

Appendix-1 to Section 4 Part A of Chapter 4 (Standard Tender Enquiry Document)

Dated: - 24th Feb 2014

S. No.	Defaults of the bidder / vendor.	Action to be taken
A	B	C
1(a)	Submitting fake / forged a) Bank Instruments with the bid to meet terms & condition of tender in respect of tender fee and/ or EMD. b) Certificate for claiming exemption in respect of tender fee and/ or EMD. and detection of default at any stage from receipt of bids till award of APO/ issue of POWO.	i) Rejection of tender bid of respective Vendor. ii) Banning of business for 3 years which implies barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL for 3 years from date of issue of banning order. iii) Termination/ Short Closure of POWO, if issued. This implies non-acceptance of further supplies / work & services except to make the already received material work/ complete work in hand.
	Note 1 :- However, in this case the performance guarantee if alright will not be forfeited. Note 2 :- Payment for already received supplies/ completed work shall be made as per terms & conditions of PO/ WO.	
1(b)	Submitting fake / forged documents towards meeting eligibility criteria such as experience capability, supply proof, registration with Sales Tax, Income Tax departments etc and as supporting documents towards other terms & conditions with the bid to meet terms & condition of tender : (i) If detection of default is prior to award of APO (ii) If detection of default after issue of APO but before receipt of PG/ SD (DD, BG etc.) (iii) If detection of default after receipt of PG/ SD (DD, BG etc.) .	i) Rejection of Bid & ii) Forfeiture of EMD. i) Cancellation of APO , ii) Rejection of Bid & iii) Forfeiture of EMD. i) Cancellation of APO ii) Rejection of Bid & iii) Forfeiture of PG/ SD. However on realization of PG/ SD amount, EMD, if not already released shall be returned.

(Signature)
Smt. (MAY)

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1(b) contd.	(iv) If detection of default after issue of PO/WO	i) Termination/ Short Closure of POWO and Cancellation of APO ii) Rejection of Bid & iii) Forfeiture of PG/ SD. However on realization of PG/ SD amount, EMD, if not released shall be returned.
	Note 3:- However, settle bills for the material received in correct quantity and quality if pending items do not affect working or use of supplied items. Note 4:- No further supplies are to be accepted except that required to make the already supplied items work.	
2	If vendor or his representative uses violent/ coercive means viz. Physical / Verbal means to threatens BSNL Executive / employees and/ or obstruct him from functioning in discharge of his duties & responsibilities for the following : a) Obstructing functioning of tender opening executives of BSNL in receipt/ opening of tender bids from prospective Bidders, suppliers/ Contractors. b) Obstructing/ Threatening other prospective bidders i.e. suppliers/ Contractors from entering the tender venue and/ or submitting their tender bid freely.	Banning of business for 3 years which implies Barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL for 3 years from date of issue of banning order.
3	Non-receipt of acceptance of APO/ AWO and SD/ PG by L-1 bidder within time period specified in APO/ AWO.	Forfeiture of EMD.
4.1	Failure to supply and/ or Commission the equipment and /or execution of the work at all even in extended delivery schedules, if granted against PO/ WO.	i) Termination of PO/ WO. ii) Under take purchase/ work at the risk & cost of defaulting vendor. iii) Recover the excess charges if incurred from the PG/ SD and outstanding bills of the defaulting Vendor.

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4.2	Failure to supply and/ or Commission the equipment and/ or execution of the Work in full even in extended delivery schedules, if granted against PO/ WO.	<ul style="list-style-type: none"> i) Short Closure of PO/ WO to the quantity already received by and/ or commissioned in BSNL and/ or in pipeline provided the same is usable and/ or the Vendor promises to make it usable. ii) Under take purchase/ work for balance quantity at the risk & cost of defaulting vendor. iii) Recover the excess charges if incurred from the PG/ SD and outstanding bills of the defaulting Vendor.
5.1	The supplied equipment does not perform satisfactory in the field in accordance with the specifications mentioned in the PO/ WO/Contract.	<ul style="list-style-type: none"> i) If the material is not at all acceptable, then return the non-acceptable material (or its part) & recover its cost, if paid, from the o/s bills/ PG/ SD. OR ii) If the material is inducted in network & it is not possible to return it and/ or material is acceptable with degraded performance, the purchaser may determine the price for degraded equipment (Financial penalty = Price – price determined for degraded equipment) himself and/ or through a committee. Undertake recovery of financial penalty from outstanding dues of vendor including PG/ SD.
5.2	Major quality problems (as established by a joint team / committee of User unit(s) and QA Circle) / performance problems and non-rectification of defects (based on reports of field units and QA circle).	<ul style="list-style-type: none"> i) If the material is not at all acceptable, then return the non-acceptable material (or its part) & recover its cost, if paid, from the o/s bills/ PG/ SD. OR ii) If the material is inducted in network & it is not possible to return it and/ or material is acceptable with degraded performance, the purchaser may determine the price for degraded equipment (Financial penalty = Price – price determined for degraded equipment) himself and/ or through a committee. Undertake recovery of financial penalty from outstanding dues of vendor including PG/ SD. iii) Withdrawal of TSEC/ IA issued by QA Circle.

