

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

Public Private Partnership Appraisal Committee

49th Meeting on January 23, 2012

Record Note of Discussion

2. The 49th meeting of the Public Private Partnership Appraisal Committee (PPPAC), chaired by Secretary, Economic Affairs, was held on January 23, 2012. The list of participants is annexed.

3. The Chairman welcomed the participants and noted that the PPPAC would consider one proposal from Ministry of Shipping and three proposals from Ministry of Road Transport & Highways for grant of final approval.

Agenda Item I: Proposals from Ministry of Shipping (MoS) for grant of final approval: Mechanisation of WQ-1 Berth in the Inner Harbour of Visakhapatnam Port for handling Iron Ore on DBFOT basis

Total berth length: 280 m; Total Project Cost: Rs. 275.20 crore; Concession period: 30 years including 2 years construction period.

Major development works/ structures: Deepening and maintenance dredging upto 14 m of the existing berth, Laying of rail track for ship loaders for CR 100 along the berth, Railway tracks, Conveyor galleries from berth to stock pile area and on the rear side of the berth, Stacker cum reclaimer (3000 TPH) tracks system with foundations and conveyors for ship loading (ship loader 3000 TPH), Ground improvements for a stock pile area for stacking iron ore, Wagon uploading platform, Dust suppression systems, plantations, water supply, Provision of equipment such as twin wagon tippler system, railway yard system for wagon unloading, receiving and shipping conveyor system of 1600mm and 1200 mm, transfer houses etc. Maintenance dredging alongside the berth for depth of (-16.10) m to cater to 14 m draft vessels, develop utilities and services such as communication, office accomodation etc.

4. Chairman, Visakhapatnam Port Trust (VPT) presented the proposal. It was informed that the current level of iron ore/pellets exports from Visakhapatnam Port is 19.12 metric tonnes (MT) and 12.3 MT of iron ore is handled at the outer harbour through mechanical means where vessels up to 1.5 lakh DWT can be accommodated. Currently, 6.8 MT iron ore is handled through ship gear/ Harbour Mobile cranes at multi-purpose berths of inner harbour, which presently caters to ships up to 50,000 DWT. The instant proposal envisages installation of integrated mechanized iron ore handling facilities to cater to panamax vessels at Inner Harbour (other than BoT berths) to avoid multiple handling, improve efficiency and to gain economies of scale. Further, the State Pollution Control Board has been putting

emphasis on mechanisation of all berths to address the pollution concerns for handling/transfer of dry bulk cargo. Hence, the Port needs stand-by facility for uninterrupted mechanical loading. According to Maritime Agenda, iron ore handling will increase to 26.7 MT by 2019-20. The handling capacity being created by the instant proposal is 8.98 MTPA which has been approved by the TAMP. It was informed that the DCA is in accordance with model concession agreement except inclusion of clauses on "Integrity Pact" and "Inclusion of CISF" as approved and communicated by the Ministry of Shipping and project specific deviation on "Dredging". The observations raised by Department of Economic Affairs (DEA) and Planning Commission in their appraisal notes have been responded to and addressed. It was, accordingly, requested that the proposal may be granted final approval.

5. Advisor, Planning Commission indicated that the cost of capital dredging did not appear to have been considered by the TAMP while notifying the tariff rates and the cost does not appear as a specific item in the TAMP notification. Chairman, VPT clarified that the cost of capital dredging is expected to be low and shall be serviced within the miscellaneous expenditure estimated at Rs. 13.10 crore. Advisor, Planning Commission observed that it would be appropriate that it is clarified in writing by Ministry of Shipping that the cost has been considered by TAMP while notifying the tariff rates. Further, inclusion of capital dredging in the scope of work of the Concessionaire is a departure from the Model Concession Agreement (MCA), hence, there was need to confirm that its cost has been considered by TAMP.

