

Minutes of 115th Steering Committee of Kerala State Transport Project

Date & Time : 30th September 2020 at 04.30 PM
Place : Committee Room of the Chief Secretary

Present:

1. **Dr. Vishwas Mehta IAS**
Chief Secretary
2. **Sri. Rajesh Kumar Singh IAS**
Additional Chief Secretary, Finance Department
3. **Sri. Pranabjyoti Nath**
Special Secretary, Water Resources Department
4. **Dr. A. Jayathilak IAS**
Principal Secretary, Revenue Department
5. **Smt S Malathy**
Additional Secretary, Transport Department
6. **Sri. Anand Singh IAS**
Secretary, Public Works Department
7. **Dr. Dinesh Arora IAS**
Project Director, KSTP
8. **Smt. Rahana V M**
Joint Secretary, Law Department
9. **Smt. Darlene Carmelita D'Cruz**
Chief Engineer (Projects), KSTP
10. **Sri. Ajith Ramachandran**
Chief Engineer (Roads), PWD

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Item No. 01 : Confirmation of 114th Steering Committee Minutes

: Confirmed.

Item No. 02 : Action taken report on the decision of the 112th Steering Committee.

: The steering committee noted the action taken report. The steering committee also noted that the letter of acceptance to M/s RDS for upgrading Punalur to Ponkunnam road (SH 8) has been issued.


Item No. 03 : Bid Evaluation Report –RKI Packages

1. Rehabilitation and Upgrading the road, Thavalam to Mulli of Major District Road (Length 28.50 Km) in Palakkad District under Rebuild Kerala Initiative (RKI)-RKI 8.

When the work was tendered initially, after technical evaluation it was found that M/s SPL-AF-RM (JV) was the only bidder who was technically responsive for opening of their price bid. Since the bidding has resulted in single responsive bid, the work was re-tendered in accordance with the extant rules.

The bid invitation for re-tender was published in the dailies The New Indian Express and Kerala Kaumudi on 13.08.2020 and in the Kerala e-tender portal on 13.08.2020 with the date of bid submission date as 27.08.2020. The following bidder had submitted the bid:

Sl. No.	Name of Bidder	Nationality	Remarks
1	M/s Sreedhanya Construction Company	Indian	Single Company
2	M/s Akshaya Builders- EKK Infrastructure Limited (JV)	Indian	Joint Venture
3	M/s SPL AF RM (JV)	Indian	Joint Venture
4	M/s Mary Matha Infrastructure Private Limited	Indian	Single Company



On evaluation of the technical bids by the Tender Evaluation Committee, the 3 bids received from M/s Sreedhanya Construction Company, M/s Akshaya Builders- EKK Infrastructure Limited (JV)&M/s SPL AF RM (JV) were found responsive to the requirements of the bidding documents.

The bid submitted by M/s Mary Matha Infrastructure Private Limited was rejected as found non-responsive as the bidder has failed to submit the qualification criteria's of work done as per clause 2.4.1 of General Construction experience of RFP and supporting evidences to substantiate specific construction experience as per clause 2.4.2 of RFP.

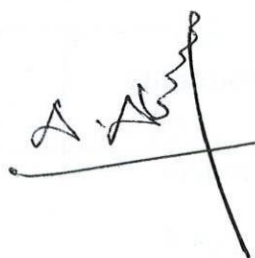
Accordingly, the price bid opening of responsive bidders was done on 09.09.2020 at 17.15 Hrs. The details are as follows:-

Sl.No.	Name of Bidder	Bid Amount (in Rupees)
1.	M/s Sreedhanya Construction Company	Rs.132,97,34,340/-
2.	M/s Akshaya Builders- EKK Infrastructure Limited (JV)	Rs. 132,80,97,600/-
3.	M/s SPL AF RM (JV)	Rs. 136,78,47,000/-

Price quoted by the **bidder, M/s Akshaya Builders- EKK Infrastructure Limited (JV)** is Rs.132.80 Cr which is 14.37 % more than the estimated cost of Rs. 116.11 Cr. The quoted amount is Comparable with the recent bid prices of the estimated amount based on DSR2016.

The L1 bidder was called for explaining the reason for higher quote. The justifications submitted by the bidder are as follows

- a) Considering reduced output for machinery due to constraints of space limitations, reduced width of roads.
- b) As the Mulli end is closed, all the construction materials required for the project has to be transported through one end of the Project, which makes a big difference for the weighted average lead calculation and directly to the cost also.



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- c) Material availability is a very big task for this project and need to stock sufficient material well in advance to maintain the smooth and uninterrupted running of the Project.
- d) Rate of materials are very high in this region as there are lots of restrictions implemented in quarry operations here due to the protected area concept.
- e) Due to the present pandemic situation of COVID-19, prices and availability of construction materials are unpredictable and the project does not have provision for price variation.
- f) As per Government policy the cost of Petroleum products are increasing day by day and therefore, we have to spend much amount for fuel for running of vehicles and for procurement of Bitumen than the current market price.

Based on the aforesaid justification furnished by the bidder, the steering committee noted that as the bidding process is valid and the bid was satisfactorily advertised with the qualification criteria not unduly restrictive and price is reasonable in comparison to the market values, the bid may be accepted. This is also in line with the procurement arrangements agreed between Bank and KSTP under loan agreement schedule which says, "No negotiations are conducted even with the lowest evaluated responsive bidder".

2. Upgradation of Alappuzha-Changanssery road into Semi Elevated Highway- RKI 9.

The bid invitation was published in the dailies The Hindu, Times of India and Malayala Manorama on 24.06.2020 and in the Kerala e-tender portal on 30.06.2020 with the date of bid submission date as 14.08.2020 which was further extended up to 07.09.2020. The following bidder had submitted the bid:

Sl. No.	Name of Bidder	Nationality	Remarks
1	M/s Marymatha-KMC (JV)	Indian	Joint Venture
2	M/s ULCCS-EVRASCON (JV)	Indian	Joint Venture
3	M/s RDS-CVCC (JV)	Indian	Joint Venture

On

Minutes of 114th Steering Committee of Kerala State Transport Project evaluation of the technical bids by the evaluation committee, the two bids as mentioned above received from M/s ULCCS-EVRASCON (JV) & M/s RDS-CVCC (JV) were found responsive to the requirements of the bidding documents.

The bid submitted by M/s Mary Matha- KMC (JV) was rejected as found non-responsive as the JV partner M/s KMC Constructions Limited. To ascertain the performance and financial stability of the bidder M/s Marymatha-KMC (JV), remarks from National Highway Authority of India was obtained regarding the physical and financial performance of the M/s KMC Constructions Ltd. in NHAI works being executed in Kerala.

