

भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Road Transport and Highways)

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07.01.14

POLICY MATTERS – ADMINISTRATION / FINANCE 132/2014

[Decision taken in 169th Executive Committee Meeting held on 13.11.2013]

Sub: Guidelines for compliance of provisions under the Contract Labour (Regulation & Abolition) Act, 1970.

Guidelines were issued earlier regarding observation of certain provisions in connection with contract labour issues. Subsequently, it has come to the notice that provisions under the contract labour (R&A) Act, 1970 (hereinafter referred as 'CLRA Act', or, 'the Act') pertaining to Principal Employer (PE) and Contractor, as defined in the said act, entail liabilities which are distinct to each of the aforesaid entities.

2. The CLRA Act applies to the following:-
 - a. to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour
 - b. to a contractor who employs or who employed on any day of the preceding twelve months, twenty or more workmen.
3. There are three categories of contracts entered into by NHAI.
 - a. Contracts for BOT Projects under PPP mode.
 - b. Contracts for EPC Projects.
 - c. Contract for engaging labour through process of outsourcing to an outside agencies for the work of security, housekeeping, engagement of data entry operator, computer operator, etc., which is also known as short term contract.
4. As regards contracts under BOT projects, it has been clarified by Ministry of Labour that the concessionaires are the Principal Employer in case of the BOT Projects. The clarification has been communicated by MoRTH vide their letter no.NH-24036/17/2013-H dated 25th September 2013 and the same has been circulated vide this office letter dated 09.10.2013 to all RO's/PD's. However, in remaining two categories mentioned at 3 (b) and 3 (c) above, NHAI is the Principal Employer.
5. Keeping in view the provisions of CLRA Act, and in supersession of the guidelines issued earlier in this regard, the following guidelines are hereby issued for the sake of clarity on matters pertaining to the said Act. The details of the provisions of the Act have to be referred while executing the requirements stated in these guidelines.

6. **Definitions of Principal Employer, Contractor and Contract Labour:**

a. Principal Employer means:

In relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf.

b. Contractor means :

Contractor, in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor.

c. Contract Labour :

A workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer.

7. **Role of Project Director, or any other authorized representative of NHAI, functioning as Principal Employer:-**

Project Directors are to discharge the functions of a Principal Employer (PE) in EPC project as well as in the contracts entered into with outsourced agencies for providing labour in PIUs. In Regional offices, any officer authorised by the Regional Officer; and in NHAI Hqs, GM (HR-II) or any officer authorized by Member (Administration) shall function as the PE and will be responsible for compliance of the provisions of the Act. The PE will ensure the following:

- a. To get registered as the Principal Employer as per the procedure laid down in **Annexure A.**
- b. To issue Form V to the contractor as per format given in **Annexure B.**
- c. To ensure that workers are paid their earned wages and other dues well in time as per the minimum wages fixed by the Govt. from time to time.
- d. To ensure that wages are paid to the workers in the presence of a representative of PE, by the contractor or his authorised representative. The concerned representative will record, under his signature, a certificate at the end of entries in the register of wages cum muster roll, as the case may be, in the form of a certificate as under (Rule 74):-

"Certified that the amount shown in column no. has been paid to the workmen concerned in my presence on at"

- e. To ensure that the contract labour are provided the facilities as per the provisions of the Act as per **Annexure C.**
- f. To ensure that registers of contractors are maintained at site / office in Form XII, as per the format provided under **Annexure D.**
- g. To ensure that annual returns are sent in duplicate to the Registering Officer concerned not later than 15th February following the end of the year to which it relates, in Form no. XXV Rule 82 (2)

- h. To submit a return to the inspector, intimating the actual date of commencement /completion, as the case may be, in form VI-B Rule 81 (3)
- i. To receive an affidavit (as per the draft enclosed as **Annexure E**) from the EPC Contractor that he has disbursed all the due wages to the contract labourers and has also deposited the due contribution of ESI and PF in the ESI and PF department in each month, before submitting the contractor's bill to finance / accounts department for payment to the contractor. The PE must ask contractor to file no dues certificate issued by the ESI / PF department and no claim / dues certificate issued by the labour department.
- j. To ensure that in the aforesaid affidavit, the EPC contractor has also given an undertaking that if he has not paid any dues to the contract labour deployed by him and has not deposited the due contribution of ESI and PF, he shall be responsible to pay such dues to the workers and the balance contribution of ESI and PF in future.
- k. To ensure that if there is any change in particulars specified in the certificate of the registration, the Principal Employer shall intimate to the Registering Officer within 30 days from the date when such change take place. Rule 18 (4). For example non completion of project in time, awarding any other work to a new contractor etc.

