

**NATIONAL HIGHWAYS AUTHORITY OF INDIA LIMITED (NHAI)**

**MINISTRY OF ROAD TRANSPORT AND HIGHWAYS**

**COMMITTEE ON PUBLIC UNDERTAKINGS  
(2018-2019)**

**TWENTY-FIFTH REPORT**

**(SIXTEENTH LOK SABHA)**

(Action taken by the Government on the Observations / Recommendations contained in the Nineteenth Report (Sixteenth Lok Sabha) of the Committee on Public Undertakings (2017-18) on National Highways Authority of India Limited (NHAI)



**LOK SABHA SECRETARIAT**

**NEW DELHI**

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**(Action taken by the Government on the Observations / Recommendations  
contained in the Nineteenth Report of the Committee on Public Undertakings on  
National highways Authority of India Limited)**

***Presented to Lok Sabha on 20.12.2018***  
***Laid in Rajya Sabha on 20.12.2018***



**LOK SABHA SECRETARIAT**  
**NEW DELHI**

**20 December, 2018/ 29 Agrahana, 1940 (Saka)**

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**COMPOSITION OF THE COMMITTEE ON PUBLIC UNDERTAKINGS**  
**(2018-2019)**

Shri Shanta Kumar - Chairman

MEMBERS

*Lok Sabha*

1. Shri L.K. Advani
2. Shri Ramesh Bais
3. Shri B. Vinod Kumar
4. Shri G. Hari
5. Dr. Hari Babu Kambhampati
6. Shri Ajay Nishad
7. Shri Prahlad Singh Patel
8. Shri Shanta Kumar
9. Shri Nagendra Kumar
10. Prof. Saugata Roy
11. Adv. Narendra Keshav Sawaikar
12. Shri Ravneet Singh
13. Shri Sushil Kumar Singh
14. Shri Rameswar Teli
15. Vacant

*Rajya Sabha*

16. Shri Pratap Keshari Deb
17. Shri Naresh Gujral
18. Mohd. Ali Khan
19. Shri Shamsheer Singh Manhas
20. Shri Ram Vichar Netam
21. Shri C.M. Ramesh
22. Shri A.K. Selvaraj

SECRETARIAT

- |    |                    |   |                      |
|----|--------------------|---|----------------------|
| 1. | Smt. Sudesh Luthra | - | Additional Secretary |
| 2. | Smt. R.C. Tiwari   | - | Joint Secretary      |
| 3. | Shri G.C. Prasad   | - | Deputy Secretary     |

## **INTRODUCTION**

I, the Chairperson, Committee on Public Undertakings having been authorized by the Committee to submit the Report on their behalf, present this Twenty-fifth Report on Action Taken by the Government on the Observations/Recommendations contained in the Nineteenth Report of the Committee on Public Undertakings (Sixteenth Lok Sabha) on "National Highways Authority of India Limited (NHAI)."

2. The Nineteenth Report of the Committee on Public Undertakings (2017-18) was presented to Lok Sabha and laid on the Table of Rajya Sabha on 02 August, 2017. The Action taken Replies to all the 18 recommendations contained in the Report were received from the Ministry of Road Transport and Highways 02 on November, 2018.

3. The Committee considered and adopted the draft Report at their sitting held on 03 December, 2018.

4. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Twenty-fifth Report of the Committee (2018-2019) is given in Appendix II.

**New Delhi**  
**14, December , 2018**  
**23, Agrahayana, 1940(S)**

**SHANTA KUMAR**  
**Chairperson,**  
**Committee on Public Undertakings.**

## REPORT

### CHAPTER I

This Report of the Committee deals with the action taken by the Government on the observations/recommendations contained in the Nineteenth Report (Sixteenth Lok Sabha) of the Committee on Public Undertakings (2017-18) on "National Highways Authority of India (NHAI)" which was presented to Lok Sabha on the 2nd August, 2018. It contained twenty-seven observations/recommendations.

2. Action taken notes have been received from the Government in respect of all the twenty-seven observations / recommendations contained in the Report. These have been categorized as follows:

- (i) Observations/Recommendations which have been accepted by the Government (Chapter II)  
Sl. Nos. 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27  
(Total 20)
- (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the Government's replies (Chapter III)  
Nil  
(Nil)
- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee (Chapter IV)  
Sl. Nos. 6, 15, 22  
(Total 3)
- (iv) Observations/Recommendations to which the Government have furnished interim replies (Chapter V)  
Sl. Nos. 9, 13, 14, and 25  
(Total 4)

3. **The Committee desire that final replies on the observations / recommendations to which interim replies have been furnished should be expedited. They also desire that response to their comments in Chapter I of the Report should be furnished to them expeditiously.**

4. The Committee will now deal with the action taken by the Government on some of the observations/recommendations in the succeeding paragraphs.

### **Slow progress in construction of highways**

#### **Recommendations (Sl. No.2 & 5)**

5. The Committee in their Nineteenth Report, had recommended as follows :-

" The Committee observe that to accelerate the construction process, the Ministry of Road Transport and Highways had set an ambitious target of awarding 25,000 km of National Highways for the year 2016-17 while the construction target was set at 15,000 km. out of the total length of Highways targeted for awarded, 10,000 km was the target of NHAI and its target for construction was fixed at 8000 km. However, the Committee are disappointed to note that during the year 2016-17 (as on March 2017), 4336 km of roads were awarded and 2628 km were constructed by NHAI against the targets of 10000 km and 8000 km respectively. In view of the above, the Committee feel that despite remedial steps taken by NHAI and the Ministry to accelerate the construction process of highways, current progress of construction of highways has, perhaps, not gained the requisite momentum even during 2016-17. Hence the Committee opine that there is a need to further analyse factors hindering the progress of construction of highways during this period too. Further, taking note of the responsibility assigned to NHAI to construct new roads of 6000 km in border areas under the ambitious Bharat Mala project, the Committee desire that the procedures should be completed in time. They desire further to be apprised of the progress made in this project at the action taken stage."

6. The Ministry, in their action taken reply, have stated as follows :-

"Targets for award of civil works by National Highways Authority of India (NHAI) fixed for year 2016-17 and 2017-18 were 15,000 kms and 10,000 kms respectively and NHAI awarded civil works of length 4336 kms and 7397 kms in the year 2016-17 and 2017-18 respectively. Regarding construction, NHAI constructed 2628 kms and 3037 kms roads in the year 2016-17 & 2017-18 against the target of 4600 kms & 6000 kms respectively. On analysing, it was observed that NHAI could not achieve these targets specially in BOT (Toll) projects due to the following factors:

- (i) Over-leveraged financials for developers due to excessive exposure to infrastructure projects.

- (ii) Lack of availability of debt products aligned with revenue stream profile of highway projects.
- (iii) Banks reaching the ceiling as per sectoral exposure norms.
- (iv) Aggressive bidding based on unrealistic traffic projections.
- (v) Inadequate project preparatory activities.
- (vi) Projects getting stalled during construction due to LA and clearance related issues.

The Cabinet Committee on Economic Affairs has approved the implementation of an umbrella programme for the National Highway Road Sector – “Bharatmala Pariyojana Phase-I”, spanning over a period of 5 years (2017-2022) at an estimated outlay of Rs. 5,35,000 crores.

Further, to expedite the project appraisal and approval, the Board of NHAI (Authority) has been delegated the power for appraisal and approval of projects with certain limits. The Board of NHAI (Authority) has also been authorized to delegate its power for approval within NHAI. Accordingly, a Committee has also been constituted namely Project Appraisal and Technical Scrutiny Committee (PATSC) for appraisal and technical scrutiny of projects.

Under Border Roads category, approximately 3300 km of corridors have been envisaged to be developed based on their strategic importance along international borders with Pakistan, Nepal, China, Bhutan and Bangladesh to ease movement of freight and passengers along these routes. Further, 1900 km of corridors have also been identified as International Connectivity Roads for connecting India's major highway corridors to International trade points so as to facilitate road-based EXIM (export-import) trade with Nepal, Bhutan, Bangladesh and Myanmar.

Of the total length identified for Border and International Connectivity Roads, 2,000 km have been approved to be implemented in Bharatmala Pariyojana Phase-I. Under Border Roads category, projects with aggregate length of 970 km have been awarded by June, 2018. Feasibility Study / DPR works for a total length of about 1790 km is under process. Under International Connectivity Roads category, an aggregate length of about 50 km have been awarded by June, 2018. Feasibility Study/ DPR works for approximately 1310 km is under process."



7. In the subsequent Recommendation No. 5, the Committee had recommended as follows :-

"PPP Model: From BOT to Hybrid Annuity Model – From the deposition of NHA, the Committee note that poor performance of concessionaries on account of economic slowdown is a major factor responsible for delay in Build Operate and transfer (BOT) projects under the PPP model. Most of the delayed projects under the BOT mode of execution could not takeoff in the wake of economic slowdown as developers were not able to finance the projects due to their over leveraged balance sheets. Further, due to reduced growth of traffic and lesser revenue realization consequently, the concessionaires could not meet their debt service obligations and defaulted in their debt accounts. As a result of the aforesaid factors, financial viability of BOT mode of projects got heavily jeopardized.

While taking note of the reasons for sluggish performance of BOT mode of projects, the Committee observe that apart from economic slow-down, sluggish performance of BOT projects can also be attributed to deficiency in the planning and execution capacity of the Government as well as delay in acquisition of land and arrangement of requisite regulatory approvals for the projects under BOT mode. The Committee feel that the Government introduced PPP model without due planning and even without creating an enabling policy environment for successful implementation of such a model. In this connection, the Committee recall the recommendations made by the Kelkar Committee constituted by the Ministry of Finance which has inter-alia recommended that PPP model should not be used at the first delivery mechanism without checking the suitability for a particular project. Kelkar Committee has also recommended for constitution of a infrastructure PPP Projects Review Committee to examine the performance of PPP projects and legacy issues associated with these projects. While taking note of recommendation of Kelkar Committee this Committee desire that the Government should examine the reasons for failure of BOT mode under PPP model and take suitable measures to revive the languishing projects. In this direction the Committee take note of some of the initiatives taken by NHA to revive the languishing BOT projects. These include permitting 100 percent equity divestment after two years of construction completion for all BOT projects, equity infusion in BOT projects and rationalization of compensation to concessionaire in case of delays not attributable to them. The Committee are of the view that in view of the huge cost of infrastructure development projects, there is a need to mobilize resources from sources other than Government funding and therefore, it is imperative that the project execution model under public-private partnership remains reasonably attractive for the private investors.

The Committee, accordingly, support the initiatives taken by the Government to revive the languishing BOT projects by making them more conducive to the demands of private investors, and desire to be apprised of the impact of these measures on ground.

The Committee also feel that it is equally important to ensure that private investors do not manipulate the contract provisions of concession agreement to generate profuse returns at the cost of public interest. The Committee hence are of the view that it is the responsibility of NHAI to protect the interest of highway users as well as the Government in all public-private partnership contracts.

In view of the fact that most of the projects awarded under the BOT modes of PPP model could not be completed on time, the Committee find that the Government introduced a new 'Hybrid Annuity Model (HAM)' of project execution combining the main features of two prevailing models i.e. Build Operate Transfer (BOT)-Annuity & Engineering, Procurement and Construction (EPC).

In this regard, they were informed that unlike the BOT models, HAM assures better risk allocation amongst private concessionaires and NHAI/Government as 40% of bid project cost shall be payable to the concessionaire by NHAI in five equal installments linked to project completion milestones and concessionaries shall have to bear the balance 60% of bid project cost through combination of equity and debt. With assured annuity payments to concessionaries it is expected that the operations & maintenance risks during construction and operation period will be mitigated and it will also allay the apprehensions arising out of the uncertainty in traffic volume. Further, HAM projects are expected to be completed on schedule as payments to concessionaire have been linked to the project completion milestone which are based on both physical and financial progress unlike the BOT mode wherein the project completion milestone were based on financial progress only. During 2016-17, out of the total awarded projects of 4336 km by NHAI, projects of 2434 km have been awarded under HAM. The Committee are glad to learn that with HAM projects getting momentum, total length of road construction by NHAI has also increased to 2628 km during the year 2016-17 from 1987 km during the year 2015-16.

Taking note of the successful beginning of HAM projects and interest shown by investors for these projects, the Committee appreciate the efforts of the Government to revive the PPP projects in road and highways sector with introduction of HAM. They hope that with its better risk allocation structure, interest of private concessionaire in infrastructure sector could be revived. The Committee also feel that if HAM projects are implemented with due caution,

many delayed projects may be expedited and stalled projects may be revived. However, in view of the experience gained from the implementation of PPP model so far, the Committee desire that for development of highways infrastructure projects, PPP model, be it BOT mode or HAM, should be preceded by proper planning and due assessment of the feasibility of the projects.

While the Committee expect good progress of projects under the PPP model, as is evident with the HAM mode, it is still a reality that the private sector does not prefer projects which have low profitability for them. In such projects, the Ministry has to come forward for public good. Hence the committee recommended that the Ministry must adopt a proactive approach towards highway construction throughout the length and breadth of the Country. They have to also convince the private sector for enhanced participation in the same as better road linkage translates into better industrial performance resulting into better profits for all stakeholders."

8. The Ministry, in their action taken reply, have stated as follows :-

"Ministry of Road Transport & Highways has analysed the causes/ factors likely to attribute to poor performance of BOT projects, some of which are mentioned as under:

- (i) Over-leveraged financials for developers due to excessive exposure to infrastructure projects.
- (ii) Lack of availability of debt products aligned with revenue stream profile of highway projects.
- (iii) Banks reaching the ceiling as per sectoral exposure norms.
- (iv) Aggressive bidding based on unrealistic traffic projections.
- (v) Inadequate project preparatory activities.
- (vi) Projects getting stalled during construction due to LA and clearance related issues.

Ministry, after having duly considered the recommendations of Kelkar Committee, had taken the following measures for revival of languishing projects:

- (i) MoRTH has been taking proactive steps to identify bottlenecks involved in awarded but languishing NH projects and address them through appropriate policy initiatives in course of the last two and half years.

- (ii) 73 NH projects with aggregate length of around 8,310 km were languishing around three years back. These projects involved estimated capital investment of around Rs. 1,00,000 crores that remained blocked. As a result of MoRTH interventions, most of the languishing projects have been effectively put back on track.

**Policy measures undertaken to resolve languishing projects are as follows:**

- (i) Exit Policy – the policy enables private developers to take out their entire equity and exit operational BOT projects two years from start of operations (COD) irrespective of date of award thereby enabling reinvestment of such unlocked equity.
- (ii) Premium deferment in stressed projects – the policy permits rescheduling of premium committed by concessionaires during bid stage for awarded projects.
- (iii) Rationalized compensation to concessionaires for languishing NH projects in BOT mode for delays not attributable to concessionaires.
- (iv) One-time fund infusion – the policy enables revival and physical completion of languishing BOT projects that have achieved at least 50% physical progress, through one-time fund infusion by NHAI, subject to adequate due diligence on a case to case basis.
- (v) Introduction of Hybrid Annuity Mode - In the model, 40% Project Cost is provided by the Government as 'Construction Support' and balance 60% as annuity payments during operations period with interest (Bank Rate +3.00%). Separate provision for O&M payments to concessionaire. The private party does not have to bear the traffic and inflation risks. The model has been widely accepted by the market.
- (vi) Introduction of TOT model (Toll Operate Transfer) - In the Model, collection rights for Toll Fees for operational public funded NH projects is assigned for a 30 year concession period to concessionaires against upfront payment of a lump-sum amount. O&M obligations is with the concessionaire during the concession period. First round of bid completed at NHAI for TOT projects - bundle of 9 project stretches (length 680 km) bid out. H1 bidder quoted concession fee of Rs 9681.5 cr (against NHAI estimated Rs 6258 Cr).
- (vii) Efforts are being made to introduce variable BOT mode.

- (viii) Proactive steps taken to accelerate Land Acquisition (LA) - Single CALA account set up at NHAI to aggregate disbursed compensation funds and maximize interest savings. NHAI ROs empowered to expeditiously approve land compensation.
- (ix) The Ministry with the help of National Informatics Centre has developed a Web Portal – BhoomiRashi, to digitize the entire process of land acquisition. LA process has been expedited significantly through this initiative. BhoomiRashi has also been integrated with the Public Financial Management System (PFMS) platform of the Ministry of Finance, for deposition of compensation in the account of affected/interested person, on real-time basis.
- (x) Further, the Ministry issued comprehensive guidelines on Land Acquisition for NHs vide letter No. NH-11011/30/2015-LA dated 28.12.2017 to simplify the complex issues of Land Acquisition viz. applicability of certain provisions of RFCTLARR Act 2013 on NH Act 1956, date of determination of market value of land, issue of multiplication factor, bulk acquisition through consent of land owners etc.
- (xi) Electronic Toll Collection (ETC) is being encouraged to minimize toll collection time and reduce pilferage in toll collection on NHs. Enabling facilities for ETC being put proactively in all toll plazas. Out of the total 429 Toll Plazas, 275 Toll Plazas are on PPP Concession Roads and 154 are on Public funded road assets. Of these, all lanes have been equipped with the requisite Infrastructure in case of 165 PPP Toll Plazas and 77 Public Funded Toll Plazas. Further, 108 PPP Toll Plazas and 24 Public Funded Toll Plazas have been equipped with two-lane dedicated ETC Infrastructure. 32,86,918 lakh FASTags have been sold so far (as on 25.10.2018) and average daily toll collection through ETC has reached 22.5 % of total toll revenue.

