3A/2/2012-PPP
Government of India
Ministry of Finance
Department of Economic Affairs
PPP Cell

North Block, New Delhi
Dated: November 30, 2012

Subject: Record of Discussion (RoD) of the 43rd Meeting of the Empowered Institution for the Scheme for Financial Support to PPPs in Infrastructure (Viability Gap Funding Scheme).

The undersigned is directed to enclose the Record of Discussion of the **43rd** meeting of the Empowered Institution held on October 30, 2012.

2. **As decided during the deliberation of the EI meeting, Ministry of Road Transport & Highways (MoRTH) was requested to provide a comprehensive list of financial commitments already made under various categories viz. EPC, BOT (MoRTH/NHAI), BOT (with DEA's VGF support) etc. The same may be sent to this Department at the earliest.**

(Aparna Bhatia)
Director
Ph No. 23094443

To

1. **Shri Saurabh Garg**, Joint Secretary, Department of Expenditure, North Block, New Delhi
2. **Shri Ravi Mittal**, Adviser, Planning Commission, Yojna Bhavan, New Delhi
3. **Shri R.K. Singh**, Joint Secretary (Highways), Ministry of Road Transport and Highways, Transport Bhavan, New Delhi
4. **Shri Alok Sinha**, Joint Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi.
5. **Shri Rahul Asthana**, Municipal Commissioner, MMRDA, Government of Maharashtra, Mumbai
6. **Shri Manoj Kumar Singh**, Secretary, Department of Tourism, Government of U.P., Lucknow.
7. **Shri Vivek Agarwal**, Managing Director, Madhya Pradesh Road Development Corporation, Bhopal

Copy to:

a) PPS to Additional Secretary, Economic Affairs.
b) PS to Joint Secretary (Infrastructure & Investment), DEA.

(Aparna Bhatia)
Director

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Empowered Institution for the Scheme for Financial Support to Public Private Partnerships in Infrastructure

43rd Meeting on 30 October, 2012

Record Note of Discussions

The forty-third meeting of the Empowered Institution (EI), chaired by Additional Secretary, Department of Economic Affairs (DEA), was held on October 30, 2012. The list of participants is annexed.

2. The EI noted that there were five proposals under consideration for grant of in-principle approval for viability gap funding (VGF) support. These included one proposal from Government of Uttar Pradesh under aviation sector, one proposal from Government of Maharashtra for development of a linking bridge over sea, and three proposals from Ministry of Road, Transport and Highways for development of National Highways under NH (Original).

Agenda Item I: Proposal from Government of Uttar Pradesh (GoUP) for grant of in-principle approval for Development of International Airport at Khushinagar in Uttar Pradesh on DBFOT basis.

Total Project Cost: Rs. 354.65 crore; Concession Period (proposed): 30 years extendable by 30 years including 3 years of construction period; Concession Period (approved by EI): 30 years extendable by 20 years including 3 years of construction period. VGF from Government of India: Rs. 70.93 crore (20% of TPC)

Major development works/ structures: Development of Code 4E type international airport, with aeroplane reference field length (ARFL) 1800m or above, construction of 3200m X 45m of single air strip, three taxiways, apron for parking min. 5 aircrafts isolation bays, terminal building for handling 350 international & domestic passengers each for arrival &departure with total area of 6900 sq.m, navigational and landing aids and other non-aeronautical assets, cargo complex with apron and maintenance workshop, control towers and technical buildings, power station (min. 15 MVA), area for ground support equipment, fuel farm, airport rescue and fire services, airport security and safety services, main surface road access to airport, car parking (min. 100 cars), development of a sewage treatment plant and water treament plant, air field ground lighting, ground services eqipument- parking and maintenance area, space of 1000 sq.m, general aviation acitivties line transportation of personnel and cargo, operation and maintenance of the airport, etc.

3. Secretary, Department of Tourism, GoUP presented the proposal. Kushinagar is an important location in the Buddhist circuit; it is the place where Lord Buddha entered Maha-Parinirvana. Most Buddhists aspire to visit this location, along with the others in the vicinity, namely, Lumbini, Bodhgaya and Sarnath. The project has tremendous untapped Buddhist tourist potential. Out of 480 million Buddhist population across top 20 countries, only 2 million Buddhist travel to India annually that is only 0.24 percent. This may be on account of poor and direct travel access and accommodation facilities. The nearest airport is Varanasi which is more than 200 km and there is no international airport within 150 km of aerial distance. The nearest Railway station is Gorakhpur which is 51 km from Kushinagar. The distance of the proposed Airport from the National Highway is less than one km and about 2.5 km from the main temple. It is expected that approximately 2.5 lakh passengers would travel annually to the region after the development of the Airport.

4. Secretary (Tourism), GoUP informed that that an air strip already exists at the proposed site at Khushinagar. However, it is not being used for commercial purposes or charted flights. It is currently utilised for landing by Government helicopters for administrative purposes. Gorakhpur, which is 51 km from Khushinagar has a Defence Airfield and Aerodrome. However, these cannot be treated as an alternative to the

proposed project. The project site is 615 acres including, the proposed 80 acres for city side development for activities related to airports. The land has already been acquired and fenced for the proposed Greenfield airport project. The project related approvals have been received in the year 2010, viz., sanction of Government of Uttar Pradesh for the project, clearance from Ministry of Defence, clearance from Department of Customs, site clearance and in-principal approval for the project form Ministry of Civil Aviation, no objection from Department of Metrology, no objection from U.P. Pollution Control Board and Environmental Impact Assessment clearance from Ministry of Environment and Forests. Further, the project was bid out earlier in November 2009 and four bidders, viz., GMR, GVK, L&T and Gammon were shortlisted at RFQ stage on 22nd January 2010. However, no financial bids were received, possibly on account of concerns about the project's viability and high project cost of Rs. 850 crore. The project has since been restructured with reduction in the TPC to Rs. 354.65 crores and inclusion of the component on city side development. The Expression of Interest was invited in May 2012, thirty two firms have responded.

