



Government of Sindh  
Sindh Public Procurement Regulatory Authority



**NOTIFICATION**

**No.Dir(M&CB)/SPPRA/2022-23/0731:-** In exercise of powers conferred by section 27 of the Sindh Public Procurement Act, 2009 (Sindh Act No. IV of 2009), the Authority is pleased to make the following regulations:

1. **Short title and commencement:** -(1) These regulations may be called the Regulations for Blacklisting of Bidders, Contractors, Suppliers and Consultants, 2023.
  - (2) They shall come into force at once.
  - (3) These regulations shall be applicable on all the procuring agencies as defined in Section 2(k) of Sindh Public Procurement Act, 2009.
2. **Definitions:**(1) In these regulations, unless there is anything repugnant in the subject or context:
  - (a) **"Authority"** means the Sindh Public Procurement Regulatory Authority, established under Section (3) of SPP Act, 2009;
  - (b) **"Bidder"** means a person or entity;
    - (i) Submitting a bid; or
    - (ii) Who intends to submit a bid and is able to substantially prove such intention;
  - (c) **"Blacklisting"** means barring or debarring a bidder, contractor, consultant or supplier from participating in any future procurement proceedings by the Procuring Agency for a given period;
  - (d) **"Blacklisting Agency"** means the Procuring Agency which blacklists or prohibits a bidder, contractor, supplier or consultant as per prescribed procedure.
  - (e) **"Competent Authority"** means an officer of the procuring agency empowered to exercise financial powers and approve the award of contract for procurement of goods, works or services, as the case may be;
  - (f) **"Consultant"** means a professional who can study, design, organize, evaluate and manage projects or assess, evaluate and furnish expert advice or render technical assistance in formulating or drafting policies, institutional reforms, including private entities, consulting firms, legal advisors, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, international and multinational organizations, investment and merchant banks, universities, research institutions,

government agencies, non-governmental organizations, and individuals;

- (g) **“Contractor”** means a person, firm, company or organization that undertakes to execute works including services related thereto, other than consulting services, incidental to or required for the contract being undertaken for the works;
- (h) **“Corrupt and Fraudulent Practices”** means either one or any combination of the following practices:
  - (i) **“Coercive Practice”** means to impair or harm, or threaten to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;
  - (ii) **“Collusive Practice”** means any arrangement between two or more parties in a procurement process or contract execution, designed to achieve with or without the knowledge of the Procuring Agency to establish prices at artificial, non-competitive levels for any wrongful gain;
  - (iii) **“Corrupt Practice”** means to offer, give, receive or solicit, directly or indirectly, anything of value, to influence the acts of another party for wrongful gain;
  - (iv) **“Fraudulent Practice”** means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - (v) **“Obstructive Practice”** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

acts intended to materially impede the exercise of inspection and audit rights provided for under the Rules.

- (i) **“Government”** means the Government of Sindh;
- (j) **“Head of the Department”** means the administrative head of the department or the organization;



- (k) **“Procuring Agency”** means,-
- (i) Any department or office of Government; or
  - (ii) District Government; or
  - (iii) Any authority, corporation, body or organization established bylaw or which is owned or controlled by the Government;
- (l) **“SPP Rules”** means, - The Sindh Public Procurement Rules – 2010
- (m) **“Supplier”** means a person, firm, company or an organization that undertakes to supply goods and services related thereto, other than consulting services, required for the contract;

3. The expressions used but not defined in these regulations shall have the same meanings as are assigned to them in the SPP Act, 2009, SPP Rules, 2010 and, if not defined there, as in the ordinary usage of language.

4. **Grounds for Blacklisting:**

(1) According to Rule-35 (1) of the Sindh Public Procurement Rules, 2010, the following shall result in blacklisting of bidders, suppliers, contractors, or consultants, individually or collectively as part of consortium:

(2) The Procuring Agency may, blacklist or prohibit a bidder, contractor, supplier or consultant temporarily, if it has reasonable grounds to believe that the bidder, contractor, supplier or consultant has indulged in any one or more of the following specified actions or practices:

