



भारतीय राष्ट्रीय 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 /BOT (Toll) /2020

Policy No. 8.3.33/2020 dated 26th May, 2020

(Decision taken by EC in its 422nd Meeting vide Agenda No 422.10 -Comp No. 5507)

Sub: Relief Measures to the BOT (Toll) Concessionaires from the impact of COVID-19 - reg.

Pursuant to Ministry of Road Transport & Highways Office Memorandum No. COVID-19/Roadmap/JS(H)/2020 dated 18th May, 2020, nation -wide lock down being declared by Prime Minister from 25th March 2020 and accordingly NHAI also suspended toll collection from 26th March 2020 to 19th April 2020, representations given by Highways Operators Association of India (HOAI) and NHBF and thereafter video conferencing held with them, the following decisions have been made:

- I. Extension in Concession Period when it was directed by the Authority to suspend the collection thereof due to COVID-19 from 26th March 2020 to 19th April 2020:

The Concession Period shall be extended by a period, equal in length to the period during which the toll collection was suspended by NHAI.

- II. Extension in the Concession Period in the event of partial collection of Fee where the daily collection is less than 90% (ninety per cent) of the Average Daily Fee:

The Concession Period shall be extended in proportion to the loss of Fee on a daily basis. loss of 25% (twenty-five per cent) in collection of Fee as compared to the Average Daily Fee for four days shall entitle the Concessionaire to extension of one day in the Concession Period.

Average Daily Fee has been defined as under:

“Average Daily Fee” means the amount arrived at after dividing the total Realisable Fee of the immediately preceding Accounting Year by 365 (three hundred and sixty five), and increasing the result thereof by 5% (five per cent);

provided that the Average Daily Fee for any period prior to completion of the first Accounting Year following COD shall be a simple average of the Fee collected every day during the period between COD and the last day of the month preceding the date on which the event requiring calculation hereof occurred, and in the event that the Fee payable by any segment of traffic has not been realised for any reason, an assessment thereof shall be made by the Independent Engineer to form part of the Average Daily Fee for such period;

The Concession Period in PPP contracts ending on or after 20th February 2020 shall be extended by not less than three and not more than six months. The period of extension (between three and six months) may be decided based on the specific circumstances of the case and the period for which performance was affected by the force majeure events.

- III. Payment of Concession Fee/ Premium when it was directed by the Authority to suspend the collection thereof due to COVID-19 from 26th March 2020 to 19th April 2020:

The Concessionaire shall be exempted from payment of Concession Fee. Since the Concession Agreement provides for extension of Concession Period, the Concessionaire shall

be required to pay the Additional Concession Fees/premium during the extended period. The Additional Concession Fee/ Premium during the extended period shall be calculated based on the provisions of Clause 26.2 of the Model Concession Agreement.

(As per provision of 26.2.2 of the Model Concession Agreement, "The Premium payable under Clause 26.2.1 shall be deemed to be part of the Concession Fee for the purposes of this Agreement.")


- IV. Payment of Concession Fee/ Premium In the event of partial collection of Fee where the daily collection is less than 90% (ninety per cent) of the Average Daily Fee:

In case the Concessionaire is able to collect some user Fee, then the extension of the Concession Period would take into account the portion of user fee collected and therefore, the Concessionaire shall be required to pay proportionate Additional Concession Fee/Premium with respect to the Fee collected by it. Further, it shall pay Additional Concession Fee/ premium during the extended period, which shall be calculated based on the provisions of Clause 26.2 of the Model Concession Agreement.

- V. Applicability of Circular: The Circular is applicable to all BOT (Toll) projects where the Concessionaire and Authority have entered into a Concession Agreement based on the Model Concession Agreement. If provisions in the Concession Agreement are different, the provisions in the Concession Agreement shall prevail. Further all the requirements of the Concession Agreement and Policy Circular NHAI/Policy Guidelines/Concession Fee during subsistence of Force Majeure/2017 No 8.4.16/2017 dated, the 10th August 2017 shall be complied with.

It may be further be noted that invocation of Force Majeure Clause would be held only in a situation where the parties to the contract were not in default of the contractual obligations as on 19th February 2020. Further, the Concessionaire should comply with the conditions/ provisions of Model Concession Agreement for claiming Force Majeure Event.

2. This issues with the approval of Competent Authority.



(S.K. Patel)

General Manager (Coord.)

To:

- (i) All Officers at HQ/ROs/PIUs/CMUs/Site Offices.
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