5954(E)
28/8/2026

पथ निर्माण विभाग

दिनांक 28.8.2026 को सम्पन्न परिवाद समिति की बैठक की कार्यवाही।

पथ प्रमण्डल, मोतिहारी अन्तर्गत पथ आस्तियों के अनुरक्षण हेतु दीर्घकालीन निष्पादन और उपलब्धि आधारित पथ आस्तियाँ अनुरक्षण संविदा (Long Term Output & Performance Based Road Asset Maintenance Contract) प्रणाली के तहत राज्य अन्तर्गत Package No.-03A/Motihari कार्य की निविदा के तकनीकी बीड में प्राप्त परिवाद पर विभागीय पत्रांक–2217(E) दिनांक–01.04.2026, पत्रांक–2360(E) दिनांक–09.04.2026 एवं पत्रांक–5625(E) दिनांक–17.08.2026 द्वारा गठित समिति की बैठक की कार्यवाही।

उपस्थितिः

(i) श्री उमा कान्त रजक, अभियंता प्रमुख–सह–अपर आयुक्त–सह–विशेष सचिव (कार्य प्रबंधन), पथ निर्माण विभाग, बिहार, पटना।

(ii) श्री अभिषेक पलासिया, संयुक्त सचिव, पथ निर्माण विभाग, बिहार, पटना।

(iii) श्री राजेश कुमार गुप्ता, मुख्य अभियंता, संविदा प्रबंधन, नीतिगत मामले एवं लेखा परीक्षा, पथ निर्माण विभाग, बिहार, पटना।

(iv) श्री सुनील कुमार सुमन, मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना।

2. दिनांक–13.08.2026 को आहूत तकनीकी बीड मूल्यांकन समिति की कार्यवाही, जो उपभागीय ज्ञापांक–2459 दिनांक–13.08.2026 द्वारा संसूचित है, में लिये गये निर्णय के विरूद्ध प्राप्त परिवाद पर मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना के पत्रांक–2577(अनु०) दिनांक–24.08.2026 के माध्यम से परिवाद पर दिनांक–22.08.2026 को आहूत तकनीकी बीड मूल्यांकन समिति की कार्यवाही एवं अनुशंसा के आधार पर विवरणी निम्नवत् है :–

2.1	कार्य का नाम एवं पैकेज संख्या	:	पथ आस्तियों के अनुरक्षण हेतु दीर्घकालीन निष्पादन और उपलब्धि आधारित पथ आस्तियाँ अनुरक्षण संविदा (Long Term Output & Performance Based Road Asset Maintenance Contract) प्रणाली के तहत राज्य अन्तर्गत Package No.- 03A/Motihari
2.2	योजना मद	:	3054
2.3	निविदा आमंत्रित करने वाले प्रमंडल का नाम	:	पथ प्रमंडल, मोतिहारी
2.4	प्रशासनिक स्वीकृति की राशि एवं प्रसंग	:	₹15508.827 लाख। विभागीय ज्ञापांक–3247(एस०) दिनांक–12.05.2026
2.5	तकनीकी स्वीकृति की राशि एवं प्रसंग	:	₹18211.68 लाख। मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना का ज्ञापांक–1634(अनु०) दिनांक–25.05.2026
2.6	ECV/परिमाण विपत्र की राशि	:	₹16090.31759 लाख।
2.7	कार्य समाप्ति की अवधि	:	84 (Eighty-four) Months.
2.8	निविदा की प्रक्रिया	:	ई–टेंडरिंग (MBD)
2.9	निविदा प्राप्ति की तिथि	:	03.07.2026
2.10	प्राप्त निविदा क्या पुनर्निविदा है यदि हाँ तो कारण	:	पुनर्निविदा नहीं है।

3. विषयांकित निविदा में निम्नलिखित 06 (छः) संवेदकों द्वारा भाग लिया गया :–

(1) Ujjain Engicon India Private Limited
(2) Bhartia - Barhonia 'JV'
(3) JKM Infra Projects Limited
(4) Rishi Builders (India) Pvt. Ltd.
(5) M/s Vinod Kumar Jain
(6) Hill Brow Metallics and Construction Pvt. Ltd.

4. उपभागीय ज्ञापांक–2459 दिनांक–13.08.2026 द्वारा संसूचित दिनांक–13.08.2026 को सम्पन्न तकनीकी बीड मूल्यांकन समिति की बैठक में उक्त निविदा में कुल छः निविदाकारों में से एक निविदाकार यथा Ujjain Engicon India Private Limited को तकनीकी बीड में सफल घोषित करने का निर्णय लिया गया।

शेष पाँच निविदाकार यथा **(i)** Bhartia - Barhonia 'JV' को MBD के ITB Clause-17 एवं NIT के क्रमांक–18 के आलोक में, **(ii)** JKM Infra Projects Limited को MBD के Section 3 : Clause 2.3.3 एवं MBD के Section 3: Clause-2.2.1, Section 4E.5 एवं MBD के Sectlion-3 Clause-1.2.1 (a) के आलोक में, **(iii)** Rishi Builders (India) Pvt. Ltd. को MBD के Section 3: Clause 1.2.3, Section 4E.10 एवं NIT के क्रमांक– 39 के आलोक में, **(iv)** M/s Vinod Kumar Jain को MBD के Section 3: Clause 1.2.3, Section 4E.10 एवं NIT के क्रमांक– 39, तथा NIT के क्रमांक–28 के आलोक में एवं **(v)** Hill Brow Metallics and Construction Pvt. Ltd. को NIT के क्रमांक–28, MBD के Section 4 Clause D6 एवं MBD के Section-3: Clause – 1.2.3 Section 4E. 10 एवं NIT के क्रमांक–39 तथा MBD के ITB Clause- 17 एवं NIT के क्रमांक– 18 के आलोक में तकनीकी बीड में असफल घोषित करने का निर्णय लिया गया।

