

**Government of India  
Ministry of Finance  
Department of Economic Affairs**

**Public Private Partnership Appraisal Committee**

**37<sup>th</sup> meeting on June 21, 2010**

**Record Note of Discussion**

The 37<sup>th</sup> meeting of the Public Private Partnership Appraisal Committee, chaired by Finance Secretary, was held on June 21, 2010. The list of participants is annexed.

2. The Chairman welcomed the participants and noted that nine proposals, five from Ministry of Home Affairs (MHA) and four from Ministry of Road Transport and Highways (MoRTH) would be considered during the meeting.

**Agenda Item I: Proposal from Ministry of Home Affairs: Development of Housing Clusters for CPMF under Ministry of Home Affairs in PPP mode (5 clusters) – Final Approval**

- i. Development of the Kadarapur NCR Housing cluster on BOT (Annuity basis)
- ii. Development of the Jalandhar (Punjab) Housing cluster on BOT (Annuity basis)
- iii. Development of the Kathgodam (Uttarakhand) Housing cluster on BOT (Annuity basis)
- iv. Development of the Assam -1 Housing cluster on BOT (Annuity basis)
- v. Development of the Assam -2 Housing cluster on BOT (Annuity basis)

3. Secretary, Ministry of Home Affairs informed that the MHA proposes to develop housing for its Central Para Military Forces (CPMF) across 250 sites within the country and has initiated the process for 30 sites in the first phase on BOT (Annuity) basis. It was informed that Planning Commission has extended its support for annuity component for the instant Project proposals. Further, it was indicated that appraisal note of Planning Commission was received and the same have been suitably responded to. With regard to the issue of annuity payments being classified as plan or non-plan expenditure, it was clarified that since this was a budget

announcement made by the Hon'ble Finance Minister, the Project would be developed based on the funds available with the Ministry of Home Affairs. Chairperson, PPPAC noted that fund availability for the Project would be assured on as best effort basis, keeping in mind the importance of the Project.

4. Adviser to Deputy Chairman, Planning Commission pointed out various concerns and infirmities related to the Project. One of the primary issues indicated was that money for development purposes should be available prior to construction commencement of the Projects. Project structuring required further due diligence, to exemplify, architectural designs and detailed specifications were not provided as a part of the Project documents, which, may lead to disputes and conflict. Project wise Feasibility report alongwith Layout plan may be provided to the bidders and MHA may ensure that the unit costs provided in the Project documents is in accordance with the CPWD norms.

5. Advisor, Planning Commission, raised the following issues with regard to the Project DCA and advised reconciliation of the entire Project DCA:

- i. Deletion of certain non-existent clauses viz. Article 20, 21, 22, 20, 30 etc. as this may lead to unreasonable ambiguity.
- ii. Appropriate incentive to be provided for bonus/penalty. Presently, it appeared that a high bonus and high penalty structure was envisaged for early/delayed completion as per the Project DCA. Thus, it was suggested that reasonable/moderate bonus and penalty payments be considered in order to minimise scope of any increased/excess payment through Government exchequer.
- iii. Project DCA appeared to be in conflict with local laws and entitlements as per CPWD norms.
- iv. Annuity payments are envisaged as fixed payments. Hence, it may be indexed on account of inflation or otherwise.
- v. For Payment of Change in Scope of work (Clause 16.3.2), 3% of TPC as ceiling for change in scope of work was considered very high and the same maybe reduced in line with Road BOT (Toll) model. This was also reiterated by Joint Secretary, DEA.
- vi. Many Schedules of the Project DCA were indicated as non consistent with the DCA viz. Schedule B, and this was not accompanied with the layout of the project. Thus, such Schedules may be reformulated in order to avoid disputes.
- vii. Completion certificate was noted as normally provided by local bodies/authorities and not just by Independent Engineer.
- viii. Penalty for delayed completion appeared excessive upon aggregation. This has been provided for under 3 separate clauses, viz. clause 15.2,

clause 28.2 and clause 27.1.1 read in conjunction with clause 15.1. Thus, it was recommended that total damages be payable under a single head, i.e. either clause 15.2 or clause 28.2 alongwith delayed commencement of annuity payments.

- ix. Obtaining permission from the local development authority for construction of housing facility as per Development Control Regulations in accordance with the local bylaws was allocated to the Concessionaire. This was observed as an activity that may be undertaken by the Sponsoring Authority instead of the Concessionaire.
- x. The Termination payment (in case of non-political event) is linked to the book value of project assets. The standard formulation of termination payment, as in the case of approved MCAs of NH Toll Projects or port projects could be adopted instead of rewriting the clauses.

6. Joint Secretary, Department of Economic Affairs (DEA) informed that the Project DCA for the instant proposals was based on the draft MCA for BOT (Annuity) Model followed for the roads sector. Further, it was indicated that while in the Project documents the layout plan was yet to be attached for the 5 clusters, the architectural designs would be based on the CPWD norms for various types of quarters.

