

राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड

सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार
तीसरी मंजिल, पीटीआई बिल्डिंग, 4-संसद मार्ग, नई दिल्ली-110001

National Highways & Infrastructure Development Corporation Limited

Ministry of Road Transport & Highways, Govt. of India
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(भारत सरकार का उद्यम)

(A Government of India Enterprise)

Without Prejudice

NHIDCL/MTM-V/AE/2022-23/ 1449

Date: 06.12.2022

To,

M/s CGR and Company,
406, Brundavanam Apartment,
Tadipatri, Ananthpur,
Andhra Pradesh-515411.

Sub: Construction of two lanes with hard shoulders of Merangkong-Tamlu-Mon Road from existing road km 59+000 to km 73+640 [Design chainage km. 59.000 to km. 72+450] (Design Length - 13.450km) in the state of Nagaland under SARDP-NE Phase "A" on EPC Mode (Pkg. V)- Declaring the EPC Contractor as Non-Performer - Reg.

Sir,

NHIDCL (National Highways & Infrastructure Development Construction Limited) and M/s CGR and Company (Hereinafter referred to as "the Contractor") signed an EPC Contract Agreement on 17th August, 2021 for the work of "Construction of two lanes with hard shoulders of Merangkong-Tamlu-Mon Road on EPC basis from existing km 59+000 to km 73+640 [Design chainage km. 59.000 to km. 72+450] (Design Length - 13.450km) (Package V) in the state of Nagaland under SARDP-NE Phase 'A' on EPC Mode" at the Contract Price of Rs. 79,00,00,001 /- (Rupees Seventy-Nine Crores, One Rupees) only excluding GST, with construction period of 18 (eighteen) months commencing from the Appointed Date w.e.f. the 1st September, 2021 on the terms, conditions and covenants contained in the Contract Agreement.

2. Whereas, as per clause 10.3.1 of EPC Contract Agreement, the Contractor shall construct the Project Highway as specified in Schedule-B and Schedule-C, in conformity with the Specifications and Standards set forth in Schedule-D, within 549 Days (Five Hundred and Forty-Nine Days) i.e., the 3rd March, 2023 from the Appointed Date (i.e. the 1st September, 2021).

Sl. No.	Project Milestones	Milestone from Appointed Date as per the Contract Agreement (in days)	Stipulated Financial Progress as per Contract Agreement	Stipulated Dates as per Contract Agreement	Actual date of Achievement
i.	Milestone - I	192	10%	11.03.2022	Achieved on 31.03.2022
ii.	Milestone - II	329	35 %	26.07.2022	Yet to achieve (Physical Progress till Nov-22 is 18.08 %)

RK

iii.	Milestone - III	467	70 %	11.12.2022	-
iv.	Scheduled Completion	549	100%	03.03.2023	-

3. Whereas, the Contractor has failed to achieve required progress for the reasons solely attributable to them majorly due to insufficient funding to project site, resulted delay in procurement of construction materials, lack of meticulous planning, to mobilize key construction equipment/manpower etc..The Contractor has achieved **Physical Progress** of 18.08 % (as per MPR) till November, 2022.The above defaults clearly attract provisions in accordance with the MoRT&H Circular No. RW/NH-33044/76/2021-S&R(P&B) dated 06.10.2021 para (2), table (1), Sl. (1) under "Failed to set up institutional mechanism and procedure as per Contract".

The month wise details of submitted work program (as per Schedule-J) vis-à-vis the physical progress achieved by M/s CGR & Company since the Appointed Date (i.e., the 1st September 2021) are tabulated as under;

Sl. No	Month	Cumulative Progress as per submitted work program (%)	Actual Cumulative Physical Progress (%)
1	September-2021	0.38	0
2	October-2021	1.06	0
3	November-2021	1.75	0
4	December-2021	3.72	0
5	January-2022	6.57	0
6	February-2022	11.72	7.01
7	March-2022	17.32	11.60
8	April-2022	23.57	11.60
9	May-2022	30.33	11.60
10	June-2022	37.96	14.41
11	July-2022	46.92	14.88
12	August-2022	57.84	14.93
13	September-2022	68.61	15.77
14	October-2022	78.63	16.06
15	November-2022	87.76	18.08
16	December-2022	94.61	-
17	January-2023	98.81	-
18	February-2023	100.0	-
19	March-2023	100.0	-

