PART II
Statutory Notifications (S.R.O)
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the _____, 2024

S.R.O. /2024. In exercise of the powers conferred by section 27 of the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002) read with Rule 19 (1) of the Public Procurement Rules, 2004, the Public Procurement Regulatory Authority is pleased to make the following regulations, namely:-

1. **Short title and commencement:-** (1) These Regulations may be called the Regulations on "Mechanism for Blacklisting and Debarment of Bidders or Contractors Regulations, 2024".

   (2) These Regulations extend to the whole of Pakistan.

   (3) They shall come into force at once.

2. **Definitions**:- (1) In these Regulations unless, there is anything repugnant in the subject or context:

   a. **"Blacklisting Order"** means a formal administrative order issued by the procuring agency after adopting all codal formalities in accordance with Rule 19 of the Public Procurement Rules, 2004.
   b. ***"Committee for the blacklisting/ debarment of contractor"*** *means committee constituted by the procuring agency to undertake blacklisting or debarment proceedings in accordance with Rule19 of Public Procurement Rules 2004 and these regulations.*
   c. **"Contract Implementation"** - A process of undertaking a project or contract in accordance with the contract document.
   d. **"Cross debarment"** means a bidder debarred by any procuring agency shall be considered as debarred by all the procuring agencies.
   e. **"Delist"** means removal of supplier/contractor from the list of blacklisted firms.
   f. **"Review Petition Committee"** means the Committee constituted under the "Procedure for filing and disposal of Review Petition under Rule-19(3), Regulations, 2022 to address the review petition against the blacklisting/ debarring decision of the Procuring Agency.
   g. **"Review Petition"** means Review Petition preferred under Rule 19(3) of the Public Procurement Rules, 2004.
   h. **"Termination of Contract"** means extinction of contract by reason or resolution or rescission under applicable rules/regulations/laws arising from the default of the firms/individuals.

(2) The expressions used but not defined in these regulations shall have the same meanings as are assigned to them in the Public Procurement Regulatory Authority Ordinance, 2002 and the Public Procurement Rules, 2004.

3. ***Scope:-*** *(1) The procuring agency shall immediately formulate and notify their blacklisting mechanism in accordance with these regulations.*

(2) These regulations shall govern the blacklisting of individual, consultant(s), sole-proprietor(s), partnership(s), corporation(s), joint venture(s), company / companies, firm(s), association(s), supplier(s), contractor(s), distributor(s), manufacturer(s), representative, authorized agent or any other legal entity involved in procurement of goods, works, services and disposal of public assets with the procuring agencies and its attached departments for irregularities or violations committed during bidding and contract execution and to eliminate unfair trade practices.

4. ***Committee for the blacklisting/ debarment of contractor:-*** *The procuring agency shall constitute and notify a Committee comprising of odd number of persons, not less than three members, as soon the procurement process is initiated, to conduct blacklisting or barring action against the bidder or contractor.*

5. **Reasons for Blacklisting and debarment:-**
    a. **Blacklisting & debarment on account of involvement in corrupt & fraudulent practices:-** If a procuring agency has sufficient reasons to believe that a bidder or contractor is involved in the corrupt and fraudulent practices as mentioned in Rule-2(f)(i) to (v) of the Public Procurement Rules, 2004, the Procuring agency shall blacklist and henceforth cross debar the bidder or contractor for participation in any public procurement or disposal proceedings for the period of not more than ten (10) years.

    b. **Blacklisting & debarment on account of failure to perform contractual obligations:-** (1) The blacklisting committee shall initiate blacklisting proceedings for a period of not more than three (3) years, if the contractor failed to perform his contractual obligations during the execution of contract or breaches the contract due to his incapacity and incapability to perform or otherwise.

    (2) Procuring agency shall initiate such blacklisting or debarment proceedings after exhausting the forum of arbitration, provided that such provision exists in the conditions of contract, and if such failure or breach is covered in the respective dispute settlement clauses of the contract.

    c. **Blacklisting & debarment on account of failure to abide by bid securing declaration:-** The Blacklisting Committee shall initiate blacklisting and henceforth cross debarment for participation in respective category of public procurement or disposal proceedings for a period of not more than six months, if the bidder fails to abide with a bid securing declaration without being indulged in any corrupt and fraudulent practices.