7. PPPAC observed that the provisions were similar and in line with those included in the DCAs for BOT (Annuity), on the basis of which annuity project have been approved by the PPPAC.

8. Representative of Department of Expenditure (DoE) informed that financing the Project from non-plan budgetary fund may not be possible. Further, it was observed that optimal exploration of commercial activities in any other CPMF owned land may ease out the financing burden for annuity payment.

9. The representative of Department of Legal Affairs indicated that there were no specific aspects requiring consideration by the Law Ministry and they had no comments to offer on the project proposal.

10. Secretary, MHA clarified that the Project DCA shall be accompanied with the Unit/Architectural designs based on the CPWD norms alongwith the Layout plan. It was confirmed that the costs would be in consonance with the CPWD norms. It was informed that the bonus/penalty payment has been capped at 6 months and shall be explicitly provided for the in the Project DCA. It was indicated that obtaining permissions from the local development authority was duly considered and made

the responsibility of the Concessionaire as this would be in the interest of the Project and MHA. MHA/CPMF would provide suitable support during the approval process. It was agreed that the ceiling for the payment in change of scope of work shall be reduced from 3% to 0.25% of the TPC. With regard to the completion certificate issue, it was confirmed that the Independent Engineer shall provide the completion/provisional completion certificate only after ascertaining that the Project is fit for use and that includes approvals for completion from the local bodies /authorities as per the DCA. It was confirmed that commercial exploitation of any other land for this Project is not being contemplated by MHA due to scarcity of land and the need for future expansion of CPMF housing. It was confirmed that reconciliation of the Project DCA would be carried out in order to comply with the decision of PPPAC and in accordance with changes carried out based on appraisal process by members of the PPPAC. PPPAC noted all the above and agreed to the same.

11. PPPAC granted approval to the project proposals subject to the reconciliation of the Project DCAs and the following conditions:

- i. Capping the bonus/penalty payment at maximum 6 months to be explicitly provided. Penalty provisions for delayed completion as appearing in various clauses, viz; clauses 15.2 and 28.2 to be optimally consolidated at a single place/clause.
- ii. Layout plan to be given as a part of the bidding documents for all the 5 clusters.
- iii. The ceiling of 3% of the TPC to be reduced to 0.25% for payment in change of scope of work in clause 16.3.2.
- iv. Termination payments to be in accordance with roads BOT (Annuity) model, and
- v. inconsistencies, if any, to be intimated and the reconciled project documents sent to the members of PPPAC.

**(Action: MHA)**

**Agenda Item II: Proposal for final approval from MoRTH: 4 proposals were**

- vi. Six laning of Barwa-Adda-Panagarh section of NH 2 from km 398.420 to km 521.120 in the State of Jharkhand and West Bengal under NHDP Phase V on BoT (Toll) basis.
- vii. Two laning with paved shoulders of Ambala-Kaithal section of NH 65 from km 5.000 to km 88.135 in the State of Haryana under NHDP III on BOT (Toll) basis.
- viii. Four laning of Panikolli-Rimuli section of NH 215 from km 0 to km 163 in the State of Orissa under NHDP Phase III on (on BOT (Annuity) basis.

ix. Proposal for Parwanoo-Solan section of NH 22 from km 67 to km 106 in the State of HP on BOT (Annuity) under NHDP Phase III: Deferred in 35th PPPAC meeting.

12. It was noted that responses on the Project appraisals have not been received from the Sponsoring Authority. This was not in conformity with the Guidelines for Formulation, Appraisal and Approval of Central Sector PPP Projects.

13. PPPAC decided to defer the four proposals of Sponsoring Authority/MoRTH until the requirements of the PPPAC had been complied.

**(Action: MoRTH/NHAI)**

14. The meeting ended with a vote of thanks to the Chair.

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**Ministry of Finance  
Department of Economic Affairs**

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**Public Private Partnership Appraisal Committee (PPPAC)  
37<sup>th</sup> Meeting on June 21, 2010**

**List of Participants**

**I. Department of Economic Affairs**

- i. Shri Ashok Chawla, Finance Secretary (In Chair)
- ii. Ms. L.M. Vas, Additional Secretary
- iii. Shri Govind Mohan, Joint Secretary

**II. Department of Expenditure**

- iv. Ms. Parama Sen, Director (PF II)

**III. Planning Commission**

- v. Ms. Sudha Pillai, Secretary
- vi. Shri G. Haldea, Adviser to Dy. Chairman
- vii. Shri Ravi Mital, Adviser

**IV. Ministry of Law**

- viii. Shri Y.K. Singh, ALA

**V. Ministry of Home Affairs**

- ix. Shri Gopal Pillai, Secretary
- x. Shri H. Pradeep Rao, JS &FA
- xi. Ms. Sreyasi Chaudhari, DS

**VI. Ministry of Road Transport and Highways**

- xii. Shri Brahm Dutt, Secretary
- xiii. Shri P.K. Tripathi, Joint Secretary

**VII. National Highways Authority of India**

- xiv. Shri Brijeshwar Singh, Chairman
- xv. Shri J.N. Singh, Member (F)