



National High Speed Rail Corporation Limited
(A Joint Venture of Government of India and Participating State Governments)

SUSPENSION/ BANNING POLICY
(JUNE' 2020)

NATIONAL HIGH SPEED RAIL CORPORATION LTD.
2ND FLOOR, ASIA BHAWAN, ROAD NO-205, SECTOR-9
DWARKA, NEW DELHI- 110077



PREFACE

The need for comprehensive Suspension/ Banning Policy encompassing all relevant matters and guidelines on Banning Business with erring and defaulting Bidder/ Contractor/ Supplier/ Purchaser/ Consultant/ Licensor/ Service Provider/ NHSRCL approved Sub-contractor (if any)/ Vendor of a Contractor has been felt for effective administration of Tenders/Contracts. Accordingly, the Suspension/ Banning Policy'2020 has been prepared.

The Policy has been prepared generally in line with the guidelines issued by other government departments/ PSUs etc. on the issue of Banning Business Dealings with Bidder/ Contractors etc. Though an earnest effort has been made to incorporate all the relevant matters pertaining to banning, if any discrepancy/ deficiency is found in the policy, the same must be brought to the notice of Contract Cell.

The Policy will be applicable for all Tenders floated and all Purchase Orders/Contracts placed by NHSRCL. if there is a conflict in provision in the Policy vis-a- vis a Circular issued earlier on the subject, the provisions contained in the policy will prevail.

For the contracts funded by multilateral/ bilateral/ international funding agency, provisions of funding Agency, if any, will prevail.



SUSPENSION/BANNING POLICY

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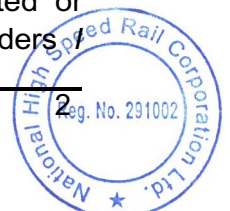
SUSPENSION/BANNING POLICY

1.0 INTRODUCTION

- 1.1 National High Speed Rail Corporation Ltd. (NHSRCL) deals with various Agencies, who are expected to follow ethics and maintain integrity, transparency and commitment towards the work undertaken by them, in the course of various procurement of Goods, Services, Works etc. NHSRCL as a matter of principle and policy would abstain to deal with any Agency who has committed deception, misrepresentation, fraud or such other misconduct of whatsoever nature in the tendering process and/or during Contract execution processes and/or after the execution of the Contract.
- 1.2 While participating in the Tender and performing under a Contract, the Agencies are required to maintain integrity and adherence to the terms and conditions of the Tender/Contract. In case any Agency fails to maintain the integrity or commits misconduct or fraud or resorts to an unethical behaviour or action, the said Agency shall be put on Suspension / Banning List for a specific period in order to deter the Agencies from committing such actions. The decision for such suspension/banning shall be taken after following a laid down process. Keeping in view the principles of natural justice, before issuance of orders for banning of business, to an Agency, a Show-cause Notice shall be served, and any representation(s), if submitted by the Agency, shall be considered.

2.0 SCOPE OF THE POLICY

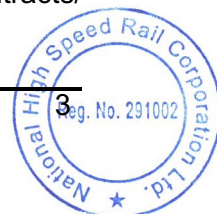
- 2.1 This policy shall be applicable to all Tenders / Contracts of NHSRCL. The tender documents (General Conditions of Contract, Sub-Clause 4.33) provide that NHSRCL shall have the rights to Suspend or Ban Business Dealings with any agency, if the Agency has been found to have committed misconduct or fraud, and/or any unethical act.
- 2.2 NHSRCL reserves its right to Suspend or Ban Business Dealings with any Agency, if such Agency is found to have committed misconduct or fraud or any of its action(s) fall into any such categories as laid down in this Policy.
- 2.3 The procedure of (i) Suspension (ii) Banning of Business Dealings of Agencies has been laid down in this Policy.
- 2.4 The Policy viz. "Policy for Suspension / Banning of Business Dealings" will also be displayed on NHSRCL website.
- 2.5 The provisions of this Policy supersede and will have overriding effect on all earlier guidelines, procedures and circulars issued for the similar purpose.
- 2.6 This Policy shall come into force from the date of its issuance.
- 2.7 The provisions of this policy will be effective on investigations conducted or misconduct/ irregularities noticed on the part of any Agency in all Tenders.



