

CHAPTER – XI

REGISTRATION, DEMOTION & REMOVAL FROM THE APPROVED LIST AND SUSPENSION & BANNING OF BUSINESS DEALINGS ETC. OF SUPPLIERS AND BUILDING CONTRACTORS

A. STANDARDISED CODE FOR SUPPLIERS

(Authority: Department of Supply O.M. No. 13/38/65-V dated 14.9.1971, Railway Board's Secret letter Nos. 69/Vig.II/56 (ii) dated 17.3.1972, V4/75/Policy/ST/46 (ii) dated 27.12.1975 & V4/75/POLICY/ST/46 (iii) dated 29.12.1975)

1101. Procedure:

All Ministries, Departments and Offices of the Central Government shall follow this Code and shall not maintain any separate Code of their own.

1102. Definitions:

Some terms which have been used in the following paras are defined below for clarity:

- (i) Firm: The term 'firm' used in the Code includes an Individual or Person, a Company, a Cooperative society, a Hindu Undivided Family and an Association or Body of persons, whether incorporated or not, engaged in trade or business.
- (ii) Proprietor: This term includes Directors of a Private Limited Company, members of a Hindu Undivided Family, a member of an Association of persons and a Director of a Public Limited Company.
- (iii) Allied Firm : All concerns which come within the sphere of effective influence of the banned/suspended firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:
 - (a) Whether the management is common;
 - (b) Whether majority interest in the management is held by the Partners or Directors of the banned/suspended firm;
 - (c) Whether substantial or majority shares are owned by the banned/suspended firm and by virtue of this, it has a controlling voice.

No reference to this Code shall be made in any circumstances in any communication to any party outside the Government or in any pleading or affidavit filed in a Court.

1103. Approved List of Suppliers:

- (i) Every Ministry/Department/Office, which makes regular purchases, should maintain an up-to-date list of approved suppliers, after taking into consideration their financial standard, capacity, past performance etc.
- (ii) As recommended by the Stores Purchase Committee, it is desirable that there should be coordination between the Directorate General of Supplies & Disposals and other Departments of the Government of India with a view to prepare a common list of suppliers. For this purpose, the DGS&D will make available to the Ministries/Departments the list of the approved suppliers maintained by them and also periodically, the amendments made to that list.

1104. Registration:

The Head of Office or any other authority nominated by him will be competent to include the name of a firm in the list of approved suppliers maintained by that Office. Such competent authority may also lay down the conditions and formalities, which have to be satisfied by a firm before its name can be included in the list of approved suppliers. Such an authority will also be competent to order the removal of a firm from the list of approved suppliers.

1105. Removal:

A firm may be removed by the Competent Authority (Head of the Department or any other authority nominated by him) from the list of approved suppliers if, on account of its performance or other disabilities, it is no longer considered fit to remain on the approved list. Such orders will be endorsed to other Government Departments.

1106. Conditions for Removal:

Removal from the list of approved suppliers may, at the discretion of the Competent Authority, be ordered if a firm:

- (a) fails to execute a contract or fails to execute it satisfactorily;
- (b) no longer has the technical staff or equipment considered necessary;
- (c) fails to furnish income-tax clearance certificate if required under the rules; or
- (d) is declared bankrupt or insolvent or its financial position has become unsound and in the case of Limited Company, it is wound up or taken into liquidation.

1107. Communication of Orders:

- (i) Orders removing a firm from the list of approved suppliers should be communicated to it together with reasons therefor. It should, however, be made clear in the orders that it is open to the firm henceforward to tender as an unregistered firm.
- (ii) A firm, with whom business dealings have been suspended or banned, shall be automatically removed from the list of approved suppliers.

1108. Certain Clarifications:

- (i) In respect of a firm which is registered for more than one item, orders regarding removal on account of reasons mentioned at (c) and (d) of para 1106 above shall apply in respect of all items but in the case of reasons (a) and (b), however, orders regarding removal may be made applicable in respect of one or more items, as may be relevant.
- (ii) Once removed, the name of a firm may not be registered on the approved list unless it satisfies the normal registration requirements and the Competent Authority is satisfied that the firm should be registered.
- (iii) Tenders received from a firm, whose name has been removed from the list of approved suppliers, may be given the same consideration as is given to tenders from unregistered parties.

1109. Procedure for Removal from the List of Approved Suppliers:

The following procedure will be followed:

- (a) The authority competent to issue orders in this regard is the Head of the Office or any other authority nominated by him. However, before taking such an action, a Show Cause Notice in the proforma given in Annexure-XI/2 indicating clearly and precisely the charges/misconduct which should be based on facts as can be proved as distinct from mere allegations, will have to be issued to the firm under the signature of the Head of the Office or any other authority nominated by him. The final decision, taken only after perusing the representation of the firm, if any, received in reply to the Show Cause Notice, should be communicated to the firm under the signature of the Head of the Office or any other authority nominated by him. Reasons for taking such action are required to be incorporated in the final orders issued and these orders must specifically mention the fact that the reply to the Show Cause Notice, if any, has been considered by the concerned Head of the Office.
- (b) For the purpose of application of para 1107 (ii), i.e. automatic removal of a firm, with whom business dealings have been suspended/banned, from the list of

approved suppliers, the procedure mentioned in sub-para (a) above would not be required to be followed.

