



July – September 2024

This JSA Highways and Logistics Newsletter focuses on key developments undertaken in the Indian roadways and logistics sector between July – September 2024.

## **The National Highways Authority of India issues circular pertaining to electronic bank guarantees**

The National Highways Authority of India (“NHAI”), *vide* circular dated July 1, 2024, has taken note of the amendment to the General Financial Rules, 2017 allowing for the submission and acceptance of electronic bank guarantees. Therefore, it has decided to accept electronic bank guarantees as valid performance security and/or bid security.

Source: [NHAI Circular dated July 1, 2024](#)

## **NHAI issues Standard Operating Procedures for implementing works by third party contractors at risk and cost of concessionaire**

NHAI, *vide* circular dated July 8, 2024, issued a policy circular issuing standard operating procedures (“SOPs”) which the authority engineers/independent engineers appointed under the concession agreements must follow while appointing third party/replacement contractors for carrying out works which were not duly performed by the concessionaire/delays caused by concessionaire in completing such works, at the risk and cost of the original contractor/concessionaire. The policy circular, at the outset, specifies that the SOP would be applicable for Engineering Procurement Construction (“EPC”), Hybrid Annuity Mode (“HAM”), Build Operate Transfer (“BOT”), Toll Operate Transfer (“TOT”) and item rate contracts/concession agreements. The object and purpose of issuing these SOPs are as follows:

1. to establish a risk and cost framework to be followed by the project implementing governmental authority;
2. to enable timely identification and replacement of non-performing and/or defaulting contractor/concessionaire;
3. to maintain transparency and rationality in execution of works by a third party contractor at the risk and cost of the contractor/concessionaire; and
4. to minimise litigations arising out of ambiguities in the risk and cost procedure.

The circular specifies that the first and foremost step is timely detection by the independent engineer of the delays, lapses, defects, defaults in the construction/maintenance work being carried out by the contractor/concessionaire. The circular lists out a set of Trigger Events (“**Trigger Events**”) which may lead to the independent engineer appointing a third party contractor to complete/carry out the works for which defaults/delays have been caused by the contractor/concessionaire, at the risk and cost of the original contractor/concessionaire.

The circular lays down step wise process to be followed by the independent engineer upon identification of a Trigger Event. Some of the key steps are as follows:

1. upon noticing the occurrence of any Trigger Event, independent engineer will within 3 (three) days report to the governmental authority and the contractor/concessionaire, the details of the Trigger Event. The independent engineer will also issue a letter to the contractor/concessionaire with details of the Trigger Event and request the contractor/concessionaire to remedy the defects/complete the works;
2. no later than 7 (seven) days from such occurrence, the AE/IE will prepare a proposal to the project director of NHAI containing: (a) details about the Trigger Event; (b) analysis of the cause of the Trigger Event; (c) methodology to be adopted with detailed estimation in terms of 'bill of quantities' for executing the works, details of equipment to be deployed, traffic management and measures for ensuring safety; (d) impact of the Trigger Event on the project; (e) recommendation regarding execution of the works through a third party at risk and cost of the contractor/concessionaire and estimates regarding time and cost for carrying out the works by a third party; and (f) any other information which may be required;
3. the project director will give comments and recommendations to the Regional Office, NHAI ("RO") within 3 (three) days from the receipt of the proposal from the Independent Engineer;
4. the RO will consider and decide on the proposal within 5 (five) days from the receipt of the same from the project director. Any request for additional information/clarification/further working will have to be responded to by the Independent Engineer and/or project director immediately so as to enable the RO to meet the aforesaid deadline of 5 (five) days;
5. thereafter RO will send the proposal to NHAI Headquarters ("HQ"). However, before sending the proposal to NHAI HQ, RO will invite quotation through notice of 15 (fifteen) days for submission of quotation only from the empanelled/onboarded contractor. Simultaneously the project director will immediately also issue a notice to the contractor/concessionaire that the delayed/incomplete works will be completed by a third party at risk and cost of the concessionaire. In case, it is expected that the contractor/concessionaire may approach court for obtaining stay/challenge the notice of risk and cost, caveat before the competent court may also be filed by NHAI; and
6. NHAI HQ will provide its decision within 7 (seven) days of the receipt of the proposal from the RO.

