

**GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS**



O/o the Chief Engineer-Regional Officer
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F.No.RW/BHP/MP/DPP/NHDP/JBP-Hiran/NH-12/15-16/14/2021-22/249 Date: 27.04.2022

To,

Authority's Engineer,
M/s Intercontinental Consultants & Technocrats Pvt. Ltd,
A-8, Green Park, New Delhi - 110016

Subject: Consultancy Services for Authority's Engineer for Supervision of work Rehabilitation and up-gradation of Jabalpur to Hiran River section of NH-12 from existing Km 11/400 to Km 66/400 [Design Ch. 10.400 to Ch. 66.000] in the State of Madhya Pradesh to 4-lanes with Paved shoulders on EPC mode under NHDP-III - Action Against Consultant for misrepresentation of facts in COS proposal - Reg.

- Ref (i) M/s Wagad Infra Projects Pvt. Ltd.'s letter no. WAGAD-VRS/MPRDC/JHS/2018/463 dated 09.04.2020.
(ii) M/s ICT letter no. ICT/AE/MPRDC/IND/NH-12/TL/888 dated 27.04.2020
(iii) This office letter no. RW/BHP/MP/DPP/NHDP/JBP-Hiran/NH-12/15-16/14/622 dated 22.07.2021.
(iv) Contract Agreement dated 19.12.2007

Whereas, Ministry of Road Transport and Highways represented through Managing Director, MPRDCL signed an agreement with M/s Wagad Infra Projects Pvt. Ltd - M/s Sorathia Velji Ratna Co (JV) 19.12.2017, Bansawara, Rajasthan on 19.12.2017 for the Rehabilitation and up-gradation of Jabalpur to Hiran River section of NH-12 from existing Km 11/400 to Km 66/400 [Design Ch. 10.400 to Ch. 66.000] in the State of Madhya Pradesh to 4-lanes with Paved shoulders on EPC mode under NHDP-III.

1.1 As per definition of "Authority" given under Clause 28.1 of the Contract Agreement which states that "Authority" shall have meaning and attributes thereto in array of Parties hereinabove as set forth in the Recital'. As per the Recital, Ministry of Road Transport and Highways is being represented through Managing Director, MPRDCL.

1.2 Under the enabling provision for Appointment of Authority Engineer under Clause 18.1 of the above mentioned Contract Agreement, by necessary implications the scope of rights of Principal i.e. MORTH shall be applicable to any contract agreement signed between the Agent (MPRDC) and the Authority Engineer towards fulfillment of its contractual obligations under Clause 18.1 of the above mentioned Contract Agreement dated 19-12-2017 as per which the Authority has every legal right is entitled to take action against the defaulting Consultant.

2. Whereas, Contractor vide his letter dated 09.04.2020 (Ref.i) has submitted Authority Engineer a Change of Scope proposal-II for the following:

- (i) Construction of new HPC (05nos.) & Box Culvert (01no.) - Rs.36.47 lakh (20.06+16.41)
- (ii) Retaining wall / Toe wall in approaches of Hiran River bridge-Rs. 222.53 lakh

2.1 Thereafter, TL Authority's Engineer vide letter dated 27.04.2020 (Ref.ii) and MPRDCL vide letter dated 11.05.2020 submitted the COS proposal for construction of 05 nos of HPCs & 01 no of Box Culvert at Rs. 12.32 lakh &Rs 11.35 lakh respectively. Further COS cost for Retaining wall/ Toe wall in approaches of Hiran River Bridge has been modified to 140 m length at cost of Rs. 107.51 lakh.

3 The site was inspected by EE & AEE of O/o RO, MoRTH Bhopal on 25.06.2021 & 01.07.2021. Inspection Note of the project reach was issued vide this office letter dated 07.07.2021.

3.1 During site inspection, it was observed that 05 nos. of HPCs have not been constructed on the project, which are provided in Schedule-B of Contract Agreement & widening of 05 nos. of HPCs also has not been constructed at site and negative cost for these culverts should have been accounted for in the proposed COS in respect of culverts submitted vide Contractor's letter dated 09.04.2020&Authority's Engineer letter dated 27.04.2020.

3.2 Contractor proposed COS for 140m long Retaining wall/ Toe wall in approaches of Hiran River Bridge and after site verification, it has been observed that after completion of work, 791m long Retaining wall/ Toe wall in approaches of Hiran River Bridge has been constructed at site and no further 140m length of Retaining wall construction is required. Despite this COS for additional length of Retaining wall/ Toe wall in approaches of Hiran River Bridge has been recommended by Authority's Engineer letter dated 27.04.2020, when it is not required.