साथ ही प्रथम बार आमंत्रित निविदा के तकनीकी बीड में एकल निविदाकार के सफल होने के फलस्वरूप बिहार लोक निर्माण संहिता के नियम– 163 के आलोक में पुनर्निविदा आमंत्रित करने का निर्णय लिया गया, बशर्त्ते विभागीय आदेश–141–सह–पठित ज्ञापांक–5355 (S) दिनांक– 28.10.2021 के आलोक में निर्धारित अवधि (दो कार्य दिवस) में इस निविदा में शामिल किसी निविदाकार का परिवाद/आपत्ति प्राप्त न हो। यदि परिवाद प्राप्त होता है, तो सक्षम स्तर से परिवाद निष्पादन के उपरांत ही अग्रतर कार्रवाई हेतु निदेश दिया गया।

5. उपभागीय ज्ञापांक–2459 दिनांक–13.08.2026 द्वारा संसूचित दिनांक–13.08.2026 को सम्पन्न तकनीकी बीड मूल्यांकन समिति की निर्णय के विरूद्ध विषयांकित कार्य की निविदा के तकनीकी बीड में असफल निविदाकार यथा (1) Rishi Builders (India) Pvt. Ltd. के पत्रांक– RBPL/2026-27/054, दिनांक–14.08.2026, (2) JKM Infra Projects Limited के पत्रांक– JKM/PAT/INBR/North/CE/2026/822, दिनांक–17.08.2026 (3) M/s Vinod Kumar Jain के पत्रांक– VKJ/OPRMC/010, दिनांक– 15.08.2026 (4) Hill Brow Metallics & Construction Pvt. Ltd. एवं (5) Bhartia-Bharhonia 'JV' का पत्रांक– BIPL/PAT/03 दिनांक–17.08.2026 के द्वारा परिवाद/अभ्यावेदन/आपत्ति समर्पित किये जाने के परिप्रेक्ष्य में मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना के पत्रांक–2577(अनु०) दिनांक–24.08.2026 द्वारा परिवाद पर दिनांक–22.08.2026 को आहूत तकनीकी बीड मूल्यांकन समिति की बैठक की कार्यवाही एवं अनुशंसा समर्पित की गई है।

6. तकनीकी बीड मूल्यांकन समिति के उक्त निर्णय के विरूद्ध तकनीकी बीड में असफल निविदाकार **(i)** Rishi Builders (India) Pvt. Ltd. के पत्रांक– RBPL/2026-27/054, दिनांक– 14.08.2026, **(ii)** JKM Infra Projects Limited के पत्रांक– JKM/PAT/INBR/North/CE/2026/822, दिनांक– 17.08.2026 , **(iii)** M/s Vinod Kumar Jain के पत्रांक– VKJ/OPRMC/010, दिनांक– 15.08.2026 , **(iv)** Hill Brow Metallics & Construction Pvt. Ltd. एवं **(v)** Bhartia-Bharhonia 'JV' का पत्रांक– BIPL/PAT/03 दिनांक– 17.08.2026 आपत्ति पत्र प्राप्त हुआ है।

<u>परिवाद /आपत्ति की समीक्षा</u> :–

<table>
<tr><th colspan="2">परिवाद / आपत्ति</th><th>समीक्षा</th><th>परिवाद समिति की अनुशंसा</th></tr>
<tr><td>1.</td><td>
Rishi Builders (India) Pvt. Ltd. द्वारा दी गई आपत्ति :–

उपर्युक्त विषय के संबंध में निवेदन पूर्वक कहना है कि हमारे कम्पनी द्वारा विषयांकित निविदा में भाग लिया गया है और हमारे निविदा कागजातों के मूल्यांकन के बाद दिनांक–13.08.2026 को निर्गत कार्रवाई की प्रति जो हमें उपलब्ध कराया गया है, जो अवलोकन करना चाहेंगे, जिसके कंडिका –4 (iii) में यह कहा गया है कि "Rishi Builders (India) Pvt. Ltd. द्वारा MBD के Section 3:Clause 1.2.3, Section 4E-10 एवं NIT के क्रमांक 39 के आलोक में निविदाकार द्वारा Uploading Existing Commitment में अंकित 04 कार्यों का संबंधित Engineer-in-Charge द्वारा निर्गत/हस्ताक्षरित प्रमाण–पत्र निविदा के साथ Upload नहीं किया गया है। फलस्वरूप इनकी Bid Capacity की गणना नहीं की जा सकी।"

इस संबंध में निवेदनपूर्वक कहना है कि रू–

(1) हमारे निविदा को असफल जिस आधार पर किया गया है, उसमें मात्र एक आधार यह है कि हमारे द्वारा Uploaded Existing commitment में अंकित 04 कार्यों से संबंधित Engineer in charge द्वारा निर्गत एवं हस्ताक्षरित प्रमाण–पत्र निविदा के साथ अपलोड नहीं किया गया है।

(2) इस संबंध में मेरे द्वारा Uploaded 04 कार्यों जो निम्नांकित हैं और Uploaded Document के क्रमांक –4, 5, 6 एवं 7 पर अंकित है, कृपया उसका अवलोकन करना चाहेंगे, जो निम्नवत है :–
<table>
<tr><th>क्र०</th><th>एकरारनामा सं०</th><th>एकरारनामा से संबंधित कार्यपालक अभियंता</th><th>सम्पादित किये गये कार्य की राशि</th><th>कार्य जो किया जाना बाकि है कि राशि</th></tr>
<tr><td>1</td><td>08/RRSMP/CMBD /2025-26 Dated 04-07-2025</td><td>Executive Engineer, RWD, Works Division, Areraj, Bihar</td><td>7,45.45,74 7/-</td><td>13,91, 28,599.02/-</td></tr>
<tr><td>2</td><td>L.O.A Issue Date 08/01/2024 Work Order/Appointed</td><td>P.D, P.I.U, NHAI, Chhpra</td><td></td><td>20,71,00,000/-</td></tr>
</table>
</td><td>
निविदाकार द्वारा Uploaded Existing Commitment की सूची के अनुसार MBD के Section 4E.10 (c) एवं NIT के क्रमांक– 39 के आलोक में चार कार्यों का संबंधित Engineer-in-Charge द्वारा निर्गत / हस्ताक्षरित प्रमाण–पत्र Upload नहीं किया गया है।