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4. Whereas, as per clause 11.1 of the Contract Agreement, it is the obligation of Contractor to ensure the construction materials and workmanship are in accordance with the requirements specified in the Contract Agreement, specifications, standards and Good Industry Practice. However, in this regard, the Authority's Engineer had issued several letters but the Contractor has failed to comply with the said obligations till date. The Authority's Engineer has also issued NCR for poor quality of works and the Contractor has failed to comply with the instructions till date. Apropos, the Contractor has "Failed to set up institutional mechanism and procedure as per Contract" & clearly attracts provisions in accordance with the MoRTH circular para (2), table (1), Sl. (1).
5. Whereas, Authority's Engineer has issued notices vide.... for slow progress and for expediting the progress of work, wherein the Contractor was advised to mobilize adequate manpower, machineries and ensure procurement of materials at site to achieve the Milestones targets in time. Despite repeated instructions issued in this regard, the Contractor has failed to take corrective steps for expediting the progress of work and has not submitted any reply to the said notice till date and clearly attracts provisions in accordance with the MoRT&H Circular No. RW/NH-33044/76/2021-S&R(P&B) dated 06.10.2021, para (2), table (1), sl. (1) under "Failed to set up institutional mechanism and procedure as per Contract".
6. Whereas, as per clause 10.1.1 (d) of the Contract Agreement, within 20 days of the Appointed Date, the Contractor was supposed to make its own arrangement for quarrying of material needed for the Project Highway. However, even after lapse of 10 months from the Appointed Date, the Contractor has failed to make adequate arrangements for the same. Apropos, the Contractor has "Failed to set up institutional mechanism and procedure as per Contract" & clearly attracts provisions in accordance with the MoRT&H circular para (2), table (1), Sl. (1).
7. Whereas, as per Clause 10.4 of CA, *"During construction period, the Contractor shall maintain, at its costs, the existing lane(s) of the Project Highway so that the traffic worthiness and safety thereof are at no time materially inferior as compared to their condition on Appointed Date, and shall undertake the necessary repair and maintenance works for this purpose"*. The Authority' Engineer issued notice to the EPC Contractor for maintenance during the Construction Period. However, the EPC Contractor has failed to maintain the existing road as per its obligations till date and certainly attracts provisions in accordance with the ibid MoRT&H Circular dated 06.10.2021, para (2), table (1), Sl. (1) under "Failed to set up institutional mechanism and procedure as per Contract".
8. Whereas, even after lapse of more than 10 (ten) months from the Appointed Date, the Contractor has failed to mobilize adequate manpower, machineries & equipment's and constructions material required for the execution of work on the site. The Batch Mix Plant has not been installed on the site. Required no. of labourers and technical team is not available on site. Apropos, the Contractor has "Failed to set up institutional mechanism and procedure as per Contract" & clearly attracts provisions in accordance with the MoRT&H Circular dated 06.10.2021.

Prashant

9. Whereas, Authority & Authority's Engineer have issued several NCRs Notices on poor maintenance of road, poor quality of work etc., but, the Contractor has not complied with all the notices for the same till date. The above defaults clearly attract provisions in accordance with the ibid MoRT&H Circular, para (2), table (1), sl. [5 (b)] under "Fails to complete minor rectifications exceeding 3 instances in a project not completed as per time given in non-conformity reports (NCR) in design/completed works/maintenance".
10. Whereas, Contractor has not followed Good Industry Practices which are inherent in the Contract Agreement and reflected in poor quality of work.
11. Whereas, the above facts of omission and commission have resulted in immense inconveniences to the public since the said project is crucial as well as has strategic importance.
12. Whereas, the Contractor has neither submitted a revised realistic work programme to complete the work nor made any proper planning for procurement of construction materials, Machineries, and other ancillary items in order to complete the project in the specific period of time, which has resulted in loss of valuable project time and clearly attracts provisions in accordance with the MoR&H Circular, para (2), table (1), sl. (1) & (2) under "Failed to set up institutional mechanism and procedure as per Contract" and has "Failed to complete or has missed any milestone and progress not commensurate with contiguous unencumbered project length/ ROW available even after lapse of 6 months from respective project milestone/ Schedule Completion date".
13. Whereas, Authority has extended all possible support to expedite the progress of the project. But the Contractor has shown no intention to execute the project as per the Contract Agreement.
14. The Contractor has failed to deploy key construction equipments as per requirement even after lapse of 6 (six) months and the deficiency was being communicated to him regularly hence, the Contractor has caused the breach of the following clauses of the MoRT&H Circular no. RW/NH-33044/76/2021 S&R (P&B), dated 06.10.2021;
 - (i) failed to set up institutional mechanism and procedure as per Contract Agreement.
 - (ii) failed to complete or has missed any milestone and progress not commensurate with contiguous unencumbered project length/ ROW available even after lapse of 6 months from respective project milestone/ scheduled completion date.
 - (iii) failed to complete minor rectifications exceeding 3 instances in a project as per time given in Non-Conformity Reports (NCR) in design/ completed works/ maintenance.
15. Whereas, Authority vide letter dated 04.08.2022 has issued Show Cause Notice to declare the Contractor as Non-Performer with a request to justify the above defaults. The reply furnished by the Contractor was not found justified and tenable, therefore cannot be taken into consideration.

RK Singh

16. However, in view of the aforesaid facts and circumstances, it is clearly evident that the EPC Contractor has failed to uphold its contractual obligations as per the Contract Agreement and has caused detrimental effect on the projects under it. In light of the aforesaid facts and circumstances, considering the non-professional attitude of **M/s CGR and Company**, and aforesaid contractual defaults, breaches, and willful non-performance in fulfillment of contractor's obligation as per the provision of the Contract Agreement, the National Highways & Infrastructure Development Corporation Limited is hereby declaring the the EPC Contractor **M/s CGR and Company** as Non-Performer in National Highways and centrally sponsored road projects as per MoRT&H Circular No. RW/NH-33044/76/2021-S&R(P&B), dated 06.10.2021.
17. The Authority is declaring the EPC contractor, **M/s CGR and Company**, as Non-Performer & as per para 8 of MoRT&H Circular 06.10.2021. Upon declaration of Non-Performer, the EPC contractor will not be able to participate in any bid with MoRT&H or its executing agencies, till such time the EPC contractor is removed from the list of Non-Performers.
18. This order is issued without prejudice to any other right or remedy available with the Authority under the Contract Agreement and applicable law.
19. This issues with the Approval of the Competent Authority.



(M. Riten Kumar Singh)
Executive Director (Technical)
NHIDCL, HQ, New Delhi

Copy to:

- i. PS to Director(T), NHIDCL, HQ
- ii. ED(T/Ps), NHIDCL
- iii. GM(P)- PMU Mokokchung
- iv. Sr. Manager (IT), HQ- NHIDCL,