8. Liabilities of Contractor:- The liabilities of Contractor are as under:-

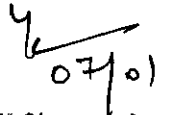
- a. The contractor has to obtain licence under sec. 12 of the Act.
- b. As the Licence is valid only for the period of one year, the contractor is liable to file an application for renewal in form VII in triplicate not less than 30 days before the date on which the licence expires.
- c. The contractor is responsible for payment of wages to each worker employed by him as contract labour, and wages are to be paid before expiry of 7th (in case of less than 1000 worker) or by 10th (in case of more than 1000 worker) in each month.
- d. The contractor will ensure disbursement of wages in the presence of authorised representative of the principal employer.
- e. The contractor has to provide amenities to workers as per various provisions of the Act.
- f. The contractor will display on Notice Board, the wage period and the place and time of disbursement of wages; and a copy of the same will be sent by the contractor to the PE.
- g. The contractor will maintain all the statutory Registers and Records as per Rule 75 to Rule 78; such as register of persons employed by the contractor muster roll, register of wages, register of deductions, register of overtime register of fines, register of advances and wage slip.
- h. The contractor will submit half yearly return in Form XXIV in duplicate so as to reach the licensing officer concerned not later than 30 days from the close of the half year, under Rule 82 (1)
- i. The contractor will display an abstract of the Act and rules in English and Hindi and in the language spoken by majority of workers.
- j. The contractor will produce all the registers and records and notices maintained under the Act or Rules before the inspector or any authority under the Act.

9. **Principal Employer's Responsibility for payment of Wages:-**

In case the contractor fails to make payment within prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor. Certain precautions, to be taken by PEs in such cases, are listed under **Annexure F**.

10. **Role of Finance/Accounts Department:-**

- a. Before passing each and every bills of the contractor's, the finance / accounts department must ensure that an affidavit given by EPC contractor is enclosed.
 - b. Before making final payment to the contractor, the finance / accounts department has to ensure that a clearance certificate from all the departments such as PF, ESI and labour department from the concerned state government / central government, as the case may be, has been submitted by the contractor.
 - c. At the time of releasing the security money / deposit of the contractor, the finance / accounts department must ensure that a clearance certificate in respect of above mentioned contribution and wage payment to the contract workers has been enclosed by the concerned representative of the PE.
11. For the purpose of monitoring, information will be submitted by the PEs and the Regional Offices of NHAI, in formats given under **Annexure G** and **Annexure H**, on six monthly basis, i.e., on 1st week of April and 1st week of October every year. The information submitted by the PEs and ROs will be compiled at Head-Quarters.
12. This issues with the approval of Chairman, NHAI.



(V K.Sharma)

Chief General Manager (LA & Coord.)

To,

All officers and employees of HQ/ROs/PIUs/CMUs/Site Offices

Procedure of registration of NHA/HO/PD's/PIU's as Principal Employer:-

1. Application for Registration should be made in Form I in Triplicate.
2. It should be accompanied with a demand draft in favour of PAO, CLC (C) as Registration Fee.
3. The details of Registration Fee are as under.

(a) If the no is 20	Rs. 60
(b) exceeds 20 but does not exceed 50	Rs. 150
(c) exceeds 50 but does not exceed 100	Rs. 300
(d) exceeds 100 but does not exceed 200	Rs. 600
(e) exceeds 200 but does not exceed 400	Rs. 1200
(f) If exceeds 400	Rs. 1500
4. It should be accompanied with photocopy of the agreement/agreements.
5. It should be sent either by registered post or may be delivered personally in the concerned RLC Office.
6. The jurisdiction of each R.L.C. offices are state/district wise. If the contract work consists more than one state/district, the registration certificate may be obtain where major work is to be carried out.

Format of application for registration of establishments employing contract labour.