साथ ही विभागीय पत्रांक– 6158, दिनांक– 09. 07.2014 के अनुसार निविदाकारों को Clarification & Modification का अवसर उन्हीं कागजातों / अभिलेखों के लिए दी जायेगी जो निविदा प्राप्ति की तिथि के पूर्व के होंगे तथा निविदा के साथ अपलोड होंगे।

अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।
</td><td>तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत।</td></tr>
</table>

	Date 16-03-2026			
3	L.O.A Issue Date 16/11/2023 Work Order/Appointed Date 04-01-2026	P.D, P.I.U.NHAI, Chhpra		24,01,00,000/-
4	27/CMBD/2025-26 Dated 08-07-2025	Executive Engineer, RWD, Works Division, Narkatiyaganj, Bihar	8,06,36,183.60/-	18,93,92,363.40/-

उपरोक्त कंडिका से स्पष्ट होगा कि अभी दो कार्य में कोई भुगतान भी नहीं हुआ है।

(3) जहाँ तक हमारे सूचना नहीं दिये जाने का प्रश्न है, इस संबंध में हमारे द्वारा संबंधित सभी कार्यों के एकरारनामा संख्या एवं अन्य सारी सूचनाएँ अंकित की गयी है, तो ऐसी स्थिति में यह निर्णय लेना कि Engineer-in-charge द्वारा निर्गत प्रमाण–पत्र अपलोड नहीं है, NIT एवं CMBD के सुसंगत धाराओं के आलोक में नहीं है, पर पुनर्विचार करना चाहेंगे।

(4) जहाँ तक मुझे ज्ञात है, जो भी कागजातों को हमारे द्वारा अपलोड नहीं किया गया था, उन सारे कार्यों के संबंध में संबंधित संस्थानों से उसकी सत्यता की जाँच कराकर सत्यापन प्रतिवेदन प्राप्त भी हुआ है। उक्त कागजातों के अवलोकन से स्पष्ट होगा कि चारो प्रमाण–पत्र Bid Submission Date के पूर्व हीं निर्गत हैं। पुनः उन प्रमाण पत्रों की छायाप्रति संलग्न है, जिसे परिशिष्ट–1, 2, एवं 3 पर देखा जा सकता है।

(5) इस संबंध में मैं आपका ध्यान MBD के कंडिका 22 पर आकृष्ट करना चाहता हूँ,जो Clarification of bids से संबंधित है। उसके उप कंडिका–22.1 में अंकित है कि:– "To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The employer's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall he sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 26."

उक्त नियम के आलोक में भी भवदीय हमे एक मौका निविदा के तकनीकी मूल्यांकन से पूर्व देने की कृपा करते तो उक्त अल्प आपत्ति का भी निराकरण कराया जा सकता था। विदित हो कि निविदा प्रकरण के साथ लगभग 500 से अधिक कागजातों को अपलोड किया जाना था, तो ऐसे स्थिति में ऐसा हो सकता है कि उक्त तथाकथित 04 कार्यों के मामले में वांछित कागजात अपलोड नहीं किया जा सका और उक्त आलोक में हमारे निविदा

	को अमान्य किये जाने के बिन्दु पर पुनः विचार करना चाहेंगे। (6) इस संबंध में मैं आपका ध्यान पथ निर्माण विभाग, बिहार, पटना द्वारा निर्गत पत्रांक 6158 दिनांक 09.07.2014 की ओर आकृष्ट करना चाहता हूँ, जो SBD/MBD/CMBD/NH पर आधारित निविदाओं के तकनीकी निष्पादन हेतु Eligibility Criteria से संबंधित है, के आलोक में भी भवदीय के स्तर पर निर्णय अपेक्षित है। अतः अनुरोध है कि उपरोक्त तथ्यों पर विचार करते हुए विधिसंगत निर्णय लेने की कृपा की जाय।		
2.	**JKM Infra Projects Limited द्वारा दी गई आपत्ति :–** With due respect, we, M/s JKM Infra Projects Ltd., most respectfully submit this representation against the decision communicated vide Aforesaid Memo No. 2454, 2459 respectively dated 13.08.2026, whereby our bid has been declared Non-Responsive/Disqualified under Sl. No. (iii) during technical evaluation. At the outset, it is respectfully submitted that the aforesaid Memo was uploaded on 13.08.2026 at about 06:00 P.M. As per Clause 5.2 of the said Memo, the bidder has been provided an opportunity to submit clarification/representation within two working days. Since 15.08.2026 and 16.08.2026 were holidays, the present representation is being submitted on 17.08.2026 within the stipulated period. We respectfully submit that M/s JKM Infra Projects Ltd. had duly prepared and uploaded the required tender documents and records on the e-Procurement Portal in accordance with the tender requirements. However, our Technical Bid has been declared Non-Responsive/Disqualified on the grounds mentioned in Sl. No. (4) vi & 4 (ii). In this regard, the following facts and submissions are respectfully placed for kind consideration: **1. OBSERVATION/OBJECTION REGARDING MBD, SECTION 3, CLAUSE 2.3.3 WRONG ATTACHMENT OF BANK CERTIFICATE:-** **Clarification: -** It is respectfully submitted that the objection raised under MBD, Section 3, Clause 2.3.3 regarding the alleged wrong uploading of the Bank Certificate requires reconsideration and verification. In respect of Tender ID 132528, Package No. 03A/Motihari, the Bank Certificate required for Road Division, Motihari, Package 03A was inadvertently uploaded against Araria Package 19B, whereas in respect of Tender ID 132392, Package No. 10B/Darbhanga, the Bank Certificate pertaining to Darbhanga Package 10B was inadvertently uploaded as the Bank Certificate	निविदाकार द्वारा आपत्ति में बताया गया है कि अनजाने में Bank Certificate of Araria Package 19B Upload हो गया है। साथ ही उन्होने आपत्ति पत्र के साथ	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत।

