

# **INDRAPRASTHA GAS LIMITED**

(A Joint venture of GAIL (India) Ltd., BPCL and Govt. of NCT of Delhi)



## **HOLIDAY LISTING POLICY**

(GUIDELINES FOR HOLIDAY LISTING OF AGENCIES  
FROM BUSINESS DEALINGS WITH IGL)

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## 1.0 Introduction

Holiday Listing (Banning of business dealings) involves civil consequences for the “agency” concerned. Hence, the same requires adherence to the Principles of Natural Justice. Therefore, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case. The meaning of “Black Listing”, “Holiday Listing” and “Banning of Business Dealings” is considered one and the same and shall hereafter be referred to only as “Holiday Listing” and the term Holiday Listed Companies shall be used accordingly in this document.

## 2.0 Scope

The Information for Bidders (IFB), Instruction to Bidders (ITB) and the General Conditions of Contract (GCC) generally provide that IGL shall have the rights to remove an agency from list of approved suppliers / contractors or to ban business dealings if any agency has been found to have committed misconduct or fraud or poor performance or anything unethical not expected from a responsible agency.

The procedure of Holiday Listing of Agencies from Business Dealings with IGL has been laid down in these guidelines.

These guidelines shall be applicable across IGL and shall be published as a separate document on IGL website. The General Conditions of Contract (GCC) shall have a clause expressly stating that the Guidelines and Procedures for Holiday Listing as adopted by IGL are available separately on IGL website and shall be applicable in the context of all tenders floated and consequently all contracts / purchase orders placed by IGL.

It is clarified that these guidelines do not deal with such decisions of management of IGL or its Procurement authorities, taken from time to time, as not to have any form of business dealings based on past performance of the Contractors / Agencies or for any other reasons until & unless recorded in writing by the appropriate authority. Such decisions would be only on case to case basis and not to be followed as a general rule.

The Holiday Listing shall be with prospective effect, i.e. for future business dealings.

## 3.0 Definitions

For the purpose of Holiday Listing, following key definitions and explanatory notes shall be considered unless the context otherwise requires:

- (i) “Agency”: “Party / Contractor / Supplier / Vendor / Consultant / Bidder / Licensor / Operator” in the context of these guidelines is indicated as “agency”. “Party / Contractor / Supplier / Vendor / Consultant / bidders / Licensor / Operator” shall mean and include a public limited company or a private limited company, a joint venture, Consortium, HUF, a firm whether registered or not, an individual, co-operative society or an association or a group of persons engaged in any commerce, trade, industry etc.
- (ii) “Allied Firm”: All concerns which come within the sphere of effective influence of Holiday Listed / Banned firm shall be treated as allied firms. In determining this, the following factors may be taken into consideration:
  - (a) Whether the management is common
  - (b) Majority interest in the management is held by the partners or directors of holiday listed / banned firm



