

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

....

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

37th Meeting on 16 January, 2012

Record Note of Discussions

The thirty seventh meeting of the Empowered Institution (EI), chaired by Additional Secretary and Director General, (Currency), Department of Economic Affairs (DEA) was held on January 06, 2012. The list of participants is annexed.

2. The EI noted that there were thirteen proposals were under consideration, viz., four proposals for grant of final approval, two each from the State Governments of Karnataka and Maharashtra; and nine proposals for grant of in-principle approval for Viability Gap Funding (VGF) support, four proposals from Government of Karnataka, one proposal from Government of Bihar, three proposals from Ministry of Road, Transport and Highway (MoRTH) and one composite proposal containing 10 projects from the Government of Rajasthan.

Agenda Item I: Proposals from Government of Karnataka (GoK) for grant of final approval for:

- i. **Two laning of Whagdhari-Ribbanpally, SH-10 (Maharashtra Border – Andhra Pradesh Border), TPC of Rs. 238.58 crore, Length of 135.85 km, VGF of Rs. 47.71 crore and Concession period of 30 years**
- ii. **Two laning of Dharwad-Ramnagar, SH-34, TPC of Rs. 230.29 crore, Length of 60.40 km, VGF of Rs. 46.06 crore and Concession period of 30 years**

3. Director, DEA informed that the two projects were considered and deferred in the 35th EI meeting held on November 2, 2011 and the State Government had been advised to enter into Supplementary Agreement, limiting the VGF 40 per cent of the TPC and to send the revised financial documents. Subsequent Karnataka Road Development Corporation (KRDCL) has complied with the above directions. Planning Commission and Department of Expenditure (DOE) were in support for grant of final approval to the project..

4. The Chair queried about the status of land acquisition. MD, KRDCL indicated that land is available for the entire stretches except at the toll plazas locations, which is under the process of acquisition. It was further informed that construction works have already commenced in both the projects and the requirements of VGF is expected to arise in the current financial year.

5. Joint Secretary, DEA advised that KRDCCL may commence the process of entering into Tripartite Agreement and send the request for disbursement of VGF to DEA.

6. The EI granted final approval to the two projects for the VGF support indicated below:

- a. VGF approved for Rs. 47.71 crore. (20 per cent of the TPC of Rs 238.58 crore) for **2-lane of Whagdhari-Ribbanpally, SH-10 (Maharashtra Border – Andhra Pradesh Border)**
- b. VGF approved for Rs. 46.06 crore. (20 per cent of the TPC of Rs 230.29 crore) for **2-lane of Dharwad-Ramnagar, SH-34**

(Action: Government of KRDCCL/GoK)

Agenda Item II: Proposals from Government of Karnataka (GoK) for grant of in-principle approval for:

- i. **Development (four two laning with PSS) of road from Shimoga- Honnali to Hariharawad-Ramnagar, SH-34 , with TPC of Rs. 171.78 crore, Length of 77.50 km, VGF of Rs. 34.356 crore and Concession period of 25 years**
- ii. **Development of two laned with PSS road (SH-20) from Devasgur-Chikkasugur Raichur Kalmala to Lingsugur,with TPC of Rs. 309.45 crore, Length of 105.0 km, VGF of Rs. 61.89 crore and Concession period of 19 years**
- iii. **Development of road from NH-63 near Ginigere-Gangavathi to Sindhanur, with TPC of Rs. 190.16 crore, Length of 83 km, VGF of Rs. 38.03 crore and Concession period of 24 years**
- iv. **Development of 2-lane with PSS road from , Sindhanur to Lingsugur Road of SH 19 section, TPC of Rs. 189.67 crore, Length of 52 km, VGF of Rs. 37.934 crore and Concession period of 24 years**

7. Director, DEA informed that three projects of the above four projects were also considered by the EI in its 35th meeting held on November 2, 2011 and deferred to enable examination of the revised project documents circulated by the State Government.

8. MD, KRDCCL informed that all the observations of DEA and Planning Commission have been accepted and incorporated in the revised documents. He informed that the key project specific changes effected in the projects include the following:

8.1 The concession period for the project for development of road from **Shimoga-Honnalli to Hariharawad-Ramnagar (SH-34)** has been revised to 25 years.