Contracts being processed / awarded on or after the date of implementation of this Policy and in the Contracts under execution or Contracts completed, on the date of the implementation of this Policy

3.0 DEFINITIONS:

- i) **"corrupt practice"** means the offering, giving, receiving or soliciting of anything of value to any officer/employee of NHSRCL or Engineer or to any other person to influence in the procurement process or in Contract execution and/or after the execution of the Contract.
- ii) **"fraudulent practice"** means a concealment or misrepresentation of facts in order to influence a procurement process or during the execution of a Contract and/or after the execution of the Contract, which may or may not be to the detriment of the Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition and further includes concealment or misrepresentation of facts leading to breach of any of the Contract condition during execution of the Contract which may or may not be to the detriment of the Employer.
- iii) **"Collusive practice"** means amongst Bidders (prior to or after bid submission) a scheme or arrangement designed to establish bid prices at artificial non-competitive levels and to deprive NHSRCL of the benefits of free and open competition.
- iv) **"Coercive practice"** means impairing or harming or threatening to impair or harm directly or indirectly, any Agency or NHSRCL or its employees/ consultants or its property; to influence improperly the actions of an Agency or NHSRCL or its employees/ consultants, obstruction of any investigation or auditing of a Procurement/ Contract process.
- v) **"Agency"** shall mean Bidder/ Contractor/ Supplier/ Purchaser/Consultant/ Lessee/ Concessionaire/ Licensor/ Service Provider/ NHSRCL approved sub-contractor/ Vendor of a contractor or its sub-contractor to whom work has been awarded. It shall include, but not limited to, a Public Limited Company or a Private Limited Company, a firm whether registered or not, any individual, a Cooperative Society or an Association or a Group of persons engaged in any commerce, trade industry, or constituents of an incorporated/ unincorporated Joint Venture Company, Consortium etc.
- vi) **"Tender"** shall mean all or any Tender/ Bid and shall include Enquiry, Request for Quotation and Notice Inviting Tender.
- vii) **"Contract"** shall mean all or any Contract awarded to an Agency and shall include Purchase Orders/Works Contracts/Service Contracts/ Leasing Contracts/ Consultancy Contracts etc.



- viii) **"NHSRCL" shall mean National High Speed Rail Corporation Ltd.**
- ix) **"Competent Authority "** and **"Appellate Authority "** shall mean the following: -
- a) Concerned Director of NHSRCL i.e. the functional Director in whose jurisdiction the case falls, shall be the **"Competent Authority"** for suspension/ banning of business dealings.
- b) Managing Director/NHSRCL for the said purpose shall be the **"Appellate Authority"** in respect of such cases.
- x) **"Initiating Authority"**: shall mean the person(s) such as Engineer-In-Charge (EIC) or the designated in-charge or concerned procurement department, designated to act for and on behalf of NHSRCL for the discharge of their duties in execution of the Work/ Project/ Job/ Role, procurement of Works/ Goods & Services, and shall include but not be limited to Chief Project Managers/ HODs.
- xi) **"Banning"**: shall mean officially debarring or forbidding an Agency from participating as Vendor/ Supplier/ Contractor etc. with NHSRCL, for its requirement related to all Tenders / Contracts. Business dealings with an Agency may be banned if it violates/ infringes the provisions of this Suspension/ Banning policy of the NHSRCL. Banning shall be for a period ranging from one year from the date of issue of Banning Order or Suspension Order (if suspension imposed on the agency) and up to five years.
- xii) **"Suspension"**: Business dealings with an Agency may be suspended in exceptional cases if there is gross and blatant violation of the provisions of this Suspension/ Banning policy by the Agency and it is considered not desirable to continue the business with the Agency pending detailed enquiry for Banning of Business Dealing. Suspension shall be for a period up to six months from the date of approval of decision of Suspension.
- xiii) **"Nodal Department"** means Contract division of NHSRCL for maintaining, updating and publishing the list of Agencies with whom NHSRCL has decided to suspend and/or ban for business dealings.

