राष्ट्रीय राजमार्ग एवं अवसंरचना विकास निगम लिमिटेड
सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार
तीसरी मंजिल, पीटीआई बिल्डिंग, 4–संसद मार्ग, नई दिल्ली–110001

National Highways & Infrastructure Development Corporation Limited
Ministry of Road Transport & Highways, Govt. of India
3rd Floor, PTI Building, 4-Parliament Street, New Delhi-110001, +91 11 23461600, www.nhidcl.com

BHARATMALA
ROAD TO PROSPERITY

NHIDCL
BUILDING INFRASTRUCTURE - BUILDING THE NATION
CIN: U45400DL2014GOI269062

(भारत सरकार का उद्यम) (A Government of India Enterprise)

NHIDCL/J&K/NH-244/C-S/Execution/2020-21/623 11.10.2021

OFFICE ORDER

Sub: Placing of M/s ECI Engineering and Construction Co. Ltd. - SRM Contractors Pvt. Ltd. (JV) in the Negative List of the NHIDCL.

National Highways & Infrastructure Development Corporation Limited (hereinafter referred as "NHIDCL or Authority") and M/s ECI Engineering and Construction Co. Ltd. - SRM Contractors Pvt. Ltd. (JV) (hereinafter referred as "EPC Contractor") signed an EPC Agreement on 20.04.2018 for the work of *"Widening and upgradation to 2 lane with paved shoulder configuration and geometric improvement from km 0.000 to km 16.990 on Chenani - Sudhmahadev section of NH-244 in the State of Jammu & Kashmir"* at the contract price of Rs. 155.04 Cr., with completion period of 24 months commencing from the Appointed Date i.e. 30.11.2018 i.e. the project is scheduled to be completed on or before 02.10.2021 on the terms, conditions and covenants contained in the Contract Agreement which are in force and remain effective. The revised date of completion as per Extension of Time given is 31.12.2021.

2. Authority, in fulfillment of its obligations has handed over the required stretches of the Project Highway to the EPC Contractor as per the essential Terms and Conditions of the Contract Agreement, the EPC Contractor was obliged to undertake the Survey, Investigation, Design, Engineering, Procurement, Construction and Maintenance of the Project and observe, fulfill and comply with and perform its obligations set out under this Contract Agreement and moreover follow the Contract Agreement and the obligations cast thereon with full adherence, diligence and sincerity.

3. The date of achieving the Milestones of the Project as per Contract Agreement Schedule-J) and EOT is as given below:-

Milestone	Milestone date as per CA	Revised date as per EOT
Milestone-I (10%)	21.05.2019 (180 days)	31.03.2020
Milestone-II (30%)	22.11.2019 (365 days)	26.10.2020
Milestone-IIII (60%)	25.05.2020 (550 days)	04.07.2021
Milestone-IV (100%)	21.11.2020 (730 days)	31.12.2021

However, EPC Contractor in complete disregard to the contractual stipulations has achieved only 56.29% financial progress as on 08.10.2021 and has failed to achieve the Milestone-III as per the EOT granted, due to the entire reasons, defaults and breaches which are solely attributable to the EPC Contractor.

4. The EPC Contractor has failed in mobilizing the adequate resources, Manpower, Materials, Machinery and Plant & Equipment etc. to meet the desired progress as per Milestones fixed as per Schedule-J of Contract Agreement.

5. The EPC Contractor has failed to achieve the 3rd milestone on 04.07.2021 as per Extension of Time given by the Authority. NHIDCL vide letter dated 02.07.2021 also informed the EPC Contractor for imposing the damages. The EPC Contractor has achieved the 3rd milestone with a delay of 55 days from the revised date as per EOT given due to the reasons which are solely attributable to the EPC Contractor.

6. NHIDCL vide its letter dated 06.07.2021, issued the Show Cause Notice to the EPC Contractor for placing it in the Negative List of the NHIDCL for a period of two years or till the completion of all ongoing contracts being executed by the EPC Contractor. Vide the Show Cause Notice, the following defaults were informed to the EPC Contractor:

(i) The progress of the work has slowed down in the last few months starting from December 2020 to till date. During January 2021 and February 2021, the Contractor has achieved a physical progress of only 1.23% and 2.75% respectively. The EPC Contractor has been communicated the monthly targets and the corresponding directions to achieve them, from time to time. The Contractor has been continuously directed to mobilize required resources (men, machineries, material etc.) to achieve a physical progress of around 6% every month so as to complete the work latest by December 2021. Following are the details of targets of monthly progress vis-a-vis the progress achieved by the Contractor from December 2020 to June 2021:

