

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

No. NHIDCL/Ar.Pr./CivilWork/FootTrack/Tungri-Samchung/2022/2980 Dated: 13.12.2022

To,

M/s North East Engineering & Construction Agency
A Sector, Naharlagun,
Papum Pare District,
Arunachal Pradesh 791110
Email:- neecagency@gmail.com

(Kind Attention : Mr. Tech Nikum Tara, Authorized Signatory)

Subject: Construction of Foot Track from Tungri to Samchung from KM 0.000 to KM 29.546 in West Kameng District of the State of Arunachal Pradesh on EPC Mode – **Order for Debarment for a period of one year from participating in the future projects of NHIDCL-Reg.**

Reference: (i) NHIDCL letter no. NHIDCL/CivilWorks/Ar.Pr./Hunli-Anini(pkg-1Bridge work/2485 dated 20.07.2021

(ii) Your letter no. NEECA/NHIDCL/FOOT-TRACK/2021-22/ dated 26.10.2021

(iii) NHIDCL letter no. NHIDCL/Ar.Pr./CivilWork/FootTrack/Tungri-Samchung/2021 dated 17.02.2022

(iv) NHIDCL letter no. NHIDCL/Ar.Pr./CivilWork/FootTrack/Tungri-Samchung/2022/2755 dated 24.03.2022

(v) Your letter no. NEECA/NHIDCL/FOOT-TRACK/2022-23/15 dated 05.04.2022

(vi) Your letter no. NEECA/NHIDCL/FOOT-TRACK/2022-23/16 dated 18.04.2022

(vii) NHIDCL letter no. NHIDCL/Ar.Pr./CivilWork/FootTrack/Tungri-Samchung/2022/2827 dated 19.05.2022

viii) NHIDCL letter no. NHIDCL/Ar.Pr./CivilWork/FootTrack/Tungri-Samchung/2022/2837 dated 06.06.2022

ix) Your letter no. NEECA/NHIDCL/FOOT-TRACK/2022-23/22 dated 14.06.2022

x) Your letter no. NEECA/NHIDCL/FOOT-TRACK/2022-23/023 dated 18.07.2022

1. **WHEREAS**, Letter of Award (LOA) for the work of "Construction of Foot Track from Tungri to Samchung from KM 0.000 to KM 29.546 in West Kameng District of the State of Arunachal Pradesh on EPC Mode" (hereinafter referred as "Project") was issued to M/s North East Engineering & Construction Agency (hereinafter referred as the "Contractor") on 20.07.2021 by National Highways & Infrastructure Development Corporation Limited (NHIDCL) (hereinafter referred as the "Authority"); and.
2. **WHEREAS**, the Contract Agreement for the subject work has been signed on 08.09.2021 between Authority and the Contractor after providing 100% of Performance Bank Guarantee i.e. Rs 96,56,472 /- as per Terms & Condition of the Tender Documents; and
3. **WHEREAS**, on 26.10.2021, the Contractor submitted the Additional Performance Security amounting to Rs.6,43,76,476/-, however, the SFMS confirmation of the Additional Performance Bank Guarantee has not been received yet.
4. **WHEREAS**, NHIDCL vide letter dated 17.02.2022 and email dated 11.02.2022 had requested the Contractor to contact the BG issuing bank and ask them to send the SFMS confirmation to the NHIDCL Canara Bank (CNRB0019062) immediately.
5. **WHEREAS**, despite numerous requests and reminders from NHIDCL, the SFMS Gateway Confirmation of the Bank Guarantee against Additional Performance Bank Guarantee has not been received yet and without receipt of the SFMS confirmation, the BG submitted may not be considered as valid BG.
6. **WHEREAS**, vide letter dated 25.02.2022, NHIDCL has asked the BG issuing bank to confirm the authenticity of the BG. In response thereto, the issuing Bank i.e. Bank of India, Lindsay Street Branch, Kolkata vide their letter No. Ref-LDS/SH/21-22 dated 05.03.2022 has stated that *"We hereby confirm that above Bank Guarantee No.-BKID4012BG0066129 for Rs.64376476 dt. 26-10-2021 has not been issued by us. This guarantee is fake & forged."*
7. **WHEREAS**, on the basis of the confirmation received from the Bank, it is stated that the Contractor has deliberately and with malafide intention submitted fake & forged documents and influenced/vitiated the entire bidding process.
8. **WHEREAS**, NHIDCL vide letter dated 24.03.2022 has already issued Notice for intention to terminate the Contract under Article 23 of Contract Agreement.



