

F.No.5/6/2025-PIU
Government of India
Ministry of Finance
Department of Economic Affairs
Infrastructure Finance Secretariat
ISD Division
(PIU)

STCs Building, Janpath New Delhi
Dated: 04 August, 2025

Record of Discussion

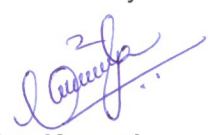
Subject: Record of Discussion of the 50th meeting of the Empowered Committee to consider (i) Amendment to the Tripartite Agreement and (ii) Granting In-Principle Approval for VGF support to the proposal "Development of Medical College and District Hospital at East Singhbhum, Giridih, Dhanbad, Deoghar, Jamtara and Khunti in Jharkhand received from Department of Health, Medical Education and Family Welfare, Government of Jharkhand

Reference: 50th EC meeting held on 28th July 2025.

Sir/Madam,

The undersigned is directed to forward the Record of Discussion of the 50th meeting of the Empowered Committee held on 28th July 2025 to consider (i) Amendment to the Tripartite Agreement and (ii) Granting In-Principle Approval for VGF support to the proposal "Development of medical college and district hospital at East Singhbhum, Giridih, Dhanbad, Deoghar, Jamtara and Khunti in Jharkhand received from Department of Health, Medical Education and Family Welfare, Government of Jharkhand.

2. This issues with the approval of the Competent Authority.


Arya Balan Kumari
Joint Director (PIU)
011 2370 1219

To,

1. **Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-01**
2. **Additional Chief Secretary, D/o Health, Medical Education and Family Welfare, Government of Jharkhand**
3. **Secretary, Department of Expenditure, North block, New Delhi-01**
4. **CEO, NITI Aayog, Yojana Bhawan, New Delhi-01**
5. **Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.**

Copy to:

1. **Sr. PPS to Secretary (EA)**
2. **Sr. PPS to JS (ISD)**

Subject: Record of Discussion of the 50th meeting of the Empowered Committee for considering the following:

(i) Amendment to the Tripartite Agreement.

(ii) Development/Upgradation of the Existing District Hospital to Medical College at East Singhbhum, Giridih, Dhanbad, Deoghar, Jamtara and Khunti in Jharkhand on PPP Mode

1. The 50th meeting of the Empowered Committee was held on 28th July 2025 at 18:00 Hours under the Chairmanship of Secretary (EA) to consider the above two proposals.
2. List of attendees is placed at Annexure-I.

I. Amendment to the Tripartite Agreement.

1. With the permission of the Chair, Joint Secretary (ISD) welcomed all the attendees to the meeting. JD (PIU) made a detailed presentation on the proposal.
2. In accordance with Rule 8.1 of the Viability Gap Funding (VGF) Guidelines, prior to the disbursement of Govt. of India share of VGF, a Tripartite Agreement has to be executed among the Empowered Committee (EC), the Lead Financial Institution (LFI), and the private sector company with the sponsoring authority serving as the confirming party. The standard format of the Tripartite Agreement was originally approved by the Empowered Committee during its meeting held on 30th April 2008.
3. In the year 2020, the VGF Scheme was revamped with enhanced provisions for Operation & Maintenance (O&M) grants under Sub-scheme 2. Thereafter, in 2024, four hospital projects sponsored by the Government of Odisha were granted final approval under Sub-scheme 2. A few projects under Sub-Scheme 2 are also in the pipeline. To facilitate the execution of the Tripartite Agreement for projects approved under Sub-scheme 2, the standard agreement needs to be amended to incorporate O&M provisions.
4. Accordingly, a draft Tripartite Agreement incorporating O&M provisions was circulated to the Empowered Committee members and shared with the Department of Legal Affairs (DoLA) for legal review. All comments received were appropriately addressed and incorporated accordingly in the revised Tripartite Agreement. The main amendments proposed in the Tripartite Agreement are as follows: -

- a) **Inclusion of Opex VGF Provision:** The scope of the VGF grant has been expanded to include both capital and operation & maintenance (O&M) grants under Sub-scheme 2 projects. All relevant clauses in the Tripartite Agreement referencing to VGF grant have been amended accordingly.
 - b) **Deletion of the Waiver of Sovereign Immunity Clause:** The standard Tripartite Agreement has the provision of 'Waiver of Sovereign Immunity' Clause (Clause 10.2). As per the said clause, the Empowered Committee unconditionally and irrevocably agrees to waive any right of immunity it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction. Therefore, DoLA has suggested that "it may be advisable not to waive the sovereign immunity and bargain the issue of waiver and make it subject to domestic laws of the Parties or public policy instead of having a complete unconditional irrevocable waiver of immunity. However, it is for the Empowered Committee to examine the same from the angle of policy and precedent and take a decision." Accordingly, it is proposed to delete the clause, 'Waiver of Sovereign Immunity'.
 - c) **Introduction of Definitions:** To improve clarity and consistency, the undefined terms in the standard Tripartite Agreement such as O&M Cost, O&M grant, VGF default, Capital Grant etc., have now been formally defined under Definitions section.
 - d) **Insertion of Clause 9.3 under Dispute Resolution:** In a recent case involving a road project under MPRDCL, the concessionaire invoked the dispute resolution clause of the Tripartite Agreement to address issues arising from the Concession Agreement. To prevent such unnecessary litigation in future, a new sub-clause—Clause 9.3—has been inserted stating that, "This Clause of the Tripartite Agreement shall not be invoked by the Concessionaire to settle any claims against the Owner or the Empowered Committee pertaining to any matter under the Concession Agreement. For avoidance of doubt, this agreement deals only with matters related to disbursement of VGF Grant by the Empowered Committee."
5. All members of the Empowered Committee supported the proposed amendments and stated no further comments to offer. The Chair raised the following query.
- a) What shall be the implications of deleting Clause 10.2 on already executed Tripartite Agreement?
 - b) Whether DoLA supports the deletion of the clause 10.2 of 'Waiver of sovereign immunity?'
6. JS(ISD) clarified that the deletion of the clause of 'waiver of sovereign immunity' would apply prospectively and would not impact the agreements already in force.