Grounds for Blacklisting	Period for Blacklisting
(a) conviction for fraud, corruption, criminal misappropriation, theft, forgery, bribery or any other criminal offence;	Five years (05)
(b) involvement in corrupt and fraudulent practices while obtaining or attempting to obtain a procurement contract, including but not limited to the following:	Five years (05)
(i) Submission of eligibility requirements, containing false information or falsified documents.	
(ii) Submission of bids, containing false information or falsified documents, or the concealment of such information in the bids, in order to influence the	

outcome of eligibility screening or any other stage of the public bidding.	
(iii) Unauthorized use of one's name or using the name of another for purpose of public bidding.	
(c) Withdrawal of a bid, or refusal to accept an award, or enter into contract with the government without justifiable cause, after he had been adjudged as having submitted the Lowest Evaluated Bid or the Best Evaluated Bid.	One year (01)
(d) Refusal or failure to submit required performance security within the prescribed time.	One year (01)
(e) Refusal to clarify or validate in writing, his bid during post qualification, within a period of seven (7) calendar days, from the date of receipt of the request for clarification.	One year (01)
(f) Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favour.	Five years (05)
(g) final decision by a court or tribunal of competent jurisdiction that the bidder, contractor or supplier is guilty of tax evasion;	Five years (05)
(h) willful failure to perform in accordance with the terms of one or more than one contract.	Three years (03)
(i) failure to remedy underperforming contracts, as identified by the Procuring Agency, where underperforming is due to the fault of the contractor, supplier or consultant;	One year (01)
(j) Contractor or Consultant or Supplier fails to fully and faithfully comply with his contractual obligations without valid cause;	One year (01)
(k) The contractor, supplier or consultant is blacklisted/convicted by any Government department, anti-corruption agencies and / or superior courts in	Five years (05)

*Handwritten mark*

<p>Pakistan, or it is established that the firm is involved in any kind of corruption or corrupt practices anywhere in the world.</p> <p>(l) Any attempt / activity to malign or bring the Procuring Agency into disrepute and harm its interest(s).</p> <p>(m) Person(s) blacklisted by Federal, Provincial procuring agencies, International Financial Institutions and / or other international donor agencies shall be liable to be blacklisted after receipt of confirmation from such agencies, without any further proceeding.</p> <p>(n) Failure of the contractor, consultant or supplier to comply with any written lawful instruction of the Procuring Agency or its authorized representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include, but are not limited to the following:</p> <ul style="list-style-type: none"> <li>(i) Employment of competent technical personnel, competent engineers and/or work supervisors;</li> <li>(ii) Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;</li> <li>(iii) Stockpiling in proper places of all materials and removal from the project site of waste and excess materials, including broken pavement and excavated debris in accordance with approved plans, specifications and contract provisions;</li> <li>(iv) Deployment of committed equipment, facilities, support staff and manpower; and</li> <li>(v) Renewal of effective dates of the performance security after its expiration during the course of contract implementation.</li> </ul>	<p>Five years (05)</p> <p>As per the blacklisting period mentioned by Federal, Provincial procuring agencies, International Financial Institutions and / or other international donor agencies</p> <p>One to Three years (01) to (03)</p>
--	---

<p>(o) Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the Procuring Agency;</p>	<p>Five Years (05)</p>
<p>(p) For the procurement of goods, unsatisfactory progress in the delivery of 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;</p>	<p>Three Years (03)</p>
<p>(q) For the procurement of consulting services, poor performance by the consultant arising from his fault or negligence. Any of the following acts by the consultant shall be construed as poor performance:</p> <ul style="list-style-type: none"> <li>(i) Defective design resulting in substantial corrective works in output / work product / design and / or construction;</li> <li>(ii) Failure to deliver critical outputs due to consultant's fault or negligence; and</li> <li>(iii) Specifying materials which are substandard;</li> <li>(iv) Allowing defective workmanship or works by the contractor, being supervised by the consultant.</li> </ul>	<p>One (01) to Three Years (03)</p>
<p>(r) For the procurement of infrastructure projects, poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the supplier/ contractor's existing performance evaluation system carried out by the Procuring Agency in any manner. Any of the following acts by the constructor shall be construed as poor performance:</p> <ul style="list-style-type: none"> <li>(i) Negative slippage of 15% and above within the critical path of the project, entirely due to the fault or negligence of the contractor or consultants; and</li> <li>(ii) Quality of materials and workmanship not complying with the approved specifications arising from the contractor's fault or negligence.</li> <li>(iii) Willful or deliberate abandonment or non-performance of the project or contract by the contractor / consultant, resulting in substantial breach, thereof, without lawful and/or just cause.</li> </ul>	<p>One (01) to Three Years (03)</p>

(3) The Procuring Agency may blacklist or prohibit unscrupulous bidders, suppliers, vendors, contractors, manufacturers, distributors and consultants for offenses or violations committed, at any time, during the competitive bidding and contract implementation stages, in accordance with the Sindh Public Procurement Regulatory framework / Rules- 2010.