4.0 PROVISIONS FOR ACTION AGAINST ERRING/ DEFAULTING AGENCIES:

Action against erring and defaulting agencies like Bidder, Contractor, Supplier, Vendor, Service provider etc. can be taken generally under following two heads:

- i) **Suspension of Business Dealings:** Suspension of Business Dealings may be done with an Agency on the grounds mentioned in para 5.0 below and such suspension may be ordered by the Competent Authority pending full enquiry into the allegations leading to the suspension. The suspension will be ordered by the Competent Authority in such conditions when the allegations are such that there



is gross and blatant violation of the provisions of this Suspension/ Banning policy by the Agency and it is considered not desirable to continue business with the Agency.

- ii) **Banning of Business Dealings:** Banning of Business Dealings can be initiated on the grounds mentioned in para 5.0 below. However, in the following cases Banning shall be ordered without following the procedure of Suspension / Banning (elaborated in para 6.0 below). The list below is indicative and not comprehensive
- a) If Business Dealings with the Agency have been banned by the Ministry of Railways along with any of their attached and subordinate offices or any Metro rail organization in India (owned by Govt.) or Ministry of Commerce and Industry (which is applicable to all Ministries) and that the ban is still in force.
 - b) In case award of contract is annulled due to non-submission of the requisite Performance Security. The agency shall be debarred from participating in any tender for a period of one year from the date of issue of Letter of Acceptance (LOA).
 - c) In case of the Agency who has been exempted from depositing the Tender Cost/ Tender Security being Micro & Small Enterprise/ Startup, and;
 - (i) withdraws his Tender during the period of Tender validity; or
 - (ii) is the successful bidder, but fails to commence the work (for whatsoever reasons) as per terms & conditions of Tender; or
 - (iii) refuses or neglects to execute the Contract; or
 - (iv) fails to furnish the required Performance Security within the specified time.

The Agency shall be debarred from participating in tenders for a period of one year from the date of discharge of tender/date of cancellation of LOA/annulment of award of contract, as the case may be.

5.0 GROUNDS ON WHICH SUSPENSION/ BANNING OF BUSINESS DEALINGS OF AGENCIES CAN BE INITIATED

Some of the grounds on which the Agencies can be Suspended / Banned for Business Dealings are indicated below. The list is suggestive and is not exhaustive. The Competent Authority may decide to Ban Business Dealings for any good and sufficient reason.

- a) If it is established that the Agency has resorted to corrupt, fraudulent, collusive and coercive practices, or one or more of such practices.
- b) If the Agency uses intimidation/ threatening or brings undue outside pressure on the NHRCL or its official in acceptance/ rejection/ modification and/or performance of the Work/ Stores under the Contract.



- c) If prima facie, a case is made out that the firm is guilty of criminal negligence or an offence involving moral turpitude in relation to Business Dealing, which if established, may result in Business Dealing with it being banned.
- d) If failure of a structure (permanent/ temporary)/ part of a structure (permanent/ temporary) / major failure of equipment is caused during erection or execution of a Contract; or, during defect liability period , deficiency or inferior quality of execution or design deficiency or poor quality of execution is found due to negligence of Contractor/ Agency or engineering.
- e) If failure of a structure/ part of a structure/ major failure of equipment, is caused after defect liability period but due to engineering deficiency or inferior quality of execution or design deficiency or poor quality of execution by the Agency.
- f) If an Agency submits false declarations regarding local content in the Bid to avail purchase preference in terms of provision of Public Procurement (Preference to Make in India), as provided in Tender document.

6.0 PROCEDURE OF SUSPENSION / BANNING OF BUSINESS DEALINGS

Initiating Authority shall submit the case / proposal along with all relevant papers and documents to the Competent Authority. The proposal shall state a brief background of the case, the action proposed and all the supporting documents, including a note from Initiating Authority. The Competent Authority may refer the matter back to Initiating Authority for clarification(s) or direct to take no action or may direct to initiate,

- i. Process of banning (without any suspension)
- ii. Immediate suspension and initiate process of banning

The Competent authority, shall constitute a Committee of minimum 03 (three) Officers (HOD level of NHSRCL) who shall give their recommendations within a period of 3 months.

