

**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**

28th Meeting on January 31, 2011

Record Note of Discussions

The twenty-eighth meeting of the Empowered Institution (EI), chaired by the Additional Secretary & Director General (DoC), Department of Economic Affairs (DEA), was held on January 31, 2011 to consider grant of approval for viability gap funding for State Highways proposals from Governments of Maharashtra, Uttar Pradesh, Madhya Pradesh and Rajasthan. The list of participants is annexed.

Agenda Item 1: Proposal from Government of Maharashtra (GoM) for final approval for viability gap funding: Four laning of Berala Phata-Chikhali-Amdapur Khamgaon to join NH 6 in Buldana District.

2. Director (PPP), DEA indicated that Government of Maharashtra had sought final approval for Viability Gap Funding (VGF) for ₹ 18.58 crore for the above project. The project was earlier granted in-principle approval by the EI in its 8th meeting held on January 22, 2007 for a Total Project Cost (TPC) of ₹ 92.89 crore and a VGF support of ₹ 18.58 crore. The EI had granted approval subject to the conditions that the Project Authority would adopt the Model Concession Agreement (MCA) for State Highways published by Planning Commission in all future projects; the Concession Agreement for the concerned project would be amended as per the decisions taken in the meeting; and the Project Authority would revise the relevant clauses and send the same for approval.

3. The EI noted that GoM has awarded the project for TPC of ₹ 213.50 crore and VGF support of ₹ 85.40 crore. GoM has proposed that the balance VGF required (₹ 66.82 crore) would be met by the State Government. It was indicated that Planning Commission and DEA have expressed reservations on the proposal, since the final VGF requirement for the project (39 per cent of the TPC revised by GoM) is 92 per cent of the TPC originally approved the EI.

4. Director, DEA indicated that GoM had, prior to the meeting, sent a communication conveying that the State Government requires some time to comply with the observations in the appraisal notes of Planning Commission and DEA. The EI deferred the consideration of the proposal.

(Action: GoM)

Agenda Item 2: Proposals from Government of Uttar Pradesh (GoUP) for in-principle approval for VGF support for the following projects:

- a) **Four laning (with paved shoulders) of Delhi-Saharanpur Yamunotri Road upto Uttrakhand Boarder (SH 57) on DBFOT basis (206.089 km; VGF of ₹ 343.67 crore).**
- b) **Four laning (with paved shoulders) in Varanasi- Shaktinagar section of SH 5A in the State of Uttar Pradesh on DBFOT basis (117.60 km; VGF of ₹ 121.19 crore).**
- c) **Four laning (with paved shoulders) of Bareilly-Almora section of SH 37 in the State of Uttar Pradesh on DBFOT basis (54 km; VGF of ₹ 70.81 crore).**

5. Director, DEA informed that the Uttar Pradesh State Highways Authority (UPSHA) have forwarded the above three proposals for grant of in-principle approval of EI. The appraisal notes of DEA and Planning Commission were sent to UPSHA for their comments. In response, UPSHA have complied with most of the

observations in the appraisal notes of DEA and Planning Commission. However, the revised project documents, after effecting the suggested corrections were awaited.

6. The EI noted that the cost of the projects was higher than normally considered for State highway projects. Adviser, Planning Commission informed that Planning Commission had assisted the State Government in structuring the projects and had closely reviewed the project cost. The cost per km for two of the projects, viz., Delhi-Saharanpur and Bareilly-Almora, were within the norms assumed for National Highways, i.e. ₹ 9.5 crore per km; cost for the project stretch from Varanasi to Shaktinagar, at ₹ 10.31 crore per km, was higher than the National Highways norms. The higher cost of the projects was on account of large number of structures, including elevated roads, major and minor bridges, RoB/RUB, by-passes, major/minor road junctions, culverts etc., on the stretches. It was explained that the project stretch from Varanasi to Shaktinagar traverses hilly terrain and is in a state of disrepair. The stretch witnesses considerable movement of trucks, which had accentuated the requirement of repair and reconstruction. The commercial traffic on the project stretch is high on account of the mine fields. Hence, it was expected that a robust revenue structure would make the project financially viable.

7. Joint Secretary, Ministry of Road Transport & Highways (MoRTH) indicated that the Ministry, in their appraisal notes have drawn attention to inconsistency in the scope of work of the Concessionaire indicated in the Schedules of the DCA. Status of land acquisition for the project has also, inter alia, been sought. The EI requested GoUP to respond to the observations of MoRTH and incorporate the suggested corrections in the revised project documents.

