

CENTRAL MEDICAL SERVICES SOCIETY

2nd Floor, Vishwa Yuvak Kendra, Pandit Uma Shankar Dikshit Road, Chanakyapuri, New Delhi-110021 Email ID: gmproc1@cmss.gov.in; agmproc4@cmss.gov.in;

Ref: CMSS/PROC/2023-24/NACO/021/ 4924

Dated - 22/05/2024

To.

M/s J Duncan Healthcare Pvt Ltd, Plot No. 65,66 & 67, Phase- II, Atgaon Industrial Complex, Atgaon, Tal- Shahapur, Dist- Thane 421601, Maharashtra State, Email- info@jduncan.in, supplyjd@jduncan.in, M- 9324174703, 9821737941.

Subject: Order for debarring, blacklisting and forfeit the Performance Security of M/s J Duncan Healthcare Pvt Ltd.

Dear Sir/Madam,

- 1. With reference to tender no. CMSS/PROC/2023-24/NACO/021, M/s J Duncan Healthcare Pvt Ltd had quoted 50% quantity of tendered quantity (63,43,04,145 tablets) for Schedule I i.e. Tenofovir 300mg+ Lamivudine 300mg+ Dolutegravir 50mg (TLD).
- 2. Purchase Order (PO) dated 03/10/2023 was issued to M/s J Duncan Healthcare Pvt Ltd for supply of 50% quantity of TLD as per following details:

PO No.	Quantity	Order Value (Rs.)	Funding	Delivery Schedule from	
	(Tablets)		Source	LOA Date	
CMSS/PROC/2023	- 55,70,75,362	356,26,08,355.0624	Domestic	Trance 1 within 90 days	
24/NACO/021/060)	× vi a		Trance 2 within 180 days	
CMSS/PROC/2023	7,72,28,783	49,38,93,513.0416	Global	Trance 3 within 330 days	
24/NACO/021/059)			Trance 4 within 480 days	
Total (53,43,04,145 Tab	Rs. 405,65,01,868.10	40/-		

3. For PO No. CMSS/PROC/2023-24/NACO/021/060, the supplier did not supply the item within delivery schedule and significantly delayed the supplies. Finally, they completed their supply of TLD for Tranche-1 on 20/02/2024 with delayed supply of 77 days after providing 3-times extension in delivery schedules.

4. Various levels of review meeting were held with the supplier and in every meeting, they committed that they would not make any delay in 2 tranche. The last date of scheduled delivery of 2nd tranche was 04/03/2024. The supplier again failed to supply the TLD for 2nd tranche with in delivery schedule.

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- 5. The supplier requested vide email dated 06/03/2024 to extend the delivery schedule of 2nd tranche further 30 days. Subsequently, the extension in delivery schedule of 2nd tranche till 20/03/2024 was provided by CMSS on same day i.e. 06/03/2024 to the supplier with mentioning that, "This is the last & final extension in the delivery schedule of 2nd tranche. No further extension in the delivery schedule of 2nd tranche will be granted. If the supplier fails to deliver the full quantity of 2nd tranche till 20/03/2024, necessary actions as per terms & conditions of the contract will be taken by CMSS."
- 6. Further, it is noted that even after the extension, the supplier had partially supplied quantity i.e. 3,87,90,300 Tablets (34.81%) out of 11,14,36,950 tablets till 20/03/2024.
- 7. A show-cause notice was issued on dated 04/04/2024 by CMSS to M/s J Duncan Healthcare Pvt Ltd to provide detailed explanation till 08/04/2024 to take appropriate actions as per tender clause no. 18.1 (a), (b), (c), (d) & (e) of tender document to short close the unsupplied quantity under tranche-2 and purchase balance-unsupplied quantity at the risk and cost of the defaulting vendor, to forfeit the performance security and debar/blacklist the supplier. The tender clause no. 18.1 (a), (b), (c), (d) & (e) of tender document reproduced below:
 - (a) Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule specified by the purchaser in its LOA/purchase order. In case the supply is not completed in the stipulated delivery period, as indicated in the LOA/purchase order or in case of non-submission of Security Deposit within the stipulated time, purchaser reserves the right either to short-close/cancel this LOA/purchase order and/or recover liquidated damage charges. The cancellation/short-closing of the LOA/Purchase order shall be at the risk and responsibility of the supplier and purchaser reserves the right to purchase balance-unsupplied quantity at the risk and cost of the defaulting vendor. This purchase at the risk and cost of the defaulting vendor can be at the same L1 cost of the tender or at higher cost and can be met through other vendors available in the present tender/contract or through any vendor from the open market. Any additional cost towards this risk purchase will be entirely borne/adjusted from running bills/demanded from the defaulting vendor.
 - (b) Repeated/habitual delays by the supplier in the performance of its delivery obligations shall render the supplier liable to any or all of the following sanctions; imposition of liquidated damages, forfeiture of its performance security, and/or termination of the contract for default and purchaser reserves the right to purchase balance-unsupplied quantity at the risk and cost of the defaulting vendor.
 - (c) <u>If the suppliers are not completed in the extended delivery period, the purchase order may be short closed without any compensation to supplier and the performance security shall be forfeited.</u>
 - (d) Quantum of liquidated damages assessed and levied by the purchaser shall be final and not challengeable by the supplier.
 - (e) <u>Purchaser reserves the right to debar/blacklist the supplier for a suitable period who habitually failed to supply the goods/services in time.</u> The decision of purchaser will be final and binding."

