



OIL & GAS DEVELOPMENT COMPANY LIMITED



1 BLACKLISTING OF SUPPLIERS / BIDDERS / CONTRACTORS:

In pursuance of Rule 19 of Public Procurement Rules, 2004 read with Rule-2(f) the criteria for blacklisting of bidders / contractors and suppliers doing business with Oil & Gas Development Company Limited and its attached departments / subsidiaries is reiterated hereafter to eliminate unfair trade practices.

1.1 SCOPE:

This Blacklisting Procedure shall govern the blacklisting of bidder/contractor and supplier, which includes, but not limited to, consultant, manufacturer, distributor, agent, company, partnership or firm involved in procurement of goods, works and services with the Oil and Gas Development Company Limited and its attached departments/subsidiaries for offenses or violations committed during bidding process and contract execution. The blacklisted bidder/contractor and supplier shall not be allowed to participate in the bidding during the period of disqualification unless delisted.

At the time of submission of bid a bidder / contractor and supplier shall submit an Affidavit (Form-4) that he or his principal is not declared blacklisted / debarred / cross debarred by any Institutional Agencies / Government Departments / Public Sector / Foreign Country, International Organization or other Foreign Institutions.

1.2 GROUNDS FOR BLACKLISTING:

OGDCL may blacklist respondent(s) individually or collectively as part of consortium during bidding process or during the execution of the contract on the mentioned grounds, including but not limited to, in the following categories:

1.3 CORRUPT AND FRAUDULENT PRACTICES:

- i. Involvement of the respondent(s) in corrupt practice.
- ii. Involvement of the respondent(s) in fraudulent practice.
- iii. Involvement of the respondent(s) in collusive practice.
- iv. Involvement of the respondent(s) in coercive practice.
- v. Involvement of the respondent(s) in obstructive practice.
- vi. Gross misrepresentation by the respondent(s) pertaining to any element of the bidding, project or otherwise.
- vii. Submission of false documents/information by the respondent(s).
- viii. Unauthorise use of another's name.
- ix. Commission of fraud, embezzlement, criminal breach of trust, theft, cheating, forgery, bribery, falsification or destruction of records, receiving stolen property, false use of trademark, securing fraudulent registration, giving false evidence,

furnishing of false information of serious nature, and any other practices deemed or considered unethical.

- x. Concealment of previous judicial conviction of fraud, corruption, criminal misappropriation, theft, forgery, collusion, tax evasion, default, conviction in crime or civil wrong committed in last two years etc.
- xi. Concealment of previous judicial conviction of an offence relating to violation of general labor laws of Pakistan committed in last two years.
- xii. Submission of fake bid security and guarantee by respondent(s).
- xiii. Failure to communicate bankruptcy or being subject to insolvency or winding-up proceedings at the time of bidding or execution of contract.
- xiv. Breach of confidentiality.
- xv. Participation by a blacklisted bidder/contractor and supplier in the bidding process under a new name.
- xvi. Failure to disclose blacklisting by Government or Governmental Institution, Public Procurement Regulatory Authority (PPRA) or any other Procuring Agency.
- xvii. Blacklisted by other Governmental Institutions or Procuring Agencies.
- xviii. Blacklisted by foreign country, international organization or other foreign institution.
- xix. Involvement in other corrupt and fraudulent practices.

1.4 FAILURE TO PERFORM CONTRACTUAL OBLIGATION:

- i. Breach/violations of the requirements and rules or instructions communicated to the respondent(s) during execution of the contract.
- ii. Failure to maintain communication during the execution of the contract.
- ii. Deviation from conditions of contract or willful failure to comply with contractual obligations set in the contract.
- iii. Failure to remedy a breach or violation of a contract.
- iv. Willful abandonment or non-performance of contract.
- v. Subletting any part, or whole, of the contract to another entity without approval, where required, from OGDCL.
- vi. Omission to disclose any conflicts of interest that may either arise during the execution of the contract.

1.5 BREACHING OF BID SECURING DECLARATION:

- i. Failure to abide with bid securing declaration and/or affidavit.
- ii. Omission to disclose any conflicts of interest that may arise at the time of bidding.
- iii. Withdrawal or refusal to accept LOA / award of contract within bid validity.
- iv. Other grounds as deemed appropriate.