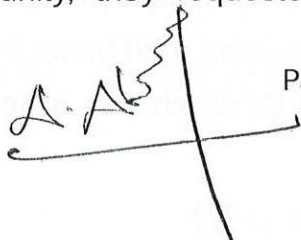
In response, NHAI has remarked regarding the non –performance of M/s KMC Constructions Limited in the following two of their major projects in Kerala as described below:

a) Six laning of Vadakkancherry to Thrissur

- i. The concessionaire failed to maintain the highway in traffic worthy condition, PD, PIU-Palakkad has carried out emergent repair work at the risk and cost of Concessionaire by engaging a third-party during September 2019.
- ii. The one of the reasons regarding delay in completion of work is attributed to the financial crisis of the Concessionaire.

b) Kozhikode Bypass

- i. The project is awarded to M/s Calicut Expressway Private Limited. The Concession Agreement has been signed on 18.04.2018. The Project is on Hybrid Annuity Mode (HAM). The Scheduled Completion date is 2 Years from appointed date.
- ii. 100 % Land Available for Construction and Authority has completed all the required obligations as per Concession Agreement. Appointed date could not be declared despite signing Concession Agreement on 18.04.2018 as Concessionaire (M/s Calicut Expressway Private Limited) could not achieve financial close. NHAI signed a Joint Memorandum of handing over land with Concessionaire on 26.12.2019.
- iii. The Concessionaire yet to submit the financial closure documents and as last opportunity, they requested time upto 16.09.2020 to submit duly executed

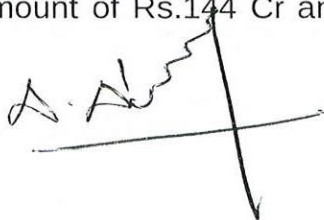


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Financial Documents to NHAI to achieve Financial Close for declaration of
Appointed Date.

Based on the aforesaid facts, legal opinion as mentioned below was obtained from Sri. K.V.Manoj Kumar, Senior Government Pleader regarding the legal implication in rejecting the bid submitted by M/s Mary Matha- KMC (JV) The legal opinion provided by Senior Government Pleader stated:

- a) As per section 2 of the bidding documents in ITB 4.1, all members of the joint venture shall be jointly and severally liable for the execution of the entire contract in accordance with the contract terms and for that purpose a statement to that effect is to be submitted along with the bid.
- b) In ITB 4.1, It is further mandated that projects from joint venture are acceptable only in a case where joint venture partner should have active participation in the execution during the currency of the contract and this should not be varied/modified subsequently.
- c) In section III of the evaluation, qualification and eligibility and its criteria is specifically provided which includes historical contract, non-performance, financial situations, bid capacity etc. the foremost elements are financial situations of the bidders as well as historical contract nonperformance.
- d) As far as the financial situation is concerned, documents submitted by NHAI speak that situation of M/s KMC Construction Limited is unsatisfactory.
- e) As per the decisions of Apex court as well as the Hon'ble High Court, the employer's right to select the bidders on their subjective satisfaction cannot be interfered with.
- f) As per the recent decision by the Hon'ble High Court of Kerala, it is declared that the choice of employer based on the assessment of qualification, experience, financial position, etc of the bidders cannot be subjected to judicial review.
- g) There is no legal impediment in rejecting the bid submitted by M/s Marymatha-KMC (JV) based on the subjective satisfaction of the KSTP on the issues discussed above.

Moreover, M/s KMC Construction Limited were selected as the successful bidder for the work of a) Perumbilavu-Nilamur road & b) MundurThootha road under Rebuild Kerala Initiative with contract amount of Rs.144 Cr and Rs.323.10 Cr which was awarded much before the non-



Minutes of 114th Steering Committee of Kerala State Transport Project performance of KMC through NHAI came into light. Their capacity has been further constrained after the award of the two works.

In light of the aforesaid facts mentioned in the legal opinion of Sr. Govt. Pleader and as detailed in the remarks furnished by NHAI, the steering committee concurred the recommendations of the tender evaluation committee to reject the bid submitted by M/s Marymatha-KMC (JV) as non-responsive and to open the financial bids of M/s RDS-CVCC(JV) & M/s ULCCS-EVRASCON (JV)”

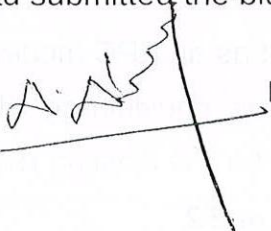
Accordingly, the price bid opening of responsive bidders was done on 18.09.2020 at 15.15 Hrs. The details are as follows: -

Sl.No.	Name of Bidder	Bid Amount (in Rupees)
1.	M/s ULCCS-EVRASCON (JV)	Rs.649,76,86,775/-
2.	M/s RDS-CVCC (JV)	Rs. 739,74,00,000/-

The price quoted by the bidder, M/s ULCCS-EVRASCON (JV) is Rs.649.76 Cr which is 6.47 % more than the estimated cost of Rs. 610.25 Cr. The steering committee noted that the quoted amount is reasonable and competitive considering the estimated cost of 610.25 Cr. As the bidding process is valid and the bid was satisfactorily advertised with the qualification criteria not unduly restrictive and price is reasonable in comparison to the market values, the bid may be accepted. This is also in line with the procurement arrangements agreed between Bank and KSTP under loan agreement schedule which says, “No negotiations are conducted even with the lowest evaluated responsive bidder”.

3. Rehabilitation and Upgrading the road Mananthavady to Periya Road of Major District Road (Length of 27.30 Km), in Waynad District under Rebuild Kerala Initiative (RKI)-RKI 10.

The bid invitation was published in the dailies The New Indian Express Mathurbhumi on 30.06.2020 and in the Kerala e-tender portal on 17.07.2020 with the date of bid submission date as 17.08.2020 which was further extended up to 24.08.2020. The following bidder had submitted the bid:

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Sl. No.	Name of Bidder	Nationality	Remarks
1	M/s Akshaya-EKK (JV)	Indian	Single Entity
2	M/s Sreedhanya Construction Company	Indian	Single Entity
3	M/s Uralungal Labour Contract Co-operative Society	Indian	Single Entity


On evaluation of the technical bids by the evaluation committee, the two bids as mentioned above received from M/s Sreedhanya Construction Company & M/s Uralungal Labour Contract Co-operative Society were found responsive to the requirements of the bidding documents. The bid submitted by M/s Akshaya-EKK (JV) was rejected as found non-responsive as the bidder has failed to meet the qualification criteria of bid capacity as per clause 2.5 of Section III-Evaluation and Qualification criteria of RFP. Accordingly, the price bid opening of responsive bidders was done on 11.09.2020 at 15.30 Hrs. The details are as follows:-

Sl. No.	Name of Bidder	Bid Amount (in Rupees)
1.	M/s Sreedhanya Construction Company	Rs.106,49,00,000/-
2.	M/s Uralungal Labour Contract Co-operative Society	Rs. 102,83,06,000/-

Price quoted by the bidder, M/s Uralungal Labour Contract Co-operative Society is Rs.102.83 Cr which is 14.45 % above the estimated cost of Rs. 89.84 Cr. The quoted amount is Comparable with the recent bid prices of the estimated amount based on DSR2016.

The L1 bidder was called for explaining the reason for higher quote. The justifications submitted by the bidder are as follows:

- The 27 Km long road-proposed to be built as an EPC model along the Mananthavadi to Periya stretch has been tendered by us considering all major investigative tests including geotechnical for the soil & BBD for the existing roads to ascertain the existing



Minutes of 114th Steering Committee of Kerala State Transport Project site condition for the design. Almost 3 Km of the road runs parallel to the Kabani River- and has been-submerged up to 2.5 m in the floods during 2018&2019, which has been considered by us while bidding for the work.