(I) BANNING WITHOUT ANY SUSPENSION:

- (i) The Committee constituted as above shall examine the case in detail and prepare a **Show Cause Notice** to be issued to the Agency. The Show Cause Notice shall indicate clearly and precisely the charges/misconduct, which needs to be based on reasonably provable facts, as distinct from mere allegations.
- (ii) Statement containing the imputation of misconduct or misbehavior may be appended to the Show-Cause Notice. The Show-Cause Notice shall be legally vetted. Same shall be forwarded to the Nodal Department for



obtaining the approval of Competent Authority before issue to the Agency. Proforma of Show-Cause Notice is attached at **Annexure-I**.

- (iii) The concerned Agency shall be given thirty (30) days' time from the date of issuance of Show Cause Notice for submission of its response. In case, the Agency requires some documents in respect of Show Cause Notice, the same may be provided promptly by NHSRCL. However, such request should be entertained only once. In case, the Agency seeks additional time, reasonable extension for response to Show-Cause Notice may be given.
- (iv) If the Agency requests for a hearing, keeping in view the principles of natural justice, the same shall be granted by the Committee, within such reasonable time as deemed fit.
- (v) Representation or response received from the Agency to the Show-Cause Notice shall be forwarded by the Nodal department with remarks, if any, to the Committee. The Committee shall examine the reply from the Agency and make its recommendations in favour of banning of business dealings or otherwise and submit the same for approval of the Competent Authority. Proposed duration of banning will also be clearly mentioned.
- (vi) If no reply to Show-Cause Notice is received from the Agency within the specified period, the committee may draw its recommendations *ex-parte* and submit to the Competent Authority. However, the fact that no reply was received to the Show-Cause Notice should be clearly indicated in the final communication to the Agency.
- (vii) In case, the Competent Authority approves for banning of business dealings, a draft Banning Order shall be prepared by the Committee. The above draft Banning Order of Business Dealings shall also be legally vetted with reference to Show-Cause Notice. Same shall be forwarded to Nodal department for obtaining approval of Competent Authority before issue to the Agency.
- (viii) The Banning Order shall be uploaded on Intranet and a copy of updated Banning List shall be provided to AGM/CC for putting on NHSRCL website. A proforma for intimation of Banning order to Agency is attached (Annexure-II).
- (ix) The period for which the Banning would be operative shall be mentioned in the Banning Order.
- (x) The Banning process shall be completed within a period of 4 months from initiation of case by the concerned Initiating Authority. In exceptional circumstances only, it may be allowed up to six months.



(II) IMMEDIATE SUSPENSION WITH BANNING

- (i) Suspension of Business Dealings with an Agency may be ordered by the Competent Authority pending full enquiry based on allegations in extreme / exceptional cases. Cases in which there is gross and blatant violation of the provisions of this Suspension/ Banning policy by the Agency and it is considered not desirable to continue business with the firm.
- (ii) The Suspension Order cum Show-Cause Notice shall be prepared by the Initiating Authority in line with para 6.0 (I) i) & ii) above. Such show cause notice after legal vetting, shall be forwarded by the Nodal Department for obtaining the approval of Competent Authority before its issuance to the Agency against which action has been initiated. A proforma for Suspension Order cum Show-Cause Notice is attached (Annexure-III).
- (iii) Suspension Order cum Show-Cause Notice shall be uploaded on Intranet with and a copy of updated Suspension List shall be provided to AGM/CC for putting on NHSRCL website.
- (iv) The Order of Suspension would operate for a period not exceeding six months, however the same may be extended till such time in which the process of banning is concluded with the approval of competent authority.

Further process of Banning will remain same as elaborated in para 6.0 (I) (iii) to (ix)

7.0 PERIOD FOR BANNING:

The period of Banning can be for a period from 1(one) year to 3 (three) years, as recommended by the Committee, from the date specified in Banning Order, depending upon the gravity of the action committed by the Agency. The Banning period will be inclusive of period of Suspension if any, imposed on the Agency. The period of banning may exceed 3 years, but not more than 5 years in extreme specific cases to safeguard the interest of NHSRCL. Period of banning for various eventualities/ irregularities is appended in Annexure 'A'.