	of Araria Package 19B. It is submitted that the respective Bank Certificates had already been duly obtained from the concerned bank prior to submission of the bids and the discrepancy occurred solely due to an inadvertent clerical/uploading error while uploading the documents, and not due to any deficiency in the financial resources or capacity of the bidder. Since the required Bank Certificates were in existence prior to the bid submission and their authenticity and applicability can readily be verified from the concerned bank, the said discrepancy was capable of being clarified and verified before arriving at any adverse conclusion in the technical bid evaluation. The tender conditions also provide for seeking clarification wherever permissible before final evaluation. The relevant Bank Certificates are once again being enclosed with this representation/complaint, and their genuineness and particulars may kindly be verified directly from the issuing bank. Therefore, in the interest of fairness, transparency and substantive compliance, it is most respectfully requested that the inadvertent uploading error may kindly be treated as a curable clerical discrepancy, the concerned Bank Certificates may be verified from the issuing bank, and upon such verification and satisfaction regarding compliance with the prescribed financial resource requirement, M/s JKM Infra Projects Limited may kindly be declared technically qualified, by reconsidering/re-evaluating the Technical Bid in accordance with the applicable tender conditions.	Motihari Package-03A के लिए दिनांक– 15.06.2026 को Bank द्वारा जारी Bank Certificate का Photo Copy संलग्न किया गया है। यदि निविदा की तिथि दिनांक– 03.07.2026 के पूर्व दिनांक– 15.06.2026 को इस निविदा से संबंधित कार्य हेतु Bank Certificate प्राप्त था तो उसे ही Upload किया जाना चाहिए था जो कि नहीं किया गया। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	
	2. OBSERVATION/OBJECTION REGARDING CWJC NO. 10469/2026 AND LITIGATION HISTORY/ LIT-1 It has further been observed by the Technical Bid Evaluation Committee that CWJC No. 10469/2026 dated 23.06.2026, filed against the Department, was not separately mentioned in Litigation History/LIT-1, allegedly in terms of MBD Section 3, Clause 2.2.1 and Section 4E.5. **Clarification:-** In this regard, it is respectfully submitted that the dispute forming the subject matter of CWJC No. 10469/2026 is connected with the Kishanganj Arbitration Claim, which had already been disclosed in the Litigation History/LIT-1 submitted by the bidder. The said CWJC is not an independent, unrelated or concealed litigation. It arises out of and relates to the same underlying dispute/arbitration matter and concerns	निविदाकार, JKM Infra Projects Limited द्वारा वाद CWJC No.- 10469 / 2026 विभाग के विरूद्ध दिनांक– 23.06. 2026 को दायर किया गया है, जिसे Litigation History, LIT-1 में नहीं दर्शाया गया है। **"Since Arbitration and the writ petition is not Connected but indepentent matter and on**	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत।

	modification/clarification in relation to the said Arbitration Claim. Therefore, merely because the subsequent CWJC case number was not separately mentioned in LIT-1 cannot, in the facts and circumstances of the present case, be construed as wilful concealment, suppression of material facts or fraudulent misrepresentation, particularly when the underlying dispute/arbitration matter had already been disclosed and was otherwise within the knowledge/records of the Department. There was no intention whatsoever on the part of M/s JKM Infra Projects Ltd. to conceal any material fact, mislead the Department or obtain any undue advantage in the tender process. It is further submitted that, if the Evaluation Committee considered the disclosure to be incomplete or required any clarification regarding the relationship between the disclosed Arbitration Claim and CWJC No. 10469/2026, the same could have been clarified by the bidder, subject the provisions of the tender document, before arriving at the extreme consequence of disqualification. It is also relevant to submit that the original NIT prescribed 04.06.2026 as the last date for submission of the tender. Subsequently, the Department extended the bid submission deadline from time to time and ultimately fixed the final submission date as 03.07.2026. The documents uploaded by M/s JKM Infra Projects Ltd. had already been prepared in accordance with the original tender schedule. The documents bear their respective dates and signatures prior to 26.06.2026, and their authenticity can be verified from the documents submitted along with the bid. The subsequent extension of the bid submission date, by itself, should not lead to an adverse inference against documents which had already been duly prepared and uploaded. There was no deliberate intention to suppress, conceal or misrepresent any material information. **3. OBSERVATION/OBJECTION REGARDING ARBITRATION PROCEEDING IN BR/SBD/MDR/03/2006-07** The Technical Bid Evaluation Committee has further observed that the Arbitration proceeding relating to BR/SBD/MDR/03/2006-07 was not disclosed in terms of MBD Section 3, Clause 2.2.1 and Section 4E.5. **Clarification:** In this regard, it is respectfully submitted that the Arbitration proceeding in the said matter has already been	**different forum. It is mandatory to disclose."** निविदाकार द्वारा बताया गया है कि दिनांक– 26.06.2026 के पहले Bid Documents तैयार कर लिया गया था, जिसके कारण उक्त वाद से संबंधित तथ्य Mention नहीं किया जा सका। निविदा की तिथि 03.07.2026 तक बढ़ायी गयी। e-Proce पर Corrigendum के द्वारा Date extend पश्चात document Re-Submit किये जाने का नियम है। अतः निविदाकार द्वारा आवश्यक सुधारोपरांत Bid Document Upload किया जाना चाहिए था, जो उन्होंने नहीं किया। इसके अतिरिक्त इनके द्वारा पथ प्रमंडल, आरा में आवंटित कार्य (BR/SBD/MDR/03/2006-07) में Arbitration File किया गया था, जिसमें वर्ष 2021–22 (In last five years) में इस Arbitration में निविदाकार को Claim Amount Award किया गया	

