



**Policy and Procedure for  
Debarring/Blacklisting of Agencies from  
Business Dealings with MSETCL.**

MSETCL (C&M) No.	366
Inward Dt.	07/6/21
Outward Dt.	07/6/21

B.R. No. 147/28 dated 14.05.2021

 <p><b>MAHATRANSCO</b> Maharashtra State Electricity Transmission Co. Ltd.</p>	<p><b>MAHARASHTRA STATE ELECTRICITY TRANSMISSION CO.LTD</b> (CIN No. U40109MH2005SGC153646) <b>COMPANY SECRETARY DEPARTMENT</b></p>
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**CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE 147th MEETING OF THE BOARD OF DIRECTORS OF MAHARASHTRA STATE ELECTRICITY TRANSMISSION COMPANY LIMITED HELD ON FRIDAY, MAY 14, 2021 AT 11.30 A.M. TO 1.30 P.M. AT CONFERENCE HALL, EIGHTH FLOOR, PRAKASHGANGA, BANDRA KURLA COMPLEX, BANDRA EAST MUMBAI-400051**

**ITEM NO. 28: To consider and approve the proposal for administrative approval for Policy and procedure for Debarring/Blacklisting of agencies from Business dealing with MSETCL**

**Resolution No. 147/28**

CE(C&M) placed before the Board proposal for administrative approval for Policy and procedure for Debarring/Blacklisting of agencies from Business dealing with MSETCL

After deliberations the Board of Directors approved the proposal and passed the following resolution:

**"RESOLVED THAT** the consent of the Board of Directors be and is hereby accorded for administrative approval for Policy and procedure for Debarring/Blacklisting of agencies from Business dealing with MSETCL;

**RESOLVED FURTHER THAT** the Board of Directors be and hereby directed that necessary Amendment to the policy may be done from time to time on directions of the Competent Authority(ies);

**RESOLVED FURTHER THAT** the Board of Directors be and hereby directed that the policy should be made available on MSETCL Web portal;

**RESOLVED FURTHER THAT** the C.M.D, MSETCL be and is hereby empowered to do all such acts, deeds and things necessary to give effect to the above resolution."

*BC  
Proc-Temdu  
7/6*

For Maharashtra State Electricity Transmission Co. Ltd.

Date : 04.06.2021  
Place: Mumbai

*Vineeta Shriwani*  
Vineeta Shriwani  
Company Secretary

*17/06/21  
Per up permission  
gms  
LHM*

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## **1. PREAMBLE**

The purpose of this policy and procedure is to develop standard debarring/blacklisting policy and procedure in order to ensure participation of reliable and honest bidders/contractors/vendors, etc.

## **2. PREFACE**

In exercise of the power under Section 131, 133 and 134 of the Electricity Act, 2003 the Government of Maharashtra by a Notification dated 4th June 2005, (Ref. No. Reform 1005/CR/9061/NR G-5) formulated a Transfer Scheme where under the Maharashtra State Electricity Board (MSEB) was trifurcated into separate generation, transmission, distribution companies. As per the Transfer Scheme, the Maharashtra State Electricity Transmission Company Limited (MSETCL) was designated as a Transmission Licensee.

The main functions and duties of Maharashtra State Electricity Transmission Company Limited are to acquire, establish, construct, take over, erect, lay, operate, run, manage, hire, lease, buy, sell, maintain, enlarge, alter, renovate, modernize, work and use projects associated lines and all things connected there to for the purpose of transmission of power including sub-station, civil works, cables, wires, lines, accumulators, plant, motors, meters, apparatus, materials etc. to carry on the business of purchasing, imploring, exploring, trading or otherwise dealing in Electric Power Transmission and Supply.

## **3. INTRODUCTION**

MSETCL deals with various Agencies like Turnkey Contractors/ Suppliers/ Service providers to execute various projects. These agencies, who are expected to adopt ethical practices with highest standards and a very high degree of integrity, transparency, commitments and sincerity towards the work undertaken.

It is not in the interest of MSETCL to deal with any Agency who commit deception (*use fake/manipulated documents*), fraud or other misconduct (*manhandling of MSETCL employee or use of abusive words*) of whatsoever nature in the tendering process and/or execution. MSETCL is committed for timely completion of the projects within the awarded value without compromising on quality.