7. DoLA stated that since Public-Private Partnership (PPP) projects are rooted in sovereign functions rather than strictly commercial activities, the waiving of sovereign immunity clause could compromise the State's legal defences and stated that it is a consistent stand of DoLA not to waive sovereign immunity. Hence, DoLA supports the deletion of 'waiver of sovereign immunity' clause.
8. After detailed deliberations, the Empowered Committee unanimously approved the amended Tripartite Agreement. The updated version is attached to the RoD.

II. Development/ Upgradation of the Existing District Hospital to Medical College at East Singhbhum, Giridih, Dhanbad, Deoghar, Jamtara and Khunti in Jharkhand on PPP Mode

1. With the permission of the Secretary (EA), Joint Secretary (ISD) requested the Department of Health, Medical Education and Family Welfare, Government of Jharkhand, to make a presentation to the EC.
2. During the presentation by the Additional Chief Secretary, Jharkhand, the Empowered Committee (EC) noted that the need for developing medical colleges in all the districts are not adequately justified and financial model is not properly made by the Project Sponsoring Authority (PSA).
3. Regarding the need assessment, it appears that:
 - a) All proposed medical colleges are concentrated in the eastern region of the State, with no representation from the western districts, leading to regional imbalance.
 - b) Currently, only 8 out of 24 districts in Jharkhand have medical colleges. Instead of establishing medical colleges in unserved districts, three new medical colleges are proposed for Dhanbad, Deoghar and East Singhbhum (Jamtara) districts already having medical college.
 - c) Further out of these six districts, only three are aspirational districts, but all projects for all six districts have been proposed under sub-scheme II of the VGF scheme.
 - d) The ability to attract qualified faculty for the proposed medical colleges, particularly in underserved regions to be reassessed given the fact that the staff positions are lying vacant in medical colleges. For instance, in Deoghar, there is already an AIIMS which has about 40% vacancy of the faculty and staff.

- e) Considering the utilization of the existing district hospitals with lesser bed availability, the viability and utilization of an upgraded 420-bedded district hospitals may be critically assessed.

4. Regarding the financial assessment, it appears that:

- a) The requirement of 80% capex and 50% opex grant seems to be on a higher side. Three similar health projects in Uttar Pradesh have successfully been bided-out on less than 40% capex grant and less than 25% opex grant.

- b) The PSA shall reassess the financial viability of projects by keeping following into consideration:

- **Market patients:** Market patients charges are capped at 1 time of CGHS rates in proposal whereas in UP health projects it is 1.5 times.
- **Construction cost per bed:** The construction cost per bed is around Rs.73 lakhs in proposal whereas the same was around Rs. 50 lakhs in UP health projects and around Rs. 60 lakhs in Arunachal Pradesh health project.
- **Free patient to market patient ratio:** In the proposal, only 33% is assumed as market patient whereas in UP health projects, it is 61%.
- **Commencement of Medical College:** In the proposals, the development of medical college commences from 7th-8th year after Appointed Date. However, in the UP-health projects, the commencement of medical colleges starts from the 4th year.
- **Average Length of Stay (ALOS):** In the proposal, the ALOS considered in the financial model is 3.7 days while in UP health projects, it is 4.5 days.
- **OPD to IPD conversion:** In the proposal, OPD to IPD conversion is 8% while in the UP-health projects, it is 10%.
- **IPD charge for market patients:** In the proposal, Rs.17,577/- is assumed as average IPD charges for market patient, whereas in the UP-health projects, it is Rs. 25000.

- c) The above-mentioned assumptions and financial model increase the cost of the and decrease the revenue of the project. If properly structured, there may be a substantial increase in the viability of the project reducing the VGF requirement.

5. The EC unanimously recommended that the PSA shall carry out proper need analysis and financial analysis of the proposed projects and submit it to the EC after which EC will consider the project.

6. It was also decided that: -
- a) If required, a team of DEA may visit Ranchi to assist the PSA in restructuring the project.
 - b) EC members may send their unaddressed comments to the PSA for consideration and reply.
 - c) The next EC meeting to consider these proposals shall be held in-person.

Annexure-I

List of the participants of the 50th meeting of the EC is as follows:

a) Department of Economic Affairs, Ministry of Finance

1. Ms. Anuradha Thakur, Secretary, EA - In Chair
2. Shri Baldeo Purushartha, JS (ISD)
3. Shri Rahul Singh, Director (PIU)
4. Ms. Arya Balan Kumari, Joint Director (PIU)
5. Shri Rajender Singh, SO (PIU)

b) Department for Health, Medical Education and Family Welfare, Government of Jharkhand

1. Shri Ajoy Kumar Singh, Additional Chief Secretary

d) NITI Aayog

1. Shri. Partha Reddy, Programme Director

e) Department of Legal Affairs

1. Shri Hemant Kumar, Deputy Legal Adviser

f) Department of Expenditure

1. Shri. Atya Nand, Joint Secretary