

~~OSD (P)~~
May be circulated
M.S.
20/8/17

GOVERNMENT OF ASSAM
TRANSFORMATION AND DEVELOPMENT DEPARTMENT
DISPUR

NO.PDP30/2017/26

Dated: Dispur, the 18th August, 2017.

To : The Addl. C.S/ Principal Secretary/ Commr. & Secy./Secy to the Govt. of Assam.

Spl.
PW Deptt (Roads)

Department

Sub : Improvement of investment climate under construction sector.

Sir,

With reference to the subject cited above, I am directed to forward herewith a copy of the D.O letter No. N-14070/14/2016- PPPAU dtd.26/07/2017 received from the Chief Executive Officer, NITI Aayog, New Delhi in connection with revival of construction sector for your kind information and necessary action.

A copy of the action taken report on the matter may be marked to T&D Department also.

Yours faithfully,

Encl:- As stated above.

Banta
18/8/17
Director (PC)

Transformation & Development Department

Memo NO.PDP.30/2017/26 -A

Dated: Dispur, the 18th August, 2017.

Copy to :-

- 1) PS to the CS, Govt. of Assam. for kind information of CS.
- 2) PS to the Addl. CS, T&D Deptt. for kind information of Addl.CS

by no 628
21.8.17

Banta
18/8/17
Director(PC)

Transformation & Development Department

e CR NO. 64086

अमितभ कांत
Amitabh Kant
मुख्य कार्यकारी अधिकारी
Chief Executive Officer



भारत सरकार
नीति आयोग, संसद मार्ग,
नई दिल्ली-110 001
Government of India
NATIONAL INSTITUTE FOR TRANSFORMING INDIA
NITI Aayog, Parliament Street,
New Delhi-110001

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D.O. No. N-14070/14/2016-PPPAU

Add. C.S. (I & D)
Add. C.S. Industries

Tel. : 23096576, 23096574 Fax : 23096575
E-mail : ceo-niti@gov.in, amitabh.kant@nic.in

Dated: 26th July, 2017

Dear Shri Pipersenia

As you are aware, construction sector has an important place in the Indian economy. It is the second largest contributor to economic activity accounting for about 8% of Gross Domestic Product (GDP) and accounts for second highest inflow of Foreign Direct Investment (FDI) after the services sector. Further, the construction sector generates the highest level of direct and indirect jobs employing about 40 million people and creates new jobs for every one lakh rupees invested.

2. Over the last few years, however, the construction sector has been facing a number of problems mainly arising from the liquidity constraints caused by pending claims from public authorities on account of arbitral awards. For addressing these issues, the Cabinet Committee on Economic Affairs (CCEA) in August 2016 approved various short-term and long-term measures for the revival of construction sector. Based on the above, NITI Aayog had issued two office memoranda to the Central Ministries/Departments/PSUs for their compliance. I am enclosing copies of the aforesaid memoranda for your perusal.

3. The implementation of the above measures is expected to improve the liquidity position of the private entities, thereby facilitating in enhanced investment in the construction-related infrastructure sectors. A similar step by the State Government for revival of the construction sector in their respective States would supplement the efforts made by the Central Government, thereby helping in generating significant employment opportunities in the country.

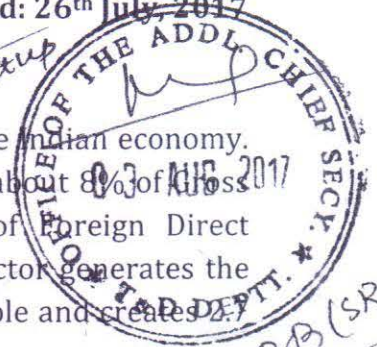
4. In view of the above, I would suggest you to kindly consider taking appropriate measures on the above lines in your State for reviving the construction sector and for improving the overall investment climate in the country.

With regards

Yours sincerely,

(Amitabh Kant)

Shri Vinod Kumar Pipersenia
Chief Secretary
Government of Assam,
Assam Sachivalaya,
Dispur, Guwahati-781006



BIB (SRO)

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No. N-14070/14/2016-PPPAU
Government of India
National Institution for Transforming India (NITI Aayog)

NITI Bhawan, New Delhi
September 05, 2016

Office Memorandum

Subject: Measures to revive the Construction Sector - reg.

The construction sector has been facing a number of problems, mainly arising from the liquidity constraints caused on account of their payments not being released by the Government Departments/ Public Sector Undertakings (PSUs) pursuant to the arbitral awards. To discuss the problems of the construction sector, detailed deliberations/ consultations were held with the representatives of the construction industry, banks, major government PSUs and concerned Ministries/ Departments. Based on the above deliberations/ consultations, the NITI Aayog placed a proposal before the Cabinet Committee on Economic Affairs (CCEA) for its consideration suggesting various short- term and long-term measures required for addressing the issues ailing the construction sector. The CCEA, chaired by the Hon'ble Prime Minister, has considered the proposals of NITI Aayog in its meeting held on 31st August 2016 and approved the same for the revival of construction sector.