**9. On the observation of the Committee regarding slow progress of highways during the year 2016-17, the Committee have been apprised about the progress made with regard to construction of highways viz-a-viz the targets during the years 2016-17 and 2017-18 in the action taken replies, which indicates that civil works of length 4336 kms and 7397 kms, against the target of 15,000 kms and 10,000 kms respectively could be awarded during these years. So far as construction status is concerned NHAI constructed 2628 kms and 3037 kms roads in the year 2016-17 and 2017-18 against the target of 4600 kms and 6000 kms respectively.**

The reasons enumerated for not achieving the targets especially in BOT (Toll) projects, as mentioned in action taken reply, *inter-alia* include over-leveraged financials for developers due to excessive exposure to infrastructure projects; banks reaching the ceiling as per sectoral exposure norms; aggressive bidding; inadequate project preparatory activities etc. The Committee while taking note of the initiatives taken to address the issue of delay, which *inter-alia* include introduction of Hybrid Annuity Mode, Exit Policy, One time fund infusion, variable BOT mode, observe that there is a need to review the outcome of these initiatives. Besides the issues related to financing of the projects for which NHAI need to take up the issue with the Ministry of Finance/Banks for policy review, some of the reasons as mentioned in the reply like aggressive bidding based on unrealistic traffic projects, inadequate project preparatory activities, were well within the control of NHAI. While reiterating their earlier recommendation, the Committee would like NHAI to lay emphasis on proper planning and due assessment of the feasibility of the projects. On the measure taken for one time fund infusion, the Committee would like to caution NHAI / Ministry to take due diligence while taking recourse to one time fund infusion. The cases of one time fund infusion so far, the status of the projects and the procedure in this regard may be elaborated at the final action taken stage.

Regarding Bharatmala Project, the Committee take note of the status of implementation of the programme under Border Roads, whereby 2,000 km has been stated to have been approved, aggregate length of 970 kms awarded by June 2018, DPR works for another 179 kms under process and under International Connectivity Roads category, the aggregate length of about 50 km could be awarded by June, 2018 and feasibility study / DPR works for approximately 1310 kms are under process. The Committee would like to emphasise for taking all the initiatives for completing the targeted construction of roads under Bharatmala Project keeping in view their strategic requirement.

## **Practice of sub-contracting of NHAI projects**

### **Recommendation (Sl. No. 6)**

10. The Committee in their Nineteenth Report, had recommended as follows :-

"Restriction on Sub-contraction – The Committee note that due to the Sub-Contracting by the main contractors quality of work has significantly suffered in many projects. Further, practice of sub-contracting has also resulted into delay in project completion in many cases. It has been observed that the main contractor usually sublet the tenders to the sub-contractors after retaining their margins which results into degradation of quality of work as they do not have enough incentives to maintain the expected level of quality.

In view of the above, the Committee are of the opinion that while it may not be practical to completely rule out the practice of sub-contracting, NHAI should explore the possibility of imposing certain restrictions with respect to sub-letting of contracts, in order to ensure quality of work and timely completion of projects. This could also be done by levying of penalty on the main contractor if the sub-contractor leaves the project incomplete. Registration of sub-contracts and blacklisting of contractors may also be made mandatory to ensure that practice of sub-contracting does not affect the projects adversely. The Committee would like to be apprised about the preventive action taken in the matter."

11. The Ministry, in their action taken reply, have stated as follows :-

"To strengthen the resources available with the Contractor for execution of the project, practice of sub-contracting is resorted to. This is admissible under contract. Adequate provisions are there in the contract agreements to ensure that the main contractor, who is fully responsible to the employer for the work, complies with the various terms of the agreement irrespective of employment of sub-contractor for the work. Following provision exist in various contract document in this regard:

#### **1. BOT (Toll) Projects:**

(a) Clause 2.1.18 of the RFP for BOT (Toll) projects stipulates as under:

Other Bid conditions shall include:

(i) The Bidder, in case it does not have the O&M experience specified in Clause 2.2.3 of the RFQ, by submitting its Bid, shall be deemed to acknowledge and agree that for a period of at least 5 (five) years from the date of commercial operation of the Project, it shall enter into an operation& maintenance (O&M) agreement with an entity having the

specified experience, failing which the Concession Agreement shall be liable to termination.

(ii) The Bidder would provide an undertaking to NHAI that EPC works of the project would be executed only by such EPC contractor who have completed at least a single package of more than 20% of the TPC or Rs.500 Cr, whichever is less. An undertaking to this effect shall be provided by the Bidder.

Article 48 of the Concession Agreement stipulates the definition of Project Agreements as under:

“Project Agreements” means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, Tolling Contract, and any other material agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Escrow Agreement, Substitution Agreement, or any agreement for procurement of goods and services involving a consideration of upto Rs. [5(five)] crore;

(b) Article 5, Clause 5.2.2 of Concession Agreement stipulates as under:

The Concessionaire shall submit to the Authority the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 30 (thirty) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that no review and/or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

(c) Schedule Q, Clause 4.5 of Concession Agreement stipulates as under:

Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Highway, and furnish its comments within 15 (fifteen) days from receipt of such reference from the Authority.



2. **HAM Projects:**

- (a) Clause 5.2.5 of Concession Agreement stipulates as under:

*Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that selection or replacement of the EPC Contractor and an O&M Contractor and execution of the EPC Contract and O&M Contract shall be subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously and no later than 30 days from the date of receipt of the proposal alongwith the draft agreement by the Authority. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire or its Contractors from any liability or obligation under this Agreement.*

- (b) Clause 4.5 of Concession Agreement stipulates as under:

During development period, upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

3. **EPC Projects:**

- (a) Clause 3.2.4 of EPC agreement stipulates that:

It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all its obligations under this agreement notwithstanding anything contained in the agreements with its Sub-Contractors or any other agreement that may be entered into by the contractor, and no default under any such agreement shall excuse the contractor from its obligations or liability hereunder.

- (b) Clause 3.4.1 of EPC agreement stipulates that:

The Contractor shall ensure that the personnel engaged by it or by its Sub-contractors, in the performance of its obligations under this Agreement, are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Good Industry Practice.

- (c) As per clause 3.2.1 of the agreement sub-contracting upto 49% is admissible. The contractor, whether joint venture or sole, shall carry out works directly under its own supervision and through its own personnel and equipment in at least 51% of the total length of the project."

**12. The Committee in their original report while noting that due to the sub-contracting by the main contractors, quality of work has significantly suffered in many projects, had recommended for making provision for levying of penalty on the main contractor, if the sub-contractor leaves the project incomplete as well as mandatory registration and blacklisting of such contractors. The Ministry in the action taken note have drawn the attention of the Committee to the provisions made in various contract documents under BOT, HAM and EPC Model whereby the whole responsibility for the work seems to rest with the main contractor. While appreciating for having such provisions in the contract, the Committee note that in the absence of some sort of regulatory provisions for sub-contractors, poor performing sub-contractors continue to be given work by the contractors thereby affecting the quality of projects. The Committee in this regard had recommended for making provision for registration of sub-contracts and blacklisting of contractors to which the Ministry has chosen not to respond. The Committee would, therefore, like to reiterate their earlier recommendation and would like the Government to act upon their recommendation and apprise them at the final action taken stage.**

#### **The format of Accounts- action on observations of C&AG**

##### **Recommendation (Sl.No. 9)**

13. The Committee in their Nineteenth Report, had recommended as follows :-

"Audit Issues - The Committee observe that the C&AG, in course of their examination of the accounts of NHAI during the year 2013-14 and 2014-15, had noticed several discrepancies in the accounts and other records of NHAI. As per Audit observations, the

balance sheet and profit-loss accounts of NHAI were not drawn up in accordance with the format approved by the Government of India under NHAI Act, 1988. They further observe to their dismay that since the issues raised by Audit were not resolved, Audit had to issue a disclaimer certificates stating their inability to form a firm opinion about whether the financial statement of NHAI was true and fair. The Committee note that NHAI, as a follow up, had appointed M/s KPMG to submit a report on the issues raised by C&AG and their report is currently being analyzed by an expert Committee of C&AG.

The Committee regret to note that despite being a Statutory body, the account books of NHAI were found as not being maintained in accordance with desirable GOI standards by the C&AG for the year 2013-14 & 2014-15. Deviation from the standard accounting principles is not justified and NHAI should maintain its accounts as per the format prescribed by the C&AG so as to enable the Audit to have a meaningful assessment of the financial performance of NHAI. The Committee desire to be apprised about the comments of the expert Committee appointed by the C&AG on the same. The Committee also urge the Ministry of Road Transport and Highways to take note of the recommendations of the said expert Committee and ensure their implementation by the NHAI so that the accounting standard of NHAI does not attract any adverse comments from the C&AG in future."

14. The Ministry, in their action taken reply, have stated as follows :-

"The format of accounts was prescribed by C&AG in the year 1992. The present format is 25 years old. Since the time C&AG prescribed this format several changes have taken place in the working and reporting requirement of NHAI. Accordingly, year after year based on the reporting requirements some minor changes were made in the existing format of accounts. These were mostly data/information which was neither required nor considered at the time of prescription of format by C&AG in the year 1992.

Since the inception of NHAI, C&AG is auditing NHAI accounts on yearly basis. However, the issue of change in format of accounts has been raised by C&AG in the last few years' audit report.

The issue of changes in the format of accounts was discussed with C&AG officials and it was decided to appoint a financial consultant for expert opinion on the matter and also to suggest a new format of accounts. Accordingly, M/s KPMG was appointed as financial consultant in this regard. M/s KPMG have submitted their report along with revised format of accounts and the same is to be approved by the Ministry in consultation with C&AG. Ministry has held a meeting with C&AG and NHAI. The new format is being finalized by NHAI whose report is awaited.

In view of the above, the disclaimer issued by C&AG in the annual accounts 2014-15 & 2015-16 have been withdrawn in the annual accounts 2016-17."

**15. The Committee find that M/s KPMG, the financial consultant appointed with regard to the issue of changes in the format of accounts pursuant to several discrepancies noticed by C&AG during the year 2013-14 and 2014-15 in the accounts and other records of NHAI, has now submitted their report along with revised format of accounts and the same is to be approved by the Ministry in consultation with C&AG. While noting that the format of accounts of NHAI are 25 years old which unduly invites audit objections, the Committee would stress for expeditious finalization of new format of accounts.**

### **Management of Toll-plazas**

#### **Recommendation (Sl. No.12)**

16. The Committee in their Nineteenth Report, had recommended as follows :-

"Management of Toll plazas – The Committee observe that location of toll plazas inside the cities or densely populated areas results into chaotic traffic conditions causing pollution, traffic hazard and inconvenience to highway users and the local population. The Committee, therefore, recommend that NHAI should examine the feasibility of setting up toll plazas away from the cities/ densely populated areas in order to avoid inconvenience to public. Further, it has also been observed that in some toll plazas, most of the toll counters are kept non-operational in order to reduce the cost. In some toll plazas, users have also been inconvenienced by unscrupulous elements deployed by toll operators for collection of toll charges, who many a times misbehave with users or demand undue charges. In view of this, the committee feel that NHAI should develop an inspection mechanism to monitor the management of toll plazas in order to ensure that users are not troubled by the toll operators/collection staff. A well trained staff needs to be deployed at toll counters and all complaints regarding the mismanagement at toll plazas should be promptly enquired and suitable action taken."

17. The Ministry, in their action taken reply, have stated as follows :-

"Efforts are being made to locate / establish the toll plaza beyond 10 kms of the municipal limit of a town/city. However, sometimes due to site constraints and engineering consideration, the toll plazas are also established within the distance of 10 kms of the municipal limit as per the provision of National Highway Fee Rules 2008, especially when the project is developed for the benefit of local users.

In order to not to give scope for complaints about misbehaviour by toll plaza staff, display of concessions and information, NHAI also issued a policy circular dated 02.02.2016 for standardization of uniform of toll collection staff, user fee receipts, user fee display boards at toll booths at both NHAI and concessionaire toll plazas. Further following measures have also been taken:

- (i) Efforts are being made to not give scope for complaints about misbehavior by toll plaza staff. Toll plazas employees are being advised for courteous behavior with road users for smooth implementation of user fee collection.
- (ii) NHAI have established various HOU (Highway Operation Unit) in RO and PIUs to avoid any mismanagement at toll plazas. These HOU's make regular visits to ensure that the complaints have been resolved in time.
- (iii) NHAI also proposed to conduct behavioural training to toll plaza employee through IITM (Indian Institute of Tourism and Travel Management) as per NHAI circular no. NHAI/GM(T)HO/Misc./2018/79 dated 12.03.2018 to reduce toll issues like ill treatment by toll plaza employees/ ETC or FASTag not working, excess deduction of toll fee at toll plazas and other misc. type of complaints of the toll plazas.
- (iv) Electronic tolling is being adopted on an increasing scale to avoid human interface."

**18. The Committee in their earlier recommendation had raised various issues relating to management of toll-plazas NHAI in the action taken reply has mentioned about the various steps taken in this regard which *inter-alia* include issuance of circular for standardization of uniform of toll collection staff, user fee receipts, user fee display boards, conducting behavioral training to toll-plaza employees and adopting electronic tolling mechanism to avoid human interface etc. The Committee observe that besides issuing circulars it is utmost necessary to have monitoring mechanisms to ensure that the directions given through various circulars are complied with thereby avoiding inconvenience to public. The Committee in their recommendation had also raised the issue of all toll counters not being kept operational at most of the toll-plazas in order to reduce the cost by the toll operator thereby adding to the public inconvenience. The Ministry / NHAI has not responded to the issue. The Committee would like a categorical response in this regard.**

## **Dedicated Highway Security Force**

### **Recommendation (Sl. No. 14)**

19. The Committee in their Nineteenth Report, had recommended as follows :-

"The Committee have also been apprised that although law and order issues exclusively come in the domain of State Governments, NHAI is planning to evolve a system to ensure increased patrolling on National Highways every eight hours so as to deal with issues of traffic congestions and other inconveniences to commuters. Taking note of the growing security concern on Highways, the Committee recommend to consider creation of a dedicated Highways Security Force similar to the General Railway Police Force (GRP), for safeguarding the movement on National Highways. The aid of advance technologies such as geo-tagging. Global Positioning System (GPS), positioning of CCTV cameras in this direction on sensitive areas across the Highways are other steps which can enhance the efficacy of the monitoring system. The Committee would like NHAI to take action as suggested above and furnish the details about the specific action taken in this regard."

20. The Ministry, in their action taken reply, have stated as follows :-

"NHAI have informed that they are in the process of conceptualization to set up a National Highways Security Services in consultation with the DS&BPRD. However, no formal proposal has been received in Ministry. Ministry would take a decision on it after receiving and examining the proposal in this regard.

In addition to this, NHAI is taking different IT initiatives such as development of Global Position System (GPS), Geo Fencing of National Highways, mobile apps., highways cameras at regular intervals and placing CCTV cameras with video wall at NHAI Headquarters."

**21. On the recommendation of the Committee to create a dedicated Highways Security Force similar to the General Railway Police Force (GRP), for safeguarding the movement on National Highways, the Committee have been apprised that NHAI though is in the process of conceptualization to set up National Highways Security Services (NHSS), yet formal proposal is yet to be received in the Ministry. The Committee while appreciating the development would like NHAI to submit the proposal expeditiously which would go a long way in addressing security issues on National Highways. Besides with regard to the recommendation of the Committee to take the aid of advanced technologies across the highways, it has been stated in the action taken note that NHAI is taking different IT initiatives such as development of Global Positioning System**

(GPS), Geo Fencing of National Highways, mobile apps., highways cameras at regular intervals and placing CCTV cameras with video wall at NHAI Headquarters. The Committee while emphasizing for taking the initiatives expeditiously across the highways would like that monitoring of these IT devices should also be made operational at regional / local headquarters besides at NHAI Headquarters so as to ensure quick and effective action on a feedback given by these devices.

## **Launching of Pradhanmantri Sadak Suraksha Yojna**

### **Recommendation (Sl. No. 15)**

22. The Committee in their Nineteenth Report, had recommended as follows :-

**"Road Fatalities** - The Committee note with concern that incidence of road deaths in India is comparatively higher as compared to other countries. A Report prepared by the Ministry of Road Transport and Highways on Road Accidents in India in 2015 states that the total number of road accidents increased by 2.5 percent from 4,89,400 in 2014 to 5,01,423 in 2015. The total number of persons killed in road accidents increased by 4.6 percent from 1,39,671 in 2014 to 1,46,133 in 2015. Out of the total road accidents, 28.4 percent accidents took place on National highways. They note that Ministry of Road Transport and Highways has set a target of reducing the number of road accident fatalities to 50 percent by 2020 in line with the target of United Nations Decade for Action on Road Safety. The committee appreciate that the Government has launched a major initiative namely Pradhanmantri Sadak Suraksha Yojna (PMSSY) to improve the safety on different categories of roads viz. National Highways, State Highways, major district roads etc through engineering improvement measures. The Committee would like to be apprised about the budgetary allocations and status of the implementation with respect to PMSSY at the action taken stage."

The Ministry, in their action taken reply, have stated as follows :-

23. "Pradhan Mantri Sadak Suraksha Yojna (PMSSY) has not been launched by the Ministry of Road Transport and Highways. This Scheme is administered and implemented through the Ministry of Rural Development. Therefore the details of this scheme are not available."

