

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

**Empowered Committee for the Scheme to support Public Private Partnerships
(PPPs) in Infrastructure**

17th Meeting on May 6, 2013

The 17th Meeting of the Empowered Committee (EC), chaired by Secretary, Economic Affairs was held on May 6, 2013. The list of participants is annexed.

2. Joint Secretary, Department of Economic Affairs (DEA) informed that there were two proposals for consideration of EC for grant of Viability Gap Funding (VGF) support:
 - i. Final approval for Hyderabad Metro Rail Limited (HMRL) on DBFOT basis of Government of Andhra Pradesh (GoAP).
 - ii. In-principle approval for development of six-lane expressway of Mumbai Trans Harbour Link (MTHL) connecting Sewri on Mumbai Island to Nhava on main land on BOT (Toll) basis of Government of Maharashtra (GoM) .
3. The EC noted that the Scheme for Support to PPPs in Infrastructure prescribes that VGF up to Rs. 100 crore for each project may be sanctioned by the Empowered Institution (EI), proposals for VGF up to Rs. 200 crore may be sanctioned by the EC, and amounts exceeding Rs. 200 crore may be sanctioned by the EC, with the approval of the Finance Minister. In accordance with the Guidelines of the VGF Scheme, the project proposals have been examined by the members of the EI. The EI considered the proposals and recommended for approval of EC.

Agenda Item I: Proposal from Government of Andhra Pradesh (GoAP) for grant of final approval for development of Hyderabad Metro Rail on DBFOT basis

Total length: 71.16 km; Total Number of Stations: 66, Number of Lines: 3
Total Project Cost: Rs. 11,814 crore (as approved by EC for purposes of calculation of VGF); Total Project Cost as per executed concession agreement: Rs. 12,132 crore
Concession Period: 35 years including 5 years of construction period, extendable for 25 years as additional concession period, subject to no material breach.
VGF approved from Government of India: Rs. 2,362.88 crore (i.e. 20 percent of the Rs. 11,814 crore; Actual VGF quoted by L-1 bidder: Rs. 1458 crore (12.34% percent of Rs. 11,814 crore); VGF from Government of Andhra Pradesh: Nil

Major development works/ structures: Rail system: 3 corridors, Line 1 (Miyapur-L.B. Nagar: 28.87 km served by 27 stations; Line 2 (Jubilee BS- Falaknuma): 14.78 km served by 16 stations, Line 3 (Nagole- Shilparamam): 27.51 km served by 23 station;
Mechanical and Electrical Equipment: covering Rolling stock, Signalling system, Communication system, Automatic Fare Collection System, Power supply system, One receiving sub-station at each depot of 132/33 kv, Traction sub station at alternate metro rail station and Auxiliary sub station in every metro station, Stand by DG, 2 132/33 kv standby, Elevator/Escalators/Lifts, Air-conditioning, Lighting in stations and trains, system-wide graphics and signage, Operation control centre equipment, Maintenance equipment, **Real Estate Development:** At Miyapur, Nagole and Falaknuma depots provides cumulative permissible builtup area restricted to maximum of 1.16 million sq.ft excluding basement. At least 70% of ground floor area at Miyapur and Nagole depots and at least 80% of ground floor at Falaknuma depot shall not be utilised for real estate development and shall be used for maintenance and stabling of the trains at the other depot facilities. Total builtup area restricted to 18.5 million sqft at station and depots. **Project facilities:** Public support facilities covering ticketing counters/booth and vending machines, advanced safety equipment for customers, toilets, pedestrian facilities, tree plantation, facilities for disabled, public addressal system, public information system, refreshment facilities.

4. The EC noted that the proposal was earlier considered in its 12th meeting held on July 29, 2010 and recommended the proposal to Finance Minister for grant of in-principal approval for VGF support of upto Rs. 2,362.88 crore (i.e. 20 percent of the Total Project Cost (TPC) of Rs. 11,814 crore). Finance Minister had approved the recommended maximum VGF. The project has since been awarded and the VGF grant quoted by the L-1

bidder is Rs. 1458 crore (12.34% of Rs. 11,814 crore). Financial Closure has been achieved in March 2011, construction works have commenced and the Concessionaire has invested Rs. 497 crore as its equity for the project.

