

Operating Procedure for Holiday Listing in IHB Ltd
(To be published in IHB portal)

1. Definitions:

a) Blacklisting / Holiday listing / Debarment/ Banning:

The meaning of "blacklisting", "holiday listing", "debarment" and "banning" is legally one and the same. Hence hereafter the subject matter shall be referred as "Holiday listing" only.

b) "Approving Authority" for holiday listing shall mean State Head (for State Offices) / not below Chief Manager (for Head Office). However, for placing a party on holiday for a period in excess of 2/ 3 years, Committee of Chief Executive Officer (CEO), Chief Operating Officer (COO) and Chief Financial Officer (CFO) shall be the Approving Authority.

c) "Appellate Authority" shall be one rank higher than the Approving Authority.

d) "Company" means IHB Limited (IHB) with its Registered Office at IOCL, Sabarmati Terminal Near D' cabin, Sabarmati, Ahmedabad 380019, Gujarat.

e) "Party" shall include Licensor / Consultant / Contractor / Vendor / Bidder / Supplier/ Agency/ Seller / Sub-Vendor/ Sub-contractor/ Sub-consultant" and shall mean and include a public limited company or a private company or a Limited Liability Company, a Joint Venture, consortium, HUF, a firm whether registered or not, an individual, cooperative society or an association or a group of persons engaged in any commerce, trade, industry etc.

f) "Transgression" and **"Integrity Pact"** shall be as per the definition and details of Integrity Pact Policy of IHB Limited.

g) "Administrative Ministry" is Ministry of Petroleum & Natural Gas, Government 'of India

2. Reasons for putting a Party on Holiday:

2.1. The purpose of putting a party on holiday list is to protect the Company from dealing with an undesirable party. Reason for putting a party on holiday list may include any one or more of the following:

If a party

- a) has indulged in malpractices such as bribery, corruption, fraud, pilferage, bid rigging/price rigging, injury to reputation or property of the Company, acting dishonestly causing wrongful financial loss to the Company or wrongful gain to the Party.
- b) is bankrupt or insolvent or is being dissolved or has resolved to be wound up or proceedings for bankruptcy or liquidation or insolvency resolution process or winding up or dissolution have been initiated
- c) has submitted fake, false, fabricated, or forged documents/ certificates
- d) has substituted materials in lieu of materials supplied by IHB or has not returned or has short returned or has unauthorizedly disposed off materials/ documents/ drawings/ tools or plants or equipment supplied by IHB.
- e) has obtained official company information or copies of documents, in relation to the tender/ contract; by questionable methods/ means.
- f) has violated and circumvented the provisions of laws including labor laws/ regulations/ rules, safety, environment norms or other statutory requirements.
- g) has indulged in construction and erection of defective works or supply of defective materials
- h) has not cleared IHB's dues
- i) has committed Breach of Contract or has failed to perform a contract or has abandoned the contract
- j) has not accepted Notice of Acceptance / Letter of Acceptance I Purchase Order / Work Order after the same is issued by IHB within the validity period and /or as per agreed terms& conditions.

- k) After opening of Bid, the techno-commercially qualified and acceptable bidder withdraws / revises his bid upwards within the validity period.
- l) has parted with, leaked or provided confidential/ proprietary information of IHB to any third party without prior consent of IHB
- m) if the security consideration, including questions of loyalty of the party to the State, so warrants
- n) if the Director/ Owner of the party, proprietor or partner of the party is convicted by a Court of Law under process of law for offences involving moral turpitude in relation to its business dealings during the last five years.
- o) If the party uses intimidation/ threatening/ coercion or brings undue pressure on IHB or its official(s) in acceptance/ performances of the job under the contract.
- p) Poor/ unsatisfactory performance of the party in one or several contracts.
- q) Transgression of Integrity Pact for which in the opinion of IHB makes it undesirable to deal with the party.
- r) Based on the findings of the investigation report of any investigative agency, Government Audit, any law enforcement agency or government regulator.
- s) If CBI, or any other investigating agency(ies) recommends such a course along with credible evidence in respect of a case under investigation and if a prima-facie case is made out that the party is guilty of criminal negligence or an offence involving moral turpitude in relation to business dealings which if established may result in business dealing with it being banned.
- t) Any other ground which in the opinion of the Company makes it undesirable to deal with the Party.