24. **The Committee take exception to the way the Ministry / NHAI has responded to the recommendation seeking specific information about the budgetary allocations and status of implementation of Pradhan Mantri Sadak Suraksha Yojana (PMSSY). Even though the programme is being implemented**

through the Ministry of Rural Development, avoiding the response to the issue particularly when the Yojna has been launched to improve the safety on different categories of roads which includes National Highways is not appreciated by the Committee. In Committee's view, NHAI should have followed the implementation of the programme and if the specific data was not available, they could have obtained from the concerned Ministry and placed before the Committee. The Committee would like to be apprised of the details as desired in the earlier recommendation.

### **Utility ducts in urban roads**

#### **Recommendation (Sl. No. 21)**

25. The Committee in their Nineteenth Report, had recommended as follows :-

"Construction of Common Underground Utility Ducts – The Committee find that roads are frequently dug up for various purposes such as laying of gas pipelines, power lines, phone lines and optical fiber cables for INTERNET availability etc. Frequent digging of roads leads to inconvenience for public use causing traffic jams and water-logging, if roads remain under digging for a long period without adequate repairing. Further, repeated digging of roads and consequent destruction of road surface significantly raise the maintenance cost of the roads. In view of the above, the Committee urge the NHAI to conduct a study on the financial and technical viability of the idea of laying underground utility ducts to facilitate the installing of gas pipelines, power and phone lines and optical fiber cables etc. to reduce frequent digging of the roads. If found feasible, NHAI may plan for making the laying of common underground utility ducts mandatory for their road construction projects."

26. The Ministry, in their action taken reply, have stated as follows :-

"The Indian Road Congress have provided the guidelines for laying the Utility Ducts in urban roads vide IRC-98:2011 and are being followed for urban areas. However, the cost estimates for construction of common underground utility ducts all along the roads are estimated to be about Rs.2.0 crore per km length. The service providers generally lay their utilities depending upon their convenience and there are no provisions to force them to utilize the ducts so constructed.

Under such situations, it is to be ascertained if such expenditure would be good value for the money spent thereupon."

**27. On the recommendation of the Committee to conduct a study on the financial and technical viability of the utility ducts in urban roads, the Committee**



have been apprised that though the Indian Road Congress have provided the guidelines for laying the Utility Ducts in urban roads vide IRC-98:2011 and are being followed in urban areas, the service providers generally lay their utilities depending upon their convenience and there are no provisions to force them to utilize the ducts so constructed. The Committee express strong concern about making huge expenditure on laying of utility ducts at the rate of Rs. 2 crore per km length and then not using the facility and taking recourse to repeated digging of roads adding to extra expenditure and putting inconvenience to the public. More so now when the threat of pollution due to dust is looming large, the service providers are paying least attention to making use of the utility ducts and digging the roads again and again thereby adding to dust pollution. The Committee would like the Government to issue strict directions to various Ministries for use of utility ducts. Since the issue concerns across Ministries/ Departments, the concerns of the Committee in this regard may be placed before the Cabinet Secretariat / PMO for issuing the requisite directions.

### **Construction of Concrete cement highways for better road quality**

#### **Recommendation (Sl. No. 22)**

28. The Committee in their Nineteenth Report, had recommended as follows :-

"Construction of concrete-Cement highways for better road quality - The Committee are happy to note that owing to the multiple advantages of cement concrete pavement over the traditional road paving surfaces, particularly bituminous roads, and construction of cement concrete pavement is now being preferred by NHAI. The long term durability, longer service life, lesser fuel consumption, and resistance to extreme weather conditions etc. are various features that make Cement-Concrete an ideal material for highways and roads which endure very large volume of vehicular traffic. The Committee have been apprised that during the current Financial Year, out of the 26 projects awarded for a length of 1502km, 17 projects covering the length of 967 km will be constructed on cement concrete pavement. In this connection, the Committee recall the recommendations made by the Department related Parliamentary Standing Committee on Commerce (2011) which in their 95<sup>th</sup> Report on "Performance of Cement Industry" had strongly advocated the construction of roads including expressways using cement concrete pavement. In the said report, the Committee while noting that about 40% of the roads in developed Countries such as USA, West Germany etc. are made of cement concrete whereas it is only 2% in India, had recommended for construction of cement roads and highways to bring at par with international norms and standards. A cost-benefit analysis of bitumen and concrete road over 25-30 year life cycle cost in

Rajasthan and Gujarat, which was undertaken by MoRTH, has suggested that the variation of the price of cement vis a viz bitumen is required to be mapped out and unless there is price comparison within an acceptable limits to 20%, the use of flexible (bitumen) pavement may perhaps required to be continued. The Committee also agree that with expansion of concrete-cement roads, it is important to undertake requisite cost research, yet feel that once the quality of concrete and cement used in construction is ensured so as to guarantee the long term durability of the roads, the savings on the maintenance would offset the initial rise in cost of construction. Considering the lesser fuel consumption, resistance to extreme weather conditions and long term durability of concrete-cement roads, the Committee recommend that in future concrete-cement may be used in construction of highways in place of bitumen as in being done in many developed counties. In places where highways cannot be constructed using concrete-cement, the reasons for these may be satisfied."

29. The Ministry, in their action taken reply, have stated as follows :-

"The initial cost of construction of Highways with cement concrete is more than Flexible pavement. The initial cost of flexible pavement is less than that of rigid pavement but having long-term maintenance requirement.

Based on the requirement of site conditions, maintenance requirements, life cycle cost analysis of pavement longer service life, and resistance to extreme weather conditions, saving of natural material etc. and as per directions issued vide Ministry of Road Transport & Highways Circular No. RW/NH-33044/31/2014/S&R(R)/Part dated 04.08.2014, type of pavement is decided on case to case basis.

It can, therefore, be concluded that single type of pavement may not be suitable under all conditions."

**30. The Committee express unhappiness over the casual way the Ministry / NHAI has responded to such an important issue concerning the construction of highways. Instead of taking concrete action for analyzing various cost factors for constructing concrete, cement highways, considering the lesser fuel consumption, resistance to extreme weather conditions and long term durability of these roads, it has casually been stated that type of pavement is decided on case to case basis. The Committee while reiterating their recommendation would like the Ministry/NHAI to take concrete action on their recommendation and and apprised them at the final action taken stage.**

## **National Green Highways Projects**

### **Recommendation (Sl. No. 23 & 24)**

31. The Committee in their Nineteenth Report, had recommended as follows :-

"National Green Highways Projects - The Committee note that the Ministry of Road Transport and Highways have launched the National Green Highways Project to develop green corridors along National Highways for sustainable environment and inclusive growth which envisions development of eco friendly highways with participation of various stakeholders. The Committee also note that National Green Highways Mission (NGHM), established by Ministry of Road Transport and Highways (MoRTH) under National Highways Authority of India (NHAI), has been entrusted with the task of planning, implementation and monitoring roadside plantations and building fences along one lakh kilometre network of National Highways. The Committee, while acknowledging the fact that roadside plantation have immense potential to enhance the green cover of the nation and also generate employment opportunities for rural economy, feel that this initiative is a novel step towards improving the aesthetics of highways while contributing in a big way towards environment protection which is a global concern. However, the Committee regret to note that during the year 2016-17 against the allocation of Rs.500 Cr. In Green Highways Fund, no amount was actually received by NHAI, which implies that the fund is yet to be operationalised and no work has been initiated under the National Green Highways Mission. Further, no amount has been allocated for the said fund for the year 2016-17. The Committee may be apprised of the reasons for not releasing money for the Green Highways Funds."

32. The Ministry, in their action taken reply, have stated as follows :-

"The Ministry of Finance vide OM No. 24(84)PF-II/2015, dated 26.07.2016 objected to creation of a separate Green Highways Fund and advised the Ministry to obtain approval of the Cabinet / Cabinet Committee if the Ministry still feels that a separate Fund/SPV would yet be required to take their proposal (of creating a Green Highways Fund) forward in the public interest. Funding for greening of highways is, however, not a constraint as plantations on the ROW are part and parcel of all Highway Development Projects and the expenditure on plantations is made out of the funds available with NHAI as done for land acquisition and utility shifting."

33. In the subsequent recommendation, the Committee further stated as follows:-

"The Committee also desire that the Government should allocate the release the required funds under the Head 'Green Highways fund' and ensure its optimum

utilization for development of green corridors along National Highways. Further, the Committee insist that in course of development of Green Highways Project, appropriate exit gates for crossing the fenced highways for the public is provided at appropriate distances and places so that movement of people living in habitations on either side of highways are not inconvenienced. The Committee thus recommend the Government to vigorously follow up the project of greening of highways at all levels."

34. The Ministry, in their action taken reply, have stated as follows :-

"Funding for greening of highways is not a constraint as plantations on the ROW are part of all Highway Development Projects and the expenditure on plantations is made out of the funds available with NHAI as done for land acquisition and utility shifting. Fencing for the roadside plantations are raised depending on the requirement on the site. Fencing of various types ranging from tree guards for individual saplings to multi stranded barbed wire fences are recommended. However, there is no conflict on the issue of providing passage to public wherever deemed necessary. On a high-speed highway, access to public is not recommended all along the stretch. However, breaks are provided in the plantation fences at appropriate places to provide access to the public across the plantations. The recommendation of the Committee to vigorously follow up the project of greening of highways at all levels is duly noted."

**35. The Committee had in their earlier recommendation noted that National Green Highways Mission (NGHM), established by Ministry of Road Transport and Highways (MoRTH) under National Highways Authority of India (NHAI), has been entrusted with the task of planning, implementation and monitoring roadside plantations and building fences along one lakh kilometer network of National Highways. The Committee, while acknowledging the fact that roadside plantation have immense potential to enhance the green cover of the nation and also generate employment opportunities for rural economy, and that this initiative is a novel step towards environment protection which is a global concern, had regretted that during the year 2016-17 against the allocation of Rs. 500 crore in Green Highways Fund, no amount was actually received by NHAI. The Ministry of Road Transport and Highways in their reply has stated that the Ministry of Finance had objected to the creation of a separate Green Highways Fund and advised the Ministry to obtain approval of the Cabinet / Cabinet Committee, if the Ministry still feels that a separate Fund/SPV would yet be required to take their proposal (of creating a Green Highways Fund) forward in the public interest.**

The Committee observed that the Ministry of Road Transport and Highways have further stated that funding for greening of highways is however, not a constraint as plantation on the ROW are part and parcel of all Highways Development Projects and the expenditure on plantations is made out of the

funds available with NHAI as done for land acquisition and utility shifting. The Committee while taking note of the reply furnished by the Ministry, express their unhappiness as to why the proposal for creation of a dedicated 'Green Highways Fund' was then moved by the NHAI when admittedly funding for greening of highways had not been a constraint. Further, NHAI in their replies have also not made it clear as to whether the projected budgetary requirement Rs. 500 crore for greening of Highways during 2016-17 had been met from their regular budgetary allocations when the money had not been received by them from the Ministry of Finance. The Committee would therefore like to be apprised about the factual position on all these issues and also about the year-wise allocations made and expenditure incurred in greening of highways during the financial years 2016-17, 2017-18 and 2018-19. The Committee being highly concerned about the depleting green cover resulting in environmental degradation, strongly reiterate that the project of greening of Highways should be earnestly taken up and pursued vigorously at all levels for timely and sustainable plantations on roadsides as admittedly being part of the Highway Development Project, no financial constraint is there. The Committee would further suggest that provision of breaks in plantation fences should also be made at appropriate places for public movement.

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## **CHAPTER II**

### **OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### **Recommendation (Sl. No. 1)**

Expediting the completion of NHAI projects – NHAI, a statutory body operationalized in 1995, is primarily responsible for development, maintenance and management of the vast National Highway Network in the Country that primarily connects the hubs of major economic activities, which includes ports, manufacturing activity centres and trade centres. National Highways are the lifeline of the economic, social and cultural life of the Country. Without adequate development of road infrastructure, the progress of the Country is not possible. It is in this context, NHAI's role is very important. The Committee note that under the National Highways Development Programme (NHDP), NHAI has successfully completed the ambitious Golden Quadrilateral Project of 7522 km road length, connecting the four metros – Delhi, Mumbai, Chennai and Kolkata. Also roads measuring 6058 km, out of the total 6647 km, have been constructed under the North-South corridor from Srinagar to Kanyakumari and East-West Corridor from Silchar to Porbandar. The Committee also noted that out of the total length of 47,381 km to be constructed under the seven phases of NHDP, 27425 km of roads have since been completed. While noting the status of implementation of NHDP under various phases, the Committee find that as on 31st March 2017, work for construction of 9204 km of roads out of the remaining 19956 km road length under seven phases of NHDP is yet to be awarded, while 10752 km NH is under implementation. Long delays have become a hallmark of all Highway projects which is evident from the fact that since 1995, when NHAI was operationalized, till 30 June 2016, out of the total 388 projects completed, only 55 projects were completed on or before time. Delay in the completion of the projects is mainly attributed to long time taken in land acquisition, non-availability of requisite environment and forest clearances, poor performance of concessionaires due to economic slowdown and law & order issues etc. The Committee has also been informed that in some instances, NHAI had awarded the projects even before obtaining the required regulatory approvals and acquisition of the required land. Hence obviously these projects could not take-off and languished owing to lack of required regulatory clearances and delay in land acquisition. Nevertheless, the Committee during the examination of the subject, have been informed that a decision has since been taken by NHAI that henceforth no project would be awarded unless 80 percent of land is available with the Authority with requisite forest clearance. The Committee opined that such a decision should have been taken by NHAI early and feel that this principle should be invariably followed for awarding new projects. With the policy of environmental and forest clearance now favourable as

stated by NHAI, better outcomes are expected. The Committee has also been informed that with various fiscal measures approved by the Government like rationalization of premium, one time fund infusion for delayed projects, 100% equity disinvestment in completed BOT projects etc., NHAI would be able to ensure the time bound completion of projects. The Committee also note that for dispute resolution and completion of arbitration proceedings, Independent Settlement Advisory Committee (ISAC) and Society for Affordable Redressal of Disputes (SAROD) have been formed, which is a welcome step. The Committee desire to be apprised of the disputes resolved by these bodies since then and the difference it has brought in the number of court cases filed against NHAI in recent years. The Committee further are of the firm opinion that since NHAI was set up under an ACT of Parliament, there is a need for fixing accountability in cases where there is evident avoidable delays on the part of the contractor/concessionaire/officials, etc. and stern action taken. To ensure this, project wise progress with respect to the arrangement of necessary regulatory approvals and land acquisition issues should be regularly and strictly monitored by the Ministry of Road Transport and Highways during their review meetings with NHAI.

### **Reply of the Government:**

1.1 As on 31<sup>st</sup> March 2017, work for construction of 9,204 km of roads out of remaining 19,956 km road length under 7 phases of NHDP were yet to be awarded. In this regard, 3674KM of projects have been awarded under NHDP post 31<sup>st</sup> March 2017 up to 30<sup>th</sup> September 2018, thus expediting the completion of projects remaining under NHDP.

1.2 Further, till 30<sup>th</sup> September 2018, out of the 438 number of projects completed, 75 were completed on or before time. Thus, the overall speed of execution of projects has also improved.

1.3 The Ministry has, from time to time, also taken various measures for speedy approval & timely completion of projects. Some of the important initiatives are as follows:

- (i) The Ministry has made it compulsory for projects under the Engineering, Procurement and Construction (EPC) mode to be awarded only after completion of 90% of the total land acquisition required for project. This has ensured lesser delays between award of projects and the start of construction of roads.
- (ii) **BhoomiRashi**: BhoomiRashi is an online portal developed by MoRTH and NIC, for expediting the process of publication of notifications for Land Acquisition. The portal was launched in January 2018 and has been mandated for publication of notifications related to Land Acquisition. Introduction of BhoomiRashi portal has automated the process of publication of notifications related to Land Acquisition.

BhoomiRashi portal has enabled considerable reduction in the time required (by 3 – 4 weeks) for publication of notifications related to Land Acquisition. The portal is now being widely adopted for issuing the notifications and more than 1400 notifications have been issued using the portal till 30.09.2018, since the launch of the portal in January 2018.

- (iii) **Bidder Information Management System (BIMS):** It has been observed that technical evaluation of bids during procurement of civil works contracts, takes almost 2 months to be completed. To reduce the time and effort taken in the evaluation, the Ministry of Road Transport and Highways (MoRTH) has developed the Bidder Information Management System (BIMS) for pre-qualification and technical evaluation during procurement of civil works contracts for all the project implementation agencies. MoRTH, through its implementing agencies, will be using the online Bidder Information Management System (BIMS) for the management of bidder information and technical evaluation to ensure an efficient and transparent bidding process. The use of BIMS will create a comprehensive database comprising of bidder wise information such as basic details, civil works experience, cash accruals, net worth, annual turnover, etc. such that the evaluation can be carried out in a faster manner using this information.
- (iv) **Project Monitoring Information System (PMIS):** For ensuring timely delivery of projects, a state-of-the-art single unified tool Project Monitoring Information System (PMIS), has been developed in-house. PMIS has a comprehensive database with over 180 data fields being tracked for each project and a further 500 fields specifically for complex PPP Projects, covering all key progress metrics such as designed progress, contracting progress, construction progress, land acquisition, compensation disbursement, toll and traffic information and concession/contract information. A series of Executive Dashboards have been designed to provide updated progress on all these data fields at various levels, such as National level, Regional office (RO) level, Project Implementation Unit (PIU) level & Project level. Apart from dashboards views of data, the PMIS is also enabled with Geographical Information System (GIS), which provides a geographical visualization of all NHAI projects on an Indian map.