1110. Suspension:

Suspension of business may be ordered where pending full inquiry into the allegations; it is not considered desirable that business with the firm should continue. Such an order may be passed:

- (i) If the firm is suspected to be of doubtful loyalty to India;
- (ii) If the Central Bureau of Investigation or any other investigation agency recommends such a course in respect of a case under investigation;
- (iii) If Ministry/Department is prima-facie of the view that the firm is guilty of an offence involving moral turpitude in relation to the business dealings which if established, would result in business dealings with it being banned.

1111. Competence of Authority:

- (i) (a) An order of suspension on account of doubtful loyalty shall be passed by the Ministry of Commerce.
(b) Such an order shall also be endorsed to and given effect to by all Ministries/Departments. Such an order shall also be extended to all the allied firms.
- (ii) (a) An order of suspension for other reasons shall be passed by the Ministry concerned.
(b) Such an order shall cover all the Attached/Subordinate Offices of the Ministry passing the order but it shall not be circulated to the other Ministries/Departments. The order shall, however, be extended to the allied firms.

1112. Procedure for Suspension:

The following procedure will be followed:

- (a) Suspension of business will be ordered in terms of and in the manner indicated in paras 1110, 1126 & 1127.
- (b) Suspension of business can be ordered only by the Railway Board except in cases where the order of suspension is on account of doubtful loyalty in which case the orders will be passed by the Ministry of Commerce.

- (c) Proposals for suspension of business should be made after obtaining the personal approval of the Controller of Stores or concerned Head of Department as the case may be. They should contain the detailed information and should be accompanied by the documents referred to in para supra.
- (d) Before sending to the Board proposals for suspension or banning of business, the Railways etc. should remove the name of the defaulting firm from their list of approved suppliers.

1113. Banning:

Banning of business dealings with a firm shall be of two types:

- (i) Banning by one Ministry including its Attached and Subordinate Offices.
- (ii) Banning by all Ministries including their Attached and Subordinate Offices.

1114. Banning by one Ministry:

- (i) An order of the first type for banning business dealings with a particular firm shall be passed by the Ministry concerned. It will, however, be open to it, before such order is issued to consult the Ministry of Commerce, if necessary.
- (ii) Such an order may be passed in cases where the offence is not considered serious enough to merit a banning order of the second type, but at the same time, an order removing the name of the firm from the list of approved suppliers is not considered adequate.
- (iii) It shall be passed for a specified period.
- (iv) It shall be extended to the allied firms also.
- (v) It shall not be circulated to other Ministries/Departments but shall cover all the Attached/Subordinate Offices of the Ministry issuing the order. A copy of the order should, however, be sent to the Ministry of Commerce and to the Directorate General of Supplies and Disposals, New Delhi, marked for attention of the Deputy Director (Registration). 50 copies of the orders should also be sent to the DIG (P), CBI, New Delhi.

(Authority:Department of Supply O.M. No. 13 (68)/65-V dated 21.02.1976)

- (vi) No contract of any kind whatsoever shall be placed with a banned firm including its allied firms, by the Ministry/Department issuing the order and its Attached and Subordinate Offices after the issue of a banning order. DGS&D will also not place

order on firms with whom business dealings have been banned/suspended by the individual Ministries in respect of indents received from them. Contracts concluded before the issue of the banning order shall, however, not be affected by the banning order.

(Authority:Department of Supply O.M. No.13 (38) 65-V dated 10.9.1975)

- (vii) The banning order shall be communicated by Ministries to the Public Sector Undertakings under their administrative control.

(Authority:Department of Supply O.M. NO. 13 (7)/64-V dated 21.02.1977)

1115. Banning by all Ministries:

- (a) An order for banning business dealings with a firm for all Ministries implies that all Departments/Ministries/Offices of the Government of India are forbidden from dealing with that firm.
- (b) The grounds on which such banning may be ordered are:
 - (i) If security considerations including question of loyalty to the State so warrant.
 - (ii) If the proprietor of the firm, its employee, partner or representative is convicted by a Court of Law following prosecution for offences involving moral turpitude in relation to the business dealings.
 - (iii) If there is strong justification for believing that the proprietor or employee or representative of the firm has been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation, evasion or habitual default in payment of any tax levied by law; etc.
 - (iv) If the firm continuously refuses to return government dues without showing adequate cause and Government are satisfied that this is not due to a reasonable dispute which would attract proceedings in arbitration or Court of Law, and
 - (v) If the firm employs a government servant, dismissed/removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt government servants.
- (c) Competence of Authority:
 - (i) Banning of firms and the revocation thereof shall be ordered by the Ministry of Commerce.