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6	<p>Submission of claims to BSNL against a contract</p> <p>(a) for amount already paid by BSNL.</p> <p>(b) for Quantity in excess of that supplied by Vendor to BSNL.</p> <p>(c) for unit rate and/ or amount higher than that approved by BSNL for that purchase.</p>	<p>i) Recovery of over payment from the outstanding dues of Vendor including EMD/ PG & SD etc. and by invoking 'Set off' clause 21 of Section 5 Part A or by any other legal tenable manner.</p> <p>ii) Banning of Business for 3 years from date of issue of banning order or till the date of recovery of over payment in full, whichever is later.</p>
<p>Note 5:- The claims may be submitted with or without collusion of BSNL Executive/ employees.</p>		
<p>Note 6:- This penalty will be imposed irrespective of the fact that payment is disbursed by BSNL or not.</p>		
7	<p>Network Security/ Safety/ Privacy:- If the vendor tampers with the hardware, software/ firmware or in any other way that</p> <p>a) Adversely affects the normal working of BSNL equipment(s) and/ or any other TSP through BSNL.</p> <p>b) Disrupts/ Sabotages functioning of the BSNL network equipments such as exchanges, BTS, BSC/ MSC, Control equipment including IN etc., transmission equipments but not limited to these elements and/ or any other TSP through BSNL.</p> <p>c) tampers with the billing related data/ invoicing/ account of the Customer/ User(s) of BSNL and/ or any other TSP(s).</p> <p>d) hacks the account of BSNL Customer for unauthorized use i.e. to threaten others/ spread improper news etc.</p> <p>e) undertakes any action that affects/ endangers the security of India.</p>	<p>i) Termination of PO/ WO.</p> <p>ii) Banning of business for 3 years which implies Barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL for 3 years from date of issue of banning order.</p> <p>iii) Recovery of any loss incurred on this account from the Vendor from its PG/ SD/ O/s bills etc.</p> <p>iv) Legal action will be initiated by BSNL against the Vendor if required.</p>

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8	If the vendor is declared bankrupt or insolvent or its financial position has become unsound and in case of a limited company, if it is wound up or it is liquidated.	<ul style="list-style-type: none"> i) Termination/ Short Closure of the PO/ WO. ii) Settle bills for the quantity received in correct quantity and quality if pending items do not affect working or use of supplied items. iii) No further supplies are to be accepted except that required to make the already supplied items work. iv) In case of turnkey projects, If the material is commissioned and is usable without any degradation of performance, then settle bills for the acceptable equipment/ material (or its part). v) In case of turnkey projects, If the material is inducted in network & it is not possible to return it and/ or material is acceptable with degraded performance, the purchaser may determine the price for degraded equipment (Financial penalty = Price – price determined for degraded equipment) himself and/ or through a committee. Undertake recovery of financial penalty from outstanding dues of vendor including PG/ SD.
9	In the event of the vendor, its proprietor, Director(s), partner(s) is / are convicted by a Court of Law following prosecution for offences involving moral turpitude in relation to the business dealings.	<ul style="list-style-type: none"> i) Termination/ Short Closure of the PO/ WO. ii) Settle bills for the material received in correct quantity and quality if pending items do not affect working or use of supplied items. iii) No further supplies are to be accepted except that required to make the already supplied items work. iv) In case of turnkey projects, If the material is commissioned and is usable without any degradation of performance, then settle bills for the acceptable equipment/ material (or its part). v) In case of turnkey projects, If the material is inducted in network & it is not possible to return it and/ or material is acceptable with degraded performance, the purchaser may determine the price for degraded equipment (Financial penalty = Price – price determined for degraded equipment) himself and/ or through a committee. Undertake recovery of financial penalty from outstanding dues of vendor including PG/ SD.

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10	If the vendor does not return/ refuses to return BSNL's dues: a) inspite of order of Arbitrator.	i) Take action to appoint Arbitrator to adjudicate the dispute.
		<ul style="list-style-type: none"> i) Termination of contract, if any. ii) Banning of business for 3 years which implies barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL from date of issue of banning order or till the date by which vendor clears the BSNL's dues, whichever is later. iii) Take legal recourse i.e. filing recovery suite in appropriate court.
	b) inspite of Court Orders.	<ul style="list-style-type: none"> i) Termination of contract, if any. ii) Banning of business for 3 years which implies barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL from date of issue of banning order or till the date by which vendor clears the BSNL's dues, whichever is later.
11	If the Central Bureau of Investigation/ Independent External Monitor (IEM) / Income Tax/ Sales Tax/ Excise / Custom Departments recommends such a course	Take Action as per the directions of CBI or concerned department.
12	<p>The following cases may also be considered for Banning of business:</p> <p>(a) If there is strong justification for believing that the proprietor, manager, MD, Director, partner, employee or representative of the vendor/ supplier has been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation with respect to the contract in question.</p> <p>(b) If the vendor/ supplier fails to execute a contract or fails to execute it satisfactorily beyond the provisions of Para 4.1 & 4.2.</p>	<ul style="list-style-type: none"> i) Banning of business for 3 years which implies Barring further dealing with the vendor for procurement of Goods & Services including participation in future tenders invited by BSNL for 3 years from date of issue of banning order.

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Cont. 12	(c) If the vendor/ supplier fails to submit required documents/ information, where required.	Continued.
	(d) Any other ground which in the opinion of BSNL is just and proper to order for banning of business dealing with a vendor/ supplier.	
<p>Note 7: The above proposed penalties will be imposed provided it does not clash with the provision of the respective tender.</p>		
<p>Note 8: -In case of clash between these guidelines & provision of invited tender, the provision in the respective tender shall prevail over these guidelines.</p>		
<p>Note 9: Banning of Business dealing order shall not have any effect on the existing/ ongoing works/ AMC / CAMC which will continue along with settlement of Bills.</p>		

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