



GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS

Transport Bhawan,
1, Parliament Street,
New Delhi-110 001

No. RW/NH-39013/23/2015/NHDP-IVA

Dated 16th August, 2017

To

1. The Chief Secretaries of all State Governments/U.Ts.
2. The Principal Secretaries/Secretaries of all States/U.Ts. Public Works Department dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
3. The Engineers-in-Chief and Chief Engineers of Public Works Department of States/U.Ts dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
4. The Chairman, National Highways Authority of India, G-5&6, Sector-10, Dwarka, New Delhi – 110075.
5. The Director General (Border Roads), Seema Sadak Bhawan, Ring Road, New Delhi-110010.

Subject: - Clarifications on Schedule 'H' and Schedule 'J' of Model EPC Agreement due to non-handing over of entire encumbrance free project stretch.

References have been received from various contractors wherein it has been claimed that actual unencumbered length handed over at the time of 'appointed date' is much less than the total project length due to various hindrances, while payments are being made as per the payment milestones for the total project length as per Schedule 'H'. In cases where such claims regarding non-handing over of the encumbrance free working fronts are correct, it is affecting the cash flows of the contractors and subsequent project completion. The references received from the contractors have been considered and following clarifications are issued in terms of provision of EPC contract document:

Reference clause	Description	As per model document	Clarification
Schedule-H, clause 1.3.1A	Widening, strengthening and reconstruction of existing road. Payment procedure for Earthwork up to top of Sub-grade, Granular work (Sub-base and base), Shoulder, Bituminous works and Rigid Pavement.	Unit of measurement is linear length. Payment of each stage shall be made on pro rata basis on completion of a stage in a length of not less than 10 (ten) percent of the total length.	If existing road length (excluding bypasses, re-alignment, structure) is say ' L ' km and the unencumbered length along the existing road as handed over on the appointed date is ' L_1 ' km and the balance length i.e. ' L_2 ' km ($L - L_1$) is to be handed over on a later date as per the memorandum signed under provision of Clause 8.2.1 of the Contract Document, then the stage payment shall be worked out for the ' L_1 ' km length handed over on the appointed date. The stage payment for the remaining ' L_2 ' km length shall be worked out on prorata basis from the date of handing over of such length.
Schedule-H, clause 1.3.1B	New 2 lane re-alignment, bypasses. Payment procedure for Earthwork up to top of Sub-grade, Granular work (Sub-base and base), Shoulder, Bituminous works and Rigid Pavement.	Unit of measurement is linear length. Payment of each stage shall be made on pro rata basis on completion of a stage in full length or 5 (five) km length.	Unit of measurement is linear length of each bypass/ re-alignment (excluding structures) and payment of each stage shall be made on prorata basis on completion of a stage in full length or 5 (five) km length of each bypass/ re-alignment taken separately.

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Reference clause	Description	As per model document	Clarification
Schedule-J, project completion schedule.	Project Milestone-I, Project Milestone-II, Project Milestone-III	Occurrence of the Project Milestone-I, II and III is linked to stage payment statement for amount in percentage of the total contract price.	<p>If total project length is say 'L' km and the unencumbered length along existing road as handed over on the appointed date is 'L₁' km (including bypasses, re-alignment, structure etc.) and balance length i.e. 'L₂' km (L - L₁) is to be handed over on a later date as per the memorandum signed under provision of Clause 8.2.1 of the Contract Document, then the Project Milestone-I, II and III shall be linked to stage payment statement for amount in percentage of the contract price worked out on prorata basis for the 'L₁' km length handed over on the appointed date. After handing over of balance length, the subsequent Project Milestone shall be linked to stage payment statement for amount in percentage of the total contract price.</p> <p>For example: If the date for Milestone-I and Milestone-II is 180th and 300th day from appointed date and balance 'L₂' km length is handed over after 300th day from appointed date, then the stage payment statement required for achieving Milestone-I and Milestone-II should be linked to Contract Price worked out on prorata basis for the L₁ km length [i.e. for Contract Price x L₁ / L]. Subsequent Milestone i.e. Milestone-III will be linked to stage payment statement for amount in percentage of the total contract price. In no case, there shall be any change in the scheduled completion date unless extension of time has been granted by the Authority under Clause 10.3 and 10.5 of the contract agreement.</p>

2. In order for the above dispensation to come into operation, it is necessary that a suitable mechanism (like escrow account) is evolved between the parties to the effect that the payments released to the contractor under the above dispensation would be used for completion of the project in the first instance and shall be available to the Contractor only after meeting his project related commitments.

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

Yours faithfully,

Narendra Sharma 6.8.17

(Narendra Sharma)

Superintending Engineer (NHDP-IVA)

For Director General (Road Development) & Special Secretary

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1. PS to Hon'ble Minister, (RTH&S)
2. PPS to Secretary, RT&H
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4. All ADGs / JS(H) / JS(E&IC) / Chief Engineers
5. All Technical Officers in the Ministry of Road Transport & Highways
6. All ROs and ELOs of the MoRT&H
7. The Secretary General, Indian Roads Congress.
8. The Director, IAHE, Noida.
9. NIC for uploading the circular on the website.