Sr. no.	Month	Monthly Targets given to the contractor as per MD NHIDCL review meetings held from time to time		Monthly Targets achieved by the Contractor	
		Physical progress (%)	Financial progress (Rs in Cr)	Physical progress (%)	Financial progress (Rs in Cr)
1	December 2020	4.00	8.00	2.18	5.53
2	January 2021	5.20	8.00	1.23	1.70
3	February 2021	3.78	5.80	2.75	4.37
4	March 2021	5.80	9.00	2.41	3.98
5	April 2021	6.74	10.50	2.24	4.44
6	May 2021	6.25	9.70	2.82	4.21
7	June 2021	6.24	9.68	2.47	4.77
8	July 2021	8.50	13.18	1.89	3.43
9	August 2021	9.82	15.00	2.37	0.00

Despite of several directions issued by the Authority from time to time, the EPC Contractor has not been able to achieve the desired monthly targets fixed during the Review Meetings held under the Chairmanship of MD, NHIDCL, even after agreeing the same in the Review Meetings. During the site visits carried out by ED (P) and other officials of NHIDCL, it has also been observed that the work is not being carried out at all available fronts simultaneously. The EPC Contractor was also directed to examine the option of working in two shifts (including shift with proper lighting) in consultation with the AE and PMU-Akhnoor, however, till date no communication in this regard has been received from the EPC Contractor.

(ii) That the due date of Milestone-III for the project in question was 04.07.2021 as per EOT approved by the Competent Authority, wherein the contractor was required to

achieve 60% financial progress. As per Schedule-J of the Contract Agreement, within 15 (fifteen) days of the date of each Project Milestone, the Contractor shall notify the AE of such compliance along with necessary particulars thereof. However, as per the daily progress report, the physical progress of the subject work was 49.01% as on 01.07.2021 and there were extreme likely chances for non-achievement of Project Milestone-III as on 04.07.2021.

(iii) That NHIDCL vide its letter dated 02.07.2021, intimated to the EPC Contractor to achieve the Project Milestone-III within 30 days of revised date of 04.07.2021 i.e. by 03.08.2021 without imposition of LD and considering the progress of 49.01% achieved up to 01.07.2021. EPC Contractor was required to achieve the balance progress of 10.99% against Project Milestone-III in remaining 33 days i.e. upto 03.08.2021. This implies that EPC Contractor was required to achieve a physical progress of at least 9.99% and financial progress of Rs.15.48 Crores each month upto 03.08.2021. It was also intimated to the EPC Contractor that in case of failure, damages as per clause 10.3.2 of Contract Agreement may be imposed as per the provisions of the Contract Agreement.

(iv) A review meeting was scheduled under the Chairmanship of Executive Director (P) on 05.07.2021 for which NHIDCL vide its letter dated 01.07.2021 requested the EPC Contractor to attend the said meeting with all relevant details like quantum of work executed, financial progress, physical progress, hindrance details, likely achievement of monthly targets as fixed in the review Meeting of MD, NHIDCL, held on 18.06.2021. However, no representative(s) from the end of the EPC Contractor had attended the said meeting on scheduled date and time without any kind of prior/post intimation, which shows an unprofessional behaviour on the part of EPC Contractor.

(v) Despite continuous reminders from the Authority and the Authority's Engineer, the EPC Contractor has caused a lot of delay in submission of the design & drawing of Major Bridge 02 for all the components i.e. foundation, sub structure & superstructure, which is having an adverse effect on the project. However, the same (excluding Super Structure) has only been submitted by the EPC Contractor on 22.09.2021 i.e. after a lapse of 77 days, which clearly depicts that despite of showing proactive approaches and expediting work, the EPC Contractor had a casual approach towards execution of the project which has resulted in loss of valuable Project time.

(vi) The EPC Contractor has been issued several instructions by the Authority as well as Authority's Engineer to improve the quality of work and carry out the same as per the Specifications & Standards set forth in subject agreement as well as IRC codal provisions, however, no any heed has been paid towards the same from the end of the EPC contractor, which is a serious concern.

7. The Project in question was inspected during 17.08.2021 to 18.08.2021 by Shri Surender Kumar Doon, Special Project Monitor, and raised the following discrepancies:

(i) Segregation as well as Crack has been developed over the DBM surface at some location.

(ii) The overall riding surface after the completion of DBM is not smooth as per the MoRT&H Specifications for Road 7 Bridge Works and other relevant IRCC Codes.

(iii) The surface of drain has been found to be above the FRL.

(iv) The Construction of Retaining/Breast wall is being carried with no any heed to the sound engineering practice as well as IRC SP: 78. No backfill has been provided by the Contractor behind the constructed Breast Watt at some locations.

(v) At various locations the crack has been developed in the already constructed Retaining/Breast Wall and other ancillary works.

