

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

**Public Private Partnership Appraisal Committee
43rd meeting on May 20, 2011**

Record Note of Discussion

The 43rd meeting of the Public Private Partnership Appraisal Committee (PPPAC), chaired by the Secretary, Economic Affairs was held on May 20, 2011. The list of participants is annexed.

2. The Chairman welcomed the participants. It was noted that there were three proposals from the Ministry of Road Transport & Highways for grant of final approval.

3. The Chairman desired to know if there were any other proposals pending before the PPPAC. Secretary, RTH indicated that there are four more proposals which have been submitted to the PPPAC. However, these four proposals are not due for consideration by the PPPAC within the prescribed timeframe of 4 weeks. Secretary, RTH said that there is a need to shorten the appraisal process from the prescribed timeline of 4 weeks, since the cost of the projects is being appraised by the Cost Committee. Member Secretary, Planning Commission indicated that the shortening of appraisal process from the prescribed 4 weeks may not be convenient as many internal approvals need to be obtained before the appraisal notes are sent to the PPPAC Secretariat. She, however, suggested that both the Planning Commission and the DEA should try to appraise the road projects on a priority basis, preferably within 3 weeks. This was agreed to by all the members of the PPPAC.

Agenda Item I: Proposal from the Ministry of Road Transport & Highways (MoRTH) for final approval of development of (6 laning) of Eastern Peripheral Expressway of NH- NE-II under Other Projects on BOT (Toll).

4. Joint Secretary, DEA said that the proposal of Eastern Peripheral Expressway (EPE) had been granted final approval by the PPPAC in its 40th meeting held on January 6, 2011. The approval was subject to MoRTH/NHAI bidding out the project on premium and deleting the provisions for Viability Gap Funding (VGF) from the project DCA and its bidding documents. However, the Cabinet Secretariat vide letter dated 20th April, 2011 has informed that the CCI while approving the EPE, directed the PPPAC to examine and finally decide whether the normal toll rate as applicable to National Highways or the toll rate as applicable to By-pass would be applicable to EPE.

5. Secretary, RTH indicated that the proposed EPE has been declared as a National Highway by the Ministry and in the earlier PPPAC meetings the proposal has been approved with the normal toll rate. However, Planning Commission was of the view that the toll should be charged one and a half time as applicable to a By-pass. In a meeting chaired by the Minister (RT&H) on 10th May, 2011 it has been decided that MoRTH may recommend to the PPPAC to allow bidding for the EPE to take place with one and a half times the normal Toll rates as applicable to By-pass with a suitable clarification regarding the concessionaire's liberty to lower the tariff, as may be required in order to suit the prevailing market conditions. He said that this condition shall, accordingly, be specified in the tender documents.

6. Joint Secretary, DEA informed that such a condition was inbuilt in the Model Concession Agreement (MCA) for all projects and, therefore, no separate clarification is required in the bidding documents.

7. Joint Secretary, DEA read out the definition of By-pass in the Toll policy viz., **“by-pass means a section of the national highway bypassing a town or city”** (emphasis added). He said that the proposed EPE is not a section of a National Highway but connects two different National Highways namely, NH-1 and NH-2 and runs for 135 km. He added that since the project is viable with premium based on normal highway toll rates, prescription of the higher of the two toll rates would

be unfair to the users. This would be more so since, even at the normal highway toll rates, the users of the EPE would have to pay more than the users of the WPE.

8. Member Finance, NHAI said that while it was correct that the project would fetch a premium on normal highway toll rates but the users would always have a choice to take either of the two expressways. He said that the EPE and the Western Peripheral Expressway (WPE) together form a virtual ring road around Delhi. Those not willing to take the EPE due to higher Bypass toll rates would have the choice to use the WPE. Upon a query he clarified that only around one third of the traffic would be "through traffic" while some 70 per cent of the traffic on the EPE would be of users going to Ghaziabad and other parts of Uttar Pradesh. He admitted that the latter would have to use only the EPE as the WPE would be a much longer route for them.

9. When asked for the views of Department of Expenditure (DoE), Joint Secretary, DoE stated that they had examined whether the proposed stretch under the EPE is a by-pass or not from the point of view of the definition of the by-pass as given in the National Toll Policy. This definition was, however, fairly minimal. She further enquired about the comparative toll rates for WPE which was lower. Representative of the Planning Commission indicated that EPE and WPE are not comparable as the EPE would be 6 lane while the WPE is 4 lane. Further, the WPE is being implemented by the State Government of Haryana and the toll rates there are as per the State Toll Policy whereas, the EPE is being proposed to be charged as per the National Highways Toll Policy.