9. **WHEREAS**, vide letter dated 05.04.2022, the Contractor in response to NHIDCL letter dated 24.03.2022, submitted its reply stating therein that:

"2. With due respect and humble submission I beg to submit my request under the circumstances that since the; "acquiring and providing Right of Way on the Site in accordance with the alignment finalised by the Authority, free from all encroachments and encumbrances, and free access thereto for execution of this sub project and obtaining licences and permits for environment clearance for the Project is underway".

3. Therefore, in view of the above I fervently requesting your august authority to allow/give us additional 45 days extension of time period to resolve the issue; for which act of your magnanimity I shall be ever grateful to you and authority please,"

10. **WHEREAS**, the Contractor again vide letter dated 18.04.2022 submitted the following:

" With due respect and humble submission it is to intimate you that as we assured we are resolving the BG issue and its under process till date.

Therefore, in view of the above I fervently requesting your august authority to be with us till the matter is solve for which act of your magnanimity we shall be ever grateful to you and authority please,

11. **WHEREAS**, NHIDCL vide letter dated 19.05.2022 has already issued the termination order to M/s North East Engineering & Construction Agency, under Article 23 of Contract Agreement, as the Contractor has adopted the fraudulent practice in order to obtain the bid and deliberately influenced/vitiated the entire bidding process.

12. **WHEREAS**, as per Clause 23.1(v) of the Contract Agreement:

"As a natural consequence of the termination, due to the contractor's failure, the contractor shall deemed to have been debarred for a period of a period of one year and shall not be able to bid any contract of the Authority either singularly or in a JV or its Related Parties."

13. **WHEREAS**, NHIDCL vide letter dated 06.06.2022 has issued Show Cause Notice for debarment and asked M/s North East Engineering & Construction Agency to explain as to why, it should not be debarred for a period of two years from participating in the future projects of NHIDCL.

14. **WHEREAS**, vide letter dated 14.06.2022, M/s North East Engineering & Construction Agency has furnished its reply to the Show Cause Notice for Debarment dated 06.06.2022. Vide the reply dated 14.06.2022, the Contractor has submitted the following amongst others and requested the NHIDCL to recall the termination order dated 19.05.2022 and not to initiate any punitive action:



(i) Sh. Kumar Tajo, the Proprietor of M/s N.T. Enterprises approached M/s North East Engineering & Construction Agency, to award the project on back to back basis and the Power of Attorney was issued in favour of Sh. Kumar Tajo.

(ii) Sh. Kumar Tajo, intimated that he had arranged Additional Performance Bank Guarantee amounting to Rs.6,43,76,476/-.

(iii) Sh. Kumar Tajo, informed that Shri Gambo Sangpho alaia Lama and Sh. Aditya Mishra had prepared the bank guarantee of Rs.6,43,76,476/-, which is found to be forged and fake. Sh. Kumar Tajo, being the attorney holder of M/s North East Engineering & Construction Agency, lodged the FIR before the Officer-in -Charge of Naharlagun Police Station, against Shri Gambo Sangpho alaia Lama and Sh. Aditya Mishra.

15. **WHEREAS**, again vide letter dated 18.07.2022, M/s North East Engineering & Construction Agency, has requested the NHIDCL/Authority to withdraw the FIR lodged against it and also requested not to black list the firm.

16. **WHEREAS**, M/s North East Engineering & Construction Agency, by way of reply dated 14.06.2022 also stated that it has approached the Hon'ble Gauhati High Court, Itanagar Bench, by way of filing the Writ Petition being WP (C) No. 201/22. The Hon'ble High Court vide order dated 08.06.2022, has been pleased to direct the Authority to consider your grievances and dispose off the same.