In terms of onboarding of replacement/third party contractor, the circular has prescribed the following procedure:

1. each RO will identify and empanel a pool of qualified agencies with requisite expertise based on standard request for qualification document duly approved by NHAI HQ, once in 2 (two) years;
2. as and when required, quotations from the above empanelled agencies will be invited through tender notice. The activities related to quotation process will be completed within 22 (twenty-two) days (15 (fifteen) days for submission of bids, and 7 (seven) days for opening of financial bid and issuing letter of award within the next 7 (seven) days' time); and
3. in case the L1 bidder does not respond within 7 (seven) days, then 15 (fifteen) days' time will be given to RO for re-inviting the bids/quotes with 15 (fifteen) days' notice again to the empanelled agencies for submitting their bids.

Finally, the circular also specifies the manner in which the cost of the works done by such replacement/third party contractor is to be recovered from the original contractor/concessionaire. The same is as follows:

1. **EPC contract:** Issuance of 15 (fifteen) days' demand notice to the EPC contractor directing the EPC contractor to deposit the amounts pertaining to the costs incurred in carrying out the works from a third party agency. The demand notice will be issued within 3 (three) days of the cost computation. If the EPC contractor fails to deposit the risk and cost amount, then the NHAI will take the following steps: (a) firstly, recover the amounts against the bills payable to the EPC contractor; (b) if bills are insufficient to recover the risk and cost amounts, then encash and appropriate the performance security, additional performance security (if any) and retention money; (c) in

case there is still some outstanding risk and cost amount, legal action will be initiated for recovery against the EPC contractor.

2. **BOT concession and HAM concession:** Issuance of 15 (fifteen) days' demand notice to the concessionaire directing the concessionaire to deposit the amounts pertaining to the costs incurred in carrying out the works from a third party agency. The demand notice will be issued within 3 (three) days of the cost computation. For the risk and cost works done prior to the appointed date, the said cost as determined by independent engineer will be recovered from the bid security or the performance security. In the event of non-payment, for the risk and cost works executed during construction period, Operations and Maintenance ("**O&M**") period and post termination up to 120 (one hundred and twenty) days, the escrow bank will be directed to make payment from the escrow account and debit the same under the head of O&M expenses as per the water fall mechanism.
3. **TOT contract:** Issuance of 7 (seven) days' demand notice to the concessionaire directing the concessionaire to deposit the amounts pertaining to the costs incurred in carrying out the works from a third party agency. The demand notice will be issued within 3 (three) days of the cost computation. In the event of non-payment, for the risk and cost works executed during the concession period and post termination up to 60 (sixty) days, the Escrow Bank will be directed to make payment from the escrow account and debit the same under the head of O&M expenses as per the water fall mechanism.

Source: [NHAI Policy Circular dated July 8, 2024](#)

## **NHAI to charge double toll from vehicles where FASTag is not affixed on front windshield**

In order to remove delays arising at toll plazas due to vehicles not affixing FASTag on the front windshield, NHAI, on July 18, 2024 issued guidelines specifying that double the amount of user fees will be collected from vehicles entering a toll plaza lane with FASTag not affixed to the windshield.

When FASTag is not affixed on the assigned vehicle, the said vehicle cannot carry out electronic toll collection transaction at a user fee/toll plaza and upon such default the vehicle will have to pay double toll fee. Additionally, such vehicles can be duly blacklisted. NHAI has stated that issuer banks have also been directed to ensure fixation of the FASTag to the vehicle at the time of issuance from various point-of-sale.

NHAI has also issued SOP to user fee/toll collection agencies and concessionaires to charge double user fee in case of non-affixation of FASTag on the front windshield.

Source: [PIB](#)

## **The Union Budget 2024 provides a boost for the roads and highways sector**

The Union Budget for the financial year 2024-25 was announced on July 23, 2024, and there was positive news for the infrastructure sector which includes the roads and highways sector. The infrastructure sector was provided with a financial allocation of INR 11,11,111 crore (Indian Rupees eleven lakh eleven thousand one hundred and eleven crore) and which is equivalent to 3.4% of India's gross domestic product. Out of this allocation for the infrastructure sector, the allocation for the roads and highways sector was INR 2,78,000 crore (Indian Rupees two lakh seventy-eight thousand crore) which was among the highest of all sub-sectors comprising the infrastructure sector. This was supplemented by the announcement of an INR 26,000 crore (Indian Rupees twenty-six thousand crore) financial allocation for 4 (four) road connectivity projects, namely: (a) Patna-Purnea Expressway; (b) Buxar-Bhagalpur Expressway; (c) Bodhgaya, Rajgir, Vaishali and Darbhanga spurs; and (d) Additional 2 (two) lane bridge over river Ganga at Buxar.