(4) The Procuring Agency shall establish unambiguous criteria and procedure for blacklisting of bidders, suppliers, contractors and consultants in Bidding Documents (BD) for goods, works and services as provided in these regulations.

**Note:**

(1) The bidders, contractors, suppliers and consultants, after being blacklisted, shall not participate in any future procurement during the blacklisting period, in any procuring agency of Sindh Government.

(2) In case of any ongoing contract(s) within or in any other Procuring Agency / department, after being blacklisted due to aforementioned offence(s) the contractor, supplier, consultant shall only complete the contract(s) which are in progress, rather than in those, found guilty and punished by Procuring Agency.

(3) The Procuring Agency shall recover advance, if any, from all respective departments/ procuring agencies, in case the bidder, contractor, supplier or consultant has been blacklisted.

**5. Initiation of Blacklisting Proceedings:** Rule-35 (2) of SPP Rules, 2010, stipulates that a Procuring agency may, on its own motion, or information provided by any party, carry out an investigation to determine, whether there is sufficient cause for blacklisting a bidder, contractor, consultant or supplier. If the Procuring Agency is satisfied that such cause exists, it shall initiate the process of blacklisting.

(1) The Procuring Agency may initiate blacklisting proceedings on its own or upon receipt of a written complaint submitted by any party, bidder, contractor, supplier, consultant, with the Head of the Procuring Agency. The Head of a Procuring Agency may also commence the proceedings upon *prima facie evidence* and the contractor, supplier, consultant or bidder has sufficient grounds for being blacklisted, during the pre-award or post award stage.

(2) The Head of the Procuring Agency, upon receiving such written complaint, may constitute a committee comprising odd number of members including one member from the agency / department, other than the Procuring Agency, to investigate the reasons / justification / grounds on which such blacklisting complaint has been filed with the Procuring Agency.

Depending upon the nature of the case, the Committee so nominated

may consult or co-opt additional member(s) from within or outside the Procuring Agency, with the approval of head of the Procuring Agency, provided that the Committee consists of an odd number of individuals.

(3) The individual or committee shall complete its investigation within fifteen (15) days of the initiation of blacklisting proceedings and submit findings and recommendations, under these Regulations, to the Head of Procuring Agency.

## **6. Procedure for Blacklisting**

**(1) Issuance of Notice for initiation of Blacklisting Proceedings:** Upon verification of the existence of grounds for blacklisting or prohibition or suspension, the Procuring Agency shall immediately convey the bidder, contractor, consultant or supplier concerned, in writing, the proposed blacklisting, stating therein that:

- (a) A complaint for suspension and blacklisting has been filed against him, or the fact that blacklisting is being considered by the competent authority for debarment and blacklisting.
- (b) The grounds for initiation of blacklisting proceedings;
- (c) He/she has the opportunity to show-cause why he/she should not be suspended/ debarred / blacklisted;
- (d) The period to be afforded to the firm to present the information in its defence;
- (e) The consequences of being prohibited and blacklisted;
- (f) Any other information that Procuring Agency may deem appropriate to include.

The Procuring Agency shall ensure receipt of the said notice by the bidder, contractor, supplier or consultant concerned, through registered mail, or courier, immediately, from the date of its issuance.

### **(2) Submission of written reply:**

- (a) Within Ten (10) working days from receipt of written notice, the Bidder, Contractor, Supplier or Consultant shall submit his written reply with documentary evidence to the Procuring Agency with a request of hearing to determine questions of fact, if he so desires. No time extension for submission of response shall be allowed.
- (b) If the bidder, contractor, supplier or consultant fails to submit a written response within the stipulated period and the Procuring Agency is satisfied that the bidder, contractor, supplier or consultant is at fault, it shall immediately prohibit the bidder, contractor, supplier or consultant from participating in any bidding process for a specified time, as determined by the Procuring Agency and forfeit the bid security or performance security, as the case may be.





### **(3) Request for Hearing:**

- (a) If a written request for hearing, along with written response by bidder, contractor, supplier or consultant is received within stipulated time, the Procuring Agency shall immediately set the date and time for hearing. The hearing shall be concluded within five (5) working days.
- (b) The Procuring Agency may invite a representative from a duly recognized private sector or discipline relevant to the procurement under consideration as technical member for each hearing.
- (c) If no request for hearing is made within the stipulated period, the Procuring Agency shall finalize the blacklisting/ prohibition/ suspension proceedings, on the basis of complaint, documentary evidence submitted and facts verified.
- (d) If the Procuring Agency is satisfied that the bidder, contractor, supplier or consultant is at fault, it shall immediately blacklist the bidder, contractor, supplier or consultant from participating in any public sector bidding process, forfeiting the bid security or performance security, as the case may be.

