



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार)

National Highways Authority of India

(Ministry of Road Transport and Highways, Government of India)

जी-5 एवं 6, सेक्टर-10, द्वारका, नई दिल्ली - 110 075 • G-5 & 6, Sector-10, Dwarka, New Delhi-110075

दूरभाष/Phone : 91-11-25074100 / 25074200



WITHOUT PREJUDICE

NHAI/HQ/BH/Dana-Bihta/Elevated/Proc/2022/29

Date: 01.05.2023

To

M/s Ashoka Buildcon Limited
S. No. 861, Ashoka House
Ashoka Marg, Vadala
Nashik-422011, Maharashtra

(Kind Attn: Mr. Ajay A Kankariya, Additional GM (Business Development))

Sub: Construction of Four Lane Elevated Corridor and at-grade improvements from Design Ch:0+000 to Design Ch: 19+870 of Danapur - Bihta Section with providing connectivity to the existing RoB near Danapur station (0.231 km), 1.35 Km ramps & at-grade improvements to Four lane section on Danapur side and Upgradation of existing Two lane carriageway to Four Lane carriageway from Design Ch:19+870 to Design Ch:23+500 of Bihta - Koilwar section (Total Length 25.081 Kms) in the state of Bihar on EPC Mode - **Annuling bidding process and withdrawal of letter of Award - reg.**

- Ref (i) Your RFP application submitted on 23.11.2022 & Financial proposal opened on 06.01.2023
(ii) NHAI letter no. NHAI/HQ/BH/Dana-Bihta/Elevated/Proc/2022/1088 dated 25.01.2023
(iii) Your letter no. ABL/NHAI/Dana-Bihata/2022-23/14136 dated 24.03.2023

Sir,

May please refer to letter dated 25.01.2023 cited under reference (ii), vide which LoA for the subject project was issued. In response to the LOA, vide letter dated 24.03.2023 cited under reference (iii), you had sought time for signing the contract agreement after 15.04.2023.

2.1 It may be recalled that the bids for the subject project was invited on 14.07.2022 with the extended bid due date by 23.11.2022 (e-tendering mode) and the Technical Bids were opened on 24.11.2022.

2.2 On evaluation of Technical and opening of Financial Bids on 06.01.2023 respectively, your company, M/s Ashoka Buildcon Limited, was declared selected bidder as per Clause 1.2.6 of RFP. Accordingly, with the approval of the Competent Authority, the Letter of Award (LoA) was issued on 25.01.2023.

2.3 MoRTH, vide order dated 06.02.2023 has intimated that the bids of M/s Ashoka Buildcon Limited shall not be considered for placement of contract till the conclusion of proceedings going on in the Ministry with regard to violation of conditions of Integrity Pact owing to a case filed by CBI against some employees of M/s Ashoka Buildcon Limited as well as your company in the project "Pararia-Mohania section of NH-319 in the State of Bihar". Thereafter, MoRTH, vide order dated 02.03.2023, has issued debarment order against M/s Ashoka Buildcon Limited for 45 Days w.e.f. issuance of said order. The ibid debarment order was intimated to M/s Ashoka Buildcon Limited vide NHAI letter no. NHAI/BH/Misc/CBI/2022/1136 dated 07.03.2023 (Copies enclosed at Annexure-1).

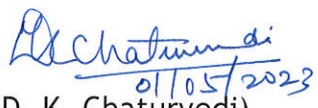
2.4 It is not out of place to mention clause 2.1.15 of the RFP which stipulates that *"All Orders of Ministry of Finance/DPIIT/any other Government agencies, as applicable and prevalent on the date of LOA, shall be applicable"*. Further, Ministry of Finance OM dated 31.08.2022, regarding clarification on debarment guidelines, states inter alia that debarment will be applicable even for the cases where the bids have been opened much before the debarment order and the Contract has not been entered into till issue of debarment order (copy enclosed for reference). In the present matter, the agreement has not been entered in as much as the bidder was debarred upto 15.04.2023.

2.5 Further, the clause 3.3.3 of RFP stipulates that "in the event that the Lowest Bidder is not selected for any reason, the Authority shall annul the Bidding Process and invite fresh BIDs.