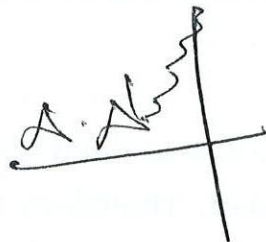
- b) Based on the tender documents and articles, there would be additional expenses for the Design, Proof check & Safety Consultant, CAR policies and others.
- c) The tender quote is based on working rates and considering the actual conveyance for materials and machinery. The fact that the project has been floated for a period of 18 months and escalation clause being absent, under the present situation and frequent restrictions being imposed by the Government polices with respect to transport of materials, the rates have been derived considering them.
- d) The claimed that being a Labour Contracting Co-Operative Society, giving prime importance to its labours and their welfare, the benefits provided to them on site and off site have been considered in our tender. It is only because of the unwavering support of the Society members that we have been able to deliver our projects on time and in the best quality.

Based on the aforesaid justification furnished by the bidder, the steering committee noted that as the bidding process is valid and the bid was satisfactorily advertised with the qualification criteria not unduly restrictive and price is reasonable in comparison to the market values, the bid may be accepted. This is also in line with the procurement arrangements agreed between Bank and KSTP under loan agreement schedule which says, "No negotiations are conducted even with the lowest evaluated responsive bidder".

4. KSTP-II-RKI-11-Upgrading Edoor-Palathumkadavu Road in Kannur District under Rebuild Kerala Initiative.

The bid invitation was published in the dailies The New Indian Express and Mathrubhumi on 30.06.2020 and in the Kerala e-tender portal on 27.07.2020 with the date of bid submission date as 11.09.2020. The following bidder had submitted the bid:

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Sl. No.	Name of Bidder	Nationality	Remarks
1	M/s RDS Projects Ltd.	Indian	Single Entity
2	M/s EKK Infrastructure Ltd.	Indian	Single Entity

evaluation of the technical bids by the project management consultants, the two bids as mentioned above received from M/s RDS Projects Ltd. & M/s EKK Infrastructure Ltd. were found responsive to the requirements of the bidding documents and were recommended to be invited for opening of their price bids (2nd envelope) for further evaluation. The price bid opening was done on 22.09.2020 at 4.30 PM. The details are as follows:-

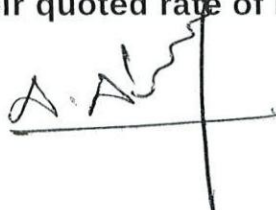
Sl.No	Name of Bidder	Bid Amount (in Rupees)
1.	M/s RDS Projects Ltd.	Rs.128,43,00,000/-
2.	M/s EKK Infrastructure Ltd.	Rs. 147,54,94,000/-

Price quoted by the bidder, M/s RDS Projects Ltd. is Rs.128.43 Cr which is 0.84% above the estimated cost of Rs. 128.35 Cr. **The steering committee noted that the quoted amount is reasonable and competitive considering the estimated cost of 128.35 Cr. As the bidding process is valid and the bid was satisfactorily advertised with the qualification criteria not unduly restrictive and price is reasonable in comparison to the market values, the bid may be accepted. This is also in line with the procurement arrangements agreed between Bank and KSTP under loan agreement schedule which says, "No negotiations are conducted even with the lowest evaluated responsive bidder".**

The Steering Committee, after detailed discussions, resolved by consensus that:

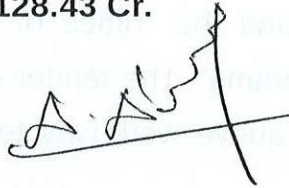
Resolution 1:

1. M/s Akshaya Builders- EKK Infrastructure Limited (JV) be awarded the work of Rehabilitation and Upgrading the road, Thavalam to Mulli of Major District Road (Length 28.50 Km) in Palakkad District under Rebuild Kerala Initiative (RKI) at their quoted rate of Rs.132.80 Cr



2. a) The action taken by KSTP in rejecting the bid of M/s Marymatha JV with KMC stands ratified.
b) M/s ULCCS-EVRASCON (JV) be awarded the work of Upgradation of Alappuzha-Changanssery road into Semi Elevated Highwayat their quoted rate of Rs.649.76 Cr. M/s ULCCS – EVRASCON (JV) will have to follow all procedures regd Bid security / Performance Guarantee in vogue by the World Bank
3. M/s Uralungal Labour Contract Co-operative Society (ULCCS) be awarded the work of Rehabilitation and Upgrading the road Mananthavady to Periya Road of Major District Road (Length of 27.30 Km), in Waynad District under Rebuild Kerala Initiative (RKI)at their quoted rate of Rs.102.83 Cr
4. M/s RDS Projects Ltd. may be awarded the work of Upgrading Edoor-Palathumkadavu Road in Kannur District under Rebuild Kerala Initiative at the quoted amount of Rs 128.43 Cr.

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Item No. 04 : Extension of time: Package IIIB- Request for the Extension of time for the work "Upgradation of the road from Kalarode to Valavupara- For completion of Irritty Bridge and its approaches".

Resolution No.2

Considering the recommendations of the Engineer (CSC), the Steering Committee by consensus resolved to grant extension of time for completing the Irritty Bridge and its approach road works up to 31.12.2020. If the works are not completed by 31.12.2020, decision of the proportionate LD shall be taken later.

Item No 5 : Establishing, Operating and Maintaining wayside amenities on land leased out by KSTP/ PWD under BOT Mode (Build, Operate, Transfer).

The tender notice of the work of "Establishing, Operating and Maintaining Wayside amenities on land leased out by KSTP/ PWD" was published on 26.07.2020 in the all India editions of the dailies 'The Hindu' and the 'Times of India' and in all Kerala editions of 'Mathrubhumi' and 'Malayalala Manorama'. The tender documents were published in the e-tender portal on 03 Aug 2020. The above work was tendered for the following 9 locations along PWD roads:-

1. MC Road Near Gokulam Med. College
2. MC Road PWD Land near karettu
3. MC Road S-curve area
4. MC Road Akaman
5. MC Road Mylam area
6. MC Road Enatupalam
7. Thiruvalla – Kumbazha road, Thottabhagom
8. Ettumanoor – Eranakulam road, Thiruvelikunnu
9. Chalai Junction – Adjoining to PUKC road, Kannur

It was a single stage two envelopes bidding process. A pre-bid meeting, in physical and virtual mode, as per the RFP, was conducted on 10.08.2020. Representatives of M/s Bharat Petroleum Corporation Ltd. and M/s Hindustan Petroleum Corporation Ltd participated in the pre-bid conference. The addendum, queries and clarifications were published in the e-tender

Minutes of 114th Steering Committee of Kerala State Transport Project portal on 18 August 2020. The last date of submission of bids was on 11.09.2020. The technical bid opening was conducted on 14.09.2020. Only one bidder responded to the tender. The bidder has quoted for only one location out of the nine locations in the bid. The details are as follows:

Name of the bidder : M/s Hindustan Petroleum Corporation Ltd.

Registered office of the bidder : 17, Jamshedji Tata Road, P O Box No. 11041, Mumbai – 400020;
Regional Office Kozhikode

Site for which the bidder quoted : Chalai Junction – Adjoining to PUKC road, Kannur, Chainage 100+350

Based on the technical evaluation, the bidder, M/s Hindustan Petroleum Corporation Ltd (HPCL) is considered to be qualifying to the requirements of the bidding documents. Hence their financial bids were opened on 24.09.2020. The price quoted by the bidder is Rs. 72,60,000/- (Rupees Seventy-two lakhs sixty thousand only) towards yearly lease amount for the proposed 29 years lease. The reserve price for this location is Rs 21.37 lakhs which the bidders quote 3.4 times the reserve price. Being a good offer, steering committee recommended to accept the offer. Before issuing LOA, the steering committee also advised KSTP to seek the Government approval as it involves leasing of land. The steering Committee also advised KSTP to retender for the remaining sites.