8.0 ACTION AGAINST AGENCIES IN RESPECT OF AN ONGOING TENDER/ CONTRACT WHERE THE AGENCY HAS INDULGED IN CORRUPT, FRAUDULENT, COLLUSIVE AND COERCIVE PRACTICE.

8.1 The irregularities noticed during the evaluation of Bids:

- a) **During Technical Evaluation:** If it is established that the Bidder has indulged in committing irregularities like corrupt/ fraudulent/ collusive/ coercive practice(s); or, is in violation of any provisions of this Suspension/ Banning policy, of NHSRCL;



NHSRCL shall reject the Bid of such Bidder, and also forfeit the tender security submitted by the Bidder. Further, the Bidder shall be put on the Suspension / Banning List after following the due process as elaborated in Para 6 above.

- b) **During Financial Evaluation:** If it is observed that the Bidder has indulged in committing irregularities like corrupt/ fraudulent/ collusive/ coercive practice(s); or, is in violation of any provisions of this Suspension/ Banning policy, NHSRCL shall reject the Bid of such Bidder. The Earnest Money Deposit (EMD)/ Tender Security submitted by such Bidder shall be forfeited. Further, the Bidder shall be put on the Suspension/ Banning List after following the due process as elaborated in Para 6 above.

8.2 The irregularities noticed after the award of Contract:

(a) During execution of Contract:

If the Agency is found to have indulged in one or more of the grounds stated in para 5.0 above or for any other good and sufficient reason, in respect of an ongoing Contract; such Agency shall be put on Suspension or Banning List of NHSRCL after following the due process as elaborated in Para 6.0 above.

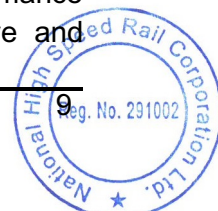
The Work/Services/ Supply and payments may be suspended. The action shall be initiated for putting the Agency on Banning List.

After following the due process, where it has been concluded that irregularities have been committed, the Order/Contract of the Agency may be terminated. In case of termination of Contract, the Performance Security submitted by the Agency shall be forfeited. Any payment due to the Agency for work already executed and accepted shall be payable after adjustment of any amount due from the Agency as per the provision of the Contract.

In exceptional circumstances, the Agency may be allowed to complete the job, in case it is considered that the Work/ Supply is of critical nature and discontinuity of Contract shall have adverse effect on Operation/ Project Completion/ Revenue generation. The approval for allowing the Agency to complete the Supply/ Work to be obtained from the Competent Authority. After the approval for continuing with the Agency, job will be executed and payment shall be made as per the provision(s) of the Contract. The Performance Security of such Agency shall not be forfeited for violation of the provisions of this Suspension/ Banning policy of the NHSRCL. However, the Agency shall be put on Banning List after following due process of banning.

(b) The irregularities noticed after execution of the Contract during Defect Liability Period:

If it is found after execution of the Contract, but before releasing of Performance Security that the Agency has indulged in corrupt, fraudulent, collusive and



coercive practice or any irregularities as stated in para 5.0 above, such Agency shall be banned for future Business with NHRCL after following the due process. The Performance Security submitted by the Contractor shall be forfeited.

(c) The irregularities noticed after Defect Liability Period:

If failure of a structure / part of a structure / major failure of equipment, is caused after defect liability period due to engineering deficiency or inferior quality of execution or design deficiency or poor quality of execution by the Agency as stated in Para 5.0 above, such Agency shall be banned for future Business with NHRCL after following the due process of banning.

9.0 ACTION AGAINST AGENCIES PARTICIPATING IN JV/ CONSORTIUM:

In case, any member of a JV/Consortium is found to have indulged in one or more grounds stated in Para 5.0 above, in a particular Tender which is under process or in a particular Contract which is under execution and/or after the execution of the Contract, the JV/Consortium shall be dealt in the similar manner as described in Para 6.0 of this Policy. The action regarding banning can be taken against all members even if irregularity is committed by an individual member against the particular Tender in process or in a particular Contract under execution and/or after the execution of the Contract.