3. In view of the aforementioned discussion and provisions of RFP, MoRTH order dated 02.03.2023 and ibid guidelines issued by Department of Expenditure, it has been decided by the Authority to annul the bidding process. According the said LoA dated 25.01.2023 has been withdrawn and the Performance Bank Guarantee furnished by you on 08.02.2023, is being returned.

4. This has approval of the Competent Authority.

Yours sincerely,


(D. K. Chaturvedi)
GM (T)-BH

Copy to:
RO Patna
PD, PIU-Patna



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार)

National Highways Authority of India

(Ministry of Road Transport and Highways, Government of India)

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दूरभाष/Phone : 91-11-25074100 / 25074200

Annexure -1



NHAI/BH/Misc/CBI/2022/1136

Date: 07.03.2023

To,

The Authorized Representative
M/s Ashoka Buildcon Limited
S. No. 861, Ashoka House,
Ashoka Marg, Vadala,
Nasik-422011 (Maharashtra)

Sub: Violation of the conditions of Article 2 of Integrity Pact of the Contract Agreement signed between NHAI and M/s a Ashoka Buildcon Limited for 4-laning of Pararia- Mohania Section of NH- 319 (Old NH-30) From Km. 54+530 (Design chainage) to Km. 115+330 (Design Chainage) on EPC Mode-order of Debarment-reg.

- Ref: (i) NHAI letter no. NHAI/BH/Misc/CBI/2022/999 date 22.11.2022 (Show Cause notice)
(ii) Your letter no ABL/NH-319/Pkg-II/2022-23/136628 dated 28.11.2022.

In reference to the FIR number RC0232022A0010 filed by CBI in subject matter, a Show Cause Notice issued by NHAI vide reference (i) above in response to which you have submitted your reply vide reference number (ii) above.

2. Above details along with all relevant particulars were forwarded to the Competent Authority of MoT&H for decision as per extent delegation to decide on such matters.

3. In this regard, MoRTH vide dated 02.03.2023 (copy enclosed) has deemed fit that M/s Ashoka Buildcon Limited be debarred for a period of 45 days from date of issue of order of debarment (copy enclosed for reference). Accordingly, this order Ministry of Road Transport and Highways issued vide NH-35014/01/2023-H (218156) dated 02.03.2023 is hereby served upon to M/s Ashoka Buildcon Limited for information.

(D.K.Chaturvedi)
07.03.2023
(D.K.Chaturvedi)
GM (T)-Bihar

Encl : Copy of MoRTH order dated 02.03.2023

Copy to:

- (i) CVO, NHAI
- (ii) Deputy Sectary, Highway Section, MoRTH
- (iii) PS to Chairperson
- (iv) PS to Member (Admin.)/PPP
- (v) PS to Member (Tech.)
- (vi) PS to Member (Projects)-MK
- (vii) Web Admin: for circulation to All ROs/PIUs/All Officers/Staff of NHAI.

NH-35014/01/2023-H (218156)

Government of India

Ministry of Road Transport & Highways
(Highways Section)

Transport Bhawan, 1, Parliament Street, New Delhi- 110001

Dated: 02.03.2023

ORDER

A report was received that CBI, ACB, Patna has filed an FIR No. RC No. RC0232022AA0010 dated 23.09.2022 on the ground that employees of the M/s Ashoka Buildcon Limited have allegedly provided illegal gratification through illicit means to some of the employees of NHAI in respect of construction of four laning of Pararia-Mohania Section of NH-319 (Old NH-30) from Km. 54+_530 (Design Chainage) to Km. 115+330 (Design Chainage) on EPC Mode in the State of Bihar (Package-II). The said case has been registered against the employees of NHAI as well as employees of M/s Ashoka Buildcon Limited under the provisions of Prevention of Corruption Act and Indian Penal Code under Section 120-B IPC Read with section 7 & 8 of PC Act 1988 (as amended in 2018).

2. The report indicated that prima facie M/s Ashoka Buildcon Limited had violated Article 2 of the Integrity Pact of the contract agreement signed between NHAI and M/s Ashoka Buildcon Limited for Construction of Four laning of Pararia-Mohania Section of NH-319 (Old NH-30) from Km. 54+_530 (Design Chainage) to Km. 115+330 (Design Chainage).

