Ministry of Finance
Department of Economic Affairs
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Public Private Partnership Appraisal Committee (PPPAC)
19th Meeting on November21, 2008

Record Note of Discussion

The 19th meeting of the Public Private Partnership Appraisal Committee, chaired by Secretary, Economic Affairs was held on November 21, 2008. The list of participants is annexed.

2. At the outset, it was informed that PPPAC would consider 24 projects, of which one pertained to Ministry of Railways (MoR) and the rest to Department of Road Transport and Highways (DoRTH). The DoRTH projects were distributed as under: 9 proposals of six laning of national highways under NHDP Phase V; 12 proposals of four/six laning of national highways under NHDP Phase III on BoT (Toll) basis and 2 proposals of four laning projects to be implemented on BoT (Annuity) mode.

Agenda Item 1: Proposal from Ministry of Railways: Approval of the amended RfQ for Redevelopment and Modernisation of New Delhi Railway Station

3. Representative of DEA stated that the proposal has been considered by the PPPAC in the 17th meeting and granted 'in principle' approval. As advised by Department of Expenditure (DoE), Ministry of Railways (MoR) had discharged the RfQ for the project dated 30.10.2007. Subsequently, bids had been reinvited on 27.10.2008 as per the amended RfQ. MoR had requested PPPAC to approve the suggested amendments in the RfQ as per the provisions in Ministry of Finance. MoR had indicated that the proposed amendments in the RfQ were in accordance with the clarifications issued by Department of Expenditure (DoE) and the experience gained by MoR during the process of pre-qualification of bidders who had responded to the RfQ dated 30.10.2007, wherein 11 of the 13 bidders /respondents were getting disqualified due to the provisions of the Model RfQ.

4. Representative of Planning Commission stated that the request for consideration of the proposed amendments had been received very recently from the PPPAC Secretariat and Planning Commission required more time to examine the document and to offer comments. Since the documents related to Public Private Partnership projects, careful scrutiny of departures from the Model document was vital, since an inappropriately worded clause/ internal inconsistency in the

documents could result in arbitration at a later date. Accordingly, Planning Commission had requested that the agenda item may be deferred for the next meeting of the PPPAC to enable them to examine the document. It was further emphasised that in Planning Commission's view, PPPAC is not the forum for considering any modifications to a Model RfQ document which has been issued by the DOE after extensive deliberations and approval by the Committee on Infrastructure. Further, PPPAC had not considered any case for modification of RfQ earlier. In case any amendments are required to be made, the MoR may seek clearance from the DoE.

5. Representative of Planning Commission urged MoR to adhere to the Model RfQ and suggested that the Ministry may not make departures in the project RfQ from the model document, since it had sufficient provisions in square brackets and footnotes which could be exercised to provide project specific flexibility. To the extent of this flexibility, MoR may make project specific modifications, as necessary. This would enable the MoR to proceed with the project.

6. Representative of DEA emphasised that no changes were being advocated in the Model RfQ document. The PPPAC could consider project specific amendments proposed by MoR in the RfQ for the instant proposal. This would enable this flagship project of the Government to keep apace with the approved milestones. Any project specific departures from the model RfQ, if thus decided by PPPAC, could be recommended for approval to the Finance Minister.

7. Representative of Department of Expenditure (DoE) pointed out that a reference has been made to the Department by MoR only in the context of two matters. DoE had provided clarifications on the same with the approval of the Finance Minister and indicated to MoR that in their view it would be better to discharge the RfQ and reinvite the bids after incorporating the clarifications provided by the Department. It was noted that the amended RfQ was already available on the website of MoR and included amendments which were in addition to the clarifications provided by DoE. It was emphasised that the view of DoE was that the model RfQ is not project specific. Since the issuance of model RfQ, before the instant proposal, DoE had not received any reference for effecting project specific departures from the model document. It was suggested that MoR may detail and justify the proposed amendments and the urgency of approving the same.

8. The Chairman of the PPPAC requested MoR to explain the overriding requirements for effecting departures from the model document. He stated that while amendments on conceptual issues/ semantics would not be supported, the PPPAC could adopt a flexible approach towards the request from MoR in case there were certain requirements of the Ministry, which were not being addressed through

the provisions of the model RfQ. It was emphasised that the PPPAC could consider and favourably view proposed amendments which were in public interest and oriented towards facilitating adequate competition while checking cartelisation.