In view of this in order to adhere the objective of quality work and timely completion of project/work, there is a provision to initiate action of termination, imposing penalty against defaulting Contractor/Agency/Vendor in Genral Terms & Condition (GTC) of tender document.

It is, however, observed that in spite of all this there are quite a few cases where a contractor/agency either repeatedly failed to complete the projects as per agreed time schedule or failed to rectify some of the major defects notified and failed to maintain quality of material or continued repeating the same defects thereby violating the provisions of tender/contract conditions. Presently, there is no policy in existence for debarring of such Contractor/Agency/Vendor.



Since suspension/banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of 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 purpose of this policy and procedure is to develop standard debarring/blacklisting policy and procedure in order to ensure participation of reliable and honest bidders/contractors/vendors, etc.

Although, there is a provision in Standard Bidding Document (SBD) to initiate action of termination against defaulting \*Agency, there is no policy in existence for debarring/blacklisting of such Agency. Due to this, even if a Agency who's past performance is not satisfactory or who's previous contract was terminated is allowed to participate in new/fresh tenders.

If such a contractor is again awarded a tender then it is possible that the awarded tender is executed in a poor manner once again leading to delay in completion of the project and/or the quality of material and work getting suffered. It would be against interest of MSETCL to deal with such agency. In order to ensure compliance it requires debarring policy so that the Contractor/Agencies/ Vendor perform the contractual obligations with good quality and complete of the contract in timely manner.

A need, therefore, is felt to assess and identify Agencies on the basis of their performance and debar defaulting Agency for a certain time period from taking part in the future tendering process of MSETCL.

In view of this, MSETCL has prepared this Policy and set the procedure for debarring of Agency/Contractor from business dealings with MSETCL.

#### **4. OBJECTIVES**

Various agencies are expected to practice and adopt best governance practices, so that contract and bidding documents conditions are adhered to, in mention ethical spirit. The purpose of this policy is to formulate a procedure for debarring the business dealing agencies with MSETCL. where they are found to commit lapses /defaults/ offences or anything unethical not expected from an agency.

#### **5. SCOPE**

a) These guidelines govern the blacklisting / debarring of manufacturers, suppliers, distributors, contractors and consultants ("agency/firm" for brevity) involved in business dealings with MSETCL for offenses or violations committed during competitive bidding stage and contract implementation stage.

b) These guidelines will be applicable to all departments of corporate office and field offices of MSETCL.

#### **6. GROUNDS FOR BLACKLISTING / DEBARRING**

Blacklisting / Debarring from business dealings can be initiated against an Agency who is involved or has committed any of the following misconduct / irregularities:

### **6.1 At Competitive Bidding Stage:**

During the competitive bidding stage, if a bidder indulges in any of the following act or violations it shall be a ground for blacklisting / debarring by MSETCL:

1. The Directors, Proprietors, Partners, Employee(s) or owner of bidder have been either jointly or severally been found guilty of malpractices such as fraud including but not limited to submission of Bids that contain false information, fake or forged documents /certificates / guarantees, substitution of bid document, concealment of such information in the Bid with an intent to influence the outcome of eligibility screening or at any other stage of the public bidding in his favor, etc.
2. If the bidder is found to be involved in cartel formation during bidding against any MSETCL tender.
3. Bidder who's business dealings have been debarred by any Ministry of GoI / GoM / State PSUs / Utilities in India and is still in force as on the date of opening of tender.
4. Bidder who is found to have been in default in paying any dues resulting in incurring financial loss to MSETCL by virtue of an order and / or direction of any Statutory Authority or Court or Arbitration, etc
5. Bidder against whom an enquiry is conducted by CBI or any other investigating Agency and recommended for suspension.
6. If the purchaser finds the offence of moral turpitude committed by the bidder.
7. Unauthorized use of one's name or using the name of another entity / person for purpose of public bidding.
8. Making false allegations against MSETCL officials or other bidders of the tender with an intent to influence the outcome of public bidding in his favor.
9. Withdrawal of a bid, or refusal to accept an award, or enter into contract without justifiable cause, after a bidder has been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
10. Refusal to clarify or validate in writing its Bid during post qualification stage within the prescribed time from receipt of the request for clarification.
11. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
12. All other acts that tend to defeat the purpose of the competitive bidding, such as but not limited to:
  - i) a bidder not complying with the requirements during bid evaluation,
  - ii) bidder habitually withdrawing from bidding or submitting letters of non participation for at least three (3) times within a year, except for valid reasons.In all above cases in addition to the penalty of blacklisting, the bid security deposit furnished by the concerned bidder or prospective bidder can also be forfeited.