- (c) Substantial or majority shares are owned by holiday listed / banned firm and by virtue of this it has a controlling voice.
- (iii) “Holiday Listing (Banning of Business dealing)” shall mean officially debarring or forbidding an agency from participating / awarding / hiring / appointment as Vendor / Supplier with IGL, for its requirement related to procurement.
- (iv) “Engineer-in-Charge” (EIC) shall mean the person(s) designated to act for and on behalf of IGL for the execution of the work as per requirement of the concerned department.
- (v) “Competent Authority” shall mean the authority, who is competent to take final decision for Banning of business dealings with Agencies, in accordance with the guidelines laid herewith. The Competent Authority for Holiday Listing (Banning of business dealings) shall be the Managing Director and Director (Commercial) of the company.
- (vi) “Interconnected Agency” shall mean two or more companies having any of the following features:
- (a) If one is a subsidiary of other
- (b) if the Director(s), Proprietor or Partner(s) are common
- (c) if management is common
- (d) if one owns or controls the other in any manner
- (vii) “Proprietor” shall include Director of a private limited company, members of Hindu undivided family, a member of an association of persons and a director of a Public limited company.
- (viii) “Affiliate” of a Party shall mean any company or legal entity which:
- (a) Controls either directly or indirectly a Party (including any Foreign Entity)
- (b) Which is controlled directly or indirectly by a Party
- (c) Is directly or indirectly controlled by a company, legal entity or partnership which directly or indirectly controls a Party. “Control” means actual control or ownership of at least a 50% voting or other controlling interest that gives the power to direct, or cause the direction of, the management and material business decisions of the controlled entity.
- (d) 'Foreign entity' means a body Corporate incorporated outside India.
- (ix) “Corporation” means Indraprastha Gas Limited (IGL) with its registered office as IGL Bhawan, Plot no. 4, Community Centre, R.K. Puram, Sector-9, New Delhi – 110022
- (x) “Moral Turpitude” means to be a conduct contrary to justice, honesty, modesty or good morals and contrary to what a man owes to a fellowman or to society in general.
- (xi) “Corrupt Practice” means the offering, giving, receiving or soliciting, directly or indirectly, anything of value to improperly influence the actions in selection process or in contract execution. “Corrupt Practice” also includes any omission for misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.
- (xii) “Fraudulent Practice” means and includes any act or omission committed by an agency or with his connivance or by his agent by misrepresenting / submitting



false documents and / or false information or concealment of facts or to deceive in order to influence a selection process or during execution of contract / order.

- (xiii) "Collusive Practice" amongst bidders (prior to or after bid submission) means a scheme or arrangement designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- (xiv) "Coercive Practice" means impairing or harming or threatening to impair or harm directly or indirectly, any agency or its property to influence the improper actions of an agency, obstruction of any investigation or auditing of a procurement process.
- (xv) "Malpractice" means any Corrupt Practice, Fraudulent Practice, Collusive Practice or Coercive practice as defined herein.

#### **4.0 Reasons for Holiday Listing**

Some of the eventualities on occurrence of which the firms can be Holiday listed are indicated below. The list is suggestive and is not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason.

- (i) If the security consideration, including questions of loyalty of the agency to the State, so warrants.
- (ii) If the Director / owner of the agency, proprietor or partner of the firm, is convicted by a Court of Law under normal process of law for offences involving moral turpitude in relation to its business dealings during the last five years.
- (iii) If there is strong justification for believing that the Directors, Proprietors, Partners, employee(s), representative(s) or owner of the agency have been either jointly or severally held guilty of malpractices such as bribery, corruption, fraud including submission of fake, false or forged documents / certificates, pilferage, substitution of tenders, bid rigging / price rigging, interpolations, substitution of materials in lieu of materials supplied by IGL or other violations including misrepresentation of facts.
- (iv) If the agency is or has become bankrupt or insolvent or being dissolved or has resolved to be wound up or proceedings for winding up or dissolution have been instituted.
- (v) If the agency has deliberately violated and circumvented the provisions of Labour laws / regulations / rules, safety norms, environmental norms or other statutory requirements.
- (vi) If a communication has been received from any government ministry / MOPNG / Delhi Government / Promoter / any government (national, state or local), PSU, PSU-JV and/or other government entities to ban the agency from dealing with the Corporation, the party should be automatically put in the Holiday list for the period advised. If no such period is advised, minimum 2 years' holiday listing period shall be taken from the date of intimation.
- (vii) If the agency has parted with, leaked or provided confidential proprietary information of the Corporation given to the agency only for their use (in discharge of their obligations against an order) to any third party without prior consent of the Corporation.
- (viii) If the agency uses intimidation / threatening or brings undue outside pressure on the Corporation or its official(s) in award / acceptance / performances of the job under the contract.



