

NH-12014/76/2021-RO Jaipur
Ministry of Road Transport & Highways
(EAP Section)
Ground Floor, Tower-1, Jeevan Bharti Building, 124, Connaught Place,
New Delhi-110001

Dated: 08-01-2025

To,

The Authorized Signatory
M/s YFC Projects Pvt. Ltd.
Gurugram, Haryana - 122001

{Kind Attn: Mr. Rohit Yadav (Authorized Signatory)/Mr. Davinder Kumar Yadav (M/s YFC Projects Pvt. Ltd.)}

Subject: Engineering, Procurement and Construction of “Rehabilitation and Up-gradation to 4-Lane configuration of Ras - Beawar section (Km 0.000 to Km 30.050) of NH 158 in the State of Rajasthan under Green National Highways Corridor Project (GNHCP) with the loan assistance of World Bank on EPC mode” -**Debarment of M/s. YFC Projects Pvt Ltd from bidding in NH project- Reg.**

Ref:

- (1) Contract Agreement dated 18.06.2021
- (2) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/1518, dated 23.08.2021 (Joint memorandum)
- (3) Authority's letter no.- MoRTH/PIU/Beawar/ Authority Engineer/PKG-1/1675, dated 25.09.2021 (Appointed date)
- (4) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-III/4216, dated 04.01.2023 (EOT-1)
- (5) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-III/5143, dated 26.07.2023 (EOT-2)
- (6) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-III/5435, dated 26.09.2023 (Cure Period Notice)
- (7) Contractor's letter no.-YFC/RB/1151, dated 06.10.2023 (Contractor's re-presentation w.r.t. Cure Period Notice)
- (8) Contractor's letter no.-YFC/RB/1182, dated 10.10.2023 (Contractor's re-presentation w.r.t. Cure Period Notice)
- (9) AE's letter no.-ICT/AE/TL/PKG-I/YFC/2023/2177, dated 25.10.2023 (Status report after 30 days)
- (10) Contractor's letter no.-YFC/RB/1220, dated 03.11.2023 (Contractor's re-presentation w.r.t. Cure Period Notice)
- (11) AE's letter no.-ICT/AE/TL/PKG-I/YFC/2023/2234, dated 11.11.2023
- (12) AE's letter no.-ICT:860:MK:6540, dated 24.11.2023
- (13) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-III/5873, dated 22.12.2023 (Notice of intention to issue a Termination Notice)
- (14) Contractor's Affidavit dated 05.12.2023, received on 02.01.2024 (Contractor's Representation on Notice of intention to issue a Termination Notice)

- (15) Contractor's letter no.-YFC/Ras-Beawar/1227, dated 06.01.2024 (Contractor's Representation on Notice of intention to issue a Termination Notice)
- (16) AE's letter no.-ICT:860:MK:225, dated 12.01.2024 (Comments on Contractor's Affidavit dated 05.12.2023)
- (17) AE's letter no.-ICT:860:MK:307, dated 15.01.2024 (Comments on Contractor's Representation dated 06.01.2024)
- (18) Contractor's letter no.-YFC/RAS-BEAWAR/1350, dated 18.01.2024 (Contractor's Representation on Notice of intention to issue a Termination Notice)
- (19) AE's letter no.-ICT/AE/TL/PKG-I/PD/2024/2368, dated 07.02.2024 (Comments on Contractor's Representation dated 18.01.2024)
- (20) Authority's letter no.- MoRTH/PIU/Beawar/Authority Engineer/PKG-I/Part-V/6192, dated 06.03.2024 (Release withheld amount)
- (21) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-IV/6411, dated 06.05.2024 (Status of Progress)
- (22) Contractor's letter no.-YFC/RB/1637, dated 21.05.2024 (Status of Progress)
- (23) Contractor's letter no.-YFC/RB/1649, dated 18.06.2024, received on 25.06.2024 (Pending decisions on part of Authority)
- (24) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-V/6720, dated 11.07.2024 (Termination Notice as per Clause 23.1.2 of the Contract Agreement).
- (25) Authority's letter no.- MoRTH/PIU/Beawar/PKG-I/Civil/Part-V/7046, dated 30.09.2024 (Declaration of Non-Performer).
- (26) Contractor's letter no.-YFC/R-B/1727, dated 15.10.2024 (Representation of Contractor regarding Declaration of Non-Performer)
- (27) Authority's letter dated 25.11.2024 (Meeting notice for hearing of representation).
- (28) Contractor's letter no.-YFC/R-B/1731, dated 02.12.2024 (Representation of Contractor regarding Declaration of Non-Performer)
- (29) Ministry of Finance Office Memorandum dated 02/11/2021 on Guidelines on Debarment of firms from Bidding

Sir,

Whereas this has reference to the Contract Agreement executed between the Ministry of Road Transport and Highways 'Government of India' and M/s YFC Projects Pvt. Ltd. ("EPC Contractor") for the subject Project on 18.06.2021 ("Contract").

