

**PROCEEDINGS OF THE 18th MEETING OF THE
STATE LEVEL EMPOWERED COMMITTEE (SLEC)
held on August 7, 2015**

The 18th meeting of the State Level Empowered Committee (SLEC) held on August 7, 2015 in the Second Floor Conference Hall of the State Secretariat, Odisha, Bhubaneswar on Odisha State Road Projects was chaired by the Chief Secretary, Odisha. The list of Members present in the meeting has been provided in Annexure 1.

Initiating the discussion, the EIC-cum-Secretary addressed the Committee and presented the status of various activities of the Odisha State Roads Project(OSRP) and its components. The following decisions were taken after detailed deliberations:

1. Status of Civil Works

The civil works are going on in six contracts. Out of these, three contracts are running without any problem and are likely to be completed within the current project duration. The Committee noticed that the road package on Bhawanipatna- Khariar road have achieved about 95% progress on major activities, and the work is in progress. The bridge package has also made sufficient progress, but likelihood of meeting the target date is less considering the stipulated date of completion in November, 2015; and hence the works have to be expedited.

The package from Berhampur to Taptapani had been scheduled to be completed by January 2015, and about 34 km has been completed till now. It was discussed that there are hindrances in the balance 7 km in shape of land acquisition, R&R, shifting of electric lines and water supply utilities, for which the sections have not been handed over to the Contractor. In such a scenario, the work is likely to be completed by March, 2016.

The package from Jagatpur to Duhuria was terminated by the PMU on April 25, 2015, as the mobilization was extremely slow by the Contractor due to which not more than 2% of the works could be taken up. The contractor M/s Valecha Engineering Ltd. challenged the action in the High Court. However, the Learned Advocate General suggested to go ahead with the fresh tenders, without taking coercive action on the contractor. This work package is now proposed to be executed by subdividing it into two packages, to which World Bank has accorded no objection. The bids have been invited on August 7, 2015.

It was discussed that the other two contracts amounting to about Rs. 400 crore, out of which barely Rs. 75 crore has so far been spent in the project. The World Bank, during the Mission in May 2015 has reviewed these works and expressed that the State should create enabling atmosphere for issuing quarries, licenses and permits, environmental clearances and see that the works are geared up. The EIC-cum-Secretary expressed that the contractors have not been able to gear up over the past few months, and consequently show cause notices have been issued to them from time to time, apart from holding periodic meetings. These actions have shown some improvement in the campsite and field work, and the contractors have committed to complete the work.

The Committee expressed their concern for the work and agreed to resolve the issues of Contractors with the State immediately. Further, they expressed that Works Department should act tough on the defaulting contractors simultaneously, as the delay in execution is causing a lot of problems.

a. Package P02

The package from Chandbali to Bhadrak and Bhadrak to Anandpur has been awarded to M/s Corsan Corviam Construcion S.A., Spain. The Contractor has mobilized substantially in the manpower and equipment front, and have been facilitated by the PMU to arrange materials required for construction. However, the progress is less than 25% till now whereas 70% of the time period has elapsed. Notices have been served by the Engineer, to which the Contractor has rebutted and served the Notice of Termination on the ground of spiraling problems due to change of regulations for procurement of minor minerals & construction materials, failure on Government's part to provide the permissions and licenses to operate the quarries, non-availability of Contract specified materials for Subgrade, and delay in handing over of sections for execution of the construction works.

The Chief Engineer, on July 06, 2015, has expressed his discord to the contractor's claim on delay caused due to licensing and issue of permits. However admittedly that there has been a delay in handing over of work front on account of LA, R&R, & utility shifting, but he clarified that the Contract does not authorize the Contractor to seek termination on this ground. The Contractor, on July 8, 2015, replied back denying the contentions of the Department and submitted the following points:

- a. The Contractor can not be blamed for the inordinate delay on part of GoO for granting approvals and permits relating to minor minerals.
- b. Delay in handing over of Sections for execution of the Construction works amounts to failure of reciprocal promise by the Employer and thus preventing the

Contractor from fulfilling his promises; thus the Contract becomes voidable at the option of the party.

