

उत्तर प्रदेश सरकार
लोक निर्माण विभाग

कार्यालय मुख्य अभियन्ता (राष्ट्रीय मार्ग)

Office of Chief Engineer

(National Highways)

लो०नि०वि०, लखनऊ-226001

UPPWD, Lucknow-226001



96, महात्मा गांधी मार्ग, लखनऊ-226001

96, Mahatama Gandhi Marg, Lucknow

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Letter No. 761NH/97N/18

Date: 05.03.2024

Office Order

The Work of "Consultancy for Feasibility Study for preparation of DPR for improvement and up-gradation of "Karmaini- Mehendawal- Khalilabad- Nyori- Azamgarh" and "Basti- Mehendawal- Kaptanganj" (referred as NH-328 and NH-328A respectively)" was awarded to M/s Planning & Infrastructural Development Consultants Pvt. Ltd. (M/s PIDCPL) in association with M/s LKT Engineering Consultants Ltd. vide Contract Agreement no. 04/SE-Circle/2017-18, dated 10.04.2017.

2. Whereas, the preparation of DPR including pre-construction activities vis-a-viz land acquisition, forest clearance and other activities included in scope of the work are held up since long, as a result the projects on NH-328 and NH-328A are not being able to be taken up for up-gradation work causing inconvenience to the road users.

3. Whereas, various meetings were held by SE, NH Circle, PWD, Lucknow, EE, NH Division, PWD, Basti and EE, NH Division, PWD, Gorakhpur regarding the progress of the various pre-construction activities as well as regarding the submission of DPR for remaining stretch of Km. 56.245 to Km.97.537. Due to hindrance in preparation of DPR for the entire stretch and for timely submission of DPR, the decision was taken to split in to two packages, namely;

1. Pacakage-I- NH-328, Km. 7.410 to 56.245
2. Pacakage-II- NH-328, Km. 56.245 to 97.537

4. Whereas, the DPR for Km. 7.410 to 56.245 of NH-328 was sanctioned by Ministry vide letter no. CE-RO/LKO/NH(O)/11NH-328/2022-23 dated 26.12.2022 with 3(a) notification dated 30.11.2018 and 04.01.2023. The 3(A) is still pending due to internal disputes of the members of association. Further, land acquisition activities and other pre-construction activities are held up due to non-performance on part of DPR Consultant.

5. Whereas, as per the Contract Agreement all the payments are being released to lead member M/s PIDCPL by the Ministry but at the same time works were being executed by M/s LKT Engineering Consultants Ltd. for Package-I of NH-328 from Ch. 7.410 to 56.245.

6. Whereas, it was intimated by M/s LKT Engineering Consultants Ltd. vide letter no. LKT/2022-23/465, dated 21.09.2022 and letter no. LKT/2022-23/765, dated 24.02.2023 regarding the dispute between the associate members requesting to release the payment directly to M/s LKT Engineering Consultants Ltd. for Package-I work being executed. M/s PIDCPL denied to give consent to release the payment in favour of M/s LKT Engineering Consultants Ltd. vide letter no. PIDCPL-HO/0916002/CL/1964, dated 03.06.2023.

7. Whereas, the progress of remaining pre-construction activities including realignment of Mehndawal Bypass, 3(D) of entire stretch of Project Highway, Forest Clearance are held up for Ch. 56.245 to 97.537 due to non-performance of M/s Planning & Infrastructural Development Consultants Pvt. Ltd.

8. Whereas, submission of DPR of NH-328A, Ch 0.000 to Ch. 78.900 is also held up due to non-performance of M/s Planning & Infrastructural Development Consultants Pvt. Ltd. causing the inconvenience to road users. Hon'ble Public Representative, District Administration of Sant Kabir Nagar and other Dignitaries are constinously insisting for the up-gradation of NH-328A. The failure on part of the DPR Consultant is causing the adverse effect on the reputation of the Ministry and NH PWD.

9. Whereas, various meetings were convened by the Authority to resolve the dispute between associate member and to expedite the progress of the consultancy work. A meeting was convened by CE(NH) UPPWD, Lucknow on 08.09.2023, wherein lead members didn't participate on pretext of non-preparation of documents and records. Associate member M/s LKT Engineering Consultants Ltd. attended the meeting. The Minutes of the Meeting were issued by SE, NH Circle, PWD, Lucknow vide letter no 2687/Karyavratt-NH Circle/23 dated 11.09.2023.

10. Whereas, a meeting was convened on 16.09.2023 by SE, NH Circle, PWD, Lucknow, but M/s PIDCPL again skipped the meeting, while M/s LKT Engineering Consultants Ltd. attended with personnel. A meeting was again convened by Chief Engineer-Regional Officer, MoRTH, Lucknow through VC on 13.12.2023, wherein all the stakeholders participated. In spite of detailed deliberations and discussions, no progress was observed in the pending activities of contract.

11. Whereas, it was established by various meetings and deliberations that a MOU was signed on 08.12.2016 between the lead member M/s Planning & Infrastructural Development Consultants Pvt. Ltd. and associate partner M/s LKT Engineering Consultants Ltd. with entire scope of work entrusted with the associate partner M/s LKT Engineering Consultants Ltd., while the lead partner will take the 12% as management fee, transferring the rest to the associate partner. It was noted that the MOU is not part of the Contract Agreement signed for the DPR Consultancy Work. The matter was examined in the Minsitry Headquarter and Ministry vide letter no. CE-RO/LKO/IPNH/UP/2016-17/543(Pkg-XI)/1199, dated 20.10.2023 instructed to contemplate Penal Action on account of negligence and delay on the part of Consultancy as a whole including debarment, considering the no progress by M/s Planning & Infrastructural Development Consultants Pvt. Ltd.