2. Whereas the Appointed Date for the Project was declared as 01.09.2021 and accordingly, the Scheduled Completion Date was 29.02.2024. As on Appointed Date, the Authority had handed over more than 90% of land for construction to the Contractor and the same had also been recorded in Handover Memorandum dated 23.08.2021 (cited under ref. 2) signed between Authority, Authority's Engineer and Contractor as per Clause 8.2.1 of Contract Agreement.

3. Whereas as per Article 3.1.1 of the Contract Agreement, the Contractor was required to undertake the survey, investigation, design, engineering, procurement, construction and maintenance of the Project Highway and observe, fulfill, comply with and perform all its obligations set out in this Agreement.

4. Whereas the project, titled "Rehabilitation and Up-gradation to 4-Lane Configuration of the Ras - Beawar Section (Km 0.000 to Km 30.050) of NH 158 in the State of Rajasthan," was being executed under the Green National Highways Corridor Project (GNHCP) with loan assistance from the World Bank on an EPC mode. This project is of national importance.

However, the Contractor had persistently failed to meet the monthly progress commitments as stipulated in the contract. This failure was attributed to inadequate planning, financial instability, insufficient cash flow, inability to procure and arrange necessary raw materials, and mismanagement of manpower and machinery. Consequently, the project experienced significant delays, resulting in substantial revenue losses for the country.

5. Whereas the contractor seemed not to be in a position to execute the Contract within the provision of the Contract Agreement and continued to be in default of the obligations as brought out in several notices, leading to major material adverse effects on the Contract.

6. Whereas the unprofessional and non-serious attitude of the EPC Contractor towards the subject project was not acceptable to Authority.

7. Whereas the constant failures/defaults by the Contractor along with the failure to achieve Milestone-II & III of the Project by the Scheduled Date had been brought to the notice of the Contractor both by the Authority and the Authority's Engineer, along with the repeated requests to take immediate remedial actions through various letters, however, to no avail. On account of persistent defaults by the Contractor, the Authority vide its letter dated 26.09.2023 (cited under ref. 6), issued a Cure Period Notice in terms of Clause 23.1.1 (c) of the Contract Agreement thereby notifying the various defects and instructing the Contractor to rectify the same within a period of 45 days. However, despite the issuance of the Cure Period Notice, the Contractor had not cured the defects notified therein within the allocated period of 45 days.

8. Whereas despite the clear and unequivocal terms of the Contract, the Contractor failed to perform its obligations under the Contract including failure to complete the Project Milestone-II within Schedule/Revised Date, default in maintaining the Project, abandonment of the Project site, etc. thereby causing irreparable loss to the Authority.

9. Whereas in light of the above, the Authority was constrained to issue the Notice of intention to issue a Termination Notice as per Clause 23.1.2 of the Contract Agreement vide letter dated 22.12.2023 (cited under ref. 13) listing the various breaches and defaults of the Contractor. The Contractor had submitted its representation on the intention to Termination Notice vide its letters (cited under ref. 14, 15 & 18). The same was reviewed by the Authority and the Authority was of the firm opinion that the Contractor remained at continuous default throughout the Project duration and had not improved the progress.

10. Whereas the Contractor had failed despite the Authority's extension of all possible efforts to support the Contractor to improve their cash flow. The Authority had facilitated the Contractor by providing relaxation at various fronts vide its letter dated 06th March 2024 (cited under ref. 20). Even thereafter, the Contractor failed to achieve Milestone-III also.

11. Whereas the Authority on its part had made considerable relaxations in the Contract with respect to modification for payment in Schedule-H and Retention Money etc. However, in spite of all the sincere effort by Authority, the Contractor had not been able to achieve the desired progress.

12. Whereas the Authority had further issued its letter dated 06th May 2024 (cited under ref. 21) regarding the status of progress and after failure in achieving Milestone-III which was scheduled on 2nd May 2024, to the Contractor to submit their justification within 07 days for

such extremely slow progress. However, the Contractor could neither improve the progress nor could submit any satisfactory and acceptable justification.