1.6 BLACKLISTING COMMITTEE:

- i. The Managing Director of the OGDCL shall constitute a blacklisting committee comprising of five (05) members with minimum three (03) Executive Directors as its members. MD shall nominate one of the member to be the Chairman of the Committee.
- ii. The General Manager Supply Chain Management shall act as a secretary of the blacklisting committee.
- iii. The quorum of the meeting shall be at least three members including the Chairman and GM (Legal Services).
- iv. The blacklisting committee shall decide by majority.
- v. The blacklisting committee will be competent and authorised to consider, process, finalize and approve all matters regarding blacklisting of bidders and contractors.
- vi. The blacklisting committee may call for any document, file or record which it deems necessary and relevant for the purpose of the proceedings.
- vii. The blacklisting committee shall submit an annual report to the MD/CEO.

1.7 BLACKLISTING PROCEEDINGS:

- i. The General Manager (Supply Chain Management) on receipt of information or a complaint by the HoD of the concerned/Indenting Department shall refer the matter to the blacklisting committee.
- ii. The blacklisting committee after examining the material placed before it shall determine whether it is necessary and appropriate to initiate formal blacklisting proceedings.
- iii. The blacklisting committee deliberation as a guiding principle should be based upon adequate evidence. Consideration should be given as to how much credible information is available, and its reasonableness in view of surrounding circumstances, and inferences which may be drawn from the existence or absence of affirmed facts. The assessment should include all documents/evidence available and presented.
- iv. In case the blacklisting committee decides to initiate blacklisting proceedings, the respondent(s) shall be formally intimated in writing through email and/or post about the initiation of blacklisting proceedings. The said notice shall contain the following:
 - a. description of alleged default and / or wrongdoing of respondent(s)
 - b. the date time and location of the hearing
- v. The respondent(s) shall be intimated by giving seven (07) days' notice through courier services, registered post or fax or email and, shall be provided an opportunity of furnishing response either through written representation or personal hearing or both.
- vi. If a hearing is requested, the blacklisting committee shall as soon as may be practicable set the date and time for hearing.
- vii. The blacklisting committee, if it so desires, may also invite expert opinion for assistance and clarity.

- viii. The blacklisting committee shall complete its proceedings within 30 days from the date of final hearing.
- ix. The respondent(s) against whom blacklisting proceedings have been initiated may be represented through:
 - a. In case of an individual or sole proprietorship; in person.
 - b. In case of a firm or partnership; by the Chief Executive or the Managing Partner or by authorized representative.
 - c. In case of a Company; by the Chief Executive or Director or any officer who is duly authorized by the Company.
- x. In case the respondent(s) fails to furnish his defence or representation the blacklisting committee may proceed *ex-parte* on the basis of information, record and material available before it provided that two subsequent notices at three working days intervals have been given.

1.8 DECISIONS:

- i. If the blacklisting committee concludes, after finalizing its proceedings, that the respondent is at fault, it may impose following penalty:
 - a. In case the respondent(s) is found guilty on the ground(s) of corrupt and fraudulent practices mentioned in section **1.3** above, blacklist for the period of not more than ten (10) years;
 - b. In case the respondent(s) is found guilty on the ground(s) of failure to perform contractual obligations mentioned in section **1.4** above, blacklist in respective category for the period of not more than three (3) years;
 - c. In case the respondent(s) is found guilty on the ground(s) of failure to abide with a bid securing declaration mentioned in section **1.5** above, blacklist in respective category for the period of not more than six (6) months.
- ii. The blacklisting committee shall furnish the respondent(s) a copy of the decision through email, letter and/or post immediately from its promulgation and communicate the decision to PPRA for uploading.
- iii. In case a respondent(s) is found guilty of more than one ground or a combination of grounds for the same project/contract, each violation shall be meted the corresponding penalty.
- iv. The respondent(s) shall stand suspended upon receipt of the decision prohibiting him from participating in the bidding process (es) in OGDCL. The suspension shall remain in effect during the appeal and shall terminate only upon a reversal of the decision by the appellate Authority.
- v. The blacklisting decision shall be communicated to PPRA for publication and further hoist on OGDCL website.

1.9 APPEAL:

The bidder may file the review petition before the Public Procurement Regulatory Authority within thirty (30) days of communication of such blacklisting or barring action after depositing the prescribed fee and in accordance with procedure issued by the Public Procurement Regulatory Authority, and the Public Procurement Regulatory Authority shall evaluate the case and decide within ninety (90) days of filing of review petition. The decision of the Public Procurement Regulatory Authority shall be considered as final.

1.10 STATUS OF BLACKLISTED BIDDER / CONTRACTOR AND SUPPLIER:

- i. Subsequent to the issuance of a blacklisting order, the blacklisted bidder/contractor and supplier shall be prohibited from participating in bidding process in OGDCL for the period specified in the blacklisting order.
- ii. If blacklisting order is issued prior to the date of the Letter for award of work/contract, the blacklisted bidder/contractor and supplier shall not be qualified for award and such project/contract shall be awarded to the next qualified bidder pursuant to Public Procurement Rules 2004.