The Budget also announced that Phase IV of the Pradhan Mantri Gram Sadak Yojana will be launched to provide all-weather road connectivity to 25,000 (twenty-five thousand) rural habitations who have become eligible in view of population increase.

Source: [Budget Speech 2024-25](#)

## NHAI forms an Asset Monetisation Cell at NHAI headquarters

NHAI, *vide* policy circular dated July 29, 2024, formed a dedicated Asset Monetisation Cell (“**AMC**”) which will be based out of its headquarters. The AMC will oversee the monetisation of completed and operational highway assets of NHAI and fulfil the goal of NHAI’s ‘Asset Monetisation Program’ i.e., to “*unlock the value of investments in public sector assets by tapping into private sector capital and efficiencies which can thereafter be leveraged for capacity augmentation/greenfield infrastructure creation*”.

Some of the key functions of the AMC will be as follows:

1. conduct market analysis and feasibility studies to identify potential assets of NHAI for monetisation;
2. identify suitable projects for monetisation, focusing on those with established toll collection records and potential for revenue generation;
3. formation of public Infrastructure Investment Trust (“**InvIT**”);
4. engage with stakeholders, including investors, financial institutions and government bodies to facilitate the monetisation process;
5. review and ensure the accuracy and completeness of all documentation related to asset monetisation projects;
6. maintain a central repository of all data related to asset monetisation in digital format;
7. incorporate international best practices and innovative approaches to enhance the efficiency and effectiveness of asset monetisation;
8. monitor the performance of monetised assets and ensure timely reporting to senior management of NHAI; and
9. ensure compliance with regulatory standards and guidelines issued by Securities and Exchanges Board of India and other relevant authorities.

The aforementioned policy circular also details the composition of the AMC, qualification criteria for becoming a part of the AMC, the remuneration to be offered to members of the AMC and the tenure of the members of the AMC.

Source: [NHAI Policy Circular dated July 29, 2024](#)

## Cabinet approves 8 (eight) important national high speed road corridor projects to improve logistics efficiency, reduce congestion

The cabinet committee on economic affairs (chaired by the Prime Minister) on August 2, 2024 approved the development of 8 (eight) important high speed road corridor projects at a total cost of INR 50,655 crore (Indian Rupees fifty thousand six hundred and fifty-five crore). These projects are:

1. **6 (six) lane Agra - Gwalior national high speed corridor:** This 88 (eighty-eight) kilometre (“**km**”) high speed corridor will be developed on a BOT mode as a fully access controlled 6 (six) lane corridor at a total capital cost of INR 4,613 crore (Indian Rupees four thousand six hundred and thirteen crore). The corridor seeks to reduce the distance between Agra and Gwalior by 7% and the travel time by 50%, thereby bringing in a substantial reduction in logistics cost.
2. **4 (four) lane Kharagpur - Moregram national high speed corridor:** This will be a 231 (two hundred and thirty-one) km, 4 (four) lane access controlled high speed corridor which will be developed under HAM at a total capital cost of INR 10,247 crore (Indian Rupees ten thousand two hundred and forty-seven crore). The establishment of this corridor will reduce travel time from the existing 10 (ten) hours to 3-5 (three-five) hours for freight vehicles between Kharagpur and Moregram, thereby reducing logistics cost.