	concluded and an Arbitral Award has been passed. Therefore, the said matter was not treated as a pending/current arbitration proceeding at the relevant time. The non-disclosure of the concluded arbitration as a separate pending litigation item was not with any intention to conceal or suppress any material fact. There was no deliberate or fraudulent attempt on the part of M/s JKM Infra Projects Ltd. to misrepresent its litigation status or to obtain any advantage in the tender process. It is further respectfully submitted that the said concluded arbitration does not, by itself, affect the bidder's: • technical capacity; • financial capacity; • relevant experience; • bid capacity; • performance capability; or • eligibility to participate in the present tender, particularly in the absence of any pending adverse order, departmental debarment, blacklisting or other disqualification arising from the said matter. The bidder has not submitted any false certificate or false declaration and has not made any misleading representation with an intention to deceive the Department. M/s JKM Infra Projects Ltd. has always maintained transparency in its dealings with the Department and remains fully committed to participating in a fair, transparent and competitive tender process. **4. OVERALL SUBMISSION** It is, therefore, respectfully requested that, M/s JKM Infra Projects Limited has been disqualified on the basis of the objection relating to its litigation history, the same criteria and parameters may kindly be applied uniformly to all other successful bidders, particularly with regard to their current and historical litigation disclosures. The bids and supporting documents of all successful bidders may accordingly be re-examined and verified from the original uploaded documents, and the Technical Bid Evaluation may be re-evaluated afresh in a fair, transparent and impartial manner before proceeding further with the tender process, so as to ensure equal treatment of all participating bidders and to avoid any possibility of discriminatory or inconsistent evaluation. Furthermore, In view of the facts stated above, it is respectfully submitted that the circumstances relied upon for	है। जबकि MBD के Section-3, Clause 2.2.1 में स्पष्ट अंकित है कि "Information on Litigation history in which the bidder is involved must be attached." के आधार पर नहीं रहने के कारण निविदाकार को Non-Responcve घोषित किया जायेगा। निविदाकार द्वारा बताया गया है कि दिनांक– 26.06. 2026 के पहले Bid Documents तैयार कर लिया गया था, जिसके कारण उक्त वाद से संबंधित तथ्य Mention नहीं किया जा सका। निविदा की तिथि 03.07.2026 तक बढ़ायी गयी। अतः निविदाकार द्वारा आवश्यक सुधारोपरांत Bid Document Upload किया जाना चाहिए था, जो उन्होंने नहीं किया। उपरोक्त तथ्यों के आलोक में स्पष्ट है कि निविदाकार द्वारा Litigation History LIT-1 में Disclose नहीं किया गया है। अतः आपत्ति का यह बिन्दु

	declaring the Technical Bid NonResponsive/Disqualified primarily relate to either: Matters relating to disclosure/clarification of litigation and concluded arbitration, where there was no wilful concealment, fraudulent misrepresentation or intention to mislead the Department. In view of the facts stated above, it is respectfully submitted that the circumstances relied upon for declaring the Technical Bid NonResponsive/Disqualified primarily relate to either: Matters relating to disclosure/clarification of litigation and concluded arbitration, where there was no wilful concealment, fraudulent misrepresentation or intention to mislead the Department. **5. PRAYER / REQUEST** In view of the facts and circumstances stated hereinabove, we most respectfully request your good office to kindly: a. Reconsider the decision communicated vide memo no. 2454 ,2459, respectively dated 13.08.2026 declaring M/s JKM Infra Projects Ltd. Non- Responsive/Disqualified. b. Consider the fact that CWJC No. 10469/2026 relates to the already concealment disclosed Kishanganj Arbitration dispute and that there was no wilful or fraudulent misrepresentation; c. BR/SBD/MDR/03/2006-07 Consider that the Arbitration proceeding relating to BR/SBD/MDR/03/2006-07 Award has already been concluded and an Arbitral been passed; d. Where permissible under the tender conditions, provide an opportunity for in respect of any perceived deficiency or ambiguity in the disqualification; disclosure documents before taking the extreme consequence of dis qualification; e. upon accepting and treating the declaration submitted by M/s JKM Infra Projects Limited in LIT-1 as valid and in compliance with the prescribed tender requirements, the disqualification of M/s JKM Infra Projects Limited may kindly be set aside and M/s JKM Infra Projects Limited may also be declared technically qualified for further consideration in the tender process, in the interest of fairness, transparency and equal treatment of all bidders. f. Consequently, kindly reconsider and re-evaluate the Technical Bid of M/s JKM Infra Projects Ltd. in accordance with the applicable tender provisions; and g. Pass such other appropriate and equitable order as may be deemed fit and proper in the interest of fairness, transparency and justice.	अमान्य किया जा सकता है।	