8. The representative of GoUP informed that:

8.1. The approval for General Administrative Drawings (GAD) for the RoB is under process and is likely to be obtained within the next one month.

8.2. The necessary environmental and forest clearances were being obtained.

8.3. For all the three projects; 80 per cent of the land is available with the Authority. Furthermore, 100 per cent of the land would be acquired before signing of the Concession Agreements.

9. Representative of GoUP informed that GoUP recently had held discussions with the Planning Commission for finalisation of the State Model Concession Agreement (MCA). Director, DEA requested GoUP to forward a copy of the finalised MCA for State Highways of GoUP, so that the subsequent projects may be appraised on the basis of the State MCA.

(Action: UPSHA/GoUP)

10. The EI noted that the RfP for the above three projects have already been issued, which is not in accordance with the provisions of the Scheme for Support to PPPs in Infrastructure. Adviser, Planning Commission requested EI to consider these proposals from the State Government, since these are the first set of projects received from Uttar Pradesh. However, this may be treated as a one-time exception from the established process for grant of in-principle approval for VGF support.

11. The representative of GoUP informed that the breach in the prescribed procedures was on account of lack of knowledge about the provisions of the guidelines and confirmed that all future projects would be sent in accordance with the Scheme. It was informed that the Bid due date for receipt of response for the RfP for the three projects has been extended to March 15, 2011, with a view to comply with the directions of the EI. The EI decided to grant one-time exception for the departure in the procedure for in-principle approval for VGF support for the above projects, and advised the GoUP to ensure that in future, approval of EI is obtained before the issue of RfP.

12. The EI granted in-principle approval for VGF support of ₹ 70.81 crore for the project stretch for Bareilly- Almora and recommended the projects from Delhi to Saharanpur and Varanasi to Shaktinagar to Empowered Committee (EC) for VGF support; subject to the condition that the State Government would forward the revised project documents, duly incorporating the observations of members of EI (i.e. DEA, Planning Commission and MoRTH) in their appraisal notes.

(Action: UPSHA/GoUP)

Agenda Item 3: Proposals from Government of Madhya Pradesh (GoMP) for in-principle approval for VGF support for the following projects:

- a) **Development of Betul-Sarni-Tikadhan-Junnardeo-Parasia (SH 43) road in the State of Madhya Pradesh on DBFOT basis (124.10 km; VGF sought for ₹ 47.53 crore)**
- b) **Development of Rau-Mhow-Jamghat-Mandleshwar (SH 38)) road in the State of Madhya Pradesh on DBFOT basis (74.40 km; VGF sought for ₹ 35.21 crore)**
- c) **Development of Jhabua-Jobat-Zeerpanya-Bagh –Kukshi (SH 39) road in the State of Madhya Pradesh on DBFOT basis (95.50 km; VGF sought for ₹ 31.49 crore)**
- d) **Development of Damoh-Bhatiyagarh-Baxwaha-Hirapur (SH 37) road in the State of Madhya Pradesh on DBFOT basis (69.60 km; VGF sought for ₹ 24.55 crore)**

13. The EI noted that MPRDC have posed four proposals for approval for VGF support. The traffic on the project stretches is low, making the projects unviable. Hence, MPRDC proposes to provide deemed shadow toll to the Concessionaire during the first ten years of the Concession Period, in addition to the tolling rights on the project stretches. The deemed shadow toll has been termed as

payment/compensation by MPRDC to the Concessionaire for the movement of exempted vehicles on the project stretches.

14. The EI noted that the appraisal notes of Planning Commission in respect of the four proposals had not been received. Adviser, Planning Commission stated that Planning Commission was supportive of the concept of deemed shadow toll. However, the internal clearance and approval required prior to release of the appraisal notes was awaited, hence, the responses were yet to be sent. It was explained that the concept of deemed shadow toll was new; hence, appraisal of the projects was taking more time for better examination of its implications. It was requested that the consideration of the projects may be deferred; and informed that Planning Commission will send its appraisals on the said projects within the next one week.

15. MD, MPRDC informed that MPRDC had clarified the concept to the Planning Commission. All the observations of Planning Commission had been complied with and were agreeable to MPRDC. It was requested that EI may grant in-principle approval to the proposals subject to incorporations of all the recommendations of DEA, Planning Commission and other Appraising Agencies in the project documents.