- 8.2 The project structure of the stretch **Devasgur-Chikkasugur Raichur Kalmala to Linsugurhad (SH-20)** been revised to be developed as two laning with paved side shoulders, as recommended by DEA in their appraisal note based on the existing and projected traffic volumes on the stretch. Accordingly, the Total Project Cost of the project has increased from Rs. 275.85 crore to Rs. 309.45 crore.
- 8.3 The concession period for the project for development of road from from NH-63 near **Ginigere-Gangavathi to Sindhanur** has been revised to 24 years , based on the existing and projected traffic volumes on the stretch. .
- 8.4 The project structure of the stretch from **Sindhanur to Lingsugur on SH 19** has been revised as two laning with paved side shoulders and the concession period revised to 24 years, as recommended by DEA in their appraisal note based on the existing and projected traffic volumes on the stretch. Accordingly, the TPC has increased from Rs. 172.07 crore to Rs. 189.67 crore.
9. Advisor, Planning Commission indicated that three of the four projects are supported by them for grant of in principle approval for Viability Gap Funding, subject to deletion of the provision in the project concession agreements regarding obtaining vehicle from the Concessionaires by KRDCCL for official purpose. However, with respect to the project from **Sindhanur to Lingsugur on SH 19**, Planning Commission had not completed the appraisal. Advisor Planning Commission requested that consideration of this proposal may be deferred.
10. MD KRDCCL indicated that all the comments of DEA and Planning Commission have been complied with including deletion of provisioning of vehicles to the Authority by the Concessionaire. Hence, it was requested that all the projects maybe approved.
11. Superintendent Engineer, MoRTH indicated that with regard to project Devasgur-Chikkasugur Raichur Kalmala to Linsugur, four laning is required in the first section from Raichur to 7th mile junction of SH-20 based on traffic considerations. MD, KRDCCL responded that they have proposed 4-laning for the said section and the rest has been proposed as 2-lane with PSS.
12. The Chair queried about the status of land acquisition. MD, KRDCCL indicated that land is available for the entire stretches except the toll plazas locations, which is under the process of acquisition.
13. Director, DEA indicated that legal vetting of the project documents may be undertaken by the legal firm before issue of RfP. MD, KRDCCL agreed to the same.
14. Joint Secretary, DEA indicated that the toll plaza location may be reviewed in respect of the project Sindhanur to Lingsugur Road of SH 19 as the two proposed toll plazas for road length of 52 km were only 32.5 km away. MD, KRDCCL informed that there is a major junction at km 446 and most of the tollable traffic is diverted at

this junction. Hence, leakages in collection of toll revenue were likely in case two toll plazas at the proposed locations on either side of the junction are not provided for.

15. The EI granted in-principle approval to three projects, namely:

(a) Development of road from Shimoga- Honnali to Hariharawad-Ramnagar, SH-34 for VGF support of Rs. 34.356 crore,

(b) Development of road (SH-20) from Devasgur-Chikkasugur Raichur Kalmala to Linsugur for VGF support of Rs. 61.89 crore, and

(c) Development of road from NH-63 near Ginigere-Gangavathi to Sindhanur for VGF support of Rs. 38.03 crore, subject to the following conditions:

- i. KRDCCL would circulate the final projects documents to the members of EI.
- ii. The environmental, forest and other approvals and clearances would be obtained before the award of the Project.
- iii. 90 per cent of the land would be provided to the Concessionaire as per the Model Concession Agreement (MCA) by Appointed Date.
- iv. Legal vetting would be undertaken for all the projects before issue of RfP.

16. The EI deferred the proposal for development of 2-lane road from Sindhanur to Lingsugur Road of SH 19 section as the appraisal note from Planning Commission had not been received.

(Action: Government of GoK and KRDCCL)

Agenda Item III: Proposal from Government of Maharashtra (GoM) for grant of final approval for Four-laning of Jam Warora-Chandrapur-Ballarpur-Bamni section of SH 264, TPC Rs. 449.25 crore, Length of 63.60 km, VGF of Rs. 89.85 crore and Concession period of 30 years .

17. Director, DEA indicated that financing document for the project were not provided and there are variations in TPC as indicated in the executed Concession Agreement and the TPC considered by EI while granting in-principle approval to the project. Further, legal vetting of the documents before execution of the document has not been undertaken by the State Government. In response, Deputy Secretary, GoM, stated that financing documents have been provided as on date of the meeting, and, variations in TPC was due to editorial errors. Further, the bid document was approved by the Infrastructure Cabinet Committee of the State Government wherein Principal Secretary (Law and Judiciary) is a member and has scrutinized the legal issues.

18. Director, DEA indicated that as the financing documents may be circulated to all the members of the EI for examination and legal vetting by an independent legal firm may be carried out to ensure that the contract documents do not have drafting errors.

