

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

Original Application No. 26/2019

In the matter of :

Abhay Dahiya

Applicant(s)

Versus

State of Haryana

Respondent(s)

**ACTION TAKEN REPORT ON BEHALF OF HARYANA
STATE POLLUTION CONTROL BOARD .**

MOST RESPECTFULLY SHOWETH:

1. That complaint regarding unscientific disposal of waste and discharge of waste water was looked into by the answering Board. The site in question was inspected by the officer of the Board on 13.02.2019. The status of the site on that date has already been submitted vide letter NO.HSPCB/SR/2019/5086 dated 06.03.2019.
2. That a show cause notice dated 20.02.2019 was issued to the Commissioner, Municipal Corporation of Sonipat for prosecution for the deficiencies observed during the inspection. As no reply received to Show Cause Notice within stipulated period, recommendations were made by Regional Office to Head Office, HSPCB for prosecution of the Commissioner, Municipal Corporation, Sonipat.
3. That reply to Show Cause Notice was received from the Commissioner, MC, Sonipat vide Memo No.775 dated 03.05.2019 submitting that dumping of Municipal Solid Waste was started on the land in question in the month of March, 2018 as no other land site was available with the Municipal Corporation,

BM

Sonipat. Further, Instant Action Plan and Final Action Plan were also submitted vide said reply letter dated 03.05.2019. Copy of Memo no.775 dated 03.05.2019 alongwith conditional Letter of Intent and confirmation of conditional Letter of Intent for establishment of Integrated Solid Waste Management Project are annexed herewith as **Annexure-R/1**. The instant action plan mentions the following submissions:

1. On the issue of burning of waste in open, it is submitted that there is no open burning of Solid waste after 20.02.2019. The dumping site is regularly monitored by the sanitation staff on daily basis.
2. It is admitted that at present the Municipal Solid waste is not being disposed off in scientific manner. But since 20.02.2019 or even before a spray is being made on the dumping site for prevent foul smell. After necessary spray a thick layer of earth is also spread on daily basis. The photographs taken from the site are enclosed herewith. At present there is no foul smell at site.
3. It is submitted that at present the recyclable waste matter is being segregated through rag pickers. 28 no.s rag pickers have been identified and necessary safety gloves, boots and identity cards have been issued to them.
4. It is submitted that, the waste water noted at the time of inspection belongs to M/s Deen Bandhu Chhotu Ram, University and from the Dhaba's of Murthal situated along National Highway no. 44. The waste water come from university has been plugged and the Dhaba's owners have been asked to dispose off their effluent at designated place at Rathdhana STP.
4. That submissions made on behalf of Municipal Corporation were verified by field officer of Board on 08.05.2019. No burning of waste was found at site. Earth was also being spread over the waste. No foul smell was observed at site. Waste water also not observed at the site. The photographs of the site are annexed herewith as **Annexure-R/2**.
5. That 09 number of Dhabas/Restaurants having waste water discharge more than 10 KLD are covered under the Consent Management System of



the Board and they have installed STP for treatment of waste water. However, small Dhabhas have obtained permission of Municipal Corporation of Sonipat to get their waste water treated in the STP at Rathdhana STP and same is being disposed of accordingly.

6. That reply submitted by the Municipal Corporation of Sonipat mention about its action plan for establishment of 'Waste to Energy Plant'. It has been submitted on behalf of Corporation that Municipal Corporation, has already allotted the work in the name of "Development of Integrated Solid Waste Management Project for the Collection, Transportation, Processing and Disposal in Sonipat cluster (Sonipat, Panipat, Gannaur and Samalkha ULB's) to M/s JBM Environment Management Pvt. Ltd. The 8 MW electricity will be generated from the waste. The inert/remaining waste will be disposed off in scientific manner after completion of the project.
7. That the recommendations of prosecution against the Commissioner, MC, Sonipat haven been accepted and Prosecution has been sanctioned vide HSPCB/HQ/SNP/2019/178 dated 15.05.2019. The prosecution shall be taken to its logical end.

The report is submitted accordingly. Regular visit shall be kept on the present site in question.