- (ix) Based on the findings of the investigation report of any investigative agency, Government audit, any law enforcement agency or government regulator against the agency for mala fide / unlawful acts or improper conduct on their part in matters relating to the Corporation or even otherwise.
- (x) Poor performance of the agency in one or several contracts.
- (xi) If the agency violates the conditions of tender / contract or vitiates the tender process.
- (xii) If the agency, in the context of its dealings with the Corporation:
  - (a) Has indulged in malpractices
  - (b) Has substituted materials in lieu of materials supplied by IGL or has not returned or has unauthorized disposed-off materials / documents / drawings / tools or plants or equipment supplied by IGL.
  - (c) Deliberately indulged in construction and erection of defective works or supply of defective materials.
  - (d) Has not cleared previous dues to IGL, if applicable.
  - (e) Committed breach of contract or has abandoned the contract.
  - (f) Not honored the Letter of Acceptance (LOA) / Contract / Purchase order after the same is issued by the Corporation.
  - (g) Withdraws / revises the bid upwards after becoming L1

## 5.0 Holiday Listing

C&P department shall be responsible for maintaining, updating and publishing the list of agencies whom IGL has decided to put on Holiday list (Banned from business dealings).

When culpability of an agency is detected during the course of a Vigilance investigation or otherwise and there is adequate ground to believe that the continuance of business dealings with the agency is not in the best interest of the Corporation, concerned investigating officer may bring the matter to the notice of concerned user department, where banning proceedings may be initiated as per guidelines stated herewith. Managing Director and Director (Commercial) may also direct for such an exercise without any reference from Vigilance or other investigating agencies suo moto.

In case any external investigating agency has recommended the banning of the business with a supplier, its role comes to an end with the recommendation and IGL shall undertake further proceedings through its own officers.

## 6.0 Procedure for Holiday Listing

- (i) The proceedings shall start with a proposal for initiating action against the agency, to be raised by the indenting department, which shall first be cleared by an HOD Committee comprising of HODs of C&P, Finance and indenting departments.
- (ii) Cases where prima facie evidence is/are available, no fresh work shall be awarded till the decision for holiday listing or otherwise is finalized.
- (iii) On approval of proposal by HOD committee for putting a vendor on Holiday List, EIC of indenting department will put up a recommendation to C&P department to issue show cause notice providing a final opportunity to vendor to defend his case. This recommendation shall state a brief background of the case, the action



proposed and all supporting documents. Discussion with the vendor, if required, will be done by a committee of HODs from C&P and user department.

- (iv) The show cause notice issued to the agency by C&P should indicate clearly and precisely the charges/misconduct, which should be based on facts as can be proved as distinct from mere allegations. Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the “agency” should be asked to submit within 15 days a written statement in its defense. The pro forma of show-cause notice is appended as Annexure-I.
- (v) On receipt of reply in response to the show cause notice / based on minutes of meeting between vendor and IGL committee members or in case the party refuses or avoids to attend the meeting or reply to the show cause notice, the same shall be recorded by C&P. In either case, C&P department will forward the response to Engineer-in-charge who after taking opinion from HOD (Legal) will forward their final recommendation to C&P for putting the vendor on Holiday List. C&P department shall then obtain the approval of the Competent Authority for the same.

This approval shall consist of a background of the case, copy of initiation proposal approved by HOD Committee, copy of the Show-Cause Notice issued and agency’s reply received and the indentor & C&P departments’ comments on the same. The period for which holiday listing is recommended should also be clearly mentioned in the proposal. All relevant supporting documents should also be attached. In case no explanation is received from the agency within the stipulated time, the case shall be proceeded ex parte.