5. Secretary (Tourism), GoUP informed that a careful estimation of the expected traffic at the airport has been undertaken. The State Government envisages that around 2.5 lakh passengers (domestic as well as international) would be using the Khushinagar Airport by the Commercial Operations Date (COD). It is expected that once the tourism facilities/infrastructure is developed, as a component of the project, the passengers at the airport would increase substantially on account of twin advantage of direct access and good hotel facilities. Hence, the city side development is an integral part of the project; neither of the two activities, viz., an international airport or good quality hotels are viable projects without the synergies being brought in due to the simultaneous investment in the two projects. Development of the two components as one composite project also enhances the project viability on account of risk mitigation through certainty that both the components shall come up within the same time frame. The reduction in the project cost from Rs. 850 crore to Rs. 354 crore would also ensure a sound bid response. The Chair

queried whether the State Government is satisfied with the cost of the project. Secretary (Tourism), GoUP confirmed that project cost has been carefully examined and reviewed at the State level and is acceptable.

Concession Period

6. The Chair observed that the Draft Concession Agreement provides that the concession period is 30 years, extendable by a further period of 30 years, if the Authority is satisfied, upon ascertaining in the twenty-fifth year from COD, that there has been no previous material breach or default in the discharge of duties by the Concessionaire. There is ambiguity in the provisions as to whether the Concessionaire shall be eligible for an extension of the concession by a further period of 30 years in the event there is a default/breach in the discharge of duties during the period from the 25th to 30th year of the concession period. Further, there is need to review whether extension of the concession period for a further period of 30 years, on the same terms and conditions is justified.

7. Secretary, Tourism confirmed that in the event there is a default by the Concessionaire during the 25th to 30th year, the extension in the concession period by a further period of 30 years shall not come into effect. The Chair observed that this does not appear clearly from the provisions of the Draft Concession Agreement. Hence, appropriate corrections may be made in the Article 3 of the DCA. This was agreed to.

(Action: GoUP)

8. Secretary, Tourism informed that the concession period of 30 years, extendable by a further period of 30 years, has been proposed as per the policy/approach adopted by Government of India for Delhi and Mumbai Airports. Further, airport development has high capital cost and long gestation project. Hence, concession period of 50-60 years is necessary to ensure a robust project structure. Any further extension in concession period will improve financial viability only marginally as present value of projected revenue after 50 years would be very low from Concessionaire perspective. A shorter Concession period will require higher capital subsidy and user charges. Further, Ministry of Civil Aviation is

allowing concession period 60 years for other similarly placed locations. Hence, keeping the concession period as 30 years for Kushinagar airport will put this project at a disadvantage and make the Project un- attractive.

9. Joint Secretary, Ministry of Civil Aviation (MoCA) informed that the Greenfield Airports Policy for Government of India is silent about the period of concession. Airport Aircraft Act provided for concession period of 30 years. In the case of airports at Delhi and Mumbai concession period of 30 years extendable by another 30 years has been provided based on the approval by EGOM. MoCA has granted clearance to other non-metro Airport projects with concession periods of 50-60 years and even longer. This approach is also being followed for Khusinagar airport. The Chair observed that the project does not appear to require an extension of the concession period by another 30 years on same terms and conditions since the State Government envisages comprehensive development in the region in the next three decades. Hence, whether the Khushinagar Airport should be operated and maintained ***at the same terms and conditions***, as prescribed now, cannot be established in the current context when the project requirement is that the Airport shall cater to a defined number of tourists, with a limited design capacity. However, since MoCA is of the view that they have approved concession periods of 50 to 60 years for non-metro Airports, hence, the Khushinagar Airport may be approved for a concession period of 30 years, extendable by a further period of 20 years. This was agreed to by the other members of EI and GoUP.

(Action: GoUP)

Airport Development Fee and User Development Fee

10. The Chair observed that the project envisages that the Concessionaire shall be entitled to collect airport development fee. The ADF has been indicated as Rs. 1300 for international passengers and Rs. 200 for domestic passengers, at par with the rates of IGI airport, New Delhi. He queried whether these rates should be thus benchmarked since the

facilities provided at IGI airport, New Delhi are not comparable with the proposed project. He further queried whether the specified charges were as approved by the regulator.

11. Joint Secretary, MoCA informed that the airport regulator governs charges in respect of large airports having passenger base of more that 1.5 million. For the other airports, the Ministry of Civil Aviation issues the guidelines. Currently though no policy advisory has been formally notified about ADF for smaller airports, the position of MoCA is that ADF for smaller airports is not recommended. MoCA may formalize its position and about ADF in the future; however, as of now the State Governments are free to prescribe this fee. Secretary (Tourism), GoUP stated that the proposed ADF have been taken as the ceiling level in order to improve the project's viability. The Concessionaire may charge lower rates. Director, DEA, stated that the provision of ADF and UDF are emerging from the information provided by GoUP in the EI memo of the Scheme. These provisions may also be prescribed in the project DCA to avoid ambiguity. This was agreed to.