Date: 28.5.2019

Place: Sonipat


Regional Officer 28.5.2019
Haryana State Pollution Control Board
Sonapat Region, Sonapat


From

Commissioner,
Municipal Corporation,
Sonipat

To,

The Regional Officer, Haryana
Pollution Control Board,
Star, Complex Building opp.
Civil Hospital, Delhi road Sonipat.

Memo. No. 775

dated 03/05/2019

Subject: Reply to show cause notice for prosecution under 15 of EP Act 1986 in compliance of Hon'ble NGT order dated 15.01.2019 in the OA no. 26/2019 in the matter of Abay Dahiya and other V/s State of Haryana.

This is with reference to your memo no. HSPCB/SR/2019/4941 dated 20.02.2019 vide which the following observations were conveyed to this office:-

1. This Municipal Solid waste is being burnt in open.
2. The Municipal Solid waste is being disposed off in unscientific manner in violation of MSW rule 2016.
3. Segregation of recyclable or compostable matter was not being at site.
4. At the time of inspection waste water from adjacent sewer found lodged in the dumping site due to which the resident in the nearby vicinity including the M/s Deen Bandhu Chhotu Ram, University of Science & Technology Murthal, Sonipat is facing the problem of foul smell.

The dumping of Municipal Solid waste was started on this land in the month of March 2018 as there was no other land fill site available with Municipal Corporation, Sonipat. Hence the dumping was started on Municipal Corporation land. On the above issues the reply on behalf of Municipal Corporation is as under:-

Instant Action Plan of behalf of Municipal Corporation, Sonipat:

1. On the issue of burning of waste in open, it is submitted that there is no open burning of Solid waste after 20.02.2019. The dumping site is regularly monitored by the sanitation staff on daily basis.
2. On the issue no. 2, it is admitted that at present the Municipal Solid waste is not being disposed off in scientific manner. But since 20.02.2019 or even before a spray is being made on the dumping site for prevent foul smell. After necessary spray a thick layer of earth is also spread on daily basis. The photographs taken from the site are enclosed herewith. At present there is no foul smell at site.
3. As regard issue no. 3, it is submitted that at present the recyclable waste matter is being segregated through ragpickers. 28 nos ragpickers have been identified and necessary safety gloves, boots and identity cards have been issued to them.
4. As regard issue no 4, it is submitted that, the waste water noted at the time of inspection belongs to M/s Deen Bandhu Chhotu Ram, University and from the Dhaba's of Murthal situated along National Highway no. 44. The waste water come from university has been plugged and the Dhaba's owners have been asked to dispose off their effluent at designated place at Rathdhana STP.

Final Action plan on behalf of Municipal Corporation, Sonipat.

On the issues mentioned at Sr. no. 1, 2 & 3, it is submitted that Municipal Corporation, has already allotted the work in the name of "Development of Integrated Solid Waste Management Project for the

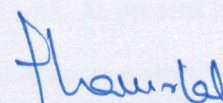
Collection, Transportation, Processing and Disposal in Sonipat cluster (Sonipat, Panipat, Gannaur and Samalkha ULB's or public private partnership (PPP) to JBM Eenvironment Management Pvt. Ltd. The expected date for completion of the project is 31-12-2020. The detail progress and dates are as under:

1	Date of opening of R.F.P for selection of agency for setting up of Integrated Solid Waste Management project for the Collection, Transportation, Processing and Disposal of solid waste in Sonipat. Cluster through public private partner Sonipat	19.03.2017
2	Issue of letter on intentent.	21.04.2017
3	Confirmation of letter of intent.	22.08.2017
4	Date of concession agreement	26.09.2017
5	Land lease agreement	24.11.2017
6	Power Purchase agreement of agency and Haryana power purchase committee	21.09.2018
7	Meeting of the Expert Appraisal committee (EAC) for environmental clearance of SWM facility in Murthal village.	23.04.2019
8	Release of minutes of meeting regarding Environmental clearance.	30.04.2019
9	Expected date of issue of format letter for environmental clearance from MOEF.	25.05.2019
10	Expected date for submission of application by concessionnaire i.e. JBM with HSPCB	26.05.2019
11	Expected date for issue of clearance certificate for consent to establishment (CTE) from HSPCB i.e. after 30 days	26.6.2019
12	Expected date of commencement of construction at site for waste to engery facility.	01.07.2019
13	Construction period 18 mnoths.	31.12.2020
14	Commercial opening dated	After 31.12.2020

39.14 Acre land has already been identified for land site in village Murthal which is suitable. Waste to energy plant is to installed on the above land. 8 MW electricity will be generated from the waste. The innert/remaining waste will be disposed off in scientific manner after completion of the project.