- (vi) The Competent Authority, after examining all the information on record, including the explanation from the agency, will give their decision on the proposal. Competent Authority in its decision may opt to one of the following:
  - (a) Approve the proposal for Holiday Listing as such
  - (b) Approve the proposal for holiday listing for a period higher than that was recommended, in case the Competent Authority is of the opinion that banning for a longer period is required in view of the gravity of the case
  - (c) Approve the proposal for holiday listing for a period lesser than that was recommended, in case the Competent Authority is of the opinion that lesser period would meet the requirement, considering the gravity of the case
  - (d) Reject the proposal, in case, based on explanation furnished by the agency, the Competent Authority is of opinion that the alleged misconduct / malpractice was either not substantiated or has happened on account of circumstances on which agency had no control
- (vii) The order shall also specify the names of proprietors, all partners, directors etc. of the “agency”. The order may be extended to its Allied / Inter-connected / Affiliate concerns, if there are instances of recurrence of lapses from the same group.
- (viii) After obtaining approval from the Competent Authority regarding Holiday Listing of agency, same should be communicated to the “agency” concerned, by the C&P department. The draft pro forma for intimation of Holiday Listing to agency is appended as Annexure-II.
- (ix) A list of vendors put on holiday list will be communicated to all concerned departments and will also be maintained at IGL Intranet.

## 7.0 Period of Holiday Listing





- (i) Competent Authority shall decide on the period of holiday listing, on case to case basis, depending on the gravity of the case and considering the implications for IGL on account of the Act / Omission on the part of the agency, intentions of the agency as established from the circumstances of the case, frequency of tendering for work of similar nature, etc.
- (ii) Ordinarily the period for which as agency is Holiday listed should not be less than 2 years and should not exceed 3 years. However, in extraordinary circumstances as mentioned below, banning of 15 years can be done. The broad guidelines for the period of holiday listing based on the circumstances under which they were put on holiday listing is as under:

S.no.	Reasons for Holiday Listing	Period of Holiday
1.	Has indulged in malpractices resulting in financial loss to IGL	15 years
2.	Has substituted materials in lieu of materials supplied by IGL or has not returned or has done unauthorised disposal of materials / documents / drawings / tools or plants or equipment supplied by IGL	15 years
3.	Has parted with, leaked or provided confidential / proprietary information of IGL to any third party without the prior consent of IGL	15 years
4.	Has deliberately indulged in construction and execution of defective works or supply of defective materials	3 years
5.	Has indulged in malpractices (such as bribery, corruption, fraud, pilferage, substitution of tenders, bid rigging / price rigging or other violations including misrepresentation of facts)	3 years
6.	Has submitted fake, false or forged documents / certificates	3 years
7.	Has deliberately violated and circumvented the provisions of labour laws/ regulations / rules, safety norms, environmental norms or other statutory requirements	3 years
8.	Has committed breach of contract or has abandoned the contract	3 years
9.	Is or has become bankrupt, OR is being dissolved OR has resolved to be wound up OR if proceedings for winding up or dissolution has been instituted against the agency	3 years
10.	If the Director / owner of the agency, proprietor or partner of the firm, is convicted by a Court of Law under normal process of law for offences involving moral turpitude in relation to its business dealings	3 years
11.	Has used intimidation / threatening or brought undue outside pressure on the Corporation or its official(s) in acceptance / performances of the job under the contract.	3 years
12.	Has not cleared IGL's previous dues, if applicable	2 years
13.	Has performed poorly in one or several contracts	2 years
14.	Has not honoured the Letter of Acceptance / Contract / Purchase order after the same is issued by IGL	2 years





15.	Has withdrawn / revised the bid upwards after becoming the L1 bidder	2 years
16.	Has violated the conditions of tender / contract or vitiated the tender process	2 years

(iii) In cases where Holiday Listing is proposed based on advice from any government ministry / MOPNG / Delhi Government / Promoter / any government (national, state or local), PSU, PSU-JV and/or other government entities, no show cause or formal decision by competent authority will be required. The C&P Department will directly intimate the agency that they have been placed in Holiday Listing by IGL based on the Ministry's / Promoter's advice for the period advised. If no period is advised, a minimum of 2 years' holiday listing shall be taken from the date of intimation. Pro forma for Intimation of Holiday Listing based on Ministry's / Promoter's advice can be referred from Annexure-III.