### **6.2 At Contract Implementation Stage:**

Violations committed by an agency during the contract implementation stage, which include but not limited to the following shall be a ground for blacklisting / debarring by MSETCL:

1. If it is found that agency has attempted some irregular / illegal activities to gain the order.
  2. Failure of the agency, due solely to his fault or negligence, to mobilize and start work or poor performance within the specified period as informed or quality of materials and workmanship not complying with the approved specifications.
  3. Refusal or failure of the agency to furnish the required Security deposit or Contract performance deposit within the specified period as informed.
  4. Failure by the agency to fully and faithfully comply with its contractual obligations without valid cause, or failure by the agency to comply with any written lawful instruction pursuant to the implementation of the contract.
  5. Assignment and subletting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval of MSETCL.
  6. For the procurement of goods, unsatisfactory progress in the delivery of the goods by the manufacturer, supplier or distributor arising from his fault or negligence and/or unsatisfactory or inferior quality of goods, as may be provided in the contract.
  7. For the procurement of material services, unsatisfactory progress in the delivery of services by the service provider or its authorized representative arising from his fault or negligence and/or unsatisfactory or inferior quality of work, as may be provided in the contract.
  8. For the procurement of consultancy services, poor performance by the consultant of his services arising from his fault or negligence.
  9. Failure to supply or replace the faulty material within contractual delivery period.
  10. Willful or deliberate abandonment or non-performance of the project or contract by the agency resulting to substantial breach thereof without lawful and/or just cause.
  11. Submission of fake documents, bills for payment, committing fraud etc.
- In addition to the penalty of blacklisting / debarring, the performance security furnished by the agency shall also be forfeited. Additional recoveries, if any, shall be made from payments due to the supplier against concerned order or any other order issued by MSETCL.

**Note :**

- 1) If any one (JV / Consortium partner) or more Partner / Directors of any debarred / blacklisted Agency / firm promotes or forms a new contracting firm or a sister-concern firm of the said debarred / blacklisted Agency, then it shall also be considered as a debarred / blacklisted firm.
- 2) In case the firm defaults in execution of contract and is debarred/blacklisted, the right to procure the material at the risk and cost of the firm shall be reserved with the purchaser. The firm shall be liable to make good the damages incurred to the purchaser on such account, failing which MSETCL shall take action as provided by applicable laws.

**7. COMPETENT AUTHORITY & APPELLATE AUTHORITY FOR DEBARMENT**

Considering the above mentioned grounds for Debarring from business dealings can be initiated against the Agency, after due scrutiny by the Purchase Order issuing authority (LOA) or Vender Approving Authority (VA) and shall serve upon the 'Show Cause Notice' for Debarring of the Agency after termination of contract is effected.

For the purpose of debarment, the powers delegated to the following designated officers of MSETCL as Competent Authority (CA) and as Appellate Authority (AA) for debarring of business dealings with the accused Agency.

Sr. no.	Purchase Order issuing Authority (LOA) & Vendor Approving Authority (VA)	Enquiring Committee (EC)	Competent Authority for Debarring (CA)	Appellate Authority for Debarring (AA)
1	Executive Engineer (EE), Superintending Engineer (SE) (i.e. LOA up to 1 Cr.)	At Zone Office	Executive Director (Proj.)/(Ops.) in consultation with CGM (Finance) & Chief Legal Advisor	Director (Project) / Director(Operation)
2	All the orders placed by Zonal C.Es (i.e. LOA up to 3 Cr.)	At Corporate Office	Director (Project) / Director(Operation) in consultation with Director (Finance) & Chief Legal Advisor	Chairman & Managing Director (CMD)
3	All the tenders approved by A)Dir(Project) /Dir.(Operation) (i.e. LOA up to 7 Cr.)  B) Chairman & Managing Director (CMD) (i.e.tender for value up to 10 Cr.)	At Corporate Office	Director (Project) / Director(Operation) & Director (Finance) & Chief Legal Advisor  Chairman & Managing Director (CMD) in consultation with Director (Project) / Director(Operation) & Director (Finance) & Chief Legal Advisor	Chairman & Managing Director (CMD)
4	All the orders approved by the Board of Director. (i.e.tender for value 10 Cr. and above)	At Corporate Office	Chairman & Managing Director (CMD) in consultation with Director (Project) / Director(Operation) & Director (Finance) & Chief Legal Advisor	BOARD OF DIRECTORS

For MSETCL approved Sub-contractor & OEMs, Enquiring Committee - Chief Engineer, Corporate Office, Competent Authority for Debarring - Director(Project)/ Director (Operation), Appellate Authority for Debarring - Chairman & Managing Director (CMD).