3. **6 (six) lane Tharad-Deesa-Mehsana-Ahmedabad national high speed corridor:** This 6 (six) high speed corridor with a length of 214 (two hundred and fourteen) km will be developed in BOT mode at a total capital cost of INR 10,534 crore (Indian Rupees ten thousand five hundred and thirty-four crore). The Tharad-Ahmedabad corridor will provide connectivity between 2 (two) key national corridors in the state of Gujarat, *vis.*, Amritsar-Jamnagar corridor and Delhi-Mumbai expressway, thereby providing connectivity for the freight vehicles originating from industrial regions of Punjab, Haryana, and Rajasthan to the major ports in Maharashtra.
4. **4 (four) lane Ayodhya ring road:** The 68 (sixty-eight) km 4 (four) lane access-controlled Ayodhya ring road will be developed under HAM at a total capital cost of INR 3,935 crore (Indian Rupees three thousand nine hundred and thirty-five crore). It is expected that this ring road will reduce congestion on national highways passing through the city of Ayodhya, thereby enabling fast movement of pilgrims visiting the Ram Mandir. The ring road is expected to provide seamless connectivity to national and international tourists arriving from Lucknow International Airport, Ayodhya Airport and major railway stations in Ayodhya.
5. **4 (four) lane section between Pathalgaon and Gumla of Raipur-Ranchi national high speed corridor:** This corridor will comprise of a 137 (one hundred and thirty-seven) km stretch and will have 4 (four) lanes. The corridor will be developed under HAM at a total capital cost of INR 4,473 crore (Indian Rupees four thousand four hundred and seventy-three crore). The corridor is expected to enhance connectivity between mining areas in Gumla, Lohardaga, Raigarh, Korba and Dhanbad and industrial and manufacturing zones located in Raipur, Durg, Korba, Bilaspur, Bokaro, and Dhanbad.
6. **6 (six) lane Kanpur ring road:** This section, which will be developed at a cost of INR 3,298 crore (Indian Rupees three thousand two hundred and ninety eight crore), will complete the 6 (six) lane national highway ring road around Kanpur. This project will be developed in EPC mode and will assist in segregating long-distance traffic on national highways from the city-bound traffic, thereby reducing time for freight vehicles travelling between Uttar Pradesh, Delhi, Bihar, Jharkhand and West Bengal.
7. **4 (four) lane northern Guwahati Bypass and widening/improvement of existing Guwahati bypass:** This stretch will comprise of the 121 (one hundred and twenty-one) km Guwahati ring road and will be developed at cost of INR 5,729 crore (Indian Rupees five thousand seven hundred and twenty-nine crore) on BOT mode. This stretch will include construction of a major bridge over the river Brahmaputra. It is expected that this ring road will ease congestion on major national highways around Guwahati, connecting major cities/towns in the region of Siliguri, Silchar, Shillong, Jorhat, etc.
8. **8 (eight) lane elevated Nashik Phata - Khed corridor near Pune:** This will be a stretch of a length of 30 (thirty) km which will be developed on BOT mode at a total cost of INR 7,827 crore (Indian Rupees seven thousand eight hundred and twenty-seven crore). This stretch is expected to cater to traffic originating from/heading to industrial centres of Chakan, Bhosari etc. on NH-60 between Pune and Nashik and also alleviate serious congestion around Pimpri-Chinchwad.

Source: [PIB](#)

## **NHAI saves around INR 1,000 crore (Indian Rupees one thousand crore) of interest through its debt payment plan**

NHAI, on August 6, 2024, announced that it had successfully completed the pre-payment of bank loan amounting to INR 15,700 crore (Indian Rupees fifteen thousand seven hundred crore). The NHAI stated that by retiring this debt ahead of schedule, there will be an estimated savings of around INR 1,000 crore (Indian Rupees one thousand crore) in the form of interests which will no longer have to be paid by NHAI. NHAI estimates that its debt has been reduced to approximately INR 3,20,000 crore (Indian Rupees three lakh twenty thousand crore).

This prepayment of the loan amount was entirely made using proceeds received from asset monetisation under the InvIT route. This demonstrates the fact that the asset monetisation program is becoming increasingly successful in reducing NHAI's debt and freeing up funds for other greenfield projects.

Source: [NHAI Press Release dated August 6, 2024](#)

## **MoRTH issues circular in relation to treatment of single bids**

**MoRTH**, vide a circular dated August 28, 2024, clarified the manner in which MoRTH and its constituents, including NHAI, should treat a situation where only a single bid is received pursuant to an open, competitive bidding process. The circular made reference to a letter issued by the Ministry of Finance, Department of Expenditure on October 29, 2021, wherein procuring entities were advised to not assume that receiving single bids is unacceptable. The letter had advised ministries and departments to not automatically go for retendering if a single bid is received. Giving reference to the above letter, MoRTH, through its circular, has now specified that single bids received pursuant to open tendering will not be rejected automatically provided that certain conditions are satisfied. These conditions are: (a) procurement was satisfactorily advertised, and sufficient time was given to submit the bids; (b) qualification criteria was not unduly restrictive; and (c) price received from the single bid is reasonable in comparison to market values.

The present circular has also clarified that while determining market value, the evaluation committee constituted for a tender will examine the rates mentioned in the single bid with rates being received from similar contracts elsewhere. The purchase price in such similar contracts may be analysed after considering factors such as inflation during the interim period, geographical conditions, etc.