The Steering Committee, after detailed discussions, resolved by consensus that:

Resolution No . 3:

- a) The contract for “Establishing, Operating and Maintaining wayside amenities on land at Chalai Junction – Adjoining to PUKC road, Kannur, Chainage 100+350, leased out by KSTP/ PWD under BOT Mode (Build, Operate, Transfer)” may be awarded to M/s Hindustan Petroleum Corporation Ltd at their quoted price of Rs. 72,60,000/- (Rupees Seventy-two lakhs sixty thousand only) towards yearly lease amount for the proposed 29 years lease.
- b) Before issuing LOA, the steering committee also advised KSTP to seek the Government approval as it involves leasing of land.
- c) To retender the remaining sites available.

Item No (06) : **Selection of Consulting Services for Authority's Engineer for Supervision of 'Rehabilitation & Upgrading the State Highways & Major District Roads, having varying width, by Climatic Resilient Reconstruction, 4 roads in the Northern Districts of Mallapuram & Palakkad of Kerala State (Package -2) under Rebuild Kerala Initiative'**

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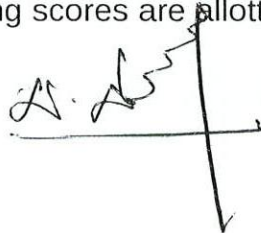
DPR for four roads in the Northern Districts of Mallapuram & Palakkad of Kerala State under Package -2, funded by World Bank, were already floated. The roads are under EPC mode. Authority's Engineer has to be procured for the supervision of the roads.

In order to save procurement time consumed in procurement process for EoI stage, it is decided to issue RFP to the shortlisted of EoI submitted for the "Selection of Consulting Services for Authority's Engineer for Supervision of 'Upgrading Punalur to Ponkunnam road (SH 8) from Km 0+000 to Km 82+173 (Package 8A, Package 8B & Package 8C)'.

In response to the notification for EoI published in the dailies on 28.02.2019, thirteen applications were received. The Evaluation Committee chaired by the Principal Secretary to Government PWD shortlisted the following six firms.

1. M/s. Consulting Engineers Group Ltd.
2. M/s. Egis India Consulting Engineer Pvt. Ltd.
3. M/s. Infra Support Eng. Consultants Pvt. Ltd. in J.V. with iDECK Ltd.
4. M/s. SA Infrastructure Consultants Pvt. Ltd. in J.V. with Cos Consultancy Services
5. M/s. Sai Consulting Engineers Private Limited, Ahmedabad, India
6. M/s. SOWiL Limited in J.V, with Esteem Developers Pvt. Ltd

Only five firms had submitted the proposal. The Technical Proposals were opened on 20/08/2020 at 16.30 Hrs. The technical proposals were evaluated by the Evaluation Committee consisting of Secretary PWD & Project Director KSTP, and Chief Engineer, KSTP and the following scores are allotted.



Sl. No	Consultants' names	Technical scores
1.	M/s. Consulting Engineers Group Ltd.	85.73
2.	M/s. Sai Consulting Engineers Private Limited, Ahmedabad, India	83.43
3.	M/s.Egis India Consulting Engineer Pvt. Ltd. In JV with Orion Infra consulting Pvt. Ltd.	84.92
4.	Infra Support Eng. Consultants Pvt. Ltd. in J.V. with IDECR Ltd	73.18
5.	SOWiL Limited in J.V, with Esteem Developers Pvt. Ltd	64.95

The Evaluation Committee examined the Technical Proposals and decided that the following four firms are qualified for their Financial proposal opening, who scored above 70 points. They are,

1. M/s. Consulting Engineers Group Ltd.
2. M/s. Sai Consulting Engineers Private Limited, Ahmedabad, India
3. M/s.Egis India Consulting Engineer Pvt. Ltd. In JV with Orion Infra consulting Pvt. Ltd.
4. Infra Support Eng. Consultants Pvt. Ltd. in J.V. with IDECR Ltd.

The financial proposal of M/s.SOWiL Limited in J.V, with Esteem Developers Pvt. Ltd. was not opened as they had not obtained minimum qualifying 70 marks in their technical appraisal.

The Financial Bid was opened on 24th September 2020 at 11.00 Hrs. The combined technical and financial evaluation details are as follows:

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Sl. No	Consultant's Name	Technical Scores (St)	Financial Scores (Sf)	Final Scores (S = St × 0.75 + Sf × 0.25)	Quoted Price (Exclusive of taxes) INR	Rank
1.	M/s. Consulting Engineers Group Ltd.	85.73	81.08547	84.56887	14,64,43,000/-	2
2.	M/s. Sai Consulting Engineers Private Limited, Ahmedabad, India	83.43	67.46807	79.43952	17,60,00,300/-	3
3.	M/s.Egis India Consulting Engineer Pvt. Ltd. In JV with Orion Infra consulting Pvt. Ltd.	84.92	100	88.69	11,87,44,000/-	1
4.	Infra Support Eng. Consultants Pvt. Ltd. in J.V. with IDECR Ltd	73.18	85.36166	76.22541	13,91,06,950/-	4

The Steering Committee, after detailed discussions, resolved by consensus that:

Resolution No . 4:

The proposal of M/s. Egis India Consulting Engineer Pvt. Ltd. In JV with Orion Infra consulting Pvt. Ltd. may be approved for an amount of Rs.11,87,44,000/- excluding all indirect local taxes, as they were ranked first among four consultants on quality and least cost basis.

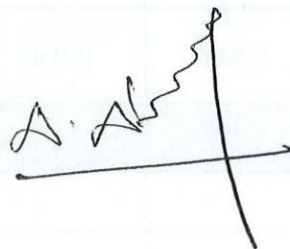
Item No (07) : Status of RKI Works under Package 1, 2 3 & 4.

RKI ROADS UNDER WB & KfW

As part of the works to be undertaken under Rebuild Kerala Initiative 1600km of roads were identified by PWD under the Flood affected stretches and were prioritized by M/s LNTIEL under the guidelines and criterion of World Bank and KfW. Under the first phase prioritized, a total length of 747.30 kms was taken up for preparation of DPR. Out of this 286.90 kms taken up under World Bank while 460.37 kms under KfW (German Bank) funding. Four packages are divided geographically and consist of 148km, 147km, 250km and 231 km as Package 1, 2, 3 and 4 respectively and DPR preparation for them is completed.

- Package 1 & 2 have been taken up as Engineering Procurement Contracts (EPC) with a maintenance period of five years. The maintenance cost is a fixed percentage of the Bid Price @ 4.5 % of Contract award price and shall be paid in stages year wise during maintenance period. These roads to be funded under “Development Policy Loan “ under WB does not require approval at each stage by uploading in the WB Software web “ STEP” and can be tendered as soon as they are ready.
- Package 3 & 4 under KfW funding are taken up under “Item Rate Contracts” also with a maintenance period of five years and similar payments as per Package 1 and 2 during maintenance. These roads (17 Nos as per the available funding) require KfW “No Objection (NO)” before they are tendered.