As regard construction/Installation of STP for Dhaba's at National Highway, A DPR amounting to Rs. 948.00 Lacs has been prepared and has already sent to the office of Director, Urban Local Bodies, Panchkula, vide this office memo no. 1170 dated 19.03.2019. The capacity of STP will be 3 MLD. The expected date of completion of STP is 31.12.2020.

The report is submitted herewith.


For: Commissioner,
Municipal Corporation,
Sonipat

Endst no.

dated

A copy of above is forwarded to the HSPCB Sector-6 Panchkula for information and necessary action please.

For: Commissioner,
Municipal Corporation,
Sonipat



To

M/s Neel Metal Products Ltd.,
Sector -36, Pace City II,
Gurugram- 122004.

Memo no. TA /XEN-1/DULB/2017/ 1890

Dated: 21/4/17

Subject: Development of Integrated Solid Waste Management Project for Collection, Transportation, Processing and Disposal in Sonapat Cluster (Sonapat, Panipat, Gannaur & Samalkha ULBs) on Public Private Partnership (PPP).

Ref: Tender ID: 2016_HRY_38320_1, Tender Ref No.: Job No. 700/ME1/MCS/2016-17/SWM, dated 30.12.2016 (hereinafter "RFP")

Conditional Letter of Award cum Letter of Intent (hereinafter referred to as "LOA")

(As per Clause 3.4 of RFP)

1) Please refer to:

- a) The Bid dated 06.03.2017, submitted by M/s **Neel Metal Products Ltd.** (hereinafter the "Selected Bidder") under the RFP, read along with and as modified by subsequent related communications, vide your letters dated 20.03.2017 and 10.04.2017 (your said Bid as modified by your said letters collectively hereinafter referred to as the "**Proposal**").
- b) The RFP document (Tender ID: 2016_HRY_38320_1, Tender Ref No.: Job No. 700/ME1/MCS/2016-17/SWM, dated 30.12.2016), read along with all the corrigendum's/addenda thereto (hereinafter collectively referred to as the '**Bidding Documents**') issued by the Directorate of Urban Local Bodies, Haryana, through Municipal Corporation, Sonapat (hereinafter referred to as "**Department**").

2) To avoid any doubt, it is hereby clarified that :-

- i. Unless otherwise referred in this LOA or repugnant to the context hereof, the capitalized terms used under this LOA shall have the meaning as respectively ascribed thereto herein, and capitalized terms not specifically defined in this LOA, shall have the meaning as ascribed thereto in the Bidding Documents.
- ii. This LOA shall, until Concession Agreement is executed, along with the terms of RFP govern the award of the Project and all issues arising therefrom or related hereto.

