

भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India

(Ministry of Shipping, Road Transport and Highways)

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No. 11041/218/2007-Admn.

January 4, 2011

POLICY MATER – Technical (71/2010)


(Decision taken on ROB Division File No NHAI/CGM-ROB/Rly Board/2010)

Sub: Grant of Permission for construction of:

- i. ROBs/ RUBs by Railways and
- ii. Flyover/Under pass/Foot over bridge/canal crossing proposed by State Govt. Agencies across National Highways - Policy Guidelines thereof.

The *Policy Guidelines* regarding grant of permission for the construction of ROBs / RUBs proposed by Railways for a new rail corridor OR construction of flyovers / underpasses/ foot bridges etc. proposed by State /Central Govt. Agencies/Public Sector across the existing NH link constituting *way leave facility or crossing structure* (WLF or CS) have been prepared in confirmation to the extant Rly Policy Guidelines in this regard and finalized with the approval of Competent Authority and placed at *Annex-I*.

2. The "*Standard Agreement Format*" required to be executed with the Railways or the concerned State /Central Govt. Agencies/Public Sector is also placed at *Annex-II*.
3. These policy guidelines will be effective from the date of issue of this letter.
4. This issues with the concurrence of Finance Div. of NHAI.


(S S Nahar) 4.11

Chief General Manager (ROB)

Encl: As above

To

1. All Members/CVO/CGMs at HQ.
2. All EDs/ ROs/PDs of PIUs/CMUs/SPVs
3. All GMs/DGMs/Managers at HQ.
4. Hindi Officer/Library,

Copy for information to:

PS to Chairman

POLICY MATER – Technical (71/2010)
(Decision taken on ROB Division File No NHAI/CGM-ROB/Rly Board/2010)

Sub: Grant of Permission for construction of:

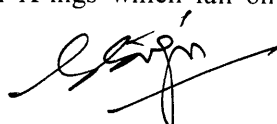
- i. ROBs/ RUBs by Railways and**
- ii. Flyover/Under pass/Foot over bridge/canal crossing proposed by State Govt. Agencies across National Highways - Policy Guidelines thereof.**

The Policy regarding grant of Permission for the construction of either ROB/RUB, by Railways OR Flyovers/underpasses/canal crossing etc. proposed by State/Central Govt. Agencies/Public sectors across existing National Highways-Toll Roads or otherwise (hereinafter called the “way leave facilities” or “crossing structures”) needs to be laid down by NHAI, so as to have uniform approach for processing of such requests received from time to time involving NH Land. During the operation and maintenance of a given NH Link (Toll road or otherwise) the need for such requests may arise due to following circumstances:

- (a) Provision of a new rail corridor requiring ROB/RUB across the existing NH.
- (b) Provision of new State Road link crossing the existing NH Link;
- (c) Remodeling of State Irrigation/ water supply System involving construction of new canal/ pipe crossing across the existing NH Link;
- (d) Severance caused due to provision of a new bypass / Ring road alignment by State Govt. agencies;
- (e) For any other public cause (s) concerning to State Govt. agencies / Rlys / Ministry of Communication / Public sector.

The following policy guidelines as laid down to be followed for granting of permission for such WLF or CS:

1. The concerned project CGM shall insure at the time of preparation of DPR/ FSR for capacity augmentation of NH project by the Technical Consultants engaged by the NHAI, provision of such necessary Crossings (ROB/RUB/ Flyover/canal crossing etc.) are included in the scope of work keeping in view the safety of public at large during post-construction phase. The Scope of work of such ‘Crossings’ are generally considered as part of the upgradation project and therefore cost of the same is borne by NHAI.
2. Since Railway authorities are separately allocated 12½% of Cess Revenue out of CRF towards Railway safety works which primarily is utilized by Railways for the replacement of existing Railway Level X-ings all possible efforts therefore shall be made for inclusion in the Railway programme of such replacement of existing Railway Level X-ings which fall on the alignment finalized during



upgradation of a given NH link else NHAI shall bear the cost of replacement of such existing Level X-ings.

