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The World Bank
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

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September 3, 2010

Mr. Tarun Kanti Mishra
Chief Secretary & Chief Development
Commissioner
Government of Orissa
Secretariat
Bhubaneswar

Dear Mr. Mishra:

***Orissa State Roads Project (Loan Number 7577-IN)
Interim Mission, August 2010***

We thank the Government of Orissa (GoO) and the Orissa Works Department for the support extended to the Bank team during the interim mission held in the 2nd week of August 2010.

As you are aware, the project which was launched almost two years ago, could achieve little implementation progress during its first year due to a variety of factors ranging from weak project management to lack of coordination between key stakeholders. Following GoO's proactive intervention to address some of these issues, we noticed early signs of improvements in all project components during April 2010 mission.

However, the recent August mission concluded that the momentum created could not be sustained and the overall implementation progress of the project still remains unsatisfactory, primarily due to extremely slow progress on all three Phase I civil work contracts. **In several key areas, the contractors' performance is not satisfactory, e.g., inadequate mobilization of qualified personnel, poor planning and scant regard to quality, environmental safeguards and maintenance of existing roads.** In all three contracts, we have noted scarce participation of the lead partners. As a result, works are not being carried out with the benefit of the experience and qualification that formed the basis of the contract award to the Joint Venture. From the government's side, too, **preparatory activities like R&R are progressing slowly**, resulting in delays in handing over of the work sites.

In addition to the aforementioned problems, we are also concerned to note an emerging issue regarding a variation proposal to substitute a contract item for the construction of the Granular Sub Base (GSB) layer, reportedly on account of its non-availability in the physical vicinity of the project areas. We are of the view that this variation is not admissible because the tender documents/contracts clearly stipulate that the onus of checking (and satisfying themselves regarding) the availability of the specified material rests squarely with the prospective bidders/contractors. We had conveyed our analysis regarding this issue in a letter dated June 22, 2010 (enclosed). However, during this mission, we learned that the Project Management is holding a different view and the contractors have stopped further work on the GSB layer. **We urge the GoO to immediately resolve this issue, by clarifying its stand and thereafter ensuring that the contractors: (a) adhere to the contractual specifications/obligations; and (b) achieve planned progress.**

Another key issue that requires urgent attention is the replacement of the contract supervision firm (the 'Engineer'). Following the GoO's decision to terminate the contract of the firm presently acting as the 'Engineer', the mission advised PMU to prepare proposals for the interim as well as regular arrangements to fulfill the role of the 'Engineer' under the contractual framework and submit the same for our review. Subsequent to the mission, we have received these proposals and are reviewing them. There is an urgent need for expeditious finalization of these interim arrangements and initiation of procurement for regular arrangements.

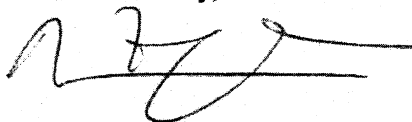
We urge the GoO to resolve the above mentioned issues and expedite some other long pending actions – both listed in a table below, along with indicative timelines for your convenience – before the next implementation support mission scheduled in Oct/Nov 2010. Furthermore, we advise close monitoring of the project by the State Level Empowered Committee constituted for its timely implementation.

S.No.	Action	Due By
1.	GoO's decision/guidance on GSB issue	September 15, 2010
2.	For Milestone 1 of Phase 1 Roads, complete land acquisition including clearance of all encumbrances and R&R (Action pending since project start)	October 30, 2010
3.	Replacement of the 'Engineer': Expeditious finalization of Interim Arrangements	September 15, 2010
4.	Replacement of the 'Engineer': Initiate procurement process of the new 'Engineer'	September 15, 2010
5.	Take action on non-participation of lead partners in all contracts	October 30, 2010
6.	Ensure contractors mobilize all required key professionals including Environment/Safety Officers (Action pending since Oct 2009)	September 15, 2010
7.	Ensure contractors obtain all necessary regulatory consents/permissions to operate plants/machineries	Immediate
8.	Finalization and issuance of the Contract Management and Quality Assurance Manual (Action Pending since Oct 2009)	September 15, 2010
9.	Ensure proper maintenance of contract roads through existing contract (Action pending since project start)	September 15, 2010
10.	For each contract, arrange fortnightly tripartite management meetings between OWD/PMU, the Contractor(s) and the Engineer	Immediate

Should you require any clarifications, please do not hesitate to contact me or my colleagues Mr. Rajesh Rohatgi (email: rrohatsgi@worldbank.org) and Mr. Sri Kumar Tadimalla (email: stadimalla@worldbank.org).

