

975620/2022/SEC_9-PERD

Letter No: IX-10-04/2018- 2817

Government of Bihar
Prohibition, Excise and Registration Department

To,

Date: 03.06.22

1. The Managing Director,
Karnataka State Electronics Development Corporation Limited,
Government of Karnataka Enterprise,
BMTC, Shanthinagar, K.H. Road,
Bangalore-560027
2. The Managing Director,
Datacon Technologies Pvt. Ltd,
#31/10, Left of Magadi Main Road behind Sarawathi Convention Center,
Karnataka, Bangalore-560079

ORDER

Sub: Blacklisting of KEONICS and DATACON TECHNOLOGIES PVT. LTD.(its empanelled agency)

The Department of Prohibition, Excise and Registration, Government of Bihar ((herein after referred to as Department) vide its Tender no. Excise/IEMS/2016/03 advertised for the selection of an Agency for design, Supply, Installation, Commissioning, Operations, and maintenance for Integrated Excise Management System, for the Department. The Department undertook the selection of Total Solution and Service Provider (TSSP) through competitive bidding process for implementing the project as per the Request for Proposal (RFP) dated 13 June 2016 and selected the Karnataka State Electronic Development Corporation Limited or KEONICS (herein after referred to as Vendor) for implementing the Project.

Thereafter, the Department vide letter no. 6316 dated 22nd December 2016 directed the BSBCL (Bihar State Beverages Corporation Limited), a PSU fully owned by the Department, to sign the Master Services Agreement (MSA) with the Karnataka State Electronic Development Corporation Limited or KEONICS which had been selected as the Total Solution and Service Provider (TSSP) to undertake the project of the Development and implementation of the solution, its roll out and sustained operations. Further, the DATACON TECHNOLOGIES PVT. LTD. (herein after referred to as the Empanelled

Agency) was empanelled by KEONICS to undertake the entire implementation of the IEMS Project, under the complete ownership and accountability of KEONICS to Department of Prohibition, Excise and Registration, Government of Bihar. The same was informed by KEONICS to this Department vide letter dated 06th August 2018.

On 16.01.2017 a Master Service Agreement (MSA) was signed in Patna (Bihar) between Bihar State Beverages Corporation Limited (BSBCL) and Karnataka State Electronics Development Corporation Limited (KEONICS) as Total Solution and Service Provider (TSSP) to implement project of IEMS for Department of Prohibition, Excise and Registration, Government of Bihar. As per the Clause 6 "Term and Duration of the Agreement" of the Master Service Agreement dated 16.01.2017, the vendor shall undertake the implementation of IEMS project till the date of completion of operation and maintenance to BSBCL or its nominated agencies. KEONICS undertook the project of IEMS through its Empanelled agency DATA CON TECHNOLOGIES PVT. LTD as per KTPP Act (Karnataka Transparency in Public Procurements act, 1999).

The Department had broadly the following issues with the vendor since the beginning of the project:

1. Delay in making the project Go-live due to non-implementation of the various modules of IEMS software.
2. Poor management of IEMS and the Call Centre.

Delay in making the project Go-live due to non-implementation of the various modules of IEMS software: -

A letter was issued to KEONICS with letter no 3242 Dated 06.09.2019 regarding Go-live of the project. KEONICS was instructed to complete Go-live of the entire IEMS project by 20.09.2019. Further a letter was issued to KEONICS with letter no 4347 dated 22/11/2021 regarding Delay in Go-live of the IEMS project. As per the various responses provided by KEONICS through various letters, particularly letter no. 1721 dated 29-11-2021, the vendor laid the blame on the Department for all the delays quoting various reasons like inability of infrastructure, non-operationalization of check posts etc. The vendor, in his reply did not mention the major element of the delay i.e. the non-implementation of five software modules.

