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**OFFICE OF THE MANAGING DIRECTOR
ASSAM MEDICAL SERVICES CORPORATION LIMITED**
Central Drug Ware House Campus, Patherquerry, Narengi, Guwahati, Assam-781026

Email id: md-amscl@assam.gov.in

No. NHM/18017/33/2021-PROC-NHM-Part-1/ ECF-186320/ 2986

Date: 24/5/2022

From: Dr. Robin Kumar, IPS
Managing Director
AMSCL, Assam

To: Cipla Limited
Cipla House, PENINSULA BUSSINESS PARK,
Ganapatro Kadam Marg, Lower Arel, Mumbai-400013.

Sub: -Product Debarment notice for Acyclovir Ointment 3%

- Ref: -1.** P.O-NHM-18011/4/2021-PROC-NHM/ECF-160230/2020102380571, Dated.29/6/21
2. Tender No-NHM/18017/31/2019-PROC-NHM/8328, dtd-05/07/19 & Corrigendum No. NHM/18017/31/2019-PROC-NHM/18485, DATE:16/10/19
3. FINAL SHOW CAUSE ISSUED VIDE NHM/18017/33/2021-PROC-NHM-Part-1/ ECF-186320/ 32161, Dated. 27.01.2022.
4. Reply letter from your end received on 14.2.2022 at this office.
5. Final show cause notice to complete the supply within additional 30 days time vide letter no. NHM/18017 /33/2021-PROC-NHM-Part-1/ ECF-186320/ 1982, Dated. 30.03.2022.
6. Representation received from your end on 11.4.2022 vide reference no. MAPH/HO/2022-23/09

Sir,

With reference to the subject cited above I am to inform you that your company has taken part in the referred tender (at above pt. 2) and selected as L1 for several items under the referred P.O.

Accordingly, you were awarded Letter of Intent (LoI) & you have entered into Rate Contract (RC) with NHM, Assam.

Supply orders were placed to your company vide P.O (purchase order) under reference (at pt. 1 above) for 2 drugs i.e Acyclovir Ointment 3% & Levosalbutamol Syrup 1mg/5ml, but you didn't execute any supply orders on time.

NHM/AMSCL Authority found that these drugs were essential in nature for needy patients getting treatment in Govt. Health Institutions of the state under Free Drugs scheme.

But, your non supply resulted non availability & hindrance in public service, specially during the treatment of patient community at public health facilities and resulted increase in out of pocket expenditure.

Hence, in the greater public interest you were served several show cause notices including final show cause notice & additional 30 days time also to execute the total supply & it was informed in those letters that as per the contractual obligations necessary penalty clauses will be imposed on your firm for non-supply & delay in supply.

Relevant tender clauses of tender on delay delivery were:

5.6 Delivery, Shortage & Delay Penalty

- 5.6.1 In case there is delay in delivery beyond the stipulated period as mentioned in the purchase order, there shall be penal deduction @ 0.5% of the value of delayed goods per week of delay or part thereof subject to a maximum of 10% of the total order value. Once the maximum price reduction is reached, termination of the whole contract will be considered.
- 5.6.2 Once the maximum price reduction is reached, termination of the contract may be considered. Non-performance of the contract provisions shall make the successful bidder liable to be disqualified to participate in any tender for the next 5 years, in addition to forfeiture of Security Deposit and other penal actions.

5.11 Alternative Purchase

5.11.1 If the empanelled supplier fails to execute the supply within the stipulated time, NHM, Assam is at liberty to make alternative purchase of the items of drugs and medicines for which the Purchase Orders have been placed from any other sources (such as Public Sector undertakings at their rates, empanelled bidders, and bidders who have been technically qualified in the said bid) or in the open market even at higher rates at the risk and the cost of the supplier and in such cases NHM, Assam shall have every right to recover the cost and impose penalty, apart from termination of the contract for the default.

5.11.2 In the event of making ALTERNATIVE PURCHASE, the supplier will be imposed penalty apart from forfeiture of Security Deposit. The excess expenditure over and above contracted prices incurred by the NHM, ASSAM in making such purchases from any other source or from the open market shall be recovered from the Security Deposit or from any other money due to the supplier and in the event of such amount being insufficient, the balance will be recovered personally from the supplier or from his properties, as per rules.