## **8. Enquiring Committee:**

The Committee constituted for the purpose of these policy & comprising members from Technical , Finance, Legal/ department. Additional member(s) from any other department/field as considered appropriate may also be co-opted on case to case basis. The level of the committee members shall be Supt. Engineer or above.

## **9. POWERS OF COMPETENT AUTHORITY AND APPELLATE AUTHORITY**

- a) To investigate the matter in connection with the allegation of corrupt, fraudulent, coercive or collusive practices or illegal practices of agencies.
- b) To ensure timely and expeditious disposal of proceedings of debarment.
- c) Seek advice or opinion on specific issues.

## **10. PROCEDURE;**

The concerned department on noticing any misconduct and/or irregularities as menoned above, shall serve upon the ' Show Cause Notice for Debarring ' after termination or closing of contract(s) stating therein the facts/ reasons containing the allegation of misconduct or irregularities and the period of 14 days to be accorded to the agency to present their statement/ submission in the form of reply in response to Show Cause Notice.

In the event, non receipt of reply from the agency within the spulated period, action as proposed will be proceeded with and no representation/submissions thereafter will be accepted. In each case, copy of service return of notice be kept and a confirmatory document through electronic mode is absolutely necessary.

a) The Purchase Order Issuing Authority or Vendor Approving Authority shall submit the duly recommended detailed proposal of debarring of Agency to the Competent Authority along with Show cause notice and reply, if any and parawise jusficao to the reply to the Show Cause Notice submitted by the Agency, if any for consideration and order.

b) The Competent Authority shall scrutinize, the proposal and depending on merit of the case and after examining the material on record shall decide to proceed for enquiry or to close the case. In the event of exoneration of the Agency from debarring, the decision shall be conveyed to Purchase Order Issuing Authority or Vendor Approving Authority and subsequently it shall be informed to Agency.

c) If the Competent Authority arrives at the decision to proceed in the matter then the complete case shall be handed over to the Enquiring Committee. The Enquiring Committee shall in detail examine the materials on record, conduct the hearing and decide the case as per the principle of natural justice. During the process of hearing, only the authorized representative of Agency will be permitted to represent the Agency and no Legal practioner / Advocate shall be allowed to plead the case on its behalf.

d) The Enquiring Committee shall submit its Report along with detailed findings within 30 days to the Competent Authority. The Competent Authority shall pass an appropriate order after examining the material on record.

e) The decision of the Competent Authority shall be in the form of Reasoned Order, the period for which the debar would be operative shall be mentioned in the order and the same shall be communicated to the Purchase Order Issuing Authority or Vendor Approving Authority.

f) The Purchase Order Issuing Authority or Vendor Approving Authority shall then communicate the decision of debarment of business dealings along with the order of Competent Authority to the Agency.

g) The procedure for debarment shall be completed within a period of three months from initiation of case by concerned authority.

The Reasoned Order shall be communicated to the agency at its recorded address available with MSETCL within 15 days of order issued by Registered post. In addition to it, the copy shall preferably be sent on the registered Email address of the Agency.

## **11. PERIOD OF DEBARMENT**

The period for which an agency is debarred shall clearly be mentioned in the order. Period of debarment of business dealings shall be decided by the Competent Authority in exercise of its power delegated and would depend upon the seriousness of the cause.

Debarment/blacklisting shall be up minimum one (1) year and maximum period of five (5) years. Provided further that in case the information/documents submitted by the agency is found to be false/forged at any point of time, MSETCL shall have a right to recover from the agency the cost incurred in carrying out physical assessment for establishing veracity of such information/document decided by the Enquiring Committee.