Package 1 under Northern Districts out of Five roads for which DPR was done by M/s FEEDBACK Infrastructure Pvt Ltd, all five have been tendered with the details as shown in the table A

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Minutes of 114th Steering Committee of Kerala State Transport Project

PKG - I, M/S FEEDBACK						
Road No.	RK-11	RK-12	RK-13	RK-14	RK-15	
Road Name	Eloor - Companyrath - Anapanthy - Angadikadavu - Vaniyappara - Charal - Valakupara - Kacherikadavu - Palathunkadav road in Peravoor constituency	Uruchal Marakkayi velayal - Keezhallur Therur Palayod - Vellaparamba Karimbala Colony Maruthayyi Road	Kumbila - Badiadka - Mulleria road	Koyilandy Tharassery Mukkam Areekode Edavanna	Vythiri - Tharwana road	
District	Kannur	Kannur	Kasaragod	Kozhikode	Wayanad	
Length as per ToR (km)	24.45	20.43	29.55	52.50	20.75	147.675
Length of Road as per actual site (km)	24.40	18.46	29.135	46.32	13.32	131.635
Category of Road	MDR	MDR	MDR	SH-34	MDR	
Status						
Submitted	✓	✓	✓	✓	✓	
Estimated Cost in Cr (Excluding maintenance)	127.35	96.31	151.74	212.74	61.15	649.29
NIT	✓	✓	✓	✓	✓	
Date	16-07-2020	24-08-2020	22-08-2020	08-09-2020	08-09-2020	
Bids uploaded	✓	✓	✓	✓	✓	
Date	27-07-2020	27-08-2020	24-08-2020	11-09-2020	11-09-2020	
Pre Bid date	11-08-2020	15-09-2020	14-09-2020	28-09-2020	28-09-2020	
Last date of receiving bids	✓ 11-09-2020	12-10-2020	08-10-2020	27-10-2020	27-10-2020	
opening Date of Bids	11-09-2020	12-10-2020	08-10-2020	27-10-2020	27-10-2020	
Bids Received	2 (RDS & Ekk)					
Evaluation	Done					
Awarded	RDS (LI)					

A. Aswathy

Minutes of 114th Steering Committee of Kerala State Transport Project Package 2 under Northern Districts out of Five roads for which DPR was done by M/s L & T Infrastructure Engineering Ltd , all five have been tendered with the details as shown in the table B

PKG -II, M/s L & T						
Road No.	RK-05	RK-06	RK-07	RK-08	RK-10	
Road Name	Perumbilavu-Nilambur Road	Quilandy- Edavanna road	Palakkad -Perinthalmanna Road	Thavalam Mully Road	Mananthavady- Vimalanagar -	
District	Malappuram	Malappuram	Palakkad	Palakkad	Wayanad	
Length as per TOR (km)	24.4	32.5	36.8	28.8	24.8	147.30
Length of Road as per actual site (km)	30.88	31.53	37.38	28.50	27.00	155.294
Category of Road	SH-39	SH-34/MDR	SH-53	MDR	MDR	
Status						
Submitted	✓	✓	✓	✓	✓	
Estimated Cost in Cr (Excluding maintenance)	132.76	157.40	355.68	116.11	89.54	851.4948
NIT	✓	✓	✓	✓	✓	
Date	16-05-2020	16-05-2020	16-05-2020	16-05-2020	16-07-2020	
Bids uploaded	✓	✓	✓	✓	✓	
Date	05-06-2020	05-06-2020	05-06-2020	05-06-2020	17-07-2020	
Pre Bid	15-06-2020	15-06-2020	15-06-2020	15-06-2020	27-07-2020	
Last date of receiving bids	16-07-2020	16-07-2020	16-07-2020	27-08-2020	24-08-2020	
Awarded Cost in Cr	144.00	189.76	323.10	132.81	102.83	892.5
Awarded	M/s KMC Constructions	M/ s Shreedanya Construction Company	M/s KMC Constructions	M/s Akshaya Builders (L1)	M/s ULCC (L1)	
Approved by SC	✓	✓	✓	Awaited		
LoA issued	✓	✓	✓			

Package 3 under Central districts consists of ten (10) roads for which DPR was done by M/s Louis Berger Limited, Road No 1 and 7 were selected as Pilot Roads while Package 4 under Southern districts consists of Nine (9) roads for which DPR was done by M/s EGIS India Pvt Ltd, Road No 2 and 5 were selected as Pilot Roads.

Minutes of 114th Steering Committee of Kerala State Transport Project

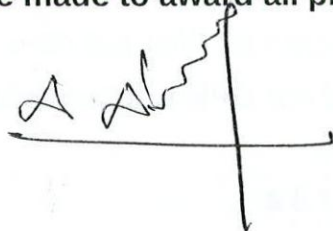
The prioritization of these roads as per KfW are shown ranking wise for Package 3 and 4 combined as per table below:

NO i e No Objection for six roads as per Table below is received from KfW out of Which Four roads are already tendered ie Two each from Package 3 and Package 4 respectively. Last date for Bid Submission for two Pilot Roads of EGIS is 05-10-2020 & Two pilot Roads of LBI Package 3 is on 22-10-2020. Two roads (5th and 6th) for Which NO is received will be uploaded on 01-10-2020 and Bid submission will be before 15-11-2020.

It is anticipated that by end of October the No Objection (NO) for all balance ten Roads will be received and hence NIT has been published well before the Code of Conduct is in Place.

	6	NO From KfW received already (6 Roads)
	9	Submitted to KfW for NO
Total	15	
	2	DPR's Ready to submit to KfW
Total	17	
	2	Not Considered Under KfW Funding (2 Roads)
Total	19	
	13	Paper Notification for tender to be uploaded in October Given (4+9 Roads)

The steering Committee noted the status of RKI projects under KSTP. It advised KSTP that efforts be made to award all projects by December 2020.



Item No (08) : Upgradation of Alappuzha- Changanassery road into Semi – Elevated Highway and upgradation of Mananthavady- Periya Road in Wayanad District.

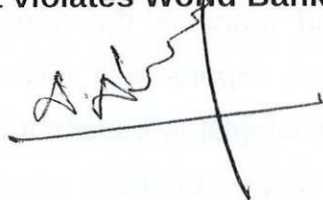
- a) Vide G.O (Rt) No.239/2020/P&EA dated 02.06.2020 Government of Kerala has accorded AS for the project of upgradation of Alappuzha- Changanassery road into Semi –Elevated Highway under RKI at an estimated cost of Rs.624.48 Crore and later vide G.O (Rt) No. 318/2020/P&EA, Thiruvananthapuram dated 17.08.2020. Revised AS was accorded for an amount of Rs.671.66 crores.
- b) Vide G.O (Rt) No.235/2020/P&EA dated 29.05.2020, AS was accorded for the implementation of Mananthavady – Periya Road in Wayanad under RKI.

The AS for both the above works mentions that the requisite funds for the project will be sourced from the Development Policy Loan of the World Bank and the loan from KfW. The AS concludes stating that 'All procurements as part of implementation of the work shall be done in a fair and transparent manner in accordance with the extant rules'. KSTP is in charge of the implementation of the project and hence an NCB (National Competitive Bidding) was floated following the World Bank Procurement Norms. M/s Uralungal Labour Contract Co-operative Society Ltd, No 10957 (ULCCS) has been the lowest bidder for both the works. As per the Bid Document of EPC mode of construction and World Bank procurement norms M/s ULCCS has to submit performance security within 28 days of receipt of notification of award. Also, on execution of Agreement, they have to submit Bank Guarantee before release of advance if requested.