10. Secretary, RTH informed that the conceptualisation of both the EPE and the WPE was as per the Hon'ble Supreme Court's directions to reduce congestion in Delhi. With the proposed alternative routes, the traffic towards Delhi will proceed to its destination without passing through Delhi and thereby avoid creating traffic congestion in Delhi and the surrounding thickly populated areas. He reiterated that the definition of By-pass could support the EPE being considered as a By-pass.

11. Member Secretary, Planning Commission said that the PPPAC must first decide whether the EPE was a Bypass or a National Highway. This decision would automatically result in answering the question that the CCI has asked PPPAC to answer. She said that she did not see any reason for going beyond the definition of Bypass given in the Toll Policy. That definition clearly does not apply to the EPE as it is not a section of an existing highway. She said that the fact that users of a particular state would have to pay higher rates, in case the PPPAC went beyond the definition of Bypass and treated the EPE as one, should not be ignored.

12. Upon a specific query the officials of MoRTH informed that the EPE stood notified as National Highway NE2 and that it was a Greenfield national highway.

13. The PPPAC decided that the EPE not being a section of an existing Highway by-passing a city could not be considered as a By-pass as per the definition of By-pass in the Toll policy viz., **“by-pass means a section of the national highway bypassing a town or city”**. Being a notified National Highway the normal toll rates as applicable to highways would be applicable to the proposed EPE.

Agenda Item II: Proposal from the Ministry of Road Transport & Highways (MoRTH) for final approval: 4-laning of Walayar-Vadakkancherry section of NH-47 under NHDP II on BOT (Toll).

14. Joint Secretary, DEA informed that the instant proposal had been approved in the 10th meeting of the PPPAC on May 11, 2007 with a TPC of ₹ 596.96 crore (at 2004-05 prices) for a concession period of 15 years. The project did not receive any bid and the NHAI restructured the project with the Total project Cost (TPC) of ₹ 682 crore. The concession period was increased to 20 years, based on traffic estimates and to enhance the viability of the project. The bids were again invited. Two bids were received. The VGF quoted by the lowest bidder is 38.9 per cent of TPC. Since the concession period had been increased from 15 years to 20 years, MoRTH had posed the project for the PPPAC approval. The project was considered in the 41st

PPPAC meeting held on January 25, 2011, wherein it was felt that award of a PPP project is not the mandate of the PPPAC. MoRTH was advised to obtain fresh CCI approval on the revised concession period and DCA before award of the project. Accordingly, MoRTH posed the proposal for the CCI approval. However, Prime Minister's Office (PMO) has sought recommendations of the PPPAC on the revised proposal. The PPPAC in its 42nd meeting decided that the proposal would be considered in the next meeting after the completion of the examination of the proposal by the members of the PPPAC in the light of the directions from the PMO.

15. Secretary, RTH stated that the Cost Committee chaired by the Additional Secretary & Financial Adviser in its meeting held on May 19, 2011 has approved the cost of the project. Upon a query from the Chair, Joint Secretary, DEA indicated that the cost of many projects in the State of Kerala earlier approved by the PPPAC was also exceeding the threshold for four laning. Secretary, RTH stated that the cost of the instant project appears to be justified.

16. Secretary, RTH confirmed that the proposed project was bid out on the basis of the approved MCA including the B.K. Chaturvedi Committee recommendations.

17. Joint Secretary, DEA indicated that as per the calculations of the PPP Cell, DEA, the project is viable up to VGF of 32.5 per cent of TPC whereas, the L-1 bid has been received with the VGF of 38.79 per cent of TPC. Further, if calculated on the new Toll Policy, the VGF requirement would rise up to 38 per cent. Secretary, RTH indicated that as per financial analysis, the VGF requirement was 35.76 per cent and, in case, the project is re-bid on the basis of new Toll Policy, the VGF requirement will be more than 40 per cent and the mode of implementation shall shift to BoT (Annuity). Joint Secretary, DoE said that the PPPAC is not a platform for considering the procurement process, but in this case, the IMG had suggested that another attempt would be made on BoT (Toll) basis which is a better option than the BoT (Annuity) and accordingly two bids have been received.