6. Director, DEA indicated that PPPAC, on earlier occasions, has considered proposals where capital dredging has been included in the scope of work of the Concessionaire, in deviation to the provisions of the MCA for Major Ports, as projects' specific requirement. The PPPAC had allowed inclusion of capital dredging by the Concessionaire in the scope of work in respect of VPT projects approved earlier. It was suggested that to avoid delay in implementation and in view of the fact that the cost of capital dredging estimated by VPT is marginal, which can be absorbed within the allocation for 'miscellaneous expenditure', the instant project may be considered for approval, subject to the condition that Ministry of Shipping/ VPT shall obtain a confirmation that the cost of capital dredging has been vetted by the TAMP as a separate item within the development costs for the project. Further, it was suggested that since capital dredging has been included in many projects within the scope of work of the Concessionaire and approval to the departure from MCA to this effect is repeatedly sought from the PPPAC/SFC and the two member Committee (consisting of Secretary, Economic Affairs and Secretary, Shipping), as a project specific requirement, MoS may consider amending the MCA for Major Ports in order to include capital dredging as a part of the obligations of the Concessionaire. This view was supported by the members of the PPPAC.

(Action: Ministry of Shipping)

7. Advisor, Planning Commission indicated that the proposed capacity of 8.98 MTPA may not be required in the event that a ban is imposed on export of iron ore. Chairman, VPT

responded that mechanisation of berth is required to address the environmental concerns. Further more, even in the eventuality that the iron ore exports are banned, mechanisation of the berth is still warranted. The present utilisation has already reached 6.8 MTPA and there is sufficient demand for iron ore within the domestic market in the region and coastal shipping is the preferred route for transportation. The Chair endorsed the view.

8. The PPPAC granted final approval to the project for TPC of Rs. 275.20 crore, for award on highest premium basis, subject to fulfilment of the following conditions:
 - a. MoS shall confirm that the cost of capital dredging is a separate item which was considered and approved by the TAMP while notifying the tariff rates.
 - b. MoS would obtain clearances such as environment and forest clearance, before commencing work on the project site.
 - c. MoS would obtain prior approval of the PPPAC on any change in scope of work or project configuration as noted above.
 - d. MoS would circulate the revised documents to the members of the PPPAC for record.

(Action: Ministry of Shipping)

Agenda Item II: Proposals from Ministry of Road, Transport and Highways (MoRTH) for grant of final approval.

9. Secretary, RTH indicated that three National Highways proposals, viz., two under NHDP Phase V and one under NHDP Phase III, are being considered by the PPPAC in the instant meeting. However, there are other project proposals posed for consideration of the PPPAC which have not been taken up as agenda items in the instant meeting of the PPPAC since the projects relate to Punjab and Uttar Pradesh, where the code of conduct is applicable in view of the ongoing preparations for the Assembly elections. Secretary, RTH informed that they have taken up the matter with the office of the Chief Election Commissioner (CEC) for allowing these projects to be considered by the PPPAC as the bidding process in respect of the projects (i.e. Request for Qualification) has commenced much earlier.

10. Secretary, RTH indicated that they have already circulated the draft Cabinet Notes for Cabinet Committee on Infrastructure (CCI) in respect of NHDP Phase III and IV. The comments of Ministry of Finance for the CCI Note on NHDP-IV had been received and MoRTH was in the process of preparation of the final note for the CCI for their approval. Secretary, RTH requested that the comments on the CCI Note in respect of NHDP-III may also be communicated. Joint Secretary, DEA informed that the consolidated view of DoE and DEA was being prepared and would be communicated shortly. Secretary, RTH requested that pending approval from the CCI, proposals for four laning of stretches under NHDP-IV may be considered for approval by the PPPAC. Deputy Secretary, DoE informed that they have no objection to appraisal and clearance of projects by the PPPAC, subject to compliance to the observations of Ministry of Finance by MoRTH, including preparation of the year wise requirements of funds, the identification of stretches and other details of the projects proposed to be taken up under NHDP-IV during the work plan of 2012-13 and the

financial implications thereof. The Chair concurred with the view of the DoE and indicated willingness to consider proposals in respect of four laning of stretches under NHDP-IV subject to confirmation of availability of budgetary resources by DoE and Planning Commission.

(Action: MoRTH, Planning Commission, DEA & DoE)

Agenda Item II (i): Final approval for six -laning of Chandikhole to Paradeep section, km 0.00 to km 76.618 of NH-5A under NHDP V on BOT (Toll)

Total length: 76.618 km; Total Project Cost: Rs. 1014.36 crore; Concession period: 30 years including 2.5 years construction period.