## 8.0 Effects of Holiday Listing

No enquiry / bid / tender shall be entertained with an agency as long as the 'agency' name appears in the Holiday list.

If an "agency" is put on the Banning List during tendering:

- (i) If an 'agency' is put on Holiday List after issue of the enquiry / bid / tender but before opening of the un-priced bid, the un-priced bid of the 'agency' shall not be opened and shall be rejected and BG / EMD, if submitted by the 'agency' shall be returned.
- (ii) If an 'agency' is put on Holiday List after un-priced bid opening but before price bid opening, the price bid of the 'agency' shall not be opened and BG / EMD submitted by the 'agency' shall be returned.
- (iii) If an 'agency' is put on Holiday List after opening of price bid but before finalization of the tender, the offer of the 'agency' shall be ignored and will not be further evaluated and the BG / EMD if any submitted by the 'agency' shall be returned, the 'agency' will not be considered for issue of order even if the 'agency' is the lowest (L1). In such situation next lowest shall be considered as L1.

If contract with the 'agency' concerned is in operation, (including cases where contract has already been awarded before decision of holiday listing), proposal note put up for holiday listing will specify for continuing the current contract or termination of the same.

In cases where holiday listing proposal has been initiated by C&P department, but the process is yet to be completed and order of Competent Authority is awaited, the tendering process may be taken forward till price bid opening and after price bid opening, decision on the tender may be kept on hold till such time order of Competent Authority is issued. C&P Department shall formally inform the Competent Authority that decision on tender has been kept on hold pending orders of Competent Authority on holiday listing.

## 9.0 Declaration by Bidders regarding Holiday Listing status

Tenders invited for purchase of goods/services/works should have the provision that the bidder should submit a declaration to the effect that neither the bidder themselves nor any of their directors or proprietors involved in any capacity, or any of its subsidiary, affiliate, sister concern or any other agency over which the bidder has substantial control are currently serving any banning orders issued by IGL, any government ministry / MOPNG / Delhi Government / Promoter) / any government (national, state or



local), PSU, PSU-JV and/or other government entities debarring them from carrying on business dealings with them. Offers not accompanied with a declaration should be incorporated in rejection criteria. Any wrong declaration in this context shall make the agency liable for action under this Holiday Listing procedure.

#### **10.0 Revocation of Holiday Listing**

An order for Holiday Listing once passed for a certain specified period shall be revoked as under:

An order for Holiday Listing passed for a certain specified period shall be revoked on the expiry of that specified period, subject to the agency giving a request in writing clearly mentioning that corrective action has already been taken / proposed to be taken to avoid recurrence of default.

In banning cases, where the proprietor of the firm, its employee, partner or representative is convicted by a court of law for offences involving moral turpitude in relation to business dealings, may be revoked if in respect of the same facts, accused has been wholly exonerated by court of Law.

A Holiday Listing order may, on a review during its currency of operation, be revoked by the Competent Authority, if it is of the opinion that the disability already suffered by the "agency" is adequate in the circumstances of the case, and the agency has taken appropriate action to avoid recurrence.

#### **11.0 Publishing of holiday listing information on IGL Intranet**

Once an order of Holiday Listing of an agency is passed by a Competent Authority, the said information shall be published on the IGL Intranet by the C&P Department.

All concerned departments should before issue of tender in limited tender cases & tenders from empaneled vendors and before opening of price bids in all cases, verify with this published information that any bidder concerned is not currently serving any Holiday Listing orders issued by IGL.

If any Communication is received from any government ministry / MOPNG / Delhi Government / Promoter / any government (national, state or local), PSU, PSU-JV and/or other government entities advising banning of business dealings with any agency, the C&P Department should take immediate action to circulate the same to all concerned departments within the Corporation and update on the IGL Intranet.



