The work experience on the basis of which contractor Sh. Som Dutt Thakur ,village Pungh P.O.& Tehsil Sunder Nagar Distt., Mandi was declared technically responsive for the Tender "ID-2017_CEHP_50180_1" & ID-2017_CEHP_50690_1" and tender were awarded to him after completing whole tendering process, has been found fake while conducting the technical evaluation of another tender after issuing of letter of acceptance of above tender IDs, therefore, the letter of acceptance issued in favour of Sh. Som Dutt Thakur, Contractor village Pungh P.O.& Tehsil Sunder Nagar Distt., Mandi has been terminated/withdrawn vide this office order No: PW-CE(MZ)(CTR)PMGSY-08-263/2017 -18894-99 dated 29/9/2017.**The whole tendering process will have tobe done afresh for the tender IDs mentioned above.**

Kindly cancel /remove the letter of acceptance from the PMGSY website and upload the attached file as this office has no right to upload any paper after issuing of LOA.

Chief Engineer(MZ)
HPPWD Mandi.

HIMACHAL PRADESH P W D

Office of

CHIEF ENGINEER(MANDI ZONE),

Himachal Pradesh Public Works Department, MANDI-175001

Ph.01905-224850,Fax:221146, E-mail: hp-man2@nic.in

ORDER

WHEREAS, tenders for the work "Metalling and Tarring on Surahan to Siun Road KM 0/0 to 3/0 for STAGE-II under PMGSY Package No.HP-08-263 (2016-17 BATCH-II) having Tender ID-2017_CEHP_50180_1") and "M/T on Chakkar to Chalah road KM 0/00 to 3/00 for STAGE-II under PMGSY Package No.HP-08-276 (2016-17 PBATCH-II) having Tender ID-2017_CEHP_50690_1") were invited by the Superintending Engineer,1st Circle Mandi on behalf of the undersigned being Employer for PMGSY works.

AND WHEREAS, three bidder quoted their rates for the work "Metalling and Tarring on Surahan to Siun Road KM 0/0 to 3/0 for STAGE-II under PMGSY Package No. HP-08-263 (2016-17 BATCH-II) having Tender ID-2017_CEHP_50180_1")) and four bidder quoted their rates for the work "M/T on Chakkar to Chalah road KM 0/00 to 3/00 for STAGE-II under PMGSY Package No.HP-08-276 (2016-17 BATCH-II) having Tender ID-2017_CEHP_50690_1"

AND WHEREAS, after completing the tendering process as per PMGSY guidelines, the letter of acceptance were issued in favour of Sh. Som Dutt Thakur, Contractor of village Pungh P.O.& Tehsil Sundernagar Distt., Mandi being lowest tenderer for the above packages.

AND WHEREAS, while conducting the technical evaluation for another work "Metalling and Tarring of Lot to Paprahal road KM 0/0 to 2/0 for Stage-II under PMGSY Package No. HP-08-305 (2016-17 BATCH-II) by the Circle level Committee, it has come to the notice of the Committee that the work done certificate for the work ***Partly Self Financing Scheme at Daundi District Mandi) SH: C/O Roads i/c cutting, filling, soiling, wearing, R/Wall, B/walls, Toe wall, along the road, S-draining, Metalling and Tarring*** submitted/uploaded by Sh. Som Dutt Thakur, Contractor of village Pungh P.O.& Tehsil Sundernagar Distt. got issued from office of the Executive Engineer, HIMUDA vide dispatch No.12889 dated 2/6/2017 was not genuine. On behalf of S.E. 1st Circle Mandi, Executive Engineer (Design) in his office has raised issue with Executive Engineer, HIMUDA vide letter No:PW-SEI-107-Tender–MD-II-PMGSY-e-procurement/2017-11996 dated 16/8/2017 to confirm the authenticity of work done certificate in question. In response to this, the Executive Engineer, HIMUDA vide his letter No: HIMUDA/AB/MD/A-15-2017-2522 dated 16/8/2017 has denied that no such work done certificate has been issued by his office to Sh. Som Dutt Thakur, Contractor. Therefore, the above work done certificate was not taken into consideration by the committee and consequently the bid of Sh. Som Dutt Thakur Contractor was declared as non-responsive for the work "Metalling and Tarring of Lot to Paprahal road KM 0/0 to 2/0 for STAGE-II under PMGSY Package No. HP-08-305 (

2016-17 BATCH-II) for want of work experience of requisite amount as required for qualification under clause 4.2c and 4.4 A(b)of Section 2 of the bidding document.