- c. The Contractor has stated to carry out the balance work with extension of time and settlement of new rates with minimum 50% increase of rates due to prolongation of the Contract.
- d. The Contractor is also willing to have a discussion for amicable solution acceptable to both the parties.

The Contractor attended to the discussions on July 10 & 15, 2015. During discussions, he came up with the following proposals.

- a. The Contractor has stated to carry out the balance work with extension of time and settlement of new rates with minimum 50% increase of rates due to prolongation of the Contract.
- b. The Contractor proposed to close the contract and settle their accounts for which they will not claim any compensation, nor the Employer will impose any penalty.
- c. The scope of the works be reduced to the magnitude considering the delay in handover and other causes, so as to close the works maximum by June 2016, thus the Contractor agrees to execute this quantum of work (which may be limited to SH-53) at the Contract rates and conditions.

The PMU has evaluated these options and observed the following points.

1. With proposal (a), i.e. 50% enhancement of rates, there may be an additional expenditure of Rs. 100 crore, thus increasing the likely cost of the project upto Rs. 350 crore, and extending the date of completion upto June 2017.
2. With proposal (b), i.e. close the contract without any cost to either party, there may be an additional expenditure of Rs. 50 crore, thus increasing the likely cost of the project upto Rs. 300 crore, but extending the date of completion upto June 2018 considering the rebidding time.
3. With proposal (c), i.e. Reduction of Scope and limiting the works to SH-53(Anandpur to Bhadrak) only, there may be an additional expenditure of Rs. 25 crore due to retender of Bhadrak-Chandbali road(SH9), thus increasing the likely cost of the project upto Rs. 275 crore. Thus SH-53 can be completed by June 2016, but the date of completion for SH 9 shall be extended up to June 2017 considering the rebidding.

After detail discussions, the Committee agreed that PMU may process the proposal stated at serial 3, in conformity with relevant codal provisions and contract clauses, and submit the same

for no objection by the World Bank after which the matter may be placed for Cabinet approval. The reduction of scope of the contract shall be made after elaborate legal scrutiny. The tender finalization for SH9 works shall be made with due approval from the Cabinet.

2. Surrender of Loan Amount of US\$ 33 million

The Committee was appraised that in March 2015, the World Bank & DEA suggested to restructure the loan as per the current commitments and proposals, and surrender the amount that may not be required for the project due to exchange rate variation. The matter had been discussed during the wrap up of the Mission during May 5-14, 2015, wherein it was decided in principle to examine the proposal in the current context and surrender the amount that may be excess on account of this factor. Then the loan amount was restructured for US\$ 163 million keeping the scope of the project unaltered and the difference of US\$ 33 (US\$ 196 - US\$ 163) was proposed to the World Bank for surrender.

WB suggested to focus on the remaining packages P01A, P01B and P03 to ensure their timely completion and according to acceptable quality standards. WB further proposed that the State may consider to finance the remaining three contracts (P02, P04A & P04B) from its own resources, allowing the resulting savings to be cancelled which would enhance the chances of achieving the project Development Objectives based on revised targets.

The Committee was appraised that considering the up to date disbursement, current rate of progress and decisions for rebidding some of the packages, it would be rational to request the DEA & the Bank for extension of the project timeline till December 2017 and to complete all the projects out of the Loan funding.

The Committee agreed to this proposal and requested the EIC-cum Secretary, Works Department to act accordingly.

3. Pre-Construction Issues

It was discussed that owing to the preconstruction issues in different packages, the project is not able to handover certain sections to the contractors. The problems encountered at the moment are detailed below.

a. Land Acquisition in village Tanupur

The Pattamundai Bypass passes through the village Tanupur starting from Beltala and ending at Bilikana village. About 6.705 Acres of land was notified for acquisition and awards for 40 land losers was passed for land compensation. LAO Kendrapara has not been able to physically hand over the site due to resistance of land losers over compensation rate. Pre-construction activities could not be taken up.

The Project Affected Persons (PAPs) are protesting the valuation of their land under bench mark @₹1775/- per decimel in comparison to the valuation of land in adjacent village Belatal @ ₹42900/- per decimel They had also filed a writ petition in Orissa High Court (WPC No. 6646 of 2015) and Hon'ble High Court has directed the Collector Kendrapara to decide the case within six weeks from the date of production of a certified copy of the order with a copy of the writ petition with all annexure by the petitioners.