With regards,

Yours sincerely,



Roberto Zaghera
Country Director, India

Enclosure:

Mr. Tarun Kanti Mishra

September 3, 2010

cc: Dr. Anup K. Pujari, Joint Secretary (MI), Department of Economic Affairs, Ministry of Finance, New Delhi
Mr. A.V. Sinha, Director General, Ministry of Road, Transport and Highways, New Delhi
Mr. S. K. Ray, Secretary, Orissa Works Department, Government of Orissa, Bhubaneswar
Mr. J. K. Mohapatra, Principal Secretary, Finance, Government of Orissa, Bhubaneswar
Mr. Raj Kumar Sharma, Commissioner and Secretary, Revenue, Government of Orissa, Bhubaneswar
Mr. N. K. Pradhan, Chief Engineer and Project Director, Orissa State Roads Project, Government of Orissa, Bhubaneswar

June 22, 2010

Mr. Nalini Kanta Pradhan
Chief Engineer, World Bank Projects
Nirman Soudha
Keshari Nagar, Unit-V
Bhubaneswar 751 001

*IN: Orissa State Roads Project (Ln. No. 7577-IN)
Proposal to substitute the specification of GSB material*

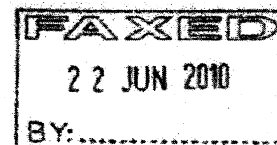
Dear Mr. Pradhan,

Thank you for your letter dated June 11, 2010, wherein you had requested for the Bank's NOC for the proposal for contract variation on account of the substitution of the GSB material.

Based on the information provided to us to-date, we have reviewed the subject proposal and our observations are as follows:

- (1) The case for substituting the GSB material is stemming from the apparent inability of the contractor in meeting his obligations under the contract to construct the sub-base layer as per the contractual specifications.
- (2) The attempts to-date to address the above issue - including the investigations made following the suggestion of the Bank team - have mainly focused on the availability or lack of suitable GSB material from the quarries mentioned in the DPRs or others in the project vicinity.
- (3) Yet, a closer examination of the contract clearly indicates that non-availability of suitable GSB material within the project area/vicinity or otherwise is a risk that is (a) clearly envisaged in the contract; and (b) explicitly sought to be transferred, along with the consequent costs, to the contractor (Ref. Clause 108.4). Although the DPR includes a list of quarries, the instructions to the bidders clearly mention that such data is only for information purposes and potential bidders are advised to conduct their own due diligence. Thus, as per the contractual provisions, the contractor is expected to make good the non-availability, if any, of the material envisaged under the contract by providing suitable/substitute material including from alternative locations at his cost.
- (4) Furthermore, considering that the issue of GSB material is a very basic and yet fundamental aspect of any road works contracts, if the availability of GSB material or its specification is a cause for concern, one could reasonably assume that the issue might have found a mention during the pre-bid meetings. Apparently, none of the potential bidders, including the selected JV with local partner having considerable experience of road construction in Orissa - did not raise any such concern during the pre-bid meetings.

Headquarter, Washington DC, USA



Mr. Nalini Kanta Pradhan

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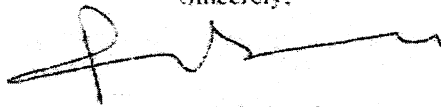
June 22, 2010

In light of the above, we do not agree with the proposed substitution of the GSB material specification and the consequent contract variation. We also think that such ex-post change in material provisions of the contracting arrangement with sizeable financial implications does not merit support as it could be considered as inequitable to other bidders and imposes undue additional costs on the project/government.

We therefore suggest that you may consider requesting the Engineer to issue appropriate instructions within contractual framework to the contractor.

With regards.

Sincerely,



Rajesh Rohatgi
Sr. Transport Specialist & Task Team Leader-OSRP
Sustainable Development Unit (Transport)
South Asia Region

cc: Mr. S.K. Ray, Secretary, Orissa Works Department, Govt. of Orissa,
Bhubaneswar