- (ii) A banning order passed in respect of a firm shall be extended to all its allied firms.
 - (iii) Such an order shall be endorsed to and automatically implemented by all Ministries/Departments including their Attached and Subordinate Offices.
- (d) Banning order – A banning order shall specify:
- (i) The specific period (permanent, if required) for which it will be effective; and
 - (ii) The names of all the Partners, Directors etc. of the firm and its allied concerns.
- (e) Some Important Clarifications:
- (i) No contract of any kind whatsoever shall be placed with a banned firm, including its allied firms by all Ministries/Departments/Offices of the Government of India, State Governments and PSUs after the issue of a banning order. Contracts concluded before the issue of banning order shall, however, not be affected by the banning order. Particular care should be taken to see that the same firm does not appear under a different name to transact business with Government. Even in cases of risk purchase, no contract should be placed on a banned firm.
 - (ii) Applications for export/import licenses from a banned firm will be dealt with in accordance with the provisions of the Export/Import Act and will not be affected by a banning order issued under this Code. It will, however, be open to the Ministry of Foreign Trade as distinct from the CCI&E to ban business dealings with a firm that has been guilty of malpractices involving moral turpitude in relation to its export/import activities.
 - (iii) The supply of controlled raw materials including imported raw materials will not be denied to a banned firm. The allotment of such raw materials shall be regulated by the law/rules governing their allocation.
 - (iv) A banning order will be circulated to all Ministries/Department in accordance with the following procedure:
 - (a) Ministry of Commerce will circulate it to:
 - (i) All other Ministries/Departments of the Central Government.
 - (ii) All Offices under its control.

(iii) All the State Governments.

(b) Other Ministries and Departments will in their turn communicate the order to Offices and PSUs under their control.

(Authority: Department of Supply O.M. Nos. 13/7/64-V dated 21.02.1977 and 27.02.1977)

(v) The quotations/tenders submitted by a firm involved in bribery or allied criminal cases as advised by CBI should not be left out of consideration until orders for banning/suspending business dealings with the firm have been passed.

(Authority:Department of Supply O.M. No. 13 (4)/79-V dated 19.7.1979)

1116. Show Cause Notice:

(a) Before issue of orders of removal from the list of approved suppliers or suspension/ banning of business dealings, a Show Cause Notice shall be served on the firm and their representation, if any, in reply thereto, considered.

(Authority:Department of Supply O.M. No. 13 (88)/65-V dated 30.6.1975)

(b) The purpose of issuing the Show Cause Notice is only that the firms concerned should be given an opportunity to explain their stand before any action is taken by the Government Departments. It is not intended that the proceedings should prolong in the form of a regular trial. All that is required in such cases is that the grounds on which action is proposed to be taken should be disclosed to the party inviting representation and after considering that representation, orders may be passed. Such orders require only the subjective satisfaction of the authority that passes the final orders.

(Authority:Department of Supply O.M. No. 13 (38)/65-V dated 11.02.1976)

(c) In case no reply to Show Cause Notice served on a contractor/firm is received within a stipulated time, action for processing ex-parte against the concerned contractor/firm should be initiated and processed expeditiously and final orders for punishment, if any, be passed expeditiously within reasonable time.

(Authority:Railway Board's letter No. 77/VIG-I/Banning/Works/II dated 09.9.1980)

1117. Revocation of Orders:

(i) An order for banning/suspension passed for a certain specified period shall be deemed to have been automatically revoked on the expiry of that specified period

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 it is specifically revoked.

- (ii) An order of banning for the reasons mentioned at para 1115 (b) (ii) above may be revoked if, in respect of the same facts, the accused has been wholly exonerated by a Court of Law.
- (iii) A banning/suspension order may, on a review be revoked by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case.
- (iv) An order for banning/suspension for a certain specified period shall not mean automatic restoration of a firm as a registered supplier and each case should be examined afresh on merits by Railways concerned for registration as approved supplier as per normal procedure prescribed in that regard.

(Authority: Railway Board's letter No. 76/RS (G)/164/16 dated 13.02.1979)

1118. Communication to Firms:

The decision regarding removal from registration/suspension/ banning of business dealings taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply thereto, should be communicated to the firm concerned.

1119. Clearing and Transport Organisation:

Action against clearing and transport organisations may also be taken under the provisions of this Code.

1120. Review:

The Ministries/Departments concerned may, on representation of appeals from the firm or even otherwise review banning/suspension orders.

1121. Maintenance of Up-to-date List:

The Ministry of Commerce shall be responsible for keeping up-to-date list of firms against whom orders of banning of the second type have been issued and circulate every quarter a list of additions and deletions during the previous quarter to all other Ministries.

1122. Classification of Orders:

Banning and suspension orders shall be classified as “Confidential”.

