Chapter: 7. Pre-Construction

Section: 7.1. Land Acquisition

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7.1: Land Acquisition for National Highway Projects

One of the foremost requirements for development of highways is handing over encumbrance free land to the Contractor/Concessionaire. Handing over encumbrance free land includes various pre-construction activities such as land acquisition, environmental clearances, utility shifting etc. In supersession of all earlier guidelines on the subject given at Annexure I, the Policy Guidelines as detailed below in succeeding paras shall be followed for the Pre-Construction activities.

I: Ministry of Road Transport & Highways (MoRTH) has published a Manual of Guidelines for all concerned, be it the DPR Consultants, the officers of MoRTH and its project implementing agencies (NHAI, NHIDCL, BRO and the State PWDs) or the Competent Authorities appointed as such for undertaking the Land Acquisition for NH projects. These guidelines have to be followed for land acquisition by NHAI. The Manual of Guidelines can be accessed at https://morth.nic.in/sites/default/files/A_Manual_of_Guidelines_on_Land_Acquisition_for_National_Highways_File3449.pdf.
Besides, there are specific issues to NHAI on which policy guidelines have been issued. Now in supersession of all earlier policy guidelines/circulars/instructions, the guidelines as detailed below shall be followed:

II : Approval of LA Plan for NH Projects: Land Acquisition Committee (LAC):

The Land Acquisition Plan for all NH Projects, would be approved by the Land Acquisition Committee (LAC), headed by Chairman with Member (Admn.) and the concerned Member as members. The LAC would examine the land acquisition plan and grant approval for proceeding with land acquisition (land acquisition plan can be upto 2 years in advance). The purpose of LAC is to facilitate expenditure sanction for land acquisition. The expenditure on land acquisition would be incurred only after the project is approved by Competent Authority. Therefore, no 3D notification be published before LAC Stage-2 approval.

There shall be 2-stage consideration by the LA Committee. The entire process shall be on-line through the LAC portal. The correct UPC code is mandatory while uploading any project proposal on the LAC portal.

Stage-1: In LAC Stage-1, approval of alignment is accorded out of 2/3 options. The procedure for consideration & approval of Project Alignment by LAC shall be as under:

(i) As part of Feasibility Study/ DPR, the Design Consultant and PD, after site visit will examine and submit to RO various alternative alignments of the project highway along with their merits & demerits, cost comparison of various alternatives (including likely project features, civil work rough cost, LA cost & other pre-construction costs) and their recommendations on the preferred option.

(ii) RO shall carry out site inspection, request the State Nodal Officer to convene a meeting of all stakeholders (online or in-person) and present the alignment alternatives in such consultation meeting; Video record the proceedings, take their comments/ recommendations and issue minutes of such meeting.

(iii) After such consultations and due diligence, RO will submit the preferred alignment along with the justification to HQ. The concerned Technical Division at HQ will load the details/ presentations on LA Portal and present the alternatives & preferred alignment, before the LA Committee in which RO, PD, & Design Consultant will also be present in Video Conference.

While submitting the proposal, the following certificates shall also be uploaded:

(a) A certificate from ROs/PDs shall be taken personally confirming that only the bare necessary land is being acquired for the projects, while granting sanction.

(b) In addition, a similar certificate should be taken from the consultant while approving the payment on account of LA related work.

Stage-2: In LAC Stage-2, approval would be accorded for detailed LA Plan and the land acquisition cost on the approved alignment. The procedure for consideration & approval of LA Plan by LA Committee shall be as under:

(i) Design Consultant & PD shall finalize the Detailed Project Report based on the alignment approved by the LA Committee in Stage I. Any deviation from the approved alignment under LAC Stage- I, shall be decided by the LA Committee.

(ii) Thereafter, the proposed LA Plan will be processed for consideration of the LA Committee.

(iii) Approval of DPR by RO will continue to be as per the laid down procedure, subject however to adherence to the approved alignment. DPRs shall necessarily be referred for peer review as per the laid down procedure.

Executive Committee has been delegated powers to approve the pre-construction activities including LA up to Rs.15 Cr. per km.