10.0 EFFECT OF SUSPENSION/ BANNING ON OTHER ONGOING TENDERS/ CONTRACTS:

No enquiry/ Bid/ Tender shall be entertained with a party as long as the Agency's name appears in the Suspension / Banning List.

- i. If an Agency is put on Suspension / Banning List, it shall not be considered for any future tender for which last date of submission of tender falls during the Suspension/Banning Period.
- ii. If an Agency who is Suspended / Banned, is already executing other Orders/ Contracts where no irregularities are committed, the Agency shall be allowed to continue till completion of the job including any increase in scope of work which are purely incidental to the main scope of work.
- iii. Further, in case the Agency is Original Equipment Manufacturer (OEM) / Supplier / Service provider, the procurement of spare parts and certain services may be continued with the Suspended / Banned Agency for operational reason, with specific approval of the Competent Authority.



11.0 APPEAL AGAINST DECISION OF SUSPENSION/BANNING:

- i. The Agency if not satisfied with the decision of Suspension / Banning, may file an appeal to the Appellate authority giving full justification within 30 days from the date of issuance of Suspension / Banning Order.
- ii. The appeal should be disposed off within 45 days from the date of filing. The Appellate authority shall pass such suitable order affirming, amending,, modifying, setting aside the order of Suspension/ Banning which shall be communicated through the Nodal department to the Agency and the nodal department shall put on Intranet and provide a copy of updated Suspension List / Banning List to AGM/CC for putting on NHSRCL website, the changes if any in Suspension/ Banning.
- iii. Pending Order against the appeal, the Suspension/Banning Order shall continue to be in force.
- iv. No Appeal is permitted in case an Agency has been Suspended/Banned based on Ministry's advice.

12.0 REVOCATION

- 12.1 An order for Banning/ Suspension passed for a certain specified period shall deemed to have been automatically revoked on expiry of that specified period, provided no new evidence for continuation of Banning is taken on record and Suspension Period is extended and it will not be necessary to issue a specific formal order of revocation, except that an order of Suspension/ Banning passed on account of doubtful loyalty or security consideration shall continue to remain in force until specifically revoked.
- 12.2 A Banning/ Suspension Order, ~~on a review~~ may be revoked by the Appellate Authority if he/ she is of the opinion that the disability already suffered by the Agency is adequate in the circumstances of the case.

13.0 FLOW CHART OF PROCESS OF SUSPENSION/BANNING

The flow chart of entire process of Suspension/Banning is placed as Annexure-B.



ANNEXURE-I (SHOW CAUSE NOTICE)

MEMORANDUM

M/s are hereby informed that National High Speed Rail Corporation Ltd (NHSRCL) has placed the following order(s) on them for the execution/supply of works/ materials/ equipment:

Name of Work:

Contract No. and Date:

Cost of Work:

It has been observed that M/s indulged in the malpractices/ irregularities as detailed below:

- i. The said M/s
- ii.
- iii.

Under the circumstances, NHSRCL proposes to ban/suspend business dealings for a period of.....with M/s..... and also their constituent members (In case Agency is a JV/Consortium). M/s are hereby given an opportunity of showing cause against the action proposed to be taken.

Any representation which M/s may make in this regard will be considered. Such representation should be made in writing and submitted so as to reach the undersigned not later than In case no representation is received by the date mentioned above, it will be presumed that M/s have no representation to make against the proposed action and a final decision shall be taken on merit.

Receipt of this Memorandum may please be acknowledged.

Signature.....:

Name.....

Designation & Address.....

(For & on behalf of NHSRCL)

To,

M/s

[In case Agency is a JV/ Consortium, the copy of Show-Cause Notice shall also be given to all the constituent members of JV/Consortium for their information]



ANNEXURE-II (Proforma for intimation of Banning Order to the Party)

BY REGD. POST /SPEEDPOST/COURIER

No.

Date.....

To,
M/s [If the Agency is a JV/Consortium,
mention the name & address of all
constituent members of JV/Consortium]

.....

Sub: Banning Order i.e. Intimation of Banning of Business Dealing.

Dear Sir,

WHEREAS, a Show Cause Notice was served to you vide letter No.....dated
.....

