



# भारतीय राष्ट्रिय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

## National Highways Authority of India

(Ministry of Road Transport and Highways)

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### NHAI/Policy Guidelines/Miscellaneous Guidelines/2020

#### Policy Circular No. 18.59 dated 31<sup>st</sup> December, 2020

(Decision taken on e-office file no. 11041/Misc./2020-Coordination-Part(1)  
Comp No. 33064)

#### Sub: Vetting of certain critical correspondence to be issued by PIUs by GMC (M/s. KPMG)

The Project Implementation Units (PIUs) have to correspond with the Concessionaires/ contractors in relation to the projects on daily basis. Besides correspondence of routine nature, at times correspondence may be critical in nature considering the technical, financial or legal aspects involved. A cure period notice, notice of suspension, notice of intention to issue termination notice, notice of termination and replies to such notices are certain critical correspondence which calls for careful drafting.

2. While carrying out review of some of the Projects, it has been observed that the aforesaid critical correspondence issued by PIUs have not been robust (e.g. not containing substantive aspects; carrying vagueness or not referring to contractual provisions, etc.). Besides, concerned Technical Divisions at NHAI headquarter was not timely notified about the same by PIUs. Therefore, considering the criticality involved in such correspondence, the following procedure shall be followed strictly in future:


- (i) Important correspondence from the Concessionaire/ Contractor, which have implications and needs to be addressed urgently like cure period notice, notice of intention to terminate, notice of termination, etc shall be forwarded forthwith to the concerned Technical Division at NHAI HQ, RO Office, NHAI Legal Cell and GMC as soon as the same is received.
- (ii) Draft of the aforesaid notices/replies shall be vetted by the GMC Team stationed at NHAI HQ.
- (iii) RO Office and Technical Division at HQ shall be invariably marked while corresponding with the Concessionaires/Contractors.
- (iv) Following aspects (*which are not exhaustive and are indicative only*) may be kept in mind while preparing the aforesaid critical correspondence:
  - (a) The notice or the reply, as the case may be, needs to be issued within the time specified in the contract, and if no timelines specified therein, then within the reasonable time.
  - (b) The notice/reply should mention the relevant provision of the contract, wherever applicable, and drafting should be done keeping in mind the language of such provision.
  - (c) The correspondence should specifically address the issue(s) raised or to be raised.
  - (d) The correspondence should be issued by and/or addressed to the authorised persons.

- (e) In case of notices, timelines provided under the contract as well as the steps mentioned in the contract, should be strictly adhered to.
- (f) The defects and deficiencies should be specified with sufficient details and clarity so that the Concessionaire/Contractor is clearly made aware of the exact defaults/deficiencies for which the notice is being issued. To the extent applicable or required, supporting documents should also be annexed.
- (g) The reference to the earlier communications should be mentioned, to the extent applicable.

3. The instant circular is being issued in furtherance to, and not in derogation in any manner whatsoever of, the following circulars issued by the Authority in the past:

- (i) NHAI/Policy Guidelines/Project Payment/2020 No. 6.24/2020 dated 3<sup>rd</sup> November 2020;
- (ii) NHAI/Policy Guidelines/Project Payment/2020 No. 6.23/2020 dated 15<sup>th</sup> September 2020; and
- (iii) NHAI Policy Circular No. NHAI/IT/Data Lake/05 dated 21<sup>st</sup> April 2020.

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

  
(Sheo Shankar Jha)  
CGM (Coord.)

To

All officers of NHAI HQ/ROs/PIUs/CMUs/Site Offices

Copy to:

1. PS to Chairman
2. PS to All Members/CVO
3. Hindi Officer for translation in Hindi
4. Library for hosting the circular on library site
5. Web admin for circulation