



Uttar Pradesh State Highways Authority

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No.: **483**/Pravi-18 (PGB Prakash Notice)/2022-23/UPSHA/Lko,

Dated: **29/8**.2022

OFFICE ORDER

Request for Qualification (RFQ) for selection of Concessionaire, was invited by Uttar Pradesh State Highways Authority (UPSHA) on dated 26-03-2021, to develop the Pukhrayan-Ghatampur-Bindaki Road (SH-46) from Km. 0.00 to 82.530 in the State of Uttar Pradesh on Design, Build, Finance, Operate and Transfer ("DBFOT") Basis. Six bidders including M/s Prakash Asphaltings & Toll Highways (India) Ltd participated in the RFQ. All bidders were declared successful to offer the Request for Proposal (RFP) i.e. financial bid. Pursuant to this offer of Authority 03 Bidders namely M/s Prakash Asphaltings & Toll Highways (India) Ltd. Indore, M/s IRB Infrastructure Developers Limited, Mumbai & M/s Adani Road Transport Limited, Ahmedabad, submitted their financial bids which were opened before the Bid Evaluation Committee (BEC) on dated 24-11-2021. The Financial Bid offered by M/s Prakash Asphaltings & Toll Highways (India) Ltd was "Premium at the rate of 1% (One Percent) of the Total Realizable Fee commencing after expiry of a period of 3351 (Three Thousand Three Hundred Fifty One) days from COD", whereas other 02 bidders have quoted their financial bid on grant. With approval of Hon'ble Cabinet of GoUP, M/s Prakash Asphaltings & Toll Highways (India) Ltd was selected as "Selected Bidder".

Pursuant to the conditions and approval of the competent Authority Letter of Award (LoA) had been issued in favor of Selected Bidder vide letter no. 061/Pravi-18/PGB Con. Sel. Vol-3/2022-23/UPSHA/Lucknow dated 20-04-2022. However Selected Bidder refused to accept the LoA vide letter no. PATH/UPSHA/Pukhrayan Project/2022-23/318 dated 29-04-2022 without giving any reasonable explanations. The Authority held a meeting with the Selected Bidder on 09-05-2022 and tried its best efforts to persuade the selected bidder to honor its bid. But even after giving plenty of opportunities by the Authority, the Selected Bidder refused to accept the LoA and act according to the instructions given in LoA. Left with no option, the Authority decided to take punitive action against the Selected Bidder as per clause 3.3.5 of RFP Document as quoted below :-

***Clause 3.3.5** After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.*

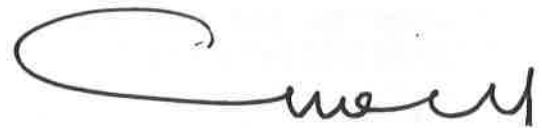
The above situation was brought in the knowledge of PPP Bid Evaluation Committee, meeting held on 13.06.2022. After due consideration PPPBEC decided to forfeit the bid security of Rs. 11.36 Crore deposited by the selected bidder in form of Bank Guarantee. It was also decided that a **Show Cause Notice to blacklist** the selected bidder for five years should be issued and action should be taken accordingly. Following the decision taken by PPPBEC, Bank Guarantee no. 0502IGB002735121 dated 03-11-2021 and valid till 01-08-2022, amounting Rs. 11.36 Crore (Eleven Crore Thirty Six Lacs) issued by Bank of Baroda Siyaganj Branch, Indore, Madhya Pradesh, India has been confiscated in favor of Authority vide the Authority office order dated 16-06-2022, for damages on account of failure of the selected bidder to accept the LoA.

A show cause notice was served to the selected bidder vide the Authority letter no. 333/ Pravi-18 (PGB Prakash Notice)/2022-23/UPSHA/Lko dated 07.07.2022. A 15 days time was given to the selected bidder to reply the show cause notice. The selected bidder has put its reply / representation before Authority vide its letter no. PATH/UPSHA/Pukhrayan Project/2022-23/1050 dated 20.07.2022.

The selected bidder has given reasons for not accepting LoA as non-realization of traffic numbers at the time of LoA against the traffic volume estimated by him at the time of submission of bid. It is pertinent to mention here that neither selected bidder has participated in the Pre-Bid meeting, nor has intimated about the current traffic scenario to the Authority before submission of bid, which was his primary responsibility and opportunities as per Clause 2.5 of the RFP documents. Therefore, it seems that reasons given by selected bidder are after thoughts. The selected bidder has sought the shelter of rules about classification and enlistment of contractor in the Public Works Department which is totally illogical and untenable because selected bidder is not a registered contractor / firm under these rule. Hence, his explanation does not fall under ambit of these rules.

After due and diligence consideration on the reply / representation submitted by the selected bidder, the competent authority has found that the speculative bid submitted by the selected bidder is unworkable and impracticable. Thus the irresponsible act of the selected bidder has put UPSHA in a dilemma. Because of the selected bidder's refusal to accept the LoA, Authority has suffered a great loss in terms of time, money, reputation, benefit to the users from the proposed Project Highway. It is pertinent to mention here that all of above unnecessary burden has fallen on UPSHA due to selected bidder's irresponsible, unrealistic and unbalanced bid. This has compelled the Authority to Black List the selected bidder for 05 years in the State of Uttar Pradesh for participation in any bids.

Therefore, the Authority Black Lists M/s Prakash Asphaltings & Toll Highways (India) Ltd. Indore, for 05 years with immediate effect in the State of Uttar Pradesh for further participation in any bids.



(Awanish Kumar Awasthi)

I.A.S.

Chief Executive Officer

No.: 483 /Pravi-18 (PGB Prakash Notice)/2022-23/UPSHA/Lko, Dated: 29 .2022

Copy to :

- 1- Infrastructure & Industrial Development Commissioner, Govt. of UP, Lucknow.
- 2- Additional Chief Secretary, Infrastructure & Industrial Development Department, Government of Uttar Pradesh, Lucknow.
- 3- Additional Chief Secretary, Finance Department, Govt. of UP, Lucknow.
- 4- Additional Chief Secretary, Planning Department, Govt. of UP, Lucknow.
- 5- Principal Secretary, Law Department, Govt. of UP, Lucknow.
- 6- Principal Secretary, UPPWD, Govt. of UP, Lucknow.
- 7- Chief Executive Officer, UPEIDA.
- 8- M/s Prakash Asphaltings & Toll Highways (India) Ltd, 76, Mall Road, Mhow, Indore, MP-453441.
- 9- Notice Board / Website of UPSHA.



Chief Executive Officer