

**GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS
(NHDP-IVA Cell)**

**Transport Bhawan,
1, Parliament Street,
New Delhi-110 001**

No. RW/NH-37014/2/2012-NHDP-IVA

Dated 23rd July, 2013

Subject: Procedure for possession/transfer of State Govt. land for the development of NHs

Please find enclosed the record of discussion held during the meeting taken by Secretary (RT&H) on 8th July, 2013 in Transport Bhawan, New Delhi to streamline the procedure for possession/transfer of State Govt. land for the development of NHs for compliance and further action in the matter.

Encl.: As above

Rohin
23/7/13
(Rohin Kumar Gupta)
Executive Engineer (NHDP-IVA)
For DG (RD) & SS

1. Chairman [Kind Attn: Shri Sudhir Kumar, Member (PPP)], NHAI, New Delhi
2. Joint Secretary (LA&P), MoRT&H with a request that an O.M. communicating the procedure for government land may be issued by LA&C division for having a uniform approach in all wings of NH development i.e., PWD, Ministry and NHAI.
3. CE (NHDP-IVA), MoRT&H.
4. Director (Finance), MoRT&H.
5. DS (LA&C), MoRT&H.

Copy alongwith enclosure to:

1. PPS to Secretary (RT&H).
2. PPS to DG (RD) & SS.
3. PPS to ADG-I.

Record of Discussion held during the meeting taken by Secretary (RT&H) on 8th July, 2013 in Transport Bhawan, New Delhi to streamline the procedure for possession/transfer of State Govt. land for the development of NHs

Secretary (RT&H) held a meeting on 8th July, 2013 in Transport Bhawan, New Delhi to streamline the procedure for possession/transfer of State Govt. land for the development of NHs. The list of participants is annexed.

2. Following was discussed and decided during the meeting:

2.1 CE (NHDP-IVA) informed that different States are insisting on including the Govt. land in the notification for land acquisition under section 3(A) stating that there is no separate provision in the National Highway Act, 1956 to transfer the Govt. land without publication of notification. CE (NHDP-IVA) further informed that different procedures are being followed in NHAI and Ministry i.e.,

(i) in EAP zone of Ministry the Govt. land is being included under 3(A) and 3(D) notifications and complete procedure of acquisition under NH Act is being followed except the cost of land to be zero in award under section 3(G); however

(ii) in NHDP-IVA zone of the Ministry, the Govt. land is not being included under 3(A) notifications on the premise that NH Act is for acquisition of private land and Govt. land which is already acquired and is under possession of some section of Govt., may be transferred for Highway projects through a simple request and mutual agreements.

CE (NHDP-IVA) mentioned that there is a need for streamlining the procedure for possession/transfer of Govt. land and to bring about uniformity in procedure for Highway development projects.

2.2 CGM, NHAI mentioned that in some cases in NHAI, the Govt. land is also being included in the notifications published under section 3(A) and 3(D) if desired/recommended by the designated CALAs. However, while determining the award under section 3(G), the cost is being kept zero. He further remarked that it is not happening in all cases.

2.3 SE (NHDP-IVA) mentioned that the Land Acquisition Act, 1894, the pre-runner Act of NH Act is meant for acquisition of private land. The Govt. land already in possession of Govt., may not be put to re-acquisition and do not need procedures like filing of objections u/s 3(A), hearing u/s 3(C) and vesting u/s 3(D). Such land, therefore, needs to be transferred to the Govt. of India under the provisions of the Rules 278, 279 of General Financial Rules, 2005.

2.4 JS (LA&P) mentioned that the standard format for notifications under section 3(A) and 3(D) of NH Act has already been vetted and approved by the Ministry of Law which includes the mention of type of land namely private or Govt. and therefore, the Govt. land

shall be included and mentioned in the notifications under section 3(A) and 3(D) as per approved format.

2.5 ADG-I mentioned that notification under section 3(A) declares the intention of Central Government to acquire land for public purpose for the building, maintenance, management or operation of a National Highway and nothing prohibits inclusion of Govt. land in the 3(A) notification under NH Act. He further mentioned that as per the legal position of LA Act 1894, the NH Act may also be referred for acquisition of private land, many a times the land originally considered/assumed to be Govt. land due to incorrect land records gets revealed as private land at a later date and may pose problem, particularly delays, in its acquisition and affect the project completion. Therefore, inclusion of Govt. land at 3(A) stage may not be harmful and allow the stakeholders to get the records corrected.

2.6 Secretary (RT&H) stated that it has come to his notice in some projects that CALAs are proposing land of running Highways/NHs as private land and putting it to acquisition with cost under NH Act. He stated that if a road/highway is already in operation/functional and even if the land has not been mutated in the name of Govt. due to some reasons, it should be treated as given by private party free of cost and no cost to be paid now. He stated that the issue of acquisition of Govt. land under NH Act be dealt carefully.