(Action: GoUP)

<u>Bid Variable</u>

12. Director, DEA indicated that multiple options have been provided as bid variable i.e. (i) viability gap funding (in Rupees); (ii) additional concession fee (percentage of total realisable fee); and (iii) upfront premium (in Rupees). Further, under item (ii), a ceiling has been placed at maximum 40% of total realisable fee as Additional Concession Fee. In the event the Concessionaire was willing to pay more than 40% of total realisable fee on COD, the Concessionaire could also provide upfront cash. Hence, the bid response varied from a quote in monetary value (VGF in Rupees) to a percentage share (per cent of total realisable fee) and again to a monetary value (upfront grant in Rupees plus percentage of total realisable fee). It is advisable that the bid variable is simple and precise to avoid ambiguity and disputes. The basis of arriving at 40% as maximum revenue sharing in the bid response was questioned. Further, the project did not require the Concessionaire to observe a minimum guaranteed traffic/revenue. Hence, there was ambiguity about selection of a Concessionaire on the basis of percentage of total realisable fee. Hypothetically, it may be

more advantageous for the Authority to award the project to a private sector entity who offered a ***lower percentage*** of a **larger** Total Realisable Fee in contrast to a private sector entity who offer a higher percentage of a smaller total realisable fee. Hence, the revenue share-based bid variable was not precise and may be reviewed. Further, though the City Side Development was part of the project scope of work, the revenues from City Side Development are not part of the Total Realisable Fee. This anomaly required review and reconsideration by GoUP. Secretary (Tourism), GoUP informed that they had not received any response to their offer of the project earlier; hence, the State Government was expecting the financial bid to be a VGF quote and not a premium. It was agreed that the concerns of Ministry of Finance would be addressed by review of the provisions of Article 29 and 30 of the DCA.

(Action: GoUP)

<u>Short listing of Bidders</u>

13. Deputy Secretary, Department of Expenditure (DoE) indicated that DoE does not support short listing of bidders to be restricted to any number after the RfQ stage. The Chair queried whether restriction in the number of shortlisted bidders is an accepted practice under the Scheme. Director, DEA informed that the Model RfQ notified by Ministry of Finance prescribes a shortlist of bidders ranging from five to ten. However, exemption from this provision has been taken by all Central Sector projects for roads, major ports, police housing and headquarters as well as housing for Para-Military Forces to address the concerns relating to cartelisation amongst the bidders. Hence, generally the EI does not impose this provision of the Model RfQ. The Chair suggested that GoUP may like to review their position on the matter. Secretary (Tourism), GoUP informed that they had adopted restriction on the number of shortlisted bidders with the understanding that it was a necessary condition of procurement under the Scheme. Since it is a Greenfield project which had failed to get a bid response earlier they would prefer to remove the restriction on the number of shortlisted bidders. This was agreed to by members of EI.

(Action: GoUP)

Real Estate Development

14. The Chair observed that the project envisages provision of 80 acres of land for city side development for airport/tourism related activities. Generally, the Concessionaire has incentives for development of the real estate component on a faster track since the revenues accrue faster from commercial development of land. Consequently, the infrastructure project, an airport in the current context, suffers delays since it may not be the priority activity of the Concessionaire. It is a far cleaner arrangement if the commercial development activity is bid out separately and the infrastructure project is bid out with VGF as the viability enhancing instrument. Since the State Government would be developing the two components simultaneously, the expected synergies of the two components shall remain; however, the price discovery of the airport project shall be unambiguously with respect to the project itself and not on account of commercial development of land.

15. Director, DEA added that the revenue from the real estate component have not been accounted in the financial model. Without the revenues from this component, the project's financials suggest a viable project. Deputy Secretary, DoE endorsed the view and stated that with nil VGF, the equity IRR has been presented as above 15 percent, thus, the need for VGF and real estate provisions is not very evident.

16. Secretary (Tourism), GoUP informed that the real estate is an essential component not only for financial viability but for overall development of the airport and its influence region. The real estate value is not significant at present. Its potential is unknown, and is dependent upon the Airport becoming a successful project. Conversely, it is being used as a parameter for cross-subsidisation. The project may not financial viable without considering the real estate component and this may reduce the airport charges.

17. The representative of Planning Commission stated that the additional land may also be used for capacity augmentation. Director, DEA indicated that in case the real estate

component is included as an instrument for enhancement for viability of the project, the total support by the Government shall exceed 40 percent of the total project cost, which is an essential condition for VGF support under the Scheme. Since, the accruals from the city side development have not been included in the financial analysis and do not constitute a part of the total realisable fee, city side development cannot be treated as a sub-component of the project but an additional support for viability enhancement by the State Government. The representative of Planning Commission stated that real estate has been provided for other project cleared by EI earlier, such as Hyderabad MRTS. Hence, the same approach may be considered for instant project for enhancing the viability of the project. Director, DEA clarified that in case of Hyderabad MRTS, the real estate component was restricted to the area above the Metro stations and which was for the purposes of support facilities for commuters.

18. The Chair reiterated that the Real Estate component is not justified for incorporation with the project and the provisions may be deleted from the DCA. GoUP may develop the tourism facilities required in the region independently of the provisions of the Scheme. Secretary (Tourism), GoUP stated that the project requires supporting real facilities like hotels, eateries, rest areas etc. and queried whether these may be provided at the airport site. Joint Secretary, Ministry of Civil Aviation stated that these activities/services may be provided as a part of the non-aeronautical areas as per the provisions under the master plan and airport development policies. These views were supported by the members of EI. It was agreed that appropriate amendments shall be made in the DCA to this effect.

(Action: GoUP)

19. Director, DEA stated that presently VGF support has been restricted to 30 percent of the TPC during the construction stage. In order to enhance the project viability, grant of maximum 40 percent of the TPC may be considered during the construction period by the State Government. This was agreed to by members of EI.