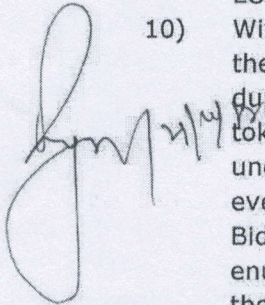
- 3) We are pleased to inform you that pursuant to the evaluation of the Bids submitted in terms of the RFP, your Proposal, with reduced Financial Proposal amount (as unconditionally and irrevocably reduced by your aforesaid letter dated 10.04.2017 and being equivalent to **Rs.10.60/- (Rupees Ten and paise sixty only)** per KWH towards the output based Incentive for the net-exportable Power has, subject to the terms of the RFP and this LOA, been accepted for award of the project i.e. - Setting up Integrated Solid Waste Management project with at least 05 MW of Waste to Energy Project including door to door collection, transportation, Biological treatment of Organic fraction of MSW and disposal of inert and processing rejects in Sanitary Landfill for the Sonapat Cluster (the "**Project**").
- 4) Subject to fulfillment of the terms and conditions of the RFP and this LOA, including without limitation the following conditions enumerated hereunder in this clause 4; you are here by being provisionally declared as the "**Selected Bidder**" for the development and implementation of the Project; and are hereby required to fully comply with the following terms and conditions:-
- a) You, the Selected Bidder, shall in terms of your e-mail dated 20.04.2017, organize the visit of the designated team as nominated by the Government of Haryana to visit the project sites [whose experience you have claimed in your Proposal to qualify for award of Project under RFP], in order to verify the project credentials relied by you, the Selected Bidder, for selection under RFP for award of Project. In regard to the aforesaid, it is hereby clearly understood and recorded, that, this LOA and provisional award of the Project hereunder, shall be subject to approval and clearance by the Government of Haryana of the verification report ("Verification Report") to be submitted by the visiting team, post undertaking the visit of the project site plants that have been claimed by you the Selected Bidder in your Proposal.
- b) You, the Selected Bidder shall, incorporate a new company under the Companies Act, 2013 (and rules notified thereunder) with equity share holding as specified in the Bidding Documents, to execute the Concession Agreement as the Concessionaire for development and implementing the Project in accordance with the terms thereof.
- c) You, the Selected Bidder, shall furnish to the Department, Performance Security by way of an unconditional and irrevocable bank guarantee from a scheduled bank acceptable to the Department in favour of "**Commissioner Municipal Corporation Sonapat**" prior to the execution of the Concession Agreement, in the format and for the value as set out in the Concession Agreement.
- d) In accordance with the terms of the Bidding Documents and this LOA, you, the Selected Bidder shall pay to the Transaction Advisor (namely, Ernst & Young LLP) of the Department, the Transaction Fee, (of the amount as per terms stipulated in the RFP), along with applicable service tax, to be paid over and above the aforesaid Transaction Fee amount.
- 5) After absolute & unconditional fulfilment of the conditions mentioned hereinabove, and subject to the approval/clearance of Verification Report by the Government of

21/4/17



Haryana; you, the Selected Bidder shall be called upon to execute the Concession Agreement in the form set forth in the Bidding Documents.

- 6) It may also be noted that in the event of any failure to comply with any one or more of the terms and conditions mentioned in this LOA and/or the Bidding Documents within the time and in accordance with the manner prescribed therefor, or the disapproval or non-clearance of the Verification Report by the Government of Haryana, as the case may be; the Department shall, in addition to all other rights and remedies that may be available to it under the provisions of the Bidding Documents, this LOA, law and equity or otherwise, at its absolute discretion be entitled to treat your Proposal, as rejected, and unilaterally cancel/revoke this LOA and deal with the captioned Project in any manner as it may deem fit in its sole and absolute discretion.
- 7) In such an event, you, the Selected Bidder (or any person claiming under it) shall have no claim or demand against the Department, of any nature whatsoever. Further, under any circumstances, the Department, shall not be liable or responsible to you, the Selected Bidder or to any other entity whomsoever, for any loss of business, business competition, loss of investment, or any other loss or damage, costs or expenses, for any reason whatsoever. You, the Selected Bidder (or any person claiming under it) shall not be entitled to claim any direct or indirect damages, costs, expenses for loss of business, loss of investment etc., upon rejection of your Proposal, and/or cancellation/revocation of this LOA, howsoever and whatsoever caused.
- 8) The Selected Bidder shall indemnify and keep indemnified the Department, its respective directors, consultants, contractors, officers, employees and/or agents, against all claims and loss, that they may suffer/ sustain or are likely to suffer/ sustain, due to or in relation to all/ any acts and omissions of the Selected Bidder, its employees, staff, personnel etc., pursuant to or in relation to this LOA and/or the Bidding Documents.
- 9) It may additionally be noted that this LOA by itself does not create any rights for undertaking implementation of the Project or contractual relationship with the Department or casts any corresponding obligation with respect to the Project or otherwise on the Department. Any such right or relationship shall come into effect only upon your unconditional compliance with terms and conditions set out herein and the execution of Concession Agreement subject to terms of the RFP and this LOA.
- 10) Without prejudice to any provision of this LOA and/or the Bidding Documents, you, the Selected Bidder are hereby requested to return the duly signed and stamped duplicate copy of this LOA within seven (7) days from the date of this LOA, as a token of the receipt & acknowledgement of this LOA, and undertaking of absolute, unconditional & unqualified compliance of the conditions mentioned herein. In the event the duplicate copy of this LOA duly signed/stamped by you, the Selected Bidder is not received by the stipulated date and/or any and all pre-conditions enumerated under this LOA are not fulfilled in the time and manner prescribed therein and/or the Verification Report is not approved/cleared by Government of Haryana on account of your project experience claim made under the Proposal