### **(4) Announcement of Decision by the Procuring Agency:**

- (a) If the Head of the Procuring Agency determines that reasonable cause exists for blacklisting / prohibition / suspension of the bidder, contractor, supplier or consultant, he shall:
  - (i) Blacklist or prohibit the bidder, contractor, supplier or consultant from participating in any procurement / bidding process of the Government for a specified period of time;
  - (ii) Prohibit the bidder, contractor, supplier or consultant from participating in any procurement process of that particular Procuring Agency for a specified time.
  - (iii) Direct the bidder, contractor, supplier or consultant to take immediate remedial measures to be carried out within the stipulated time.
- (b) The head of the Procuring Agency shall also forfeit the bid security and / or performance security, proportionate to the extent of loss suffered by the Procuring Agency due to the misconduct or fault of the bidder, contractor, supplier or consultant.
- (c) The decision shall clearly state the facts and evidences as per the

rules, regulations, instructions, orders, as well as the date of imposition of penalty, if any.

(d) If Head of Procuring Agency determines that no such reasonable cause exists, he shall dismiss the case.

(e) The Head of the Procuring Agency shall ensure the acknowledgement / receipt of the copy of the decision by the prohibited / blacklisted bidder, contractor, supplier or consultant through registered mail, fax or courier mail, with immediate effect.

(f) A copy of the decision, along with complete record of the case, shall also be submitted to the Sindh Public Procurement Regulatory Authority for hoisting on its website within fifteen (15) days, from the date of issuance of the decision made by the Procuring Agency.

(g) The Authority shall hoist the decision on its website either after the expiry of the appeal period if the bidder does not file an appeal within the stipulated time or after the decision on the Appeal filed by the bidder if the blacklisting is retained by the Review Committee.

#### **(5) Effectiveness of decision of blacklisting:**

(a) A bidder, contractor, supplier, consultant is blacklisted / prohibited from the date of announcement of written decision of blacklisting / prohibition if:

- i. no appeal is filed with the Authority within the stipulated time.
- ii. the Authority upholds the decision of the Procuring Agency in case an appeal is filed by the bidder, contractor, supplier or consultant.

i. The blacklisting / prohibition shall remain operational during the period of request for review or appeal and shall be terminated only upon reversal of the decision by the Head of the Procuring Agency or review committee.

#### **7. Request for Reconsideration to the Procuring Agency:**

(1) The Bidder, contractor, supplier or consultant shall have the right to request the Procuring Agency to review the initiation of blacklisting proceedings or the blacklisting decision, if convinced that some concrete evidence substantiates the case otherwise.

(2) The bidder, contractor, supplier or consultant shall file the request for reconsideration to the Procuring Agency within five (5) working days, from the receipt of the decision regarding its blacklisting.



- (3) Request for reconsideration may be filed by the blacklisted/prohibited bidder, contractor, supplier or consultant for either or both of the following causes, provided that only one motion for reconsideration shall be filed with the Procuring Agency:
  - (a) The decision is not in conformity with the evidence(s) and/or facts presented; and
  - (b) Evidence(s) or facts which could not be discovered and produced during investigation and which, when presented, are likely to alter the result of the investigation.
- (4) The Head of the Procuring Agency shall resolve / decide the request for reconsideration with final decision within ten (10) days from the filing of such request and shall furnish the resolution / decision with immediate effect, to the blacklisted / suspended / debarred bidder, contractor, supplier or consultant.
- (5) The decision of the Procuring Agency shall be final and executory after the lapse of ten (10) days from the receipt of the notice of decision or Procuring Agency's decision on the contractor's request for reconsideration of notice of decision.

#### **8. Appeal to the Review Committee of the Authority:**

- (1) Any Party, aggrieved by the decision of the Procuring Agency may submit an appeal to the Review Committee within ten (10) days from the receipt of the decision, including but not limited to the following:
  - (a) A letter stating his desire to appeal to the review committee against blacklisting / prohibition and the nature of complaint;
  - (b) A copy of the request for reconsideration, submitted to the Procuring Agency and the resolution / decision made thereof by the Procuring Agency;
  - (c) A copy of the decision of the Procuring Agency;
- (2) On receipt of the appeal, along with requisite information and documents, the Chairperson of the Review Committee shall convene a meeting of the review committee within seven (07) working days;
- (3) In case the appellant fails to appear twice despite the service of notice of appearance, the appeal may be decided ex-parte.
- (4) The Review Committee shall hear parties and announce its decision within ten working days of the submission of appeal. However, in case of delay, reasons thereof shall be recorded in writing.