(FORM I)

1. Name and location of the establishment
2. Postal address of the establishment.
3. Full name and address of the Principal Employer (furnish father's name in the case of individuals.)
4. Full name and address of the Manager or person responsible for the supervision and control of the establishment.
5. Nature of work carried on in the establishment.
6. Particulars of contractors and contract labour:
 - (a) Names and Addresses of Contractors.
 - (b) Nature of work in which contract labour is employed or is to be employed.
 - (c) Maximum number of contract labour to be employed on any day through each contractor.
 - (cc) Estimated date of commencement of each contract work under each contract.
 - (d) Estimated date of termination of employment of contract labour under each contractor.
7. Particular of demand draft enclosed (Name of the Union Bank, amount, demand draft No. and date).

I here by declare that the particulars given above are true the best of my knowledge and belief.

Principal employer

Seal and Stamp

Office of the Registering Officer

Date of receipt of application

Note:- The location and jurisdiction of RLC's Offices situated in different parts of the country, state/district wise can be seen on internet of ministry of labour and employment(Jurisdiction).

Format of Form V
(to be issued by the principal employer to the contractor.)

Certified that I have engaged the applicant (name of the contractor) as a contractor in my establishment. I undertake to be bound by all the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971, in so far as the provisions are applicable to me in respect of the employment of contract labour by the applicant in my establishment.

Signature of Principal Employer
Name and address of Establishment
(Seal)

Place.....
Date.....

Facilities to be provided by contractor to contract labourers and specified period.

- 1. Wholesome Drinking Water—(Rule 40):-** Sufficient supply of wholesome drinking water shall be made available to the Contract Labour . (Within 7 days by the contractor failing which within next 7 days by PE).
- 2. Rest Room—(Rule 41):-**Where contract labour is required to **halt to night** and the work is likely to be continued for 3 months or more. (Within 15 days by the contractor failing which within next 15 days by Principal Employer).
- 3. Canteen--(Rule 42):-**If the contract labour is likely to be continued for 6 month and no. of contract labours are 100 or more. (Within 60 days by the contractor otherwise in next 60 days by PE)
- 4. Latrines and Urinals—(Rule 51):-** One latrines and one urinals are required to be maintained for each 25 workmen. Separate latrines and urinals shall be maintained for male and female workers and it will be clearly indicated in writing (only for men/women) with gender figure. (Within 7 days by the contractor failing which within next 7 days by PE).
- 5. Washing Facilities—(Rule 57):-** Adequate and suitable washing facilities shall be provided for men and women with proper screen. (Within 7 days by the contractor failing which within next 7 days by PE).
- 6. First Aid Facilities—(Rule 58):-** One First Aid Box shall be maintained in case of less than 150 workers. (Within 7 days by the contractor failing which within next 7 days by PE).
- 7. PF and ESI Facilities:-** Due contribution is to be deposited by contractor (Within 15 days expiry of each month).
- 8. Bonus:-** It has to be paid by the contractor in proportionate to work done by contract labour. (Minimum 8.33%/Maximum 20% per year).In case any compliant is received for non-payment of bonus by the contractor, PE may deducted from the bills of contractor and may by paid to the complainant.

Format of form XII
(Register of Contractors)

1. Name and address of the Principal Employer.....
 2. Name and address of the establishment.....

Sl. No.	Name and address of Contractors	Nature of work on contract	Location of contract work	Period of Contract FromTo....		Maximum No. of workmen employ red by contractor
1	2	3	4	5	6	7

Signature of Licensing Officer

Place.....

Date.....

Draft of affidavit

I (Name of the contractor) s/o _____ resident of (address of contractor) _____ is/are proprietor/partner/managing director of M/s. (Name and Address of the firm/company) _____ is working as contractor/concessionaire for construction of (name and address of work) _____ of NHAI, solemn declared/deposed as under.

1. That I have already deposited the due contribution of PF/ ESI for the month of _____ in respect of the workers deployed by me at the aforesaid site/construction work as per the provision of ESI and Provident Fund Act.
2. That I have already paid all due wages for the month of _____ to all my workers deployed by me at the aforesaid site.
3. I undertake that if I have not paid any dues to the contract labour deployed by me at the aforesaid site and have not deposited due contribution of ESI/PF as per the provision of ESI/ PF, I shall be responsible/liable to pay such dues to the workers and to deposit the balance contribution of ESI and PF in future.

Signature of the Contractor

It is certified that my above statements are true and correct and nothing has been concealed

Signature of the Contractor

Note:- The above affidavit must be verified the Oath Commissioner.