Major development works/ structures: Major Bridges : 14; Minor Bridges : 27; Toll Plaza; 1; Service Roads: 56.773 km; Vehicular underpasses: 11; Pedestrian underpasses: 19; Culverts: 59; Truck laybys: 4; Bus-bays: 52

11. Director, DEA informed that the traffic on the project stretch did not justify its six laning in the first six years of the proposed concession period. Joint Secretary, MoRTH informed that CCI has approved the six laning of the projects under NHDP Phase V, and these may be taken up for six-laning if the traffic on the stretch exceeds 25,000 PCUs. The Chair requested MoRTH to provide a copy of the approval of the Cabinet Committee permitting six laning of stretches where the traffic exceeds 25,000 PCUs. Joint Secretary, MoRTH agreed to provide the same.

(Action: MoRTH)

12. Advisor, Planning Commission indicated that cost of the project is high at Rs. 13.5 crore per km. The service roads of 57 km. length as well as 11 vehicular underpasses and 19 pedestrian underpasses were proposed to be built for a project length of 76 km, which require a review. Member (Technical), NHAI responded that the cost for the project was considered by the Standing Cost Committee and approved by the Standing Cost Committee in consideration of the fact that the higher costs is attributed to proximity of the project to the sea coast, non-availability of sub grade material in the project vicinity, high cost of earth work, 14 majors bridges and 27 minor bridges. Further, service roads have been provided for 54 km (i.e. 27 km on both sides of the NH) and include service roads at three locations and slip roads for the VUPs and PUPs. The proposed service roads and slip roads are essential on the stretch.

13. The Chair queried about the status of land acquisition and environmental clearance in respect of the project. Member, NHAI indicated that 100 percent of land was available for the project and no environmental clearance was required.

14. Secretary, RTH indicated that the said project is expected to yield premium and has been approved by CCI for six laning under NHDP Phase V. Hence, the proposal may be granted approval. Director, DEA suggested that since the financial estimates indicate that the project would be viable without VGF, the PPPAC may consider granting approval to the project subject to removal of clauses relating to capital grant up to 10 per cent of TPC in

Article 25 of the DCA as well as from the Instructions to Bidders of the RfP. Secretary, RTH agreed to the same.

(Action: MoRTH)

15. Joint Secretary, DEA noted that MoRTH may resolve the matter relating to Article 27.1 in the DCA in order to align it with the NH Fee Rules, 2008. Joint Secretary, MoRTH stated that Rule 7 of the Toll Fee Rules provides that “..... in case of private investment projects, the fee collected under the provision of these rules shall be appropriated by the Concessionaire in accordance with the provisions of and for the performance of its obligations under the agreement entered into by such concessionaire”. Hence, this can be interpreted to suggest that the Toll Rules allow flexibility as per the executed Concession Agreement to charge lower rates than those notified under the Toll Rules. Joint Secretary, DEA indicated that a quick holistic reading of the Rules suggest that this interpretation may not be correct; the toll rates to be charged and discounts that are admissible are clearly provided under the Toll Rules. Rule 7 merely clarifies that the collection of the toll fee would be as per the provisions of the concession agreement and not that changes can be effected in the user fee.

16. Secretary, RTH suggested that opinion of Department of Legal Affairs may be obtained on this matter. Further, pending receipt of the legal opinion, the provision of MCA may be allowed to continue. Deputy Secretary, DoE suggested that an over arching clause may be inserted in the concession agreement that the Concessionaire shall not be eligible for any compensation nor for claiming extension of the concession period or any other material benefit on account of the reduction in the toll rates. Joint Secretary, DEA emphasised that claims may not be from the Concessionaire of the Project alone, but may include other parties such as Project Concessionaire of the adjoining stretches from where the traffic may get diverted on account of reduction of the Toll Rates on one stretch.

17. Secretary, RTH agreed to amend the clause 27.1 in the project DCA pending receipt of opinion of Department of Legal Affairs on the subject and modification of the MCA by the Inter-ministerial Group (IMG), chaired by Secretary, RTH on MCAs for National Highways(four laning, six laning and OMT) .

