



मंगलूर रफाइनरी एंड पेट्रोकेमिकल लिमिटेड

MANGALORE REFINERY AND PETROCHEMICALS LTD.

(ऑयल एंड नेचुरल गैस कॉर्पोरेशन लिमिटेड का सहायक कंपनी)

(A Subsidiary of Oil and Natural Gas Corporation Ltd.)

POLICY FOR HOLIDAY LISTING

1.0 Introduction:

1.1 The meaning of ~~Black listing~~, ~~Holiday listing~~, ~~Banning~~ and ~~Removing from approved panel~~ is legally one and the same. Hence, hereafter the subject matter shall be referred as ~~Holiday listing~~ only.

1.2 These guidelines shall govern the holiday listing of manufacturers, suppliers, distributors, contractors and consultants (contractors for brevity) involved in MRPL procurement for offenses or violations committed during competitive bidding and contract implementation.

1.3 MRPL shall have the rights to put the Firm under holiday listing, if any Agency has been found to have committed misconduct or fraud or poor performance or anything unethical not expected from a reputed Vendor.

2.0 Definitions:

2.1 In these Guidelines, unless the context otherwise requires:

i. **“Company”** would mean and refer to Mangalore Refinery and Petrochemicals Ltd. Unless the context otherwise requires.

ii. **“Firm”** The term used in this Policy includes individual or person, a company, a co-operative society, a Hindu Undivided Family and an association and body of persons whether incorporated or not, engaged in trade and business.

iii. **“Proprietor”** This term Includes Director of a private limited company, members of Hindu undivided family, a member of an association of persons and a Director of a Public limited company.

iv. **“ Party/ Contractor / Supplier / Consultant / Bidders/Purchaser”** shall mean and include a public limited company or a private 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. Party / Contractor/ Supplier / Bidder in the context of these guidelines is indicated as Agency

v. **Nodal agency** : Nodal agency is Materials Management department of MRPL

- vi. **“Competent Authority”** shall accord approval to the following:-
- a. Suspension of business dealing with a firm/party pending investigation / examination;
 - b. Holiday listing of business dealings with firms/parties;
 - c. Holiday listing for indefinite period;
- Competent authority in respect of a and b above shall be GGM (Materials) and in respect of c, it shall be Functional Director.
- vii. **“Appellate Authority”** shall be one level above the competent authority or any other authority nominated by the MD of the Company. The Appellate authority shall be higher than the Competent Authority.
- viii. **“Investigating department”** shall mean any department or Unit of the company investigating into the conduct of Firm/party and shall include the Vigilance Department of the company, Central Bureau of Investigation, State police or any other agency set up by the central and state government having powers to investigate.
- ix. **“Moral Turpitude”** means to be a conduct contrary to justice, honesty, modesty or good morals and contrary to what a man owes to fellowman or to society in general.
- x. a) **“Holiday Listing (Major)”** means holiday listing of the Firm for all serious offences, Crimes as listed out under Clause 4 of this policy. The period can be from 1 year and up to 3 years as decided by the Competent Authority and such cases will be put on website, Circulation of such information to the Parent Company, etc.
- b) **“Holiday Listing (Minor)”** means holiday listing of the Firm for less serious cases like minor safety violations or for any other offences/conduct/violation which are not covered under clause 4 of this Policy, which may be considered of minor nature and are of no major consequences to the Company and it shall be treated as a minor punishment for a period of 6 months to less than 1 year during which time, party will not be allowed to participate in future tenders.
- xi **Engineer in Charge** : The Engineer-in-Charge shall mean the person designated as such by MRPL and shall Include those who are expressly authorised by the Owner to act for and on his behalf for operation of the contract

3.0 Suspension of Business dealings:

- 3.1** Suspension of business with an agency may be ordered by the competent authority, pending full enquiry into the allegations, if it is considered not desirable to continue business with the firm. Such an order may be passed:
- i. If CBI, departmental Vigilance or any other Govt investigating agency recommends such a course along with credible evidence in respect of a case under investigation and

- ii. If a prima-facie case is made out that the firm is guilty of criminal negligence or an offence involving moral turpitude in relation to business dealings, which if established, would result holiday listing of the firm.
- 3.2 The order of suspension would operate for a period of not more than six months. The Competent Authority may extend the period of suspension by another 3 months pending completion of investigation.
- 3.3 The Agency may be allowed to submit its written defence to the show-cause notice within 7 days before issuing the order of suspension unless it is not expedient in the public interest to do so.
- 3.4 MRPL will not enter into correspondence or argument or personal hearing with the Agency at this stage.
- 3.5 Period of suspension shall be accounted for in the final order passed for Holiday listing of business with the agency.

4.0 Grounds on which Holiday listing of Business dealings can be initiated:

- 4.1 Some of the eventualities on occurrence, of which the firms can be put under holiday list, are indicated below. The list is suggestive and is not exhaustive.
 - a) The Competent Authority may decide to put a firm under holiday list based on the seriousness of the offence whether minor or major and or for any good and sufficient reason:
 - 1. Has not cleared MRPLs previous dues if applicable.
 - 2. Poor performance of the Agency in one or several contracts.
 - 3. Has not honoured the fax of award/letter of award/Contract/Purchase order after the same is issued by MRPL.
 - 4. Withdraws/revise the bid upwards after becoming the L1 bidder.
 - 5. Submitted fake, false or forged documents / certificates.
 - 6. Has deliberately violated and circumvented the provisions of labour laws/regulations/rules, safety norms, environmental norms or other statutory requirements.
 - 7. Has deliberately indulged in construction and erection of defective works or supply of defective materials.
 - 8. Has committed breach of contract or has abandoned the contract.