MECHANISM FOR BLACKLISTING AND DEBARMENT

6. **Treatment of Complaints:-**
    a. **Complaint received from the internal sources**:- The procuring agency within

seven (7) days from the receipt of the complaint from the internal sources, shall forward the complaint to the Blacklisting and Debarment Committee to proceed further in accordance with these regulations.

b. **Complaints received from external sources:-** The procuring agency within seven (7) from the receipt of the any complaint from the external sources, shall forward the complaint to the Blacklisting and Debarment Committee to proceed further in accordance with these regulations.

7. **Initiation of proceedings by the Committee:-** (1) Within a period of ten (10) days after receiving the complaint of blacklisting or debarment from the respective sources, the Committee shall examine the complaint and issue show cause notice informing the bidder or contractor about the alleged charges and shall provide an opportunity to defend said charges.

(2) The show cause notice shall contain:

(a) precise allegation against the bidder or contractor;

(b) the maximum period for which the procuring agency proposes to debar the bidder or contractor from participating in any public procurement; and

(c) time limit for filing of response against the show cause notice.

(3) The Committee shall give minimum of seven (7) days to the bidder or contractor for submission of written reply of the show cause notice.

(4) In case the bidder or contractor submits written reply of the show cause notice, the Committee shall decide the matter after providing the opportunity of personal hearing to the bidder or contractor or authorized representative of the bidder or contractor and shall decide the matter accordingly.

(5) In case the bidder or contractor fails to submit written reply within the requisite time, the Committee may issue notice for personal hearing to the bidder or contractor or authorized representative of the bidder or contractor and if the bidder fails to attend the personal hearing, the Blacklisting Committee shall decide the matter on the basis of available record.

(6) The Committee shall ensure that the show cause notice shall be sent at the mailing / postal address as provided in the contract or any other address provided by way of any subsequent written communication between the procuring agency and the bidder or contractor. In case, the notice is not received due to incorrect or change in mailing address without any written communication, it shall not be attributable to the procuring agency / committee.

(7) In case of non-receipt of any reply from the accused within the stipulated period and failure to appear for personal hearing despite of receipt of notices, the Committee shall have the right to proceed ex parte.

8. **Order of blacklisting:-** (1) The Committee shall issue order of blacklisting by recording the detailed reasons and justifications after perusal of available record. The Committee shall communicate the order of the blacklisting to the Authority for uploading the same on Authority's website.

Provided that the blacklisting order shall not take effect unless the same is uploaded on PPRA website.

(2) The Committee shall also communicate the order of blacklisting to all concerned parties by using all means of communication including courier, email etc.

9. **Filing of the Review Petition:-** (1) The bidder or contractor aggrieved by the decision of the procuring agency, may file the Review Petition before the Review Petition Committee of the Authority within thirty (30) days of communication of such blacklisting or barring action after depositing the prescribed fee and in accordance with "Procedure of Filing and Disposal of Review Petition under Rule 19(3) Regulations, 2021". The Review Petition Committee shall evaluate the case and decide within ninety (90) days of filing of Review Petition.

   (2) the Review Petition Committee shall serve a notice in writing to all respondents of the Review Petition. The notices shall be accompanied by the copies of Review Petition and shall contain documents of the Review Petition including the order of the blacklisting.

   (3) The parties may file written statements/ replies along with relevant documents supporting their contentions. The parties are also authorized to defend their case before the Review Petition Committee by their own or through their authorized representative(s).

10. **Decision of the Review Petition Committee:-** The Review Petition Committee of the Authority on the basis of written replies, hearings and examination of the record provided by the respondents may either sustain the order of the blacklisting or debarment of bidder or contractor from participating in public procurement process as deem appropriate, or acquit the bidder or contractor from the allegations and delist the bidder from the blacklisted or debarred firms displayed on Authority's website/ EPADS.

    Provided that the Review Petition Committee may also issue interim orders keeping in view the urgency of the matter.

11. **Effects of blacklisting and debarring decision:- (1)** Blacklisting of a contractor will not affect its contractual obligations in other ongoing public contracts for goods, works, services and disposal of public assets in which such contractor is already engaged. However, such blacklisted/ debarred contractor shall stand barred to participate in all future bidding processes either as individual bidder, or joint venture member or sub-contractor.

10. **Delisting:-** A blacklisted firm / individual shall automatically be delisted / restored after the period for the penalty has elapsed as provided in the order of blacklisting. The blacklisted firm / individual shall also be delisted from the list of the blacklisted firms if the review petition of the contractor is accepted by the Review Petition Committee.

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