18. The PPPAC granted final approval to the project under NHDP-V for TPC of Rs. 1014.36 crore with nil VGF and subject to fulfilment of the following conditions:

- a. MoRTH shall share a copy of the approval of the CCEA/CCI allowing development of six laned stretches under NHDP -V where the traffic on the stretches is more than 25,000 PCUs.
- b. NHAI shall amend the Article 25 of the DCA and the Instruction to Bidders of the RfP to delete the provisions of grant in respect of the project stretch.
- c. NHAI shall ensure land acquisition in respect of the project to provide ROW in accordance with the provisions of the Model Concession Agreement (MCA) for National Highways.
- d. NHAI shall incorporate modifications in the project DCA (clause 27.1) to align it with the provisions of the NH Fee Rules, 2008.
- e. MoRTH shall obtain prior approval of the PPPAC on any change in TPC, scope of work or project configuration as noted above.

- f. MoRTH shall circulate the final project documents to the members of the PPPAC for record.

(Action: MoRTH/NHAI)

Agenda Item II (ii): Final approval for Six-laning of Gundugolanu - Rajahmundry section of NH-5 from km 1022.494 to km 901.753 in the State of Andhra Pradesh under NHDP Phase V on BOT (Toll) basis.

Total length: 120.741 km; Total Project Cost: Rs. 1617 crore; Cost of pre-construction activities to be financed by NHAI: Rs. 149.25 crore; Concession Period: 20 years including 2.5 years of construction period.

Major development works/ structures: Major Bridge: 5; Minor bridges: 43 (of these 11 are on service roads); Flyover: 4; ROBs: 4 plus 2 RoB's as 2-lane; 4-lane elevated sections: 2; Major road junctions: 68; Service roads: 145.712 km; Toll plazas: 2 (km 977.7 & km 946.3); FOB: 5; Vehicular underpasses: 29; Pedestrian/cattle underpasses: 15; Culverts: 275; Truck laybys: 2; Bus-bays: 38

19. The PPPAC noted that the appraisal note of Planning Commission has not been received though the project documents have been circulated more than four weeks ago. The Chair advised Planning Commission to expedite the appraisal process in order to remove delays the approval process from the PPPAC. This was agreed to by the Advisor, Planning Commission.

20. Secretary, RTH requested that since the prescribed period of appraisal was over, the project may be considered without the appraisal note of Planning Commission. The Chair observed that the need for strengthening the appraisal processes within the Planning Commission had been discussed in detail in the last meeting of the PPPAC and the Member Secretary Planning Commission had agreed to look into the matter. Hence, it would be appropriate to defer the consideration of the instant project. Secretary, RTH requested that the next meeting of PPPAC may be held early to consider the proposal. This was agreed to.

21. The PPPAC deferred the consideration of the proposal in the absence of the appraisal note from Planning Commission.

(Action: Planning Commission)

Agenda Item II (iii): Final approval for four-laning of Solapur-Bijapur section of NH 13, under NHDP Phase III from km 0.00 to km 110.542 in the States of Maharashtra and Karnataka on BOT (Toll) basis

Total length: 110.542 km; Total Project Cost: Rs. 1002.48 crore; Cost of pre-construction activities to be financed by NHAI: Rs. 89.41 crore; Concession Period: 20 years including 2.5 years of construction period.

Major development works/ structures: Major Bridge: 3; Minor bridges: 34; Flyover: 5; Bypass: 3 (at Sholapur, Horti and Nandani); ROB: 2; Major road junctions: 20 ; Minor road junctions: 25; Service roads: 38.022 km; Toll plazas: 2 (km 23.370 & km 73.800); Vehicular underpasses: 10; Pedestrian/Cattle underpasses: 11/1; Culverts: 182; Truck laybys: 2; Bus-bays: 24 on each side

22. Director, DEA informed that the project is proposed under NHDP Phase III, however, the stretch does not find mention in the list of projects approved under NHDP Phase III by CCEA or in the list of projects (totalling 915 km) proposed by MoRTH to be included through substitution for four laning under NHDP Phase III vide their

23. Draft Note for the CCI under circulation.

24. CGM , NHAI responded that the project from Solapur to Maharashtra–Karnataka Border for 30 km is already a part of NHDP Phase-III, however, the proposed project has been extended upto Bijapur for a length of 110.542 km. Secretary, RTH assured that the balance length shall be included in the NHDP Phase III in the referred Draft CCI Note under circulation while preparing the final note. This was agreed to by the members of the PPPAC.