5.18.2 Pt. (3): Where the supplier has rate contract for three (3) or more drug items and debarred for a minimum of three drug items:

- **Firm Debarment:** The firm shall be black listed and debarred from participating in any tender for any drug item(s) issued by the TIA for 3 (three) years from the date of intimation.
- **Forfeiture of Performance Security:** In addition to firm debarment the entire performance security deposited by the supplier shall be forfeited and apportioned towards financial penalty.

Now your company has submitted a representation stated that You have completed the supply of Levosalbutamol Syrup 1mg/5ml but unable to supply the ordered Acyclovir Ointment 3% due to shortage of raw material & manpower etc. You have also requested to incorporate financial deductions towards the risk purchase of Acyclovir Ointment 3% & deduct the amount from your pending bill & close the matter in finality.

In this context, please be noted that several time it was informed to your company that non-supply from your end resulted the risk of increased out of pocket expenditure of the patient community who attended Govt. hospitals of the state of Assam & Govt. programme of providing free drug service at peripheral Hospitals was also hampered which is not acceptable as per contractual obligation.

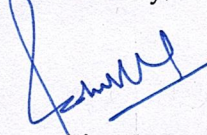
Hence, in the greater public & patient interest, your company **Cipla Limited** is hereby disqualified to participate (**for the particular drug Acyclovir Ointment 3%**) in any tender of NHM-Assam/AMSCL-Assam for next 5 (five) years (from the date of issuing the notice) as per referred tender clause 5.6.2 "Delivery, Shortage & Delay Penalty".
You are allowed to participate in the tender of NHM-Assam/AMSCL-Assam for your other drugs except **Acyclovir Ointment 3%** during this debarment period.

In addition to the product debarment, the performance security deposited against the value of the said product will be forfeited & if it will be found that you didn't submit any performance security for the said product than the value of performance security will be deducted from any of your outstanding bill. Also be noted that you have completed the supply of the drug Levosalbutamol Syrup 1mg/5ml after the contractual delivery period, hence the delay penalty will be levied as per the referred tender clause (5.6.1) i.e @ 0.5% of the value of delayed goods per week of delay or part thereof subject to a maximum of 10%.

Please be noted that in the event of making ALTERNATIVE PURCHASE, you will be imposed with excess expenditure over and above contracted prices incurred in making such purchases and will be recovered either from the Security Deposit or from any other money due/ outstanding payment and in the event of such amount being insufficient, the balance will be recovered personally from your company.

This is for favour of your information.

Yours sincerely,

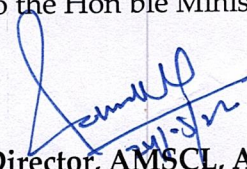


(Dr. Robin Kumar, IPS)
Managing Director, AMSCL, Assam

Memo No. NHM/18017/33/2021-PROC-NHM-Part-1/ ECF-186320/ 2987-98 Date: 24/5/2022

Copy to the:

1. Principal Secretary to the Govt. of Assam, Health & FW for kind information.
2. Principal Secretary, all Autonomous Council & Deputy Commissioner, all Districts for information.
3. Mission Director, NHM, Assam for kind information.
4. Director Medical Education, Assam for information.
5. Director Health Services, Assam for information.
6. Executive Director, NHM, Assam for information. He is requested to direct MIS-Manager, NHM, Assam for uploading the debarment notice in NHM, Assam website.
7. Principal cum Chief Superintendent/ Superintendent, all Medical Colleges for information.
8. Director Finance & Accounts, NHM, Assam & AMSCL, Assam for information.
9. Jt. Director Health Services, all Districts for information.
10. M.O i.c/DPM/DDSM/Pharmacist, all Medical Colleges/Districts for information.
11. Manager-MIS, NHM, Assam/ Manager (IT), AMSCL for uploading the debarment notice in the website.
12. P.S to the Hon'ble Minister, Health & FW for kind information to the Hon'ble Minister.



Managing Director, AMSCL, Assam