During the same time, another show cause notice was issued to vendor with letter no: IX-10-04/2018-4483 Dated 29-11-2021 regarding **enormous delay in implementing IEMS project and why the project be not terminated and the vendor be not debarred/blacklisted**. Wherein, the notice

further specified that as per the timelines of IEMS project, all software modules were not implemented fully. Further, software issues were unattended, the process of managing the IEMS project were not followed properly, not deployment of qualified IT professionals and lack of long-term resources to manage the IEMS Project. It is clear that the vendor's empanelled agency DATA CON TECHNOLOGIES for the software development, failed to deliver the software modules and resolve the issues within the stipulated timelines which has severely impacted the operations of the Department.

This Department had done a detailed analysis of the reasons behind delay in Go-live. The major reason for delay in Go-live was the non-implementation of five modules (Excise Automation, Supply Chain Management Module, Surveillance System, Court Case Management, Mobile App) for which the vendor was solely at fault. The attempt by the vendor to deflect the real issue and putting the blame on the Department quoting lack of infrastructure is not correct. Therefore, the Department imposed a penalty vide order dated 22-11-2021. Vide the said order, the vendor was imposed a penalty of INR 43,57,740 per month for the delay in Go-live of the software modules. The penalty was made effective from July 2021 month till the completion of Go-Live. Furthermore, due to active monitoring by the Department and the aforementioned penalty, it was ensured that the bottlenecks were removed and the vendor implemented the remaining modules. Subsequent to these actions, Go-live of the IEMS project was finally achieved on 01.01.2022.

Poor management of IEMS and the Call Centre: -

The Department had issued a letter with number 2131 Dated 18.06.2019 regarding unsatisfactory performance of KEONICS in implementation of IEMS project and delay in implementation of Court Case Module, integration of Digital lock with IEMS application and Deployment of additional manpower. KEONICS had taken the services of Empanelled Agency to deliver the IEMS project, which was also responsible for the deployment of manpower for the timely completion of the project. Delay in deployment of resources has deferred completion of the software modules within the given timelines, which has affected the project deadlines and the operations of the Department.

Subsequently the Department had issued another letter with IX-10-04/2018-43 dated 07.01.2020 regarding the ransomware attack on datacenter seeking reply on the security lapses. The application server relating to Chemical Lab Module was infected with the VIRUS which was not compliant with the Security policy mentioned in the tender no: Excise/IEMS/2016/03.



For the smooth functioning of the project, the Empanelled agency DATACON TECHNOLOGIES was required to ensure that the data should be protected in the safe environment and data backup is ensured. However, Empanelled Agency failed to meet its obligations.

Further, a third show cause was issued to KEONICS with letter number 768 Dated 07.02.2022 **regarding supposed default in deduction and contribution of amount of EPF and ESI of Employees of DATACON TECHNOLOGIES PVT. LTD.** (Empanelled Company of KEONICS) presently engaged with IEMS, not deducting the amount of EPF as mandated under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees' provident funds scheme 1952 & ESI as mandated under the Employees State Insurance act 1948 from the monthly salary of few employees engaged by Empanelled Agency. DATACON TECHNOLOGIES PVT. LTD. technologies being employer has defaulted in its obligation.

The Department had issued another letter with number 815 Dated 08.02.2022 regarding absence of the staff deployed for IEMS project and Call center. The Department imposed penalty of INR 50,000 for the unavailability of resources during the working hours. The staff of Empanelled Agency were absent during the working hours which has impacted the smooth functioning of the IEMS project. The Empaneled agency was aware that an increase number of calls are now landing at the Call Centre, hence the personnel deployed at the Call Centre have to extra alert and prompt so that the public can be responded too.

In a surprise move, the KEONICS had issued letter with no: 1181 Dated 05.04.2022 regarding changes in the reporting structure of its empanelled agency for the smooth administration of IEMS project. The empaneled agency had proposed a new position "Project Management Officer" (Mr. Amresh Kumar Singh) which was not a part of the MSA and was done without the consent of the Department. Despite verbal negative feedbacks from the Department, regarding the poor performance of "Mr. Amresh Kumar Singh", DATACON proposed him as a Project Management Officer for the IEMS Project. This shows the sinister way of the empaneled agency that they kept the person much against the advice of the Department, finally forcing the Department to ask, vide Letter No. 2144 dated 20th April 2022, the vendor to remove Mr. Amresh from all dealings with the project. It may be further added here that the empanelled agency has changed its Project Managers multiple times since the beginning of the project which has also impacted the smooth functioning of the IEMS project.