16. Director, DEA indicated that DEA have concerns on the estimation of deemed shadow toll and the same have been communicated to MPRDC vide its appraisal notes on the projects; the response on the observations is awaited. It was pointed out that the last set of projects from MPRDC, granted approval by EI, on completion of the bid process, had received a premium as the bid response. Therefore, MPRDC may consider first testing the private sector interest for the instant project stretches without incorporating the concept of deemed shadow toll.

17. Director, Department of Expenditure (DoE) informed that DoE are not comfortable with the provision of the deemed shadow toll. In monetary terms, the payout in 10 years would be around ₹ 40 crore over and above the VGF of ₹ 200 crore. The willingness to support such public funding for the stretches required review. The proposals, without the component of the deemed shadow toll, may be granted in-principle approval to test the market. Further, the formulation of VGF up to 40 per cent of TPC as well as the deemed shadow toll needs close examination with respect to the provisions of the VGF Scheme.

18. Joint Secretary, MoRTH supported the views of DoE and suggested that deemed shadow toll, if any, should be within the limit up to 40 per cent of TPC, with GoI support to the projects being up to 20 per cent of TPC. The provisioning of VGF as well as deemed shadow toll should not breach the provisions of the Scheme. Further, the Toll Rates of the State Government should be at par with the Toll Rates for National Highways. It was requested that MPRDC may confirm in detail the list of exempted vehicles which were being considered to estimate deemed shadow toll.

19. MD, MPRDC clarified that deemed shadow toll will be borne by the State Government, which may be over and above 40 per cent of TPC. However, the same work out to 10 per cent of TPC on NPV basis, and is proposed to be paid in 10 years. It was, further, informed that the exemptions provided by the State Government were similar to the exemptions provided by the National Highway Authority of India (NHAI).

20. Director, DEA indicated that MoRTH in their appraisal had conveyed that a segment of Damoh-Bhatiyagarh-Baxwaha-Hirapur stretch was a part of the National Highway. Joint Secretary, MoRTH informed that the said National Highway stretch being de-notified. However, the process of de-notification is yet to be completed.

21. The Chair observed that deemed shadow toll and its applicability under the provisions of the VGF Scheme is yet to be formalised, and requires further examination. Planning Commission was requested to send the appraisal notes on the project proposals expeditiously.

22. The EI deferred the grant of in-principle approval for VGF support for the four proposals of GoMP to the next meeting of the EI. MPRDC was advised to respond to the observations of DEA and MoRTH. It was decided that MPRDC would make a presentation on the formulation of deemed shadow toll and related issues, such as, State Toll Rates, and list of exempted vehicles vis-a-vis the National Toll Rules.

(Action: Planning Commission; MPRDC/GoMP)

Agenda Item 4: Proposals from Government of Rajasthan (GoR) for in-principle approval for VGF support for the following projects:

- a) Two laning of section from Chomu to Mahla via Renwal, Jobnet through PPP on DBFOT basis (82.087 km; VGF sought ₹ 25.37 crore)
- b) Two laning of Kotputli- Kuchamann via Neem ka Thana, Sikar, Lohsal (225.40 km; VGF sought ₹ 71.55 crore)

23. Director (PPP), DEA informed that the two proposals from GoR have earlier been granted in-principle approval by the EI. GoR had subsequently requested for an increase in the TPC of the projects. It was noted that representatives of GoR were not present in the EI meeting. Joint Secretary, DEA suggested that since the representatives of the State Government were not present in the meeting, the proposals may be deferred. The members of EI endorsed the view. The EI deferred consideration of the proposals from the Government of Rajasthan.

(Action: GoR and DEA)

24. MD, MPRDC informed that Planning Commission, on many occasions, have requested for and organised bi-lateral meetings for discussion with the State Governments/Project Authorities; in breach of the provisions of Cabinet approved Guidelines. It was suggested that such discussions should be discouraged; or organised by DEA between MPRDC and all members of EI. Adviser, Planning Commission indicated that the bi-lateral meeting was conducted to discuss the MCA for State Highways and not in the context of the project DCAs. The EI observed that this is a repeated departure from the provisions of the Cabinet approved Guidelines, which had been noted by the EI on earlier occasions. Hence, it may be brought to the notice of Empowered Committee to take a comprehensive view on the matter.

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