ii) Suspension and (iii) Banning of Business Dealings with Agencies, has been laid down in these guidelines.

It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its poor / inadequate performance or for any other reason.

The banning shall be with prospective effect, i.e., future business dealings.

3. Definitions

In these Guidelines, unless the context otherwise requires:

- i) 'Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer' shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, partnership firm, Limited Liability Partnership, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer' in the context of these guidelines is termed as 'Agency.'
- ii) 'Inter-connected Agency' shall mean two or more companies having any of the following features:
 - a) If one is a subsidiary of the other;
 - b) If the Functional Director(s), Partner(s), Manager(s) or Representative(s) are common;
 - c) If management is common;
 - d) If one owns or controls the other in any manner;
 - e) If the agencies have same authorized signatory(ies)
 - f) If they have the same address/same Permanent Account Number / same Bank Account Number / common email ID.

Note: This list is only illustrative in nature.

- i) 'Competent Authority' and 'Appellate Authority' shall mean the following:

Area of Banning/ Suspension	Competent Authority	1st Appellate Authority	2nd Appellate Authority
Board-wide banning	HoD of the Board	Chairman, DPA	--
Banning / Suspension of business dealings with Foreign supplier of imported coal & coke	HoD's Committee	Chairman, DPA	DPA Board**

Board wide Suspension of business dealings with Agency	Officer nominated by Chairman of Board. For Department headed by HoDs, the respective HoDs will nominate the officer for this purpose.*	Chairman of the Board. For Departments headed by HoDs, the respective HoDs will be the Appellate Authority.	--
Board wide Hold on participation of the Agency in Tenders #	Officer nominated by Chairman of Board. For Departments headed by HoDs, the respective HoDs will nominate the officer for this purpose.*	Chairman of the Board. For Departments headed by HoDs, the respective HoDs will be the Appellate Authority.	--

** For Board – The nominated officer shall be a Direct Reporting Officer (DRO) not below the rank of Head of the Department for “Competent Authority” for the purpose of suspension of business dealings with the Agency as well as for Board wide Hold on participation of the Agency in tenders under these guidelines. For Corporate Office, in case of procurement of items / award of contracts to meet the requirement of Corporate Office only, Head of Department shall be the Competent Authority and HoD concerned shall be the Appellate Authority. The Management of Subsidiary shall define/appoint the “Competent Authority”, Appellate Authority & Standing Banning Committee in their respective cases.*

This provision for Hold on participation of the Agency in tenders shall be applicable only in such case where Standing Banning Committee recommends for keeping on Hold the participation in tenders and which shall be limited to particular Department / Division.

*** This would be applicable only in cases of banning of business dealings with Foreign Suppliers of imported coal and coke.*

- iv) ‘Investigating Department’ shall mean any Department or Division investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.

4. Initiation of Banning/Suspension

Action for banning/suspension of business dealings with any Agency should be initiated by the Concerned Department such as Indenting / Contracting / Executing Departments, etc. having business dealings with Agency or by the department which floated the tender (in case where the tenderer has committed

deception, fraud or other misconduct) subsequent to noticing the irregularities or misconduct on their part.

5. Suspension of Business Dealings

If the conduct of any Agency (except Foreign Suppliers of imported coal and coke) dealing with DPA is under investigation by any department of any Department, the Concerned Department may consider whether the allegations under investigations are of serious nature and whether pending investigations, it would be advisable to suspend (temporarily discontinue) business dealings with the Agency. Recommendation in the matter shall be submitted to the Competent Authority for this purpose.

If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, decides that it would not be in the interest of Department of DPA to continue business dealings pending investigation, it may suspend business dealings with the Agency. The Suspension Order to this effect shall be issued by the Head of Concerned Department or by his representative / concerned executive with the approval of the Head of the Concerned Department, indicating a brief of the charges under investigation and the period of suspension. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. Ordinarily, the order of suspension would operate for a period not more than six months and may be communicated to the Agency and also to the Investigating Department.

Further to the suspension, the investigation, recommendation by the Standing Banning Committee (SBC) and final decision by the Competent Authority to be completed within six months from order of suspension.

The order of suspension of business dealings with the Agency under investigation shall be communicated to all Departmental Heads within the Board. During the period of suspension, no fresh contract will be entered into with the Agency. Suspension would be valid only for the concerned Board.