(Action: GoUP)

20. All members of the EI were in support of grant of in-principle approval for VGF support to the project.

21. The Empowered Institution **granted in-principle approval** to the project for maximum viability gap funding of Rs. 70.93 crore under the Scheme, subject to the fulfilment of the following conditions:

a. GoUP shall amend the DCA to provide that Concession period shall be 30 years extendable by another 20 years. The provisions of the DCA shall explicitly provide that the Concessionaire shall be eligible for extension of the concession period subject to there being no default by the Concessionaire till the 30th year of concession.
b. GoUP shall amend the DCA to appropriately prescribe the provisions with respect to ADF and UDF, as clarified by GoUP in their response to the observations in the Appraisal Note of DEA.
c. GoUP shall review the bid variable in the RfP in the event the bidders are willing to offer a premium in order to eliminate ambiguity and to allow precise ranking among bidders. The EI was of the view that the bid variable should be precise.
d. GoUP shall delete the restriction on the number of shortlisted bidders from the project RfQ.
e. GoUP shall amend the DCA to provide viability gap funding up to 40 percent of the TPC as capital grant during the construction period.
f. GoUP shall amend the bidding documents to delete provisions and related inter linkages on real estate or city side development component of 80 acres.
g. GoUP may, if required, provide non-aeronautical services such as hotel, rest facilities, eateries etc. on the Airport site, as part of project scope of work in the DCA, in accordance with the prevailing Laws and Acts in the aviation sector, and in accordance with the Airport Master Plan.

h. GoUP shall provide at least 90 per cent of the land to the Concessionaire by Appointed Date, in line with the provisions of the Concession Agreement for the project.
i. GoUP shall obtain the environmental, forest and other approvals and clearances before the award of the Project.
j. GoUP shall incorporate the observations of Planning Commission, Department of Expenditure, Ministry of Civil Aviation and DEA with respect to corrections in the Schedules of the project DCAs, as agreed to in their responses to the appraisal notes.
k. GoUP shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration as noted above.
l. GoUP shall circulate revised projects documents to the members of EI for record.

(Action: GoUP)

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 MoRTH: Rs. 500 crore; Concession Period: 30 years extendable with another 5 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 Activties : 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

22. Municipal Commissioner, Mumbai Metropolitan Regional Development Authority (MMRDA), GoM presented the proposal. It was stated that the proposal was considered by the EI in its 42nd meeting held on September 25, 2012 and deferred its consideration. MMRDA was advised to review the project documents and reassess the financial viability with 17 percent return on equity and with VGF grant upto 40 percent during construction period and concession period may be reassessed. It was confirmed that in line with the comments of the appraising agencies and as per the directions of the EI, all the modifications have been carried out in the documents and the same have been submitted to the members of the EI in compliance.

23. Municipal Commissioner, MMRDA indicated that the project consists of a 16.5 km bridge on the sea and 5.5 km viaduct on land. The Trans- harbour link has interchanges at Sewri and Chirle. The project is important for the State Government as it aims to decongest the island city of Mumbai, it would enable speedy travel from Navi Mumbai Region and Airport as well as reduction in travel length by around 17 km leading to savings in travel time of 50 minutes, it would encourage accelerated growth of Navi Mumbai, development of zones, viz., Panvel and Alibaug, and provide superior connectivity to Pune Expressway, Port Connectivity and South India. This project is among the longest bridges in the world and is under development and procurement process since 2007. It was in the year 2007 that the project was first bid out. Two bids were received and the bidding parameter was concession period. Amongst the prospective bidders, one bidder quoted nine years and eleven months and the other bidder quoted seventy two years. The lowest bid was not accepted by the Government of Maharashtra due to high disparity amongst the quotations and unrealistic nature of the nine years quoted as concession period. Thereafter, the project was bid out on EPC basis in 2008. No bids were received as the construction risk was considered as very high by the developers. Failure in concluding the bidding process twice earlier mandated the Government of Maharashtra to address the risks associated with the project, thus, the project was restructured for the third time and has been posed for viability

gap funding under the VGF Scheme of GoI. A third round of bidding has been undertaken in early 2012; five prestigious firm having international consortium partners have applied for the next round of bidding. It was requested that the project be grant approval.

24. Representative of Planning Commission indicated that this project is unlike road projects; hence, project may be supported with the proposed structuring.

25. Deputy Secretary, DoE pointed out that the traffic breaches the capacity of the bridge during the concession period. Being a unique project, either, the concession period may be made equivalent to the life of the bridge or the breach design capacity with a view to ensure commuters convenience. It was suggested that the project may be developed as an eight-lane bridge based on the expected traffic on the project. Municipal Commissioner, MMRDA indicated that the traffic projection is uncertain since it is for a Greenfield project. Further, the growth of traffic is expected to be back-ended during the concession period. Based on projections, the requirement for an eight lane bridge is not perceived by the State Government and the technical consultants engaged for carefully studying and structuring the project. Further, in case the project is eight-laned, the project would not remain financially viable. The project was earlier bid out on EPC basis in the year 2008, however, no bids were received due to high technical risks and huge cost liability of around Rs. 10,000 crore. The concession period has been fixed based on the financial viability of equity IRR of 17 percent and separate fee structure for peak and non-peak hour honouring the tidal movement of traffic and as a measure to capacity management.

26. The Chair supported the view that structuring the project with an eight lane carriageway would make it financially unviable on the BoT mode. It was observed that this was his third interaction with the project team and the technical parameters of the project with respect to the carriageway and other technical specifications have been carefully finalised by MMRDA after extensive consultations.

