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Bihar Skill Development Mission (BSDM)

Department of Labour Resources, Government of Bihar
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Phone: 0612-2528455 Fax: 0612-2535004

Email: biharskilldevelopmentmission@gmail.com Website: www.skillmissionbihar.org

Letter No.: **BSDM/Knowledge Partner-228/2022-712** Date: **26-05-2023**

To,
M/s. EdCIL (India) Limited (The Lead Bidder)

Kind Attention:

Mr. Ratnesh Kumar

Chief General Manager (Skill Development)

Vijaya Building, 5th Floor, 17-Barakhamba Road, New Delhi-110001

Subject: Regarding Cancellation of Letter of Award (LOA), Forfeiture of Earnest Money Deposit and debarring all the consortium partners to participate in future Tenders/RFPs of Bihar Skill Development Mission (BSDM) and debarred to work under any kind of programs of BSDM, for a period of three years from the date of issuance of this letter, for not fulfilling the terms and conditions of the RFP No: BSDM/03/2022-2023 dated 29.11.2022 and Letter of Award (LOA) vides Letter No. BSDM/Knowledge Partner-228/2022-305 dated 01.03.2023

Reference:

- Your email dated 25.05.2023 at 10.39 PM and letter dated 15th May 2023 by one of your consortium partner M/s. Astric Computers (India) Pvt Ltd.
- Our letter dated BSDM/Knowledge Partner-228/2022-643 dated 11.05.2023 with a copy to all the consortium partners.

Sir,

With reference to above subject and our letter mentioned above and your consequent reply and reply from of your consortium partner we would like to highlight as below:

1. That the points raised in your mail and by your consortium partner were already replied in detail vide our letter no. 335 dated 07.03.2023, and through email dated 23.03.2023.
2. That vide your email dated 13.03.2023, you have unconditionally accepted our Letter of Award and reference can be made to the **para 2 page 58 of the RFP** wherein the 2nd line of the para states that "The Bidder by participating in the bid will be undertaking as below" and the point 12 of the undertaking therein states that "We do hereby undertake, that, until a formal contract is prepared and executed, this bid, together with your written acceptance thereof, the tender document and placement of letter of intent awarding the contract, shall constitute a binding contract between us."
3. That as per **clause 21 of Page 22 of the RFP, under the head performance security and guarantee**, the successful bidder, within 15 days of issuance of letter of award, was required to furnish a performance security of Rs. 5 Crore by way of DD/ Performance Bank Guarantee (PBG) issued by one of the Nationalized/Scheduled Banks in India for the due performance of the Assignment, which the consortium led by you has failed to submit even after extension of time requested by you and so allowed by BSDM vide our email dated 16.03.2023 extending the last date for submission of PBG till 25.03.2023 and thus violated the terms of RFP and LOA.

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4. That through the point no. 37 of the response to pre-bid queries, BSDM, during the bid stage itself had already clarified that there will be no change and RFP condition will prevail as far as performance security was concerned.
5. **That the point number 3 of the 2nd para on page 58** which amongst others mentioned as **“The Bidder by participating in the bid will be undertaking as –** We understand that BSDM does not give any formal or informal commitment/s for the number of learners that will be enrolled/certified (as applicable) under any of its skill development programs.
6. **That through the point 12 of the Response to pre-bid queries,** it was again clarified that **“BSDM is not making any commitments on the approximate number of users but an assessment in this regard may be done by the bidder based on training figures available on BSDM website”.**
7. That it was undertaken by the consortium during the RFP process, through submission of Form Prequal 1 dated 05.01.2023, that the consortium has examined in detail and have understood the terms and conditions stipulated in the RFP issued by BSDM and agreed and undertaken that the consortium will abide by all these terms and conditions.
8. Your attention is drawn on the definition of Agency as mentioned in the Point **“Definitions”** of page 21 of the RFP which amongst others define the Agency as **“Agency / Bidder”** means of an organization registered / incorporated under Indian Acts meeting the Pre-qualification conditions OR (b) Consortium of organizations meeting Pre-qualification conditions as stipulated respectively in the Data Sheet”
9. **That the point 6.5 and 6.6 of page 19 of the RFP clearly states as below:**
 - 6.5 All the partners of the Consortium shall be jointly and severally liable for the execution of the contract in accordance with contract terms, and a relevant statement to this effect shall be included in the authorization mentioned above as well as in the Form of tender and the Form of Agreement (in case of a successful bidder).
 - 6.6 In the event of default, All the partners of the Consortium will retain the full and undivided responsibility for the performance of their obligations under the contract and/or for satisfactory completion of the work.
10. That the consortium was jointly and severally liable was not only undertaken in the **“Form Prequal-1”** of the technical proposal submitted by the consortium but also in the **para 6 of the page 2 of the “Notarized Consortium Agreement dated 05th January 2023”** submitted by the consortium so as to legally bind all the Members of the Consortium who will be jointly and severally liable for the performance and all obligations there under to BSDM.
11. That BSDM was kept in dark by the consortium, especially when you have communicated unconditional acceptance of the LOA vide your email dated 13th March 2023, wherein you have reiterated to execute the project as per the deliverables and schedule. Again, vide your email dated 15th March 2023 you have again reiterated acceptance of LOA and association with BSDM and had intimated that you have initiated the process towards submission of performance bank guarantee (PBG)



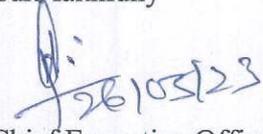
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and sought extension for submission of the same till 25th March 2023 which was also provided by BSDM. Again, vide your letter dated 27th March 2023 you have again reiterated acceptance of LOA and sought further 15-20 working days to complete the PBG/DD issuance related processes on account of financial year end closing and accounts validation but was not so submitted to BSDM.

12. It was expected that the consortium should have provisioned/planned necessarily for all/any circumstantial challenges at its end in advance, but the consortium has failed to submit the performance guarantee, execute the contract, and commence the services even after extension of the timeline in this regard. This has impacted the smooth functioning of BSDM programs and has other technical and financial implications on BSDM and resulted into irreparable loss to BSDM. This has negatively impacted our envisaged training/transitions plans.

13. Therefore, as per the terms of the RFP, the Letter of Award issued to the consortium is being cancelled and the Earnest Money Deposit is being forfeited. Further all the members of the consortium viz 1. M/s. EdCIL (India) Limited 2. M/s. Centum Learning Ltd. 3. M/s. Unwind Learning Labs Pvt. Ltd. and 4. M/s. Astric Computers (India) Pvt. Ltd are debarred to participate, in future Tenders/RFPs of Bihar Skill Development Mission (BSDM) and debarred to work under any kind of programs of BSDM, for a period of three years from the date of issuance of this letter.

Yours faithfully



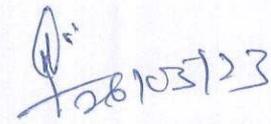
Additional Chief Executive Officer
Bihar Skill Development Mission

Labour Resources Department, Govt. of Bihar

Ref:- Letter No. BSDM/ Knowledge Partner - 228/2022 - 712 dated 26-05-2023

Copy to:

1. M/s. Centum Learning Ltd. for kind information.
2. M/s. Unwind Learning Labs Pvt. Ltd. for kind information.
3. M/s. Astric Computers (India) Pvt. Ltd. for kind information.



Additional Chief Executive Officer
Bihar Skill Development Mission

Labour Resources Department, Govt. of Bihar