	We assure your good office that M/s JKM Infra Projects Ltd. shall continue extend its full cooperation and shall comply with all applicable tender requirements and instructions of the Department. to We shall be highly obliged for your kind consideration and appropriate action.		
3.	**Vinod Kumar Jain द्वारा दी गई आपत्ति :–** Representation has been sought vide letter cited under reference-1 communicated vide mail dated 14.08.2026 in respect of alleged deficiency in compliance of instructions by the Contractor as bidder in submission of bids for the aforementioned works invited through NIT (S) under reference. 2 The Contractor's/Bidder's bid has been considered non responsive primarily on following issues, in respect of which Contractor's /Bidder's representation is submitted below- (i) 25/- Advocate welfare stamp is not attached with Affidavit. :- An advocate Welfare stamp is not governed by the Indian Stamp Act, 1899. Instead, it is mandated by specific State Advocates' Welfare Fund Acts or the central Advocates' Welfare Fund Act, 2001, and it is legally required to be affixed on a Vakalatnama, not strictly on an ordinary affidavit to make the affidavit valid. The welfare stamp is a statutory requirement meant to be pasted and cancelled on a Vakalatnama (the authorization document given to a lawyer) to fund the welfare and social security of advocates. Whereas, the validity of an affidavit itself falls under the Code of Civil Procedure (CPC), the Oaths Act, and the general stamp duty requirements for affidavits under the Indian Stamp Act, 1899 (or state amendments), rather than advocate welfare legislation. Since the submitted Affidavit is not a Vakalatnama mandated to be affixed under specific State Advocates' Welfare Fund Act, 2001, rather it is a document falls under the Code or Civil Procedure (CPC), the Oaths Act, and the general stamp duty requirements for affidavits under the Indian Stamp Act, 1899 (or state amendments), hence Advocate Welfare Stamp is not required to be affixed on the Affidavit. Therefore, the Contractor's/Bidder's Bid cannot be considered as" non-responsive" on this ground.	NIT के क्रमांक–28 के आलोक में निविदाकार को शपथ–पत्र के साथ Rs. 25/– का Advocate Welfare Stamp Affixed करना था, जो कि नहीं किया गया। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत
	(ii) 01 Work Supporting certificate issued by Engineer-in-Charge not attached :- The Contractor/Bidder in said respect has submitted (i) Work Orders for the projects billing not yet done; (ii) Work supporting certificate issued by Engineer-in-	निविदाकार द्वारा MBD के Section 4E.10 (c) एवं NIT के क्रमांक– 39 के आलोक में Uploaded Existing Commitment की	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत

	Charge (iii) pass orders of latest Running Account Bills works under progress The documents submitted in respect of aforementioned (i) and (ii) are not in dispute Regarding 01 work for which the Engineer-in-Charge's certificate could not be obtained due to unavoidable reasons, the submitted Running Account Bills fulfil the requirement for which the supporting certificate from the Engineer-in-Charge was sought. Since the Engineer-in-Charge's certificate has already been submitted for the majority of the works, non-submission of only 01 such certificates due to unavoidable reasons cannot be grounds for declaring the bid non-responsive. Therefore, the Contractor's/Bidder's Bis cannot be considered as" non-responsive" on this ground. 3. Therefore on the above representation made by the contractor/Bidder, it is with utmost respect and humility in the interest of public, competitiveness and justice requested to please be kind to consider the Contractor's/Bidder's Bids responsive for opening of its Financial Bids.	सूची के क्रमांक – 5 पर अंकित कार्य "PROVN OF OTM ACCN AND ALLIED INFRA FOR KLP AT NASIRABAD" से संबंधित Engineer-in-Charge द्वारा निर्गत/हस्ताक्षरित प्रमाण–पत्र Upload नहीं किया गया है। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	
4.	**Hill Brow Metallics & Construction Pvt. Ltd. द्वारा दी गई आपत्ति :–** With due respect, we would like to submit this representation regarding the technical disqualification of our bid for the above-mentioned work. **MBD Section – Clause D6:** The initial tentative programme of performance was uploaded with a minor clerical mistake, wherein "OPRMC Package no -III .5 A" was mentioned instead of the relevant NIT number. However, this is not a mandatory document, and all other details remain unchanged. The work completion period is 84 months.	निविदाकार द्वारा Initial Tentative Program of Performance of OPRMC-III Package- 03A की जगह OPRMC Package No.- III 5A का Upload किया गया है। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत
	As per Section 3, Clause 1.2.3, Section 4 – E-10 (FIN-4), and NIT Clause 39, the details of our existing commitments and ongoing works were submitted along with the required supporting documents. For all our existing commitments, we have uploaded the available **Work Orders** and, wherever the work has commenced, the Ongoing Work Certificates issued by the concerned Executive Engineers. In cases where a newly awarded work has not yet	निविदाकार Hill Brow Metallics & Construction Pvt. Ltd. द्वारा MBD के Section 4E.10 (c) एवं NIT के क्रमांक– 39 के आलोक में Uploaded Existing	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत

	commenced at site, the concerned department/Executive Engineer has not issued an Ongoing Work Certificate, as the work has not started. Accordingly, for such works, we have submitted the Work Order copies and duly reflected the respective work values and balance work commitments in FIN-4. The same figures have been considered while calculating our **Bid Capacity.** Therefore, there has been no concealment or misrepresentation of our existing commitments, and the information submitted by us is in accordance with the actual status of the works. We respectfully submit that our bid has been prepared in good faith and in compliance with the tender conditions. We therefore request your good office to kindly reconsider our technical disqualification and allow our bid to be evaluated further. "Your office has already verified all the submitted Work Orders and Ongoing Work Certificates directly with the concerned Executive Engineers/Departments through official email. All concerned departments have also verified the Work Orders and Ongoing Work Certificates and confirmed the same through email replies."	Commitment की सूची के क्रमांक– 17 पर अंकित कार्य "Construction of Borida to Thengagudi Tora Approach Road Length- 3.00 Km. (Actual Length- 2.00 Km.)" under E.E, R.W.D., Division, Sarangarh से संबंधित Engineer-in-Charge द्वारा निर्गत/हस्ताक्षरित प्रमाण–पत्र Upload नहीं किया गया है। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	
	Regarding ₹25/- Advocate Welfare Stamp Paper Affidavit With regard to the requirement of the affidavit on ₹25/- Advocate Welfare Stamp Paper, we respectfully submit that no specific format for such affidavit was provided along with the NIT/tender documents available to us. Therefore, the same was inadvertently not uploaded with the bid documents. We are ready and willing to submit the required **affidavit on ₹25/- Advocate Welfare Stamp** Paper immediately, in the format prescribed by your department, if required. In view of the above facts and our bona fide compliance with the tender requirements, we humbly request your good office to kindly reconsider the technical disqualification, verify the submitted documents from the concerned Executive Engineers, and permit our bid to proceed for further evaluation.	NIT के क्रमांक– 28 में स्पष्ट उल्लिखित रहने के बावजूद निविदाकार द्वारा Uploaded शपथ–पत्र पर Rs. 25/- का Advocate Welfare Stamp Affixed नहीं किया गया है। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत
5.	**Bhartia-Barhonia 'JV' द्वारा दी गई आपत्ति :–** We, M/s Bhartia-Barhonia 'JV', have submitted our bid for the work "Maintenance of Road Asstes under long Term Output & Performance Based Road Asset Maintenance Contract (OPRMC-II) for Package No. 03A/Motihari" We are, deeply aggrieved by the decision of the Technical Bid Evaluation Committee declaring our bid as "Non-Responsive" under ITB Clause-17/NIT Sl. No.- 18 solely on the ground that the Bid Security (Bank Guarantee) contains the phrase "Executive Engineer, Road Division, Dhaka" in one place instead of Executive Engineer, Road Division, Motihari" We respectfully submit our representation against the said rejection based on the following facts and genuine merits of	निविदाकार द्वारा Bid Security के रूप में Uploaded B.G. Executive Engineer, Motihari की जगह Executive Engineer, Dhaka को Pledge किया गया है। MBD के ITB Clause 17 एवं NIT के क्रमांक–18 (a) में स्पष्ट अंकित है कि "Earnest Money Deposit (EMD) can be paid through	तकनीकी बीड मूल्यांकन समिति की अनुशंसा से सहमत