AND WHEREAS, LOA for two works discussed supra have also been issued in the name of this contractor. So Superintending Engineer 1st Circle Mandi has afforded an opportunity to him to clear his position with regard to uploading of fake work done certificate and explain as to why action for committing fraudulent practice may not be taken against him vide his office letter No: PW-SEI-107-Tender–MD-II-PMGSY-e-procurement/2017-12777-80 dated 24/8/2017.He was also informed that his bids for the works **Surahan to Siun road, Package No:HP-08-263 and Chakkar to Chalah road HP-08-276 have been found responsive on the basis of above work done certificate which has now been denied by issuing authority are also under question.**

AND WHEREAS, the contractor vide his letter No. NIL dated NIL which was received in the office of the Superintending Engineer, 1st Circle Mandi on 31.08.2017 and diarized on 01.09.2017 vide Diary No. 5596 dated 01.09.2017 has not stated anything about fake work done certificate but pleaded that the work done for the work "Construction of Manali Kaniyal road km. 0/0 to 5/800" issued by the Executive Engineer Kullu Division No.II may be considered for the work experience and if this work done is considered, the rejection of certificate under objection becomes *ipso facto* null and void.

AND WHEREAS, the Superintending Engineer ,HP PWD,1st Circle Mandi vide letter No: PW-SEI-107-Tender–MD-II-PMGSY-e-procurement/2017-13816-19 dated 6/9/2017, has informed the contractor that the work "C/O Manali to Kaniyal road" does not fall within the period of last five year as mentioned in the bidding document (i.e. 2012-13 to 2016-17) therefore, this certificate cannot be considered as per the provision of bidding document.

AND WHEREAS, it is amply clear from the correspondence exchanged above that the contractor has uploaded fake work done certificate to secure above works and thus he has made himself liable for action under various clauses of the bidding document. A period of three days was again given to the Contractor to explain his version. He was also intimated the provisions of Clause 4.2c & 4.4A(b) of Section 2 of bidding document which says *4.2(c) " experience in works of a similar nature and size for each of the last five year, and detail of works in progress or contractually committed with Certificate from the concerned officer not below the rank of Executive Engineer or equivalent; 4.4A(b) "satisfactorily complete, as prime contractor or sub- contractor, at least one similar work equal in value to one-third (One –fourth n case of Naxal /LWE affected district) of the estimated cost of work (excluding maintenance cost for five years) for which the bid is invited or such higher amount as may be specified in the Appendix to ITB . The value of road work completed by the bidder under Pradhan Mantri Gram Sadak Yojana in originally stipulated period of completion shall be counted as 120% for the purpose of this Sub-Clause".*

AND WHEREAS, the attention of the contractor was also invited to the clause 52(g) of the bidding document which says *" if the contractor, in the judgment of the Employer, has engaged in the corrupt fraudulent or coercive practice in* *competing for or in executing the contract, For the purpose of this clause, " Corrupt practice" means the offering giving receiving, or soliciting of anything of value to influence the action of a public official in the procurement process o in Contract execution, "Fraudulent Practice" means a willful misrepresentation or omission of facts or submission of fake/forged documents in order to induce public official to act in reliance thereof, with the purpose of obtaining unjust advantage by or causing damage to justified interest of others and/or to influence the procurement process to the detriment of the Government interest. And, this includes collusive practice among bidders (Prior to or after bid submission) designed to establish bid process at artificial non-competitive level and to deprive the Employer of the benefit of free and open competition. " Coercive practice means the act of obtaining something compelling an action or influencing a decision through intimidation, threat or the use of force directly or indirectly, where potential or actual injury may befall upon a person, his/her reputation or property to influence their participation in the tendering* process." by the Superintending Engineer, HP PWD 1st Circle Mandi.