27. Director, DEA informed that MMRDA has addressed most of the issues in the project's DCA as pointed out by the appraising agencies. However, the following issues still needed consideration:

a. As per the Authority's estimates, the traffic breaches the capacity of the bridge (1,50,000 PCUs at the LOS-C) in the twentieth year and if 5 percent growth rate of traffic is considered, the traffic exceeds the proposed capacity in the twenty fifth years. Hence, the concession period may be reduced to twenty five (25) years. In case of higher concession period, it would lead to severe traffic congestion on the bridge and would compromise safety concerns, thus, defeating the purpose of providing superior connectivity to the users.
b. As per DEA's estimates the project is financially viable with 28 years as concession period with 17 percent as equity IRR.
c. Clause 29.2.4 of the DCA has been substantially modified by indicating that if the Concessionaire pays to the Sponsoring Authority twenty five percent of the revenue collected beyond the capacity of the road up to a limit of 120 percent and 100 percent of the revenue beyond 120 percent, the Sponsoring Authority shall not terminate the contract as per Clause 29.2.3, even if the capacity of the road breaches in three consecutive years. As the capacity is exceeded in 25 years, interest of the users would be substantially compromised. In the 45th year the traffic is almost three times of the capacity of the road, this is not justified. Thus, provisions under clause 29 of the DCA may be reviewed.
d. Clause 27.5 of the DCA states that if the actual average traffic during any year until the 15th anniversary of the CoD falls below the 75 percent of the projected traffic, the Sponsoring Authority shall pay to the Concessionaire, a sum equal to 50 percent of the total fee as deemed for such shortfall in traffic. In a PPP project, the traffic risk is expected to be borne by the Concessionaire and the Sponsoring Authority may not provide for traffic guarantee for the first year of COD. Further, by providing O&M support, this breaches the 40 percent cap for grant of

VGF under the Scheme. Hence, the project may be rendered as not eligible under the VGF Scheme of GoI.

e. The O&M support in clause 25.3 of the DCA may be deleted as the entire grant is being considered during construction period.

f. Suitable provisions may be incorporated in order to take back the land for casting yard to MMRDA after the COD.

28. Municipal Commissioner, MMRDA responded that concession period has been considered in order create a bankable project for obtaining financial closure, to maintain the DCSR ratio, higher Equity IRR expectations of the bidders of around 17 percent. There are several construction risks being a sea bridge as geological uncertainties and underwater currents may be encountered during construction stage. Other substantial risks includes traffic risks as forecasting method can fail in view of the project being a Greenfield bridge and other alternative routes, user's ability to pay higher toll rates, noon completion of Worli-Sewri road by the SA, development of urban infrastructure in Navi Mumbai side, completion of New Mumbai Airport, construction of Metro line and other railway lines across the sea and in parallel to the proposed bridge. Further, other similar bridges constructed on BOT basis across the world are North Turrant expressways (USA) having concession period of 52 years, Rio-Antirion bridge (Greece) with concession period 42 years, and Confederation bridge (Canada) with concession period of 31 years. To mitigate the breech of capacity, a provision has been included in the DCA under Clause 27.4 to charge differential toll rates during peak and off peak hours. Sponsoring Authority also plans to construct an additional Metro /rail link based on the needs of the region. Further, as per Clause 27.6 of the DCA the Concessionaire is required to pay twenty five percent of the revenue for traffic from 100 percent to 120 percent of traffic capacity and 100 percent beyond 120 percent. As per Clause 30.1 of the DCA, Sponsoring Authority may construct additional toll-way after the 20th year of concession to safeguard the interest of the user and mitigate the safety risk. Additionally, in the earlier rounds of bidding, the Concessionaire claimed 72 years as the concession period and no bid bids were received on EPC. The

Concessionaire bears the risk of traffic shortfall from 100 percent to 75 percent of the estimated traffic. The Sponsoring Authority bears the risk to the extent of 50 percent of the total fee as deemed for such shortfall in traffic to make the project bankable in the eye of the Lending Institutions.

29. Municipal Commissioner, MMRDA indicated that in case the project is not admissible within the VGF Scheme in view of the provisions stated in Clause 27.5 of the DCA, MMRDA is agreeable to delete the same. Municipal Commissioner, MMRDA also agreed to delete clause 25.3 of the DCA for O&M support and incorporate suitable provision in order to take back the land for casting yard to MMRDA after the COD .

(Action: MMRDA)

30. Director, DEA suggested that to mitigate the termination risk as per Clause 29.2.4, target traffic may be assessed between 20th to 25th year of the concession period in order to understand whether provisions for capacity of the bridge has exceeded the design capacity and whether the concession period requires extension. Municipal Commissioner, MMRDA responded that the traffic assessment may be undertaken in the 28th year subject to traffic capacity exceeding the design capacity of 2,20,000 PCUs for two consecutive years. This was agreed to.

(Action: MMRDA)

31. The Chair suggested concession period of 25 years with provision for extension of 10 years subject to the condition that there has been no breach in the traffic capacity and that the Concessionaire has not undergone any material default in accordance with the Concession agreement. The Municipal Commissioner, MMRDA reiterated that the project is not viable and may not receive any bids in case a concession period of 25 years is capped even though 10 years extension maybe allowed. These formulations have been extensively discussed with the prospective bidders and hence it advisable that a minimum concession period of 40 years be provided for the project. The Chair suggested that since the project is

to be approved by the Empowered Committee (EC) and the Finance Minister, MMRDA may present its view before the EC for consideration of higher concession period. The representative of MMRDA suggested that EI may consider a concession period of 30 years extendable with 5 years. This was agreed to.