Note: The grounds/ reasons for holiday listing indicated above are merely illustrative.

2.2. Communication by Administrative Ministry to IHB:

- a) If a communication is received from the Administrative Ministry of IHB to ban a party from dealing with IHB, the party shall be automatically put on Holiday list.
- b) Holiday listing by other PSUs/ Government Departments shall not automatically extend to IHB unless the Administrative Ministry of IHB advises for the same
- c) Where a Ministry seeks to debar a Vendor across Ministries/ Departments, they will write to Deptt of Expenditure (DoE), who, in turn, will take action after due diligence at their end. In case DoE takes a decision to debar a Vendor across Ministries/ Departments, DoE will maintain list of such debarred firms, and display on the Central Public Procurement Portal. This list needs to be followed by all and can be accessed from the CPP Portal (present address: <https://eprocure.gov.in/eprocure/app>).

3.3. Show Cause Notice:

- a) Before placing the party on holiday list, a fair opportunity of hearing the party shall be given by means of a Show Cause Notice. The Show Cause Notice should be issued to the Party before placing the party on holiday list except for cases under CI 2.2.
- b) A proforma of the Show Cause Notice is enclosed **Attachment- 1**. A reasonable time (of 15 days) for a reply to the show cause notice shall be given. This time may be extended at the request of the party, if so warranted, for a period not exceeding 7 days.
- c) The Show Cause Notice shall be issued to the party and a copy may be endorsed to its CEO (Chairman/ President/ Managing Director/ Proprietor/ Managing Partner etc.)

- d) The decision to place the party on holiday list shall be taken considering the reply, if any, of the party, and by passing a reasoned Speaking Order in respect of all the allegations contained in the Show-Cause notice.

4. Effect of putting a party on holiday list

- 4.1. No enquiry/ bid/ tender shall be issued to a party as long as the party's name appears on the current holiday list (i.e. within the holiday period).
- 4.2. If a party is put on holiday list during tendering (of works/ purchase):
- 4.2.1 If a party is put on holiday after issue of the enquiry/ bid/ tender but before opening Technical bids, the EMD, if applicable, shall be returned to the party.
- 4.2.2 If a party is put on holiday after opening technical bid but before opening the price bid, the price bid of the party shall not be opened and EMD submitted by the party shall be returned to the party.
- 4.2.3. In case a party is put on holiday after opening of price bid, EMD made by the party shall be returned; the offer of the party shall be ignored & will not be further evaluated. The party will not be considered for issue of order even if the party is the lowest (L1). In such situation next lowest shall be considered as L1.
- 4.3. If a party is put on Holiday List and is performing/ executing any other job(s), it may be allowed to complete such works which have already been awarded. In case of ongoing Rate Contracts on single vendor, Call Up orders shall be allowed on the holiday listed vendor till a new Rate Contract is finalized. In case of availability of Multiple Vendors against Rate Contract/ Unit Rate contract, the holiday listed Vendor shall be allowed to complete such works for which Call up orders have already been placed. Fresh Call Up orders shall not be awarded once the Vendor is holiday listed.
- 4.4. The holiday listing shall be party specific & when the party is put on holiday, all the offices of the party shall be on holiday for all locations of IHB & for all Services/ locations of the party. Committee of CEO, COO & CFO may however, if they considers this to be in the interest of the Company, remove the bar in respect of any specific service/ location.
- If the party placed on holiday, is a proprietary concern, all the concerns of the same proprietor shall also be considered to be on holiday and if that proprietor is the partner of any firm, such firm shall also be considered to be on holiday.
- In case where a joint venture (formed specifically for the bidding process) / consortium is debarred, all partners of the joint venture / consortium shall stand debarred for the period specified in the debarment order. Communication of holiday listing shall be sent to all the partners.**
- 4.5. Removal of party from Approved/ Registered list, wherever Approved/ Registered list of parties are followed.

