

**F. No. 3A/1/2013-PPP**  
**Government of India**  
**Ministry of Finance**  
**Department of Economic Affairs**  
**PPP Cell**

New Delhi, the October 29, 2013

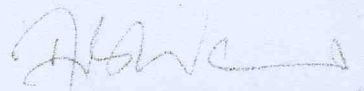
**OFFICE MEMORANDUM**

**Subject: Record of Discussion for the 49<sup>th</sup> Meeting of the Empowered Institution for Viability Gap Funding (VGF) support.**

Please find enclosed the Record of Discussion (RoD) for the 49<sup>th</sup> Meeting of the Empowered Institution (EI) for Viability Gap Funding (VGF) support held on October 3, 2013 in North Block, New Delhi for information and further necessary action.

2. It may be noted that no publicity in respect of the in-principle approval granted by the EI shall be made. The Election Commission has also stated that bid process shall be made after completion of poll in Madhya Pradesh.

*Encl: as above*

  
**(Abhilasha Mahapatra)**  
Deputy Secretary (PPP)  
28/10/13

1. **Dr. Saurabh Garg**, Joint Secretary, Department of Expenditure, North Block, New Delhi.
2. **Shri Ravi Mittal**, Adviser, Planning Commission, Yojana Bhawan, New Delhi.
3. **Shri Sheo Shekhar Shukla**, Managing Director, Madhya Pradesh Warehousing & Logistics Corporation (MPWLC).
4. **Shri Prashant Trivedi**, Joint Secretary (Storage), Department of Food & Public Distribution, Krishi Bhawan, New Delhi.
5. **Shri Adhir Jha**, Director (SDF), Department of F&PDV, Ministry of Consumer Affairs, Krishi Bhawan, New Delhi-110114.
6. **Shri J.K. Dubey**, Chief Engineer, Madhya Pradesh Warehousing & Logistics Corporation, Office Complex, Block A, Gautam Nagar, Bhopal-462023, Madhya Pradesh.

Copy to:

1. Sr. PPS to AS(EA)
2. PPS to JS (Infra)
3. PS to DS(PPP)



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Ministry of Finance  
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**Empowered Institution for the Scheme for Financial Support to Public Private Partnerships in Infrastructure**

49<sup>th</sup> Meeting on October 3, 2013

Record Note of Discussions

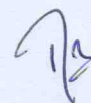
The forty-ninth meeting of the Empowered Institution (EI), chaired by Additional Secretary, Department of Economic Affairs (DEA) was held on October 3, 2013. The list of participants is annexed.

2. The EI noted that there are 8 proposals for consideration of in-principle approval for viability gap funding (VGF) under the subject scheme which were considered at the 48<sup>th</sup> Meeting of the EI held on September 4, 2013 but deferred as the RfQ documents were not submitted and issues needed to be addressed by MPWLC, Government of Madhya Pradesh.

3. All these proposals are in the agriculture storage sector for development of Silos for food grains.

A. Proposals for in-principle Approval

Agenda Item I: Proposal from Madhya Pradesh (MP) Warehousing and Logistics Corporation (MPWLC), Government of Madhya Pradesh (GoMP) for grant of in-principle approval for: Setting up of 50,000 MT modern food silo complex at 8 locations Viz: Ujjain, Satna, Dewas, Raisen, Sehore, Vidisha and Hoshangabad districts in MP under PPP framework.





**Total number of proposals: 8 projects across 8 districts of MP:**

**Locations and Total Project Cost (TPC) of projects:** (1) Ujjain District, Village Manpur, TPC is Rs. 30.55 crore, (2) Satna District, Village Mohari, TPC is Rs. 30.55 crore, (3) District: Dewas, Village: Durgapura, TPC is Rs. 30.55 crore, (4) District: Raisen, Village: Pandoniya, TPC is Rs. 32.76 crore, (5) District: Sehore, Village: Murli, TPC is Rs. 30.55 crore, (6) District: Vidhisha, Village: Patheri Haveli, TPC is Rs. 33.87 crore, (7) District: Hoshangabad, Village: Junheta Bankhedi, TPC is Rs. 30.55 crore, (8) District: Harda, Village: Bhagawad, TPC is Rs. 30.55 crore