2.7 CE (NHDP-IVA) and CGM (NHAI) requested that in view of practical issues of clarity of title of land and as per clarifications of JS (LA&C) on standard formats i.e., mention of type of land as private or Govt., the Govt. land may be allowed to be acquired under NH Act with no cost under 3(G). Secretary (RT&H) agreed to the recommendation of CE (NHDP-IVA), CGM and JS (LA&C) to acquire the Govt. land under NH Act with no cost.

3. The meeting ended with a vote of thanks to the Chair.

List of Participants in the meeting taken by Secretary (RT&H) on 8th July, 2013 in Transport Bhawan, New Delhi to streamline the procedure for possession/transfer of State Govt. land for the development of NHs

Ministry of Road Transport & Highways

1. Shri Vijay Chibber, Secretary (RT&H) – in Chair
2. Shri C. Kandasamy, DG (RD) & SS
3. Shri V.L. Patankar, ADG-I
4. Shri A.K. Nagpal, CE (NHDP-IV)
5. Ms. Abha Shukla, JS (LA&P)
6. Shri Atul Kumar, SE (NHDP-IV)
7. Shri Rohit Kumar, Director (Finance)
8. Ms. Maya Prakash, Deputy Secretary (LA&P)
9. Shri Rohin Kumar Gupta, EE (NHDP-IVA)

National Highways Authority of India

1. Shri Sudhir Kumar, Member (PPP)
2. Shri V.K. Sharma, CGM (LA&EC)

No. IDA/W-20 (21)/63

Dated the 17th July, 1965

To

All State Governments
(Departments dealing with roads)

Subject Acquisition of land required for National Highways and other roads financed from the Central funds

I am directed to say that the question regarding various items to be included in land acquisition estimates relating to the National Highways and other roads financed partly or fully from the funds provided by this Ministry has been under consideration by the Government of India and it has been decided that such estimates should provide for the following items :

- (i) Likely expenditure on actual demarcation, measurements and other field work including preparation of working drawings
 - (ii) Estimated amount of compensation for land and property thereon which is payable to the owners of land and property. The prevailing rates for compensation payable to land/property owners are broadly ascertained initially by the Executive Engineers from the Collectors of the Districts
 - (iii) Reasonable provision for work-charged establishments and contingencies which may be 2% and 3% of the amount of (i) & (ii) above. The provision for work-charged establishment is intended to cover the expenditure involved on the engagement of supervisory staff for demarcation, measurements and other field work including preparation of working drawings. The provision for contingencies is intended for meeting possible variations in the acquisition awards given by the Revenue authorities and the estimated amount of compensation and for departures in respect of the measurement work.
 - (iv) 7½% agency charges on (i), (ii) and (iii) above — This is intended to include the departmental charges paid in the District Revenue offices and other secretariat work.
2. I am to add that estimates for compensation referred to at item (ii) above are specifically meant to cover actual compensation and should not include any provision for the Revenue and other regular establishment employed on land acquisition.
 3. I am to request that in future all land acquisition estimates relating to National Highways and other roads financed partly or fully from the funds provided by this Ministry should be prepared on the above lines. Such estimates should also be accompanied by certificate to the effect that no provision is included in item (ii) above for meeting expenditure on establishment of the Revenue and other Departments of the State Government.

141.2

No. NHII-39 (99)/72

Dated the 21st Jan., 1976

Subject Procedure to deal with the claims of the State Govts. for payment to them of the cost of State lands to be taken over for the improvements of existing N Hs/conversion of existing State Highways into N Hs

The question of dealing with the claims of the State Govts. for payment to them of the cost of the State lands taken over/to be taken over for the improvement of an existing N.H. or the conversion of an existing State Highway into a National Highway has been under consideration in this Ministry for the past several years. It has been decided to deal with such claims in the manner as indicated in the extracts of the notes of the Secretary (Transport) and the Secretary (Finance E). reproduced below.

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All Technical Officers of the level of the S. Es and above/US (B), US (NH)B/US (NH) A. Regional Officers/Engineer Liaison Officers of all States and NHII

EXTRACTS OF THE NOTES OF SECRETARY (TRANSPORT)

For the future we may lay down that before we sanction the improvement of an existing N.H. or the conversion of an existing State Highway into a N.H., the State Govt. concerned should give an undertaking that any Govt. lands required for the purpose of the proper maintenance and improvement of the N.H. concerned should be transferred to the Central Govt. free of cost. As regards private lands acquired for this purpose we are even now bearing the necessary charges and this should presently continue. Once the undertaking of the kind referred to above is given by the State Govts prior to the sanctioning of a work, we will have effectively put an end to controversies of this kind. The States are vitally interested in improving or adding to the NHs and it should be easy for them to accept the kind of undertaking. One exception may, however, arise, when according to the State Govt's own practice in regard to State Highways some lands particularly belonging to the commercial Deptts like Forests are acquired debits are raised against the Highway project towards the value of the land, we will have to agree to follow similar practice. In regard to Forest lands, it is well-known that the trees and other growth over the ground are separately valued and the amounts realised through their disposal are