The World Bank in its letter to the Chief Secretary on July 02, 2015 has expressed concerns for the delay in finalization of LA issue in Tanupur (Extracts Annexure). World Bank in its Aide Memoire (May 5 to 14, 2015) has suggested that the PMU should recommend to the District Administration that it will not oppose payment of equitable compensation for the farmers of Tanupur, given that their lands have comparable physical characteristics.

The Committee discussed on the issue and observed that handing over site had been delayed for more than 15 months which may lead to contractual implication and escalation. It was decided that Works Department will prepare a detailed note for a meeting to be taken by Principal Secretary, R&DM to review the matter and issue necessary instruction to the Collector, Kendrapara for resolving the issue in a time- bound manner.

b. Strengthening of Social Wing in PMU for Implementation of Social safeguards under OSRP.

The contracts of Implementing NGOs for Year-One projects under OSRP have been extended successively since March, 2013 and it has been proposed to close the contracts within 30th September, 2015 as per discussions with the World Bank.

Spill over LA, R&R activities, documentations and follow up during road work etc. will be carried out by the Social Wing of PMU. As suggested by the World Bank in (Aide Memoire of May 5 to 14, 2015) and discussions with SDS, WB on 25.07.15, it is proposed to strengthen the Social Wing of PMU by hiring the service of SMOs having experience in R&R implementation

in WB road projects through the service provider until the end of project at the earlier approved rate of ₹15000/-pm , as approved by the SLMC dt.18.02.2012.

The Committee approved the proposal for hiring the service of SMOs for the listed activities in Resettlement and Rehabilitation in PMU through the service provider by outsourcing till completion of the project and within the ceiling cost of Rs 10 lakhs.

c. Extension of services of Nodal NGO

The Committee, in their 17th meeting on 23.12.2014 had approved the extension of Nodal NGO contract of CART to cover the scope of R&R implementation in Jagatpur-Chandbali road up to 31.07.2015. In view of the continuing R&R work in Jagatpur- Chandbali Road and as per WB suggestions, NNGO's service of CART requires to be extended up to 31.01.2016 within the remaining consulting fees already approved from which approximately Rs 16 lakhs is left over beyond 31.07.2015.

The Committee approved the proposal for extension of Nodal NGO service upto January 31, 2016 for the implementation of R&R in Jagatpur – Chandbali road within the available budget of Rs 16 lakhs.

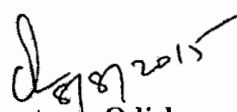
d. Quality of Works & Engagement of Quality Auditor

The World Bank, in their Aide Memoire of May 2015, have urged to engage a competent authority to undertake an Audit of Quality Management Systems as well as quality of works already executed in the project. Meanwhile, the earlier consultant (M/s MSV International) has been replaced by the Consultant of P04 (M/s LASA).

PMU is of the opinion that M/s LASA may be instructed to do the needful for QMS and checking of quality of works done under the supervision of the earlier Engineer.

The Committee agreed to the above suggestion of the PMU and directed to communicate the same to the Bank.

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


Chief Secretary, Odisha

ANNEXURE I

LIST OF ATTENDEES IN THE 18th SLEC MEETING
ON AUGUST 07, 2015

1. Sri Gokul Chandra Pati, IAS, Chief Secretary, Odisha
2. Sri U.N.Behera, IAS, Development Commissioner-cum- Additional Chief Secretary, Odisha & Additional Chief Secretary, Forest & Environment Department
3. Sri R. Balakrishnan, Additional Chief Secretary, Finance Department
4. Sri Bibhuti Prasad Routray, Principal Secretary, Law Department
5. Sri N.K. Pradhan, EIC-cum-Secretary, Works Department
6. Sri Debidatta Biswal, Special Secretary, Forest & Environment Department
7. Sri O.P.Patel, Chief Engineer, World Bank Projects, Odisha
8. Sri Avaya Kumar Nayak, OAS, Joint Secretary, Revenue & Disaster Management
9. Sri B.K.Patnaik, Additional Secretary, Works Department