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- 8. The supplier submitted their reply vide email dated 08/04/2024, which has been examined by the competent authority. After that, a letter (No. CMSS/PROC/2023-24/NACO/021/422) on 29/04/2024 was issued by CMSS with following decisions:
 - i. As per tender document clause no. 18.1 (a), (b), (c), (d) & (e) of tender ref no. CMSS/PROC/2023-24/NACO/021, the balance un-supplied quantity i.e. 7,26,46,650 tablets of TLD under 2nd tranche in PO No. CMSS/PROC/2023-24/NACO/021/060 dated 03/10/2023 (No. 10282300100/BOTH (PDI and NON-PDI)/ Domestic Fund -DF) is hereby short closed at the risk and cost of defaulting supplier i.e. M/s J Duncan Healthcare Pvt Ltd. Further, the supplier will continue their supply for 3rd tranche & 4th tranche respectively.
 - ii. The performance security of Rs. 12,16,95,056/- (BG No. BKID4012BG0059132, Bank Name-Bank of India, Issue Date- 19/09/2023, Validity- 05/06/2027) submitted by M/s J Duncan Healthcare Pvt Ltd for the said item shall also be forfeited in accordance with the terms & conditions of the contract.
- 9. Accordingly, CMSS sent a letter dated 30/04/2024 in person to "Branch Manager, Bank of India, Lindsay Street Branch, 7/1D, 8 Shriram Arcade, Lindsay Street, Esplnade, New Market Area, Dharmtala, Taltala, Kolkata-700087" to forfeit and encasement of the above Bank Guarantee for an amount of Rs. 12,16,95,056/-.
- 10.In response of above letter, Mr. Debahuti Changmai (Chief Manager) Bank of India replied vide letter dated 02/05/2024 stating as under:
 - i. The Bank Guarantee No. BKID4012BG0059132 is not issued by us as the Guarantees issued by our Bank starts with Bank Code and not with BKID as mentioned in your Guarantee No.
 - ii. The officials namely- Mr. R K Jha, Chief Manager, SS No -R5467 and Mr. Samir Bose, Branch Manager, SS No B23918 who have signed the said Bank Guarantee were never posted at our Lindsay Street Branch. Moreover, the signature code of the officials of our Bank is not in the format as mentioned in the Bank Guarantee and also no two post as Chief Manager and Branch Manager exists in our Branch. It appears that the signatories along with the Employee codes are not employees of Bank of India.
 - iii. No account in the name of M/S J Duncan Healthcare Private Limited is maintained in our Lindsay Street Branch.
 - iv. We also inform you that the other Bank Guarantee No BKID4012BG0059143 of Rs 71,28.963.00 has also not been issued by our Bank of India, Lindsay Street Branch."
- 11.In this regard, it is pertinent to mention that M/s J Duncan submitted performance bank guarantee No. BKID4012BG0059132 dated 19/09/2023 for an amount of Rs. 12,16,95,056 against subject contract. The Bank Guarantees were drawn in favor of CMSS by Bank of India, Lindsay Street Branch, Esplanade, Dharamtala Kolkata -700087.
- 12.From above, it is apparent that M/s J Duncan has indulged in fraudulent practice/forgery/fraud as they submitted fake PBG to CMSS against subject contract.
- 13.It was also noted that two more Bank Guarantees have been drawn from Bank of India of two different branches of Kolkata namely Park Circus and Kaikhali Branch. The Branch