(Authority: Department of Supply O.M. No. 13 (38)/65-V dated 23.3.1976)

1123. Procedure to be followed by Railways, Production Units, etc. for Banning of Business applicable to All Ministries:

The following procedure will be followed:

- (a) Such cases for banning of business applicable to all Ministries will be processed in the Railway Board’s Office on receipt of proposals for banning of business from the Railways or the CBI. Orders banning business in such cases will be issued by the Ministry of Commerce and copies thereof will be circulated by the Railway Board (RLO) to the Zonal Railways and others concerned.
- (b) Proposals from the Railways should comprise a draft statement of charges/misconduct indicating clearly and precisely the charges/misconduct, which should be based on facts as can be proved, as distinct from mere allegations, along with the investigation report of the SPE or Vigilance, if any. The proposal will also contain definite recommendations for the specific period (permanent, if required) for which banning of business is proposed to be applicable. The proposal should be vetted by the Law Officer and have the personal approval of the General Manager and should be accompanied by a statement in the proforma as per Annexure XI/1 and the relevant records.
- (c) The names of Proprietors/Partners/Directors of the firm and the details of the allied firms to whom the banning of business orders would be made applicable will also be indicated in such proposals.

1124. Procedure to be followed by Railways, Production Units, etc. for Banning of Business applicable to one Ministry:

The following procedure will be followed:

- (a) The Ministry of Railways (Railway Board) is competent to order banning of business applicable to Railways/Production Units. Such an order will be applicable to all Railways/ Production Units and other Offices subordinate to the Railway Board and PSUs under Ministry of Railways.
- (b) Such an order will be passed in terms of para 1114.
- (c) Proposals for banning of business applicable only to Ministry of Railways (including Zonal Railways, Production Units, etc.) will be made in the same form and manner as indicated in para 1123 (b) supra except that the personal approval

of the Controller of Stores/Head of Department to the proposal would be sufficient.

- (d) The order for banning of business with a firm issued by the Railway Board will not be circulated to other Ministries/Departments. A copy of the banning order will be sent by the Board (RLO) to the Ministry of Commerce and to the Directorate General of Supplies and Disposals, New Delhi, marked for attention of the Deputy Director (Registration). 50 copies of the banning order should also be sent by RLO to the DIG (P), CBI, New Delhi.

1125. Extension of Banning Orders to Allied/Sister Concerns:

While furnishing particulars in regard to allied/sister concerns for extending the banning orders to them in terms of para 1114 (iv) and 1115 (c) (ii) read with para 1102 (iii), the following legal opinion obtained on the judgment of the Supreme Court in the case of G. Narayana Raju vs. Chamaraju and others should be taken into consideration:

“Any member of a joint family business can start a business or acquire property without the aid of joint family, and such business or acquisition would be his. Such acquisition may or may not be thrown into the common stock or blended with the joint family property. There cannot be any presumption that a business standing in the name of any member of the joint family is a joint family business. The Supreme Court have, in the case of G. Narayana Raju led by his legal representative vs. G. Chamaraju and others, have observed that unless it could be shown that the business in the hands of the coparcener grew with the assistance of the joint family property or joint family funds or that the earnings of the business were blended with the joint family estate, the business remains free and separate”.

However, the fact of a firm being an allied concern of a banned firm should be kept in view while such a firm approaches for initial registration and the Department can decline to register such allied firms.

1126. Procedure to be followed in Railway Board’s Office for Suspension/Banning of Business applicable to Ministry of Railways only:

The following procedure will be followed:

- (a) The proposals received from the Railways, Production Units or the CBI recommending suspension/banning of business dealings with a firm will be processed by the concerned Branches in the Vigilance Directorate. They shall obtain Board’s prima-facie decision regarding the proposed suspension/banning of business and the tentative period thereof. The relevant portion of Board’s order and the noting will then be extracted from the concerned file and a separate file opened to process this aspect exclusively also bringing out on the file the relevant facts appearing against the firm/contractor leading to Board’s provisional decision. The case will then be examined and put up to the concerned officer to

examine the adequacy of the facts necessary for a Show Cause Notice being issued to the firm concerned, and if any supplementary information is necessary, the same shall be obtained expeditiously either by the Vigilance Directorate themselves or through the concerned Railway Vigilance Branch or the CBI, as found expedient. When all details are available, the concerned Directorate or Railway Liaison Officer (RLO) as the case may be, will be advised of the position and a draft Show Cause Notice with complete details of the case shall be sent to them in the proforma given in Annexure XI/3. A Show Cause Notice indicating clearly the charges (based on the facts as can be proved) should be issued by the concerned Directorate to the delinquent firms. In case, no reply to Show Cause Notice is received from the firm within stipulated time, action for processing ex-parte against the concerned firm should be initiated. After submission of written reply to Show Cause Notice by the firm, the concerned officer should also give opportunity to hear them in person by fixing a date for hearing. Firm's reply to the Show Cause Notice and their submission in oral hearing will be examined in consultation with Vigilance Directorate for obtaining Board's final decision in the matter as considered necessary. The banning order when issued shall be in the proforma Annexure XI/4A. A copy of banning order should be sent to the Ministry of Commerce and to the Directorate General of Supplies & Disposal, New Delhi, marked for attention of Deputy Director (Registration). Notice of banning order will also be sent to all Zonal Railways, Production Units, Subordinate Offices and PSUs under Ministry of Railways in the proforma as per Annexure XI/4. 50 copies of the banning order shall also be sent to the DIG (P), CBI, New Delhi. The firm shall also be separately advised of the decision regarding removal/suspension/banning of business taken in reply to their representation, if any, in terms of para 1118. As regards any further representation from the firms, business dealings with whom have been suspended or banned, the same shall be processed by the Vigilance Directorate but if any reply is considered necessary to be sent to the firm, the same shall be sent by the RLO. The Court cases arising out of the banning orders issued shall be processed by the RLO in consultation with the Vigilance Directorate. The Show Cause Notice and the reply to firm's representation in terms of para 1118 will be issued by RLO.