WHEREAS, in spite of the opportunity given to you, you have failed to Show Cause
as required/ your reply to the Show Cause Notice* (and documents and documentary
evidence submitted in support of your reply) has /have been duly considered.

(Order: either to agree or rebut the reply furnished by Agency allegation wise)

After considering the allegations made in the Show Cause Notice/ your reply to the
Show Cause Notice* (and documents and documentary evidence furnished in
support thereof) as cited above, it has been decided to ban Business Dealings with
you i.e. you will be debarred from participating in any tender in NHSRCL for_ years
effective from the date of issue of this Order*/ date of issue of Suspension Order*.

You may file an appeal against the Banning Order to the Appellate Authority within
30 days from the date of issue of this Order.

Yours faithfully,

For & On behalf of National High Speed Rail Corporation Ltd

*Strike out if not applicable



ANNEXURE-III (Proforma for intimation of Suspension Order to the Party)

BY REGD. POST/ SPEEDPOST/ COURIER

No.

Date.....

To,

M/s.

Attn:

Shri.....

Sub: Suspension of Business Dealings cum Show-Cause Notice.

Dear Sir,

Prima facie it is found that you are guilty of committing [*mention the eventuality / misconduct or fraud or anything unethical*] and, it has been decided to suspend Business Dealings with you i.e. you will be debarred from participating in any tender in National High Speed Rail Corporation Ltd. for a period of six months effective from the date hereof.

Further, you are required to Show Cause in writing within 30 days from the date hereof as to why there should not be Banning of Business Dealing with you and you be debarred from participating in any Tender with National High Speed Rail Corporation Ltd. for a period of -----[*mention the period*] for the following reasons:

(*Give Reasons*)

Your reply (if any) should be supported by documents and documentary evidence which you wish to rely in support of your reply.

If you fail to reply to this Show Cause Notice within the time and manner aforesaid, it will be presumed that you have nothing to say and we shall proceed accordingly.

Your reply, if any, and the documents/documentary evidence given in support shall; be taken into consideration prior to arriving at a decision.