**Annexure-I**  
**(Pro forma of Show Cause Notice)**

Ref. No. \_\_\_\_\_

Date: \_\_\_\_\_

To M/s. \_\_\_\_\_

Attn.: Shri \_\_\_\_\_

**SHOW CAUSE NOTICE**

Dear Sir,

You are hereby required to show cause in writing within 15 days from the date hereof why you should not be placed on Holiday List and be debarred from entering into any contracts with IGL for the following reasons:

- 1) (Give Reasons)
- 2) \_\_\_\_\_

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

Should 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 IGL



**Annexure-II**

**(Pro forma for Intimation of Holiday Listing)**

Ref. No. \_\_\_\_\_  
Date: \_\_\_\_\_  
To M/s. \_\_\_\_\_  
Attn.: Shri \_\_\_\_\_

**INTIMATION OF BANNING OF BUSINESS DEALINGS / HOLIDAY LISTING**

Dear Sir,

In reference to our Show Cause Notice (Ref. no. \_\_\_\_\_ dated \_\_\_\_\_) served to you, 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.

(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 that business dealings with you will be banned and you are hereby debarred from entering into contracts with IGL for \_\_\_ Years / months, effective from the date hereof.

This order shall have the following effects:

- 1) No enquiry / bid / tender shall be issued to you nor will the bids submitted by you be entertained.
- 2) In cases where tenders have already been issued to you and price bids are yet to be opened, the price bid submitted by you shall not be opened and BG/EMD, if any, submitted by you shall be returned.
- 3) In cases where tenders have already been issued to you and price bids have already been opened, but final decision is pending, your quote will not be considered for further evaluation and finalization of the tender, and BG / EMD, if any, submitted by you shall be returned.
- 4) In case of ongoing contracts between you & IGL, (including cases where contract has already been awarded before \_\_\_\_\_) you will be required to continue with the execution and perform as per terms of the contract.

On expiry of the above period of holiday listing, you may approach \_\_\_\_\_ (indicate the concerned department), with request for revocation of the order mentioning inter-alia the steps taken by you to avoid recurrence of misconduct which has led to the Holiday Listing.

Yours faithfully  
For & on behalf of IGL



**Annexure-III**

**(Proforma for Intimation of Holiday Listing based on External Advice)**

Ref. No. \_\_\_\_\_

Date: \_\_\_\_\_

To M/s. \_\_\_\_\_

Attn.: Shri \_\_\_\_\_

**INTIMATION OF BANNING OF BUSINESS DEALINGS / HOLIDAY LISTING**

**Ref:** Letter ref. no. \_\_\_\_ dated \_\_\_\_ of (Authority/Promoter) advising banning of business dealings with M/s. \_\_\_\_\_

Dear Sir,

WHEREAS we have been advised by \_\_\_\_\_ (Authority/Promoter) that all business dealings with you is to be banned and you should be placed on Holiday List for a period of \_\_\_\_ years / months from \_\_\_\_\_. You are hereby informed that the business dealings with you would be banned and you are hereby debarred from entering into contracts with IGL for \_\_\_\_ Years / months, effective from the date hereof.

This order shall have the following effects:

- 1) No enquiry / bid / tender shall be issued to you nor will the bids submitted by you be entertained.
- 2) In cases where tenders have already been issued to you and price bids are yet to be opened, the price bid submitted by you shall not be opened and BG/EMD, if any, submitted by you shall be returned.
- 3) In cases where tenders have already been issued to you and price bids have already been opened, but final decision is pending, your quote will not be considered for further evaluation and finalization of the tender, and BG / EMD, if any, submitted by you shall be returned.
- 4) In case of ongoing contracts between you & IGL, (including cases where contract has already been awarded before \_\_\_\_\_) you will be required to continue with the execution and perform as per terms of the contract.

On expiry of the above period of holiday listing, you may approach \_\_\_\_\_ (indicate the concerned department), with request for revocation of the order mentioning inter-alia the steps taken by you to avoid recurrence of misconduct which has led to the Holiday Listing.

Yours faithfully  
For & on behalf of IGL