- (b) The proposals for banning of business etc. with suppliers initiated by the concerned Branches on the Railways on their own, which do not attract any vigilance angle from the point of view of involvement of Officers/Staff therein but wherein the competence for taking the proposed action lies with the Ministry of Railways, shall be sent by the Railways to the concerned Directorate in the Board's Office or the Railway Liaison Officer, as the case may be, who shall process them for obtaining Board's orders thereon. Such proposals by the Executive Branches shall, however, be invariably routed through the Vigilance Branch of that Railway when complicity of Railway Officers/Staff in the irregularities/fraud indulged in by the stores suppliers etc. is suspected by the

concerned Branch of the Department. In such cases, the proposals will be processed in the Board's Office by the Vigilance Directorate as indicated above.

(Authority: Board's Secret letter No. 77/VIG-I/Banning/Stores/1 dated 27.01.1978)

- (c) The proposal received from Railway/Production Unit should also indicate details regarding Partners/Proprietors of the firm as also of allied/sister concerns so that the same is incorporated in banning order itself. In cases where the banning is processed in Railway Board's Office arising out of an investigation by Vigilance Directorate or the CBI etc., these details should be furnished to the concerned Directorate/RLO promptly by the concerned Railway/Production Unit on receipt of banning order to enable the former to forward the details to all Railways in a follow-up communication with minimum time gap.

(Authority: Railway Board's letter No. 77/VIG.1/Banning/Stores/1 dated 12.11.1980)

- (d) In the cases where banning/suspension orders have been passed by the Ministry of Railways against a firm as applicable to the Railway alone, the DGS&D will place no orders on such firms in respect of Railways' demands. This has been agreed to by the Department of Supply under their O.M. No. 13 (38)/65-V dated 10.9.1975.

1127. Procedure to be followed in Railway Board's Office for Banning of Business applicable to all Ministries of the Government of India:

The following procedure will be followed:

On the basis of the proposal submitted by the Railways, Production Units, etc. in terms of para 1123 (b) supra or the CBI, as the case may be, the Vigilance Directorate will prepare a self contained note which will be submitted to the Board. After Board's approval of the note, the proposal will be sent to the Ministry of Commerce that will take further action for issue of Show Cause Notice, issue of final orders etc.

B. STANDARDISED CODE FOR BUILDING CONTRACTORS

1128. Procedure:

This Code is for dealing with building contractors. All Ministries, Departments and Offices of the Central Government shall follow this Code and shall not maintain any separate Code of their own. This Code enunciates the broad guiding principles

governing registration, promotion, demotion, removal, suspension of business and banning of business of contractors. (Annexure XI/5)

(Authority: Ministry of Works & Housing O.M. No. 113011/1/72-W.4 dated 20.9.1976)

1129. Safeguard:

No reference to this Code shall be made in any circumstances in any communication to any party outside the Government or in any pleading or affidavit filed in a Court.

1130. Code for Building and Works Contracts:

The salient features of this Code are as under:

- (a) **Registration:** Every Engineering Department should maintain a list of approved contractors to whom the works should normally be entrusted and these lists should be reviewed periodically to weed out those who have not secured works for three consecutive years.
- (b) **Demotion to Lower Class/Suspension of Business/Removal from the Approved List:** The registering authority can demote a contractor to a lower class, suspend business with a contractor for an indefinite period pending full inquiry into the allegations or remove from the approved list, a contractor, who has failed to execute a contract or executed it unsatisfactorily, misconducted himself, violated any important condition of contract, is litigious by nature, persistently violates the Labour Regulations and Rules, etc. provided such action is taken (except in case of demotion to a lower class for which no Show Cause Notice is indicated in the Code) after serving upon the contractor/firm a Show Cause Notice in the form as per Annexure XI/6 and after considering the representation of the contractor/firm thereof.
- (c) **Banning:**
 - (i) Banning of business dealings with a firm/contractor so far the Ministry of Railways including its Attached and Subordinate Offices is concerned; it can be done only by this Ministry. If the banning of business is to be extended to all Ministries/ Departments, prior approval of the Ministry of Urban Development is necessary.
 - (ii) However, before banning order is issued by the Ministry, procedure as indicated in para 1130 (b) is to be followed.
 - (iii) Banning of business with a contractor by all Ministries may be ordered where there are sufficient and strong evidence on record to believe that the

contractor/firm or his employee has been guilty of malpractices such as bribery, corruption, fraud, pilfering or unauthorised use or disposal of government materials issued for a specific work etc. Action for banning business should be taken only where it is established that the offence was committed in order to secure advantage to the contractor and not where the object may be to secure advantage to any employee or representative of the contractor personally.