(Action: MMRDA)

32. Deputy Secretary, DoE reiterated that the project design of six laning appears to be chosen for making it financially viable. A project of this importance should be designed keeping in mind the entire life of the asset and the back ended heavy utilisation which is sure to occur in Mumbai. Hence, the comments of the DoE may be replied to in writing by MMRDA with all supporting documents. The rationale for the concession period and breach traffic specification, as approved by the EI may be detailed along with the written reply to DoE's comments on the project at the earliest. She added that the DoE will go through the same and respond to the proposal again when it is considered in the Empowered Committee. This was agreed to.

(Action: MMRDA)

33. The Empowered Institution **recommended the proposal to the Empowered Committee for grant of in-principle approval for maximum viability gap funding of Rs. 1926 crore** under the Scheme subject to the following conditions:

a. MMRDA shall effect modification in the DCA to provide that the Concession period shall be 30 years, which can be extended by the Sponsoring Authority by another 5 years, on receipt of such a request from the Concessionaire, subject to conditions that there had been no material default by the Concessionaire during the period of Concession and subject to the assessment of target traffic undertaken by the Sponsoring Authority in the 28th year of the Appointed Date, which establishes that the design capacity of the project carriageway has not been breached .
b. MMRDA shall modify Clause 27.5 of the DCA alongwith the related interlinkages from the DCA.

c. MMRDA shall obtain the environmental, forest and other approvals and clearances before the award of the Project.
d. MMRDA shall provide at least 90 per cent of the land to the Concessionaire by Appointed Date, in line with the provisions of the Model Concession Agreement (MCA).
e. MMRDA shall obtain approval from the State Government for toll notification and State Support Agreement as per Schedule W of the DCA prior to Bid Due Date.
f. MMRDA shall incorporate the observations of Planning Commission, Department of Expenditure, Ministry of Road Transport & Highways and Department of Economic Affairs with respect to corrections in the Schedules of the project DCA as agreed in their responses to the appraisal notes.
g. MMRDA shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration as noted above.
h. MMRDA would circulate revised project documents to the members of EI.

(Action: DEA & MMRDA)

Agenda Item III: Proposal from Ministry of Road, Transport and Highways (MoRTH) for grant of in-principle approval: Two-laning with PSS of Northern Kota Bypass starting from km 391/100 of NH-76 To km 11/700 (Existing Level Crossing at SH-33, Kota-Lalsot Mega Highway with link road of 452 m with SH-33) in the State of Rajasthan under NH (O) on DBFOT (Toll) basis.

Total length: 14.652 km; Total Project Cost: Rs. 136.89 crore; Cost of pre-construction activities to be financed by MoRTH: Rs. 14.95 crore; Concession Period: 26 years including 2 years of construction period. VGF from Government of India: Rs. 27.378 crore (20% of TPC)
Major development works/ structures: Major Bridges: 2; Minor bridges: 2; ROB: 2; Bypass: 1 at Kota; Culverts: 61; Major junctions improvements: 2; Toll plazas: 1 (km. 6.3); Minor road junctions: 5; Underpasses: 1; Truck laybyes: Nil; Bus-bays/shelters: 6

34. Director, DEA informed that the project was earlier considered by EI in its 42nd meeting, held on September 25, 2012, and was deferred with a request to MoRTH that a justification may be shared for development of Northern Kota Bypass when Southern Kota bypass is under construction. The project has been considered by the Standing Finance Committee (SFC) chaired by Secretary, RTH, in its meeting held on August 13, 2012 and recommended for approval and clearance by the two-member committee comprising Secretary, DEA and Secretary, RTH. Since, the project is being implemented under NH (O), VGF up to 20 percent of TPC is being sought under the Scheme. MoRTH was requested to confirm the budgetary provision to meet the VGF requirement beyond 20 percent of the TPC.

35. Joint Secretary, MoRTH confirmed that suitable budgetary provisions have already been made. The Chair advised MoRTH may provide written confirmation to this effect. This was agreed to.

(Action: MoRTH)

36. Superintendent Engineer, MoRTH informed that a detailed justification had been sent by MoRTH vide letter dated October 9th, 2012. MoRTH had decided to construct the Northern Kota bypass in 2011 on EPC basis with the Implementing Agency as Kota Urban Improvement Trust (KUIT). Subsequently, it was decide to develop the project on PPP under NH (O) with viability gap funding support of 20 percent under the VGF Scheme of DEA. The project is vital due to traffic scenario and is required for safe and fast communication of traffic. The Southern Kota bypass has is under construction and may take more time due to collapse of the Kota Bridge. The entire traffic is flowing through the Kota City, which are narrow and cannot cater safely to the highway traffic. The traffic catering to the road alignments of NH-76, NH-12 and SH-33 makes it invariably a requirement for a bypass termed as the Northern Kota bypass.

37. Deputy Secretary, DoE stated that the justification for the project to get GoI funding, is not convincing. The Bypass appears to serve the interests of SH 33, more than those of NH 12 and NH 76 which are already serviced by the southern bypass and hence this project should be funded entirely by the State Government or the local body. She added that the approval of multiple bypasses for a single city of Kota's size could become an avoidable precedent.

38. SE, MoRTH informed that Northern Bypass would provide connectivity to traffic from Jaipur onwards to SH 33. Based on OD survey, the traffic on the Northern Bypass is expected to be around 7,000 PCUs. This traffic would be different from the traffic that will ply on Southern Bypass.

39. The Chair further enquired whether the proposed bridges height was based on the highest discharge level or on average highest flood level (HFL). MoRTH confirmed that the bridge has been designed considering the highest discharge height.

40. The Chair further enquired about the status of land acquisition. Superintendent Engineer, MoRTH confirmed that land acquisition is at an advanced stage and notification under section 3(D) has already been issued for the entire 100% of the land.

41. The Chair observed that the traffic for the two bypasses was expected to be distinct. Further, MoRTH was at an advanced stage of land acquisition. Hence, project may be considered for approval.