The above is a mere indication that the Department has been facing such challenges in working with the Empanelled Agency throughout the implementation of the IEMS project including Post Go-live. There has been delay in the Deployment of Application and Database servers by more than a month despite multiple reminders from the Department to the Empanelled Agency.

More seriously, it has come to the knowledge of the Department that the licenses of the existing Application and Database servers has already expired which may interrupt the existing operations of IEMS project subsequently leading to halt of the project. This fact was raised by the Department with the vendor in the meetings held through video conferencing in April 2022.

It must be further added here that there has been an increase in the current workload of the call centre by more than three times necessitating additional user log-in licenses and PRI lines. Earlier, before November 2021, the daily complains coming to the Call Centre was on the range of 70-80 calls per day which has now increase to 300 calls per day, which necessitated improvement in the Call Centre. This requirement had been communicated to the Empanelled Agency multiple times over the last month in the regular Departmental status meetings chaired by Additional Chief Secretary, Department of Prohibition, Excise and Registration, Bihar. Furthermore, the issue has been communicated to the Empanelled Agency in the meeting held dated 22.04.2022 chaired by Additional Chief Secretary, Department of Prohibition, Excise and Registration, Bihar wherein the aforementioned grievances have been flagged to the Vendor and its Empanelled Agency. In spite of multiple communications by the Department, there has been no action taken by empanelled agency to ensure deployment of the servers and the PRI line for upgradation of the current IT set up despite the licenses of existing servers being expired. This, in spite of the Department agreeing to bear the additional expenditure on account of servers, PRI lines and Man Power.

Final Show Cause:

Therefore, the Department in furtherance of repetitive non-compliance in meeting the timelines of the deployment, upgradation of existing IT infrastructure (including installation of servers, PRI lines etc.) and failure to meet performance standards on various instances, vide its letter No. IX-10-04/2018-2313 dated on 04.05.2022 ordered the following: -

- a. The vendor be directed to take up the aforementioned issues (issues regarding **Poor management of IEMS and the Call Centre**) with its empanelled agency and resolve the pending issues to the satisfaction of this Department within 30 days. The vendor may consider changing the empanelled agency if it is not able to redress the grievance of the Department. However, if the vendor chooses to change the empanelled agency, the vendor should ensure that the transition is smooth and without any disruption of the IEMS and the Call Centre operations.
- b. The vendor and the empanelled agency were also directed to submit a reply **within 30 days** as to why the contract be not finally terminated **and/or** the vendor and/or its empanelled agency be blacklisted for a period of three years.

In its above order dated 04th May 2022, the Department further mentioned that it shall be at liberty to take such further steps to enforce the obligations as per the contractual provisions or the applicable laws as the case may be. If the level of services provided by them does not improve or the grievances sought has not been redressed in the next 30 days, the Department may consider terminating the contract by invoking the Clause 18.1.1 of the agreement, in toto with such consequences as may follow as per the agreement.

The Department further mentioned that it shall not renew its MSA with the vendor unless all the issues are sorted out to the satisfaction of the Department.

Further Developments: - Sudden and complete shutdown of servers, on 31st May 2022, of the IEMS affecting its Supply Chain Module including total collapse of the Call Centre

Till date, the Department did not receive any reply from the vendor (KEONICS) in response to the above final show cause letter dated 4th May 2022. Its empaneled agency, however, sent a letter to KEONICS (with a copy marked to the Department) mentioning its **decision to withdraw from the project from 20 May 2022** (which was received by us on 19 May 2022) came as a shock to us. The said letter virtually gave a 24-hour ultimatum which was against all norms of ethics, leave alone the conditions of contract. The Department immediately took up the matter vide its Letter No. 2609 dated on 23rd May 2022 with KEONICS and asked the vendor to direct its empaneled agency to continue operation till such time as a new empaneled agency takes over. The Department did not get any response from KEONICS. When the Department took up the matter telephonically with the vendor, it assured

verbally that such disruption will not happen and that KEONICS would provide another empaneled agency (M/s Code Bucket Ltd) that shall take over the Call Centre and IEMS Project. Further, KEONICS had assured that the said transition will be smooth.