9. Representative of MoR stated that the proposed amendments were few and could be reviewed by the PPPAC. It was explained that in Clause 2.2.1 (c), it was proposed to modify the conflict of interest clause by allowing "direct or indirect shareholding of an *Applicant or its Member* (or any shareholder thereof having a shareholding of more than *ten percent* of the paid up and subscribed share capital of such *Applicant or its Member*, as the case may be) in the other *Applicant or its Member* is less than *ten percent* of the paid up and subscribed share capital thereof;". The model RfQ provided these limits as "direct or indirect shareholding of an Applicant, its Member or Associate (or any shareholder thereof having a share holding of more than five percent of the paid up and subscribed share capital of such Applicant, Member or Associate is less than one percent of the paid up and subscribed share capital thereof"' It was explained that the limit was being increased to facilitate adequate response to the RfQ and hence adequate competition and consequential benefits for the project. Representative of DEA stated that the PPPAC may consider the issue on merits. Representative of Planning Commission suggested that the direct and indirect threshold of the cross shareholding could be retained at five percent of the paid up and subscribed share capital of the applicant or its member or associate, for the purpose of reckoning conflict of interest, which would satisfy the twin objectives of facilitating competition and checking cartelisation. This was agreed to.

10. Representative of MoR stated that the provision of Clause 2.2.1 (d) was proposed to be amended as- *"An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Applicant in any manner for matters related to or incidental to the Project within one month of the financial close of the Project".* The open-ended condition provided in the Model RfQ had been limited till one month of financial close of the project in view of the fact that the consultants could not possibly work against the interest of the Authority beyond this period of one month. Representative of DEA stated that the Department had discussed the matter with representatives of MoR and conveyed that the suggested amendments could not be supported since there would be a conflict of interest if the legal, financial or technical advisors engaged by the Authority in relation to the project were subsequently engaged by the applicant for the project. It was agreed that the provision of the model RfQ would be retained.

11. Representative of MoR informed that in Clause 2.2.2 (A), it was proposed to indicate a period of 15 financial years for demonstration of technical capacity and experience for demonstration of technical capacity and experience as construction contractors and/or developers, with or without collection and appropriation of revenues. For determining the experience score, payments/ receipts/ revenues of the past five financial years would be taken into consideration, as provided in the Model

RfQ. In Clause 3.2.1, it was sought to restrict the definition of eligible projects as those where construction had been completed within fifteen financial years. It was explained that the amendment was being proposed since the project required emphasis on construction experience within the overall ambit of development experience. This was justified since the railway operations would continue to remain the responsibility of the Authority while the concessionaire would be responsible for construction of the railway station and ancillary activities. Representative of Planning Commission stated that the requirement of the administrative Ministry could be addressed within the overall framework of the Model RfQ and the proposed amendments may not be required.

12. It was decided that Planning Commission would examine the proposed amendments in the RfQ, including inter allia, amendments to Clauses 2.2.2 (A) and 3.2.1 in consultation with the representatives of MoR and send their appraisal in a period of one week to the PPPAC for consideration.

(Action: Ministry of Railways, Planning Commission)

Agenda Item 2: Proposals from Department of Road Transport and Highways for Six laning of National Highways under NHDP V.