	the case: We respectfully submit our representation against the said rejection based on the following facts and genuine merits of the case: **1. Intent and Correctness of Bank Guarantee Addressee & Beneficiary** Header & Recipient Address : The bank Guarantee explicitly names and addresses "The Executive Engineer, Road Division, Motihari" as the intended beneficiary. e-stamp & Authorization Cover letter. The e-Stamp certificate (IN-AS42718828713478Y) as well as the forwarding cover letter of HDFC Bank clearly state chat the guarantee is issued in favor of "The Executive Engineer, Road Division, Motihari." Work Description: The preamble of the bank Guarantee conectly refers to the work as: "Long Term Output & Performance Based Road Assets Maintenance Work for the Roads under Road Division, Motihari (OPRMC, PHASE-III, Package- 3A/Motihari (NIT No. 01/2026-27)" **2. Nature of the Typographical Error** The reference to "Dhaka" appears only in a single place in the boilerplate text on Page 3 of the Bank Guarantee due to a purely clerical/typographical error by the issuing bank branch. This clerical error does not invalidate the legal enforceability of the Bank Guarantee by the Executive Engineer, Road Division, Motihari. **3. Official Verification Confirmed to RCD, Motihari Department** The official Bank Guarantee Verification process has been completed directly between the issuing bank (HDFC Bank Ltd.) and RCD, Division - Motihari (The Department). HDFC Bank, via official email dated 4th August 2026 addressed directly to the departmental email ID (rcdmotihari@yahoo.in), confirmed that : – Bank Guarantee No. 264GTO2261690005 for Rs. 1,70,91,000/- is validly issued in favor **Beneficiary:** Executive Engineer, Road Construction Department, Road Division Motihari **Name of Work**: Package 3A / OPRMC-III / Motihari Division under Executive Engineer, RCD, Road Division Motihari. This confirmation legally binds the bank to honor the claim raised by the Executive Engineer, Road Division, Motihari, rendering the BG fully valid, enforceable, and effective. **4. Legal Precedents of the Hon'ble Supreme Court of India** The Hon'ble Supreme Court of India has settled through multiple landmark judgments that non-essential, minor format errors in a Bank Guarantee do not invalidate a bid if the financial security is genuine, unconditional, and enforceable by the Employer:	offline mode in the form of Bank Guarantee of Nationalized/Scheduled Bank duly endorsed/pledged to Executive Engineer, Road Division Motihari. In offline mode, EMD in form of Bank Guarantee will be taken after award of work and before execution of agreement but scanned copy of Bank Guarantee is Mandatory to be uploaded with the tender Documents." उपरोक्त तथ्यों के आलोक में स्पष्ट है कि निविदाकार के द्वारा निविदा की Mandatory अहर्त्ता B.G , Executive Engineer, Road Division, Motihari के नाम से Pledge नहीं किया गया है। अतः आपत्ति का यह बिन्दु अमान्य किया जा सकता है।	

	M/s N.G. Projects Limited vs. M/s Vinod Kumar Jain & Ors. (2022): The Apex Court held that administrative authorities and tender committees must distinguish between essential conditions of eligibility and minor technical/procedural variations. If a Bank Guarantee is valid, legally binding on the bank, and secures the employer's financial interest, minor formatting or clerical deviations do not warrant outright disqualification of a competitive bid. **G.J. Fernandez vs. State of Karnataka & Ors. (1990) & Kanhaiya Lal Agrawal vs. Union of India (2002):** The Hon'bie Supreme Court laid down that compliance with tender conditions must be judged by whether the deviation is material or collateral/formal. A clerical mistake in naming the exact designation of the office within the same, department is a collateral defect, provided the bank guarantee is enforceable without dispute. **Central Coalfields Limited & Anr. v. SLL-SBL (JV) & Ors. (2016):** Employer's intent and enforceability of the security - The Supreme Court clarified that the primary test for a bid security/Bank Guarantee is whether it is legally enforceable by the tendering authority without hindrance. If the administrative error does not render the guarantee void or unenforceable by the Department, the defect is formal rather than material. **Substantial Compliance Principle:** The bank has issued an unconditional guarantee bound to the Road Construction Department, Bihar. The bank is legally obligated to honor the claim upon demand by the Department. Thus, the interest of the public exchequer is fully secured. In light of the above facts, as the typographical error is minor, inadvertent, nonmaterial, and fully clarified through official bank confirmation to the Motihari Division, we humbly request your good self to: Re-evaluate and reconsider the technical bid of M/s Bhartia - Barhonia 'JV'. Treat the minor clerical discrepancy in the BG body as rectified by the official bank confirmation. Declare M/s Bhartia - Barhonia 'JV' as "Technically Responsive" for Package No. 03 A/ Motihari.		