Submission of proposals for consideration of LAC

After duly examining the proposal received from Field Offices, concerned Technical Division at HQ shall submit the same on LAC portal at least 24 hrs before the meeting. The Proposal shall be presented to the committee by respective CGM/GM. The standard presentation before LAC shall include the following 'minimum' details in that order:

(i) Name of the Project in brief.

(ii) State Map with proposed corridor/alignment marked.

(iii) Project Map with proposed corridor marked along with clear marking of existing roads from which traffic is likely to come on the proposed corridor/project and status of development of proposed corridor (projects completed/ in progress/ balance for award). Alignment Options of the project with different colours/length.

(iv) In case of Ring Road/Bypass, distance from habitated area on the City Master Plan.

In order to streamline the complete project cycle i.e. from the approval of alignment by LAC till start of toll revenue, all pre-construction activities need to be synchronized with tendering process and construction schedule to save cost and increase economic viability of the projects. In order to have

effective monitoring, Complete Project cycle with detailed time lines for land acquisition (from the date of 3 A notification till the award and possession of land) and completion of other preconstruction activities such as utility shifting, environment clearances, likely bidding date, likely award date and likely appointed date, the expenditure details etc. shall be submitted to the LAC.

In order to ensure that encumbrance free land is available for handing over to the concessionaire on the scheduled appointed date. The status of all pre-construction activities viz land acquisition, environmental clearances, utility shifting etc. would be reviewed periodically vis-à-vis the timelines given at the time of LAC approval. A standard PPT format for the periodic review has already been circulated which shall be submitted by ROs and checked by Technical Divisions to ensure that it contains all details in the prescribed format. The final presentation shall be sent to LA Division atleast two days prior to the meeting date so that the same can be checked and corrections required, if any, can be done timely.

Standard presentation/ proposal before LAC shall also include the land monetization plan for the Greenfield projects, Bypass, Ring road etc. after identification of potential Land for monetization/ development of logistic parks & Wayside amenities etc. For this purpose Real Estate Consultants have already been engaged as mentioned below:

Region	States	Consultant	Contact details
South	Andhra Pradesh, Telangana, Karnataka, Kerala & Tamil Nadu	M/s Jones Lang LaSalle Property Consultants India Private Limited.	Thomas, Simon Simon.Thomas@ap.jll.com 9840068451
North	Jammu, Uttarakhand, Punjab, Uttar Pradesh, Haryana & Delhi	M/s Jones Lang LaSalle Property Consultants India Private Limited.	S, Robin Robin.S@ap.jll.com 8754404800
West	Rajasthan, Gujarat, Maharashtra, Madhya Pradesh & Chattisgarh	M/s Knight Frank India Pvt Ltd	Muninder Pal Singh Email Id: Muninder.Singh@in.knightfrank.com 9650511174
East	Bihar, West Bengal, Jharkhand, Odisha & Assam	M/s EY LLP	Siddharta Dutt Email Id: Siddharta.Dutt@in.ey.com 8826613331

In case of Brownfield Projects, well justified locations for value addition may be included.

LA Division shall compile the list of proposals uploaded on LAC portal & upto the same for consideration of LA Committee. Appointed Date of the project will be declared only after the Contractor/Concessionaire certifies the project length (land) available without any encumbrances & obstructions/hindrances in the format provided at Appendix- I

(iv) Processing of Increased pre-construction costs before appraisal and approval of projects:

In some cases LA cost may increase based upon 3G awards of CALAs, in such cases, before submitting the project for appraisal and approval, the LA costs be reviewed based on CALAs awards and if required, approval of revised LA cost be taken from LA Committee before submitting the project proposals for appraisal and approval so as to avoid revised sanction of project costs after approval of project.

III: Value Capture Finance (VCF) in NH development.

Value Capture Finance (VCF) is a tool to capture part of the value enhanced due to construction of Greenfield Highways including bypasses & Ring Roads and Capacity Augmentation of Brownfield Highways in the States in the form of increase in land value and associated additional revenues. These guidelines seek to devise a mechanism to implement VCF, jointly by the States and NHAI, to part finance the cost of highway construction in order to make them viable.

The Value Capture Finance Policy is attached as Appendix - II.