Source: [MoRTH circular dated August 28, 2024](#)

## **MoRTH amends toll notification to enable satellite-based toll collection for national highways**

MoRTH, vide circular dated September 9, 2024, amended the National Highways Fee (Determination of Rates and Collection) Rules, 2008 whereby the definitions of 'closed user fee collection system' and 'electronic toll collection infrastructure' have been amended to enable levy of fees on vehicles using highways using the 'Global Navigation Satellite System On-Board Unit'. The definition of electronic toll collection infrastructure now reads as, "means set of equipment comprising of hardware and software which shall facilitate electronic collection of user fees through *Global Navigation Satellite System On-Board Unit or Automatic Number Plate Recognition Device or FASTag or any combination thereof*", while the definition of 'closed user fee collection system' now reads as, "a system under which the fee is levied based on the actual distance travelled by a mechanical vehicle, on a national highway or expressway *and collected through Global Navigation Satellite System On-Board Unit or any such device or Automatic Number Plate Recognition Device or FASTag or any combination thereof*".

A new defined term 'Global Navigation Satellite System On-Board Unit' has been introduced and the phrase is defined as "*a non-transferable and firmly fitted device in a vehicle linked to Global Navigation Satellite System based user fee collection*".

With these amendments to the existing definitions and the introduction of the definition of 'Global Navigation Satellite System On-Board Unit', MoRTH has formalised the usage of satellite-based systems for computation of distance travelled by a vehicle for computation of fees/toll payable.

Source: [MoRTH Notification dated September 9, 2024](#)

## **MoRTH constitutes panel of experts for tunnel projects**

On September 6, 2024, noting the recent mishaps which have occurred in India during tunnel construction, MoRTH issued a circular stating that henceforth proposals for long tunnel projects (length greater than 1.5 (one point five) km) on national highways must be submitted to Director General (Road Development) and Special Secretary for technical review and obtaining expert advice from advisory panel. This has to be done before submitting the proposal

for appraisal of standing finance committee/expenditure finance committee chaired by Secretary of Administrative Ministry/Public Investment Board/Public Private Partnership Appraisal Committee.

The proposal to be submitted before the Director General (Road Development) and Special Secretary must include details of geological/geotechnical studies, alignment report, design of tunnel including electro-mechanical works instrumentation and safety measures during construction and operations along with cost estimates.

Source: [MoRTH circular dated September 6, 2024](#)

## NHAI issues SOPs for various types of change of scope proposals

NHAI, *vide* policy circular dated September 9, 2024, clarified whether Clause 16.2 or Clause 16.6 of the model concession agreement for HAM projects will be applicable in relation to change of scope of proposals. NHAI observed in its circular that this clarification was necessary as it had observed that different technical divisions/ROs/Project Implementation Units (“PIUs”) of NHAI have been applying these provisions in an inconsistent manner.

Clause 16.2 of the model concession agreement for HAM projects specifies the procedure to be followed in case the project implementing governmental authority requests for a change of scope and issues a change of scope notice to the concessionaire. The provision states that if the project implementing governmental authority determines that a change of scope is necessary it will issue a change of scope notice to the concessionaire and the concessionaire will inform the governmental authority the impact of such change of scope and the options for implementing such change of scope and the cost and time for implementing the options. Upon receipt of the information from the concessionaire, the project implementing governmental authority agrees upon the cost and time estimates provided by the concessionaire and issues the binding change of scope order to the concessionaire.

On the other hand, Clause 16.6 of the model concession agreement deals with a situation and prescribes the procedure to be followed if the concessionaire fails to complete any construction works on account of force majeure or for reasons attributable to the project implementing governmental authority and due to which there is reduction in scope of work. Clause 16.6 goes on to specify the manner in which the cost of the reduced scope of work is to be computed.