5. The Chair commended the State Government for achieving successful technical and financial closure of the project. Further, in response to queries from the Chair, Managing Director (MD), HMRL informed the EC that 91 percent of land has been handed over to the Concessionaire. The State Government will in all spend around Rs. 1980 crore towards land acquisition for acquiring a total area of 269 acres. Real estate development has been restricted to maximum 18.5 million square feet (sq.ft). It was stated that real estate development is proposed by commercial utilisation of air spaces above the ground floor at the stations
6. The Chair inquired regarding the revenue expected from non-fare collections and when a breakeven is expected based on the project's returns. MD, HMRL responded that, in the 1st full year of operation, i.e. 2017, Rs. 587.31 crore was expected to be earned as non –fare revenue from property rentals and advertisements, etc. Thereafter, the expected revenue from fare collections are expected to go up. MD, HRML informed the EC that based on present projections, the project is expected to achieve break even by March 2020.
7. All the members of EC were in support of granting final approval to the project.
8. **The Empowered Committee recommended the project proposal to the Finance Minister for grant of final approval for viability gap funding of Rs. 1458 crore under the Scheme.**

(Action: DEA & GoAP)

Agenda Item II: Proposal from Government of Maharashtra (GoM) for grant of in-principle approval for: Development of six-lane expressway of Mumbai Trans Harbour Link (MTHL) connecting Sewri on Mumbai island to Nhava on main land on BOT (Toll) basis.

Total length: 21.973 km; Total Project Cost: Rs. 9630 crore; Cost of pre-construction activities to be financed by MMRDA: Rs. 500 crore; Concession Period: 35 years (including 5 years of construction period). VGF from Government of India: Rs. 1926 crore (20% of TPC)

Major development works/ structures: Six lane expressway of Mumbai Trans Harbour Link (MTHL) connecting Sewri on Mumbai Island to Nhava on the main land; Sewri Interchange; Approaches at Sewri; Approach Ramps to MTHL from elevated Eastern Freeway; Elevated Sewri-Worli Connector from Messant Road & local road network - 0.750 km Bridge Structure across Creek – 13 (17.37 KM); Land Viaduct : Road on Viaduct up to Interchange at Chirle; Toll Plazas – 2 at km 19.37 (main as per six lane of NH) and at km 17.342 (mini on Interchange ramp) including interchanges at Coastal Road, SH 54 and NH 4B – 3.853 km; ROB -2 at km 18.39 and km 21.333

Other Activities : Real estate: one hectare land in Sec -15 and 16-a of Ulwe node of CIDCO. Navi Mumbai restricted to 0.01 million sq.ft, land for casting yard: 15.17 ha. Land at Sewri site, and 18.97 ha. at Shivaji nagar, to be handed back to GoM. after COD

9. Joint Secretary, DEA stated that the EC had considered the proposal on December 12, 2012 in its 16th meeting and recommended the proposal to the Finance Minister for grant of in-principle approval for viability gap funding of Rs. 1926 crore. The Finance Minister approved the recommended VGF. Subsequently, MMRDA has sought certain amendments in the draft Concession Agreement.
10. The Metropolitan Commissioner, MMRDA stated that RfP of the project has already been issued to five shortlisted bidders. However, based on the pre-bid meeting requests, certain amendments to the DCA have been proposed in order to make the project bankable. These are as follows:
 - i. **Clause 4.1.2 (f) -** A new clause “(f) procured award of the contract for construction of dispersal link (i.e. the East West connector) from Worli to Sewri;” is proposed to be added as

- Conditions Precedent on the Authority, to reduce risk perception of the project.
- ii. **Clause 7.1 (k)** - Exit option to the concessionaire from the project after 2 years of COD.
 - iii. **Clause 29.3** – Provision of revenue shortfall loan by MMRDA for deficiency in realized traffic.
 - iv. **Clause 35. 4.1-** Compensation by the Authority in the event that the Additional Toll way or Competing Road is opened in breach of this Agreement. The current provision provides that the for calculation of the Projected Fee which shall be an amount equal to the Average Daily Fee, increased at the close of every month by 0.5% (zero point five percent), in the event the average traffic on the Project Highway in any month shall have reached a level equivalent to the Designed Capacity, the increase of 0.5% (zero point five percent) specified shall not apply during such month average. It is proposed to amend the limit of average traffic for not applying the 0.5 percent increase to **“120% of Designed Capacity”** in place of **“equivalent to Designed capacity”**.
 - v. **Clause 40.2 (b)** – **“Charge on Escrow Account”** is proposed to be added.
 - vi. **Clause 48-** Definitions of **“Change in ownership’**, **‘Minimum traffic’** and **Subsistence Revenue’** have been proposed to be revised.