7. परिवाद की समीक्षा एवं तकनीकी बीड मूल्यांकन समिति की अनुशंसाः—

तकनीकी बीड मूल्यांकन समिति द्वारा समीक्षोपरांत एवं सम्यक विचारोपरान्त निविदाकार, **(i)** Rishi Builders (India) Pvt. Ltd. के पत्रांक— RBPL/2026-27/054, दिनांक—14.08.2026, **(ii)** JKM Infra Projects Limited के पत्रांक—JKM/PAT/INBR/North/CE/2026/822, दिनांक—17.08.2026, **(iii)** M/s Vinod Kumar Jain के पत्रांक—VKJ/OPRMC/010, दिनांक—15.08.2026 **(iv)** Hill Brow Metallics & Construction Pvt. Ltd. एवं **(v)** Bhartia-Bharhonia 'JV' का पत्रांक—BIPL/PAT/03 दिनांक—17.08.2026 द्वारा दिये गये आपत्ति को उपरोक्त वर्णित तथ्यों के आलोक में अमान्य करते हुये उपभागीय ज्ञापांक—2459 दिनांक—13.08.2026 द्वारा संसूचित दिनांक—13.08.2026 को सम्पन्न तकनीकी बीड मूल्यांकन समिति की बैठक में लिये गये सफल/असफल के निर्णय को यथावत रखा जा सकता है।

8. परिवाद समिति का निर्णय :–

(i) विषयांकित कार्य की निविदा के तकनीकी बीड में असफल निविदाकार यथा (1) Rishi Builders (India) Pvt. Ltd. के पत्रांक–RBPL/2026-27/054, दिनांक–14.08.2026 (2) JKM Infra Projects Limited के पत्रांक–JKM/PAT/INBR/North/CE/2026/822, दिनांक–17.08.2026 (3) M/s Vinod Kumar Jain के पत्रांक– VKJ/OPRMC/010, दिनांक–15.08.2026 (4) Hill Brow Metallics & Construction Pvt. Ltd. एवं (5) Bhartia-Bharhonia 'JV' का पत्रांक–BIPL/PAT/03 दिनांक–17.08.2026 के द्वारा दिए गए परिवाद/आपत्ति को अमान्य करने का निर्णय लिया जाता है।

(ii) 05 (पाँच) निविदाकार यथा (1) Bhartia - Barhonia 'JV' को MBD के ITB Clause-17 एवं NIT के क्रमांक–18 के आलोक में, (1) JKM Infra Projects Limited को MBD के Section 3 : Clause 2.3.3 एवं MBD के Section 3: Clause-2.2.1, Section 4E.5 एवं MBD के Sectlion-3 Clause-1.2.1 (a) के आलोक में, (3) Rishi Builders (India) Pvt. Ltd. को MBD के Section 3: Clause 1.2.3, Section 4E.10 एवं NIT के क्रमांक–39 के आलोक में, (4) M/s Vinod Kumar Jain को MBD के Section 3: Clause 1.2.3, Section 4E.10 एवं NIT के क्रमांक– 39, तथा NIT के क्रमांक–28 के आलोक में एवं (5) Hill Brow Metallics and Construction Pvt. Ltd. को NIT के क्रमांक– 28, MBD के Section 4 Clause D6 एवं MBD के Section-3: Clause – 1.2.3 Section 4E. 10 एवं NIT के क्रमांक– 39 तथा MBD के ITB Clause- 17 एवं NIT के क्रमांक– 18 के आलोक में तकनीकी बीड में असफल घोषित करने का निर्णय लिया जाता हैं।

(iii) विषयांकित कार्य की निविदा के तकनीकी बीड में एकल निविदाकार के सफल होने के फलस्वरूप निविदा को रद्द कर पुनर्निविदा आमंत्रित करने निदेश मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना को दिया जाता है।

(iv) उपभागीय ज्ञापांक–2459 दिनांक–13.08.2026 द्वारा संसूचित दिनांक–13.08.2026 को सम्पन्न तकनीकी बीड मूल्यांकन समिति के निर्णय को यथावत् रखा जाय।

(v) मुख्य अभियंता, उत्तर संबंधित परिवादी बीडर को समिति के निर्णय से अवगत कराना सुनिश्चित करेंगे।

8.1 परिवाद समिति की इस कार्यवाही को विभागीय वेबसाईट पर भी डाली जाय।

(सुनील कुमार सुमन) मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना।	(राजेश कुमार गुप्ता) मुख्य अभियंता, संविदा प्रबंधन, नीतिगत मामले एवं लेखा परीक्षा, पथ निर्माण विभाग, बिहार, पटना।	(अभिषेक पलासिया) संयुक्त सचिव, पथ निर्माण विभाग, बिहार, पटना।	(उमा कान्त रजक) अभियंता प्रमुख–सह–अपर आयुक्त–सह–विशेष सचिव (कार्य प्रबंधन), पथ निर्माण विभाग, बिहार, पटना।

ज्ञापांक: प्र0–7/निविदा–03–133/2026 5954 (E) पटना, दिनांक 28/8/2026

प्रतिलिपि:– मुख्य अभियंता, उत्तर, पथ निर्माण विभाग, बिहार, पटना/मुख्य अभियंता(अनुश्रवण), पथ निर्माण विभाग, बिहार, पटना को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित/आई0टी0 मैनेजर, पथ निर्माण विभाग, बिहार, पटना को विभागीय वेबसाईट पर अपलोड करने हेतु प्रेषित।

(उमा कान्त रजक)
अभियंता प्रमुख–सह–अपर आयुक्त–सह–विशेष सचिव(कार्य प्रबंधन),
पथ निर्माण विभाग, बिहार पटना।