



भारतीय राष्ट्रीय 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

16<sup>th</sup> June, 2010

**POLICY MATTER – TECHNICAL ( 60 /2010)**

(Decision taken on Finance Division File No. NHAI/11033/GM(F&A)/FC/1/2010 )

**Subject: Procurement of NHAI Projects on BOT (Toll/ Annuity) under PPP Mode : Opening of Escrow Account -Clarification thereof**

The Model Concession Agreement (MCA) provides that *"The Concessionaire shall, prior to the Appointed Date, open and establish an Escrow Account with a Bank (the "Escrow Bank") in accordance with this Agreement read with the Escrow Agreement"* ( Article 31.1.1).

2. It is also provided that the Concessionaire shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account (Article 31.2):


- (a) all funds constituting the Financial Package;
- (b) all Fee and any other revenues from or in respect of the Project Highway, including the proceeds of rentals, deposits, capital receipts or insurance claims; and
- (c) all payments by the Authority, after deduction of any outstanding Concession Fee.

3. The MCA defines, **Appointed Date** means the date on which Financial Close is achieved or an earlier date that the parties may by mutual consent determine, and shall be deemed to be the date of commencement of the Concession Period( Article 48). In other words, Appointed Date either could be the very date of Financial Close or an earlier date but not later than the date of Financial Close.

4. **Financial Close**, as defined in Article 48 of the MCA means the fulfillment of all conditions precedent to the initial availability of funds under the **Financing Agreements** executed by the Concessionaire in respect of financial assistance. The Escrow Account thus has to be opened before the achievement of Financial Close.

5. In view of above, it is clarified that subject to the other provisions of the MCA, the Concessionaire is obliged to open an Escrow Account prior to the Appointed Date and the opening of the Escrow Account is therefore not to be linked to the Financial Close.

6. This issue with the approval of Competent Authority.

  
(S S Nahar)  
CGM(Coord)

All Members

All CGMs/ All ROs /CVO/GMs

All DGMs/Managers

All PIUs/ CMUs/SPVs

Copy for information to :

PS to Chairman