If the agency fails to reimburse such cost to MSETCL, the debarment period of the agency may be extended by the Enquiring Committee which shall not in any case exceed more than two (2) years but in any cumulative period for debarment the Agency shall not exceed seven (7) years, in exceptional cases such period shall be up to five (5) years and the cumulative period for debarment of agency in such cases shall not exceed ten (10) years.

The above action shall be without prejudice to imposition of additional penalty or further criminal prosecution by MSETCL as provided by applicable laws.

## **12. CONSEQUENCES OF DEBARMENT**

Upon issuance of the order of debarment of an agency from future business dealings with MSETCL, the debarred agency along with its Joint Venture Partner Firm shall not be allowed to participate in any future tender/s, during the debarred period. Further, in case the agency has already participated in the tender process and the price bid is not opened prior to issuance of the order of debarment of business dealings, its Techno Commercial Bid shall be rejected and Price Bid shall not be opened.

In the event the Price Bid of the participating agencies has been opened and the agency against whom the order of debarment of business dealings has been issued, the bid of the debarred agency shall be rejected even if he is found to be successful bidder, considering the agency as disqualified.

Provided the order of debarment of business dealings issued against any agency shall not override the rights of the debarred agency already engaged in executing any other contract(s) till its completion.

### **13. WITHHOLDING**

The Competent Authority may, depending on the severity of the case, withhold the business dealing with the agency till the report given by the Enquiring Committee from the date of initiation of proposal of debarment.

### **14. APPEAL AGAINST THE DEBARMENT ORDER**

a) The Agency, aggrieved by the order of debarment/blacklisting, may prefer an appeal before the Appellate Authority, against the order of the Competent Authority specifying the grounds of appeal along with necessary documents.

b) Such appeal shall be filed by the agency within one month from the date of receipt of the order of debarment of business dealing. The agency shall represent their case through authorized representative of its agency, and no service of legal practitioner shall be adopted.

c) Purchase Order Issuing Authority or Vendor Approving Authority shall submit all the original papers of the debarment case to Appellate Authority along with the justification on points raised in appeal by debarred Agency.

d) Appellate Authority shall admit the appeal and decide the appeal within 45 days from the filing of appeal. The agency may file any additional document/evidence before the Appellate Authority, if Appellate Authority permits.

e) Appellate Authority shall pass appropriate Reasoned Order on appeal and communicate decision to the Purchase Order Issuing Authority or Vendor Approving Authority through the Competent Authority. Purchase Order Issuing Authority or Vendor Approving will then communicate appeal order to the Debarred Agency. No appeal shall lie to the Appellate Authority against the final order of the competent authority pursuant to the written consent of the agency. Awaiting the decision of the competent authority, the debarment order passed by the competent authority shall remain effective till Appellate Authority takes a final decision in the matter.

The order of the Appellate Authority shall be final and binding.

### **15. REVOCATION OF DEBARMENT ORDER**

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

An order of debarment for the reasons mentioned above may be revoked if accused has been wholly exonerated by Court of Law.

## **16. INTERPRETATION**

The competent authority shall be responsible for the administration, interpretation, application and revision of this policy. The policy will be reviewed as and when needed.

## **17. POST DEBARMENT ACTION**

**The Competent Authority ensure the following :**

a) Hosting at MSETCL Website: The name of the Agencies with whom Business Dealings have been debarred shall be hosted at MSETCL website by HO-IT Department, after confirmation of Debarment of the Agency. It shall be ensured that the names of Director, JV Partner, Owner of the debarred Agency is also displayed on the MSETCL website.

b) The cancellation is activated for Online Login on SRM e-Tendering website of MSETCL for the debarred / blacklisted Agency/Firm during the period of debarment.

c) Debarring / blacklisting of the Agency shall be conveyed to all Utilities in India and Financial Institutions viz. REC, PFC, etc. and Ministry of Power of both GOM and GOI.

d) On expiry of Period of debarment / blacklisting order, the name of debarred / blacklisted agency shall be removed from the list of debarred / blacklisted firms hosted on MSETCL website and online login on SRM e-tendering website shall be granted. The same shall be conveyed to all utilities to whom debarment / blacklisting order was issued.

## **18. AMENDMENTS**

MSETCL may introduce modification here to through the amendment of its specific provision as the need arises and the amendment to this policy shall be applicable to the ongoing contract as well future contract.



**MAHARASHTRA STATE ELECTRICITY TRANSMISSION CO.LTD.**

CIN No. U40109MH2005SGC153646

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