(d) Suspension as a prelude to Banning:

Wherever banning is contemplated, the registering authority may suspend business dealings with the firm as a prelude to banning after following the procedure as indicated in para 1130 (b).

(e) Communication to the Firm:

- (i) The decision regarding removal from registration/suspension of business/banning of business dealings taken after the issue of a Show Cause Notice and considering the representation, if any, in reply thereto, should be communicated to the firm concerned along with a reasoned order. The fact that the representation has been considered should invariably be mentioned in the communication.
- (ii) A reasonable time of 30 days for representation should be given. If no reply is received, the decision may be taken ex-parte, however, the fact that no reply was received to the Show Cause Notice should invariably be indicated in the final communication to the firm.

(f) Procedure to be followed by the Railways/Production Units, etc. for Demotion to Lower Class, Suspension/Removal from Approved List:

The following procedure will be followed:

- (i) As demotion to lower class, removal from the approved list or suspension of business is within the competence of the registering authority, the action shall be taken by the Railways/Production Units, etc. at their level provided such action is taken (except in case of demotion to a lower class) after serving upon the contractor/firm a Show Cause Notice and after considering the representation, if any, submitted by the contractor/firm thereto. In cases arising out of vigilance investigation, the Railway Vigilance should initiate the proposal for action by the concerned administrative (registering) authority of the Railway/Production Units, etc. The communications to the firm shall, however, be addressed by the registering authority.

- (ii) Copies of the orders of demotion/suspension of business/removal from the list, with a memorandum of reasons therefor, shall be sent by the concerned Department to its Subordinate Units and other contiguous Railways/Units.
 - (iii) For the purpose of this Code, the powers of the registering authority as referred to above shall be exercised by the concerned HOD or an authority nominated by him.
- (g) Procedure to be followed by Railways/Production Units, etc. for Banning of Business with a Contractor/Firm:**

The following procedure will be followed:

- (i) All cases of banning of business with building contractors will be dealt with by the Ministry of Railways. The Railways/Production Units, etc., therefore, should send their proposals with a self-contained note, which should also contain particulars of all the Partners and allied firms, including their addresses, a draft Show Cause Notice in form as per Annexure-XI/7 with a statement of charges/misconduct, to the Railway Board for further action. All such proposals initiated on the basis of the Vigilance or CBI reports and the proposals initiated by the concerned Executive Branches on the Railways on their own where complicity of the Railway Officers/Staff in the irregularities, frauds indulged in by the building contractor is suspected by the concerned Head of the Department, should be sent to the Vigilance Directorate through the Railway's Vigilance Branch. However, such proposals initiated by the concerned Executive Branches on the Railways on their own which do not attract any vigilance angle from the point of view of involvement of Officers/Staff therein, shall be sent by the Railways to the concerned Directorate in the Board's Office. The communications to and from the contractor/ firm shall, however, be routed through the Railway concerned.
- (ii) Banning order when issued shall be applicable to all Railways/Production Units, Subordinate Offices and PSUs under Ministry of Railways to whom copies of the orders shall be sent.
- (iii) For banning business by all the Ministries with a contractor/firm, the same procedure as referred in para (g) (i) above shall apply, except that prior approval of Ministry of Urban Development would be necessary before serving the Show Cause Notice upon the firm concerned and also before issuing final order of banning of business with the contractor/firm.
- (iv) Where banning is contemplated/ordered, separate action for removal from the list of approved contractors is not called for. It would be automatic, once the banning order is issued.

(h) Restoration:

Upgrading a demoted contractor, lifting the ban on business, restoration of registration, withdrawal of suspension of business, etc. may be considered at an appropriate time on merits of each case by the authority, which had passed the original orders. Copies of the restoration orders shall be sent to all those Offices including the Ministry of Urban Development where copies of penal orders had earlier been sent.