**Combined TPC for all 8 proposals: Rs. 249.93 crore**

**Concession Period: 30 years and includes 12 months of construction period**

**VGF expected from Government of India (GoI) for each project: maximum 20% of TPC, project wise maximum are:**

(1) Ujjain District, Village Manpur, maximum VGF is Rs. 6.11 crore, (2) Satna District, Village Mohari, maximum VGF is Rs. 6.11 crore, (3) District: Dewas, Village: Durgapura, maximum VGF is Rs. 6.11 crore, (4) District: Raisen, Village: Pandoniya, maximum VGF is Rs. 6.552 crore, (5) District: Sehore, Village: Murli, maximum VGF is Rs. 6.11 crore, (6) District: Vidhisha, Village: Patheri Haveli, maximum VGF is Rs. 6.774 crore, (7) District: Hoshangabad, Village: Junheta Bankhedi, maximum VGF is Rs. 6.11 crore, (8) District: Harda, Village: Bhagawad, maximum VGF is Rs. 6.11 crore.

**Combined maximum VGF expected from GoI for all 8 projects: maximum Rs. 49.986 crore**

**VGF expected from GoMP for each project during O&M period: maximum 20% of TPC to be given as O&M support by GoMP during the first 5 years of operation period post COD.**

**Combined VGF expected from GoMP for all 8 projects during O&M period: maximum Rs. 49.986 crore**


Major development works/ structures at each of the 8 project locations: Number of Silos: 4 having minimum 10,000 MT; Silo diameter: 32 m, Total Storage Capacity: 50,000 MT at each project location, Food grain Intake system: minimum of 150 MT per hr and 1500 MT per day, Silos shall be constructed from corrugated galvanised steel Vehicle Parking Area: Minimum for 12 three axle trucks, 4 cars and 24 two wheelers, Weighing system: Minimum load of 50 MT, Cleaning System: 150MT per hr, Bagging System: 60 MT per hr, Designed area for storage of bagged food grains: 200 MT Covered





4. DS (DEA) pointed out that during the EI Meeting held on 04.09.2013, wherein the proposals of the GoMP for setting up food silos at 8 locations in MP were discussed, MPWLC, the sponsoring agency was advised to furnish the RfQ documents and RfP to DEA for its examination and submit compliance on the issues raised during appraisal. MPWLC has accepted the suggestion of the EI on issues such as not mortgaging the site, deleting the clause allowing the sale of foodgrains, *restricting* the Concession period to 30 years and capping the total VGF to 40% of TPC. Other issues pertaining to RfQ and the observations of DEA/EI on the proposal are summarised below:
5. DS (DEA) informed the EI Members that there were certain issues pertaining to the RfQ issued by MPWLC, chief amongst them pertaining to the O&M Experience of the bidder. The O&M clauses in the MPWLC RfQ are not strictly as per the Model RfQ (clause 2.2.3) which states that "*in the case of a consortium include a member who shall subscribe and continue to hold at least 10% (ten per cent) of the subscribed and paid up equity of the SPV for a period of 5 (five) years from the date of commercial operation of the Project, and has either by itself or through its Associate, experience of 5 (five) years or more in operation and maintenance (O&M) of Category 1 projects (i.e. in warehousing/ storage sector)*". The O&M experience has not been specified in the RfQ document of MPWLC; it was therefore insisted on MPWLC to follow the model RfQ as O&M of a Silo project is very critical as huge quantities of food grains are stored which are to be preserved properly and also increases the shelf life of food grains. The other issues have been addressed by MPWLC.
6. MPWLC responded to state that the provision of the clause 2.2.3 in Model RFQ is in square brackets (with comment no. 16 given in footnote, which allows the Authority to make project specific changes). In conformity with above, MPWLC modified the O&M clause suitably as per project requirements. Hence, it is not a deviation from Model RFQ. In addition, MPWLC stated that an undertaking has been obtained from the bidders stating that:

"The Applicant shall undertake O&M through qualified and experienced staff of its own or it shall for a period of at least 3 (three) years from the date of commercial operation of the Project, enter into an agreement for entrusting its operation & maintenance (O&M) obligations to an entity having the aforesaid experience, failing which the Concession Agreement shall be liable to termination."