18. Joint Secretary, DEA informed that the actual bid received by the NHAI is far more than the estimation of VGF requirements as per the financial analysis indicated in the PPPAC memo by the MoRTH. Upon a query from the Chair, he said that in the past there had been many cases where the actual bids received were in the 36-37 per cent range, despite the estimated VGF having been very low, indeed even zero in a couple of cases. Secretary, RTH clarified that such cases might have happened in the time of recession.

19. Secretary, RTH informed that this is the only project in Kerala where 100 per cent land is available, whereas in other projects of Kerala, there are problems of land acquisition. Accordingly, he requested the PPPAC to grant approval to the project.

20. Joint Adviser, Planning Commission supported the request.

21. The PPPAC granted final approval to the project, subject to this not being treated as a precedent for the future projects.

Agenda Item III: Proposal from the Ministry of Road Transport & Highways (MoRTH) for final approval: four Laning of Hospet-Bellary Section of NH-63 in the State of Karnataka under NHDP Phase IV on BOT (Toll) basis.

22. Joint Secretary, DEA informed that MoRTH proposes to four lane the Hospet-Bellary Section of NH-63 in the State of Karnataka under NHDP Phase IV on BOT (Toll) basis.

23. Joint Secretary, DEA indicated that completion of the process of land acquisition was a major concern. About 421 hectare (50.40 per cent) of the land was yet to be acquired for the instant project. He said that it was also not clear if the cost has been approved by the Cost Committee.

24. Secretary, RTH informed that the process of land acquisition has commenced. The process under clause (a) of section 3 of the National Highways Act

has been completed and section 3(A) had commenced. He further indicated that the cost of the project is within the cost approved by the B.K. Chaturvedi Committee; hence, approval of the Cost Committee is not required.

25. Joint Secretary, MoRTH indicated that the traffic survey was undertaken in 2010 and the total traffic on the stretch is 15,719 PCUs and tollable traffic is about 13005 PCUs. Hence, four-laning of the project may be approved.

26. The Chairman observed that the instant project stretch passes through many industrial areas including mining and iron ore production areas. Upon his query about the bid parameter, Secretary, RTH indicated that the bid parameter for the project will be the minimum VGF or maximum premium.

27. Member Secretary, Planning Commission desired to know whether the traffic survey was done before or after the ban on Iron Ore exports. Member Technical, NHAI said that the traffic survey had been done after the ban. Member Secretary, Planning Commission said that the date of conduct of the traffic survey must be mentioned in the bidding documents. Secretary, RTH said that the traffic survey conducted by the Sponsoring Authority was usually not indicated in the RfQ and the bidders are required to conduct their own traffic survey before bidding.

28. The PPPAC granted final approval to the project subject to fulfilment of the following conditions:

- i. MoRTH would obtain the approval of the competent authority in respect of inclusion of the stretch under NHDP IV before commencing with the bid process.
- ii. Land acquisition in respect of the projects would be completed in accordance with the provisions of the Model Concession Agreement (MCA) for National Highways.
- iii. MoRTH would obtain environment and forest clearance before commencing work on the project sites.

- iv. The observations of Planning Commission and DEA with respect to corrections in the Schedules of the project DCAs would be incorporated by NHAI.
 - v. MoRTH would circulate the revised documents to the members of the PPPAC.
 - vi. The dates of the traffic survey, and its implications, will be clearly brought out both on the website of MoRTH and the RfP.
29. The meeting ended with a vote of thanks to the Chair.
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Department of Economic Affairs**

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**Public Private Partnership Appraisal Committee (PPPAC)
43rd Meeting on May 20, 2011**

List of Participants

I. Department of Economic Affairs

- i. Shri R. Gopalan, Secretary (Economic Affairs) (In Chair)
- ii. Shri Bimal Julka, AS & DG(Currency)
- iii. Shri Rajesh Khullar, Joint Secretary
- iv. Shri I.P. Singh, Director
- v. Shri Abhijit Phukon, Deputy Director

II. Department of Expenditure

- vi. Ms. Meena Agarwal, Joint Secretary

III. Planning Commission

- vii. Ms. Sudha Pillai, Secretary
- viii. Shri Nagesh Singh
- ix. K.R. Reddy, Joint Adviser

IV. Ministry of Road Transport and Highways

- x. Shri R.S. Gujral, Secretary
- xi. Shri Raghav Chandra, Joint Secretary
- xii. Shri B.K. Sinha, SE

V. National Highways Authority of India

- xiii. Dr. J.N. Singh, Member (F)
- xiv. Shri V. L. Patankar, Member (Technical)

Note: No representative from Department of Legal Affairs and Ministry of Environment and Forest attended the meeting.