

POLICY FOR BLACKLISTING / DEBARRING OF TRAINING SERVICE PROVIDERS

1. PREAMBLE

Punjab Skills Development Fund (PSDF) selects and engages Training Service Provider under its different schemes through an open and competitive process.

It is, however, felt that unethical practices are being followed or insufficient attention is being paid by some Training Service Providers to training delivery and during the process which may result in low quality training output. It is also being observed that there are a few cases in which Training Service Providers do not improve their performance despite advice, imposition of minor and or major financial penalties. To reduce such practices a Blacklisting /Debarring Policy is being introduced.

2. SCOPE

This policy shall govern the blacklisting / debarring of the Training Service Providers engaged or to be engaged by Punjab Skills Development Fund (PSDF) under its different training schemes for offenses or violations committed during competitive bidding and or during contract implementation.

Debarring shall be used sparingly in case of fraud, corruption, gross misrepresentation, harassment, coercion; consistent under-performance based upon monitoring reports; contract cancellations or non-performance without justifiable reasons

An entity that is debarred shall not be allowed to participate in the bidding for PSDF funded training schemes during the period of disqualification.

A joint venture or consortium which is blacklisted / debarred will include all its member/s and or partner/s as well as a person / entity who is a member of joint venture or consortium.

3. SANCTIONS AND GROUNDS FOR BLACKLISTING / DEBARRING

3.1 Competitive Bidding Stage

During the competitive bidding stage, Punjab skills Development Fund shall impose on bidders or prospective bidders the penalty of suspension for the bid under process for one round of bidding; without prejudice to the imposition of additional administrative sanctions as the rules of the company may provide and / or further criminal prosecution, as provided by the applicable law, for the following violations:

- a. Indulging of the Training Service Provider directly or indirectly in corrupt, fraudulent, collusive and or coercive practices.
 - (i) "Corrupt practice" means the offering, giving receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a PSDF official in the selection process or in agreement execution;

- (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of an agreement; Examples of such misrepresentations include misstatements about training experience or projects; falsely quoting trainers, their experience or qualifications; misstatements about training premises, centre registration, affiliation.
 - (iii) “collusive practices” means a scheme or arrangement between two or more Training Service Providers with or without the knowledge of the Client, designed to establish prices at artificial, non-competitive levels;
 - (iv) “coercive practices” 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 an agreement.
- b. Unauthorized use of one’s name or using the name of another for the purpose of bidding.
 - c. Any attempt by the bidder to unduly influence the outcome of the bidding in his favour.
 - d. All other acts that tend to defeat the purpose of the competitive bidding. .

4.2. *Contract Implementation Stage*

Once Training Service Providers (TSPs) have been engaged, PSDF ensures that the training being delivered is of an acceptable standard. This quality assurance is based on a third party monitoring system and is linked with payments made to the TSPs. Below standard performance currently leads to two types of penalties:

- Deductions as per announced rates in Business Rules from the monthly payments of a TSP for each kind of violation committed (violations are defines as serious, major and minor);
- Contract Cancellations.

Without prejudice to the imposition of additional administrative sanctions as the rules of the company may provide and / or further criminal prosecution, as provided by the applicable law, for the following violations, PSDF shall impose on Training Service Providers after the termination of the contract the penalty of suspension for one round from participating in the bidding process, for violation committed during the contract implementation stage, which include but not limited to the following:

a. **Consistent under performance**

Consistent failure of Training Service Provider to perform satisfactorily in spite of advice and or penalties on account of minor, major and or serious violations.

Any of the following acts by the Training Service Provider shall be construed as poor performance.

“When a Training Service Provider underperforms by scoring less than 60% Score in two consecutive Evaluations (after reasonable intervals depending upon the training duration) done by PSDF on the basis of monitoring results”

b. Fraud & Misappropriation:

- a. Attempt of Training Service Provider or the Training Service Provider's Personnel and any Partner (in case of Consortium) or committing any fraud, deception, financial or procedural wrongdoing in relation to the performance by the Training Service Provider of its obligations under the Contract and not immediately notifying to PSDF of any circumstances giving rise to a suspicion that such wrongful activity may occur or has occurred.
- c. Failure of Training Service Provider to start any of the training(s) and abandoning the Contract without any cogent reasons.
- d. Persistence Failure of Training Service Provider to comply with written lawful instructions of PSDF or its representative(s) pursuant to the implementation of the contract. The lawful instructions include but are not limited to the following:
 - i. Employment of competent instructors and or managers as committed in the proposal.
 - ii. Deployment of committed machinery, equipment, tools, furniture, facilities and support staff.
 - iii. Safe, sound building in healthy environment to be used for training.
 - iv. Testing and certification by external authority on completion of training as approved by PSDF, if committed.
- e. Failure of a Training Service Provider to provide services for which it has received payment from PSDF. For example: payment of stipend to trainees, payment to partner of consortium, salaries to staff engaged for conduct of training.
- f. Subcontracting of the contract or any part thereof against the terms & conditions of the contract.
- g. Substitution of key personnel named in the proposal without prior written approval.
- h. Obstructing the Third Party Monitor: When during the course of training, the TSP obstructs the access of Third Party Monitoring Organisation authorized by PSDF by either threatening or physically obstructing a monitor.
- i. Influencing the External Examination Process or Results: Where external testing is mandatory under the contract, the Training Service Provider attempts to influence the examination process or the external examiners or commits acts which amount to cheating or physically obstructs the examiners during the testing process including non-provision of the machinery, equipment, tools, consumable materials as notified by the external testing authority.