7. JS(DEA) pointed out that it would be preferable to have a consortium member with requisite experience and shareholding as specified in the model RfQ. MPWLC was required to check with their legal Counsel, whether this was still a possibility. In case the shares of each consortium member was already frozen, then MPWLC would have to ensure the condition that the decision of the Authority in the matter of entrusting the O&M obligations to an experienced entity for at least 3 years, with a minimum experience of 5 years in Category 1 projects (i.e. warehousing and storage sector), shall be final and binding on the bidder.

*(Action: MPWLC)*

8. Another issue in the RfQ was on an amendment to the RfQ by MPWLC which stated that "an applicant, being a single entity, may execute the Concession agreement and implement the project on its own behalf and name without setting up an SPV". This has been resolved by including formation of an SPV by (all) the Concessionaire(s) in the Draft Storage Agreement.

9. The EI thereafter approved the issuance of the RfQ by GOMP/MPWLC before the same was examined and approved by the EI as an exceptional case but the Chair emphasised that this was a one-time exemption, and should not be cited as a precedent for this sector or any other sector. The Chair also pointed out that GoMP should, in future, follow the normal standard procedure for approval by the EI for availing of VGF assistance as per the VGF Scheme. The EI Secretariat should also formally take up this matter with the GoMP separately. **(Action: GoMP, DEA)**

10. DS (DEA) pointed out that during the 48<sup>th</sup> Meeting, the EI had noted with concern the proposal for inclusion of Real Estate Development in the scope of the Silo project.

11. MPWLC while responding to the EI resubmitted the proposal by re-phrasing Real Estate Development as Agro Estate Development and stated that the activities are also restricted accordingly. MPWLC has further stated that Land area for Agro Estate Development has been reduced to 1 acre of the site. The provision of allowing Agro Estate Development as sweetener offered following advantages:

- It shall lead to development of Food Processing sector (i.e. Flour mills/ Rice Mills etc.) with raw materials being in vicinity and the conditions approval by Govt. of M.P. has been given subject to setting up of flour mills in that premises by concessionaire.



- It shall provide sustainable revenue stream for entire Concession Period of 30 years as Guaranteed Storage Charges are to be paid by Authority for first 10 years only
- It shall help in reducing VGF requirement.
- It shall mitigate the impact of project cost overrun due to depreciation of rupee against dollar
- Neither the revenues from such activities, nor the capital investment requirements have been considered in the feasibility report of the project as any such activity would depend entirely on decisions of the Concessionaire and may not be enforced by the Authority. Also, the land is located quite away from urban area and falls in rural area. There is no chance of substantial revenue generation from facility to be created on such small land in rural area."
- MD, MPWLC informed that the production and mandi arrivals in the state is on the increase and it would be difficult for FCI to take out the grains. MP wheat enjoys a good brand image and the sales under the Open Market Sales Scheme is a big success. Thus, encouraging value addition in the form of flour mills, etc would lead to better Offtake of foodgrains..

12. JS (DEA) pointed out that VGF and Real Estate Development as construed by MPWLC cannot go together. She pointed out that any revenue stream that is quantifiable has to be taken into account for assessing the viability of the project. Revenues based on pre-determined rates/tariff reduce the quantum of VGF. Any Real Estate Development with no assessment of revenue if permitted in the manner envisaged by MPWLC would require that the entire revenue should accrue to the Authority and not to the Concessionaire. The issue is further complicated by the Authority categorically stating that the Real Estate Revenue is required for viability of the Project. The Chair also observed that both the investments and revenue estimates were opaque as their contours and quantum is unknown. He also stated that there is no need to vitiate an otherwise transparent bidding process. Director, Department of Expenditure concurred with the views of DEA. The Chair also pointed out that the Concessionaire can easily separately acquire land in a nearby area for setting up flour mills or similar activities.