3. The matter has been examined in the Ministry by the Competent Authority nominated to decide such matters vide O.M. No. NH-35014/20/2020-H-Part(2), dated 18.08.2022. M/s Ashoka Buildcon Limited was also given an opportunity vide this Ministry's letter dated 24th Feb, 2023 to explain their case before the competent authority in this Ministry.

4. After careful examination of all records made available by NHAI vide letter No. NHAI vide letter no. NHAI/BH/Misc/CBI/2022/1054, clarification submitted by M/s Ashoka Buildcon Limited and taking into account Rule 151 of GFR 2017 read with the Debarment Guidelines of Ministry of Finance, dated 02/11/2021, it has been concluded beyond material doubt by the Competent Authority that M/s Ashoka Buildcon Limited has violated Article 2 of the Integrity Pact entered into by them with NHAI.

5. Therefore, in accordance with O.M. NH-35014/20/2020-H-Part(2), dated 18.08.2022, the Competent Authority has deemed it fit to impose the penalty of debarment upon M/s Ashoka Buildcon Limited. In deciding the quantum of penalty in terms of the duration of debarment, the Competent Authority has taken into account the guidance available in Rule 151 of GFR 2017, the Debarment Guidelines of Ministry of Finance, dated 02/11/2021 and relevant material on record as well as the need to maintain a balance between the objective of continued project implementation and penalising the violation of Integrity Pact.

6. In view of the need to ensure action against the violation of the Integrity Pact which is 'beyond material doubt' and the imperative of maintaining continuity of construction work with pace and quality in the national highways sector, the Competent Authority has deemed it fit that M/s Ashoka Buildcon Limited be debarred under Rule 151 of GFR 2017 for a period of 45 days from the date of issue of this order of debarment.

7. This issues with the approval of the Competent Authority as nominated vide O.M. NH-35014/20/2020-H-Part(2), dated 18.08.2022.



(Sushant Sudan)

Deputy Secretary to the Government of India

Copy to:

1. Chairperson, NHAI with the request that a copy of this order may be served upon M/s Ashoka Buildcon Limited and the report to this effect may be submitted to the Ministry.
2. DG (RD)& SS
3. MD, NHIDCL

OFFICE MEMORANDUM

Subject: Request for clarification on Debarment guidelines

The undersigned is directed to refer to Ministry of Road Transport & Highways (MoRTH) D.O. letter no NH35014/20/2020-H(pt2) dated 29.08.2022 regarding the above cited subject and to say as under:

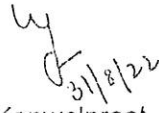
- (i) As per para 16 of Debarment Guidelines issued by this Department vide OM No.F.1/20/2018 dated 02.11.2021, no contract of any kind whatsoever shall be placed to debarred firm including its allied firms after the issue of a debarment order by the Ministry/ Department. Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of tender (first bid, normally called as technical bid, in case of two packet/ two stage bidding) nor debarred on the date of contract. Even in the cases of risk purchase, no contract should be placed on such debarred firms.

Therefore, debarment will be applicable even for the cases where the bids have been opened much before the debarment order and the contract has not been entered into till the issue of debarment order.

- (ii) As far as appellate authority is concerned, Guidelines provides that Ministry/ Department that issued the order of debarment can also issue an Order for revocation of debarment before the period of debarment is over, if there is adequate justification for the same. Ordinarily, the revocation of the Order before expiry of debarred period should be done with the approval of Secretary concerned of Ministry/ Department.

Hence, Secretary of the Ministry/ Department may be considered as appellate authority for the purpose of these Guidelines.

2. This issues with the approval of Finance Secretary.


Kanwalpreet
Director (Procurement Policy)
Tel.: 23093811
Email: kanwal.irss@gov.in

To
Shri Giridhar Aramane,
Secretary, Ministry of Road Transport & Highways,
509, Transport Bhawan, 1, Parliament Street,
New Delhi – 110001 Tel.: 23714104
Email: secy-road@nic.in