



# भारतीय राष्ट्रिय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

## National Highways Authority of India

(Ministry of Road Transport and Highways)

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No.11041/218/2007-Admn

Dated: 31.12.2015

### **POLICY MATTERS-Technical (193/2015)**

(Decision taken on File No. NHA/CMC/Non-Performer/2015)

#### **Sub: Revised Criteria for Assessment of Performance of Promoter / Consortium Member of Concessionaire.**

Vide policy circular no. 76/2011 dated 18.05.2011 a criteria for assessment of performance of contractors / concessionaire was circulated.

2. Based on the experience of PPP projects, it is felt that the criteria for assessment of performance of concessionaires circulated vide above circular needs revision to reflect the current issues being faced in implementation of projects. The following revised criteria shall be applicable for PPP projects in place of existing criteria given in the above circular. Accordingly, para (II) of the circular no. 76/2011 dated 18.05.2011 shall be replaced with the following.

#### **(II) PPP / DBFOT Projects:**

##### **(A) Non-Performing Concessions**

A concession would be declared non-performing in the event of occurrence of any of the following events:

1. The Concessionaire fails to infuse its equity contribution as per the Financing Agreements and this result in delay in disbursement of debt by lenders, thus causing delay in completion of the project highway.
2. Variation between the financial and the physical progress is persistently more than 15% for more than one year as certified by the IE.
3. The Concessionaire fails to complete the project highway, for reasons not attributable to the Authority or Force Majeure, beyond six months of scheduled or extended period of construction, as certified by the IE.
4. The Concessionaire defaults in making Premium payments as per Concession Agreement for 3 or more occasions in a financial year.
5. If damages / penalties are imposed on the Concessionaire during O&M period for not meeting its obligations or the remedial works are carried out by the Authority at the cost of the Concessionaire on three or more occasions during the last three years from the date of review.
6. The Concessionaire fails to complete the Punch List items, for reasons not attributable to the Authority or Force Majeure, beyond the cure period specified in the Concession Agreement.
7. The Concessionaire fails to rectify major deficiencies in design / construction / operation stage, for reasons not attributable to the Authority or Force Majeure, as notified by the Independent Engineer / Safety Consultant.

8. The Bid Security has been encashed or an equivalent amount has been appropriated from the Performance Security by the Authority on account of damages / penalties imposed on the Concessionaire for not achieving Financial Close / Appointed Date for the project. This excludes concession foreclosed mutually even with encashment/forfeiture of bid security.
9. The concession has been terminated on account of Concessionaire Event of Default in the past 3 years as assessed from the date of review.

**(B) Individual Package**

A promoter / shareholder (and its Associates) would be declared non-performer if it is implementing only one concession and that concession has been declared as a non-performing concession at the time of review.

**(C) Multiple Packages**

Where a promoter / shareholder (and its Associates) is implementing more than one concession and the percentage of non-performing concessions is more than 33% of the total concessions being implemented by it, it should be considered a non-performer.

**(D) Joint and Several Liability**

In case a concessionaire / SPV is a consortium and the concession is declared as non-performer, then all the consortium members having more than 26% stake in the SPV will also be declared non-performer for the project individually.

3. All other provisions of policy circular no. 76/2011 dated 18.05.2011 remains unchanged.
4. This issues with approval of the Competent Authority.



(A.K. Singh)  
CGM (Coord.)

To:

All Officers & Employees of HQ/ROs/ PIUs/ CMUs/ Site Offices