As far as possible, the Agency under suspension should be allowed to complete the job of existing contracts, unless the Competent Authority, having regard to the circumstances of the case, decides otherwise. Once the order for suspension is issued, existing offers against ongoing tenders (prior to issuance of contract)/ new offers of the Agency shall not be entertained during the period of suspension.

For suspension of business dealings with Foreign Suppliers of imported coal & coke, following shall be the procedure:-

- i) Suspension of the foreign suppliers shall apply throughout the Board including Subsidiaries.

ii) The complaint against any foreign supplier shall be investigated by Board or by any other Investigating Department. If the gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of DPA to continue to deal with such Foreign Supplier, pending investigation, the recommendation on such matter by Investigating Department (including Board) may be sent to Chairman, DPA to place it before a Committee consisting of the following:

1. Head of Finance Department,
2. Head of Department
3. Head of Law / Legal Division

The committee shall expeditiously examine the report; give its comments / recommendations within twenty one days of receipt of the reference by DPA.

iii) The comments / recommendations of the Committee shall then be placed before DPA Board's Committee. If DPA Board's Committee decides that it is a fit case for suspension, Board's Committee shall pass necessary orders which shall be communicated to the foreign supplier by Head of Department.

If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months' time, the Competent Authority with approval of Head of the Department may extend the period of suspension by another three months, during which period the investigation must be completed.

6. Grounds on which Banning of Business Dealings can be initiated

If the security consideration, including questions of loyalty of the Agency to the State, so warrants;

If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or DPA, during the last five years preceding date of tender opening or during execution of contract, provided such information is known to DPA;

If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc. during the last five years preceding date of tender opening or during execution of contract, provided such information is known to DPA;

If the Agency continuously refuses to return / refund the dues of DPA without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in Arbitration or Court of Law;

If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence, provided such information is known to DPA;

If business dealings with the Agency have been banned by the Central or State Govt. or any other public sector enterprise at the time of submitting his bid or on the date of tender opening or at the time of placement of order, provided such information is known to DPA;

If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts and / or fudging / forging / tampering of documents;Ω

If the Agency uses intimidation / threatening / misbehaves with DPA Official or brings undue outside pressure or influence on the Board (DPA) or its official in acceptance / performances of the job under the contract;

If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations / delayed the tendering process;

Wilful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by Board (DPA) or not;

6.1 Based on the findings of the investigation report of Investigating Department against the Agency for mala-fide / unlawful acts or improper conduct on its part in matters relating to the Board (DPA) or even otherwise;

Established litigant nature of the Agency to derive undue benefit;

Continued poor performance of the Agency in several contracts;

If the Agency misuses the premises or facilities of the Board (DPA), forcefully occupies tampers or damages the Board's properties including land, water resources, forests / trees, etc.

If the Agency resorts to unauthorized sale of materials purchased from the Board.

If the Agency has committed a transgression through violation of any of its commitments under the Integrity Pact entered with DPA.

(Note: *The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealings for any good and sufficient reason*).**)**

Ω No experience certificate shall be issued by Engineer in Charge / Executing Authority against the contract to the Agency found to have submitted forged/fabricated documents/indulged in corrupt / fraudulent practices.

7. Banning of Business Dealings.

A decision to ban business dealings with any Agency by any one of the Departments of DPA will apply throughout the Board including Divisions, i.e., Board-wide banning.

There will be a Standing Banning Committee (SBC) in each Department to be appointed by Competent Authority for processing the cases of “Banning of Business Dealings”. However, for procurement of items / award of contracts, to meet the requirement of Board only, the Committee shall be HoD each from Operations, Finance & Law Departments. The proposal of the Concerned Department for initiating action under the Guidelines for Banning of Business Dealings based on their own findings and / or upon receipt of advice of the Investigating Department shall be forwarded through respective Head of Department to the Standing Banning Committee for consideration.

The functions of the Standing Banning Committee shall, inter-alia include:

- i) To examine in detail the allegations / irregularities / misconduct mentioned in the proposal for banning forwarded by the Department, hold preliminary meeting and decide if a prima-facie case for banning under the guidelines exists. If during preliminary meeting, SBC is of opinion that prima facie no case is made out, it shall return the case to the Concerned Department.
- ii) If it is decided to proceed for banning action, to recommend for issue of show-cause notice (as per para 9) to the Agency by the Concerned Department, as to why action should not be taken against the Agency, including its interconnected agencies, under the Guidelines for Banning of Business Dealings with them. Agency should be asked to submit its reply within 15 days of the show- cause notice.
- iii) To examine the reply given by the Agency to show-cause notice and call the Agency for personal hearing, if required.