(i) Procedure to be followed in Railway Board's Office:

The following procedure will be followed:

- (i) The proposals for banning of business dealings with the firm/contractor on receipt from the Railways/Production Units and CBI shall be processed by the Vigilance Directorate or the concerned Directorate of the Railway Board, as the case may be, to obtain Board's provisional orders regarding the banning of business and the tentative period thereof. In the cases processed by the Vigilance Directorate, the relevant portion of the Board's orders and the noting will then be extracted from the concerned vigilance file and shall be forwarded to the concerned Directorate along with a draft Show Cause Notice with a statement of charges/misconduct. The Show Cause Notice will be issued to the firm/contractor through the Railway under signature of Executive Director of the concerned Directorate for and on behalf of the Government of India. The Show Cause Notice should give a clear margin of 30 days for the reply by the firm/contractor. On receipt of the reply, the same shall be processed by the concerned Directorate for obtaining Board's orders or shall be sent to the Vigilance Directorate with their comments for obtaining final orders of the Board, as the case may be. The Vigilance Directorate will examine the contractor/firm's reply as well as the comments of the concerned Directorate and put up the case to Board along with their comments, if any, for final orders of the Board.
- (ii) If no reply is received from the firm/contractor within the stipulated period, then after expiry of the notice period, the papers shall be dealt with by the concerned Directorate or sent to Vigilance Directorate as the case may be, for obtaining Board's final orders.
- (iii) In the cases dealt with by the Vigilance Directorate, Board's final orders shall then be extracted and recorded on the file of the concerned Directorate for issuing final communication to the concerned contractor/firm. The final communication shall be signed by Executive Director of the concerned Directorate for and on behalf of the Government of India and shall be sent to the firm/contractor through the concerned Railway/Production Units in the proforma as per Annexure XI/4A. The final communication is required to indicate the reasons for banning business and the fact that the representation

of the firm/contractor has been considered, should invariably be mentioned in the communication.

- (iv) As the banning would be applicable to all the Railways/Production Units, etc. under the Ministry of Railways, copies of the banning order should be circulated to all the Railways/Production Units, Subordinate Offices, PSUs under Ministry of Railways in the proforma as per Annexure-XI/4.
- (v) When the Ministry considers that the offence of contractor/firm is so grave that the banning order should also extend to other Ministries, prior approval of the Ministry of Urban Development will have to be obtained by Vigilance Directorate or the concerned Directorate as the case may be, before serving a Show Cause Notice upon the firms/contractor concerned and also before final orders are passed. However, the final orders will be issued by the Ministry of Railways itself sending 50 copies of the final orders together with the reasons for the action taken and also the names of the Partners and list of allied concerns coming within the effective influence of the contractor to the Ministry of Urban Development and Ministry of Commerce for transmission to the other Ministries of Central Government responsible for major construction works and to State Governments, who will, in turn issue the necessary instructions to the Departments under their control for immediate secession of all future business with the said firm. However, no such orders banning business shall be circulated to other Ministries if the banning order is applicable to only the Ministry of Railways, including its Attached and Subordinate Offices. 50 copies of every banning order passed by the Ministry of Railways shall be sent to DIG (P), CBI, New Delhi.

(j) Restoration:

The restoration of business shall be considered at an appropriate time on the merits of the case by the authority that had passed the original orders. Copies of the restoration orders shall also be sent to the Ministries/Offices where earlier orders of banning business had been sent. When revocation of a banning order by all Ministries is to be done, prior approval of the Ministry of Urban Development would be necessary.

(Authority:Board's Secret Letter No. 77/Vig.1/Banning/Works/2 dated 22.8.1977 and Secret Office note of same No. dated 23.8.1977)

1131. General:

In cases where a firm/contractor is involved in any undesirable action or practice and where the case is not to be referred to Railway Board, (i.e. in cases of Non-Gazetted staff arising of Railway itself), a paper should invariably be put up by Railway

Vigilance to concerned HOD with facts of the case and recommendations from CVO so that he may consider and decide course of action against the firm under his competence. If action for banning of business is warranted, the matter should be referred to Railway Board.

In cases involving Gazetted Officers, where investigation reports are sent to Railway Board, the CVO of the Railway may send the facts of the case along with his recommendations in a self-contained note to the concerned HOD who will process appropriate action in the meantime within his competence and furnish his views in regard to any further action for banning of business. The vigilance recommendations in this regard with approval of General Manager should also be included in their report.

(Authority:Railway Board's letter No. 77/Vig.1/Banning/Works/2 dated 15.7.1980)

**SUSPENSION OF BUSINESS/BANNING OF BUSINESS APPLICABLE
TO RAILWAY MINISTRY, BANNING OF BUSINESS
APPLICABLE TO ALL MINISTRIES**

1. Name of the firm & address
2. Constitution of the firm
(Public Ltd./Private Ltd./Partnership)
3. Names of Directors/Partners/Proprietors
4. (i) Date of Registration on the Railways; and
- (ii) Whether registered with other Railways/NSIC etc.
5. Period for which action is proposed
6. Whether the proposed action will create
difficulties in procurement of items such
as spare parts for machinery for which
the firm may be the sole supplier on
proprietary basis. Also if the proposed
action would dry up already limited
sources of supply of any vital materials
7. Whether the firm has been removed
from the list of approved suppliers
8. Name (s) of the allied firms or
sister concerns
9. This has the personal approval of
General Manager/Head of Department

Head of Department

MEMORANDUM

M/s are hereby informed that the Railway/Production Unit has placed the following order(s) on them for the supply of the following materials/equipment:

DETAILS OF THE STORES INDENTED

Order No. and Date	Description of materials	Quantity
---------------------------	---------------------------------	-----------------

It has been observed that M/s indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the Railway/Production Unit proposes to remove M/s from the list of approved suppliers for a period of 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. It 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 action proposed and final decision shall be taken on merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature

Name

Designation & Address

(This should be signed by HOD)

To,
M/s

M E M O R A N D U M

M/s are hereby informed that the Railway/Production Unit has placed the following order(s) on them for the supply of the following materials/equipment:

DETAILS OF THE STORES INDENTED

Order No. and Date	Description of materials	Quantity
---------------------------	---------------------------------	-----------------

It has been observed that M/s indulged in the malpractices/irregularities as detailed in the enclosed statement of charge/misconduct.