2. Accordingly, following instructions are hereby issued for compliance and necessary action by all concerned i.e. the Government Departments/ Ministries/ Public Sector Undertakings awarding the public contracts/ implementing various projects involving construction activities:

- 2.1 In case of contracts/ concessions where the process of arbitration was initiated under the pre-amended Arbitration Act, the PSUs/ Departments may seek the consent of the contractors/ concessionaires to transfer the pending cases under the amended Arbitration Act, wherever possible. The shift to amended Arbitration Act is expected to make the arbitration process more cost effective and help in settlement of the disputes in a timely manner;
- 2.2 In case of claims where the PSU/ Department has challenged the Arbitral Award already announced, 75% of the award may be paid by the PSU/ Department to the contractor/ concessionaire against Bank Guarantee without prejudice to the final order of the Court in the matter under challenge. The payment may be made into a designated Escrow Account with the stipulation that the amount so released will be used, first, for payment of lenders' dues, second, for completion of the project and then for completion of other projects of the same PSU/ Department, as mutually agreed/ decided. Any balance remaining in the escrow account subsequent to settlement of lenders' dues and completion of projects of the PSU/ Department may be allowed to be used by the contractor/ concessionaire with the prior approval of

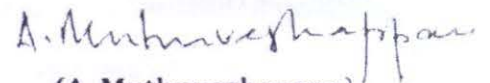
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the lead banker and the Department/PSU.

- 2.3 In case the subsequent court order requires refund of the money paid by a PSU/ Department against a Bank Guarantee, the amount shall be refunded by the contractor/ concessionaire along with appropriate interest. The rate of interest on such refund amount may be decided by the PSU/ Department keeping in view the cost of capital to the PSU/ Department or the rate of interest provided for in the Contract Agreement or the rate of interest awarded under the Arbitral Award under challenge.

Notes:

- (i) For Departments, cost of capital shall be taken as Weighted Average Coupon rate of outstanding stock of Central Government securities for the period ending in the preceding quarter, or Weighted Average Coupon rate of Central Government securities issued during the preceding quarter (whichever is higher);
 - (ii) PSUs shall either calculate their own cost of capital or take State Bank of India's One Year Marginal Cost of fund-based Lending Rate plus 2%;
 - (iii) The appropriate interest rate on such refund shall be decided at the time of releasing funds to the Escrow Account;
 - (iv) If otherwise eligible and subject to contractual provisions, retention money and other amounts withheld may also be released against bank guarantee as per the laid down criteria.
3. All the concerned Ministries/ Departments shall also issue instructions to their respective PSUs for taking necessary action accordingly.


(A. Muthuvezhappan)
Director (PPPAU)

To

1. Secretaries of all the Ministries/Departments of Government of India.
2. Chairpersons/ CMDs/ MDs of all the Central Government PSUs.
3. Chairpersons/ CMDs/MDs/CEOs of all the Scheduled Commercial Banks.
4. Chief Executive, Indian Banks Association, Mumbai.
5. Shri Alok Tandon, Additional Secretary, Cabinet Secretariat, Rashtrapati Bhavan, New Delhi - 110001.
6. Dr. T. V. Somanathan, Joint Secretary, PMO, South Block, New Delhi - 110001.

Copy for information to:

1. PS to Vice Chairman/ PS to MoS/ PS to all Members
2. Sr. PPS to CEO/ PPS to Special Secretary

No. N-14070/14/2016-PPPAU
Government of India
National Institution for Transforming India (NITI Aayog)

NITI Bhawan, New Delhi
September 05, 2016

Office Memorandum

Subject: Initiatives on the measures for revival of the Construction Sector - regarding.

The construction sector has been facing a number of problems, mainly arising from the liquidity constraints caused on account of their payments not being released by the Government Departments/ Public Sector Undertakings (PSUs) pursuant to the arbitral awards. To discuss the problems of the construction sector, detailed deliberations/ consultations were held with the representatives of the construction industry, banks, major government PSUs and concerned Ministries/ Departments. Based on the above deliberations/ consultations, the NITI Aayog placed a proposal before the Cabinet Committee on Economic Affairs (CCEA) for its consideration suggesting various immediate and long-term measures required for addressing the issues ailing the construction sector. The CCEA, chaired by the Hon'ble Prime Minister, has considered the proposals of NITI Aayog in its meeting held on 31st August 2016 and approved the same for the revival of construction sector.

2. The NITI Aayog has separately issued instructions on the subject with regard to the immediate measures to be taken by all concerned. In addition to the said instructions, the CCEA has also directed that the following measures may be expeditiously examined by all the concerned Departments/ Ministries /PSUs:

- 2.1 Item-rate contracts, may be substituted by EPC (turnkey) contracts, wherever appropriate. Such contracts have been in vogue for over two decades in the developed world and Fédération Internationale Des Ingénieurs-Conseils (FIDIC - an International Federation of Consulting Engineers, known by its French acronym) has also published such contractual frameworks;
- 2.2 Model bidding documents and Model EPC contracts, suitably revisited or modified wherever required to suit the requirements of particular sectors, may be adopted by PSUs/ Government Departments for construction works;
- 2.3 Ministry of Finance has issued model bidding documents for RFQ, RFP etc. which may be adopted (with appropriate changes wherever required) in all sectors. Model EPC contracts have been developed for Highways and Railways and published by the erstwhile Planning Commission also. NHAI has already adopted this document and all construction contracts are currently being structured on this model. NITI Aayog shall assist the concerned departments, wherever required, in this regard.

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- 2.4 The method of conciliation has proved more effective in settling disputes as per experience of some of the PSUs. All PSUs/ Departments issuing public contracts may consider setting up Conciliation Committees/ Councils comprising of independent subject experts in order to ensure speedy disposal of pending or new cases. Recourse to such conciliation may be open before, during or after the Arbitration proceedings. A provision to this effect would also need to be made in the Contract Agreements in future as a mechanism for resolution of disputes.
3. All the concerned Ministries/ Departments shall also communicate the above to their respective PSUs for taking necessary action on the aforesaid measures.

A. Muthuvezhappan
(A. Muthuvezhappan)
Director (PPPAU)

To

1. Secretaries of all the Ministries/Departments of Government of India.
2. Chairpersons/ CMDs/ MDs of all the Central Government PSUs.
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