



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Road Transport and Highways)

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G-5 & 6, Sector-10, Dwarka, New Delhi-110075

NHAI/ Policy Guidelines/ EPC Projects/2018

Policy No.9.2.22/2018, dated 02.08.2018

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Sub: Issuance of Provisional Completion Certificates or Completion Certificates in EPC Projects - reg.

The Authority Engineer (AE) as per its TOR (Cl. 10 of TOR of the Consultancy Agreement) seeks prior approval of the Authority for issuing the Provisional Completion Certificate (PCC) or Completion Certificate (CC) in EPC Projects. It is observed that the prior approval of NHAI is taking time in view of various levels involved (PD, RO & HQ) thereby resulting in issuance of PCC/ CC with back date by the AE, leading to following resultant issues:

- (i) NHAI is not in a position to start tolling of the completed section from the effective date of PCC/CC, thereby losing toll revenues;
- (ii) The proposal of AE for issuing PCC contains the Punch List in two parts viz List-A (minor outstanding works which have to be completed within 30 days) and List-B (List of outstanding works which could not be completed due to non-availability of land or Authority's default). Although List-A items are to be completed within 30 days of the issue of PCC, the EPC Contractors are actually getting more than 30 days time to complete the List-A items due to time taken in according prior approval by NHAI. Further, there is no control/ knowledge of NHAI- HQ on the works included in the List-B.
- (iii) EPC Contractor gets bonus for early completion as per provisions in Cl.19.20 of EPC contract. Thus, issuing PCC/CC with a back date leads to apprehensions about completion, particularly in cases where the payment of bonus is involved.

2. In order to overcome the above problems, it has now been decided to authorise the Regional Officers of NHAI to approve the proposals of the Authority Engineer to issue Provisional Completion Certificate in EPC projects, strictly observing the following:

Sr. No.	EPC Contract Clause	Gist of Clause relevant to the issue	Responsibility of Officer of NHAI
1.	8.3	(i) Cl. 8.3.2: Contractor agrees to complete the works on all parts of the site for which RoW is granted within the prescribed time (90 days from the Appointed Date or the dates given in Schedule-A for some parts).	(i) PD shall ensure handing over of all parts of the sites to the Contractor within the prescribed timelines. In order to monitor timely handing over of the sites, PD shall submit a quarterly report for each project to the RO with a copy to the Member concerned at HQ on the parts of the sites not handed over to the Contractor and the hindrances thereon alongwith an action plan to address these issues. This report shall invariably attach a statement jointly signed by the PD, AE & the Contractor on the reaches handed over and the

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		(ii) Cl.8.3.1 & Cl.8.3.3: In case of delays in providing RoW, either the damages as per Cl.8.3.1 shall be paid to the Contractor or the works may be withdrawn as per Cl. 8.3.3.	<p>hindrances in the remaining reaches. The above reports shall continue to be submitted till all parts of the site/ RoW are handed over to the Contractor or the works are withdrawn in the remaining parts.</p> <p>(ii) If the PD is unable to resolve, RO and Member concerned shall make efforts to get the hindrances in handing over the balance parts of the sites cleared or escalate the matters to Chairman/ Secretary/ Hon'ble Minister, if so found necessary.</p> <p>(iii) Based on quarterly report of the PD, the RO shall propose and the Member shall decide the parts of the sites for which damages are to be paid (as per Cl.8.3.1) or works to be withdrawn (as per Cl.8.3.3).</p> <p>(iv) With the above system in place, List-B works proposed with PCC i.e. the List of outstanding works which could not be completed due to non-availability of land or Authority's default, is clearly known at all levels in NHAI (PD, RO & HQ) and it will not be a fait-accompli at the PCC stage.</p>
2.	12.1.1	On EPC Contractor notifying its intent to subject the completed section to tests, Date & Time of each Test to be determined by AE and notified to NHAI.	On the Date & Time notified by AE, each test shall be witnessed by the PD or other officer of PIU. In case PD is pre-occupied, such pre-occupation is to be recorded and then only the test shall be witnessed by the other officer of the PIU.
3.	12.2	<p>(i) Cl.12.2.1: If the tests are successful, AE shall issue a Provisional Completion Certificate alongwith a Punch List and the list of works in respect of which time extension has been granted as per Cl.8.3.1 and Cl.10.5.</p> <p>(ii) Cl.12.2.5: No Provisional Completion Certificate shall be issued until the Contractor submitted valid claims for payment of atleast 80% of the contract price less lumpsum price of works withdrawn under Cl. 8.3.3.</p>	<p>On the day of witnessing the last test by PD/ Officer of PIU and if the PD satisfies that the test(s) are successful, without awaiting the formal report/ proposal of AE for issue of PCC, the PD shall inform and request the RO to inspect the site. In turn, the RO shall carry out his inspection within 10 days of such reference by the PD by which time the report/ proposal of AE on the issue of PCC will also be received. Then, RO within 3 days of his inspection, shall send his comments to AE in reply to the report of AE, with a copy to the Member concerned. The proposal of AE and the comments of RO thereon shall invariably take into consideration the following :</p> <p>(i) The project highway meets the specifications & standards and has been constructed as specified in the EPC Contract. The completed works can be safely and reliably placed in operation/ service of the users thereof.</p> <p>(ii) The valid claims for payment (80%) are submitted by the Contractor.</p> <p>(iii) The Punch List (List-A) contains only minor outstanding works which can be completed within 30 days and such works do not materially affect the use of the completed sections for their intended</p>