However, the subsequent developments confirmed the apprehensions of the Department that there was not going to be any smooth transition. The vendor and its empaneled agency showed total disregard to the concerns of this Department. The empaneled agency, contrary to the assurance given by the vendor, didn't cooperate with this Department and started creating multiple hurdles.

In a sudden development, all the telephone lines of the Call Centre went dead on 25th May and 26th May 2022 due to non-payment of PRI bills by the empaneled agency (M/s Datacon Technologies). The Existing arrangement was that the telephones bills were generally paid by the M/s Datacon Technologies and they claimed reimbursement from the Government. However, their sudden decision not to pay any bills led to the disconnection of telephone lines for two days forcing the Department to pay these bills immediately and restore the telephone lines. The Department there after informed KEONICS about this incident vide its Letter No. 2684 dated 28th May 2022 and asked for a reply within 5 days. However, no reply has been received till date.

In a further attempt to destabilize the operations, the empanelled agency, Datacon Technologies vide letter dated 30-05-2022 informed KEONICS (with a copy to this Department) that it will discontinue the IEMS and Call Centre Project and **31st May 2022 will be the last day of working.** The Department again took up the matter telephonically with KEONICS and it was assured by the KEONICS to us that such disruption shall not happen and KEONICS will ensure smooth transition.

But in spite of such verbal assurances, the empaneled agency again wrote a letter to the vendor (with a copy marked to the Department) raising its issues with KEONICS and asking the KEONICS to pay Rs. 1.07 crores to them which is the money paid by this Department to KEONICS for onward payment to the empaneled agency. The Department will not dwell on the issues between vendor and its empaneled agency as it is their internal matter.

The empaneled agency also levelled an allegation against the Department that the Department have entered the Call Center in violation of the Exit Management Policy. It is an attempt by the empaneled agency to lay the blame

for the collapse of the Call Centre on this Department. The truth is, it is the sudden withdrawal of the empaneled agency (proof of the same is a letter on 31st May 2022, of the empaneled agency where its HR manager has asked all its employees to 'stay at home' starting 1 June 2022) which resulted in the collapse of the Call Centre. This "stay at home" order is nothing but an attempt by the empaneled agency to brow beat the Department into agreeing for its unjustified demands and an attempt to pressurize the Department to let the agency have its own way. Further the "Stay at home" order was deceptively polite to the employees of the Call Centre saying that their salary and other pending dues will be paid as usual. However, in reality, after the employees received the "stay at home" order, they approached the Department complaining that, **not only their salaries have not been paid for past many months but they are paid much less than what was promised.** They also gave a written complaint to the Department that they are suffering exploitation from the empaneled agency as they are not getting their due salaries, night shift allowances, transportation allowances etc.

The Department, now having been convinced that the empaneled agency is playing mischief and the vendor is indifferent to the problems, wrote to the vendor vide Letter No. 2726 dated on 31st May 2022 to revoke the remote access VPN connections and provide the Department all the user credentials immediately so that the Department may attempt to find another vendor, on an emergency basis, to operate the Call Centre and the IEMS Project till a permanent set up is in place. However, the vendor has not yet shared any credentials with the Department, which is the property of the Department.

In all, the above various acts of commissions and omissions by the vendor and its empaneled agency resulted in the following: -

1. Complete collapse of the Call Centre making the Department unable to receive calls from general public regarding illegal consumption/sale of liquor, resulting in serious collapse of the Departmental response to such complaints.
2. Complete disruption of the Department's Chemical Laboratories making it impossible for the Department to receive and send reports of chemical examination, thus severely impacting prosecution of cases filed under the Excise Act.
3. The shutdown of the supply chain module has led to disruption of the following critical operations at the distilleries and the sugar mills:
 - NOC and dispatch of ethanol
 - Purchase record of sugarcane and molasses
 - NOC and dispatch of E.N.A

- Allotment and dispatch of molasses,
- and all other activities done at the distilleries and sugar mills.