AND WHEREAS, the contractor vide his letter No. NIL dated 12.09.2017 reiterated his stand and pleaded for consideration of work done for the work Manali Kaniyal road and C/O Balance work for Tharjun to Tandi road and also stated that department has mis-interpreted the clauses of the bidding document. He has further admitted that ***"The disputed uploaded works were inadvertently and by mistake got uploaded alongwith other works, which does not form part of uploaded works and may be rejected."***

AND WHEREAS, now the Superintending Engineer, 1st circle HPPWD Mandi vide his letter No. 15062-64 dated 21.,09.2017 has intimated that the contractor has managed/grabbed the tenders for the works "Metalling and Tarring on Surahan to Siun Road KM 0/0 to 3/0) and "M/T on Chakkar to Chalah road KM 0/00 to 3/00 on the basis of fake work done certificate and has recommended to withdraw the Letter of Acceptance for these works and take action, as deemed fit, against the contractor Sh. Som Dutt Thakur Contractor village Pungh P.O.& Tehsil Sundernagar Distt., Mandi.

AND WHEREAS his bid was lowest in both the above works, letters of acceptance for these works were issued in his favour vide this office letter No: PW/CE (MZ) CTR-I-PMGSY-Stage-II/08-263/2016-17- 9638 dated 11/7/2017 & 12628 dated 16/8/2017. Since, the authority by whom the work done certificate was issued has denied that no such work done certificate has been issued to Sh. Som Dutt Thakur, Contractor. As a result of this whole e-procurement process of both these works has become null and void including the LOA issued for above two works in his favour on the basis of work done in question.

AND WHEREAS, I have gone through the facts and whole record of the case and found that the contractor was declared technically responsive on the basis of the work done certificate uploaded by him issued by the Executive Engineer, HIMUDA but the Executive Engineer, HIMUDA vide his letter No. HIMUDA/AB/MD/A-15-2017-2522 dated 16/8/2017, has denied that no such work done certificate has been issued to Sh. Som Dutt Thakur Contractor from his office. The work done has now been proved fake due to denial by issuing authority. Moreover, the affidavit by the contractor regarding correctness of information submitted by him in the bid document was also proved wrong. Thus, the contractor Sh. Som Dutt Thakur Contractor village Pungh P.O. & Tehsil Sunder Nagar Distt., Mandi made himself liable for action under various clauses of the bidding document in addition to withdrawal of Letter of acceptance issued to him on the basis of submitting/uploading fake work done certificate.

AND WHEREAS, notice was given to the contractor to show cause as to why the letter of acceptance for the above works may not be withdrawn and action as warranted under Enlistment Rules is taken against him by granting period of two days vide letter No. PW/CE (MZ) CTR-I-PMGSY-08-267A/2017-15579 dated 26-09-2017, but nothing has been heard from the contractor within allotted time, which shows that contractor has nothing to say in his defence.

NOW,THEREFORE, keeping in view the facts of the case and due appreciation of record presented before me, I came to the conclusion that the contractor was rightly declared technically non-responsive for want of work experience for the work "Lot to Paprahal road KM 0/0 to 2/0 Package No. HP-08-305" and he managed to secure the work "**Surahan to siun road, Package No:HP-08-263 and "Chakkar to Chalah road" HP-08-276 on the basis of fake work done certificate** fraudulently ,therefore, the letter of acceptance issued for these works vide this office letter No. PW/CE (MZ) CTR-I-PMGSY-Stage-II/08-263/2016-17- 9638 dated 11/7/2017 & 12628 dated 16/8/2017 is hereby terminated/ withdrawn. The Bank Guarantee/bid security submitted by the contractor may also be forfeited. ***Besides this, his case is referred to Contract Enlistment Committee to suggest suitable and stringent action under Contract Enlistment Rules against him.***

Chief Engineer (MZ)
HPPWD, Mandi.

No. PW-CE(MZ)CTR-I-PMGSY-08-263/2017 15894-99 Dt. 29-9-2017

Copy forwarded to:-

REGISTERED

1. The Additional Chief Secretary (PW) to the Govt. of Himachal Pradesh for information please.
2. The Engineer-in-Chief, HP PWD Shimla for information please.
3. The Superintending Engineer, HP PWD 1st Circle Mandi for information and necessary action. He is requested to direct the concerned Executive Engineers to measure the work, if started/done by the contractor at once.
4. The Executive Engineer, HP PWD Mandi-I & II for information and necessary action.
5. Dealing Assistant, CTR-IV for information and necessary action please.
6. Sh. Som Dutt Thakur Contractor village Pungh P.O. & Tehsil Sunder Nagar Distt., Mandi for information please.

(REGISTERED)

Chief Engineer (MZ)
HPPWD, Mandi.