5. Delisting (from Holiday list) procedure after expiry of the holiday period:

- 5.1. Delisting (from Holiday list) after expiry of the holiday period shall be automatic and will not need further approval unless any information towards extension of holiday period is received. The party may be considered for issue of enquiry/ bid after the specified holiday period is over.
- 5.2. However, where Approved/ Registered list of parties are followed, the party may, after expiry of holiday period, approach relevant Tender/ Enquiry Issuing Authority, for getting itself re-listed.

6. Appeal and Review of holiday period Delisting from holiday list within the holiday period):

a) Appeal:

The holiday listed party may file an appeal, along with a non-refundable fees of Rs.10,000, before the 'Appellate Authority' against the Speaking Order for Holiday Listing. Non-refundable fees to be paid by the way of a Demand Draft in favor of IHB Limited. Such an appeal shall be preferred within one month from the date of the Holiday Listing Order.

Appeal Process may be completed within 60 days of filing of appeal with the Appellate Authority.

b) Review:

Suo moto, review of holidayperiod (delisting from holiday list within the holiday period) shall be done in exceptional cases and in the interest of the Company only with the approval of the Appellate Authority.

7. Intimation of holiday listing/ de-listing to the Party:

- 7.1. The party shall be informed by IHB about their inclusion in holiday list. A draft of the communication to be sent to the party is enclosed as Attachment-3.
- 7.2. De-listing from holiday list after expiry of the specified holiday period need not be communicated to the party.
- 7.3. If holiday period is changed after appeal/ review, the party shall be informed accordingly.
- 7.4. In holiday listing cases, where the proprietor of the firm, its employee, partner or representative is convicted by a Court of law for offences involving moral turpitude in relation to business dealings, may be revoked if, in respect of the same facts, accused has been wholly exonerated by court of law.

8. PSU Company:

Whether the party is Private Sector or a PSU Company, guidelines for holiday listing and delisting shall be the same.

9. Disposal Tenders:

The above guidelines shall also apply to parties for disposal tenders. In such cases "Lowest Bidder (L1)" shall mean "Highest Bidder (H1)".

10. Declaration of Holiday Listing

Every Bidder shall, at the time of submission of bid, give a declaration in the proforma of the Declaration attached as Attachment-2

11. GeM Tenders

In case of GeM procurements, Incident Management (IM) Policy of GeM shall be applicable. Terminologies used in GeM shall be as defined in the relevant policy. It is to be ensured that vendor suspended due to IHB's incident raising is blocked in SAP for the period for which they have been put on Suspension list of GeM, and the same is also updated on e-tender portal, as is done for other holiday listed vendors.

(Proforma of Show Cause Notice)

BY
REGD. POST/SPEED POST/COURIER

No.:

Date:

To

M/s

Attn.: Shri

Sub: **Show Cause Notice**

Ref: [Name of Tender / PO / LOA / Work Order or any other reference]

Dear Sir,

You are hereby required to show cause in writing within 15 days from the date hereof why you be not placed on the "holiday list" and be debarred from entering into any contracts with IHB Ltd./ be not de-listed from the list of approved Vendors/ Contractors of IHB Ltd., for the following reasons

[Give detailed reasons]

Your reply, if any, should be supported by all documents and documentary evidence which you wish to rely in support of your reply.

Should you fail to reply to this Show Cause notice within the time and manner aforesaid, it will be presumed that you have nothing to say, and we shall proceed accordingly.