5. PROCEDURE FOR SUSPENSION, DEBARRING AND BLACKLISTING DURING THE COMPETITIVE BIDDING STAGE

5.1 Initiation of Action

Any bidder / prospective bidder or duly authorized observer may initiate the suspension and debarring proceedings by filing a written complaint with the Bids Evaluation Committee (BEC). The BEC may also by itself commence the proceedings upon prima facie (self-sufficient) determination that the Training Service Provider as a bidder or prospective bidder has committed any of the grounds for debarring during the competitive bidding stage. A sub-committee of BEC consisting of Manager HR and CFO and be headed by Manager HR to be called as Inquiry Committee thereafter or as notified by the Chief Executive Officer, PSDF will probe and proceed for further actions in connection with suspension / debarring/blacklisting.

5.2 Notification

Upon verification of the existence of grounds for suspension, debarring or black listing, Manager HR, PSDF on behalf of the BEC shall immediately notify the Training Service Provider concerned in writing, advising him that:

- a. A complaint for suspension and debarring has been filed against him, or he has been considered by the BEC for suspension debarring and or blacklisting, stating the grounds for such;
- b. He has the opportunity to show cause why he should not be suspended and debarred;
- c. A hearing shall be conducted before the Inquiry Committee, upon his request, where he may present documentary evidence, verbal testimony and cross-examine the witnesses presented against him; and
- d. The consequences of being suspended and debarred.

Within five (5) calendar days from receipt of notification, the Training Service Provider shall submit its written answer with documentary evidence to the Inquiry Committee through Manager HR, PSDF with a manifestation for request of hearing to determine questions of fact, if he so desires. No time extension shall be allowed.

Should the Training Service Provider fail to answer within the same period, Members of Inquiry Committee shall issue a resolution through BEC recommending to the CEO, PSDF the immediate suspension of the Training Service Provider from participating in next one round of bidding process of the company and the forfeiture of his bid security, if any.

If a Training Service Provider provides the documentary evidence without request for hearing, the Inquiry Committee shall consider the documentary evidence and forward their recommendations to BEC for further consideration.

If a hearing is requested, the Inquiry Committee shall immediately set the date and time for hearing. Sub-Committee shall hear the Training Service Provider and make a determination of the case based on the complaint, answer, documentary evidence submitted and facts verified and forward the recommendations to BEC for further considerations.

5.4 Decision

If the inquiry committee, determines that such reasonable cause exists, he shall issue order regarding suspension of the Training Service Provider from participating in next round of bidding process of the company. Otherwise, he shall dismiss the case.

The decision shall clearly and distinctly state the facts, evidence and the instructions / guidelines issued by PSDF on which it is based, as well as the date of affectivity of the penalty, if any.

In case a Training Service Provider commits more than one offense or a combination of offenses for the same project/contract, each violation shall be considered for the corresponding penalty.

5.5 Notice of Decision

The inquiry committee shall furnish the suspended Training Service Provider a copy of the decision immediately from its promulgation.

5.6 Effect of Decision

A Training Service Provider is suspended upon receipt of the notice of decision prohibiting him from participating in the current bidding process of the company. The suspension shall remain in effect during the period of motion for reconsideration and protest and shall terminate only upon a reversal of the decision by the inquiry committee.

If no appeal for reconsideration or protest is filed, the decision shall become final and executed after the lapse of seven (7) calendar days from the receipt of the notice of decision. Thereafter, the inquiry committee shall issue a Debarring Order disqualifying the Training Service Provider..

5.7 Appeal for Reconsideration

The Training Service Provider has only one right of Request for Reconsideration within seven (7) calendar days from receipt of the notice of decision and shall be for either or both of the following causes

- a) The decision is not in conformity with the evidence and/or facts presented; and
- b) Newly discovered evidence or facts which could not be discovered and produced at the investigation and which when presented would probably alter the result of the investigation.

The appellate forum for appeal against the decision of suspension will be a two members committee of PSDF Board of Directors nominated by Board of Directors.

The Appellate forum shall review the case to resolve with finality the request for reconsideration within twenty (20) calendar days from the filing thereof and furnish suspended Training Service Provider a copy of the resolution immediately from its promulgation.

5.8 Finality of Decision

The decision of the company shall become final and executed after the lapse of seven (7) calendar days from the receipt of the notice of decision or resolution on the appeal for reconsideration. If a protest is filed, the affirmed, modified or reversed decision shall become final and executed upon receipt thereof by PSDF Management.

Upon finality of the decision suspending the Training Service Provider, CEO, PSDF shall issue a Blacklisting/Debarring Order disqualifying the erring Training Service Provider from participating in the bidding of PSDF schemes.

6. PROCEDURE FOR DEBARRING DURING THE CONTRACT IMPLEMENTATION

STAGE

Upon termination of contract due to default of the Training Service Provider or after establishing the consistence poor performance through Investigation Committee consisting of Manager HR and CFO or as notified by the CEO, PSDF, after observing the steps mentioned under clause 5 above; the CEO, PSDF shall immediately issue a debarring Order disqualifying the erring Training Service Provider from participating in the current bidding of PSDF funded schemes.

7. STATUS OF DEBARRED PERSON/ENTITY

After suspension /debarring, the erring Training Service Provider shall not be allowed to participate in the procurement of current PSDF scheme. But if Suspension/Debarring Order is issued prior to the date of the notice of award, the blacklisted person/entity shall not be qualified for award and such project / contract shall be awarded to another bidder. If the Suspension/ Debarring Order is issued after award of a project/contract to the Debarred person/entity, the awarded project/contract shall not be prejudiced by the said order provided that letter to proceed has been issued.

8. DELISTING

8.1 A blacklisted person/entity shall be automatically delisted after the period for the penalty shall have elapsed.

11. EFFECTIVITY

These Guidelines or any amendments thereof shall take effect immediately after its approval from PSDF Board of Directors.