3.3 As such it is observed that Authority's Engineerhas misrepresented the facts and submitted the deficient COS proposal by not including negative cost towards 05 nos. of HPCs not constructed at site as per scope and included positive COS for additional length of Retaining wall / Toe wall in approaches of Hiran River Bridge.

4. Show cause notice: - The notice was issued by O/o CE (RO) to Authority's Engineer on 22.07.2021 for the following:-



i. Explanation as to why Rs. 0.35 Cr. COS for 50 m long additional Retaining wall/ Toe wall in approaches of Hiran River Bridge was proposed by Contractor and recommended by Authority Engineer, when it was not required, as verified by MORTH officials during site inspection.

ii. Explanation as to why negative cost towards 05 nos. of HPCs not constructed on site as per scope of work (as verified by MORTH officials during site inspection) not accounted for in the COS proposal submitted by Contractor and recommended by Authority Engineer.

iii. Whereas Notice was issued by this office vide letter dated 22.07.2021 (Ref. iii) to the Authority Engineer for aforesaid defaults/suppression of facts on the part of Authority Engineer to which Acting Team Leader, M/s ICT vide letter no. dated 30.07.2021 has submitted parawise reply along with Photographs. Upon examining the reply submitted by AE, It is observed that AE has not done due diligence in recommending economical cost option in respect of retaining wall for Hiran bridge and not considered negative change of scope for culverts included in Schedule-B. Therefore the reply is not satisfactory.

5. Whereas, as per Clause 1.9 under Section 2 of RFP (Letter of Invitation of Consultant): "It is the Employer's policy that the consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the Employer":

(a) "Defines, for the purpose of this paragraph, the terms set forth below as follows:

(ii) "Fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract";

(c) "will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practice in competing for, or in executing a contract".

(ii) Action against Consultant was deliberated as per Cl. 2.9.1 of CA regarding termination of Contract & Cl 1.9 of RFP of to declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practice in competing for, or in executing a contract.

(iii) In view of the above, it is seen that AE has misrepresented the facts during execution of work while submitting COS, which may be called as 'Fraudulent Practice'.

(iv) Further reference is drawn towards Ministry's letter no RW/NH-33044/76/2021-S&R(P&B) dated 07.10.2021 regarding penal actions to be taken against Authority's Engineer in lapses on their part/deficiencies in services provided and is as under:

Sl No.	Type of Deficiency	Consultant (IE/AE/CSE/PMC) engaged during construction & maintenance	
		Key Personnel	Firm
2(d)	Delay in processing EOT/COS proposals, inaccurate assessment of COS proposals , not issuing NCRs, delay/ improper review of designs/ drawings/ work programme or failure to submit Completion/ Provisional Completion Certificate as prescribed in contract.	The concerned key personnel & Team leader to be removed from the project and debarred upto 1 year.	Declaring the Consultant as Non-Performer upto 1 year or till rectification of deficiencies and taking adequate measures not to repeat such instances in future, whichever is earlier.

6. Therefore M/s Intercontinental Consultants and Technocrats Pvt. Ltd, New Delhi is hereby declared as Non-Performer for any tender or RFP issued by the Authority/ MoRTH/ NHAI/ NHIDCL/ State Government for NH works upto 1 year or till rectification of deficiencies whichever is earlier and taking adequate measures not to repeat such instances in future and concerned TL of the AE shall be removed from the project and is debarred upto 1 year for working in any capacity in NHs works from the date of issue of this letter as per Cl 1.9 of RFP and Ministry's Circular dated 07.10.2021.

7. This issues with the approval of Competent Authority.



(Sumit Kumar)

Superintending Engineer
For CE-RO, MoRT&H, Bhopal

Copy to:

1. Sr. PPS to Secretary, MoRTH, New Delhi
2. ADG, MoRT&H, New Delhi
3. PS, MPPWD, Bhopal
4. CE (West Zone), MoRT&H, New Delhi
5. MD, MPRDCL, Bhopal
6. CE(BOT), MPRDCL, Bhopal
7. IT Cell, NHAI - for information and with request to upload this letter in their website.
8. NIC, NHIDCL - for information and with a request to upload this letter in their website.
9. General Manager, INFRACON with request to upload this letter in their website.
10. M/s Wagad Infra Projects Pvt. Ltd, Udaipur
11. M/s Sorathia Velji Ratna Co, Vadodara
12. NIC, MoRTH, New Delhi - for uploading in the Ministry website.