The circular has provided standard operating procedure as to which provision is to be applicable in which scenario and some of the key scenarios discussed are as follows:

- 1. De-scoping of certain length of the project at the beginning/end of the project highway:** In this scenario Clause 16.6 of the model concession agreement must be made applicable.
- 2. De-scoping of bypass from a project highway and inclusion of strengthening of the existing highway (which is being bypassed):** The circular specifies that de-scoping of the bypass must be dealt with under Clause 16.6 of the model concession agreement whereas inclusion of strengthening of the existing highways (which is being bypassed) will be covered under Clause 16.2 of the model concession agreement.
- 3. De-scoping of ramp/loop from a trumpet of a project highway:** This scenario must be dealt with as per Clause 16.6 of the model concession agreement.
- 4. Replacement of 1 (one) pedestrian underpass (“PUP”) with a vehicular underpass (“VUP”):** Where the cost of the PUP and VUP is INR 10,00,00,000 (Indian Rupees ten crore) and INR 30,00,00,000 (Indian Rupees thirty crore) respectively, leading to a net increase in cost of INR 20,00,00,000 (Indian Rupees twenty crore), the circular specifies that such a scenario must be dealt with as per Clause 16.2 of the model concession agreement.
- 5. Replacement of 1 (one) VUP with a PUP:** Where the cost of the VUP and PUP is INR 30,00,00,000 (Indian Rupees thirty crore) and INR 10,00,00,000 (Indian Rupees ten crore) respectively, leading to a net decrease in cost. due to replacement of VUP with PUP, the same must be dealt with as per Clause 16.6 of the model concession agreement. However, for the avoidance of doubt, the net reduction of scope will not be INR 20,00,00,000 (Indian Rupees twenty crore) but will be worked out as per the method provided in Clause 16.6 of the model concession agreement.

Source: [NHAI Circular dated September 9, 2024](#)

## MoRTH issues amendments to Model EPC Agreement

MoRTH, *vide* circular dated September 12, 2024, issued certain amendments to the model EPC agreement wherein the provisions related to testing for quality control by the engineer appointed by the governmental authority (“**Authority’s Engineer**”) has been made stringent. Some of the key amendments are as follows:

1. As per the model EPC agreement, the Authority’s Engineer was required to perform certain tests for determining whether the works carried out by the EPC contractor conform to the specifications and standards. As part of its obligation the Authority’s Engineer was required to conduct at least 50% of the number of tests prescribed for each category under the model EPC agreement. Post the amendment, the Authority’s Engineer is mandated to witness all quality control tests carried out by the EPC contractor at its site laboratory/main laboratory/field/plants and these tests will include tests for all materials, mixes, products, etc. The Authority’s Engineer has also been obligated to witness all tests of finished products like bearings in the manufacturer’s laboratory as may be prescribed in the respective standards and
2. Prior to the proposed amendment, the model EPC agreement specified that the timing of the tests to be conducted and the acceptance/rejection criteria would be determined as per IRC Special Publication 11 (Handbook of Quality Control for Construction of Roads and Runways) and the Specifications for Road and Bridge Works issued by MoRTH. However, as per the proposed amendment, the Authority’s Engineer has to follow the MoRTH specifications for road and bridge works and respective Indian Roads Congress standards/guidelines/manuals along with any other Indian and International standards mentioned thereto. The Authority’s Engineer has to also ensure that the tests are undertaken on a random sample basis and that these random samples will be in addition to the tests carried out by the EPC contractor.

Source: [MoRTH circular dated October 8, 2024](#)

## MoRTH issues guidelines for approval of route alignment of expressways and highways

MoRTH, *vide* circular dated September 20, 2024, has provided certain guidelines which are to be followed before proceeding with any bypasses/realignment/creation of greenfield corridors. The circular notes that bypass/re-alignment/greenfield corridors are adopted primarily due to the fact that it results in saving of expenditure on account of shifting of utilities and optimizes land acquisition cost in built-up areas. Therefore, it is critical to have a streamlined approach when it comes to deciding with adopting such bypasses/realignment/greenfield corridors.

The circular has provided for the formation of a committee chaired by the Secretary, Road Transport and Highways. The circular also specifies that procedure for finalising a highway/expressway alignment will be as follows:

1. **Greenfield corridor/project:** The recommendation of the committee will be obtained before finalising the alignment.
2. **Combination of greenfield and brownfield expansion:** Where the corridor re-alignment is up to 10 (ten) km or 20% of the project length (whichever is lower), the alignment will be approved as per the guidelines, by the relevant project implementing agency. For all other corridors recommendation of the committee will be obtained before finalising the alignment at the level of the Ministry.

Source: [MoRTH Circular dated September 20, 2024](#)



## NHAI awards TOT Bundle 16

NHAI announced on September 20, 2024, that TOT Bundle 16 had been awarded to the Highway Infrastructure Trust for INR 6,661 crore (Indian Rupees six thousand six hundred and sixty one crore). TOT Bundle 16 comprises of a 251 (two hundred and fifty-one) km long stretch on the Hyderabad-Nagpur corridor of NH-44 in the state of Telangana. Under the TOT model, the concession period will be for 20 (twenty) years with concessionaire being obligated to maintain and operate the relevant highway stretch. The concessionaire will have the right to collect and retain user fee for the stretch in accordance with the prescribed fee rates.