19. The Chair sought information on the status of the project. In response, Deputy Secretary, GoM indicated that 20 per cent of the construction work has already been completed and VGF sought by the L-1 bidder is around 39 per cent of the TPC, which is within the prescribed norms. Thus, approval of the project was requested.

20. The EI deferred the above proposal for final approval and requested GoM to expedite circulation of the financial documents (Common loan agreement) undertaken with the Lead Financial Institution) to members of EI.

(Action: GoM)

Agenda Item IV: Proposal from Government of Maharashtra (GoM) for grant of final approval for four-laning of Jam Warora-Chandrapur-Rajura-Asifabad Road section of SH 266, TPC Rs. 223.61 crore, Length of 40 km, VGF of Rs. 44.72 crore and Concession period of 30 years.

21. Director, DEA indicated that financing document for the project had not been provided to the members of EI. Further, VGF sought by the L-1 bidder is more than 40 per cent of the TPC approved by the EI (i.e., Rs. 223.61 crore, which is around 44.57 per cent of TPC). This is in contravention to the Scheme which prescribe that the maximum VGF admissible for a project should not exceed 40 per cent of the TPC.

22. Deputy Secretary, GoM informed that the financing documents have been circulated during the meeting. The excess VGF requirement is due to change in the estimation of TPC after bidding on account of changed soil condition. Deputy Secretary, GoM requested that since the project has already been awarded and construction activity has commenced, the EI may grant final approval to the project for VGF support of the amount granted in-principle approval by the EI i.e. 20 per cent of the TPC. The balance requirement of VGF, i.e. 24.57 per cent of TPC shall be borne by the State Government. It was assured that this relaxation would not be treated as a precedent for future projects.

23. Director, DEA indicated that in cases of change in the estimation of TPC, approval of the EI should be taken prior to commencement of bidding and not at the time seeking final approval for the project. At an earlier occasion, the Empowered Institution had granted final approval to two projects from Government of Maharashtra where the TPC was higher than the TPC considered by the EI while granting in principle approval to the projects. The EI had noted that the said two projects were among the first few projects received under the scheme and had allowed the relaxation of balance VGF been provided by the State Government subject to the approval not being treated as a precedent for future projects. Hence, the instant proposal did not warrant a similar relaxation. Representatives of DOE, MoRTH and Planning Commission supported the view. The Chair advised that the matter may further be examined.

24. The EI deferred the proposal pending examination of financing documents (Common loan agreement) undertaken with the Lead Financial Institution. Further,

GoM was advised to explore the possibility of reduction in the total requirement of VGF for the project to comply with the requirements of the Scheme with respect to the grant support being up to 40 per cent of the TPC.

(Action: GoM)

Agenda Item V: Proposal from Ministry of Road and Transport and Highways (MoRTH) for grant of in-principle approval for Improvement of Nagaur-Bikaner section of NH-89 in the State of Maharashtra, TPC Rs. 378.07 crore, length of 108.26 km, VGF of Rs. 75.614 crore and Concession period of 15 years.

25. The representative of MoRTH presented the proposal. It was indicated that observations of DEA and Planning Commission with respect to the proposal had been responded to. Further, the funds required for VGF (balance 20 per cent of TPC, if required) shall be included in the budget for the next financial year after completion of the bid process. Director, DEA requested that the same may be confirmed in writing to the members of EI. This was agreed to.

26. The Chair queried about the status of land acquisition. SE, MoRTH, responded that 80 per cent land is available for meeting the requirements of 2-laning with PSS of the road. All the members of the EI were in agreement to grant approval for VGF support to the project proposal.

27. The EI granted in-principle approval to the project for VGF support of Rs. 75.614 crore subject to the following conditions:

- a. MoRTH would confirm in writing about availability of funds to provide VGF up to 20 per cent of TPC for the project, if required, under NH others.
- b. MoRTH would circulate of written response to the appraisal notes of DEA and Planning Commission.
- c. MoRTH would circulate revised projects documents to the members of EI.
- d. MoRTH would ensure that the environmental, forest and other approvals and clearances are obtained before the award of the Project.
- e. MoRTH would ensure that 80 per cent of the land is provided to the Concessionaire as per the Model Concession Agreement (MCA) by Appointed Date.
- f. Approval from the Public Private Partnership Appraisal Committee (PPPAC) would be obtained before inviting the financial bids.

(Action: MoRTH/Government of Maharashtra)

Agenda Item VI: Proposal from Ministry of Road and Transport and Highways (MoRTH) for grant of in-principle approval for Proposal for four-laning of Rewa - Sidhi section of NH -75E, TPC Rs. 627.87 crore, Length of 71.563 km, VGF of Rs. 125.57 crore and Concession period of 30 years.