1.4 Regarding dispute resolution, NHAI is faced with a large number of pending claims, Arbitration and Court proceedings for disputes in their old contracts for many years. The present dispute settlement mechanism of Dispute Resolution Expert (DRE), Dispute Resolution Board (DRB) and Arbitration Awards with contradictory decisions and varying approaches have not been able to effectively resolve the disputes with the result that a large number of them have finally reached the Courts. It is felt that delay in



decisions and settlements may eventually result into large liabilities on NHAI including substantial interest component in Awards. Various settlement procedures have been examined across the PSUs, Authorities, Financial Institutions, Nationalized Banks etc. and it is felt desirable to adopt a settlement approach on similar lines with the one-time settlement (OTS) system in vogue in Nationalized Banks framed on the basis of RBI guidelines.

The approach towards settlement is proposed to be based on strategies to minimize the risks in the long run across all contracts within the contractual and legal frameworks. The claims shall be resolved as one-time settlement and strategy would vary based on commonality of issues across contracts or could be based on optimum settlement with firms or groups with significant stakes collectively through appraisal of merits, risks and settlements through stages of negotiations.

Earlier there was a system of settlement of disputes in NHAI, known as ISAC (Independent Settlement Advisory Committee). As on date, the disputes relating to 124 contract packages have been resolved under the one-time settlement scheme. The amount in dispute of Rs.19,424/- crore approx., was settled for Rs. 1,814/- crores only. Now, there is only one dispute pending with ISAC. This dispute settlement mechanism has been replaced by another Conciliation & Settlement Mechanism which was introduced vide SOP dated 02.06.2017.

The Cabinet Committee on Economic Affairs (CCEA) took a decision on 31.08.2016 for the revival of the construction sector, as conveyed vide OM dated 05.09.2016 of NITI Aayog, for establishing a system of conciliation of disputes through Conciliation Committee of Independent Experts (CCIEs) to ensure speedy disposal of pending or new cases. Accordingly, NHAI Board in its meeting held on 19.05.2017 approved a revised procedure and a proposal to set up CCIEs. Accordingly, the Policy Guidelines have been issued on 02.06.2017 and placed on the website of NHAI. Two Conciliation Committees of Independent Experts were constituted in which 02 eminent persons from the industry had also been nominated. The conciliation/amicable settlement of disputes can be explored through this new mechanism, before referring the disputes to arbitration or to settle the disputes pending before the Arbitral Tribunals/ Courts. Till date around 10 cases have been referred to CCIEs out of which 01 case has been settled, 03 cases could not be settled and the remaining 06 cases are under process.

Society for Affordable Redressal of Disputes (SAROD) has been incorporated in October 2013 by NHAI alongwith NHBF for settlement of disputes through Arbitration in a cost effective and time bound manner. Main objective of SAROD is to:

- a) To reduce cost of arbitration;

- b) For expeditious disposal of disputes in just and fair manner;
- c) To reduce pendency of disputes; and
- d) To evolve subject matter technical experts in arbitration process.

Accordingly, Supplementary Agreements have been entered by NHAI with various Concessionaires and 28 primary and 5 associate members enrolled with SAROD with 347 arbitrators empanelled.

As on date, SAROD is handling 34 arbitration cases out of which 29 are at different stages of adjudication and in five cases arbitration awards have already been issued.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (Sl. No. 2)**

The Committee observe that to accelerate the construction process, the Ministry of Road Transport and Highways had set an ambitious target of awarding 25,000 km of National Highways for the year 2016-17 while the construction target was set at 15,000 km. out of the total length of Highways targeted for awarded, 10,000 km was the target of NHAI and its target for construction was fixed at 8000 km. However, the Committee are disappointed to note that during the year 2016-17 (as on March 2017), 4336 km of roads were awarded and 2628 km were constructed by NHAI against the targets of 10000 km and 8000 km respectively. In view of the above, the Committee feel that despite remedial steps taken by NHAI and the Ministry to accelerate the construction process of highways, current progress of construction of highways has, perhaps, not gained the requisite momentum even during 2016-17. Hence the Committee opine that there is a need to further analyse factors hindering the progress of construction of highways during this period too. Further, taking note of the responsibility assigned to NHAI to construct new roads of 6000 km in border areas under the ambitious Bharat Mala project, the Committee desire that the procedures should be completed in time. They desire further to be apprised of the progress made in this project at the action taken stage.

### **Reply of the Government**

Targets for award of civil works by National Highways Authority of India (NHAI) fixed for year 2016-17 and 2017-18 were 15,000 kms and 10,000 kms respectively and NHAI awarded civil works of length 4336 kms and 7397 kms in the year 2016-17 and 2017-18 respectively. Regarding construction, NHAI constructed 2628 kms and 3037

kms roads in the year 2016-17 & 2017-18 against the target of 4600 kms & 6000 kms respectively. On analysing, it was observed that NHAI could not achieve these targets specially in BOT (Toll) projects due to the following factors:

- (vii) Over-leveraged financials for developers due to excessive exposure to infrastructure projects.
- (viii) Lack of availability of debt products aligned with revenue stream profile of highway projects.
- (ix) Banks reaching the ceiling as per sectoral exposure norms.
- (x) Aggressive bidding based on unrealistic traffic projections.
- (xi) Inadequate project preparatory activities.
- (xii) Projects getting stalled during construction due to LA and clearance related issues.

The Cabinet Committee on Economic Affairs has approved the implementation of an umbrella programme for the National Highway Road Sector – “Bharatmala Pariyojana Phase-I”, spanning over a period of 5 years (2017-2022) at an estimated outlay of Rs. 5,35,000 crores.

Further, to expedite the project appraisal and approval, the Board of NHAI (Authority) has been delegated the power for appraisal and approval of projects with certain limits. The Board of NHAI (Authority) has also been authorized to delegate its power for approval within NHAI. Accordingly, a Committee has also been constituted namely Project Appraisal and Technical Scrutiny Committee (PATSC) for appraisal and technical scrutiny of projects.

Under Border Roads category, approximately 3300 km of corridors have been envisaged to be developed based on their strategic importance along international borders with Pakistan, Nepal, China, Bhutan and Bangladesh to ease movement of freight and passengers along these routes. Further, 1900 km of corridors have also been identified as International Connectivity Roads for connecting India’s major highway corridors to International trade points so as to facilitate road-based EXIM (export-import) trade with Nepal, Bhutan, Bangladesh and Myanmar.

Of the total length identified for Border and International Connectivity Roads, 2,000 km have been approved to be implemented in Bharatmala Pariyojana Phase-I. Under Border Roads category, projects with aggregate length of 970 km have been awarded by June, 2018. Feasibility Study / DPR works for a total length of about 1790 km is

under process. Under International Connectivity Roads category, an aggregate length of about 50 km have been awarded by June, 2018. Feasibility Study/ DPR works for approximately 1310 km is under process.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 9 of Chapter I of the Report)

### **Recommendation (SL. No. 3)**

Timely redressal of issues related to land acquisition – The Committee note that with effect from 1st January, 2015, compensation for land acquired under NHAI Act 1956 is to be determined in accordance with provisions specified in Sections 26 to 29 of the new Land Acquisition Act namely the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013) and its First Schedule. NHAI, during the course of examination, have further added that higher amount of compensation under the New Land Acquisition Act has antagonized those farmers who are entitled for lesser compensation as their land had been acquired before 1st January, 2015 under the old Land Acquisition Act. As a result, aggrieved farmers are approaching courts for reasonable compensation and litigations with respect to compensation issues have increased manifold which has further delayed the land acquisition process. Further, in some cases resentment of farmers may have serious implications for law and order situation and cause untoward incidents. While the Committee welcome the provisions relating to enhanced compensation as per RFCTLARR Act, 2013 in respect of the land acquired by NHAI under the NHAI Act, the Committee are of the view that the issues related to the timely payment of compensation need to be settled amicably with due consultation with the stakeholders.

As stated by the CMD, NHAI, during the evidence before the Committee, the cost of compensation in lieu of land acquisition has increased around 2.5 times after amendments in the Land Acquisition Act. From the figures provided to them, the Committee note that the expenditure on account of land acquisition which was Rs. 9097 cr. during 2014-15, rose to Rs. 21933 cr. during the year 2015-16 due to the higher amount of compensation proposed under the new Land Acquisition Act. In view of the rising cost of land and time taken in the land acquisition process, the Committee are of the view that instead of planning the highways development programme on the basis of present quantum of traffic, NHAI should envisage a future oriented highway development programme keeping in view the long term requirements of the highways

infrastructure so that the growth in traffic demand in future could be addressed without any difficulty.

### **Reply of the Government**

The suggestion of the Committee that NHAI should envisage a future oriented highway development programme keeping in view the long-term requirements of the highways infrastructure so that the growth in traffic demand in future could be addressed without any difficulty is fully appreciated.

In this regard, it is stated that the entire network of highways identified for development under Bharatmala Pariyojana is based on an Origin-Destination Study on freight movement across the country along with data from traffic surveys at more than 4500 locations on the National Highway network. It is a programme targeted to take care of the future growth in traffic on National Highways. In order to reduce the cost of Land Acquisition for National Highways, the Ministry is studying and examining the feasibility of developing greenfield corridors connecting major cities.

Besides, the Ministry of Road Transport & Highways has developed Bhoomi Rashi Portal through which the entire process of LA for National Highways including payment of compensation has been digitised. While physical publication of LA notification used to take 4-6 months, it has come down to less than 15 days with the help of the Portal. The land is acquired for NH projects under the provisions of NH Act 1956 and the amount of compensation is determined by CALA in accordance with the First schedule of RFCTLA&RR Act 2013. After determination of the amount of compensation under Section 3G of NH Act 1956, it can be disbursed to the landowner/ affected person or beneficiaries using the BhoomiRashi Portal directly in their accounts without any delay. In disputed, cases, CALA can deposit the disputed amount of compensation in the civil court. The State Governments are being urged time-and-again to issue instructions to CALAs to expedite and complete the disbursement of compensation amount.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 4)**

The Committee note that for disbursement of compensation for the acquired land, Competent Authorities for Land Acquisition (CALA) are appointed under National Highways Act 1956 who follow a procedure specified in the said Act. The Committee have been informed that in some States, for instance, Uttar Pradesh, despite the finalization of acquisition process long back, compensation amounts remain to be transferred into the account of actual beneficiaries. According to the NHAI, among others, the reason behind the delay in compensation in some States is inability of the

district administration, which functions as CALA, to speed up the process. Though NHAI pays around 10 percent of the cost of compensation to the district administration as administrative fee for disbursement of compensation, expediting the compensation disbursement process has remained a challenging task most of the time due to the apathetic attitude of the concerned district administration. The Committee are of the opinion that disbursement of compensation in time is essential to minimize the number of court cases.

Since the resolution of issues pertaining to the timely disbursement of compensation requires support from State Governments, greater coordination is required among NHAI, Ministry of Road Transport and Highways and the concerned State Government/District Administration/Local bodies which ultimately get maximum benefits out of highways. In this connection, the Committee appreciate that for the purpose of monitoring and expeditious settlement of issues pertaining to land acquisition, Land Acquisition Cells (LA Cells) have been constituted in the Ministry, NHAI and their regional offices/projects implementation units.

The Committee feel that LA Cells can play a great role in expediting the disbursement of compensation by providing necessary inputs to the Central Government with respect to the delay in the disbursement process so that effective and timely resolution of the issues causing delay may be resolved in coordination with State Governments. The Committee, therefore, urge the Ministry/NHAI to strengthen the functioning of the LA cells by delegating more powers to the Cells attached with regional offices of NHAI and urge them to act as a bridge between the public and the local bodies, so as to facilitate greater coordination between the stakeholders, State Government officials and regional officers of the Authority. This will improve the execution capacity of the Authority at the ground level with respect to the land acquisition process.

Since the resolution of issues pertaining to the timely disbursement of compensation requires support from State Governments, greater coordination is further required among NHAI, Ministry of Road Transport and Highways and the concerned State Governments. The Committee, therefore, desire that NHAI and Ministry of Road Transport and Highways should try to foster coordination with State Governments and work towards making the State Governments 'active partners' in the overall process of National Highways infrastructure development. The Committee are of the view that in order to seek cooperation of State over the issue of land acquisition and disbursement of compensation etc., the Government should take initiatives to make the State Government realize that speedy and time bound implementation of National Highways development projects will ultimately benefit the economy of concerned States by opening up new vistas of growth and investment.

The Committee accordingly hope that Central and State Governments will work in tandem for building a robust network of National Highways across the Country keeping in view the spirit of cooperative federalism.

### **Reply of the Government**

Guidelines for engaging services of retired Revenue Officers to assist ROs/ PIUs to expedite Land Acquisition Process have already been issued. In order to ensure that there is no delay in disbursement of compensation, full financial powers to release compensation amount have been delegated to Regional Officers of NHAI/ MORTH.

Regular meetings with State Authorities are being held at the level of Minister of Road Transport & Highways, Chief Ministers, Secretary RT&H, Chairman NHAI, Chief Secretaries etc. apart from regular interaction at RO and PO level with respective State Government Officials.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 5)**

PPP Model: From BOT to Hybrid Annuity Model – From the deposition of NHAI, the Committee note that poor performance of concessionaries on account of economic slowdown is a major factor responsible for delay in Build Operate and transfer (BOT) projects under the PPP model. Most of the delayed projects under the BOT mode of execution could not takeoff in the wake of economic slowdown as developers were not able to finance the projects due to their over leveraged balance sheets. Further, due to reduced growth of traffic and lesser revenue realization consequently, the concessionaires could not meet their debt service obligations and defaulted in their debt accounts. As a result of the aforesaid factors, financial viability of BOT mode of projects got heavily jeopardized.

While taking note of the reasons for sluggish performance of BOT mode of projects, the Committee observe that apart from economic slow-down, sluggish performance of BOT projects can also be attributed to deficiency in the planning and execution capacity of the Government as well as delay in acquisition of land and arrangement of requisite regulatory approvals for the projects under BOT mode. The Committee feel that the Government introduced PPP model without due planning and even without creating an enabling policy environment for successful implementation of such a model. In this connection, the Committee recall the recommendations made by the Kelkar Committee constituted by the Ministry of Finance which has inter-alia recommended that PPP model should not be used at the first delivery mechanism

without checking the suitability for a particular project. Kelkar Committee has also recommended for constitution of a infrastructure PPP Projects Review Committee to examine the performance of PPP projects and legacy issues associated with these projects. While taking note of recommendation of Kelkar Committee this Committee desire that the Government should examine the reasons for failure of BOT mode under PPP model and take suitable measures to revive the languishing projects. In this direction the Committee take note of some of the initiatives taken by NHAI to revive the languishing BOT projects. These include permitting 100 percent equity divestment after two years of construction completion for all BOT projects, equity infusion in BOT projects and rationalization of compensation to concessionaire in case of delays not attributable to them. The Committee are of the view that in view of the huge cost of infrastructure development projects, there is a need to mobilize resources from sources other than Government funding and therefore, it is imperative that the project execution model under public-private partnership remains reasonably attractive for the private investors. The Committee, accordingly, support the initiatives taken by the Government to revive the languishing BOT projects by making them more conducive to the demands of private investors, and desire to be apprised of the impact of these measures on ground.

The Committee also feel that it is equally important to ensure that private investors do not manipulate the contract provisions of concession agreement to generate profuse returns at the cost of public interest. The Committee hence are of the view that it is the responsibility of NHAI to protect the interest of highway users as well as the Government in all public-private partnership contracts.

In view of the fact that most of the projects awarded under the BOT modes of PPP model could not be completed on time, the Committee find that the Government introduced a new 'Hybrid Annuity Model (HAM)' of project execution combining the main features of two prevailing models i.e. Build Operate Transfer (BOT)-Annuity & Engineering, Procurement and Construction (EPC).

In this regard, they were informed that unlike the BOT models, HAM assures better risk allocation amongst private concessionaires and NHAI/Government as 40% of bid project cost shall be payable to the concessionaire by NHAI in five equal installments linked to project completion milestones and concessionaries shall have to bear the balance 60% of bid project cost through combination of equity and debt. With assured annuity payments to concessionaries it is expected that the operations & maintenance risks during construction and operation period will be mitigated and it will also allay the apprehensions arising out of the uncertainty in traffic volume. Further, HAM projects are expected to be completed on schedule as payments to concessionaire have been linked to the project completion milestone which are based on both physical and financial progress unlike the BOT mode wherein the project



completion milestone were based on financial progress only. During 2016-17, out of the total awarded projects of 4336 km by NHAI, projects of 2434 km have been awarded under HAM. The Committee are glad to learn that with HAM projects getting momentum, total length of road construction by NHAI has also increased to 2628 km during the year 2016-17 from 1987 km during the year 2015-16.

Taking note of the successful beginning of HAM projects and interest shown by investors for these projects, the Committee appreciate the efforts of the Government to revive the PPP projects in road and highways sector with introduction of HAM. They hope that with its better risk allocation structure, interest of private concessionaire in infrastructure sector could be revived. The Committee also feel that if HAM projects are implemented with due caution, many delayed projects may be expedited and stalled projects may be revived. However, in view of the experience gained from the implementation of PPP model so far, the Committee desire that for development of highways infrastructure projects, PPP model, be it BOT mode or HAM, should be preceded by proper planning and due assessment of the feasibility of the projects.