AE7
M/s ULCCS has requested exemption from submission of Performance Guarantee as they have Government orders exempting them from submitting Performance Guarantee. As the Bids were floated following the procurement norms of the World Bank, KSTP is of the view that this exemption claimed by M/s ULCCS is not applicable to these works.

Resolution No 5:

Steering Committee after detailed discussion resolved by consensus that the exemption claimed by M/s ULCCS cannot be granted for works funded under the World Bank Loan as it violates World Bank Procurement Norms.



Item No (09) :

New Bank Account for KSTP –RKI Fund

FW / Kerala State Transport Project is entrusted with carrying out the road works funded by Development Policy Loan of World Bank for RKI. Since the financial transactions in this connection have to be accounted separately, it is necessary to keep a separate bank account. Since the existing bank accounts in KSTP are being used exclusively for KSTP's World Bank funded Projects (Phase I and II), a new savings bank account is opened with SBI, Vellayambalam.

The new bank account is purely intended for RKI's Development policy Loan of World Bank related transactions.

Resolution No.6:

The Steering Committee by consensus resolved to ratify the opening of new savings bank accounts with SBI for KSTP's financial transactions of RKI funds.

Item No (10) : **Extension of contract period of Sri.Ravikumar.T, Consultant Sociologist of KSTP, PMT for a period of one year from 01.09.2020.**

Subhas / The post of Sociologist in Project Management Team (PMT) is mandatory as listed under the Institutional implementation arrangements cited in the Project Appraisal Document (PAD) agreed by the Government and the World Bank.

Sri.Ravikumar.T was appointed as Consultant Sociologist in KSTP (PMT) on a monthly remuneration of Rs.40,000/- for a period of Six months. This was approved by the 106th Steering Committee dtd.18.02.2019.He joined duty on 01.03.2019.His term of contract expired on 31.08.2019.The 108th Steering committee dtd.04.09.2019 extended his service for one more year from 01.09.2019 on the same remuneration. Now his term of contract has expired on 31.08.2020.

The Sociologist in PMT coordinates and monitors the gamut of land acquisition, resettlement and rehabilitation in KSTP, prepares reports and follows up cases requiring special attention. The presence of a qualified sociologist is essential in PMT for the smooth functioning of the social cell. Sri.Ravikumar is a Post Graduate in social work and also has a

A. A. S.

Minutes of 114th Steering Committee of Kerala State Transport Project Bachelors Degree in Law. He has twelve years of professional experience in social development sector in areas like planning, coordinating & implementing of Rehabilitation & Resettlement activities, project management, monitoring, evaluation, coordinating, conducting training programs, documentation etc. He has also worked as Team Leader of NGO Consultancy under KSTP Package 7 B during the year 2003-2006.

KSTP requested that his term may be extended for a period of one year with effect from 01st September 2020 with an enhanced remuneration of Rs.42,500/-.

Resolution No.6:

The Steering Committee by consensus resolved to extend Service of Sri.Ravikumar.T as consultant sociologist in KSTP(PMT) for a period of one year from 01.09.2020 on an enhanced monthly remuneration of Rs.42,500/-. Hereafter all contracts will stand elapsed until renewed before the last date of expiry.

Item No: (11) Upgradation of Ponkunnam – Thodupuzha Road - Release of Pending Payment towards unpaid items including geo textiles and decision with respect to hard rock excavation.

a) (1) For pay item no.202-01-

Dismantling Brick/Stone masonry structures, the BOQ of the item is 623 cum and as per VO-4, a quantity of 778.75 cum is approved. However, payment for quantity upto 763.18 cum was released to the contractor as against eligible quantity of 778.75 cum due to 10% quantity being withheld in IPC 10. After taking into consideration the balance eligible payment for quantity of 15.57 cum, the amount to be paid comes to Rs.31,140/-.

(2) For pay item no. 301-02(b)

- 3/10
- i. As per the original agreement quantity and rate in BOQ in respect of item No.301-02 (b) - Roadway excavation in Hard Rock are 1850 cum and Rs.6000 per cum respectively.

- ii. Against the BOQ quantity of 1850 cum the certified quantity of the work executed is 80449.324 cum (IPC 42).
- iii. Rs.22,02,01,404/- was paid to the Contractor towards the payment @ Rs.6000 per cum for certified quantity of rocks amounting to 36000.234 cum in IPC 2 to 10. Rs.19,07,07,595/- was paid to Contractor @ Rs.5702 per cum for 33445.7375 cum of excavated rocks in IPC No.12 to 23. A quantity of 3051.553 cum is excluded for the calculation for payment of IPC 10 to 15 as 90 % of the certified quantity was considered for the payment in IPC. Actual cumulative payment of item No.301-02 (b) - Roadway excavation in Hard Rock in IPC 32 was Rs.41,09,08,975/-. Instead of that due to an inadvertent mistake crept in, cumulative total of QS sheet is erroneously noted as Rs.41,73,72,281/-.
- iv. After executing the supplementary agreement (Steering Committee has not ratified the action till date) payment has been recalculated in IPC 33 and effected as below.

Since actual payment Rs.41,09,08,975/- an Rs.64,63,281 was has to be rectified.

Quantity cum	Rate Rs.	Payment Rs
73197.524	5702	-41,73,72,281
2313	6000	1,38,78,000
70883	4875	34,55,54,625

up to IPC 32 is only excess recovery of made in IPC 33. This Rs.84,06,177/- was

- v. It is seen that deducted towards the rate adjustment. The same is not necessary as excess recovery was occurred due to mistake crept in the cumulative payment which was deducted in IPC 33 for adjustment. This need to be rectified.
- vi. In view of the report of Chief Technical examiner and supplementary agreement has not been ratified by the Steering Committee the following recovery has been made from the IPC No.41

Quantity cum	Rate Rs.	Recovery Rs.
-463	6000	27,78,000
- 70883	4875	34,55,54,625

- vii. While making the adjustment for the cost of hard rock utilised by the Contractor, payment of Rs.7,77,36,764/- was allowed (@ 994.88 per cum (rate suggested by the CTE) for 78136.824 cum of hard rock, certified quantity in excess of 125 % of BOQ) .

Excess recovery of item 301-02(b) in IPC 42	3,769,459
Quantity payable in item 301-02(b):	
BOQ quantity 1850@ 6000	11,100,000
25% in excess of BOQ @ 6000	2,775,000
Total	17,644,459

Since the Contractor is eligible for the BOQ rates for the quantity in excess up to 25 % of BOQ and excess amount recovered due to inadvertent error in cumulative total as detailed above has to be released, Rs.1,76,44,459/- (Rupees One Crore seventy six lakh forty four thousand four hundred and fifty nine only) and Rs.31,140 may be sanctioned to M/s GHV - EEK (JV) towards the balance payment in Ponkunnam - Thodupuzha road reconstruction.