The TOT model forms a part of the Government of India's National Monetisation Pipeline program which seeks to monetise government assets. With the award of Bundle 16 of TOT, NHAI has completed asset monetisation worth INR 1 lakh crore (Indian Rupees one lakh crore).

Source: [PIB](#)

## MoRTH issues circular for adopting value engineering practices in construction and maintenance of national highways

MoRTH, *vide* circular dated September 20, 2024, recommended inclusion of value engineering as one of the tasks during the preparation of the Detailed Project Report ("DPR") and during the construction and maintenance of highways.

### 1. Value engineering during preparation of DPR:

- a) Value Engineering will be assigned as one of the tasks in the terms of reference of the consultant for feasibility study and detailed engineering projects. In the inception report itself, there will be a chapter on value engineering, in which the DPR consultant will include the potential and project-specific value engineering aspects identified by the respective domain experts;
- b) In the feasibility report, the DPR consultant will examine the applicability, durability, constructability and appropriateness of the value engineering aspects. DPR consultant will prepare cost estimate of different items of work involving conventional material/technology and various value engineering options identified and will recommend the optimum option;
- c) During the project appraisal, in the project appraisal and technical scrutiny committee/ standing finance committee memorandum, there will be a paragraph on the value engineering practices examined/evaluated and finally adopted. The paragraph will also contain a statement affirming that the technical schedules of the bid document have been prepared in accordance with this MoRTH circular.

### 2. Value engineering during construction:

- a) The material/technology used in the project will normally satisfy the requirements of codes, standards, specifications, guidelines of Indian Roads Congress ("IRC"), MoRTH, American Association of State Highway and Transportation Officials ("AASHTO"), Euro Code and British Codes with regards to design, pre-construction, construction, quality assurance, quality control and acceptance;
- b) Independent Engineer will review/approve the proposed value-engineered design within the stipulated time period specified in the concession agreement in respect of material/technology which satisfies the requirements of codes, standards, specifications, guidelines etc. of IRC, MoRTH, AASHTO, Euro Code and British Codes and material/technology accredited by IRC. While approving the design prepared by the concessionaire following the aforesaid codes, standards, etc., the independent engineer will ensure that the design parameters conform to the conditions of project site;
- c) After acceptance of design, a detailed construction methodology along with requisite details such as proposed machinery/plants/equipment (e.g. purpose-built soil stabiliser for soil stabilisation), quality assurance and

quality control, traffic diversion, environmental compliance, construction sequence, material design, etc., will be submitted to the independent engineer for approval;

- d) Schedule 'H' of EPC contract/Annex-I of Schedule 'G' of HAM concession agreement will be modified to indicate appropriate stage(s) of value engineered option(s). Such changes in Schedule 'H' or Annexure - I of Schedule 'G' will be incorporated with the approval of competent authority through a supplementary agreement;
- e) The concessionaire will be entitled to retain all the savings accrued to them on account of value engineering practices adopted by the concessionaire; and
- f) For any proprietary product such as reinforced soil wall, retaining wall, expansion joints, bridge bearing, etc., concessionaire will ensure signing of agreement between the concessionaire and technology provider before use of such material/technology/design in the relevant project. Under the agreement the technology provider will be obligated to deploy the requisite design experts/material technologist/skilled and trained construction supervision personnel to certify material testing and material characterisation for design, proof check of the design, approve construction methodology including field trial sections before actual construction, quality control and supervision and certification of the day-to-day construction/execution.

The circular has clarified that it will be applicable to projects for which bids will be received on or after November 1, 2024.