i. **Six laning of Vijaywada-Eluru-Rajmundray section of NH 5 from km 3.4 to km 200 in the State of Andhra Pradesh under NHDP Phase V.**
ii. **Six laning of Delhi-Agra section of NH 2 from km 20.500 to km 199.600 in the State of Haryana/UP under NHDP Phase V.**
iii. **Six laning of Chandikhol-Jagatpur-Bhubneshwar section of NH 5 from km 413 to km 418 and km 0 to km 62 in the State of Orissa under NHDP Phase V.**
iv. **Six laning of Varanasi-Aurangabad section of NH 2 from km 786 to km 978.40 in the State of UP/Bihar under NHDP Phase V.**
v. **Six laning of Indore-Dewas from km 577.55 to km 610 and km 0 to km 12.60 of NH 3 in the State of Madhya Pradesh under NHDP Phase V.**
vi. **Six laning of Belgaum-Dharwad of NH 4 in the State of Karnataka under NHDP Phase V.**
vii. **Six laning of Six laning of Kishangarh-Udaipur section of NH-79A, 79 and 76 from km 364 of NH 8 to km 113.800 of NH 76 in the State of Rajasthan under NHDP Phase V.**
viii. **Development of Six laning of Chilkaluripet-Nellore section of NH 5 from km 1182.802 to km 1366.547 in the State of Andhra Pradesh under NHDP Phase V.**
ix. **Six laning of Kishanagiri-Walahjpet section of NH 46 from km 0 to km 148.30 in the state of Tamil Nadu under NHDP Phase V.**

13. At the outset, representative of Planning Commission stated that he did not feel comfortable with the process of presentation of proposals/agenda items during the meetings of the PPPAC. He noted that during the meetings, the proposal is presented by Infrastructure Division of DEA. The observations of the other members of the PPPAC, specifically Planning Commission are not reflected, or are presented in the context of views of DEA. Stating that the role of Planning Commission was to appraise the projects to ensure that the legal contractual documents do not have any deficient clauses, it was suggested that, if required, Planning Commission could send the appraisal note of the projects and decision on the projects could be taken on file, after a consultative process between representatives/ Directors of DEA, Planning Commission and the administrative ministry.

14. The Chairman of PPPAC requested Infrastructure Division of DEA, as the Secretariat of PPPAC, to present the proposals for consideration by the PPPAC. It was noted that the nine projects for six laning of four laned National Highways, proposed to be executed under NHDP Phase V, are currently being tolled and the proceeds thereof accrue to the NHAI. The proposals were considered by PPPAC in its 18th meeting wherein, *inter alia*, noted that DEA was examining the proposed MCA for six lane highways to convey its views with the approval of the Finance Minister. Noting that the view of the PPPAC for the nine six lane projects should not pre-empt or be contrary to the final view of DEA on the MCA, the PPPAC had deferred the agenda items.

15. It was further pointed out that comments of DEA, with the approval of FM, had subsequently been conveyed on the draft MCA. While a number of observations have been conveyed, it was pointed out that minor issues had been agreed in the meeting of the Inter Ministerial Group (IMG) convened under the Chair of Secretary, DoRTH on November 18, 2008. Subsequently, after further deliberations, it had also been agreed that redrafting of chapter 27 on 'user fees' may not be required if the provisions of the extant toll rules are appropriately reflected therein.

16. However, the proposed change to the definition of Commercial Operation Date (COD) from the date on which completion/ provisional completion certificate is issued, as per the base MCA for four laning to the date on which the conditions precedent have been satisfied/ waived, as per the proposed MCA for six laning, was not acceptable on the following counts: there would be no motivation for the developer to complete the six laning in time; the performance security, if less than the toll collected, would create a potential possibility of the concessionaire reneging on his commitments and pushing the project either into litigation or premature termination; while recovery of toll revenues has been prescribed if financial closure is not achieved (4.1.3 [proviso (c)] and 24.2.2), there is no corresponding provision –

stated in explicit terms – for recovery of toll collected if in case there is a Concessionaire defaults after financial close but before project completion date, which is a significant risk left un-addressed; and, non tax revenues of Government would not be credited in time to the Consolidated Fund of India. DEA was of the view that COD should continue to be defined as the date on which the Completion Certificate or the Provisional Completion Certificate is issued. During the intervening period between the date of agreement (i.e., the date on which the Concessionaire has access to the site) and the COD (i.e., the date on which the completion/provisional completion certificates are awarded), the toll revenues should continue to be collected by NHAI on behalf of the Consolidated Fund of India and the O&M obligations of the existing four lane stretch should also be that of the Authority.

17. Further, financial closure may continue to remain a condition precedent to the agreement coming into force. Therefore, there may not be any need to have a 'provisional escrow account'.