The eligible payment due to the contractor does not include any payment of hard rock excavation in excess of 25% of the BOQ quantity, as certified by the finance wing of KSTP.

b) Upgradation of the Ponkunnam-Thodupuzha road was entrusted to the contractor M/s GHV-EKK (JV) for a contract amount of Rs.227,13,73,548/- vide agreement dated 05.05.2014. M/s MSV International was entrusted as the 'Construction Supervision Consultant as per the World Bank's criteria. The project with a completion period of 30 months started on 10.06.2014. The contractor applied for an extension of time up to 30.03.2017 for the project that was supposed to be completed by 09.12.2016. The project was completed on 28.03.2017 and taken over by KSTP. Defect Liability Period for the above project was over on 27.03.2018 and performance certificate was issued in this regard to the contractor on 30.03.2018.

The major issues related to the project are as follows:

The quantity of pay item 301.01 'Roadway Excavation in Hard rock including blasting' in the contract is 1850 Cum with a rate of Rs.6000/Cum. However, during initial stages of executing the item at site, it was estimated that about 42,900 Cum of rock need to be excavated and a variation (VO 03) in favour of this item was submitted by the Supervision Consultant. As per contract conditions (12.3), if the variation quantity is more than 25% of

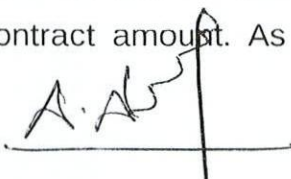
Minutes of 114th Steering Committee of Kerala State Transport Project BOQ provision and the quantity triggers variation of the value of work by 1% of the contract price, then revision in BOQ rate is warranted, unless it is specified as a fixed rate item in the contract. However, the CSC neither gave any proposal for a new rate nor calculation of revised quantity for the item. Hence, KSTP had not issued approval for the variation order. However, a variation quantity of 25,000 Cum was accepted so that the work should not get affected. Also payment up to 90% of the quantity executed for excavation of hard rock was approved in order to avoid the cash flow problems of the contractor and thereby any retardation in progress of work.

Thereafter variation order was submitted by Supervision Consultant for a quantity of 88,117 Cum of "Hard rock excavation" at the rate of Rs.5702/Cum which was derived from the rate analysis submitted by the contractor at the time of contract. The item rate of Rs.6000/Cum was calculated after taking into consideration that 50% of the excavated hard rock can be utilized at site and after deducting the rate of the salvaged rock. In the calculation of revised rate instead of 50%, 100% excavated rock was considered as reusable and accordingly arrived at the revised rate of Rs.5702/Cum. However, KSTP did not accept the rate since it was too high.

In the 87th steering committee convened on 15.07.2015, the above subject was made as an agenda in order to ratify the action of KSTP to release the payment made for the 90% of the claimed quantity. However, decision was not taken and referred for next steering committee meeting. Meanwhile the Project Director sought clarification to substantiate the rate of Rs.5702/cum proposed by the CSC and asked the Engineer to reduce the rate further as it is too high. The variation order was forwarded to Executive Engineer, Ponkunnam in order to assess the quantity although by that time the majority of quantity was already executed at site. However, the Executive Engineer has pointed out certain anomalies.

In a meeting held at Project Management Team office, KSTP on 16-03-2016, the contractor was asked to reduce the rate further. On refusing further reduction in the rate, the Project Director arbitrarily fixed a rate of Rs 4875/cum. A supplementary agreement was executed for a quantity of 463 cum (25% of the original BoQ) at Rs. 6000/cum rate and 76600 cum at Rs 4875/cum rate. The contractor signed the above agreement under protest.

The total value of this variation alone is Rs. 37,62,03,000/-, which is 16.56 percentage of the contract amount. As the Project Director KSTP is not authorized to accept a net



Minutes of 114th Steering Committee of Kerala State Transport Project variation beyond 15 percent of the contract value (as per the financial management manual of KSTP), the agreement as explained above is not acceptable and binding on Kerala State Transport Project, unless it is ratified by the Steering Committee/Government of Kerala along with the approval of the World Bank.

Hence, the matter was included in the agenda for the 92nd steering committee convened on 06.08.2016. However, the committee decided to refer the issue to the Chief Technical Examiner, to conduct a detailed study on the subject and to submit a report.

The contractor raised the issue in front of the Dispute Board (DB) as per clause no 20.4 of General Conditions of Contract, while the subject was under discussion at Government level. Contractor argued for a rate of Rs.5702/cum against KSTP's claim of Rs.4875/cum. The Dispute Board after much hearing, upheld the claim of KSTP and recommended the rate of Rs.4875/cum. However, KSTP did not accept the decision since the rate/excess amount did not have the approval from neither the Steering Committee nor the World Bank.

Since KSTP has not released any payment after IPC 33, the Contractor strongly protested and filed WPC 1700/2017(J) in the Hon'ble High court of Kerala for releasing payments. The Hon'ble High court of Kerala passed an interim order to release the balance amount due to the contractor after retaining an amount of Rs.40.92 Cr (which is paid in excess to the contractor on account of hard rock excavation and Geo textiles) suggested in the counter affidavit as allegedly due from KSTP. The court order was complied vide Kerala State Transport Project office order no 398/2014/KSTP/PWD/PMT dated 31-03-2017. Vide this order, it is stated that since variation in the bills submitted by the consultant require the approval of the Employer, the amount for the variation was not payable at that time. By then, the contractor had been paid an amount of Rs 210.16 Cr against the accepted contract amount of Rs 227.13 Cr.

Later as per the direction of the then Project Director, an advance payment of Rs 3 Cr was released to the contractor on 21-08-2018 and further an amount of Rs 10,09,19,990/- was released to the contractor on 03-10-2018 after processing and approving the variation orders. This was done based on contract conditions since the rate revision becomes applicable only when the quantity varies beyond 125% of BoQ and the corresponding

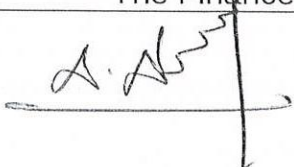
Minutes of 114th Steering Committee of Kerala State Transport Project variation amount is above 1% of the contract amount. Up to date payment released by PMT to the contractor amounts to Rs. 223.25 Cr i.e. up to IPC 41.

The Contractor also filed an Arbitration request No.55/2017 before the High Court for appointing Arbitrator in the dispute relating to rock blasting.

The issue was discussed in several steering committees and the 103rd steering committee decided to refer the details of the disputed item to the Finance and Law Secretaries for their report.

The observations of the CTE and proposal by Finance Secretary are as follows:

	<p><u>Observations of the Chief Technical Examiner</u></p> <p>The report of CTE can be seen in three parts.</p> <ul style="list-style-type: none"> • The first part mainly deals with the award of contract considering the rate of increased quantity of hard rock. • CTE in his report observed that there was abnormal increase in the BOQ quantities whose quoted rates were high and the contractor was allowed to execute the above items of work by KSTP which is irregular. CTE has also observed that the rates of additional quantity shall be limited to LMR.
	<ul style="list-style-type: none"> • As per the financial Manual the project director is not empowered to accept variation in the contract amount beyond 15% of the contract amount. For making payment to the entire work executed, the approval of the Government is required. The Chief Technical Examiner worked out a rate for the excavation of hard rock based on the method of execution using rock breakers as Rs.994.88/m³ and recovery towards the issue of blasted rock as Rs.1000/m³. Hence an amount of Rs.5.12/m³ may be recovered from the Contractor. In the case of Geo textiles, the CTE observed that rate quoted by the other Bidders are less compared to the rate quoted by M/s GHV-EKK and the rate may be limited to LMR rate for the quantities increased more than 25% of BOQ provision.
	<p><u>Proposal by Finance Secretary</u></p> <p>The Finance Secretary proposed to classify the decision to be taken</p>



into three and commented accordingly vide their letter dated 25.01.2019

- Amount to be paid as per the Contract conditions against the proposals of CTE.