Your reply, if any, and the documents/ documentary evidence given in support shall be taken into consideration prior to arriving at a decision.

You are also requested to provide the details of Firms/ Agency/ Company where you are a proprietor or you are a partner.

Yours faithfully,
For & On behalf of IHB Ltd.

PROFORMA OF DECLARATION OF BLACKLISTING / HOLIDAY LISTING

In the case of a Proprietary Concern:

I hereby declare that neither I, in my personal name nor in the name of my Proprietary concern, M/s which is submitting the accompanying Bid/ Tender nor any other concern in which I am proprietor nor any partnership firm in which I am involved as a Partner are presently on any blacklist or holiday list declared by IHB Ltd, or by Ministry of Petroleum & Natural Gas (MOPNG), nor any inquiry is pending by IHB Ltd. or MOPNG, in respect of any corrupt or fraudulent practice(s) against me or any other of my proprietorship concern(s) or against any partnership firm(s) in which I am or was at the relevant time involved as a partner, except as indicated below:

(Here give particulars of blacklisting or holiday listing, and /or inquiry and in absence thereof state "NIL")

In the case of a Partnership Firm:

We hereby declare that neither we, Ws _____, which is submitting the accompanying Bid/ Tender, nor any partner involved in the said firm either in his individual capacity or as proprietor or partner of any other firm or concern presently, are placed on any blacklist or holiday list declared by IHB Ltd. or by Ministry of Petroleum & Natural Gas (MOPNG), nor any inquiry is pending by IHB Ltd. or MOPNG, in respect of corrupt or fraudulent practice(s) against us or any partner or any other concern or firm of which he is proprietor or partner, except as indicated below:

(Here give particulars of blacklisting or holiday listing and/or inquiry and in the absence thereof state "NIL")

In the case of Company:

We hereby declare that we are presently neither placed on any holiday list or blacklist declared by IHB Ltd. Or by Ministry of Petroleum & Natural Gas (MOPNG), nor any inquiry is pending by IHB Ltd. or MOPNG, in respect of corrupt or fraudulent practice(s), except as indicated below:

(Here give particulars of blacklisting or holiday listing and/or inquiry and in the absence thereof state "NIL")

In the case of Consortium:

We hereby declare that none of the members of the Consortium are presently placed on any holiday list or blacklist declared by IHB Ltd. Or by Ministry of Petroleum & Natural Gas (MOPNG); nor any inquiry is pending by IHB Ltd. or MOPNG, in respect of corrupt or fraudulent practice(s), except as indicated below:

Here give particulars of blacklisting or holiday listing and/or inquiry and in the absence thereof state "NIL")

It is understood that if this declaration is found to be false in any particular. IHB Ltd. shall have the right to reject my/ our bid, and if the bid has resulted in a contract, the contract is liable to be terminated without prejudice to any other right or remedy (including blacklisting or holiday listing) available to IHB Ltd.

Place:

Signature of Bidder

Date:

Name of Signatory

Attachment- 3

(Proforma of Intimation of placement of a party on Holiday list)

No.

Date:

To, _____

M/s _____

Attn: Ms. / Mr. _____

Sub: Holiday Listing/ De-listing of Vendors/ Contractors — intimation of placement on Holiday List

Dear Sir,

In spite of the opportunity given to you, you have failed to show cause as required * /your reply to the Show Cause Notice (and the documents and documentary evidence submitted in support of your reply) has/ have been duly considered, *

[Speaking order: either to agree or rebut the reply furnished by Party, allegation wise]

After considering the allegations made in the Show case Notice and your reply to the Show Cause Notice (and documents and documentary evidence furnished in support thereof) *, it has been decided that you be placed on Holiday List and debarred from entering into any contracts with IHB Ltd. for a period of months* / years." effective from the date hereof and be removed from the list of approved Vendors/ Contractors.*

Yours faithfully,

*Strike out if not applicable (the entire running underlined text).