42. All members of the EI were in support of grant of in-principle approval for VGF support to the project.

43. The EI **granted in-principle approval to the project for VGF support of Rs. 27.378 crore (twenty percent of TPC of Rs. 136.89 crore)** subject to the following conditions:

a. MoRTH shall confirm that the project has the approval of the competent authority for award under NH (O) and that budgetary resources for meeting expenditure on pre construction activities and viability gap funding upto twenty per cent of TPC are available.
b. MoRTH shall obtain the environmental, forest and other approvals and clearances before the award of the Project.
c. MoRTH shall provide atleast 80 per cent of the land to the Concessionaire by Appointed Date, in line with the provisions of the Model Concession Agreement (MCA).
d. MoRTH shall incorporate the observations of Planning Commission and DEA with respect to corrections in the Schedules of the project DCAs as agreed in their responses to the appraisal notes.
e. MoRTH shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration as noted above.
f. MoRTH would circulate revised projects documents to the members of EI.

(Action: MoRTH)

Agenda Item IV: Proposal from Ministry of Road, Transport and Highways (MoRTH) for grant of in-principle approval: Four-laning of Rewa-Sidhi section of NH-75 E from km. 2.8 to km 83.4 in the State of Madhya Pradesh on DBFOT (Toll) basis

Total length: 71.563 km; Total Project Cost: Rs. 627.87 crore; Concession Period: 30 years including 2 years of construction period; Cost of pre-construction activity: Rs. 49.34 crore; Maximum VGF from Government of India: Rs. 125.57 crore (20% of TPC).

Major development works/ structures: Major Bridges: 2; Minor bridges: 15; ROB: 1; Flyover: 1; Twin Tube Tunnel: 1 of 970 m, Viaduct: 1, Culverts: 147; Toll plazas: 2 (km 6 and km 60); Service Road: 4.5 km; Bypasses: 3 of 24.23 km; Bus-bays/shelters: 12; Major road junctions: 1; Minor road junctions: 19; Vehicular underpass: 9; Truck laybye: 4

44. Director, DEA informed that the project is proposed to be developed by MoRTH under NH (O) and implemented by MPRDC. The EI noted that the project was considered and deferred in the 38th meeting of the EI, held on March 6, 2012, with a view to restructure the project based on traffic justification or review the MoU executed with the State Government. The traffic on the project stretch does not justify immediate four-laning and the project may be restructured for two-laning with paved side shoulders (PSS).

45. Managing Director, MPRDC stated that Rewa-Sidhi (NH-75E) road provides continuous connectivity up to Singrauli (MP-UP Border). The complete corridor is in the process of heavy industrialization due to upcoming industries of Power, Cements and other major industries. In the next 3-4 year, it is expected that the said region will have massive investment of more than Rupees one lakh crore. Singrauli is expected to be the biggest power hub in Asia in next 3 to 4 years. Mega Power Plants like Chitrangi Ultra Mega Power Plant, Sasan Mega Power Plant of Reliance, Jaypee Power Plant, Super Thermal Power Station of NTPC and MPEB are being established in the area. Singrauli is a mega coal mine area and coal is transported from here to all over the country. It is expected that there will be heavy traffic generation in the Rewa-Sidhi and Singrauli corridors.

46. Further, it was explained that the traffic on Rewa- Sidhi Road has been projected based on two types of traffic (a) Generated Traffic due to: (i) the upcoming power plants

and major industries in Sidhi & Singrauli (ii) other upcoming ancillary industries as a result of start of major industries in above Towns, (iii) economic development of area due to industrial growth in above Towns, (iv) social development and employment generation in above Towns; and (b) Diverted Traffic due to: (i) diverted Traffic from other National Highways to NH-75 E based on O-D Survey, (ii) diverted Traffic from all other Highways in the influence area directly or Indirectly connected to NH-75E. Hence, this corridor is proposed to be developed as four-lane highway with paved shoulders.

47. Managing Director, MPRDC stated that there is a Ghat portion of 8 kms which is very steep, making the road unusable for heavy vehicles. The proposed project provides for a tunnel of 970 mt. length to improve the traffic movement on the Ghat portion. It is expected this would result in saving in road length of 5.37 km, reduce travel time upto 30-45 minutes and increase in safety of road users. This tunnel would also enable the commercial traffic to ply on the project highway, which is currently diverted on account of steep slope and deteriorated condition of the Ghat section.

48. Managing Director, MPRDC further stated that the project road is a National Highway (NH) and as per the Memorandum of Understanding (MOU) between the State Government and MoRTH, entire cost related to development and construction of the road including VGF or any premium and land acquisition shall be borne by the MoRTH. MPRDC is acting as an Implementing Agency only for the project road on behalf of MoRTH. Also, already 33-34 bidders have been pre- qualified for the project.

49. All members of the EI were in support of grant of in-principle approval for VGF support to the project.

50. The EI granted **in-principle approval to the project for VGF** support of Rs. 125.57 crore, having TPC of Rs. 627.87 crore, subject to the following conditions:

a. MoRTH shall confirm that the project has the approval of the competent authority for award under NH (O) and that budgetary resources for meeting expenditure on pre construction activities and viability gap funding up to balance twenty per cent of TPC are available.
b. MoRTH shall obtain the environmental, forest and other approvals and clearances before the award of the Project.
c. MoRTH shall provide at least 80 per cent of the land to the Concessionaire by Appointed Date, in line with the provisions of the Model Concession Agreement (MCA).
d. MoRTH shall incorporate the observations of Planning Commission and DEA with respect to corrections in the Schedules of the project DCAs as agreed in their responses to the appraisal notes.
e. MoRTH shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration as noted above.
f. MoRTH shall circulate revised projects documents to the members of EI.