- iv) To submit final recommendation to the Concerned Department for banning of business dealings with the Agency or Board wide Hold on participation of the Agency in tenders or exoneration.

If banning is recommended by the Standing Banning Committee of any Department / Division, the proposal containing the facts of the case, proper justification of the action proposed, relevant supporting documents along with the recommendation of the SBC and proposed banning period should be sent by the Concerned Department and duly forwarded by the Head of the Department / Division, to the Competent Authority. Based on this proposal, a decision for banning or otherwise shall be taken by the Competent Authority. At this stage if it is felt by the Competent Authority that there is no sufficient ground for banning, then the case with detailed reasons shall be sent back to the respective Department / Division for necessary action at their end. The Competent Authority may consider and pass an appropriate Speaking Order:

- a) For exonerating the Agency if the charges / allegations are not established;
- b) For banning the business dealings with the Agency or
- c) For putting on Hold the participation of the Agency in tenders in the concerned Department / Division.

If the Competent Authority decides that it is a fit case for banning of business dealings with the Agency, the Competent Authority shall pass necessary orders which shall be routed back to the Department concerned for issuance of banning orders to the Agency. However, in cases where there is a shortage of suppliers and banning may hurt the overall interest of DPA, endeavour should be to pragmatically analyze the circumstances, try to reform the Supplier and to get a written commitment from them that their performance will improve.

If the Competent Authority decides to ban business dealings, the period for which the ban would be operative shall be mentioned. If applicable, the order may also mention that the ban would extend to the interconnected agencies of the Agency. The Speaking Order for banning would be conveyed by the Concerned Department to the Agency concerned and copy circulated to all Departments of DPA.

The Banning period may range from 1 year to 3 years depending on the gravity of the case as decided by the Competent Authority. Ordinarily, the period of banning shall be in the range of 1-2 years from the date of issuance of order depending on the severity of the irregularities / lapses committed / termination of contract due to poor performance, etc. However, in case of fraud / forgery / corrupt / fraudulent practice or tampering of documents by the Agency as given in para 6.7 above, the

period of banning to be imposed on the Agency would be three years. The period of suspension, if any, shall be accounted for up to a maximum of 6 months in the period of banning provided the banning order is issued within the period of suspension.

As far as possible, the Agency under banning should be allowed to complete the job of existing contracts, unless the Competent Authority, having regard to the circumstances of the case, decides otherwise. Once the order for banning is issued, existing offers against ongoing tenders (prior to issuance of contract) / new offers of the Agency shall not be entertained during the period of banning. In addition, if the Agency has been banned under provisions of Para 6.7, then the particular contract in which the irregularity has been proved will be terminated with immediate effect. In exceptional cases, where it would not be prudent to terminate the said contract with immediate effect, the contract may be allowed to continue for such minimum period during which alternate arrangement(s) can be made. The same shall however require the approval of the Chairman / HoD where the exigency to continue the contract has been clearly brought out.

In case the Competent Authority has decided to exonerate the Agency, the Concerned Department will issue the exoneration letter to the Agency concerned as well as communicate to all Departmental Heads within the Department / Division. If the Agency has been suspended in the case under consideration, in the same letter to the Agency it must be clarified that the Suspension has also been revoked.

Procedure for Banning of Business Dealings with Foreign Suppliers.

- i) Banning of the Agencies shall apply throughout the Company including Subsidiaries.
- ii) The complaint against any Foreign Supplier shall be investigated by Head of Department of DPA or any other Investigating Department. After investigation, depending upon the gravity of the misconduct, Investigating Department may send their report to Head of Department of DPA to place it before a Committee referred at 5.5 (ii) above. The Committee shall examine the report and give its comments / recommendations within 21 days of receipt of the reference by Head of Department, DPA.
- iii) The comments / recommendations of the Committee shall be placed by Head of Department before DPA Board's Committee constituted for the above purpose. If DPA Board's Committee decides that it is a fit case for initiating banning action, it will direct Chairman of DPA to issue show-cause notice to the Agency for replying within a period of 15 days of receipt of the show-cause notice or reasonable time.