The payment may be considered in order to avoid contractual complications. However, it is noted that any payment admitted in excess of LMR prevailed is a loss to the public exchequer on account of executing high quoted items beyond scheduled quantity.

Therefore, this loss shall be quantified and appropriate action shall be initiated against the concerned

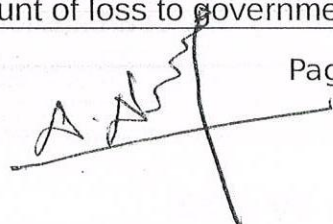
- Regarding excavation of Hard rock

Releasing the payment of hard rock as per the rate proposed by you and upheld by DB seems to be unfair to the Government, as undue benefit is proposed for the contractor in this rate. The Additional Chief Secretary, Public Works Department has also remarked that this reduced rate is nowhere near the rates quoted by other contractors. Therefore, you shall work out a reasonable rate as per the provisions of contract as stipulated by you in the letter cited above that "If no rate or prices are relevant for the derivation of a new rate or price, it shall be derived from the

reasonable cost of executing the work, together with profit, taking account of any other relevant matters. Further, the outcome of the Vigilance enquiry on the matter as well as the recovery of the cost of departmental rock obtained during excavation shall also be considered before deciding the payment.

- Payment for Geotextile work

This issue shall be considered after ensuring two requirements. (1) Technical requirement of geotextiles at site and (2) Whether the Geo textiles were actually executed at site as per the claim proposed. This becomes essential since the geo textiles are seen to be proposed on locations where Geo textiles are not normally provided. Since the rate admitted for this item is also abnormally higher than the estimate rate/LMR, appropriate action shall be taken to quantify the loss and to initiate action against the concerned on account of loss to government in this regard.



Decision taken by the 107th Steering Committee

Based on the report of the Finance Secretary, the following decisions was taken by the 107th steering committee.

1. Payment to be released as per contract conditions for items other than “hard rock excavation” and as agreed by Chief Technical Examiner. Responsibility for allowing variations to be fixed after the Post Construction Audit.
2. For hard rock, since the rate proposed by the Employer is not acceptable to the contractor, the committee decided that matter be resolved through arbitration as contractor has already approached High Court for Arbitration.

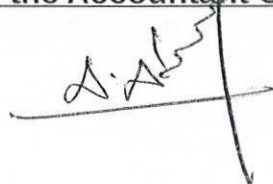
Further the contractor, in one of his letters, has enclosed the Law secretary’s report dated 06.05.2019, which he received through RTI. The report of Law Secretary has not yet been officially received in this office.

Proposal by Law Secretary is as follows:

<p>As per the report by Law Secretary it was recommended that the following points were to be put up to cabinet for consideration.</p> <ul style="list-style-type: none">• Since the KSTP agreed for a rate of Rs. 4875/- before the Dispute Review Board and since the Dispute Review Board’s decision has binding effect as per clause 24, the amount may be paid to the contractor.• Regarding geotextiles, the contractor is entitled to the rate as per the contract and KSTP cannot go back on the promise made in the contract, payment therefore may be made as per the terms of contract.

The said issues have been referred to Vigilance also. The Vigilance Department submitted their report to the Government. In the Vigilance Report it is stated that the said project was executed based on condition of Contract Agreement and there is no anomaly in the procedures as the conditions are framed on FIDIC conditions. Any deviation from this will invite huge liability to the Government in future by way of arbitration.

Observation of the Accountant General



Minutes of 114th Steering Committee of Kerala State Transport Project
The major observations are briefed as follows.

1. Defective DPR and unrealistic bill of quantities resulted in huge variations in various items on execution
2. Loopholes in bid documents resulted in failure to properly evaluate bids and payment of claims without checks
3. Inadequate supervision of the works by the Employer
4. Discrepancies in the measurement of hard rock excavated
5. Rate analysis of pay item no 301-02 roadway excavation in hard rock in terms of MoRTH data showed that exorbitant rates had been allowed for the item
6. Non recovery of item of carriage added on arriving the rate of excavation of hard rock
7. Non recovery of cost of rubble obtained from rock blasting and demolishing structures.
8. Loss of revenue of Rs 2.46 Cr due to non-disposal of cut earth.
9. Non recovery towards cost and royalty of cut earth transferred by the contractor for the work of Thiruvalla bypass.

As this was the last agenda item of the last Steering Committee (114th Steering Committee). Detailed discussion could not be possible as the Steering Committee had to be winded up due to sudden fire outbreak in a portion of the Secretariat. Therefore, the item is again brought to the Steering Committee for a decision. **The Steering Committee had a detailed discussion based on the legal opinion received from the Chief Technical examiner of the finance department, Finance Secretary, AG report on rock excavation, Vigilance report and opinion of former Law secretary. The Steering Committee by consensus resolved that:**

Resolution No. 5:

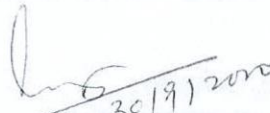

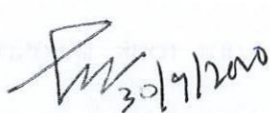

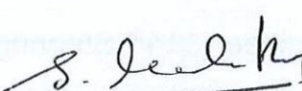
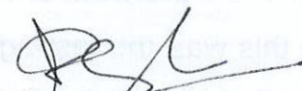
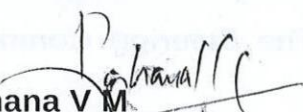
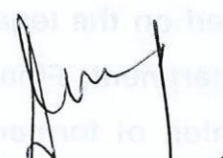
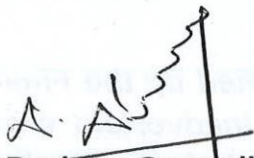

a) an amount of Rs.1,76,44,459/- and Rs.31,140/- certified by the Finance Wing, KSTP be released as eligible balance payment due to the inadvertent error in cumulative calculation of total admissible amount. It does not include any ineligible payment of the disputed item Hard rock Excavation.

b) Refer the payment issue for hard rock excavation and Geo textile for detailed examination by the Finance Department and give its report in three weeks to enable Steering Committee to take decision in this matter.

Meeting concluded at 5.30 PM on 30.09.2020 with thanks to the Chair.



Minutes of 114th Steering Committee of Kerala State Transport Project

1. 
Dr. Vishwas Mehta IAS
Chief Secretary
2. 
Sri. Rajesh Kumar Singh IAS
Additional Chief Secretary, Finance
Department
3. 
Sri. Pranabjyoti Nath IAS
Special Secretary, Water Resources
Department
4. 
Dr. A. Jayathilak IAS
Principal Secretary, Revenue
Department
5. 
Sri. S Malathy
Additional Secretary, Transport
Department
6. 
Sri. Anand Singh IAS
Secretary, Public Works Department
7. 
Smt. Rahana V M
Joint Secretary, Law Department
8. 
Dr. Dinesh Arora IAS
Project Director, KSTP
9. 
Smt. Darlene Carmelita D'Cruz
Chief Engineer (Projects), KSTP
10. 
Sri. Ajith Ramachandran
Chief Engineer (Roads), PWD