10.1 The EC discussed each of the proposed amendments as under:

10.1.1 Clause 4.1.2 (f) :The Metropolitan Commissioner, MMRDA indicated that a new clause is proposed to be added in the Conditions precedent on the Authority, viz; **“Clause 4.1.2 (f) procured award of the contract for construction of dispersal link (i.e. the east west connector) from Worli to Sewri”**. Since, about 15 percent of the traffic on MTHL is contributed by East West connector, this would reduce the risk perception by the prospective bidders would reduce and consequently the VGF required.

Joint Secretary, DEA indicated that award of the contract for construction of dispersal link from Worli to Sewri is a separate project. Inclusion of this project as a Condition Precedent would result in unnecessary disputes and arbitration as in future, the Concessionaire would link this clause not only to the award but to its completion. Further, MMRDA is also taking on traffic risk by providing Revenue Shortfall Loan in case of reduction of Minimum Traffic. Hence, inclusion of this clause as a Condition Precedent is not supported.

The Chair indicated that by adding this clause as a Condition Precedent, MMRDA would increase the risk instead of reducing it. It was suggested that MMRDA may indicate the present status of award of the Contract for construction of the East West connector from Worli to Sewri to prospective bidders without including this as a Condition Precedent. This was supported by all the members of EC.

Metropolitan Commissioner, MMRDA agreed to the suggestion and accordingly stated that this proposed amendment is withdrawn.

10.1.2 Proposed amendment -II: Clause 7.1 (k) - Exit option to the concessionaire from the project after 2 years of COD

The Metropolitan Commissioner, MMRDA indicated that exit option to the Concessionaire from the project after 2 years of COD may be allowed for the proposed project in line with other highway project. Advisor, Planning Commission stated that the proposal may be supported subject to the condition that the guidelines are formulated by MMRDA to ensure that new equity holder has requisite qualification and experience. The Chair supported the view of the Planning Commission. Metropolitan Commissioner, MMRDA has agreed to the suggestion.

All members of EC agreed to the proposed amendment with the incorporation of suggestion of Advisor, Planning Commission.

10.1.3 Proposed amendment -III: Clause 29.3 – Provision of revenue shortfall loan for deficient of traffic by MMRDA

The Metropolitan Commissioner, MMRDA indicated that MMRDA proposes to provide Revenue Shortfall Loan in the first seven years in case minimum average daily traffic falls below the 80 percent of the projected traffic. The loan shall carry interest rate above two percent of Bank Rate. The loan is repayable in instalments after 15 years or earlier in case actual traffic exceeds more than 125% of the Minimum Traffic.

Advisor, Planning Commission indicated that the proposed Revenue Shortfall Loan to be provided by the MMRDA would amount to transferring the traffic risk to MMRDA. This is a substantial deviation, with attendant financial risk to the Authority to provide loan on concessional terms and also bears the risk of non-payment. Hence, the proposed provision is not supported by Planning Commission.

The Metropolitan Commissioner, MMRDA responded that the Revenue Shortfall Loan is interest bearing with two percent above Bank Rate and the loan is repayable with specific terms. The proposed loan would provide comfort to the lenders and would make the project bankable.

Joint Secretary, DEA stated that the loan is limited to 10% of the Total Project Cost. The Chair indicated that proposal is worth supporting, agreeing that in cases where traffic falls short of the target traffic, part of the traffic risk is borne by the authority by increasing the concession period as per MCA.

10.1.4 Proposed amendment -IV: Clause 35. 4.1- Compensation by the Authority in the event that the Additional Tollway or Competing Road is opened in breach of this Agreement.

The Metropolitan Commissioner, MMRDA indicated that MMRDA proposes to modify in clause 35.4.1 “average traffic on the Project Highway in any month shall have reached a level of **120% of**

Designed Capacity” in place of **“equivalent to Designed capacity”** for making compensation by the Authority in the event that the Additional Tollway or Competing Road is opened in breach of this Agreement. The modification has been proposed in order to maintain consistency in accordance with clause 27.5 wherein the Concessionaire can accrue Realizable Fee up to 120% of the designed capacity. Thus in normal circumstances wherein Additional Tollway were not to be commissioned the concessionaire would have secured traffic revenues upto 120% of the designed capacity. Thus the compensation in Clause 35.4.1 is proposed to be kept up to 120% of the designed capacity.