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			<p>purposes. The Contractor undertakes to complete such works within 30 days and the AE certifies the same.</p> <p>(iv) List-B (balance outstanding works) which could not be completed due to non-availability of land or Authority's default (Ref. Cl.8.3.3) matches with the report mentioned at Sr. No.1 above, the Extension of Time has been granted for delayed works as per Cl.10.5, the Contractor undertakes to complete such works within the extended periods and the AE certifies the same.</p> <p>(v) The project highway has been constructed in accordance with the Project Completion Schedule set forth in Schedule-J of the Concession Agreement. In the event of failure of the Contractor to achieve any Project Milestone or completion of work, action as per Cl.10.3.2 of the EPC Contract is taken or the proposal is referred for approval of the Competent Authority of NHAI with the recommendation of AE.</p> <p>(vi) All lapses, defects or deficiencies observed by the AE in construction of the project highway are rectified and all NCRs issued by the AE are closed in accordance with the provisions of the EPC Contract.</p> <p>(vii) The approval of the Competent Authority of NHAI for Change of Scope (positive/ negative), if any, has been obtained or atleast the proposal for positive Change of Scope has been referred to the Authority for approval with the recommendations of AE and negative Change of Scope, if any, has been approved in-principle by the Authority.</p> <p>If the RO concurs with the AE's proposal, the AE shall proceed with issue of PCC. If the RO is of the opinion that the project highway is not yet fit and safe for operation and users' service, he shall notify the reasons for disagreement to the AE/ Contractor. AE shall thereupon reassess the proposal and in the interim withhold issuance of PCC. It will be the responsibility of the AE to ensure that the Contractor remedies and rectifies all defects or deficiencies pointed out by the RO. Thereafter, duly satisfying himself that all the defects/ deficiencies are remedied and rectified by the Contractor, the AE shall proceed with the issuance of PCC effective from the date of issue of PCC (no back-dating of PCC is permissible). If the PD observes that AE has not performed his duty in issuing PCC diligently, PD may send a report alongwith evidence to the RO with a copy to the Member concerned for taking deterrent action against the AE.</p>

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3. RO shall forward a copy of the proposal of the AE to issue PCC, the report of the RO on the proposal of AE to issue PCC and copy of the PCC issued by the AE to the Member concerned for each project within 7 days of issue of PCC by the AE.
4. No back-dating of PCC shall be allowed. Later, if the EPC Contractor lodges claims on NHAI on account of delays in the issue of PCC, the responsibility of the Authority Engineer, PD and RO shall be fixed by the Member concerned duly taking into consideration their efforts to avoid delays in issuance of PCC.
5. It shall be the personal responsibility of the PD that the proposal for Fee Notification for tolling of completed section by NHAI is initiated at least three months ahead of anticipated completion of the project so that it is in place at the right time, the toll collection agency is selected and the toll collection commences within 15 days of issue of the PCC so that there is no revenue loss to the NHAI.
6. The above procedure shall also apply for the issue of Completion Certificates.


(V.K. Sharma)
Chief General Manager (Coord.)

To

1. All Officers at NHAI HQ/ROs/PIUs/CMUs/Site Offices
2. Hindi Officer for translation in Hindi

Copy to:

All Members/ CVO
PS to Chairman