28. Director, DEA indicated that the project is not justified for four-laning, and the project may be restructured for two-laning with paved side shoulders (PSS). CE, MPRDC indicated that the proposed road traverses a major industrial belt and 135

per cent of the present traffic is expected to be generated on this road due to upcoming big industries like Hindalco, JP Cement, Sasan Cement plant, Reliance coal blocks, WCL Coal limited etc. Further, mega power plants like Sasan Power Ltd, Chitrangi Power plant, Mohan super thermal power plant, JP Nigri thermal power plant, NTPC super thermal power plant and DB power plant were being established between the Sindhi and Singrauli regions, which are likely to be completed by 2015-16. The proposed project is estimated to be completed by 2014-15, accordingly, the requirement for four-laning was termed as justified. CE, MPRDC further mentioned that the adjacent stretch, Sidhi Singrauli earlier approved by the EI, has received bids for VGF of Rs. 39 per cent of the TPC and all the other adjoining stretches are being implemented as four-laned roads. Hence, it was requested that the project may be approved with four-lane configuration.

29. Director, DEA indicated that VGF of 39 per cent of the TPC received for Sindhi-Singrauli project wherein present traffic is more 10,000 PCU whereas in the instant proposal the traffic is much lesser. Hence, the project may not be viable with VGF up to 40 per cent of TPC as a four-laned stretch.

30. Advisor, Planning Commission indicated that their appraisal note on the subject project was issued recently and thus response of MPRDC is awaited.

31. The Chair advised that the project may be re-examined based on increased traffic projections given by MPRDC/MoRTH.

32. The EI deferred the consideration of the project and decided to re-examine the proposed structuring of the project based on revised traffic projections rendered by MoRTH/MPRDC and submission on response to the appraisal notes of Planning Commission.

*(Action: MoRTH/MPRC and
Members of EI)*

Agenda Item VII: Proposal from Ministry of Road and Transport and Highways (MoRTH) for grant of in-principle approval for for two-laning with PSS of Nagaur-Jodhpur section of NH -65, TPC Rs. 439.960 crore, Length of 134.64 km, VGF of Rs. 87.99 crore and Concession period of 17.5 years .

33. Advisor, Planning Commission indicated that they had not completed the appraisal of the project and requested that the consideration of the project may be deferred. The Chair advised Planning Commission to expedite their appraisal note in respect of the project.

34. The EI deferred the consideration of the project due to non-receipt of appraisal note by the Planning Commission.

(Action: Planning Commission)

Agenda Item VIII: Proposal from Government of Bihar for grant of in-principle approval for two-laning with PSS of Bihta-Mahabalipur-Aurangabad section of SH-2 & NH-98, TPC Rs. 362 crore, Length of 116.20 km, VGF of Rs. 72.40 crore and Concession period of 20 years.

35. GM, BSRDC presented the proposal. It was indicated that the comments of the appraising entities had been incorporated in the project DCA including observations about the Schedules in the DCA.

36. Director, DEA indicated that 78.05 km of the project stretch is a component of NH-98, hence, No Objection Certificate (NOC) from MoRTH would be required before bidding out the project. GM, BSRDC informed that MoRTH has issued the NOC in respect of the instant project, vide letter dated July 2, 2008 including three other projects namely Ara-Mohania, section of NH-30 (118 km), Bakhtiyarpur-Bihar Sharif-Nawada-Rajauli, section of NH-31 (107 km) and Monger- Bhagalpur section of NH-80 (56 km). These other sections are already under implementation by BSRDC. The instant proposal would also be developed in similar pattern by BSRDC.

37. SE, MoRTH indicated that in the said NOC, terms and conditions on which the projects may be implemented have not be indicated, thus, there is need to streamline the agreement by entering into an MoU between MoRTH and GoB. GM, BSRDC reiterated that terms and conditions for developing the instant project shall be the same as adopted for other NH road projects awarded by BSRDC, including adoption of the Manual of Standards and Specifications (MSS) for National Highways, Model Concession Agreement and the Toll Rates as applicable for NH roads.

38. Joint Secretary, DEA queried whether GoB would bear the cost on account of land acquisition, pre construction activities and the balance amount of VGF (up to 20 per cent of the TPC). GM, BSRDC responded these costs are being borne by BSRDC in respect of the other three NH projects that are being implemented by and BSRDC is willing to bear the said costs in respect of the instant project.