1.11 DELISTING:

A blacklisted bidder/contractor and supplier shall be delisted after the period for the penalty has elapsed with prior concurrence of HOD of concerned Indenting Department & ED of the respective directorate. SCM Department will inform PPRA and bidder / contractor accordingly.

Form 1

Initiation of blacklisting Proceedings in furtherance of Rule 19 PPRA, 2004.

Initiator:

NAME

DESIGNATION

ADDRESS

CONTACT NUMBER

Against Respondent

NAME

ADDRESS

ENCIRCLE THE APPLICABLE

A) Undermines or adversely affect the operations of the company through willful failure:

a) Withdrawal of bid during the bid validity period;

b) Refusal to:

i. sign the contract;

ii. accept Purchase Order;

iii. execute work;

iv. submit Performance Security as per tender terms;

v. make supplies;

vi. fulfil contractual obligations as per contract;

vii. purchase order terms and conditions; and/or,

viii. failure to remedy underperformance as to contractual obligations.

c) Repeated non-performance.

B) Involvement in corrupt or fraudulent practices while obtaining or attempting to obtain contracts.

C). Conviction of fraud, corruption, tax evasion or criminal misappropriation by a court or competent forum.

D). Notified blacklisted/debarred/cross debarred by PPRA or any other public sector organization or international agencies.

SUPPORTING DOCUMENTS/ AFFIDAVIT

GM(LS)

GM(SCM)

Form 2

OGDCL LETTER HEAD

Notice _/3

Through Registered AD, Courier service or email or FAX

A Committee in furtherance of Rule 19 Public Procurement Rules, 2004 has been constituted to investigate and decide upon the allegations at Para-2/below. You are required to appear in person or defend in writing with evidence on _____ at OGDCL HO as to why you should not be blacklisted for:

.....

2. You are being given an opportunity to be heard in person or through representation in writing and in case of your failure to attend the proceedings on the said date or failure to file necessary defence/ representation the Committee shall proceed ex-parte.

3.{To be added in the third notice} As of final notice you are directed to furnish a satisfactory explanation in writing with supporting evidence within three days of receipt of this notice, to show cause as to why the blacklisting penalty may not be imposed. Failing to pay heed to this last notice shall stand a presumption against you that you have no explanation to offer and the matter shall be proceeded ex-parte.

GM (LS)

FORM 3

Composition of Committee	Members Signatures 1. 2. 3. 4. 5.
Date of Notice (s)	1. 2. 3.
Date of Hearing Start-End	
Attendance / Received Reply	Signatures
Documents Available/ Presented	1. 2. 3. . .
**** To be Conducted on Separate Sheets****	
PROCEEDINGS OF THE COMMITTEE	
Decision	Majority Decision

Signed Member 1-3 All Pages

GM (LS)

MD

GM(SCM) For Record and Publication

Mandatory for participation in Bidding Process

A F F I D A V I T (FORM 4)
(To be attached with Technical bid)

I, _____ S/o _____ aged _____
years _____ working as Proprietor/Managing Partner/Director of M/s _____
_____ having its registered
office at _____ do hereby solemnly affirm
and declare on oath as under:

1. That I am competent to swear this affidavit being proprietor/one or the partners/ Director of M/s _____
2. That M/s _____ is a proprietorship/partnership firm/company is participating in tender process conducted by OGDCL.
3. That I hereby confirm and declare that none of my/our group/sister concern/associate company is participating/ submitting this tender.
4. That I hereby confirm and declare that my/our firm/company M/s _____ and my/our firm/group/company/ sister concern / associate company or any of its directors have not been black listed/~~de-listed~~ by any Institutional agencies/Govt. Deptt/ Public Sector / foreign country, international organization or other foreign institutions.
5. That there is no change in the Name & Style, Constitution and Status of the firm, after Pre-qualification.
6. That I further undertake that in case any of the facts contained above and in-our application is round other-wise or incorrect or false at any stage, my/our firm/company/ group/sister concerns/ associate companies shall stand debarred from the present and future tenders of the OGDCL.

(Signature of the Proprietor/ Managing Partner/Director with Seal)

DEPONENT

Verified at _____ on _____ that the contents of paras 1 to 6 of this affidavit are true and correct to best of my knowledge and no part of this is false and nothing material has been concealed or falsely stated therein.

(Signature of the Proprietor/ Managing Partner/ Director with Seal)

DEPONENT

(Signature & Seal of Notary)