

F. No. 2/1/2019-PPP  
Government of India  
Ministry of Finance  
Department of Economic Affairs  
(PPP Cell)

North Block, New Delhi  
Dated 26<sup>th</sup> November, 2019

**MEETING NOTICE**

**Subject: Record of Discussion of 90<sup>th</sup> Meeting of the Public Private Partnership Appraisal Committee (PPPAC)**

The undersigned is directed to enclose a copy of Record of Discussion of 90<sup>th</sup> PPPAC Meeting held on 30.10.2019 under the chairmanship of Secretary (Economic Affairs) to consider the proposal of Ministry of Shipping (MoS) for Deepening and Optimization of Paradip Port Trust (PPT) Inner Harbour Facilities including Construction of Western Dock Captive Berths to handle cape size vessels on PPP mode, for information and necessary action.

Encl: as stated above

  
(Mukesh Kumar Gupta)  
Director (PPP)

To,

1. CEO, NITI Aayog, Yojana Bhawan, New Delhi
2. Secretary, Ministry of Shipping, Transport Bhawan, New Delhi
3. Secretary (Expenditure), Ministry of Finance, North Block, New Delhi
4. Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi
5. Secretary, M/o Environment, Forest & CC, Paryavaran Bhavan, New Delhi

Copy to:

1. PPS to Secretary (EA)
2. JS (IPF)
3. Chairman, Paradip Port Trust

**Record of Discussion of 90<sup>th</sup> Meeting of Public Private Partnership Appraisal Committee (PPPAC)**

The 90<sup>th</sup> meeting of the PPPAC, chaired by Secretary (Economic Affairs) was held on 30.10.2019 to consider the proposal of M/o Shipping (MoS) for Deepening and Optimization of Paradip Port Trust (PPT) Inner Harbour Facilities including Construction of Western Dock Captive Berths to handle cape size vessels on PPP mode. The list of participants is *annexed*.

2. JS (IPF) informed that the above mentioned proposal was considered by PPPAC in its 88<sup>th</sup> meeting held on 11<sup>th</sup> July, 2019 and PPPAC recommended the proposal for the approval of Competent Authority subject to the following conditions:

- i. MoS will facilitate the firming up of revised technical qualification criteria by Project Authority (PPT) in consultation with DEA and NITI Aayog.
- ii. MoS will circulate the revised documents as noted above to the members of PPPAC for concurrence.
- iii. MoS shall ensure legal vetting of all the revised documents to ensure their legal sanctity.
- iv. MoS shall obtain prior approval of PPPAC for any change in scope of work or project configuration.
- v. The entire land (including project facilities) given to the concessionaire should be transferred back to the Authority free of cost after end of the concession period.
- vi. Bidding parameter (Royalty per Metric Ton) to be paid by the Concessionaire to the Authority cannot be included as a factor in tariff determination.

3. Chairman, Paradip Port Trust made a brief presentation on the proposal. In accordance with para-7 of the Record of Discussion of 88<sup>th</sup> PPPAC meeting, wherein it was decided that *“MoS/ PPT to undertake a study to ascertain whether the captive berth for PDI would be better than making all port players eligible to compete for the project”*, a comparative study on development of Western Dock on captive basis through Port Dependent Industry (PDI) vis-a-vis as a Common user facility was done by RITES. The study concluded that *the project be implemented under Captive Cargo from the Port Dependent Industry, for the successful implementation and thereby guaranteed revenue to the port on a long term basis.*

4. On the findings of the RITES study, it was stated that allowing Non-Port Dependent Industry players and taking up the project on common user basis may create more value to the Project Authority. It was also stated that, as per the PPT's future trends for western dock, it will facilitate import of coking coal which is the requirement of steel industry and restricting eligibility to PDI would result in underutilization of capacity as the total coking coal imports in 2018-19 are only 51 million tons, while the capacity of the proposed western dock is 25 million tons by 2025. D/o Expenditure and NITI Aayog supported the above view and added that the eligibility conditions for bidders seem unduly restrictive, may limit competition and may not generate interest from bidders unconnected to PPT. Competition will generate higher bid and produce more value to the Government. Further, restricting participation will expose traffic of the port to additional risks as per requirements of the PDI.