3. In case a new rail corridor is introduced which requires construction of few crossing over/under the existing NH Link, the cost of all such crossings (ROBs/RUBs) shall be borne by the Railway authorities. This include relocation of any utilities affected by the new rail corridor.
4. In case of any new Flyover/underpass meant for the crossing of State Road link /canal etc. over/under the existing NH Link, the grant of permission for way leave facility to be accorded by NHAI provided the concerned State / Central Govt. Agencies / Public sectors foot the bill for entire scope of work involved and to be carried out as deposit work preferably.
5. By its very definition, way leave facilities on NH land involves occasional or limited use of NH land by a party for a specified purpose like crossings structures without conferring upon the party any right of possession or occupation of the land and without any way affecting the NH Land title, possession, control and use of NH land.
6. No NH Land shall be sold or transferred by NHAI to any agency seeking way leave facility.
7. In genuine and unavoidable cases involving public cause (s), way leave facility may be allowed after execution of agreement with special mentioned for revision of charges time to time. It may be noted that the land is not licensed, but only permission granted for a limited use which is to be specified in detail in the agreement. To avoid any misunderstanding on this score, the agreement should not use terms like 'license' and 'license fee', but only 'permission' and 'way leave charges'. The agreement should also clearly stipulate that the NHAI administration retains full rights to enter upon, to pass through or use the land, at any time, without any prior notice to the party.
8. In the event of the way leave facilities being discontinued with, the Highway Authority will neither be liable to pay any compensation or reimburse any amount to the party, nor to provide any alternative arrangement for access etc. In such a case, any installation like underground pipelines etc. put up by the party are liable to be removed / shifted by the party at its own cost.
9. Way leave permission should be accorded only after ensuring that NHAI's financial interests are NOT affected in any manner i.e. by way of loss of traffic, loss of Toll Revenue etc. by granting such permission. A suitable clause securing NHAI's financial Interests may be provided in the Agreement to be executed with the party.



10. The following rates shall be levied for way leave facilities/easement rights on NH land while according 'in-principle' approval for grant of permission.

(A)

I.	In case of ROBs/RUBs falling on a new rail corridor crossing over/under the existing NH Link as the case may be	Rs.6,000/- p.a upto two lane road crossing two tracks and Rs.12,000/- p.a in case of Bridge is wider than two lane and crossing more than two tracks.
II.	Public Road by local bodies/State Govt./Govt. & Autonomous bodies,	6% of the market value of land p.a. subject to a minimum of Rs.10,000/- p.a.
III.	Any water crossing belonging to State Irrigation/Water Supply Deptt.	6% of the market value of land p.a. subject to a minimum of Rs.10,000/- p.a.

(B) During implementation phase, processing Fee shall be levied as under:

S.No.	Charges to be levied	Rate
I	Plan & Estimate (P&E) charges	2% (To be charged in advance at the time of submission of GAD/proposal and shall be adjusted finally against Departmental Charges.)
II.	D&G Charges (Supervision)	3.125% (To be charged before start of execution of work)
III.	Levying charges towards Maintenance of the Crossing Structure within NH Land in Perpetuity (Considering 30 Year Period).	3% p.a. capitalized to 30% (To be charged before completing /operationalising the facility)

11. In all the above cases of way leave facilities, no other construction except the permitted expressly be allowed on NH land. If any construction comes up subsequently the same should be immediately removed since noticed.

12. The work related to way leave facility should be preferably "Deposit work" to be executed by NHA falling within the ROW of NH. The entire cost of the Project to be borne by the Applicant in advance. In case the civil work is executed by the Applicant; NHA shall carryout construction supervision by engaging competent construction supervision consultants at the prescribed cost (@ 3.125%) payable by the Applicant in advance.

