

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

3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, +91 11 23461600, www.nhidcl.com

(भारत सरकार का उद्यम)



BHARATMALA  
ROAD TO PROSPERITY



BUILDING INFRASTRUCTURE - BUILDING THE NATION

CIN: U45400DL2014GOI269062

(A Government of India Enterprise)

WITHOUT PREJUDICE

NHIDCL/A&N/NH-4/Karala-Kalipur(PKG-VIII)/2020(I) /1103

Dated: 14.09.2021

To,

M/s Mohan Mutha Exports Private Limited  
"Siyat House" 961, Poonamallee High Road,  
Chennai- 600084  
Email: mutha@mmexports.com

[Kind Attn: Mr. P.K. Mutha, Director]

Subject: "Rehabilitation of section from Km 298.00 to Km 330.662 (Karala to Kalipur) of NH-04 to Intermediate lane with hard shoulder in the Union Territory of Andaman & Nicobar Islands (Total Length 32.662 km) on EPC Mode (Package- VIII) (Re-tender)."- Debarment Order- reg.

Ref: (i) NHIDCL/A&N/NH-4/Karala-Kalipur(PKG-VIII)/2020(I)/997 dated 28.07.2021  
(ii) NHIDCL/A&N/NH-4/Karala-Kalipur(PKG-VIII)/2020(I)/1040 dated 16.08.2021  
(iii) NHIDCL/A&N/NH-4/Karala-kalipur(PKG-VIII)/2020(I)/1050 dated 24.08.2021

Sir,

NHIDCL invited the bid for the work of Rehabilitation of section from Km 298.00 to Km 330.662 (Karala to Kalipur) of NH-04 to Intermediate lane with hard shoulder in the Union Territory of Andaman & Nicobar Islands (Total Length 32.662 km) on EPC Mode (Package- VIII) (Re-tender) with Bid due Date as 15.03.2021.

2. **WHEREAS**, M/s Mohan Mutha Exports Private Limited (hereinafter referred as the Bidder), submitted its bid on 15.03.2021 along with all the annexures and declarations.

3. **WHEREAS**, NHIDCL vide its letter no. NHIDC/AN/NH-4/Package-VIII/2020/801 dated 19.03.2021 had sought the following clarifications/documents from the Bidder, as per the RFP provision:

- (i) Copy of Memorandum and Articles of Association.
- (ii) Submission of experience certificates of claimed projects from project owning department/corporations.
- (iii) Details of turnover & Net worth as per desired format of Appendix-X & Appendix XI duly signed by Statutory Auditor with UDIN.

(iv) Clarification with regard to turnover claimed with respect to contractual income.

(v) Details of turnover & Net worth as per desired format of Appendix-X & Appendix-XI duly signed by Statutory Auditor with UDIN.

4. **WHEREAS**, in response to NHIDCL's letter dated 19.03.2021, vide letter dated 23.03.2021 the Bidder has submitted the clarifications/documents. The certificate of turnover of Statutory Auditor AARTHI AND ASSOCIATES as per Appendix-XI of the RFP was also annexed with the letter dated 23.03.2021.

5. **WHEREAS**, on 24.03.2021 during the evaluation of technical bids by the Technical Evaluation Committee, the observation has been raised with regard to Average Annual Turnover of the Bidder.

6. **WHEREAS**, NHIDCL vide letter dated 26.03.2021, requested the Chartered Accountant to verify the authenticity of the Auditor's certificate issued in favour of M/s Mohan Mutha Exports Pvt. Ltd.

7. **WHEREAS**, the Bidder vide their letter no. MMEPL-HO/NHIDCL/2021/01 dated 27.03.2021 admitted the discrepancy in submission of Appendix-XI - Turnover details. For the purpose of convenience the relevant portion of the letter dated 27.03.2021 is reproduced as under:


*"With reference to the above said tender, we would like to inform you that there has been a discrepancy in submission of Appendix XI-Turnover details. The said Turnover is relating to our 50% share in JV Company Mohan Mutha Ashoka Buildcon LLP which has completed the Road Project in Maldives. The certificate was issued by our Financial Person at his individual capacity without intimating the management of M/s Mohan Mutha Exports Private Limited. We shall undertake strict action against such non professionalism and adhere to norms set out in the tender.*

*Further, in light of the above incident, we want to withdraw the certificate (Appendix XI Turnover Details) submitted from our end.*

*Hence we are requesting your good self not to consider the above said document and we are withdrawing the tender submitted (Bid/Package No. NHIDCL/A&N/NH-04/Package-VIII/2020 for "Rehabilitation of section from Km 298.00 to Km 330.662 (Karala to Kalipur) of NH-04 to Intermediate lane with hard shoulder in the Union Territory of Andaman & Nicobar Islands (Total Length 32662 km) on EPC Mode (Package-VIII). We deeply apologize for the inconvenience caused to team of NHIDCCL in this regards.*

*We shall make sure that we shall not repeat the same thing in future."*

8. **WHEREAS**, the Bidder vide letter dated 27.03.2021 has admitted the discrepancy in submission of Appendix XI-Turnover details and stated that certificate was issued by their Financial Person. The Bidder has also stated that they want to withdraw the certificate

 14/09



(Appendix XI Turnover Details) as well as requested the NHIDCL not to consider the above document and they are withdrawing the tender submitted for the project in question.