- (5) The decision of Review Committee shall be final and binding upon the Procuring Agency. After the decision has been announced, the appeal and the decision thereof shall be hoisted on the website of the Authority.

**9. Prohibition on Blacklisted Persons / Entities/ Firms/ Bidders / Contractors /Suppliers / Consultants to Participate in the Bidding of Government Projects/ Contracts:**

- (1) A person / entity / firm / organization / bidders / contractors / suppliers / consultants that is blacklisted by a Procuring Agency and/or published by the Procuring Agency, shall not be allowed to participate in the bidding of any government procurements during the period of blacklisting unless delisted, as provided in specific reference.
- (2) A joint venture or consortium which is blacklisted or which has blacklisted member(s) and/or partner(s) as well as a person/entity who is a member of a blacklisted joint venture or consortium are, likewise, not allowed to participate in any government bidding procurement during the period of blacklisting.
- (3) In the case of corporations, a single stockholder, together with his/her relatives up to the third civil degree of affinity, and their assignees, holding at least twentypercent (20%) of the shares therein, its chairman and president, shall be blacklisted after they have been found holding the same controlling interest in a previously blacklisted corporation or in two corporations which have been blacklisted; the corporations of which they are part shall also be blacklisted.

**10. Delisting of Bidders, Contractors, Suppliers or Consultants:** A blacklisted person / entity / bidder / contractors / suppliers or consultants shall be automatically delisted after the lapse of the period for the penalty, unless the blacklisting agency requests the Authority in writing to maintain the blacklisting of the bidder / contractor / consultant or supplier due to justifiable reasons. In the latter case, the blacklisted person/entity shall be delisted only upon the blacklisting agency's / procuring agency's issuance of a Delisting Order.

**11. Methodology for Notification to the SPPRA and other competent forum:**

- (1) Unless otherwise provided in these guidelines, the blacklisting agency / Procuring agency concerned shall submit to the Authority, within fifteen (15) days after the announcement of the decision of blacklisting or delisting made by the Procuring Agency, including but not limited to the following documents:

- i. Decision regarding Blacklisting of bidder / contractor / supplier or consultant duly signed by the Head of the Procuring Agency containing, among others, department/office order number, name and address of the blacklisted person/entity, license number, if applicable, authorized managing officer, project/contract and location/amount, specific ground(s)/offense(s) committed, sanction imposed and its date of commencement and completion, date of issuance of the order to blacklist, and other conditions which can extend duration of sanctions thereof.
  - ii. Delisting order duly signed by the blacklisting agency / Procuring agency containing, among others, department/office order number, name and address of the blacklisted person/entity, name of project/contract and location, specific sanction being lifted and the number of previously issued blacklisting department/office orders or board resolutions, date of delisting, and date of delisting approval.
- (2) The decision of the Procuring Agency regarding blacklisting or delisting shall be posted on the Authority's website and on Procuring Agency's website, which would indicate the number of times a person/entity has been blacklisted, the type of offense/violation committed, the penalty imposed, and the name of blacklisting agency concerned.
- (3) The list of delisted firms those whose sanctions are lifted automatically after serving the blacklisting period and those whose sanctions are lifted through the issuance of Delisting orders shall be hoisted on the Authority's website as well as on Procuring Agency's website, and shall be for information to all government departments.
- (4) All existing blacklisting reports, orders, lists of the Government or any of its procuring agencies, or any recognized sources as well as the list of bidder / contractor / consultant or supplier whose licenses are suspended or revoked by the relevant issuing departments, authorities, organizations, bodies, corporations etc, shall be adopted and made part of the SPPRA consolidated blacklisting list upon the request of the Procuring Agency.
- (5) A list of blacklisted bidder / contractor / supplier or consultant shall be maintained by SPPRA on its website containing names of blacklisted firms, their NTN Number, General Sales Tax Number, Sindh Sales Tax Number, name of the procuring agency, reason for blacklisting and duration thereof. The Authority shall also upload the Procuring Agency's request for blacklisting of a bidder in such table.

**12.** A bid once opened in accordance with the prescribed procedure shall be subject to only those rules, regulations and policies that are in force at the time of issuance of notice for invitation of bids.

**Rubina Asif  
Managing Director**

**No.Dir(M&CB)/SPPRA/2022-23/0731**

**Karachi, dated 26<sup>th</sup> January, 2023**

  
**(Manzoor Ahmed)  
Assistant Director (HR)**