Managers also confirmed that they had not issued any Bank Guarantees in favour of CMSS. Hence, in total the details of forged Bank Guarantee are as follows:

PO No.	PO Date	Tender No.	Item Name	Order Value (Rs.)	BG Amount (Rs.)
10282300109	09/10/2023	CMSS/PROC	Abacavir 600mg	13,48,62,423.69	
		/2023-	+ Lamivudine		
		24/NACO/02	300mg		71,28,963/-
10282300110	09/10/2023	1	Tenofovir 300mg	1,64,05,970.51	
			+ Lamivudine		
			300mg		
10282300115	09/10/2023		Darunavir 600	8,63,63,645.76	
			mg		
10282300100	03/10/2023		Tenofovir 300mg	356,26,08,355.06	12,16,95,056/-
10282300099	03/10/2023		+ Lamivudine	49,38,93,513.04	
			300mg +		
			Dolutegravir		
			50mg		
10282300155	15/12/2023	CMSS/PROC	Rifapentine	29,01,71,085.12	87,05,133/-
	1949 55	/2023-	150mg		
		24/NTEP/028			
10282400039	12/02/2024	CMSS/PROC	DSTB-IP (Adult)	186,51,61,283.32	5,59,54,839/-
		/2023-	200 78		
		24/NTEP/042		=======================================	
Total (Rs.)				644,94,66,276.50/-	19,34,83,991/-

- 14. The relevant provisions of the tender clause no. 5 (vi) regarding forgery / fraud by bidder stipulate as under:
 - "a) Genuineness of the papers/documents/certificates/ declaration submitted with bid is the responsibility of the bidder. Also, the bidder should take utmost care in submitting undertakings/self-declaration/certificates along with its bid. If at any stage it is found that the papers/ documents/certificates/declaration/undertaking/ self-certification submitted by the bidder are false/incorrect/suppressed/ misrepresented the actual fact or are not in order, are forged, manipulated, fabricated or altered, the bid or purchase order issued to the bidder is liable to be cancelled and further necessary action including forfeiture of its EMD/Security Deposit, debarring/blacklisting against the bidder will be taken. Purchaser may also initiate police/legal action and request concerned statutory authority for cancellation of license issued to supplier for tendered items.
 - (b) If any fraud, short supply of goods is detected on part of the bidder at any stage, the bid or work order/ Purchase order issued to the bidder is liable to be cancelled and further necessary action against the bidder including debarring/blacklisting will be taken.
 - (c) In any of above two cases, the CMSS is at liberty to make alternative purchase of the tendered items from other approved suppliers or in the open market or from any other Tenderer who might have quoted higher rates, at the risk and the cost of the supplier."
- 15.Meanwhile, M/s J Duncan on its own has informed vide emails dated 06/05/2024 to CMSS that they have transferred the BG amount Rs. 19,34,83,991/- (as mentioned above in para 13) on dated 06/05/2024 through RTGS against all the purchase orders mentioned in para "13" above.

16. Given facts of the case, as stated in the preceding paragraphs, 2nd Show Cause Notice (No. CMSS/PROC/2023-24/NACO/021/456) was issued by CMSS to M/s J Duncan

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Healthcare Pvt Ltd on 09/05/2024 for informing them regarding alleged forged performance Bank Guarantee submitted by them against CMSS contracts and submission of detailed explanation by 13/05/2024.

- 17. The supplier submitted their reply on 13/05/2024 and which has been examined by the competent authority and following decisions have been taken with immediate effect:
 - i. M/s J Duncan Healthcare Pvt Ltd is debarred and blacklisted for indulging in corrupt / fraudulent practices in accordance with Department of Expenditure blacklisting / debarring guidelines vide its O.M (No.F.1/20/2018-PPD, dated 02/11/2021) for two years i.e. from 22/05/2024 to 21/05/2026 to participate in future tender of Central Medical Services Society (CMSS) with immediate effect.
 - ii. The security deposit amount submitted via RTGS on dated 06/05/2024 by M/s J Duncan Healthcare Pvt Ltd is forfeited.

This is issued with the approval of competent authority.

eral Manager (Procurement)

Copy to: (i). Deputy Secretary (EPW), MoHFW

- (ii).All Programme Division (NACO/NTEP/NVHCP/FP/CHP/NCVBDC/UIP) of MoHFW
- (iii). Sh. D Mohapatra, GM (Finance), CMSS- To forfeit the performance security as above.
- (iv). All GM & AGM, CMSS