While the Committee expect good progress of projects under the PPP model, as is evident with the HAM mode, it is still a reality that the private sector does not prefer projects which have low profitability for them. In such projects, the Ministry has to come forward for public good. Hence the committee recommended that the Ministry must adopt a proactive approach towards highway construction throughout the length and breadth of the Country. They have to also convince the private sector for enhanced participation in the same as better road linkage translates into better industrial performance resulting into better profits for all stakeholders.

### **Reply of the Government**

Ministry of Road Transport & Highways has analysed the causes/ factors likely to attribute to poor performance of BOT projects, some of which are mentioned as under:

- (vii) Over-leveraged financials for developers due to excessive exposure to infrastructure projects.
- (viii) Lack of availability of debt products aligned with revenue stream profile of highway projects.
- (ix) Banks reaching the ceiling as per sectoral exposure norms.
- (x) Aggressive bidding based on unrealistic traffic projections.
- (xi) Inadequate project preparatory activities.

- (xii) Projects getting stalled during construction due to LA and clearance related issues.

Ministry, after having duly considered the recommendations of Kelkar Committee, had taken the following measures for revival of languishing projects:

- (iii) MoRTH has been taking proactive steps to identify bottlenecks involved in awarded but languishing NH projects and address them through appropriate policy initiatives in course of the last two and half years.
- (iv) 73 NH projects with aggregate length of around 8,310 km were languishing around three years back. These projects involved estimated capital investment of around Rs. 1,00,000 crores that remained blocked. As a result of MoRTH interventions, most of the languishing projects have been effectively put back on track.

**Policy measures undertaken to resolve languishing projects are as follows:**

- (xii) Exit Policy – the policy enables private developers to take out their entire equity and exit operational BOT projects two years from start of operations (COD) irrespective of date of award thereby enabling reinvestment of such unlocked equity.
- (xiii) Premium deferment in stressed projects – the policy permits rescheduling of premium committed by concessionaires during bid stage for awarded projects.
- (xiv) Rationalized compensation to concessionaires for languishing NH projects in BOT mode for delays not attributable to concessionaires.
- (xv) One-time fund infusion – the policy enables revival and physical completion of languishing BOT projects that have achieved at least 50% physical progress, through one-time fund infusion by NHAI, subject to adequate due diligence on a case to case basis.
- (xvi) Introduction of Hybrid Annuity Mode - In the model, 40% Project Cost is provided by the Government as 'Construction Support' and balance 60% as annuity payments during operations period with interest (Bank Rate +3.00%). Separate provision for O&M payments to concessionaire. The private party does not have to bear the traffic and inflation risks. The model has been widely accepted by the market.

- (xvii) Introduction of TOT model (Toll Operate Transfer) - In the Model, collection rights for Toll Fees for operational public funded NH projects is assigned for a 30 year concession period to concessionaires against upfront payment of a lump-sum amount. O&M obligations is with the concessionaire during the concession period. First round of bid completed at NHAI for TOT projects - bundle of 9 project stretches (length 680 km) bid out. H1 bidder quoted concession fee of Rs 9681.5 cr (against NHAI estimated Rs 6258 Cr).
- (xviii) Efforts are being made to introduce variable BOT mode.
- (xix) Proactive steps taken to accelerate Land Acquisition (LA) - Single CALA account set up at NHAI to aggregate disbursed compensation funds and maximize interest savings. NHAI ROs empowered to expeditiously approve land compensation.
- (xx) The Ministry with the help of National Informatics Centre has developed a Web Portal – BhoomiRashi, to digitize the entire process of land acquisition. LA process has been expedited significantly through this initiative. BhoomiRashi has also been integrated with the Public Financial Management System (PFMS) platform of the Ministry of Finance, for deposition of compensation in the account of affected/interested person, on real-time basis.
- (xxi) Further, the Ministry issued comprehensive guidelines on Land Acquisition for NHs vide letter No. NH-11011/30/2015-LA dated 28.12.2017 to simplify the complex issues of Land Acquisition viz. applicability of certain provisions of RFCTLARR Act 2013 on NH Act 1956, date of determination of market value of land, issue of multiplication factor, bulk acquisition through consent of land owners etc.
- (xxii) Electronic Toll Collection (ETC) is being encouraged to minimize toll collection time and reduce pilferage in toll collection on NHs. Enabling facilities for ETC being put proactively in all toll plazas. Out of the total 429 Toll Plazas, 275 Toll Plazas are on PPP Concession Roads and 154 are on Public funded road assets. Of these, all lanes have been equipped with the requisite Infrastructure in case of 165 PPP Toll Plazas and 77 Public Funded Toll Plazas. Further, 108 PPP Toll Plazas and 24 Public Funded Toll Plazas have been equipped with two-lane dedicated ETC Infrastructure. 32,86,918 lakh FASTags have been sold so far (as on 25.10.2018) and average daily toll collection through ETC has reached 22.5 % of total toll revenue.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

## **Comments of the Committee**

(Please see para 9 of Chapter I of the Report)

### **Recommendation (SL. No. 7)**

**Financial Performance** - The Committee have been informed that being a nonprofit organization under the section 10(23)(C)(IV) of Income Tax Act 1961, NHAI is exempted from income tax and is assessed as a 'charitable trust'. Likewise, financial statement of NHAI is prepared in the format of income-expenditure statement instead of profit-loss statement. The Committee also note that it is the statutory obligation of NHAI to ensure that investment made by the Government in infrastructure projects yields desirable results and does not turn unprofitable. The Committee opine that if delayed projects result into cost overrun and funds raised by NHAI in the form of tax free bonds, which add to the liabilities of the Government, are not properly utilized, it is ultimately the loss of scarce Government resources. Though NHAI has clarified that only EPC mode of project implementation involves cost overrun on account of delay in project completion and there is no cost overrun in case of BOT projects, the Committee still feel that even in the modes of projects implementation which involves no cost overrun, the cascading effect of delays may result into revenue loss to the Government on account of delay in collection of toll charges. Further, delay in completion of projects has an overall impact on the growth of economy and deprives the public of the convenience of a developed infrastructure.

In view of the above, the Committee are of the view that losses on account of delayed projects is a loss to the national economy. The Committee, therefore, recommended that being an executive agency of the Government, NHAI should strive hard to complete the project on time in order to minimize the downside risks to the huge investment made by the Government in the infrastructure projects. The Committee also recommend that accountability mechanism in NHAI should be strengthened so as to ensure the optimal utilization of the Government's funds invested in the infrastructure projects.

### **Reply of the Government**

1. Project tracking at MoRTH:
  - (i) MoRTH & NHAI are already rolling out various initiatives to streamline project execution, fast-track permissions through better inter-ministerial coordination, and several steps have been taken to amend various agreements, contracts and contracting methods through stakeholders consultation.

- (ii) Project based accounting enables tracking and reporting of financial performance at the project level against the budget or financial plan. This can then be used to optimize resource (or capital) allocation through prioritization of projects and/or to identify problem areas and to take corrective action.
- (iii) Financial planning and profit center are enabled by project level accounting of revenue and expenditure. Accordingly, the 'Guidelines and Standard Operating Procedure (SOP) for implementation of Bharatmala Pariyojana Program' issued by Ministry of Road Transport & Highways has mandated the implementation of 'Project accounting' at NHAI.

2. In-line with the 'SOP', Project accounting shall capture all the major costs and revenue and be apportioned to respective project. Major cost heads associated with the projects include Grant, Land Acquisition, Utilities shifting, Civil Construction, Maintenance, Debt servicing, Administrative charges and other Overheads. Major revenue heads associated with a project include Toll Collection, Negative Grant, Premium, Interest accruals and other default payments by contractors/concessionaire.

## Project based accounting provides better control to management compared to standard accounting

Project-based accounting vs. Standard Accounting	
Standard Accounting	Project Based Accounting
<ul style="list-style-type: none"> <li>Deals with the company as a whole</li> <li>Usually done at a fixed time period e.g. quarterly, annually</li> <li>Tallies the total expenditure, budgets and accounts payable across all projects</li> <li>Difficult to identify areas of finances which could be optimized</li> <li>Difficult to identify problem areas which could adversely impact budget</li> </ul>	<ul style="list-style-type: none"> <li>Deals with individual projects</li> <li>Done on a daily basis</li> <li>Tallies the total expenditure, budgets and account payable for individual projects</li> <li>Easier to identify areas of finances which could be optimized</li> <li>Easier to identify problem areas and enables timely corrective action</li> </ul>
Project based accounting will enable more efficient control over financial planning	

Figure 1: Standard Accounting vs. Project Based Accounting

### 3. Project Management Information System (PMIS)

- (i) PMIS is the primary tool used for tracking project information across MoRTH and its agencies. It captures all the key physical and financial metrics of the projects including details such as land acquisition status and clearance status.
- (ii) Parameters captured by PMIS vary depending on the current stage of the project-Balance for Award (BFA), Under Implementation (UI) or O&M.
- (iii) The data captured by PMIS is being currently entered by all the PDs and is being updated on a monthly basis. There is a provision to upload IE/AE reports too and a data certification (by the PD) mechanism has been created to minimize errors in data updating.
- (iv) PMIS is currently being used by the Monitoring Cell at MoRTH and Executive Monitoring Cell at NHAI to disseminate project information to all relevant stakeholders. All monthly MIS and review reports are being generated using

PMIS and customized reports have also been provided for the users to select and view specific information. All senior officer level reviews, including the reviews by Secretary and Chairman, NHAI are being conducted using the reports generated by PMIS.

- (v) Customized dashboards have also been designed to provide relevant information to the users. Some of the key benefits of the PMIS system are summarized in the figure below:

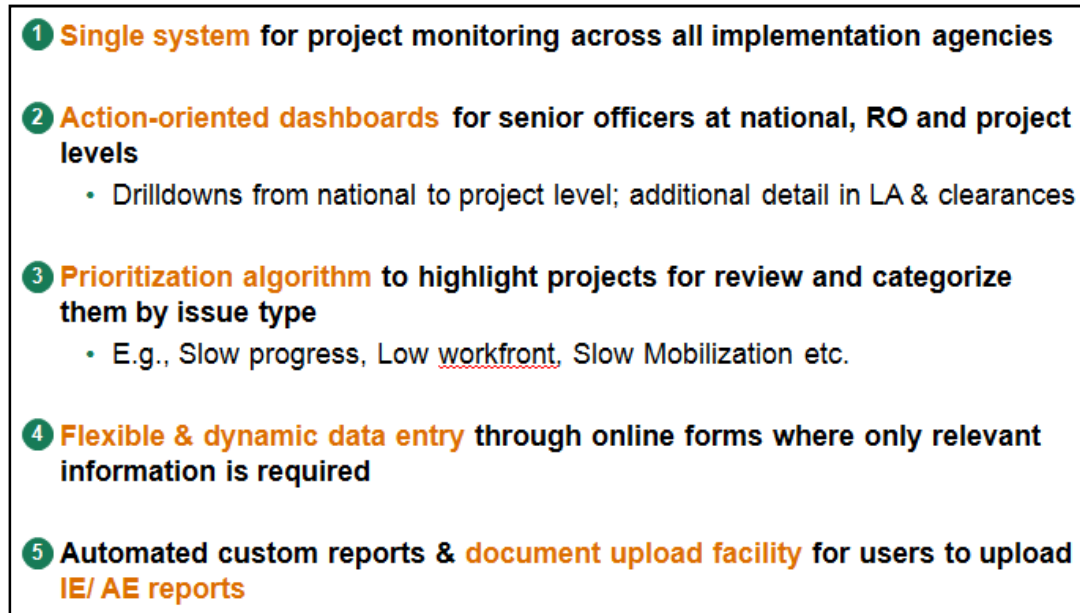
- 
- 1 **Single system** for project monitoring across all implementation agencies
  - 2 **Action-oriented dashboards** for senior officers at national, RO and project levels
    - Drilldowns from national to project level; additional detail in LA & clearances
  - 3 **Prioritization algorithm** to highlight projects for review and categorize them by issue type
    - E.g., Slow progress, Low workfront, Slow Mobilization etc.
  - 4 **Flexible & dynamic data entry** through online forms where only relevant information is required
  - 5 **Automated custom reports & document upload facility** for users to upload IE/ AE reports

Figure 2: Summary of the benefits of the PMIS system

#### 4. **Project Finance Management System (PFMS):**

- 4.1 NHAI has deployed PFMS to capture expenditure. The system tracks expenditure/transactions directly related to projects at individual project level.
- 4.2 PFMS also captures expenses/transactions done centrally at NHAI HQ including but not limited to administrative charges and debt servicing.
- 4.3 All expenditures at NHAI needs to be captured in PFMS. All expenditures incurred at PIUs or ROs are updated in PFMS on a daily basis.
- 4.4 There are 3 major types of transactions which are entered into PFMS through PIUs currently. The payment process and entry in PFMS is as below:

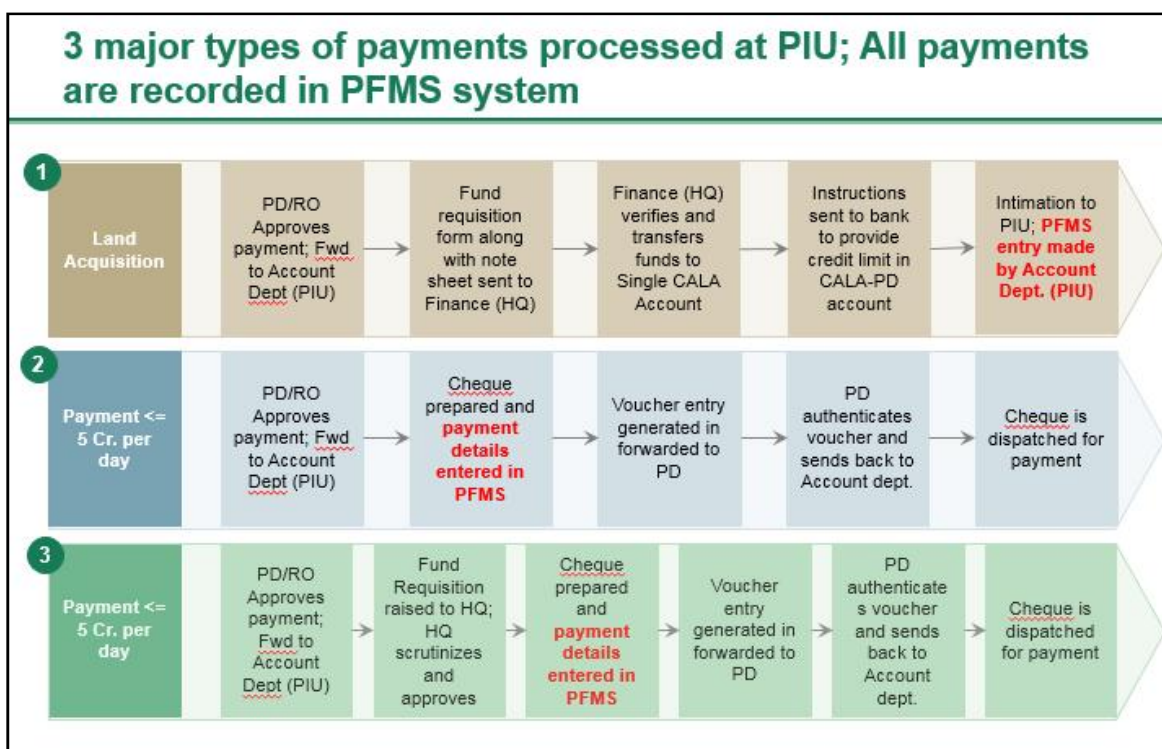


Figure 3: Payment and Entry process

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### Recommendation (SL. No. 8)

**Budget Allocation** - The Committee also note that apart from being dependent on the Gross Budgetary Support from the Government, NHAI is also exploring the opportunities to raise funds through 'Internal and Extra Budgetary Resources' (IEBR). However, at the end of the financial year it could only raise Rs. 5518.92 Cr through IEBR against the budgetary provisions of Rs. 59279 Cr. From the information furnished by NHAI, the Committee note that in view of the growing non-performing assets (NPAs) of banks and inability of banks to provide long term financing for infrastructure projects, NHAI is planning to raise required funds through bond market as raising funds through these routes is comparatively cheaper and provides long term financing option for infrastructure development. Further, since institutions like EPFO and LIC are also keen to invest in long term bonds in infrastructure sector, the NHAI is exploring the opportunity of raising funds from these sources as per the broader budgetary provisions.

Taking note of the initiatives taken by the NHAI to raise funds through market, the Committee are constrained to note that as per financial statement of NHAI during the last five years, huge amount of available funds were left unspent as 'closing



balance' at the end of respective financial year. The same unspent amount has been shown as 'opening balance' at the beginning of subsequent financial year. This opening balance was as high as Rs. 11002 Cr., Rs. 7730 Cr., Rs. 8869 Cr., Rs. 2672 Cr. and Rs. 6740 Cr. for the years 2012-13, 2013-14, 2014-15, 2015-16, and 2016-17 respectively. Such large amount of unspent money is reflective of the NHAI's inability to optimally utilize the available funds for the development of National Highways. The Committee, therefore, desire that NHAI should review its fund management strategy so as to avoid huge amount left as unspent at the end of a Financial Year. Further, since NHAI is trying to raise more funds through market borrowings, the Committee feel that NHAI also needs to factor in its 'opening balance position' while devising its borrowing strategy for a financial year as borrowings without taking into account the status of unspent funds will ultimately add to the liabilities of NHAI and increase the burden of interest payment.