18. Secretary, DoRTH and Chairman of the Inter Ministerial Group (IMG) to prepare the MCA for six laning of highways stated that a meeting of the IMG was convened subsequent to the communication of observations of DEA on the draft document. Certain issues, clarificatory in nature, had been resolved during the meeting. Furthermore, the new Toll Rules had, thereafter, been approved by the Cabinet. Hence, the concerns of DEA with regard to the Toll Rules had also been addressed. The main issue requiring consideration, therefore, was the date designated as COD for the projects and the related concern regarding security of toll revenues till the project completion date. Stating that while the decision on the MCA could be taken separately by the competent authority, it was suggested that PPPAC may consider granting approval to the nine projects in accordance with the earlier decision of PPPAC in its meeting held on May 11, 2007 for the approval of five six-laning projects under NHDP Phase V, which would adequately address concerns of DEA regarding efficient completion of six-laning of project highways and security of toll revenues, viz.:

i. Financial Closure may be made a condition precedent for Appointed Date.
ii. Apart from 5% Performance Security, an additional performance security (known as Fee Collection Performance Security) equivalent to 3 months' expected Toll Revenue may be collected to secure the Concessionaire's obligation for the completion of the project.
iii. The collection of Toll revenues may be maintained in a separate sub Account viz., "Construction Period Fee Escrow Sub Account" and release of same to the Concessionaire may be linked to the achievement of milestone during the construction and completion of the project. In case the Concessionaire does not complete the project by Scheduled Six Laning

Date, the revenue collected between Actual and Scheduled Completion Dates would accrue to NHAI.

19. Secretary, RTH emphasised that the Department was not in favour of retaining the tolling rights till project completion dates of the projects since it was administratively a better arrangement for the same operator to construct the project highway and collect tolls on it during the construction period. It benefitted from harnessing the private sector efficiencies in toll collection, checked leakage of toll revenues and resulted in better bids for the projects.

20. Representative of Planning Commission explained that the nine projects were brown-field projects wherein the tolling was currently accruing to NHAI. The MCA for six laning had built in adequate safeguards to ensure that the toll revenues remained secure. By allowing the concessionaire to collect tolls from the proposed COD, it was expected that the construction activity would commence on the projects soon after the award of contracts, thus resulting in speedier completion of the six laning process. In case financial closure is made a condition precedent for the projects, the commencement of construction activity would get delayed by six or seven months. It was emphasised that it may not be appropriate to approve the projects in accordance with the earlier decision of PPPAC in its meeting held on May 11, 2007 for the approval of five six- laning projects under NHDP Phase V since the inter-ministerial consultations for finalisation of the MCA for six lane highways had examined the provisions of those concession agreements and after extensive deliberation finalised the MCA. It was suggested that a higher performance security could be sought for enhancing the security of toll revenues.

21. The Chairman of PPPAC noted that there were eminent benefits in allowing the concessionaire of the project to collect toll revenues and noted that two critical issues were determination of the effective date of transfer of tolling rights and the adequate level of security of toll revenues. He suggested that the possibility of putting in place safeguards for toll revenues and ensuring performance by the concessionaire could be considered. The Chairman noted that while there was no direct nexus between financial closure and tolling by concessionaire, the event of Financial close implied greater financial certainty and capability of the concessionaire to undertake and compete the six-laning of the project highway, and thus greater security of toll revenues. He noted that transfer of tolling rights to the Concessionaire from the appointed date did not necessary imply that the Concessionaire would commence with construction activity before achieving Financial Close. He requested DoRTH/NHAI to comment, on the basis of their experience whether grant of tolling rights from the appointed date resulted in commencement of construction on the projects before financial closure.

22. Representative of DEA suggested that a possible framework could be financial closure being condition precedent, with transfer of tolling rights to the concessionaire from the date of Financial Close. The performance security for the project could be retained at five percent of the total project cost (TPC) or nine months toll revenues, whichever is higher; in addition, an Additional Performance Security, equivalent of one year's anticipated toll collection could be sought. While the Performance security may be released upon completion of not less than 20 percent of the TPC, the Additional Performance security may be released on Project Completion date. In such a framework, provisional escrow account may not be required. The penalty for delays in adhering to the Project milestones may be enhanced and be equivalent to 0.1% of performance security plus 0.1% of additional performance security for each day's delay.