13. Whereas even after issue of “Intention to Termination Notice”, it was noted that still the Contractor is not taking mitigation measures up to satisfaction of Authority’s Engineer as well as Authority. The same was reviewed by the Authority and the Authority was of the opinion that the Contractor remained at continuous default and had not improved the progress even after the expiry of more than 6 months from the date of the issuance of Intention to Termination Notice.

14. Whereas that the facts of the case and the documents on record establish that the Contractor had committed material breach of the Contract Agreement in spite of several notices. The Authority had taken action as per Article- 23.1.2 of the Contract Agreement, which states *“Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Contractor Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Contractor; provided that before issuing the Termination Notice, the Authority shall by a notice informing the Contractor of its intention to issue such Termination Notice and grant 15 (Fifteen) days to the Contractor to make a representation, and may after the expiry of such 15 (Fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice”*.

In light of the deliberate evasion of the aforesaid contractual obligations and duly considering the fact that the Contractor failed to take remedial action, the Authority issued the Termination Notice intimating the termination of the Contract Agreement vide letter dated 11.07.2024.

15. Whereas, the EPC Contractor has been non-performing on the following reasons as per MoRTH Circular dated 06.10.2021-

- (i) Expelled from the contract or the contract terminated by the Ministry of Road Transport & its implementing Highways or agencies for breach by such Bidder, including individual or any of its Joint Venture Member; Provided that any such decision of expulsion or termination of contract leading to debaring of the Bidder from further participation in bids for the prescribed period should have been ordered after affording an opportunity of hearing to such party.

16. Whereas, the Authority is left with no other option but to declare & place the Contractor in non-performer list of MoRT&H for the default highlighted as above; And In the light of the aforesaid, non-exhaustive fundamental breaches and in view of the Contractor's persistent & sustained gross default in fulfilling contractual obligations, leading to a material adverse effect on the Project, the Authority had notified its intention to declare & place in non-performer list of MoRT&H and granted 15 days to the Contractor to make a representation, if any, vide letter dated 30.09.2024(cited under ref. 25).

17. The contractor had requested to present the case before the Ministry vide letter dated 15.10.2024(cited under ref. 26). Considering the same, an opportunity was given to the Contractor for a personal hearing before the DG(RD) & SS regarding the declaration of M/s.

YFC Projects Pvt Ltd as a Non-Performer on 28/11/2024 at MORT&H, Head Quarter, New Delhi. During the personal hearing on 28/11/2024, the contractor, M/s. YFC Projects Pvt Ltd, had requested to present some certain additional facts. The Chair had allowed the same and directed to submit the same at earliest. Subsequently, M/s. YFC Projects Pvt Ltd submitted the same vide letter dated 02.12.2024 (cited under ref. 28), the same has also been reviewed by the Authority keeping in view the Ministry of Finance guidelines dated 02/11/2021 on debarment of firms from Bidding.

18. In light of the above said facts, non-exhaustive fundamental breaches and in view of the Contractor's persistent & sustained gross default in fulfilling contractual obligations, leading to a material adverse effect on the Project, the Competent Authority at MoRT&H has decided to debar the contractor "M/s. YFC Projects Pvt. Ltd." from bidding in NH works. The period of debarment shall be One Year from the date of issuance of the order.

This issues with the approval of Competent Authority.

(Nikhil Narang)
Executive Engineer (EAP)

Copy to:-

1. Superintending Engineer-EAP Zone, MoRTH HQ, Ground Floor, Tower-1, Jeevan Bharti Building, 124, Connaught Place, New Delhi-110001
2. The Superintending Engineer cum Regional Officer, Ministry of Road Transport and Highways, Govt. of India, DCM Ajmer Road Jaipur- 302019.
3. Authority Engineer, Intercontinental Consultants & Technocrats Pvt. Ltd, A-8, Green Park, New Delhi-110016.
4. Team Leader, Intercontinental Consultants & Technocrats Pvt. Ltd, H. No. 4/64, Sector-4, Saket Nagar Housing Board, Beawar, Rajasthan-305901.
5. IT Cell, NHAI - for information and with request to upload this letter on their website.
6. NIC, NHIDCL - for information and with a request to upload this letter on their website.
7. NIC MoRT&H, New Delhi- for uploading on Ministry's Website