### **Reply of the Government**

Huge amount of unspent balances at the beginning of financial year is mainly attributable to the receipt of huge funds during the last two months of the financial year by NHAI on account of borrowings (issue of 54 EC and Tax free bonds) from market/institutions and funds provided by MoRTH on account of budget allocation under Funds for NH (O), Additional Budgetary Support, Cess Fund.

At the beginning of financial year 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 the opening balance in the books of NHAI was Rs. 11,002 crore, Rs. 7,730 crore, Rs. 8,869 crore, Rs. 2,672 crore and Rs. 6,740 crore respectively. Reason for unspent balances at the beginning of financial year is explained as under:

(i) **Year 2012-13**

During the month of February and March 2013 Rs. 10,555.62 crore was received through Tax free and 54 EC bonds and Rs. 1,616.42 crore was received from MoRTH as toll plough back and NH (O) fund in March 2013.

(ii) **Year 2013-14**

During the last 2 months of the financial year Rs. 1,159.54 crore and Rs. 593.75 crore respectively were received as additional budgetary support and borrowings (54 EC bonds) whereas Rs. 2,200 crore was unspent against Rs. 10,000 crore received from Tax Free Bonds in the month of February 2014.

(iii) **Year 2014-15**

Borrowings during the last two months of financial year was Rs. 4,260.49 crore whereas MoRTH provided Rs. 1,714.37 crore towards cess and Rs. 72.05 crore

towards maintenance of highways.

(iv) **Year 2015-16**

During the month of March 2016 MoRTH provided Rs. 772.14 crore towards additional budgetary support and Rs. 647.87 crore was received through borrowings.

(v) **Year 2016-17**

Rs. 5,991.07 was received through issue of 54 EC bonds and Tax Free Bond during Feb and March 2017 whereas Rs. 370.27 crore was provided by MoRTH towards NH(O) Funds on 31.03.2017.

During corresponding financial years NHAI has spent Rs. 17,377.79 crore, Rs. 20,601.31 crore, Rs. 23,789.72 crore, Rs. 42,689.49 crore and Rs. 48,857.51 crore respectively on projects. Thus there is an expenditure growth of Rs. 181 % during last five years.

It is also submitted that unspent amount are kept in fixed deposits after obtaining competitive rates from the banks.

The suggestions/recommendations made by Committee have been noted and NHAI will make every effort in future to see that at the end of coming financial years the unspent balances are kept at minimum.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

**Recommendation (SL. No. 10)**

Electronic Toll Collection through FASTag - The Committee note that an electronic toll collection programme is being implemented by NHAI through the introduction of a cashless payments mechanism called FASTag at various toll plazas on National Highways. At the initial stage, specific lanes have been designated for FASTag enabled vehicles only at Delhi-Mumbai and Mumbai-Chennai corridors of National Highways. The Committee had an opportunity to witness the process on the Bandra Worli Sea link in Mumbai during their study visit and appreciate this initiative taken by NHAI. In view of the heavy vehicular traffic on National Highways, introduction of an e-tolling payment option as FASTag would help in reducing traffic congestion at toll plazas, thereby saving valuable time, money and fuel of Highway users. Further, in line with the Government's emphasis on cashless transactions, such initiatives would provide a convenient method for cashless payment of user charges at toll plazas. Moreover, the Committee feel that promotion of online payments can help maintain

transparency in toll collection and prevent revenue leakages. The Committee hope that FASTag would be extended to other NH stretches in a time-bound manner and desire to be apprised about further progress on the same.

### **Reply of the Government**

Electronic Toll collection through Fastag has witnessed exponential growth in terms of number of tags sold and user fees collected electronically. With 412 fee plazas enabled with ETC, as on 25.10.2018, 32.86 lakh FASTag units have been issued and are being used by road users. User fees collected through Fastag has also seen significant growth in terms of user fees collected and penetration.

It has also been decided to install Hybrid-ETC lanes on all lanes of fee plazas across NHs for seamless movement of vehicles across the fee plaza in addition to one dedicated lane for FASTag users. This will further improve user acceptance of the ETC infrastructure.

The development of NH is a continuous process and the installation of ETC system is taken up in stretches keeping in view the requirement/constraints, site specifications and terms of the Concession/Contract Agreement.

Further, letters have been written to all the State Governments to extend FASTag on other State Highways also. Madhya Pradesh State Government has signed a MoU to this effect for implementation on their State Highways. Maharashtra, AP, Telangana and Gujarat State Government have expressed their desire to adopt it and the process is at an advanced stage.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 11)**

Toll collection without completion of projects – The Committee note from the information furnished by NHAI that in certain cases concessionaires have started collection of toll charges from users even without final completion of the roads. The Committee, while urging MoRTH and NHAI to detect such instances through strict monitoring, find it totally unjustified as the users are forced to pay user charges for roads which are partially completed. It also leaves no incentive for the concessionaire to complete the project on time, which results into delay in completion of projects. The Committee, therefore, desire that NHAI should finalize specific guidelines fixing the accountability of the toll operators with respect to collection of user charges. The Committee also feel that specific provisions should be made in the “Contract Agreements” itself to ensure that toll charges are made applicable only after completion

of the projects and for any violation, adequate penalties should be imposed on the toll operators.

### **Reply of the Government**

The commencement of user fee on completed stretch of Highway/ project is done as per the provision of National Highway Fee Rules 2008 and as per the Concession/ Contract Agreement.

The Concession Agreement of BOT (Toll) projects provides for commencement of user fee upon issuance of Provision Completion Certificate (PCC) after completion of 75% of project highway. Further, at some instance in Government / public funded projects, the user fee is also commenced upon substantial completion of the project and upon issuance of Provisional Completion Certification (PCC) / Completion Certification (CC). However the user fee is levied only for the completed length of the project. The Contract / Concession Agreement already provides for penal action for any kind of default / delay of the contractor and action as deemed fit is accordingly taken by NHAI.

To plug the loopholes, the Ministry is in process of developing a revised BOT Model Concession Agreement.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 12)**

Management of Toll plazas – The Committee observe that location of toll plazas inside the cities or densely populated areas results into chaotic traffic conditions causing pollution, traffic hazard and inconvenience to highway users and the local population. The Committee, therefore, recommend that NHAI should examine the feasibility of setting up toll plazas away from the cities/ densely populated areas in order to avoid inconvenience to public. Further, it has also been observed that in some toll plazas, most of the toll counters are kept non-operational in order to reduce the cost. In some toll plazas, users have also been inconvenienced by unscrupulous elements deployed by toll operators for collection of toll charges, who many a times misbehave with users or demand undue charges. In view of this, the committee feel that NHAI should develop an inspection mechanism to monitor the management of toll plazas in order to ensure that users are not troubled by the toll operators/collection staff. A well trained staff needs to be deployed at toll counters and all complaints regarding the mismanagement at toll plazas should be promptly enquired and suitable action taken.

## **Reply of the Government**

Efforts are being made to locate / establish the toll plaza beyond 10 kms of the municipal limit of a town/city. However, sometimes due to site constraints and engineering consideration, the toll plazas are also established within the distance of 10 kms of the municipal limit as per the provision of National Highway Fee Rules 2008, especially when the project is developed for the benefit of local users.

In order to not to give scope for complaints about misbehaviour by toll plaza staff, display of concessions and information, NHAI also issued a policy circular dated 02.02.2016 for standardization of uniform of toll collection staff, user fee receipts, user fee display boards at toll booths at both NHAI and concessionaire toll plazas. Further following measures have also been taken:

- (v) Efforts are being made to not give scope for complaints about misbehavior by toll plaza staff. Toll plazas employees are being advised for courteous behavior with road users for smooth implementation of user fee collection.
- (vi) NHAI have established various HOU (Highway Operation Unit) in RO and PIUs to avoid any mismanagement at toll plazas. These HOUs make regular visits to ensure that the complaints have been resolved in time.
- (vii) NHAI also proposed to conduct behavioural training to toll plaza employee through IITM (Indian Institute of Tourism and Travel Management) as per NHAI circular no. NHAI/GM(T)HO/Misc./2018/79 dated 12.03.2018 to reduce toll issues like ill treatment by toll plaza employees/ ETC or FASTag not working, excess deduction of toll fee at toll plazas and other misc. type of complaints of the toll plazas.
- (viii) Electronic tolling is being adopted on an increasing scale to avoid human interface.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

## **Comments of the Committee**

(Please see para 18 of Chapter I of the Report)

### **Recommendation (SL. No. 16)**

In order to reduce the number of road fatalities caused by defective designs/neglect maintenance of highways, it is inevitable to ensure monitoring of construction and maintenance standards. In this connection, the Committee find that clause 83 of the recently introduced Motor Vehicle (Amendment) Bill 2017 in the Parliament, provides that any designated authority, contractor, consultant or concessionaire responsible for the design or construction or maintenance of the safety standards of the road shall follow the design, construction and maintenance standards, as prescribed by the Central Government and failure on the part of the responsible designated authority, contractor, consultant or concessionaire to comply with standards shall be punishable with amount extended up to Rs. One Lakh. The Committee feel that proposed Bill, if enacted, will enhance the responsibility of NHAI vis a vis monitoring the quality of construction and maintenance of roads under its purview as per the standards prescribed by the Government. They await the outcome of the Bill at the appropriate stage.

### **Reply of the Government**

As per the Concession Agreement, the design, construction or maintenance for the safety standards of highways is carried out by the concessionaire under supervision of an Independent Engineer (IE) as per the prescribed standards and specifications as laid down by the Central Government. The Concession Agreement also stipulates the damages to be levied in the event of any default on their part.

The Ministry of Road Transport and Highways introduced the Motor Vehicles (Amendment) Bill, 2016 in the Parliament (Lok Sabha) on 9<sup>th</sup> August, 2016. The Bill addresses issues such as road safety, passenger's mobility, transport reform, citizen facilitation and reduction of corruption in transport sector. The Bill was referred to the Department related Parliamentary Standing Committee on Transport, Tourism and Culture for examination and report. The Committee presented its report on 8.2.2017 to the Rajya Sabha, which was examined in the Ministry. The Motor Vehicles (Amendment) Bill, 2017 alongwith amendment was passed by Lok Sabha on 10<sup>th</sup> April, 2017. The Bill as passed by Lok Sabha was referred to a Select Committee of the Rajya Sabha on 8.8.2017. The Select Committee has presented its report to the Rajya Sabha on 22<sup>nd</sup> December, 2017. The Bill as passed by Lok Sabha and as reported by the Select Committee of Rajya Sabha is presently in Rajya Sabha for consideration and passing.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 17)**

In this connection, the Committee also note that NHAI has a well-established mechanism for monitoring the quality of construction work with respect to ongoing national highways projects. NHAI has a dedicated Quality Division to conduct inspection of various projects sites regularly to monitor the quality of work. NHAI also undertakes Quality Audit of the projects by independent quality Auditors / consultants. However, the Committee observe that NHAI does not have a similar mechanism to monitor the maintenance of highways work after the construction is over. Since the maintenance of the roads after construction is equally important in order to ensure the quality of roads in long run, the Committee recommend that NHAI should evolve an effective system of monitoring the maintenance of national highways for a specified period after completion of the construction. The Ministry in consultation with NHAI may evolve the policy regarding maintenance of roads after construction whereby there is a structural mechanism for maintenance of roads.

### **Reply of the Government**

In BOT (Toll) and HAM Projects, maintenance of the road after completion of construction is undertaken by the concessionaire during the concession period, which is normally 15- 20 years. The independent Engineer on the project is required to inspect the Project Highway at regular intervals to ensure that maintenance requirement specified in the concession agreement are complied with by the concessionaire.

For determining that the Project Highway conforms to the Maintenance Requirements, the Independent Engineer shall require the Concessioner to carry out tests specified by it in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out all such tests in accordance with the instructions of the Independent Engineer.

In case of EPC projects, the Defect Liability Period (maintenance period) is 5 years during which contractor shall maintain, at its cost, the road so that the traffic worthiness and safety thereof is ensured. In the event of default by the contractor in discharging the maintenance obligations, the Authority shall get these maintenance works completed at the risk and the cost of the contractor in order to keep the road in traffic worthy condition.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 18)**

Further, the Committee also desire that the Government should allocate sufficient funds for ensuring adequate safety norms in design and construction of Road Projects. In this connection, Chairman, NHAI during the evidence before the Committee, had highlighted the requirement of funds to the tune of Rs. 20,000 cr. in order to ensure adequate safety norms in design and construction of Road Projects. The Committee are constrained to note that out of estimated Rs 1128.48 cr. funds of maintenance, only Rs. 100 cr. were actually released during 2016-17 as per the data furnished to the Committee. While deliberating the way maintenance issue is being ignored as is evident from the data of utilization of funds status, the Committee strongly recommend for focused attention as maintenance of roads. The Committee desire to be apprised of the reasons for the reduction in the funds allocation to NHAI with respect to maintenance of roads as well as the allocation made for the same in the current Financial Year.

### **Reply of the Government:**

- (i) Adherence to stipulated safety norms at Planning, Design, Construction and Operation & Maintenance phases of projects being developed and implemented by agencies [such as National Highways Authority of India (NHAI), National Highways & Infrastructure Development Corporation Limited (NHIDCL), etc.], are ensured as part of the scope of the project itself and this does not require allocation of separate fund. Such works are implemented out of the budgeted outlay for major schemes such as National Highways Development Project (NHDP), Bharatmala Pariyojana Phase-I, Special Accelerated Road Development Programme (SARDP)-NE, Externally Aided Projects (EAP), etc. Some stand alone road safety works are also taken up through State PWDs primarily under NH(O) scheme for development of National Highways (NH).
- (ii) Rectification of Accident Black Spots: The Ministry had identified 789 nos. of Black Spots on National Highways including 136 nos. on State Roads.
  - (a) NHAI has rectified 209 nos. of Black Spots out of 506 Black Spots on NH network with NHAI through long term measures such as construction of flyovers, service roads, VUPs and PUPs etc. 162 nos. of Black Spots are under rectification. Works pertaining to the rectification of 75 nos. of Black Spots are at the bidding stage and 60 nos. of Black Spots are under investigation. All Black Spots are targeted for rectification by March 2020.
  - (b) Out of the total 147 road accident Black Spots on NH stretches under jurisdiction of State PWDs, 56 are already improved, 61 are being



improved in ongoing projects, 27 black spot rectification works are in bidding stage and 1 is under survey investigation.

- (c) 136 Black Spots are on State Roads which are not under the jurisdiction of Ministry.
- iii) For the NH stretches developed on EPC mode (Engineering, Procurement, Construction), the contractor is responsible for remedying of the defects and concurrent maintenance of project highway during the five/ten years defect liability period after completion of the work.

For the NH stretches developed on BOT mode / HAM, the Concessionaire is responsible for the maintenance of the project highway during the concession period.

- iv) For some of the developed NH stretches through public funding, maintenance contracts have been taken up for a definite time period (4 to 9 years) on Operate, Maintenance and Transfer (OMT) basis. The maintenance of the project highway under OMT contracts is the responsibility of the Concessionaire.

Monetization of projects through the Toll-Operate-Transfer (ToT) Model: Policy for Toll-Operate-Transfer (TOT) was approved by Cabinet on 03.08.2016. First Bundle of TOT has been awarded and Concession fee of Rs. 9,681.5 crore has been received in August, 2018. Further, TOT Bundle-2 is likely to be awarded in 2018-19 and Concession fee of Rs about 7,000 crore expected to be received in 2018-19. Therefore, Concession Fee of Rs 16,681.5 crore is likely to be received in 2018-19.

NHAI has a shelf of 114 projects in 5890 km length of NHs for their monetization on TOT mode.

All the above initiatives are intended at eventually minimizing dependence on budgetary outlay for M&R of heavy traffic corridors.

- v) Allocation of funds for maintenance of NHs are made based on lane-length of NHs entrusted with the various executive agencies such as States/UTs, NHAI, NHIDCL, BRO, etc., liabilities against sanctioned works and availability of resources. Requests for enhancement of allocation of funds for maintenance of NHs are received from various agencies from time to time. However, it has not been possible to enhance allocations significantly as the allocations made available under M&R to this Ministry is of the order of about 40% of the requirement as per the maintenance norms. The Ministry has been taking up the

issue of enhancement of allocation of funds for maintenance of NHs with the Ministry of Finance from time to time.

The funds provided to NHAI under M&R during 2016-17 was Rs.100 crore and during 2017-18 was Rs.575 crore.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 19)**

Construction of additional structures on Highways: Service lanes / under passes etc. - The Committee observe that the construction of additional structures such as service lanes, under passes and over-bridges etc. is required to cater to the needs of the people living in peripheral areas of National Highways and facilitate the entry of vehicles from the nearby cities/villages to the Highways and vice versa. Ignoring their importance may lead to road accidents and haphazard traffic movements on the main highway. Further, the construction of the service lanes has an important role in facilitating the transportation of emergency vehicles such as ambulances and fire-brigades.