13. EI observed that Real Estate development without quantification of investments and revenues does not fit into the structure of assessing and granting VGF assistance. There were a number of ambiguities and hence it




was not favoured by EI Members. MD, MPWLC agreed to the same. It was, therefore, decided to drop Real Estate Development from the scope of work of the silo project.

*(Action:MPWLC)*

14. DS (DEA) stated that EI, in the previous meeting (48<sup>th</sup> EI held on 4.9.2013) and the project appraisal, had discussed the matter regarding storage gaps and bundling of projects. MPWLC has responded stating they have analysed the district wise total storage facilities vis-à-vis district wise total mandi arrivals of all the commodities which represent the marketable surplus of all commodities that require storage facilities. Thus, the storage gap as % of mandi arrivals is shown to be around 50% or more in all the selected districts, except Hoshangabad, where it is 23%. Hence, setting up of 50,000 MT silo facilities in all the selected districts has been justified and bundling of projects considered unnecessary. Director (Dept. of F&PD), stated that similar capacities were being created under their PEG Scheme. However MD, MPWLC has clarified that storage gaps based on requirements for all commodities were huge and hence creation of 50,000 MT capacity in each of the eight districts were justified. Director, Deptt. Of F & PD (GOI) was in concurrence with the same. He further added that F&PD Department can always review the situation and take action as considered necessary.

15. DS (DEA) also pointed out that support road infrastructure or approach roads of varying lengths in 4 projects have been made the responsibility of the Concessionaire. She also pointed out that as per the minutes of the State Level Empowered Committee held in M.P. on 6<sup>th</sup> April 2013, it was decided that the "onus of accessibility will be with the Govt. However, responsibility of other infrastructure facilities like water, power, etc will be of the Concessionaire."MPWLC is now putting the onus of accessibility also on to the Concessionaire. Director, Department of Expenditure wanted to know whether this was only road connectivity or this would include railway connectivity as well. It was clarified that it includes only road connectivity for a portion of the road. EI decided that in case it was decided to include the last mile approach road in the Concessionaires scope, the Authority should arrange for the ROW for construction of this approach road and include it in Article 10 of the DSA dealing with ROW as well as make it a condition precedent to be complied with by the Authority. This was accepted by MPWLC.

*(Action: MPWLC)*





16. DS (DEA) pointed out that the DSA of MPWLC proposes a 1% reduction in fixed storage charges each year, and then adjusted for inflation by indexing to WPI. MPWLC had stated that this was done, "to account for the depreciated value of the project assets". DEA had not agreed to the same as depreciation in the value of the project assets did not have any bearing on the storage charges being paid as these charges were paid for the services being rendered and not for the assets. Now, MPWLC has stated that this 1% reduction has been done on similar lines of other PPP infrastructure projects. e.g. power transmission projects on PPP recently done in the state.

17. **The Chair observed that this reduction of 1% in fixed storage charges will have an impact on the viability of the project.** JS (DEA) stated that this reduction should not lead to any reduction or watering down of the Key Performance Indicators. MD, MPWLC confirmed that no reduction in KPIs would be allowed and bidders have also not raised any objections. Since MPWLC were firm that they wished to retain this clause and stated that no bidders have objected, the EI agreed to the reduction of 1% in fixed storage charges.

18. **DS (DEA) observed that the Escrow Mechanism has been dispensed with in the revised version of DSA submitted along with the 04.09.2013 letter and has been replaced with a Designated Bank account, as no third party payment was involved and only Govt. was making the payment to MPWLC.** A designated bank account is an account of the concessionaire over which banks have little or no control. As per the VGF Scheme, the VGF amounts are to be credited to the Escrow Bank account. Hence, EI directed MPWLC to restore the Escrow Bank Account mechanism.