13. The applicant need to indemnify NHA/BOT operator for any damages caused due to the proposed X-ing.



14. Each proposal received from the Railway / State / Central Govt. Agencies / Public sectors is to be examined and wherever deemed fit, the Competent Authority shall accord 'in-principle' approval for grant of permission following which the stage-wise processing shall commence after levying requisite processing fee. While conveying NHAI's decision of "in-principle" approval for grant of permission a demand note seeking charges for the use of NH landed the stages involved should also be notified to the Applicant.
15. All proposals for grant of way leave permission shall be processed by Regional CGM and forwarded to the concerned Member at the Head Quarter for final approval of Competent Authority. The way leave facilities shall not be granted as a matter of routine but only after consideration of each case on merits clearly brought out based on a site inspection by Regional CGM. Special care shall be taken to see that the way leave facility does not in any way impeach the safety and smoothness of road transport operations and NH property. For expeditious disposal of the cases, the Competent Authority for each stage of proposal processing shall be as under:-
- | | | |
|----|--|------------------------|
| a. | Proposal scrutiny stage | Chairman, NHAI |
| b. | Place of Estimate Stage | Concerned Member |
| c. | D&G Charges | Concerned Regional CGM |
| d. | Levying Charges towards Maintenance of the way leave facility/Crossing Structure across NH right of way. | -do-. |
16. A standardized format for Agreement to be executed for each case with the Railways / State / Central Govt. Agencies / Public sectors is placed at *Annex-II*. On behalf of NHAI, the concerned Regional CGM is authorized to execute such standard Agreement with the involved party.
17. These policy guidelines will be effective from the date of issue of this letter.



No. 11041/218/2007-Admn.

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Standard Agreement Format for execution with
The Railway Authorities / State/Central Govt. agencies/Public Sector

Construction of ROBs/RUBs* over existing NH Link.

This agreement entered on.....day of.....(month & year) between the National Highways Authority of India (NHAI), a statutory body formed under an act of Parliament acting through the General Manager.....of the first Part and,

President of India acting through the Divisional Railway Manager..... Railways#, on the Second part.

Whereas there exists N.H link in operation for road transport and The Railway authoritiesRailway proposed to construct ROBs/RUBs* for laying new rail corridor across the NH No.....@Km..... and therefore, requires way leave facility involving NH Land for providing a safe passage to Railway# traffic.

And whereas the National Highways Authority of India (NHAI) has agreed to provide all possible assistance for construction of such ROBs/RUBs*.

It has now been agreed between parties as follows:-

A. The party in the first part shall

- (1) On payment of the amounts mentioned here under provide all facilities and assistance for early completion of the Project involving construction of ROBs/RUBs* and their completion.

B. The Party in the second part agree:-

- (1) To execute regular agreement and to pay the charges for preparation thereof on an established reciprocal basis or Rs. 10/-, whichever is more, and stamping charges subject to recovery being as per Stamp Act, as may be in force at the time of execution.
- (2) To submit drawings/designs and specification, including temporary arrangement, if any, by Railway# Authority for approval of the NHAI prior to inclusion in the bid document for entrepreneur appointed for execution. No addition/alteration/modification in the approved plans drawings, etc., shall be made without prior approval of NHAI.
- (3) To supervision/Construction by NHAI of all construction work of bridge proper across existing National Highways (within Right-of-way of the NH Link) and payment of plan and estimate charges, supervision charges as approved by NHAI in advance so that necessary work charged organization can be created in time for supervision of actual construction.