8. The EPC Contractor vide letter dated 16.07.2021 and 01.09.2021 replied to the Show Cause Notice dated 06.07.2021. By way of the reply, the EPC Contractor has raised the contentions e.g. (i) the available project length calculated on the basis of MoRT&H circular is only 71.17%, (ii) The Circular of the Govt. of India, MoRT&H letter no. COVID19 / Road Map/ JS(H) / 2020 dated 26th August, 2021 regarding relief for contractors/developers of road sector in view of 2nd wave of COVID-19, and (iii) prohibition on supply of oxygen for non-medical activities for more than two months, etc.

9. The reply dated 16.07.2021 and 01.09.2021 of the EPC Contractor has been examined and is being rejected on the following grounds:

(i) Based on the available working front, the evaluation of 3rd Milestone corresponding to 52.54% financial progress against 60.00% financial progress was not achieved by the EPC Contractor as per the EOT granted for third milestone.

(ii) The relevant relief measure as referred in the MoRTH Circular with regard to Extension of Time is to be examined and considered on case to case basis, however, till date no EoT proposal has been received from the end of Contractor.

(iii) The progress of work may be considered to be affected for few days, however, there has been no significant progress as observed since Dec 2020 till date, hence the plea of Contractor is not tenable on this account.

10. That be the case, it is clear and certain that in the above mentioned circumstances that:

i. EPC Contractor has failed to achieve milestone.

ii. EPC Contractor has failed to achieve targets/interim targets duly communicated by the Authority and its officers.

iii. EPC Contractor has failed to mobilize machinery/manpower/materials as per the direction of the Authority or its officers.

iv. EPC Contractor has not improved performance in spite of numerous letters/notices as well as review meetings with the Authority.

11. NHIDCL has extended its full cooperation, all the facilities and advances to the EPC Contractor as liberally as possible which included maintaining liquidity, liberalizing Schedule 'H', Extension of Time etc. However, the EPC Contractor has not yet shown any indication to put its house in order and live up to the commitment made while signing the Contract Agreement and the Review Meetings.

12. Time and again the EPC Contractor has been advised to increase resources in various meetings conducted by the NHIDCL so that targeted milestone can be achieved. The slow progress of the project has been reviewed by the MD, NHIDCL, from time to time. The EPC Contractor has failed to mobilize the adequate Resources, Manpower, Materials, Machinery and Plant & Equipment etc. The assurances with regard to the target given in the Review Meetings have not been met by the EPC Contractor for the reasons solely attributable to the EPC Contractor.

13. That inspite of repeated notices issued to the EPC Contractor with regard to the slow progress of work, the same have proved to be a futile exercise and could not yield desired results from M/s ECI Engineering and Construction Co. Ltd. - SRM Contractors Pvt. Ltd. (JV).

14. The EPC Contractor has failed to understand the criticality of the Project keeping in view the fact that various stakeholders (viz State/Central Govt.) are reviewing the project on regular basis, yet the progress of works turned out to be unsatisfactory due to inadequate engagement of resources by the EPC Contractor. It has literally ignored the inconvenience, wastage of time and money to public and State economy.

15. The EPC Contractor's act is totally unethical and shows total disregard to its commitment made during the Review Meetings, moreover, the EPC Contractor has also proved that it is not at all bothered about the public discomfort that is being faced by the people of Jammu & Kashmir due to slow execution of the project.

16. That considering the current speed of work, M/s ECI Engineering and Construction Co. Ltd. - SRM Contractors Pvt. Ltd. (JV), will not be able to complete the project by 31.12.2021.

17. In view of the above, it is clearly evident that M/s ECI Engineering and Construction Co. Ltd.-SRM Contractors Pvt. Ltd. (JV) has failed in meeting the obligations as per the Contract Agreement and also failed in mobilizing the requisite resources for the project which has already caused detrimental effect in respect of time and economy for the project of national importance.

18. In light of the aforesaid facts and circumstances, considering the non-responsive, non-professional attitude of the EPC Contractor towards their obligations as per the provisions of the Contract Agreement and failure to meet the agreed targets and continued painful slow progress of work, NHIDCL is hereby placing M/s ECI Engineering and Construction Co. Ltd.-SRM Contractors Pvt. Ltd. (JV), (jointly and severally) in the 'Negative List' of the Authority in terms of Office Order No. 227/2020 dated 15.12.2020 for a period of 02 (two) years or till the completion of this project, whichever is earlier.

19. This issues with approval of the Competent Authority.

11/10/2021

(K.P. Singh)
Executive Director (Tech.)

M/s ECI Engineering and Construction Co. Ltd.-SRM Contractors Pvt. Ltd. (JV)
Plot No.A-12, Panchvati Township,
Manikonda, Hyderabad -500089
Telangana.

Copy to information to:
(i) Director (Tech.), NHIDCL HQ.
(ii) ED(T/Ps), NHIDCL
(iii) GM (IT), NHIDCL HQ.- to put the notice on the website and also give wide publicity.