Advisor, Planning Commission stated that MMRDA proposed to increase compensation upto 1,80,000 PCUs against the designed capacity of 1,50,000. Since, the designed capacity has already been fixed at higher side for 6-lane bridge, the proposed amendment is not supported as it would lead to additional compensation.

The Chair indicated that the two clauses referred by the MMRDA are separate and need not be linked. Clause 27.5 is for keeping the additional revenue by the concessionaire in case actual traffic exceeds the designed capacity whereas clause 35.4.1 pertains to the compensation by the Authority in case competitive road is opened by the Authority before the 20th year from the Appointed Date in accordance with clause 30.1.1 of the DCA. Hence, proposed amendment is not supported.

Metropolitan Commissioner, MMRDA agreed to drop the proposed amendment.

10.1.5 Proposed amendment -V: Clause 40.2 (b) – “Charge on Escrow Account” is proposed to be added.

The Metropolitan Commissioner, MMRDA indicated that MMRDA proposes to include **“Charge on Escrow Account”** in clause 40.2 (b) for the confidence of the lenders. Joint Secretary, DEA indicated that the proposal may not be required in view of RBI letter dated March 18, 2013 which treats the loan money as secured even without the

proposed amendment. This was supported by the Advisor, Planning Commission. Metropolitan Commissioner, MMRDA stated that prospective bidders in the pre-appraisal meeting stated that lenders require the security clause in the concession Agreement to enable them to sanction the loan. Hence, it was requested to include **“Charge on Escrow Account”** in clause 40.2 (b) in line with the other highway project.

Advisor, Planning Commission suggested that the following may be added after clause 40.2(b): “For the avoidance of doubt, the Senior Lenders would be entitled to create a lien on the Escrow Account, subject to and without prejudice to the rights of the Authority under this Agreement”. The Chair indicated that this is the better formulation and may be incorporated.

All members of EC agreed to the suggestion of Planning Commission.

10.1.6 Proposed amendment-VI: Clause 48- Definitions of “Change in ownership’, ‘Minimum traffic’ and Subsistence Revenue’ proposed to be revised

The Metropolitan Commissioner, MMRDA indicated that revised definitions of “Change in ownership’, ‘Minimum traffic’ and Subsistence Revenue’ are proposed in view of the proposal- II & III.

All members of EC agreed to the amendment.

(Action: MMRDA)

11. The Chair inquired on the development initiatives for the proposed International Convention Centre that is being planned in Navi Mumbai. Additional Metropolitan Commissioner, MMRDA informed the Chair that the area proposed for the Convention Centre was under the purview of City and Industrial Development Corporation of Maharashtra (CIDCO). This area was earmarked for the development of Special Economic Zone (SEZ). However, the State Government has withdrawn its plan for development of SEZ. In continuation of this development, International Convention Centre was one of the proposals under consideration in the

area. The Chair suggested that development and planning for this area left vacant in Navi Mumbai may be planned well in advance with a cohesive and comprehensive outlook to create Mumbai into an IFC.

(Action: MMRDA)

12. The meeting ended with vote of thanks to the Chair.

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in Infrastructure**

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List of Participants

I. Department of Economic Affairs

1. **Dr. Arvind Mayaram, Secretary Economic Affairs (*In Chair*)**
2. Shri Shaktikanta Das, Additional Secretary
3. Kum. Sharmila Chavaly, Joint Secretary
4. Smt. Abhilasha Mahapatra, Deputy Secretary,
5. Shri Abhijit Phukon, Deputy Director

II. Department of Expenditure

6. Shri Piyush Srivastava, Director

III. Planning Commission

7. Shri Ravi Mittal, Adviser

IV. Ministry of Road Transport and Highways

8. Shri Amarendra Kumar, SE (PPP)
9. Shri Arun Agarwal, EE (PPP)

V. Ministry of Urban Development

10. Shri C.K Khaitan, Joint Secretary

VI. Government of Andhra Pradesh

11. Shri N.V.S Reddy, Managing Director, HMRL

12. Shri D. Surya Prakasam, GM(F&CA), HMRL

VII. Government of Maharashtra

13. Shri U.P.S. Madan, Metropolitan Commissioner, MMRDA

14. Smt. Ashwini Bhide, Additional Metropolitan Commissioner,
MMRDA