23. Chairman NHAI cautioned that in the current financial situation, where financial closure for infrastructure projects was getting strained, it was necessary to view the matter with a wider perspective. While securing toll revenues, it was also necessary to ensure adequate response, and resultant competition for the project highways. He, therefore, suggested that to ensure viable bids, the Additional Performance Security may be retained at three months toll revenue, as had been approved for the five six-lane projects of NHDP V approved by PPPAC earlier. He informed that the experience of NHAI had been that majority of the concessionaires commence construction after achieving financial close. The likelihood of the concessionaire undertaking construction before reaching financial closure in the current financial circumstances was limited.

24. Representative of Planning Commission was of the view that Additional performance security was not required. The toll revenues could be secured by enhancing the level of Performance Security. Representative of DEA pointed out that to ensure security of toll revenues, the Performance security may not be released upon completion of 20 percent of the TPC, but a higher proportion of the TPC, since the general experience is that the Concessionaires expend 20% of the TPC within a short period, without actual commencement of construction of construction work, through purchase /advances towards of machinery for the project and as mobilisation amount.

25. After further deliberations, the PPPAC granted approval to the nine project proposals, subject to the following conditions:

i. The Financial Closure may be made a condition precedent for Appointed Date. The COD may be the date of Financial Closure. The performance security may be enhanced to 12 months of toll revenues or 5% of TPC, whichever is higher, which may be released upon 40 percent of the TPC being expended. Consequential modifications may also be carried out in respect of other clauses of the project DCAs. **<u>Representative of Planning Commission stated that Planning Commission did not agree with these conditions and requested that their dissent may be recorded.</u>**

ii. The cost of the projects may be rationalised by constructing service lanes only when traffic reaches a level of 60,000 PCU.

iii. The design capacity of the six lane highways, may be fixed as 1,20,000 PCUs and the concession periods may be modified accordingly, subject to a maximum of 30 years.

(Action: DoRTH)

26. Representative of Planning Commission noted that the project proposal Six laning of Indore-Dewas from km 577.55 to km 610 and km 0 to km 12.60 of NH 3 in the State of Madhya Pradesh under NHDP Phase V may be approved for four laning with paved shoulders since the traffic on the highway did not justify six laning of the highway. While accepting that some of the other project highways being considered had not reached the design capacity of a four lane highway, it was suggested that a similar approach may not be adopted for the instant proposal since it was not a segment of the Golden Quadrilateral. The PPPAC noted that, similar to the other eight six-laning projects of NHDP V under consideration, the Cabinet had granted approval for six laning of the instant project highway and granted clearance to the proposal subject to conditions in Para 25 above.

Agenda Item 3: Proposals from DORTH: Six/four laning of projects under NHDP Phase III.

i. **Four/Six Laning of Rohtak-Hissar section of NH 10 from km 87 to km 170 in the State of Haryana under NHDP Phase IIIA on BOT (Toll) basis.**
ii. **4/6 Laning of Gujarat/Maharashtra Border-Surat-Hazira Port Section of NH 6 in the State of Gujarat under NHDP Phase III4/6 Laning of Jaipur-Tonk-Deoli section of NH 12 from km 18.7 to km 165 (length 148.77 kms) in the State of Rajasthan under NHDP Phase III on BOT (Toll) basis.**
iii. **Development of Kannur-Vengalam section of NH 17 (Package 1 from km 148 to km 230) in the State of Kerala under NHDP Phase III on BOT (Toll) basis.**
iv. **Development of Vengalam-Kuttipuram Section of NH 17 (Package II from km 230 to km 318) in the State of Kerala under NHDP Phase III on BOT (Toll) basis.**
v. **4 laning of Gopalganj-Chapra-Hajipur section of NH 85 from km 10 to km 94.700 in the State of Bhiar under NHDP Phase IIIA on BOT (Toll) basis.**
vi. **4 laning of Gopalganj-Chapra-Hajipur section of NH 85 from km 2.300 to km 10 and km 143.2 to km 207.2 in NH 19 in the State of Bihar under NHDP Phase IIIA on BOT (Toll) basis.**
vii. **Four laning of Mokama-Munger section of NH 80 (km 0 to km 70) in the State of Bihar under NHDP Phase III on BOT (Toll) basis.**