Yours faithfully,

For & On behalf of National High Speed Rail Corporation Ltd



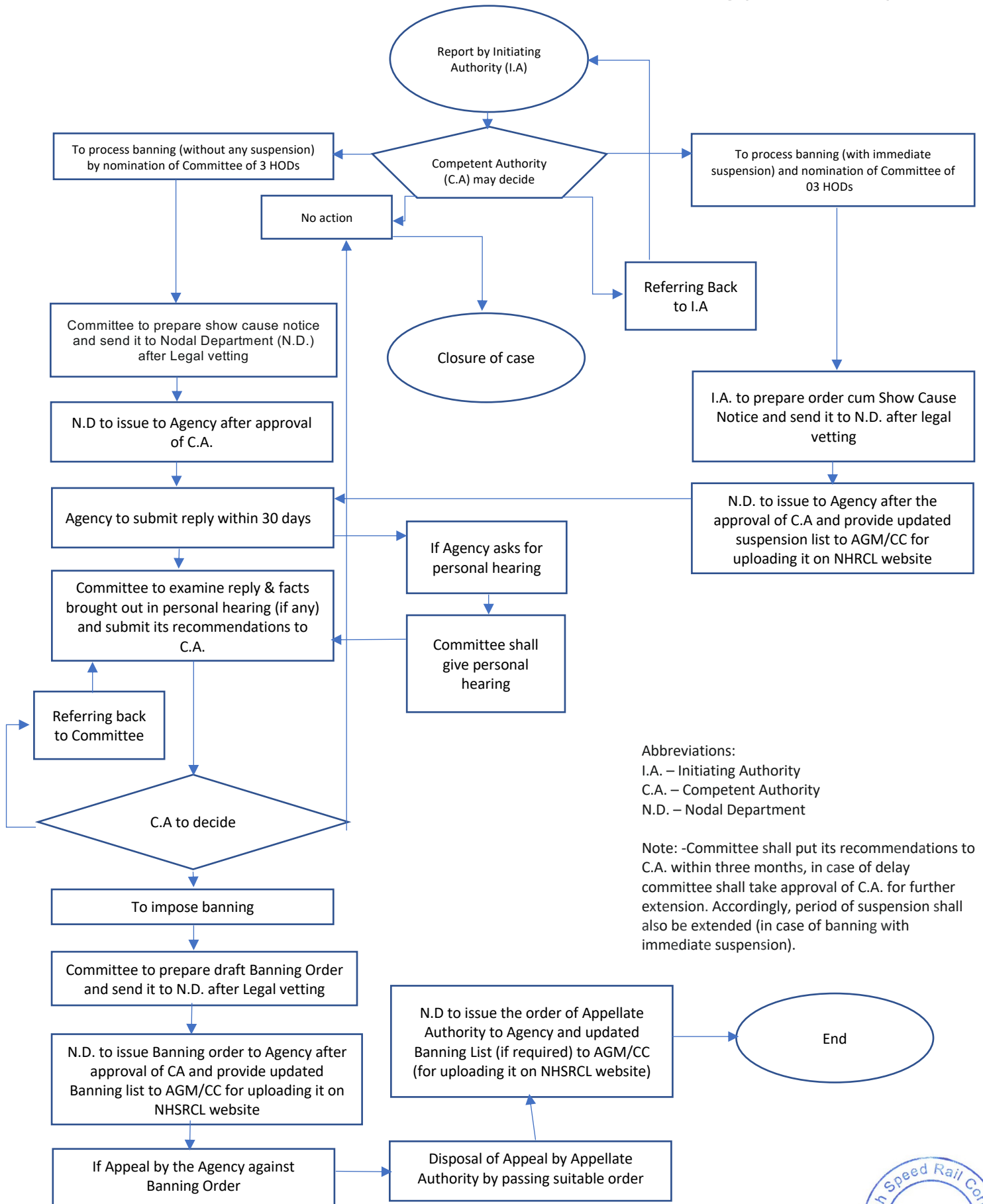
ANNEXURE 'A' PERIOD OF SUSPENSION/ BANNING

| S.No | Grounds | Suspension/Banning Period |
|------|---|---|
| 1. | In extreme / exceptional cases when prima-facie case is made out that the firm is guilty of criminal negligence in relation to business dealings, which if established, may result in business dealing with it being banned. | Suspension (6 months) |
| 2. | If the Agency uses intimidation /threatening or brings undue outside pressure on the NHSRCL or its official in acceptance / performance of the Work/ Stores under the Contract. | Banning (1year to 1.5year) |
| 3. | It is determined that any agency or any officer or employee of an Agency is involved in fraudulent/ corrupt/ collusive/ coercive practice in order to influence the procurement process as well as during the execution of contract. | Banning (1 year to 3 years) |
| 4. | If failure of a structure (permanent/ temporary) / part of a structure (permanent/ temporary) / major failure of equipment, is caused during erection or execution of contract or during defect liability period due to negligence of contractor/ agency or engineering deficiency or inferior quality of execution or design deficiency or poor quality of execution | Banning (1 year to 3 years) |
| 5. | If failure of a structure / part of a structure / major failure of equipment, is caused after defect liability period due to engineering deficiency or inferior quality of execution or design deficiency or poor quality of execution | Banning (3 years) |
| 6. | If an Agency submits false declaration regarding local content in the bid to avail purchase preference in terms of Public Procurement (Preference to Make in India), as provided in the tender document. | Banning (3 years) |
| 7. | If for any other good & sufficient reason (not mentioned in the grounds stated above at S.No.1to 6), it is considered necessary to ban business dealings with the Agency. | To be decided by Competent Authority with due diligence |

Note: The period of banning can exceed three years but not more than five years in extreme specific cases to safeguard the interest of NHSRCL



ANNEXURE 'B' Procedure Order For Suspension/Banning (FLOW CHART)



Abbreviations:

- I.A. – Initiating Authority
- C.A. – Competent Authority
- N.D. – Nodal Department

Note: -Committee shall put its recommendations to C.A. within three months, in case of delay committee shall take approval of C.A. for further extension. Accordingly, period of suspension shall also be extended (in case of banning with immediate suspension).