12. Whereas, a Showcause Notice was issued to M/s PIDCPL vide SE, NH Circle, PWD, Lucknow vide letter no. 3465/716C-NH Circle/2023, dated 10.11.2023 to submit their representation, if any. M/s PIDCPL vide letter no. PIDCPL-PO/0916002/CL/1749, Dated 16.11.2023 submitted the reply. The reply submitted by M/s PIDCPL was examined and it is observed that various comments in reply are misleading and Contradictory. No specific reply could be submitted by M/s PIDCPL regarding the executed work of pre-construction activities, land acquisition activities duly supported by documents.

13. Whereas, the comments of M/s LKT Engineering Consultants Ltd. were also sought by SE, NH Circle, PWD, Lucknow vide letter no. 700/716C-NH Circle/2023-24, dated 20.02.2024. M/s LKT Engineering Consultants Ltd. vide letter no. LKT/2023-24/UP DPR/771, dated 23.02.2024 submitted their comments and major points observed are as below:

- a) As already clarified PIDCPL has no involvement in project and entire activities have been carried out by M/s LKT Engineering Consultants Ltd. starting from field work i.e. topographic survey, sub-soil investigation, traffic survey, material testing, LA preparation, utilities indentification, tree counting Forest and environment clearance BOQ including stagewise as per contract i.e. inception report, draft feasibility report, final feasibility report, draft DPR etc. and also contractually obligation i.e. submission of EMD during tendering Performance guarantee, project insurance etc. there was no involvement of PIDCPL.
- b) All the submissions were made by the forwarding letter of M/s LKT Engineering Consultants Ltd.
- c) There was no role of M/s PIDCPL right from Contractual requirement to technical submission only they have provided signed forwarding letter.
- d) As agreed in between PIDCPL-LKT MOU, PIDCPL will raise invoice and LKT will raise to PIDCPL to complete the work, but if PIDCPL is not releasing the payment to LKT of successfully work completed then client as a principal owner of project having right to release the payment directly to LKT since can not hold their work and can ask other partner to complete the work.

From above comments, it is clear that M/s Planning & Infrastructural Development Consultants Pvt. Ltd. has only worked as lead partner on paper and not executed any work on the field. All the works is being executed by M/s LKT Engineering Consultants Ltd. & even the Bank Guarantee for Performance Security was submitted by M/s LKT Engineering Consultants Ltd. as annexed in Contract Agreement.

14. Whereas, on the recommendation of SE, NH Circle, PWD, Lucknow vide letter no. 3647/716C-NH Circle/23, dated 22.11.2023 to debar/declared non-performer M/s PIDCPL on account of non-compliance of Employer's instructions, failure in the performance of obligation and for the severe delay in the entire project, matter was referred to Ministry vide this office letter no. 3559NH/97N/18 dated 24.11.2023. A meeting through VC was convened by CE-RO, MoRTH, Lucknow for discussions and deliberations with all stakeholders including the Director of the lead partner and associate member.

15. Ministry vide letter no. CE-RO/LKO/IPNH/UP/ 2016-17/543(Pkg-XI)/1839, dated 07.02.2024 has convened the decision to debar M/s PIDCPL as a "Non Performer" and debarment/black listing for one year from all future work of State Govts. NH Works/NHA/ NHIDCL/BRO/MoRTH, etc. with immediate effect.

In view of above, considering the recommendations of Executive Engineer, NH Division, PWD, Basti vide letter no. 294/10C, dated 27.02.2024, SE, NH Circle, PWD, Lucknow letter no 795/716C-NH Circle/2024, dated 29.02.2024 and Ministry's letter no. CE-RO/LKO/IPNH/UP/ 2016-17/543(Pkg-XI)/1839, dated 07.02.2024, Authority hereby declare "M/s Planning & Infrastructural Development Consultants Pvt. Ltd. (M/s PIDCPL)" as "Non Performer" and debar from all future works of NH PWD, NHA, NHIDCL, BRO, MoRTH/State Government/ Centrally Sponsored Work with immediate effect for a period of One Year.

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

Sd.

(Parvez Ahmad Khan)
Chief Engineer (NH)

Copy for Information and necessary action: -

1. Chief Engineer (North-II), MoRTH, New Delhi.
2. Chairman, NHA, G-5,6/ Sector -10 Dwarka, New Delhi.
3. DG, BRO, New Delhi.
4. Special Secretary, PWD Anubhag-12, UP Govt., Lucknow.
5. E-in-C(HOD)/ E-in-C Rural Road/ E-in-C(D/P), UPPWD Lucknow.
6. Chief Engineer-Regional Officer, MoRTH, Lucknow with respect to letter no. CE-RO/LKO/IPNH/UP/ 2016-17/543(Pkg-XI)/1839, dated 07.02.2024 with the request to circulate on Web Portal.
7. Executive Director, NHIDCL, New Delhi.
8. Chief Engineer (HQ-2) UPPWD, Lucknow.
9. Superintending Engineer, NH Circle, PWD, Lucknow/Kanpur/Prayagraj/Bareilly/Gorakhpur.
10. All Executive Engineer, NH Division, PWD UP.
11. M/s LKT Engineering Consultants Ltd.
12. M/s Planning & Infrastructural Development Consultants Pvt. Ltd.

Y
Cm

05.3.24

Chief Engineer (NH)