viii. **Development of Cherthalai to Ochira section of NH 47 (Pakage I from km 379.100 to km 465 in the State of Kerala under NHDP Phase III on BOT (Toll) basis.**

ix. **Development of Ochira to Thiruvananthapuram section of NH 47 (Pakage II from km 465 to km 551.9 in the State of Kerala under NHDP Phase III on BOT (Toll) basis.**

x. **Development of Khagaria Purnea section of NH 31 from Km 270 to 410 in the State of Bihar under NHDP Phase III on BOT (Toll) basis.**

xi. **4 laning of Nagapatnam-Thanjavur section of NH 67 from km 1.600 to km 80.00 in the state of Tamilnadu under NHDP Phase IIIA on BOT (Toll) basis.**

27. The PPPAC, first considered issues germane to all the twelve project proposals.

i. It was noted that Planning Commission had suggested that design capacity of the project highways may be determined as 60,000 PCUs and the concession periods may be fixed when the projected traffic would reach the design capacity. This would also improve the viability of the project. This was agreed to.

ii. It was agreed that Article 27 (User Fee) may be modified to specify that the fee notification would be a condition precedent to be satisfied before the appointed date.

iii. It was noted that Planning Commission have recommended changes in the Manual of Standards and Specifications (MSS) that are oriented towards reducing the cost of the projects. Secretary DoRTH informed that MSS approved by the Department was being used for the projects. In case suggestions of Planning Commission are incorporated in the MSS, before the bid due date, the same would be made part of the bid documents of the projects. This was agreed to.

(Action: DoRTH)

28. Representative of Planning Commission noted that the ROB on the **Rohtak Hissar Section** was proposed to be six laned. Based on the traffic projection on the project Highway, it was suggested that it may be a four laned structure. This was agreed to.

(Action: DoRTH)

29. Representative of Planning Commission noted that the six laning of **Surat-Hazira project highway** was not immediately justified. Therefore, the cost of the projects may be rationalised by constructing service lanes only when traffic reaches a level of 60,000 PCU. This was agreed to.

(Action: DoRTH)

30. Representative of Planning Commission noted that the four laning of **Gopal ganj- Kopra project highway** was not justified due to low traffic volumes and recommended that the project may be developed as two-laned with paved shoulders. Chairman NHAI explained that the project highway required extensive reconstruction of the foundation, which could be undertaken if the highway was four-laned. Accordingly, the CCEA had approved the four laning of the project highway.

31. Representative of Planning Commission noted that the costs of the **Cherthalai-Ochira project highway** could be rationalisd by reviewing the requirement of elevated structures. Representative of DoRTH explained that the elevated structures were proposed due to non availability of right of way. This was agreed to.

32. Noting that all other issues in respect of the projects were being addressed by DoRTH, PPPAC granted approval to the project proposals.

(Action: DoRTH)

Agenda Item 4: Proposal from DORTH: Four laning of project highways on BO (Annuity) basis.

i. **Four laning of Hazaribagh-Ranchi section of NH 33 in the state of Jharkhand under NHDP III on BOT (Annuity) basis.**
ii. **Four laning of Hajipur-Muzafarpur section of NH 77 in the state of Bihar under NHDP III on BOT (Annuity) basis.**

33. It was noted that the project highways had been bid out twice as BoT (Toll) projects but did not elicit any response. Accordingly, with the approval of CCEA, it was decided to invite bids on BOT (Annuity) basis. The projects were based on the revised/new MCA for BOT (Annuity) projects. Planning Commission had noted that that since the Eleventh Plan does not provide any GBS for NHDP programme, DoRTH needs to fix the annual borrowing limit in consultation with Ministry of Finance and Planning Commission before any new Annuity Projects are taken up. Further, Planning Commission had expressed reservations on proceeding with a purist BOT (Annuity) concession and suggested that a hybrid model, consisting of elements of BOT (Toll) with viability gap funding and residual annuity could be adopted to reduce the drain on the exchequer. The suggested model, however, had been deliberated upon by Committee of Secretaries, and it was agreed to proceed ahead with a pure Annuity model for administrative convenience during execution of the contract. The PPPAC noted that detailed legal appraisal of the DCAs in respect of the two projects had not been undertaken by Planning Commission and deferred the Agenda Item.