Precautions to be taken in case where any due payments to the contractor's labour is to be made by the Principal Employer (NHAI)

- a) Any complaints/claim/representation regarding non-payment of wages received by the principal employer from any corner, then thorough investigation is required in the matter.
- b) A detail written comments may be sought from the concern contractor in respect of complaints received by the principal employer along with reasons for nonpayment of wages to the workmen (a photocopy of the complaints may also be enclosed for ready reference to the contractor).
- c) Reply submitted by contractor should be minutely examined and if needed he may be directed to furnish the relevant documents in support of their contentions.
- d) If the principal employer is fully satisfied that the contractor has failed to disburse the due wages to the contract labour only then, the principal employer is liable to pay the due wages to the contract labourers and have power to recover the same from the contractor..
- e) To take abundant precaution, any such payment may be made before the representative of the appropriate Government.
- f) If any dispute regarding payment of any dues/wages arises between the contractor and the workers/complainants in such cases, the principal employer may advise to the complainants to approach appropriate forum/authority for redressal of their grievances.

Annexure - E
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Sixth Monthly report is to be submitted by the HO/RO's/PIU's in respect of their respective Offices within 1st week of April (w.e.f. 1st October to 31st March) and 1st week of October (w.e.f. 1st April to 30th September) in each year.

Name & Address of the RO's	Name & Address of the Contractor / Outsourced Agencies	Maximum No. of Contract Labour employed or to be employed by contractor	If the no. of Contract Labour is 20 or more whether the contractor has obtained the licence under the Act	Whether the PE has applied/obtained the R.C.	Nature of work	Skilled			Semi-Skilled			Unskilled			Total No of Contract Labour
						Steno-grapher	Accountant	Gun-man	Office-Assistant	Computer - Operator	Sweeper	Peon	Security - Guard		
1	2	3	4	5	6	7	8	9	10						

What is the existing rate of minimum wages fixed by the govt.	Whether the workers are being paid minimum wages fixed by the govt.	Whether the workers are getting the facilities provided under the act such as canteen Rest Room for night halt, latrine and urinals, washing facilities, First Aid + PF,ESI,Bonus (if applicable)	Whether any Inspection has been carried out by the LEO(c) /Labour Department of the State Govt. If so under which act and date of inspections. (The inspections pertain to the establishment of PE or Contractor)	If yes, what was outcome of inspection	If any complaints regarding non-payment of wages/non-observation of the provisions of the CL Act has been received from any corner.	If yes whether it has been disposed of/outcome of the complaint
Irregularities detected:						

Irregularities rectified:

PE:- Principal Employer
RC:- Registration Certificate
LEO(c):- Labour Enforcement Officer (Central)

Sixth Monthly report is to be submitted by the RO's in respect of PIU's working under them within 1st week of April (w.e.f. 1st October to 31st March) and within 1st week of October (w.e.f. 1st April to 30th September) in each year.

Name & Address of the RO's/PIU's	Site Address	Name & Add. of the Contractor / Outsourced Agencies	Nature of Work	Maximum No. of Contract Labour employed or proposed to be employed by contractor	If the no. of Contract Labour is 20 or more, whether the contractor has applied/obtained the licence under the Act	Whether the PE has applied/obtained the R.C. under the act	What is the prevailing minimum rates of wages fixed by the govt. and whether it is been paid to the workers.	Categories of workers				Total nos. of workmen
								Un-skilled	Semi-skilled	Skilled	Tech. Sup	
1	2	3	4	5	6	7	8	9				10

Whether the workers are getting the facilities provided under the act such as canteen, Rest Room for night halt, latrine and urinals, washing facilities, First Aid facilities and PF,ESI,Bonus (if applicable)	Whether any Inspection has been carried out by the LEO (c) / State govt. and if so under which act and date. (The inspections pertains to the establishment of PE / Contractor)	If yes, what was out come of inspection, Notice Issued to PE/Contractor for compliance /challan proposed	Final out come of Inspection	Detail of Accident		If any Amt. of compensation has been paid by contractor / deposited in the office of commissioner employees compensation	If any complaints regarding non-payment of wages/non-observation of the provisions of the Contract Labour (R&A) Act,1970 has been received from any corner.	If yes whether it has been disposed of/outcome of the complaint
				Fatal/Minor	Whether it has been intimated to appropriate authority i.e. commissioner employees compensation			
11	12	13	14	15	16	17	18	

Irregularities detected:

Irregularities rectified:

PE:- Principal Employer

RC:- Registration Certificate

LEO(c):- Labour Enforcement Officer (Central)