Source: [MoRTH Circular dated September 20, 2024](#)

## **MoRTH issues policy guidelines on usage of inert materials for highway construction**

MoRTH has issued a circular on September 23, 2024, on the usage of inert materials for highway construction. In its circular, MoRTH has stated that while it is in the process of formulating a definitive policy for usage of processed urban solid waste, plastic waste, etc. for highway construction, it is issuing, as a first step, certain guidelines for the manner in which such materials can be used. Some of the key guidelines are as follows:

1. for the project which are under DPR stage, the DPR consultant would examine availability of land-fill site on Gati Shakti portal where a layer of such sites is available. In case, any site is located in the vicinity of top 25 (twenty-five) dumpsites of the country or in the vicinity of 100 (one hundred) km of any dumpsite, concerned RO/PIU will inform the municipal corporation/other department regarding the upcoming expressway/highway project and the amount of inert material potentially usable in the project. In case, the municipal corporation is ready to supply inert material, a tripartite memorandum of understanding ("**MoU**") must be signed between the Urban Local Body ("**ULB**")/municipal corporation; NHAI/MoRTH contractor; and the dumpsite remediation project contractor;
2. enabling provision may be made in the technical schedule of the agreement mandating use of inert soil in the construction of embankment of highway/roads wherever it is provided on site by local bodies. However, in case specified quantity of inert material is not supplied, contractor should be allowed to use soil/suitable material without any additional cost to the governmental authority implementing the project;
3. for the projects which are under bidding stage and construction stage, the contractor/concessionaire appointed will explore the availability of land-fill site in the vicinity of project stretch. In case any site is located in the nearby vicinity, the concerned RO/PIU will inform the municipal corporation regarding the upcoming road/highway project and the amount of inert material required. In case the municipal corporation/ULB is ready to supply the inert material as per the required quantum, a tripartite MoU must be signed between the ULB/municipal corporation, NHAI/MoRTH contractor, and dumpsite remediation project contractor;
4. in cases where the local bodies have not set up facilities for bio-remediation and biomining, the highway contractors can set up such facilities in consultation with the relevant ULB and the machines purchased in this regard would also be considered within overall ceiling of mobilisation advance under respective contract documents;

5. the circular also states that municipal corporations/ULBs need to expedite setting up facilities for bio-mining of municipal solid waste considering these local bodies are being given funds by Ministry of Housing and Urban Affairs, Government of India. The circular states that Ministry of Housing and Urban Affairs, Director (SBM2.0), would be the nodal officer for resolving issues relating to availability of material.

Source: [MoRTH circular dated September 23, 2024](#)

## Highways & Logistics Practice

In the highways sector, JSA provides end to end assistance to its clients in all aspects of development and operations including but not limited to setting up of green field projects and documentation in respect thereof such as joint venture agreements, shareholders agreements, foreign direct investment approvals, project financing, EPC contracts, O&M contracts, vetting of tender documents including review of concession agreements and regulatory issues including competition, licensing and tariff matters before various regulatory fora.

JSA advises clients on across the spectrum of contractual, commercial, policy, regulatory and legal issues at all stages of the value chain in the logistics sector – infrastructure such as roads, railways, inland waterways, aviation, ports, and logistics parks, as well as services such as transportation, cold chain facilities, and warehousing. JSA has been regularly engaged in advising project developers, investors, suppliers and contractors on commercial/ transactional issues, advising financial institutions and borrowers in relation to financing transactions and dispute resolution (including arbitration, litigation and representation before various judicial fora).

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18 Practices and  
25 Ranked Lawyers

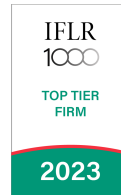


7 Ranked Practices,  
16 Ranked Lawyers

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Elite – Band 1 -  
Corporate/ M&A Practice

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3 Band 1 Practices

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4 Band 1 Lawyers, 1 Eminent  
Practitioner



12 Practices and  
42 Ranked Partners  
**IFLR1000 APAC  
Rankings 2023**

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Banking & Finance Team  
of the Year

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Fintech Team of the Year

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Restructuring & Insolvency  
Team of the Year



14 Practices and  
38 Ranked Lawyers



20 Practices and  
22 Ranked Lawyers



Ranked Among Top 5 Law Firms in  
India for ESG Practice



Recognised in World's 100 best  
competition practices of 2024



Among Top 7 Best Overall  
Law Firms in India and  
11 Ranked Practices

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11 winning Deals in  
IBLJ Deals of the Year

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12 A List Lawyers in  
IBLJ Top 100 Lawyer List

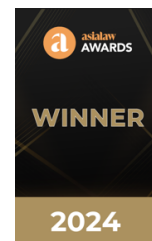


Asia M&A Ranking 2024 – Tier 1

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Employer of Choice 2024

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Energy and Resources Law Firm of  
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Litigation Law Firm of the Year  
2024



Energy - Law Firm of  
the Year (APAC)



7 Practices and  
3 Ranked Lawyers

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