In the circumstances, the Government of India proposes to ban/suspend business dealings for a period of by the Indian Railways and Production Units, etc. with M/s and also their allied/sister concerns, if any. 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.

DA: Statement of Charge/Misconduct

Signature
Name
Designation & Address

(For & on behalf of Government of India)

To,
M/s

CONFIDENTIAL

GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
RAILWAY BOARD

Rail Bhawan, New Delhi-110 001

No.

Dated:

Sub: Banning of business dealings with M/s

1. M/s were served with a Memorandum and statement of charges/misconduct for banning of business dealings with them for malpractices in supply of against contract No. dated

2. Reply to the Memorandum submitted by M/s vide letter dated has been considered in detail by the competent authority who has concluded that M/s..... have indulged in malpractices.

3. It has, therefore, been decided by Ministry of Railways (Railway Board) to ban business dealings with M/s and their allied/sister concerns/partners for a period ofyears commencing from by Indian Railways and Production Units etc.

4. Details of the Proprietors/Partners of the firm are given below/will be advised as soon as are known.

5. Details of the Allied/Sister firms are given below/will be advised as soon as the same are known.

6. Above mentioned facts shall not be conveyed to the firm(s) or persons not concerned.

Signature

Name

Designation & Address

GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
RAILWAY BOARD

Rail Bhawan, New Delhi-110 001

No.

Dated:

To,

M/s

Sub : Banning of business dealings with M/s

Ref : 1. This Ministry's Memorandum No.dated

2. Your letter No. dated

The representation made by you under your letter quoted above has been carefully considered and the Ministry of Railways (Railway Board), New Delhi have decided to ban business dealings with you for a period of years with effect from Copy of reasoned order is enclosed.

Please acknowledge receipt of the letter.

DA: A copy of reasoned order

Yours faithfully,

Signature of the Issuing Authority

.....

(Name)

Designation of the Issuing Authority

(For and on behalf of Government of India)

THE GUIDELINES ABOUT THE CONTENTS AND PROCEDURE, SHOW CAUSE NOTICE REFERRED TO IN CLAUSE 6.1 AND 7.5 OF THE STANDARDISED CODE

- | | | |
|-----|---|---|
| (a) | Which Officer should give the Show Cause Notice | The registering authority is competent authority to issue Show Cause Notice |
| (b) | Period of Notice | The period of notice should be 30 days |
| (c) | Manner of Service | Notice should be served by Registered Post. |
| (d) | Persons to be served with the notice | Notice to be served on the contractor concerned |
| (e) | Brief ground for giving the Show Cause Notice | Be indicated enumerating instances of bad workmanship and other |
| (f) | Manner of considering the reply | The registering authority should consider the replies and take decisions in consultation with the authorities mentioned in the Code |
| (g) | How and to what extent the decision is to be communicated | The decision be communicated to the concerned party by registered A.D. |

M E M O R A N D U M

M/s are hereby informed that the Railway/Production Unit had awarded contract (s) to them for execution of the work (s) as shown here under:

Details of the Contract (s) Awarded

Agreement/Work Order No. and Date	Description of the work(s) required to be executed	Value
--	---	--------------

It has been observed that M/s indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the Railway/Production Units proposes to *remove from the approved list of contractors/suspend business dealing with contractor M/sfor a period of 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. It 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 merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature
Name
Designation & Address
.....

(This should be signed by HOD)

To,
M/s

* delete whichever is not applicable

MEMORANDUM

M/s are hereby informed that the Railway/Production Unit had awarded contract (s) to them for execution of the work(s) as shown here under:

Details of the Contract (s) Awarded

Agreement/Work Order No. and Date	Description of the work (s) required to be executed	Value
--	--	--------------

It has been observed that M/s indulged in the malpractices/irregularities as detailed in the enclosed statement of charges/misconduct.

In the circumstances, the Government of India proposes to ban business dealings with M/s..... and also with their allied/sister concerns/and partners on All Indian Railways and Production Units etc. under the Ministry of Railways for a period of 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 merits.

Receipt of this Memorandum may please be acknowledged.

DA: Statement of Charges/Misconduct

Signature
Name
Designation & Address

.....
**(To be signed by Executive Director/Railway Board,
For and on behalf of Government of India)**

To,
M/s