17. **WHEREAS**, the reply dated 14.06.2022 and further correspondence dated 18.07.2022, received from M/s North East Engineering & Construction Agency, has been considered and upon consideration the request to recall the termination order dated 19.05.2022 and not to initiate any punitive action in terms of debarment is being rejected on the following grounds:

(i) M/s North East Engineering & Construction Agency, has never informed NHIDCL/Authority about signing of the Power of Attorney with M/s NT Enterprises. As per LOA dated 20.07.2021 issued to M/s North East Engineering & Construction Agency, had to submit the BG. Hence, North East Engineering & Construction Agency, is fully responsible for submission of Bank Guarantee.

(ii) NHIDCL/Authority is not aware of any signing of the sub-contracting agreement with Shri Kumar Tajo. M/s North East Engineering & Construction Agency, has not obtained the prior approval of the NHIDCL/Authority as per Clause 4.2 of Article-4 of the Contract Agreement.



(iii) NHIDCL vide several letters and emails (on registered address and email i.d) has asked M/s North East Engineering & Construction Agency, that SFMS confirmation of the Additional PBG amounting to Rs.6,43,76,476/- had not been received to NHIDCL. M/s North East Engineering & Construction Agency was also requested by NHIDCL to contact the BG issuing bank and ask them to send the SFMS confirmation to the NHIDCL Canara Bank (CNRB0019062). Therefore, Contractor statement that he has been informed by Shri Kumar Tajo, vide letter dated 29.03.2022 regarding issue of discrepancies in the additional Performance Bank Guarantee is not acceptable.

(iv) As per the provisions of the Contract Agreement, only M/s North East Engineering & Construction Agency is responsible for submission of any Performance or Additional Performance Bank Guarantee. Further, M/s North East Engineering & Construction Agency, is also responsible for any material misrepresentation or any materially incorrect or fake document submitted by M/s North East Engineering & Construction Agency or their alleged power of attorney holder as per clause 4.2 of Article-4 of the Contract Agreement.

(v) It was found that M/s North East Engineering & Construction Agency, has adopted the fraudulent practice in order to obtain the bid and thereby influenced/vitiated the entire bidding process, and deliberately with malafide intention has caused breach to the relevant provisions of the RFP and Contract Agreement as well as caused loss of time and efforts of the Authority. Accordingly, as per provision of Article 23.1 (n) and (o) of the Contract Agreement and Clause 2.6.3 and 4.1 of RFP, Contract Signed on 08.09.2021 with M/s North East Engineering & Construction Agency, was terminated by NHIDCL and further action for encashment of PBG amounting to Rs. 96,56,472/-, lodging of FIR against M/s North East Engineering & Construction Agency has been taken by the NHIDCL.

18. All the earlier correspondences/letters/notices of the Authority/NHIDCL, may be read as part & parcel of this order.

19. In view of the aforesaid facts and circumstances, M/s North East Engineering & Construction Agency, is hereby debarred for a period of one year from participating in the future projects of NHIDCL in accordance with relevant provisions of the Contract Agreement and RFPs and more specifically Clause 2.6.3, 2.20.5 and 4.1 of the RFP.

20. This Order of debarment may also be read in compliance of the direction passed vide order dated 08.06.2022 in the W.P.(C) No. 201/2022 titled as M/s North East Engineering & Construction Agency Vs. The Union of India & 6 Ors., by the Hon'ble The Gauhati High Court, Itanagar Bench.

21. This order of debarment is hereby issued without prejudice to the rights of the NHIDCL available under the relevant provisions of the RFP/Contract Agreement as well as applicable laws.



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

Yours faithfully,



(W. Blah)
Executive Director (T)

Copy to :

- 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, G 5& 6, Dabri - Gurgaon Rd, Sector 10 Dwarka, Dwarka, Delhi, 110075
- 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/T), NHIDCL
- vii. All officers of NHIDCL-HQ/Branch Offices.
- viii. Media relation/IT division with request to get it hosted on NHIDCL website please.