The Committee emphasize that National Highways cannot be conceptualized in isolation without taking into account the genuine needs of the vast population which resides in nearby areas on both sides of the highways. Lack of facilities such as under passes and over- bridges put restrictions on the rights of the local population to access the other side of the roads and the same cannot be justified on the grounds of insufficient funds or financial viability of the road projects. The Committee feel that it is the responsibility of the NHAI and the Government to ensure that interests of the local population are not compromised in the process of highways development programme. The Committee also observe that NHAI's apathy towards building under passes and over-bridges causes inconvenience to public which may compel them to resort to unauthorized practices such as cutting the fences to access the other side of roads, which not only puts their own lives in peril but also causes damage to public property.

### **Reply of the Government**

The various project features such as service road, underpasses, over-bridges etc. are provided on the National Highways based on the outcome of Detailed Project Report (DPR)/Feasibility Study and in consonance with the guidelines of Indian Roads Congress (IRC).

Service Roads are generally provided in the built-up areas that are situated within the municipal limits or the road sections in non-municipal areas where permanent

structures are built along the National Highways so as to segregate the local/slow moving traffic from the through/fast moving traffic. The grade separated structures [i.e. Vehicular Underpass (VUP), Vehicular Overpass (VOP) etc.] are provided at the intersection of the Project Highway with all the National Highways and State Highways. Such under/over passes are provided across other categories of roads as per site requirement for crossing of traffic. The structure may be either an underpass or an overpass depending upon the nature of terrain, vertical profile of road and availability of adequate right of way, etc. Similarly, over bridges such as Road Over Bridge (ROB) are provided at railway crossings. Moreover, structures such as Pedestrian Underpass (PUP), Foot Over Bridge (FOB) are also provided to facilitate pedestrian crossing at appropriate locations nearby schools/ hospitals/ factories/ industrial area.

The provision of developing aforesaid project features are duly incorporated in the concession/contract agreement depending upon the outcome of DPR/Feasibility study to ensure that the same are constructed as per the stipulated guidelines. Further, utmost consideration is given while ascertaining the requirement of such structures during DPR/Feasibility stage so that interests of local traffic/population and pedestrian are not violated. It is mandatory to carry out the safety audit of the project highway through independent road safety auditors at all stages of development, operation and maintenance. If any requirement of mitigation measures in addition to the originally proposed provisions is felt/recorded by the safety auditors, the same are complied by the concessionaire/contractor and authority/independent engineer at site.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 20)**

Another area of concern noticed by the Committee is the absence of approach roads to petrol pumps, hospitals, malls, public utilities falling on the periphery of highways which causes heavy traffic snarls and jams on highways. The problem is compounded by haphazard parking of trucks or vehicles across highways due to lack of space that also causes traffic jams and endangers the safety of fast moving vehicles. The Committee feel that this needs attention and be dealt with by providing additional structures such as lanes, parking space at strategic locations, etc.

In view of this, the Committee recommend that the NHAI and the Ministry of Road Transport and Highways should ensure that provisions regarding construction of additional structures such as under passes and over-bridges are included in concession agreements and if not feasible, NHAI should undertake the responsibility of building these structures using their own funds. The Committee note in this context that NHAI has instructed and delegated necessary powers to all Regional Officers to provide

FOBs at pedestrian crossing locations on NH, wherever required. The Committee also recommend that NHAI may formulate specific guidelines for the developers/concessionaires to make construction of under passes and over-bridges mandatory, if nearby areas of National Highways are densely populated. NHAI may fix a rational criteria regarding minimum population for which providing of additional structures would be mandatory for the concessionaire. The Committee also desire to be apprised of the progress on the Indian Bridge Management System (initiated in 2015) to collect condition survey data of all road bridges in the Country.

### **Reply of the Government**

- (i) Concern of the Committee has been noted for compliance. In this regard, it is further mentioned that in order to provide adequate safety for the road users of national highways, NHAI has made it mandatory for carrying out the safety audit of the project highways through independent road safety auditors at all stages of its development and O&M viz. design, construction and O&M stages. The safety auditors during their audit of the project highways observe the pattern and behavior of the traffic at all vulnerable locations and collects feedback from the locals. Thereafter the safety auditor records the observations in the findings and suggest the mitigation measures such as Vehicle Underpasses/ Pedestrian Underpasses, Service road, footpath, grade separator, junction improvement and other safety measures as necessary to be adopted to remove any safety deficiency. The observations and suggestions of the safety auditor are communicated to the concessionaire and the independent engineer which are compiled by them at site and they submit compliance report to NHAI.
- (ii) Besides the above, the Ministry has identified potential black spots on all NHs based on the basis of accident and fatality data. NHAI has already taken up the program for removal of these black spots on priority basis through the concessionaire/ contractor based on the accident investigation, traffic analysis and mitigation measures finalized by independent safety consultant/ independent engineer. During the mitigation process, the requirement of underpasses, flyovers and service/ access roads etc. are being provided in order to prevent accident at the black spot locations. These measures are implemented through the ongoing developmental works or change of scope or on standalone basis depending upon the status of the project highway.
- (iii) As already noted by the Committee, it is reiterated that NHAI has delegated powers to the Regional Officers to provide FOBs at the vulnerable pedestrian crossing locations on the National Highways, wherever required.

- (iv) With regard to Bharatmala Project, it has been decided that the decision regarding provision of underpass may be taken keeping in view the designed traffic, civil cost of construction, vehicle operating cost, environment cost, travel time, site condition, etc. on the basis of output obtained using lifecycle cost analysis including vehicle operating cost keeping the design life of 30 years. If the analysis results into savings, then cross roads be carried above the main highway in form of VOP. In case of VUP/LVUP, the exposed structure base shall be kept 6 inch (15 cm) above the ground level to minimize the height of approaches and ensure that these VUPs don't become water accumulation points. However, the main highway shall be kept above the cross roads in form of VUPs at interchange locations. As 70% of the cross roads are village roads (<5.5 m width), to ensure complete access –control and make cost-effective grade separation, it was decided to introduce a third smaller dimension VUP-SVUP (4m\*7m) for all cross roads carriageway width lesser than 5.5m. Thus, the VUPs would be of three grades i.e. VUP-5.5m X20; LVUP- 4mX12m; and SVUP: 4m\*7m.
- (v) IBMS: Ministry has established the Indian Bridge Management System (IBMS) with the aim to carry out condition survey including Inventorisation of all the bridges on National Highway System of India by using Mobile Bridge Inspection Units. Till now, Inventorisation of more than 1.7 lakh bridge structures including culverts has been completed. The software for this purpose is totally indigenous. This IBMS has been acknowledged as Outstanding Digital Monitoring Project. Identification of distressed bridges is an ongoing process. IBMS has identified about 147 critically distressed bridges based on various distress parameters, out of which 63 bridges are under consideration of NHAI. For remaining bridges, the concerned executive agencies have been instructed to undertake necessary remedial measures for the bridges requiring immediate repair/ rehabilitation etc.

(vi)[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 21)**

Construction of Common Underground Utility Ducts – The Committee find that roads are frequently dug up for various purposes such as laying of gas pipelines, power lines, phone lines and optical fiber cables for INTERNET availability etc. Frequent digging of roads leads to inconvenience for public use causing traffic jams and water-logging, if roads remain under digging for a long period without adequate repairing. Further, repeated digging of roads and consequent destruction of road surface

significantly raise the maintenance cost of the roads. In view of the above, the Committee urge the NHAI to conduct a study on the financial and technical viability of the idea of laying underground utility ducts to facilitate the installing of gas pipelines, power and phone lines and optical fiber cables etc. to reduce frequent digging of the roads. If found feasible, NHAI may plan for making the laying of common underground utility ducts mandatory for their road construction projects.

### **Reply of the Government**

The Indian Road Congress have provided the guidelines for laying the Utility Ducts in urban roads vide IRC-98:2011 and are being followed for urban areas. However, the cost estimates for construction of common underground utility ducts all along the roads are estimated to be about Rs.2.0 crore per km length. The service providers generally lay their utilities depending upon their convenience and there are no provisions to force them to utilize the ducts so constructed.

Under such situations, it is to be ascertained if such expenditure would be good value for the money spent thereupon.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 27 of Chapter I of the Report)

### **Recommendation (SL. No. 23)**

National Green Highways Projects - The Committee note that the Ministry of Road Transport and Highways have launched the National Green Highways Project to develop green corridors along National Highways for sustainable environment and inclusive growth which envisions development of eco friendly highways with participation of various stakeholders. The Committee also note that National Green Highways Mission (NGHM), established by Ministry of Road Transport and Highways (MoRTH) under National Highways Authority of India (NHAI), has been entrusted with the task of planning, implementation and monitoring roadside plantations and building fences along one lakh kilometre network of National Highways. The Committee, while acknowledging the fact that roadside plantation have immense potential to enhance the green cover of the nation and also generate employment opportunities for rural economy, feel that this initiative is a novel step towards improving the aesthetics of highways while contributing in a big way towards environment protection which is a global concern. However, the Committee regret to note that during the year 2016-17 against the allocation of Rs.500 Cr. In Green Highways Fund, no amount was actually

received by NHAI, which implies that the fund is yet to be operationalised and no work has been initiated under the National Green Highways Mission. Further, no amount has been allocated for the said fund for the year 2016-17. The Committee may be apprised of the reasons for not releasing money for the Green Highways Funds.

### **Reply of the Government**

The Ministry of Finance vide OM No. 24(84)PF-II/2015, dated 26.07.2016 objected to creation of a separate Green Highways Fund and advised the Ministry to obtain approval of the Cabinet / Cabinet Committee if the Ministry still feels that a separate Fund/SPV would yet be required to take their proposal (of creating a Green Highways Fund) forward in the public interest. Funding for greening of highways is, however, not a constraint as plantations on the ROW are part and parcel of all Highway Development Projects and the expenditure on plantations is made out of the funds available with NHAI as done for land acquisition and utility shifting.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 35 of Chapter I of the Report)

### **Recommendation (SL. No. 24)**

The Committee also desire that the Government should allocate the release the required funds under the Head 'Green Highways fund' and ensure its optimum utilization for development of green corridors along National Highways. Further, the Committee insist that in course of development of Green Highways Project, appropriate exit gates for crossing the fenced highways for the public is provided at appropriate distances and places so that movement of people living in habitations on either side of highways are not inconvenienced. The Committee thus recommend the Government to vigorously follow up the project of greening of highways at all levels.

### **Reply of the Government**

Funding for greening of highways is not a constraint as plantations on the ROW are part of all Highway Development Projects and the expenditure on plantations is made out of the funds available with NHAI as done for land acquisition and utility shifting. Fencing for the roadside plantations are raised depending on the requirement on the site. Fencing of various types ranging from tree guards for individual saplings to multi stranded barbed wire fences are recommended. However, there is no conflict on the issue of providing passage to public wherever deemed necessary. On a high-speed

highway, access to public is not recommended all along the stretch. However, breaks are provided in the plantation fences at appropriate places to provide access to the public across the plantations. The recommendation of the Committee to vigorously follow up the project of greening of highways at all levels is duly noted.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 35 of Chapter I of the Report)

### **Recommendation (SL. No. 26)**

Training and Human Resource Development - Taking note of the BOT model and newly introduced Hybrid Annuity mode of project implementation, the Committee feel that successful implementation and effective administration of a highway project requires induction of new set of skills in those employees of NHAI who deal with various responsibilities and duties ranging from preparation of DPR to monitoring of construction work, enforcement of contracts, liaising with State Government officers etc. The Committee, therefore, recommends that NHAI should arrange specific training programmes for its employees to upgrade their skills so as to enable them to resolve the complex issues pertaining to implementation and management of highway projects. Further, in view of future growth potential of roads and highways section in India, the Committee feel that a large number of civil engineers and technical experts will be required to fulfill the demand of skilled personnel in the areas of design, construction and maintenance of roads/Highways. The Committee, therefore, recommends that NHAI and Ministry of Road Transport and Highways should collaborate with Ministry of Human Resource Development, Ministry of Skill Development and Entrepreneurship and premier research institutions in road construction sector such as the Central Road Research Institute etc. for promoting quality education, skills, training and research work in the field of road construction sector.

### **Reply of the Government**

NHAI has been continuously making efforts to train its employees in various fields by providing specific training program from premier training institutions viz. Indian Association of Highway Engineers (IAHE), Indian School of Business (ISB), Indian Institute of Management (IIM), Management Development Institute (MDI), Administrative Staff College of India (ASCI). Recently, NHAI formulated its training policy which mandates specific training to each employee for upgrading their skills. Implementation of this training policy is in the process. Presently 300 Technical Officers



working in the Roads and Highway Sector have been nominated for “Contract Management, Arbitration and Dispute Resolution” organized by Indian Academy of Highway Engineers (IAHE) which is being held at IAHE Campus, Noida.

Further, the suggestions of the Committee for NHAI and Ministry of Road Transport and Highways to collaborate with Ministry of Human Resource Development, Ministry of Skill Development and Entrepreneurship, have been noted and shall be included in upcoming training programs.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (SL. No. 27)**

Creation of Permanent Cadre of NHAI and filling-up of vacancies – The Committee note that out of the total sanctioned staff strength of 1432, only about 1000 staff are in position. Further, out of the 1000 staff currently employed with NHAI, 665 of them are either serving the organization on deputation basis or on contractual basis. This implies that only about 335 staff are on the actual strength of the organization. The Committee further note that a number of vacancies in the organization are yet to be filled up and out of the 130 vacancies advertised during 2014, 2015 and 2016 only 61 persons could actually join the organization. Even in the Board of NHAI, two key posts of part-time (non-Government) Directors are yet to be filled up from the professionals having knowledge or experience of financial management, transportation planning or any other relevant discipline.

Given the high pace of growth in traffic across the Country and with so many development projects of NHAI yet to be accomplished, it is essential that the manpower requirement of NHAI be fulfilled by making the positions more lucrative so as to attract the best talent from the industry. The Committee observe that although hiring of persons on deputation/contract basis may have some advantages, but keeping in view the huge mandate given to NHAI and the Government’s focus on development of infrastructure in the country, it is essential for NHAI to have its own permanent Cadre which will ensure dynamism, continuity in administration, management, inflow/ outflow of personnel and retaining institutional memory. The Committee recommend the Government for creation of a permanent cadre of NHAI and expediting the filling-up the vacancies in NHAI.

### **Reply of the Government**

As for creation of a permanent cadre for the NHAI, it has found useful to keep a mix of permanent staff and those taken on deputation. The CES officers recruited through the UPSC are being increasingly deployed by the Ministry in the NHAI.

Similarly, it has been observed that the members of permanent cadre are reluctant to be posted in difficult and far-flung areas e.g. North-eastern states, where taking Engineering staff on deputation from the state PWDs works more efficient, especially when the staff requirement is project linked. The Service Regulations of NHAI are under a comprehensive review in this behalf. Further, NHAI is making its continuous efforts to increase the strength of permanent cadre in NHAI. The snapshot of the manpower position which depicts the gradual increase in the independent cadre (regular strength) of NHAI is given below:-

Year	Regular	Deputation	Contract	Total
2015	269	320	399	988
2016	335	268	397	1000
2017 (31.10.2017)	347	293	393	1033

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

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### **CHAPTER III**

OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE  
TO PURSUE IN VIEW OF THE GOVERNMENTS' REPLIES

**-- Nil --**

**\*\*\*\*\***

## CHAPTER IV

### OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

#### **Recommendation (Sl. No. 6)**

Restriction on Sub-contraction – The Committee note that due to the Sub-Contracting by the main contractors quality of work has significantly suffered in many projects. Further, practice of sub-contracting has also resulted into delay in project completion in many cases. It has been observed that the main contractor usually sublet the tenders to the sub-contractors after retaining their margins which results into degradation of quality of work as they do not have enough incentives to maintain the expected level of quality.

In view of the above, the Committee are of the opinion that while it may not be practical to completely rule out the practice of sub-contracting, NHAI should explore the possibility of imposing certain restrictions with respect to sub-letting of contracts, in order to ensure quality of work and timely completion of projects. This could also be done by levying of penalty on the main contractor if the sub-contractor leaves the project incomplete. Registration of sub-contracts and blacklisting of contractors may also be made mandatory to ensure that practice of sub-contracting does not affect the projects adversely. The Committee would like to be apprised about the preventive action taken in the matter.

#### **Reply of the Government**

To strengthen the resources available with the Contractor for execution of the project, practice of sub-contracting is resorted to. This is admissible under contract. Adequate provisions are there in the contract agreements to ensure that the main contractor, who is fully responsible to the employer for the work, complies with the various terms of the agreement irrespective of employment of sub-contractor for the work. Following provision exist in various contract document in this regard:

#### 1. **BOT (Toll) Projects:**

(d) Clause 2.1.18 of the RFP for BOT (Toll) projects stipulates as under:

Other Bid conditions shall include:

(i) The Bidder, in case it does not have the O&M experience specified in Clause 2.2.3 of the RFQ, by submitting its Bid, shall be deemed to acknowledge and agree that for a period of at least 5 (five) years from the

date of commercial operation of the Project, it shall enter into an operation & maintenance (O&M) agreement with an entity having the specified experience, failing which the Concession Agreement shall be liable to termination.

(ii) The Bidder would provide an undertaking to NHA that EPC works of the project would be executed only by such EPC contractor who have completed at least a single package of more than 20% of the TPC or Rs.500 Cr, whichever is less. An undertaking to this effect shall be provided by the Bidder.