(Action: MoRTH)

Agenda Item V: Proposal from Ministry of Road, Transport and Highways (MoRTH) for grant of in-principle approval: Two-laning with PSS of Nagaur-Jodhpur section of NH-65 from km 166.26 to km 296.07 in the State of Rajasthan on DBFOT (Toll) basis.

Total length: 134.64 km; Total Project Cost: Rs. 439.96 crore; Concession Period: 17.5 years including 1.5 years of construction period; Cost of pre-construction activity: Rs. 21.98 crore; Maximum VGF from Government of India: Rs. 87.99 crore (20% of TPC).

Major development works/ structures: Minor bridges: 6; ROB: 1; Flyover: 6; Culverts: 73; Toll plazas: 2 (km 204 and km 270); Bypasses: 1 at Nagaur of 19.225 km; Bus-bays/shelters: 32; Major road junctions: 17; Minor road junctions: 58; Underpass: 1; Truck laybye: 2

51. Director, DEA informed that the project was previously considered in the 38th EI meeting, held on March 6, 2012, and deferred pending clarification from MoRTH whether the project was eligible for tolling in accordance with the National Highway Fee (Amendment) Rules 2010, wherein base cost per km eligible for tolling for development of two-laned projects has been indicated as Rs. 2.50 crore at April 1, 2008 prices. On escalation for inflation, based on Wholesale Price Index (WPI), for the project being implemented in the year 2012-13, the threshold cost per km for tolling as per NH Fee Rules is Rs. 3.31 crore per km.

52. Director, DEA informed that PPPAC in its 54th meeting, held on September 30, 2012, noted that as per the National Highway Fee Rules, the project cost is determined based on the average investment. The Fee Rules provide that "*The rate of Fee for use of section of National highway, having two lanes and on which the average investment for up-gradation has exceeded rupees two and a half crore per km at the first April 2008 prices, shall be sixty percent of the rate of fee specified under sub rule (2) of the rule 4*".

53. Director, DEA informed that the investment for up-gradation (i.e. TPC and the cost of land acquisition, R&R and shifting of utilities) in respect of the instant project, where the project's cost per km is Rs. 3.27 crore per km for two-laning with paved side shoulders and the pre-construction activities cost around Rs. 21.98 crore (Rs. 0.16 crore per km), is Rs. 3.43 crore per km, which is more than the threshold limit of Rs. 3.31 crore per km.

54. All members of the EI were in support of grant of final approval for VGF support to the project subject to notification of generic communication by MoRTH clarifying the provisions of the NH Fee Rules with respect to "*investment on a project*" and step up of the threshold cost from 2008 prices, linked to the Wholesale Price Index.

(Action : MoRTH)

55. The EI granted in-principle approval to the project for VGF support of Rs. 87.99 crore, having TPC of Rs. 439.96 crore, subject to the following conditions:

a. MoRTH shall confirm that the project has the approval of the competent authority for award under NH (O) and that budgetary resources for meeting expenditure on pre construction activities and balance viability gap funding upto twenty per cent of TPC are available.
b. MoRTH shall obtain the environmental, forest and other approvals and clearances before the award of the Project.
c. MoRTH shall provide at least 80 per cent of the land to the Concessionaire by Appointed Date, in line with the provisions of the Model Concession Agreement (MCA).
d. MoRTH shall incorporate the observations of Planning Commission and DEA with respect to corrections in the Schedules of the project DCAs as agreed in their responses to the appraisal notes.
e. MoRTH shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration as noted above.
f. MoRTH would circulate revised projects documents to the members of EI.

(Action: MoRTH)

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

Annexure

Government of India
Ministry of Finance
Department of Economic Affairs
PPP Cell

Empowered Institution for the Scheme to Support Public Private Partnerships in Infrastructure

43rd Meeting on October 30, 2012

List of Participants

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

1. Shri Shaktikanta Das, Additional Secretary *(In Chai*r)
2. Kumari Sharmila Chavaly, Joint Secretary
3. Smt. Aparna Bhatia, Director
4. Shri Abhijit Phukon, Deputy Director

II. <u>Planning Commission</u>

5. Shri Amitabha Ray, Deputy Advisor
6. Shri K.R. Reddy, Consultant

III. <u>Department of Expenditure</u>

7. Smt. Sigy T.Vaidhiyan, Deputy Secretary, PF II

IV. <u>Ministry of Road Transport and Highways</u>

8. Shri Rohit K. Singh, Joint Secretary (Highways)
9. Shri Manoj Kumar, CE (NHDP)
10. Shri Atul Kumar, SE

V. <u>Government of Uttar Pradesh</u>

11. Shri Manoj Kumar Singh, Secretary, Department of Tourism
12. Shri Abhilash C. Sharma, Director, Department of Tourism
13. Anoop K. Srivastava, Dy. Director, Department of Tourism

VI. <u>Ministry of Civil Aviation</u>

14. Shri Alok Sinha, Joint Secretary

VII. <u>Mumbai Metropolitan Region Development Authority (MMRDA)</u>

15. Shri Rahul Asthana, MC

16. Smt. Ashwini Bhide, Additional MC
17. Shri S.M. Sabnis, CE
18. Shri V.N. Ghanekar, SE

VIII. Madhya Pradesh Road Development Corporation (MPRDC)

19. Shri Vivek Agarwal, MD
20. Shri Anil Chansoria, CE
21. Dr. Arun Paliwal, DGM (BoT)

IX. Urban Improvement Trust (UIT), Kota, Government of Rajasthan

22. Shri A.N. Ansari, ACE