5. After detailed deliberations, it was decided that restricting the project to one PDI would result in impacting interest of other two PDIs who have also shown interest and restrict the growth of those industries. Therefore, all port players (including PDI) should be eligible to compete and the project should be taken up on common user basis. The eligibility criteria for PDI will be as per the Captive Berth Policy of 2016 and for non-PDI players, provisions of Model RfQ of D/o Expenditure will be followed. However, Minimum Networth of 50% of Total Project Cost (TPC) will be financial criteria for both PDI and non-PDI players. For other provisions, Model RfQ of D/o Expenditure should be followed and only project specific changes should be made. It was also agreed that the Bill of Lading bearing name of PDI will only qualify as captive cargo.

6. To protect the income of the PPT, Secretary (Shipping) suggested that the provision of Minimum Guaranteed Cargo of 70% should be retained for both PDI & Non PDI players. There is also a need to increase the Performance Guarantee and high penalties for non-achievement of specified milestones, which will obviate the chances of squatting by non-serious bidders. After deliberations, PPPAC agreed on keeping the Performance Guarantee at 20% of TPC with penalties for non-achievement of milestones (defined for every six months post signing of concession agreement by MoS).

7. Regarding Concession Agreement, NITI Aayog suggested that the Applicable Law should include all laws and all court orders, escrow waterfall should be revised and royalty payment should be placed above concessionaire debt service, and definition of debt due needs to be revised. After deliberations, it was decided that Ministry of Shipping will examine the suggestions vis-à-vis Model Concession Agreement (MCA) and do the necessary changes, if required.

8. After deliberations, it was decided that all the conditions mentioned in para-2 above will be applicable. PPPAC recommended the proposal for approval of the Competent Authority, subject to the following conditions:

- i. There should be provision of Minimum Guaranteed Cargo of 70%, which would be applicable from actual COD.
- ii. All players (including PDI) should be eligible to compete and this project should be taken up on common user basis.
- iii. The eligibility criteria for PDI will be as per the Captive Berth Policy of 2016 and for non-PDI players, provisions of Model RfQ of D/o Expenditure will be followed. However, Minimum Networth of 50% of Total Project Cost (TPC) will be financial criteria for both PDI and non-PDI players.
- iv. For other provisions, Model RfQ of D/o Expenditure should be followed and only project specific changes should be made.
- v. Performance Guarantee to be kept at 20% of TPC and high penalties for non-achievement of specified milestones (defined for every six months post signing of concession agreement by MoS).
- vi. Ministry of Shipping will circulate the revised documents as noted above to the members of PPPAC for record.

9. The meeting ended with vote of thanks to the Chair.

\*\*\*\*

**Annexure**

**Record of Discussion of 90<sup>th</sup> Meeting Public Private Partnership Appraisal Committee held on 30<sup>th</sup> October, 2019.**

**List of Participants:**

<b>Sl. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Shri Atanu Chakaraborty	Secretary (D/o Economic Affairs) – in Chair
2.	Shri Gopal Krishna	Secretary (Ministry of Shipping)
3.	Shri Rajeev Ranjan	Additional Secretary, D/o Expenditure
4.	Dr. Kumar V. Pratap	Joint Secretary (IPF), DEA
5.	Shri Rabindra Agarwal	Joint Secretary, Ministry of Shipping
6.	Shri Rinkesh Roy	Chairman, Paradip Port Trust
7.	Shri S K Saha	Adviser, NITI Aayog
8.	Dr. R.J.R. Kasibhatla	Deputy Legal Adviser, D/o Legal Affairs
9.	Shri Mukesh Kumar Gupta	Director (PPP), DEA
10.	Dr. Subrata Bose	Director, M/o EF&CC
11.	Ms. Shipra Sharma	Director (Ports), Ministry of Shipping
12.	Shri Hemant Kumar	Director, Ministry of Shipping
13.	Shri Manoj Kumar Madholia	Deputy Director (PPP), DEA
14.	Shri Arun Dewan	OSD (PPP), DEA