- iv) On receipt of the reply or on expiry of the stipulated period, the case shall be submitted by DPA Board's Committee to Chairman of DPA for consideration & decision.
- v) The decision of the Chairman of DPA shall be communicated to the Agency by DPA.

8. Department / Division wide Hold on participation of the Agency in Tenders

If the SBC recommends for Board wide Hold on participation of the Agency in Tenders on coming to a conclusion that the charge against the Agency is minor in nature, the Concerned Department shall put up a proposal to the Competent Authority containing facts of the case, proper justification of action proposed, relevant documents along with the recommendations of the Committee and proposed period for Hold from participation in tenders. If the Competent Authority decides that it is a fit case for Board wide Hold on participation of the Agency in tenders, the Competent Authority may pass necessary orders which shall be communicated to the Agency by the Concerned Department. The period of Hold may range from 6 months to 1 year.

The effect of Board wide Hold on participation of the Agency in tenders would be that the Agency would not be considered for any type of Tenders for such period as mentioned in the order at any stage before issuance of contract. Other existing contracts with the Agency would continue unless otherwise decided by the Competent Authority. However, no repeat orders would be placed on the party for the period as mentioned in the order.

The modalities for effecting Hold on participation of the Agency in tenders and re-entry after completion of period of Hold shall be worked out by the concerned Department / Division as the Hold is Department / Division specific.

9. Show-cause Notice

In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice shall be issued to the Agency by the Concerned Department. Statement containing the imputation of misconduct should be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defence. It must be clearly mentioned in the Show-Cause Notice that DPA hereby proposes to initiate action against the Agency in terms of the Guidelines on Banning of Business Dealings. Generally, all communication with the Agency shall be through email mentioned by Agency in contract or last known email and postal address.

If the Agency requests for inspection of any relevant document in possession of DPA, necessary facility only for inspection of documents may be provided.

10. Appeal against the Decision of the Competent Authority

The Agency may file an appeal against the order of Board-wide banning of business dealings / suspension / Board wide Hold on participation of the Agency in tenders. The appeal shall lie to the respective Appellate Authority only. Such an appeal shall be preferred within 30 days of receipt of the order.

Appellate Authority would consider the appeal and pass appropriate Speaking Order which shall be communicated by the Concerned Department to the Agency as well as the Competent Authority whose Order has been appealed.

11. Circulation of the names of Agencies with whom Business Dealings have been banned

- 1 .1** The Board shall upload/update the list of banned agencies along with the period of banning immediately on issue of the banning order on the Board's website as well as DPA Tenders website for wider circulation. Other Boards would check the list of banned Agencies before proceeding on tenders at their respective Boards. Boards having SAP/SRM system shall disable the banned vendors in SAP/SRM from issuance of further Enquiry/Purchase Order till the expiry of the banning period.
- 1 .2** Depending upon the gravity of misconduct established, the Competent Authority may advise Head of Vigilance Department / HoD for circulating the names of Agency with whom business dealings have been banned, to the Government Departments, other Boards, Public Sector Enterprises, etc., for such action as they deem appropriate. The updated list of banned Agencies must be uploaded by Board on DPA Tenders website for wider circulation.
- 1 .3** If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Investigating Department / Standing Banning Committee / DPA Board's Committee together with a copy of the order of the Competent Authority / Appellate Authority may be provided.
- 1 .4** If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, DPA may, on receipt of such information, without any further enquiry or investigation, issue an order banning business dealings with the Agency and its interconnected Agencies. In event of receipt of information, the

procedure for banning in DPA will still have to be followed though no investigation will be called for, and the banning period proposed should be co-terminus with the period of banning in the organization which has issued the banning order but limited to the maximum period of banning as per the extant banning guidelines of DPA. On completion of the banning period as per DPA banning order, the Agency will be eligible for participating in any tenders in DPA irrespective of banning status in the other organization.

- 1 .5** Based on the above, Departments / Divisions may take necessary action for implementation of the Guidelines for Banning of Business Dealings and same be made a part of the tender documents.

12. Saving

Any amendment to the guidelines shall require the approval of Chairman, DPA.

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