9. If the Agency is or has become bankrupt, OR is being dissolved OR has resolved to be wound up OR if proceedings for winding up or dissolution has been instituted against the Agency.
10. Transgression of Integrity Pact, which, in the opinion of MRPL, makes it undesirable to deal with the Agency;
11. Indulged in malpractices resulting in financial loss to the MRPL.
12. Has substituted materials in lieu of materials supplied by MRPL or has not returned or has unauthorisedly disposed off materials/ documents /drawings/ tools or plants or equipmentø supplied by MRPL.
13. Has parted with, leaked or provided confidential/proprietary information of MRPL to any third party without the prior consent of MRPL.
14. If a contractor is found convicted of an offence under :-
 - a) the prevention of corruption Act or
 - b) the Indian penal code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

b) The following additional grounds can also be reasons for Holiday listing of an agency:

1. If the security consideration, including questions of loyalty of the Agency to the State or MRPL, so warrants;
2. If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law following prosecution by CBI or under normal process of law for offences Involving moral turpitude in relation to its business dealings during the last five years.
3. If a communication has been received from the Administrative Ministry of the company or the Parent Company to put the party under holiday list, the party will be automatically put under holiday list;
4. If the Agency uses intimidation/ threatening or brings undue outside pressure on the Company or its official in acceptance/performances of the job under the contract;
5. Based on the findings of the investigation report of Internal Vigilance or any other investigative agency including Government Audit against the Agency for malafide / unlawful acts or improper conduct on his part in matters relating to the Company or even otherwise;

5.0 Show Cause Notice:

- 5.1 A fair opportunity of hearing the party shall be given by means of a Show Cause notice indicating the charges/ misconduct. Statement containing the imputation of misconduct or misbehaviour may be appended to the show-cause notice and the Agency will be asked to submit within 30 days a written statement in its defence.
- 5.2 If the Agency requests for inspection of any relevant document in possession of the Company, necessary facility for inspection of documents may be provided.
- 5.3 If no reply is received from the agency even after adequate notice within stipulated time, the decision may be taken ex-parte.
- 5.4 If it decides to put a firm under holiday list, the period for which the holiday listing would be operative may be mentioned in the Holiday listing order. The order may also specify the names of proprietors, all partners, directors, etc, of the firm.

6.0 Duration of Holiday listing:

- 6.1. The period of holiday listing based on the circumstances under which they will be put on holiday listing is as under:

S.No	Reasons for Holiday Listing	Period of Holiday listing (Major)
1	Has not cleared MRPLs previous dues if applicable	1 year
2	Poor performance of the Agency in one or several contracts	2 years
3	Has not honoured the fax of award/letter of award/Contract/Purchase order after the same is issued by MRPL	1 year
4	Withdraws/revises the bid upwards after becoming the L1 bidder	1 year
5	Submitted fake, false or forged documents / certificates	3 years
6	Has deliberately violated and circumvented the provisions of labour laws/regulations/rules, safety norms, environmental norms or other statutory requirements	3 years
7	Has deliberately indulged in construction and erection of defective works or supply of defective materials	3 years
8	Has committed breach of contract or has abandoned the contract	3 years

9	If the Agency is or has become bankrupt, OR is being dissolved OR has resolved to be wound up OR if proceedings for winding up or dissolution has been instituted against the Agency.	3 years
10	Transgression of Integrity Pact, which, in the opinion of the MRPL, makes it undesirable to deal with the Agency	3 years
11	Indulged in malpractices resulting in financial loss to MRPL	3 years
12	Has substituted materials in lieu of materials supplied by MRPL or has not returned or has unauthorisedly disposed off materials/ documents /drawings/ tools or plants or equipments supplied by MRPL	3 years
13	Has parted with, leaked or provided confidential/proprietary information of MRPL to any third party without the prior consent of MRPL	3 years
14	If a contractor is found convicted of an offence under :- a) the prevention of corruption Act or b) the Indian penal code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract:	3 years

6.2 Ordinarily, the period for which an Agency is put on holiday shall be as mentioned above. However, in extraordinary circumstances, the period can be more than the above mentioned period.

6.3 The period of holiday listing shall be decided by the Competent Authority for any other reasons which are not indicated in the above table.

7.0 Review of holiday period (Delisting from holiday list within the holiday period):

7.1 The holiday listed party may file an appeal against the order of the 'Competent Authority' putting the company under holiday listing, etc. The appeal shall be filed to 'Appellate Authority'. Such an appeal shall be preferred within one month from the date of receipt of the order putting the firm under holiday list.

8.0 Effect of putting a party on holiday list:

8.1 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).

8.2 If a party is put on holiday after issue of the enquiry/bid/tender but before opening Technical bids, the bid submitted by the party shall be returned to the party.

- 8.3 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 BG/EMD submitted by the party shall be returned to the party.
- 8.4 In case a party is put on holiday after opening of price bid, BG/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.
- 8.5 MRPL has unconditional right to terminate the contract which is already awarded or yet to be awarded to the Agency if it is put under holiday listing.
- 8.6 If a party is put on Holiday in one location and is doing job at other location, the party may be allowed to complete such works which have already been awarded.
- 8.7 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 MRPL & for all Services / locations of the party. 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 managing partner of any firm, such firm shall also be considered to be on holiday.