39. GM, BSRDC requested grant of permission for release of RFQ in order to save time for bidding. Director, DEA indicated that permission may not be given as is subject to approval by MoRTH.

40. The Chair advised MoRTH and GoB to discuss the matter at the earliest and resolved the concerns of MoRTH with respect to the NOC and other arrangements with respect to development of the NH stretch by BSRDC.

41. The EI deferred the consideration of the project pending clarity about the arrangement between MoRTH and GoB regarding development of the NH stretch by BSRDC on PPP basis.

Action: MoRTH and GoB)

Agenda Item IX: Proposal from Government of Rajasthan in Education Sector for grant of in-principle approval for Development of 50 Senior Secondary Schools (class VI to XII) as 10 projects in 5 districts of Rajasthan on DBFMOT basis.

42. Commissioner, Secondary Education, GoR presented the proposal. It was indicated that the EI had granted permission to invite RfQ for the projects in its 21st meeting held on February 12, 2010. It was indicated that the projects have received a good response at the RfQ stage and 49 applicants have been shortlisted. Further, it was indicated that in recent discussions with the prospective bidders, their interest in the project continues. It was stated that two divisions namely the Ajmer and Udaipur Division have been selected in the first phase of the roll out of the Gyanuday Senior Secondary School Programme in order provide quality educational services in the rural areas of these Divisions by utilising private sector efficiencies.

43. Director, DEA indicated that appraisal note on the proposals has not been received from Planning Commission. DEA had completed the appraisal of the project and circulated the appraisal note. The comments and support of Ministry of HRD has been received.

44. Advisor, Planning Commission stated that they have already raised certain issues with regard to the project like the Voucher payments being used as an Annuity payment, construction grant being lesser than 20 per cent and payable during the construction period, confirmation whether the project comes under the VGF Scheme etc. Director, DEA indicated that as per the VGF Scheme, the following conditions must be met with in order for the projects to be eligible under the Scheme:

- a. Sector eligibility
- b. Project must be bid out on transparent and competitive basis
- c. Bid parameter must be VGF and grant from GoI shall be maximum 20 per cent of the TPC
- d. 51 per cent equity in the project must be from the private sector
- e. User charges must be upfront defined

Since the proposal satisfies the above criteria, it is *prima facie* eligible for consideration for grant of VGF support. Further, Planning Commission is already in receipt of the response from the Government of Rajasthan on the queries raised by the Planning Commission.

45. Joint Secretary, DEA further indicated that voucher payments for sponsored students should be treated as user charges for the “voucher students” and not as annuity payments.

46. Commissioner, Secondary Education, GoR pointed out that the State has already lost two academic years of implementation of the programme due to the time consuming process of inclusion of education sector as a sector eligible for support under the Scheme and emphasized that further delay in approving the project would result in loss of another academic year. If the approval is accorded, the project is expected to be rolled out by the year 2014. It was confirmed that project has all the

requisite approvals from the State Government, including approval for the construction grant, maximum Rs. 50.0 lakh for each project. Further, land for all the projects is available. It was requested that the project may be granted approval.

47. Advisor, Planning Commission requested that a confirmation may be sent by DEA that the proposal complies with the Scheme. Joint Secretary, DEA responded that a written response shall be sent; however, pending this response, the Planning Commission could commence the appraisal of the project documents by sending them to their legal consultants.

48. Joint Secretary, DEA queried whether the proposal would create a monopoly by the selected private sector entity as 5 schools in one district are proposed to be taken up for implementation by a single concessionaire. Commissioner, Secondary Education, GoR in response stated that the State has about 30,000 private schools and chosen location for 5 schools in one district was restricted to rural/ unprivileged areas. Further, it was emphasized that development of one school shall not financially viable on standalone basis; therefore, a cluster of 5 schools is being proposed to enhance financial viability of a project. It was indicated that restrictions on award to any single bidder/applicant (i.e. maximum 5 projects out of the total 10 projects) has already been provided for. Further, the bidder has been allowed to development of supplementary activities in a school/s, which were limited to activities promoting education including provision of primary schools and hostel accommodation for the students. Stipulations to incorporate the Right to Education Act (RTE) applicability have been provided in the project documents including the DCA such as exempt student category provided specifically this purposes. Hence, the project shall not create a monopoly situation.

49. The Chair observed that the proposal is an innovative concept and would promote provision of quality education. Hence, the proposal should be encouraged. The experience from implementation of the schools could be incorporated in subsequent projects.

50. The EI deferred the project pending the appraisal note from Planning Commission.

(Action: Planning Commission)

51. The meeting concluded with the vote of thanks to the Chair.