9. **WHEREAS**, in response to NHIDCL letter dated 26.03.2021, M/s AARTHI & ASSOCIATES, CHARTERED ACCOUNTANT, responded vide letter dated 29.03.2021, stating as under:

a. Turnover Certificate (1st Certificate) having UDIN No.21229700AAAAAQ4988 dated 24.02.2021 has been issued by us and is towards the total turnover (including trading turnover) achieved by M/s Mohan Mutha Exports Private Limited for 5 Financial years from F.Y.:2015-2016 TO F.Y.:2019-2020.

b. With regards to the other certificate containing UDIN No. 20229700AAAAAQ5684 (copy of which has been sent by you) and where the certificate envisages (at Sl.No.8) that "turnover is in respect of execution of construction/civil/engineering activities and does not include any trading activity of M/s Mohan Mutha Exports Private Limited" was not issued by us.


The UDIN No.20229700AAAAAQ5684 belongs to a different certificate issued by us for the above said company on 29.10.2020. Copy of the said certificate issued by us is enclosed herewith for your kind perusal and records.

We hope that the above informations would enable your goodself to finalise the matter. In case any further clarification is required from our side we will be furnishing the same once we hear from you.

10. **WHEREAS**, a meeting of the Technical Bid Evaluation Committee (TEC) was again convened on 05.04.2021 to re-evaluate the technical proposals submitted by the Bidders on Bid Due Date i.e. 15.03.2021. The Technical Evaluation Committee was informed about the fact that the bidder M/s Mohan Mutha Exports Private Limited vide their letter dated 27.03.2021, informed that they wish to withdraw the certificate submitted in Appendix-XI, wherein turnover of their firm w.r.t. 50% share in JV company named as M/s Mohan Mutha Ashoka Buildcon LLP has been submitted. The Committee took cognizance of the facts and opined that since the bidder has conceded their mistake by submitting the written communication for withdrawal of bid, hence, the bidder should be declared as 'Non Responsive', and further the Committee recommended that strict action against the bidder should be initiated as per RFP condition. Accordingly, M/s Mohan Mutha Exports Pvt. Ltd., was declared as 'Non Responsive'.

11. **WHEREAS** relevant portion of Clause 2.6 of the RFP reads as under:

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

  
14/09

2.6.2 The Authority reserves the right to reject any BID if:

(a) at any time, a material misrepresentation is made or uncovered, or

(b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the BID. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Joint Venture, then the entire Joint Venture and each Member of the Joint Venture may be disqualified/ rejected. If such disqualification/rejection occurs after the BIDs have been opened and the lowest Bidder gets disqualified / rejected, then the Authority reserves the right to annul the Bidding Process and invites fresh BIDs.

2.6.3 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of defect liability subsistence thereof, that one or more of the eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the contractor either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Contractor, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Contractor. In such an event, the Authority shall be entitled forfeit and appropriate the Performance Security, as damages and/or to debar the Bidder/Selected Bidder/Contractor from participating in the future projects of NHIDCL, for a period of one year, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and / or the Agreement, or otherwise.

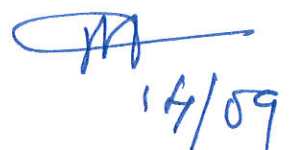
12. **WHEREAS**, relevant portion of Clause 2.20.5 of the RFP reads as under:

2.20.5 The Bidder may be debarred for a period of one year from participating in the future projects of NHIDCL, for causing loss of time and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority under the bidding documents and / or under the Agreement, or otherwise, under the following conditions:

(a) Deleted

(b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of this RFP;

(c) If a Bidder withdraws its BID during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;

Handwritten signature and date '14/09' in blue ink.



(d) In the case of Selected Bidder, if it fails within the specified/extended time limit by Authority -

(i) to sign and return the duplicate copy of LOA;

(ii) to furnish the Performance Security /Additional Performance Security (if any) as per Clause 2.21; or


(iii) to sign the Agreement;

13. **WHEREAS** relevant portion of Clause 4 of the RFP reads as under:

4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Agreement, the Authority may reject a BID, withdraw the LOA, or terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to debar the Selected Bidder from participating in the future projects of NHIDCL for a period of One year and forfeit & appropriate the Performance Security, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Agreement, or otherwise.