(e) Article 48 of the Concession Agreement stipulates the definition of Project Agreements as under:

“Project Agreements” means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, Tolling Contract, and any other material agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Escrow Agreement, Substitution Agreement, or any agreement for procurement of goods and services involving a consideration of upto Rs. [5(five)] crore;

(f) Article 5, Clause 5.2.2 of Concession Agreement stipulates as under:

The Concessionaire shall submit to the Authority the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 30 (thirty) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that no review and/or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

(g) Schedule Q, Clause 4.5 of Concession Agreement stipulates as under:

Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Highway, and furnish its

comments within 15 (fifteen) days from receipt of such reference from the Authority.

2. **HAM Projects:**

- (c) Clause 5.2.5 of Concession Agreement stipulates as under:

*Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that selection or replacement of the EPC Contractor and an O&M Contractor and execution of the EPC Contract and O&M Contract shall be subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously and no later than 30 days from the date of receipt of the proposal alongwith the draft agreement by the Authority. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire or its Contractors from any liability or obligation under this Agreement.*

- (d) Clause 4.5 of Concession Agreement stipulates as under:

During development period, upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

3. **EPC Projects:**

- (d) Clause 3.2.4 of EPC agreement stipulates that:

It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all its obligations under this agreement notwithstanding anything contained in the agreements with its Sub-Contractors or any other agreement that may be entered into by the contractor, and no default under any such agreement shall excuse the contractor from its obligations or liability hereunder.

- (e) Clause 3.4.1 of EPC agreement stipulates that:

The Contractor shall ensure that the personnel engaged by it or by its Sub-contractors, in the performance of its obligations under this Agreement, are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Good Industry Practice.

- (f) As per clause 3.2.1 of the agreement sub-contracting upto 49% is admissible. The contractor, whether joint venture or sole, shall carry out works directly under its own supervision and through its own personnel and equipment in at least 51% of the total length of the project.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 12 of Chapter I of the Report)

### **Recommendation (Sl. No. 15)**

**Road Fatalities** - The Committee note with concern that incidence of road deaths in India is comparatively higher as compared to other countries. A Report prepared by the Ministry of Road Transport and Highways on Road Accidents in India in 2015 states that the total number of road accidents increased by 2.5 percent from 4,89,400 in 2014 to 5,01,423 in 2015. The total number of persons killed in road accidents increased by 4.6 percent from 1,39,671 in 2014 to 1,46,133 in 2015. Out of the total road accidents, 28.4 percent accidents took place on National highways. They note that Ministry of Road Transport and Highways has set a target of reducing the number of road accident fatalities to 50 percent by 2020 in line with the target of United Nations Decade for Action on Road Safety. The committee appreciate that the Government has launched a major initiative namely Pradhanmantri Sadak Suraksha Yojna (PMSSY) to improve the safety on different categories of roads viz. National Highways, State Highways, major district roads etc through engineering improvement measures. The Committee would like to be apprised about the budgetary allocations and status of the implementation with respect to PMSSY at the action taken stage.

### **Reply of the Government**

Pradhan Mantri Sadak Suraksha Yojna (PMSSY) has not been launched by the Ministry of Road Transport and Highways. This Scheme is administered and implemented through the Ministry of Rural Development. Therefore the details of this scheme are not available.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 24 of Chapter I of the Report)

### **Recommendation (Sl. No. 22)**

Construction of concrete-Cement highways for better road quality - The Committee are happy to note that owing to the multiple advantages of cement concrete pavement over the traditional road paving surfaces, particularly bituminous roads, and construction of cement concrete pavement is now being preferred by NHAI. The long term durability, longer service life, lesser fuel consumption, and resistance to extreme weather conditions etc. are various features that make Cement-Concrete an ideal material for highways and roads which endure very large volume of vehicular traffic. The Committee have been apprised that during the current Financial Year, out of the 26 projects awarded for a length of 1502km, 17 projects covering the length of 967 km will be constructed on cement concrete pavement. In this connection, the Committee recall the recommendations made by the Department related Parliamentary Standing Committee on Commerce (2011) which in their 95<sup>th</sup> Report on "Performance of Cement Industry" had strongly advocated the construction of roads including expressways using cement concrete pavement. In the said report, the Committee while noting that about 40% of the roads in developed Countries such as USA, West Germany etc. are made of cement concrete whereas it is only 2% in India, had recommended for construction of cement roads and highways to bring at par with international norms and standards. A cost-benefit analysis of bitumen and concrete road over 25-30 year life cycle cost in Rajasthan and Gujarat, which was undertaken by MoRTH, has suggested that the variation of the price of cement vis a viz bitumen is required to be mapped out and unless there is price comparison within an acceptable limits to 20%, the use of flexible (bitumen) pavement may perhaps required to be continued. The Committee also agree that with expansion of concrete-cement roads, it is important to undertake requisite cost research, yet feel that once the quality of concrete and cement used in construction is ensured so as to guarantee the long term durability of the roads, the savings on the maintenance would offset the initial rise in cost of construction. Considering the lesser



fuel consumption, resistance to extreme weather conditions and long term durability of concrete-cement roads, the Committee recommend that in future concrete-cement may be used in construction of highways in place of bitumen as in being done in many developed countries. In places where highways cannot be constructed using concrete-cement, the reasons for these may be satisfied.

### **Reply of the Government**

The initial cost of construction of Highways with cement concrete is more than Flexible pavement. The initial cost of flexible pavement is less than that of rigid pavement but having long-term maintenance requirement.

Based on the requirement of site conditions, maintenance requirements, life cycle cost analysis of pavement longer service life, and resistance to extreme weather conditions, saving of natural material etc. and as per directions issued vide Ministry of Road Transport & Highways Circular No. RW/NH-33044/31/2014/S&R(R)/Part dated 04.08.2014, type of pavement is decided on case to case basis.

It can, therefore, be concluded that single type of pavement may not be suitable under all conditions.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated  
31.10.2018]

### **Comments of the Committee**

(Please see para 30 of Chapter I of the Report)

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## **CHAPTER V**

### **OBSERVATIONS/RECOMMENDATIONS TO WHICH THE GOVERNMENTS HAVE FURNISHED INTERIM REPLIES**

#### **Recommendation (Sl. No. 9)**

Audit Issues - The Committee observe that the C&AG, in course of their examination of the accounts of NHAI during the year 2013-14 and 2014-15, had noticed several discrepancies in the accounts and other records of NHAI. As per Audit observations, the balance sheet and profit-loss accounts of NHAI were not drawn up in accordance with the format approved by the Government of India under NHAI Act, 1988. They further observe to their dismay that since the issues raised by Audit were not resolved, Audit had to issue a disclaimer certificates stating their inability to form a firm opinion about whether the financial statement of NHAI was true and fair. The Committee note that NHAI, as a follow up, had appointed M/s KPMG to submit a report on the issues raised by C&AG and their report is currently being analyzed by an expert Committee of C&AG.

The Committee regret to note that despite being a Statutory body, the account books of NHAI were found as not being maintained in accordance with desirable GOI standards by the C&AG for the year 2013-14 & 2014-15. Deviation from the standard accounting principles is not justified and NHAI should maintain its accounts as per the format prescribed by the C&AG so as to enable the Audit to have a meaningful assessment of the financial performance of NHAI. The Committee desire to be apprised about the comments of the expert Committee appointed by the C&AG on the same. The Committee also urge the Ministry of Road Transport and Highways to take note of the recommendations of the said expert Committee and ensure their implementation by the NHAI so that the accounting standard of NHAI does not attract any adverse comments from the C&AG in future.

#### **Reply of the Government**

The format of accounts was prescribed by C&AG in the year 1992. The present format is 25 years old. Since the time C&AG prescribed this format several changes have taken place in the working and reporting requirement of NHAI. Accordingly, year after year based on the reporting requirements some minor changes were made in the existing format of accounts. These were mostly data/information which was neither required nor considered at the time of prescription of format by C&AG in the year 1992.

Since the inception of NHAI, C&AG is auditing NHAI accounts on yearly basis. However, the issue of change in format of accounts has been raised by C&AG in the last few years' audit report.

The issue of changes in the format of accounts was discussed with C&AG officials and it was decided to appoint a financial consultant for expert opinion on the matter and also to suggest a new format of accounts. Accordingly, M/s KPMG was appointed as financial consultant in this regard. M/s KPMG have submitted their report along with revised format of accounts and the same is to be approved by the Ministry in consultation with C&AG. Ministry has held a meeting with C&AG and NHAI. The new format is being finalized by NHAI whose report is awaited.

In view of the above, the disclaimer issued by C&AG in the annual accounts 2014-15 & 2015-16 have been withdrawn in the annual accounts 2016-17.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Comments of the Committee**

(Please see para 15 of Chapter I of the Report)

### **Recommendation (Sl. No. 13)**

Further, the Committee regret to note that incidents like the gang rape near a Highway in Bulandshahar, Uttar Pradesh indicate that travelling on Highways is quite risky for the users, which need to be dealt on priority. In view of growing criminal activities on National Highways, the Committee urge that CCTV cameras with adequate storage capacity should be invariably installed at all toll plazas and vulnerable places at National Highways. The Committee are also of the view that NHAI should start helpline numbers and develop mobile apps, utilize the social media to encourage public involvement and enable the passengers to register their complaints with respect to poor quality of maintenance of Highways, misbehavior by toll staff at toll plazas, incidents of road rages and traffic violations and other inconveniences being faced by the passengers on National Highways. NHAI should also take necessary steps to make the public aware about such helpline numbers / mobile apps dedicated to the service of highway passengers through display boards and other mechanism installed at appropriate places. In this connection, a proposal for 'access controlled' highways is also understood to have been under examination in Ministry of Road, Transport and Highways wherein limited and designated entry and exit points on the highways would be constructed for better safety. The Committee would like to be apprised of the decision taken on the matter.

### **Reply of the Government**

NHAI has proposed to launch an integrated traffic incident management system for the NHs, for which a consultant has been engaged by NHAI. The proposed system

includes highway surveillance vehicles, tow away cranes, patient rescue vehicle (ambulance) and regional command centers. The national road accident helpline no. 1033 is being proposed for getting access to the concerned service through automated regional command centers. The helpline no. is proposed to be given wide publicity among all sections of the society through all available media. In addition to this, the proposed system will be operated through a robust automated IT network having least manual intervention and necessary mobile apps will also be a part of it.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

### **Recommendation (Sl. No. 14)**

The Committee have also been apprised that although law and order issues exclusively come in the domain of State Governments, NHAI is planning to evolve a system to ensure increased patrolling on National Highways every eight hours so as to deal with issues of traffic congestions and other inconveniences to commuters. Taking note of the growing security concern on Highways, the Committee recommend to consider creation of a dedicated Highways Security Force similar to the General Railway Police Force (GRP), for safeguarding the movement on National Highways. The aid of advance technologies such as geo-tagging, Global Positioning System (GPS), positioning of CCTV cameras in this direction on sensitive areas across the Highways are other steps which can enhance the efficacy of the monitoring system. The Committee would like NHAI to take action as suggested above and furnish the details about the specific action taken in this regard.

### **Reply of the Government**

NHAI have informed that they are in the process of conceptualization to set up a National Highways Security Services in consultation with the DS&BPRD. However, no formal proposal has been received in Ministry. Ministry would take a decision on it after receiving and examining the proposal in this regard.

In addition to this, NHAI is taking different IT initiatives such as development of Global Position System (GPS), Geo Fencing of National Highways, mobile apps., highways cameras at regular intervals and placing CCTV cameras with video wall at NHAI Headquarters.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated 31.10.2018]

## **Comments of the Committee**

(Please see para 21 of Chapter I of the Report)

### **Recommendation (Sl. No. 25)**

Provision of Wayside Amenities - During the course of examination of NHAI, it has come to light that the Government has planned to develop wayside amenities along National Highways across India on Public Private Partnership (PPP mode) which would include parking space, restaurant/food court, low cost Dhaba, telephone booth/ATM, fuel station, minor repair shop, Rest rooms/Motels for short stay, village haats to promote local products etc. on sustainable economic model. The Committee also note that NHAI has taken up the issue of provision of wayside amenities with Oil Marketing PSUs and that the said Companies have, in principle, agreed to provide toilets as well as free drinking water facility in good presentable conditions in all the upcoming fuel stations in line with the "Swachh Bharat Abhiyan" campaign. However, the Committee are apprehensive of the successful implementation of the project as no information on the status of the 33 identified sites along the National Highways for the pilot project was furnished to Ministry. The Committee would like to be apprised of the status of work done in this regard.

### **Reply of the Government**

(i) **Highway Village:** For Construction and Operation of Wayside Amenities on NHAI land, bids had been invited on BOT mode for 34 sites (for 16 sites bids invited two times and for 18 sites bids invited once) however no response was received, therefore Hon'ble Minister MoRTH had taken a meeting with stakeholders. Accordingly, based on stakeholder's response, Hon'ble Minister has given instructions to modify, the Request for Proposal & Draft Contract Agreement (DCA) for Highway Village. Subsequently, RFP & DCA have been modified for Highway Village with the approval of Competent Authority. For Construction and Operation of Wayside Amenities on NHAI land, NHAI then invited bids on BOT mode for 34 sites out of which 21 nos. of bids have been received online as well as in physical form on due date i.e. 23.03.2018 from 26 prospective bidders. The technical evaluation of these bids (for 21 sites) have been finalized by the Evaluation Committee and as per Committee recommendations the bids for only 14 sites were found technically responsive/qualified. However as per instructions of Chairman, NHAI the type-1 facility has been done away with and only type-2 & type-3 facility are to be developed. This resulted in only 6 bids on 6 sites as the balance sites for financial opening. The financial bids have been opened and the financial evaluation is in process as bids received are single bids.

(ii) **Highway Nest:** NHAI invited expression of interest (EOI) from the land owners having land parcels along National Highways to develop wayside amenities under Highway Nest. However very few applicants were qualifying as per the policy. Therefore revised Highway Nest policy with relaxed guidelines has been prepared and subsequently approved by the competent authority, NHAI and is currently with legal division for legal vetting. Post the vetting of the Highway Nest Policy, NHAI Regional Officers shall be intimated accordingly and the all the EOI received will be revaluated as per the new policy guidelines and all future EOI shall be invited as per the revised policy.

[Ministry of Road Transport and Highways OM No. H-11011/07/2017-P&P dated  
31.10.2018]

**New Delhi**  
**14, December , 2018**  
**23, Agrahayana, 1940(S)**

**SHANTA KUMAR**  
**Chairperson,**  
**Committee on Public Undertakings.**

## **COMMITTEE ON PUBLIC UNDERTAKINGS**

**(2018-19)**

### **MINUTES OF THE THIRTEENTH SITTING OF THE COMMITTEE**

The Committee sat on Monday, the 3rd December, 2018 from 1110 hours to 1200 hours in Committee Room 'C' , Parliament House Annexe, New Delhi.

#### **PRESENT**

**Shri Shanta Kumar - Chairperson**

#### **MEMBERS**

##### ***Lok Sabha***

2. Shri Lal Krishna Advani
3. Shri G. Hari
4. Shri Nagendra Kumar Pradhan
5. Dr. Hari Babu Kambhampati
6. Shri Ajay Nishad

##### ***Rajya Sabha***

7. Shri Naresh Gujral

#### **SECRETARIAT**

- |    |                    |                      |
|----|--------------------|----------------------|
| 1. | Smt. Sudesh Luthra | Additional Secretary |
| 2. | Shri G.C. Prasad   | Deputy Secretary     |

2. At the outset, the Chairperson welcomed the members to the sitting of the Committee and informed them about the two agenda items i.e. (i) Consideration and

adoption of the draft report on action taken by the Government on the Observations / Recommendations contained in the Nineteenth Report (Sixteenth Lok Sabha) of the Committee on Public Undertakings (2017-18) on 'National Highways Authority of India Limited and (ii) \*\*\*\*\* \*\*\*\*\* \*\*\*\*\*

3. The Committee then first took up for consideration the draft action taken report on the subject 'National Highways Authority of India Limited'. The Committee adopted the draft report without any changes/modifications. The Committee then authorized the Chairperson to finalize the aforesaid Report on the basis of factual verification by Ministries/Departments concerned and present the same to Parliament during the forthcoming Winter Session.

4. \*\*\*\*\* \*\*\*\*\* \*\*\*\*\* .

5. \*\*\*\*\* \*\*\*\*\* \*\*\*\*\*

***The Committee then adjourned.***

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## APPENDIX - II

*(Vide para 4 of the Introduction)*

**Analysis of the Action Taken by Government on the Observations/ Recommendations contained in the Nineteenth Report of the Committee on Public Undertakings (2017-18) on National Highways Authority of India Limited (NHAI)**

I	Total number of recommendations	27
II	Observations/Recommendations that have been accepted by the Government [vide Recommendations at Sl. Nos.1,2,3,4,5,7,8,10,11,12,16,17,18,19,20,21,23,24, 26 and 27]	Total - 20 Percentage - 74.07
III	Observations/Recommendation which the Committee do not desire to pursue in view of Government's replies.	Total - Nil Percentage - NA
IV	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and need reiteration.[ vide Recommendations at Sl. Nos.6,15 and 22]	Total - 03 Percentage - 11.11
V	Observations/Recommendations to which the Government has furnished interim replies.[ vide Recommendations at Sl. Nos.9,13,14 and 25]	Total - 04 Percentage - 14.81