*(Action: MPWLC)*

19. DS (DEA) informed the EI members that MPWLC had, vide its letter dated October 1, 2013, changed a part of the Termination Clause (Clause 37.3.5) to include the following: " Upon termination on expiry of the Concession Period by efflux of time, a termination payment equal to 80% of the adjusted depreciated value of the assets essential for the efficient, economic and safe operation of the storage facility, which shall have been acquired after the 10<sup>th</sup> Anniversary of the COD with the prior written consent of the Authority, is payable to the Concessionaire."

20. The Chair observed that termination payment arises usually on premature termination during the period of concession. The question of compensating the concessionaire upon expiry of the concession period does



not arise. EI directed MPWLC to modify this Termination Clause (37.3.5) accordingly. (*Action: MPWLC*)

21. While on the subject of termination payment, JS (DEA) drew attention to Clause 30.2. regarding additional storage capacity which states that the Concessionaire may with prior consent of the authority create additional storage capacity and that the authority may in its discretion require the Concessionaire to earmark and reserve whole or part of the additional capacity for use by the authority. It was also pointed out this would entail an additional risk to the Concessionaire that he would build into his cost. Further the creation of any additional storage capacity has to ensure the benefit of the Authority and it cannot be let out by the Concessionaire, even if there is a revenue share. Any addition/deletion to the project assets would also have to be done by the Concessionaire keeping in view the service standards/output parameters required for the entire concession period. The Chair stated that conditions for creation of any additional capacity has to be spelt out upfront and cannot be left to the discretion of the Concessionaire. The EI accordingly asked MPWLC to delete this clause (Clause 30.2 of the DSA) pertaining to Additional Storage Capacity which MPWLC agreed.

*(Action :MPWLC)*

22. The EI granted in-principle approval to the 8 Silo projects in MP for an aggregate TPC of Rs. 249.93 crore with maximum GoI contribution towards VGF as Rs. 49.986 crore (20 percent of TPC), subject to fulfillment of the following conditions:

- a. MPWLC was advised that it would be preferable to have a consortium member with requisite experience in O&M and shareholding as specified in the model RfQ. MPWLC was required to check with their legal counsel, whether this was still a possibility. In case the shares of each consortium member was already frozen, then MPWLC would have to ensure the condition that the decision of the Authority in the matter of entrusting the O&M obligations to an experienced entity for at least 3 years, with a minimum experience of 5 years in Category 1 projects (i.e. warehousing and storage sector), shall be final and binding on the bidder.
- b. MPWLC shall drop Real Estate Development from the scope of work of the silo project.



- c. In case it was decided to include the last mile approach road in the Concessionaires scope, MPWLC should arrange for the ROW for construction of this approach road and include it in Article 10 of the DSA dealing with ROW as well as make it a condition precedent to be complied with by MPWLC.
- d. MPWLC to restore the Escrow Bank Account mechanism.
- e. The question of compensating the concessionaire upon termination due to efflux of time (i.e. on completion of concession period) suitably does not arise. Hence MPWLC to modify this Termination Clause (37.3.5)
- f. MPWLC to delete this clause pertaining to Additional Storage Capacity (Clause 30.2 of the DSA).
- g. MPWLC shall undertake corrections in the project DSA in compliance with the observations of DEA, Planning Commission and other members of EI which have been agreed to by MPWLC in their responses to the appraisal note and as enumerated above. Accordingly, MPWLC shall undertake reconciliation of the project documents.
- h. MPWLC shall undertake legal vetting of the project documents, in particular the project's DSA, by a legal expert along with its certification.
- i. MPWLC shall obtain all statutory clearances in accordance with their obligations, such as environment, shifting of utilities etc., before commencing work on the project site.
- j. MPWLC shall obtain prior approval of the EI on any change in TPC, scope of work or project configuration.
- k. MPWLC shall circulate the final documents to the members of the EI for record.

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