 21/11/17



found to be untrue/defective in whole or in part(s); the Department may, unless it consents to extension of time for submission thereof or waives performance/fulfillment of any such pre-condition, appropriate your Bid Security as Damages, as mutually agreed genuine pre-estimated loss and damage suffered by the Department on account of your failure to acknowledge the LOA and/or to fulfill any or all of the terms and conditions and/or misrepresentation /untrue claim being made under your Proposal.

- 11) This LOA shall be read, construed and interpreted in conjunction with the terms of the Bidding Documents.

Thanking You,

Yours Sincerely,

For & on behalf of **Directorate of Urban Local Bodies**

Chief Engineer,
Urban Local Bodies Department
Haryana, Panchkula. Ad

[Handwritten signature]

ACKNOWLEDGED BY:

We, **M/s Neel Metal Products Ltd**, the Selected Bidder, do hereby acknowledge the receipt of the LOA and undertake to absolutely and unconditionally comply with the terms and conditions contained therein and the Bidding Documents.

Signature, name and designation of the Authorized Signatory supported by proof of Authorization

(M/s Neel Metal Products Ltd)

Company seal of **M/s Neel Metal Products Ltd**

To

**M/s Neel Metal Products Ltd.
Sector - 36, Pace City-2
Gurugram -122004**

In consortium with:

**M/s Ekolog sp. z o.o.
36 Weippina Street,
64920, Pila, Poland.**

Memo no. A-II/SDE-ID/ULB/2017/9028

Dated: 22.08.2017

Subject: Confirmation of Conditional Letter of Award (LOA) for Development of Integrated Solid Waste Management Project for Collection, Transportation, Processing and Disposal in Sonapat Cluster (Sonapat, Panipat, Gannaur & Samalkha ULBs) on Public Private Partnership (PPP) [the "Project"]

Ref: i). Tender ID: 2016_ HRY_38320_1, Tender Ref No.: Job No. 700/ME1/MCS/2016-17/SWM, dated 30.12.2016 (hereinafter "RFP");

ii) Conditional Letter of Award cum Letter of Intent dated 21.04.2017 (hereinafter the "LOA") issued to selected bidder Consortium comprising of the :- (i) the Lead Member, namely, M/s Neel Metal Products Ltd; and (ii) the other Member, namely, M/s Ekolog; (hereinafter collectively "Selected Bidder") vide Memo No. TA/XEN-1/DULB/2017/1890.

1. Pursuant to the issue of conditional LOA(vide Memo No. TA/XEN-1/DULB/2017/1890 dated 21.04.2017), the team of Officials from Government of Haryana, visited Poland and Kazakhstan and verified three Project(s) namely (i) Shymkent (Chimkient) Municipal Waste Management Project (ii) LESZNO Solid Waste Management Plant and (iii) SULECIN-CZG 12(Experience submitted for Processing facility and Collection & Transportation), as claimed by the Selected Bidder Consortium in its Technical Bid submitted under the RFP for purposes of qualification thereunder.
2. The visiting team has verified that the experience claimed by the Selected Bidder, in respect of the credentials submitted as experience, are in order and therefore can be relied upon for the purposes of qualification and award of the subject project.
3. Accordingly the conditional LOA issued to the Selected Bidder with M/s Neel Metal Products Ltd. as the Lead Member, vide Memo No. TA/XEN-1/DULB/2017/1890 stands confirmed.
4. You are requested to promptly hereafter fulfill the other conditions mentioned in the RFP, which includes execution of the Concession Agreement, incorporation of Concessionaire/SPV, and payment of Transaction Fee to the Transaction Advisor, so as to proceed towards execution and development of the Project.

Chief Engineer, 22/8/17
for Director, Urban Local Bodies,
Haryana, Panchkula.