(Action: MoRTH)

25. Director, DEA indicated that the concession period for the project may be revised to 20 years based on the breach capacity of the highway. This was agreed to by MoRTH and NHAI.

26. Advisor, Planning Commission observed that three bypasses of 25.340 km have been proposed, including Solapur bypass of 22.280 km. It was suggested that bypasses maybe excluded from the proposed project since land acquisition could be difficult and delay the execution of the project. The three bypasses could be developed subsequently, if required, as a separate project. Member, NHAI responded that this may not be feasible since a separate project may not be financially viable, and its separate development and tolling would be a administratively unmanageable. This view was supported by the members of the PPPAC.

27. Advisor, Planning Commission further stated that provision of vehicular underpasses, construction of service roads and overpasses instead of underpasses may be reviewed to reduce the cost of the project. Secretary, RTH indicated that underpasses and service roads have been provided based on site requirements and construction of flyovers instead of overpasses has already been decided by the PPPAC in the earlier meetings. This view was supported by the Chair and other members of the PPPAC.

28. The PPPAC granted final approval to the project under NHDP Phase-III for TPC of Rs. 1002.48 crore with maximum VGF as Rs. 401 crore (40% of TPC) and subject to fulfilment of the following conditions:

- a. NHAI shall revise the Concession period to 20 years.
- b. MoRTH shall provide written confirmation that approval of competent authority for inclusion of the project in NHDP Phase III.
- c. NHAI shall ensure land acquisition in respect of the project to provide ROW in accordance with the provisions of the Model Concession Agreement (MCA) for National Highways.
- d. MoRTH shall obtain clearances such as environment and forest clearance, before commencing work on the project site.
- e. NHAI shall incorporate modifications in the project DCA (clause 27.1) to align it with the provisions of the Toll Policy.
- f. MoRTH shall obtain prior approval of the PPPAC on any change in scope of work or project configuration as noted above.
- g. MoRTH shall circulate the final documents to the members of the PPPAC for record.

(Action: MoRTH/NHAI)

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

**Ministry of Finance
Department of Economic Affairs**

Meeting of the Public Private Partnership Appraisal Committee (PPPAC)

49th Meeting on January 23, 2012

List of Participants

I. Department of Economic Affairs, Ministry of Finance

- i. Shri R. Gopalan, Secretary (In Chair)
- ii. Shri Rajesh Khullar, Joint Secretary
- iii. Smt. Aparna Bhatia, Director
- iv. Shri Abhijit Phukon, Deputy Director

II. Department of Expenditure, Ministry of Finance

- v. Smt. Sigy Thomas Vaidhyan, Deputy Secretary (PF II)

III. Planning Commission

- vi. Shri K. R. Reddy, Advisor
- vii. Dr. A. Manohar, Deputy Advisor

IV. Ministry of Road Transport & Highways (MoRTH)

- viii. Shri A. K. Upadhyay, Secretary
- ix. Shri Raghav Chandra, Joint Secretary

V. National Highway Authority of India (NHAI)

- x. Shri B.N. Singh, Member, NHAI
- xi. Shri M.P Sharma, Chief General Manager
- xii. Shri R.P. Singh, Chief General Manager
- xiii. Shri S. C. Jindal, Chief General Manager
- xiv. Shri MPS Rana, General Manager (T)

VI. Ministry of Shipping (MoS)

- xv. Shri B. Poiyaamozhi, Development Advisor, Ports
- xvi. Shri B. Krishnamourthy, Deputy Secretary
- xvii. Shri Vishal Gagan, Deputy Secretary

VII. Vishakhapatnam Port Trust (VPT)

- xviii. Shri Ajeya Kallam, Chairman
- xix. Shri G. Vaidyanathan, (Deputy Chief Engineer)