14. **WHEREAS**, if the discrepancy of Turnover details had not been observed at the time of technical evaluation of the bids, in that event, M/s Mohan Mutha, would have been considered for opening of the financial bid. Hence, the Bidder has furnished the material misrepresentation and/or false information and due to this malafide conduct, M/s Mohan Mutha Exports Private Limited has influenced the bidding process and caused time loss and damages to the Authority resulting into delay in finalizing the bid and award of the project, which is of strategic importance. The sum and substance of the averments is that the bidder is responsible for material misrepresentation and submission of false/forged documents to the Authority and adopted the fraudulent practice in accordance with the term of the RFP. Thus, M/s Mohan Mutha Exports Private Limited, has violated the procedures for participating in the tender floated by the Authority.

15. **WHEREAS**, NHIDCL vide letter No.NHIDCL/A&N/NH-4/Karala-Kalipur(PKG-VIII)/2020(I)/997 dated 28.07.2021, refer (i) have called upon the Bidder to explain within 15 days from the date of issue of that notice as to why, M/s Mohan Mutha Exports Private Limited, should not be debarred for a period of one year from participating in future projects of NHIDCL in accordance with Clause 2.6.3, 2.20.5, 4.1 of the RFP and Article 2 and 4 of the Integrity Pact.

  
14/09

16. **WHEREAS**, the bidder has failed to submit the reply on the Show Cause Notice issued on 28.07.2021. Further, NHIDCL vide letter No. NHIDCL/A&N/NH-4/Karala-Kalipur(PKG-VIII)/2020(I)/1040 dated 16.08.2021 refer (ii) once again have called to reply within 7 days from the date of issue that letter.

17. The Bidder vide its email dated 17.08.2021 acknowledged the Show Cause Notice and intimated that ***"since the mails are being sent from Gmail ID, it got settled in junk emails and, therefore, we would not be able to reply within the due date. We have retrieved the mails yesterday upon the receipt of the remainder mail."*** and requested for 10 -15 working days to reply. NHIDCL vide its letter dated 24.08.2021 refer (iii) allowed the Bidder to submit the reply by 01.09.2021.

18. The Bidder, M/s Mohan Mutha Exports Private Limited vide its letter dated 31.08.2021, submitted the reply to the Show cause Notice stating therein that (i) income of the JV has been considered during declaration of total income (ii) NHIDCL has been requested to not consider the bid and apologized for the inconvenience due to this unintentional error (iii) the error was unintentional on the part of the management (iv) suitable action against the employee concerned has been taken and he was relieved from the duty immediately after this unfortunate incident and the Bidder requested to not to debar.

19. The reply of the bidder has been perused, examined and rejected on the following grounds:

- (i) The Bidder has failed to ensure the highest standard of ethics during the bidding process.
- (ii) The employee acted for and on behalf of the company and has adopted the fraudulent practice for the end benefit of M/s Mohan Mutha Exports Private Limited.
- (iii) Ignorance on the part of the bidder cannot be an excuse to shirk away from the fulfilling the obligations as per RFP.
- (iv) The fraudulent act of the employee of the bidder has caused loss of time and effort of the Authority as well as delayed the project of national importance.

20. All the earlier correspondences' /letter/ notices of the Authority/ NHIDCL may be read as part and parcel of this order.


21. In view of the aforesaid facts and circumstances, M/s Mohan Mutha Exports Private Limited, is hereby debarred from the participating in any tendering process for the works of NHIDCL and works under other Centrally Sponsored Scheme, for a period of 01 (One) month from the date of issuing this order as per clause 2.6.3, 2.20.5 and Section 4 of the RFP.

  
14/09

22. This letter is issued without prejudice to any other rights or remedy available with the Authority under the Contract Agreement and or applicable law.

23. This issues with the approval of the Competent Authority.

Yours faithfully,



(Ajay Ahluwalia)  
Executive Director (T), NHIDCL

Copy to:

14 Sep 2021

- i. Director General (RD) & SS Ministry of Road Transport & Highways.
- ii. Director General (Border Roads), Seema Sadak Bhawan, Ring Road, Narayana, New Delhi-100010.
- iii. Chairman, NHAI
- iv. Chief Secretaries (PWD/Roads) of all State Govt./UT with National Highways and Centrally Sponsored Schemes.
- v. Chief Engineer of all State Govt./UT dealing with National Highways and Centrally Sponsored Schemes.
- vi. P.S to MD, NHIDCL/Director (A&F), NHIDCL
- vii. All Officers of NHIDCL-HQ/Branch Offices.
- viii. Media relation/IT division with request to get it hosted on NHIDCL website.