- (3a) The plan and estimate charges shall be 2% and D & G (Direction and General) Charges shall be 3.125% of the estimated cost of the bridge proper, if the bridge is constructed by Railway# Authority.
- (3b) If the bridge is constructed by the NHAI on behalf of the Railway# Authority, the charges shall be 2% plan and estimate charges and 3.125% D & G (Direction and General) of the estimated cost of the bridge.
- (3c) Cost of bridge* as estimated by NHAI itself or as approved by NHAI if estimated by concerned Railway# Authority shall not be a matter of dispute. The D & G shall be subsequently applicable on final cost of construction of bridge* proper. A suitable clause in this context for the purpose of depositing of D & G, plan & estimates charges, with NHAI shall be included in the Agreement to be executed between Railway# Authority.
- (3d) No work shall be allowed to be started in NH land unless the necessary payment, as indicated above, are deposited with NHAI.
- (4) To ensure advance payment of the entire cost for preliminary and incidental works that may require to be executed by NHAI for the purpose of clearing the site for construction of ROBs/RUBs*. These may include shifting of installation or any other structures which the NHAI may consider necessary either in the beginning or subsequently during the construction of ROBs/RUBs*. The charges would include cost of such works, as approved by NHAI. The D & G shall be payable at the rates indicated in para 3 above, i.e., 3.125% of the estimated cost of the bridge if the work is done by the NHAI.
- (5) To award work of ROBs/RUBs* bridges to only such contractors, as are technically capable of carrying out bridge works under road traffic running conditions. In case, where the contractor has not carried out the bridge work under road traffic running conditions, he will be asked to employ an engineer having adequate experience to supervise the bridge work under such conditions.
- (6) To carry out the work under road traffic running condition with or without speed restrictions. NHAI will make efforts to arrange speed restriction of road traffic as per requirements as far as possible.
- (7) To ensure compliance, during the construction the of ROBs/RUBs*, of all safety norms that may be specified by NHAI from time to time for safe plying of road traffic.
- (8) To pay on demand the cost of all such works including D & G at the rate of 3.125% of the estimated cost of the work, in case the work need to be executed by NHAI from safety consideration.
- (9) That Lease/ license period shall be – years and will not be changed by Railway Authorities without prior consultation and the approval of the NHAI.
- (10) That during the lease/licence period, bridge proper (over/under the road) shall be maintained by the concerned Railway Authorities at their cost under the supervision and inspection of the NHAI. The Railway# shall pay to the NHAI 3.125% of the Maintenance cost as supervision and inspection charges p.a. For the purpose of levy of these charges, the annual maintenance cost shall be taken as not less than 3% of the completion cost of the bridge proper which may be revised by NHAI as per laid down norms. These charges shall be deposited by the concerned Railway# Authorities every year in advance. In case railway wants NHAI to carry out maintenance during lease period they shall pay 3% of the completion cost as maintenance charges and 3.125% of the maintenance cost as supervision and inspection charges. By maintenance it will be understood that it involves ordinary day-to-day maintenance. However, in case any major repairs are required, the cost of the same, and the supervision charges, shall be borne by the concerned Railway# Authorities Decision of the NHAI regarding maintenance works required shall be final and will not be a matter of dispute.
- (11) To follow Ministry of Transport Railways specifications, Indian Roads Congress (IRC) codes, and other NHAI Instructions, etc., for preparation of drawings and designs of the bridge proper as well as for temporary works. These designs shall be prepared either in-house by the concerned Railway Authority. In case the designs are got prepared from Consultants, the same shall be checked by reputed Consultant/Engg. Institution before the same are submitted to NHAI for approval. NHAI decision regarding modifications to the



design/drawings, etc., shall be final and binding on the Railway Authority Consultant and shall not be a matter of dispute.

- (12) To indemnify and hold the NHAI harmless against all damages, losses, costs and charges suffered or incurred by the NHAI on account of any injury to the person or property of any person using the road over/under bridge, however occasioned, unless it is solely due to negligence and misconduct of NHAI or its employees.
- (13) To pay interest at the rate of 10% per annum on all sums payable to the NHAI under any of the terms & conditions of these present, if not paid within a month from the date of demand in writing by the NHAI.
- (14) That in metropolitan/urban areas/or other location, where land is scarce and costly, bridge approaches shall be normally on stilts in NH land. All other areas where land is not a problem, NHAI may consider solid earthfill approaches in NH land. Decision will be taken by the NHAI on case to case basis as per the prevailing site conditions and requirement of the NHAI and shall be binding upon concerned Railway Authorities.
- (15) To have way leave facilities as an acknowledgement of the ownership of the NHAI of the land on which the ROBs/RUBs* proper is constructed. The Railway# Authorities shall pay a total of Rs.6,000/- per year upto two lane road crossing two racks and Rs.12,000/- per year in case the bridge is wider than two land and/or crossing more than two tracks. NHAI may demand payment of these charges on capitalized basis taking interest @ 7% per annum. These charges will vary from time to time as per NHAI Guidelines in this regard.
- (16) To ensure that Railway# Authorities shall carry out and maintain all relevant record including test record required for quality control carried out in the laboratories of I.I.T. or Engineering College at his own cost and such record shall be made available for inspection whenever demanded by NHAI.
- (17) To ensure that concerned Railway# Authorities shall carry out load test of PSC girder/girder in NH portion at his own cost and under NHAI's supervision.
- (18) In case of doubt or difference or disputes that may arise between the concerned Railway# Authorities and the NHAI, the decision of the Chairman, NHAI shall be final and conclusive and binding.

(Regional CGM)

Signed by
For and on behalf of
NHAI

Signed by

For and on behalf of concerned
Railway# Authorities

Witnesses

1.

1.

2.

2.



* Flyover / Underpass / Foot over bridge / canal crossing (as the case may be)
State/Central Govt. Agencies /Public Sector (as the case may be).

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