Moreover, things took a serious turn when this Department came to know of an email addressed to the State Data Centre (SDC) of the Government of Bihar dated 1st June 2022. The said mail, and the series of mail in catena, indicate that Shri Amresh has been interacting with the State Data Centre as **"Project Manager/Project Head of KEONICS"**, much after the letter issued by this Department on 20th April 2022 asking the vendor to remove the said person from this Project. Moreover, at 6:26 PM on 31st May 2022, the said person requested the State Data Centre to allow access to the Call Centre application server. This raises suspicion as to why the said person was requesting the State Data Centre an access, when the empaneled agency has already withdrawn from the Project with effect from 31st May 2022 and asked all their employees to "stay at home" from 1st June 2022. Possibly, it was an illegal attempt by the said person to damage the Call Centre applications by way of a cyber-attack. Truth will come out after the investigation by the Police for which this Department had already filed an FIR against the empaneled agency and the persons involved in the said email.

Notwithstanding above, this Department finally received a written response from KEONICS on 1st June 2022, after the total disruption and collapse of the Call Centre and the IEMS Project, that KEONICS and M/s Datacon have agreed for a proper exit management process and their empaneled agency will continue with the Project till 30th June 2022. The same intent had been conveyed by the empaneled agency M/s Datacon in its letter dated 1st June 2022 to this Department and requesting the Department to unlock the Data Centre at BSBCL to start the Centre. This letter only re-confirms the fact that the employees of the empaneled agency had suddenly left in the evening of the 31st May 2022 by shutting down the server and possibly damaging the software leading to the complete collapse of the Data Centre and thus affecting the IEMS Project and the Call Centre.

The aforementioned replies of KEONICS (the vendor) and M/s Datacon (the vendor's empaneled agency) have come too late and after the total disruption of the IEMS Project and the Call Centre. Whereas, this Department had been pleading with the vendor and its empaneled agency since 20th May 2022 to ensure that the transition/exit management is smooth and without hiccups. However, the fact remains that at the time of passing this order, the IEMS Project's server is shut down and Call Centre is non-functional. This is in

975620/2022/SEC_9-PERD

clear violation of the terms and conditions of the contract, apart from being unethical.

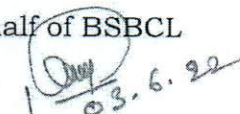
That be the case and for reasons mentioned in the foregoing paragraphs, the Department/BSBCL is left with no option but to terminate the contract with the KEONICS (the vendor). Accordingly, the following is ordered: -

1. The contract/MSA between the BSBCL and the KEONICS stands terminated with immediate effect. Any bank guarantees/security deposits shall stand forfeited.
2. For having performed poorly, unethically and for shutting down the servers suddenly and exiting the Project without allowing smooth transition, M/s Datacon Technologies Pvt Ltd (KEONICS' empaneled agency) is accordingly blacklisted for a period of three years from the date of passing this order.
3. For being unable to supervise the Project effectively and failure to enforce its commitments on its own empaneled agency (as enumerated by KEONICS in their letter dated 06th August 2018), the KEONICS (the vendor) is also blacklisted for a period of one year from the date of passing this order. The vendor, however, may submit a representation showing what action they have taken against their empaneled agency, upon which, the Department may consider re-visiting this order.

Let this Order be hosted on the web portals of the State Government for wide publicity.

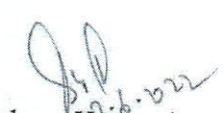
This issues with the approval of the competent authority.

On behalf of BSBCL


03.6.22
(Vinay Kumar)

General Manager, Bihar State Beverages Corporation Ltd,
Bihar, Patna

On behalf of the Department


03.6.22
(Krishna Kumar)

Deputy Commissioner, Excise
Prohibition, Excise & Registration Department
Bihar, Patna