(Action: Planning Commission)

Agenda Item 5: Proposal from DORTH: Addressing concerns of Total Project Cost and Bankability of NHDP projects, earlier granted approval by PPPAC, for greater financial viability.

34. Chairman, NHAI stated that the current financial situation had resulted in increase in the borrowing cost which had impacted the margins of road projects. The long term credit was scarce and costly, resulting in delays in achieving financial close. This would increase demand for VGF, or lower revenue share in respect of concessions, which are in the process of award. To facilitate viability of the projects, it was proposed that:

i. In principle approval may be granted by PPPAC to increase the value of 'Total Project Cost' for NHDP Phase III & V projects for projects approved by or under submission to PPPAC by a factor of 20% (*project reports based on 2006 prices*) or 10% (*project reports based on 2007 prices*), vis-a-vis values assessed as per DPR/ DFRs.

ii. In principle approval may be granted by PPPAC to increase the concession period for NHDP Phase III projects approved by or under submission to PPPAC on account of reduced viability due to fall in traffic volumes.

35. Chairman, NHAI explained that the TPC was being considered a significant parameter by the lenders in the current financial scenario, with the banks referencing their lending to the TPC. While for commercially attractive projects with high traffic, the debt gap could be covered by the promoters through availing the grant provisions to the full extent, marginally viable projects are likely to have no bidding response. It was informed that in seven projects, all short listed applicants had withdrawn.

36. Representative of Department of Expenditure suggested that the matter would require closer examination on project to project basis. Representative of DEA pointed out that the proposal from DoRTH would also require to be examined in DEA in the context of increased contingent liability of the Government due to the proposed increase in the project costs by ten/ twenty percent. Further, it may not be necessary to extend the concession periods, as proposed by DoRTH since the concession agreements of the projects contain the provision for extension of the concession period in case of traffic shortfall. It was decided that DoRTH would share the basis of estimation of increase in the project cost with DoE. DoE would after examination of the proposal give its recommendation to Chairman, PPPAC.

(Action: DoE; DoRTH)

37. The meeting ended with a vote of thanks to the chair.

Annex

Ministry of Finance
Department of Economic Affairs
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Public Private Partnership Appraisal Committee (PPPAC)
19th Meeting on November 21, 2008

<u>List of Participants</u>

I. <u>Department of Economic Affairs</u>

i. Shri Ashok Chawla, Secretary (Economic Affairs) (In Chair)
ii. Smt. L. M. Vas, Additional Secretary
iii. Shri Govind Mohan, Director
iv. Smt. Aparna Bhatia, Joint Director
v. Ms. Pratibha A, Deputy Director

II. **<u>Department of Expenditure</u>**

vi. Smt. Rita Menon, Special Secretary
vii. Ms. Meena Agarwal, Joint Secretary

III. **<u>Planning Commission</u>**

viii. Shri Gajendra Haldea, Adviser to Dy. Chairman
ix. Shri Ravi Mittal, Adviser
x. Shri K.R. Reddy, Joint Adviser
xi. Shri Amitabha Ray, Deputy Adviser

IV. <u>Ministry of Law</u>

xii. Shri Dinesh Bhardwaj, Additional Legal Adviser

V. Ministry of Railways

xiii. Shri K.C. Jena, Chairman, Railway Board
xiv. Shri S.K. Mishra, Executive Director, Railway Board

V. <u>Department of Road Transport & Highways</u>

xv. Shri Brahm Dutt, Secretary
xvi. Shri P.K. Tripathy, Joint Secretary

VI. <u>National Highways Authority of India</u>

xvii. Shri Brijeshwar Singh, Chairman
xviii. Shri A. Didar Singh, Member (Finance)
xix. Shri S.K. Puri, Member(Tech.)

xx. Shri M.P. Sharma, CGM
xxi. Shri P.K. Das, GM
xxii. Shri L.P. Padhy, GM(T)
xxiii. Lt. Col. Chandan Vatra, GM
xxiv. Shri Rajesh Poonia, GM