IV: Process of Land Acquisition in NHAI as per NH Act 1956

(A) Publication of Notifications:

All the proposals for publication of notifications for land acquisition viz 3a, 3A and 3D have to be processed through Bhoomi Rashi Portal https://bhoomirashi.gov.in/.

(B) Determination/approval for Payment of compensation for acquired land:

(i) Determination/approval of compensation: The determination of compensation for the land acquired has to be done by CALA through an Award published under Section 3G of NH Act, 1956. For publication of 3G award, the procedure laid down in Manual of guidelines issued by MoRTH shall be followed. ROs of NHAI have been delegated full powers for approval of payment of compensation as per CALA Award and following the Manual of guidelines. All PDs have to pursue valuation of assets attached to land under acquisition on priority so that CALA can issue a consolidated Award under Section 3G, for both land and assets thereon. All ROs while giving approval may ensure the compliance of above in all cases, even when the award is declared in parts in respect of a single notification. (Circular No. 7.1.57). As per the recent instructions of MoRTH, preparation of CALA awards and payment of compensation would also be done through Bhoomirashi portal only.

(C) Disbursement of compensation by CALA:

(i) The amount of compensation determined by CALA and approved by RO is deposited by the NHAI with CALA under section 3H of the Act. CALA disburses the amount to the entitled persons. In case of a dispute as to the apportionment of the compensation amount or part thereof, the CALA refers the matter to the decision of the Principal Civil Court of original jurisdiction.

(ii) For the fund management and payment of LA compensation amount to landowners / persons interested as per award of Competent Authority (Land Acquisition), the process would be as per instructions/guidelines issued by Finance Division.

(iii) The existing CALA-PD joint accounts, through which the payment of compensation was made prior to operationalization of Centralized CALA account system, CALA-PD joint accounts shall be closed after the existing available balance in the account is exhausted.

(D) Deduction of Income Tax:

The disbursement of compensation is also subjected to some provisions of Income Tax Act.

Following guidelines to be followed with regard to deduction of Income Tax from compensation paid for the acquired land:-

- Income Tax is not deductible from compensation for agricultural land.
- Since the definition of 'Immovable property' in the Income Tax Act, 1961, includes buildings or parts thereof; Income Tax is deductible on compensation for buildings standing on agricultural land.
- Since the definition of 'immovable property' in the Income Tax Act, 1961 does not include trees/bore-wells/ponds etc. Income Tax shall not be deductible on compensation for such trees/bore-wells/ponds etc. (NHAI Policy Guidelines No. NHAI/13/LA/Policy/2006] dated 04th May 2010)
- Income Tax is chargeable on interest payments due to belated payment of compensation for land.
- Interest is payable in land acquisition cases when (upon initiation of Arbitration/litigation), compensation awarded by CALA for the land is enhanced by the Arbitrator or by a Court of Law (Sec-3H(5) of the NH Act provides for payment of interest @ 9% per annum on the amount by which the Arbitrator enhances compensation).
- Payment of an amount by which an Arbitrator/Court has enhanced compensation due to a landowner, in fact amounts to belated payment of due compensation. Consequently, interest on the enhanced amount is equivalent to interest on account of belated payment of due compensation.
- Income Tax is therefore chargeable on the amount by which an Arbitrator or a Court of Law has enhanced compensation, and interest thereon, subject to condition that aggregate amount of such payments; i.e. (i) compensation awarded by CALA, (ii) enhancement awarded by the Arbitrator/Court and (iii) interest on the enhancement awarded by the Arbitrator/Court, during the financial year, exceeds one hundred thousand rupees.

V: Procedure for Transfer of Defence land

- As per the guidelines of the Ministry of Defence, NHAI will initially have to submit proposal for 'in principle' approval for transfer of Defence land to Ministry of Defence through Ministry of Road Transport & Highways. The proposal has to be submitted as per prescribed format alongwith all requisite details (Appendix -III).

- The proposals for Defence land forwarded by NHAI may be for transfer or alienation of land in the name of Ministry of Road Transport & Highways. Therefore, in Sl.No.9 of the format, the necessary undertaking to be provided should be as follows:

  "National Highways Authority of India undertakes to pay the market value of land fixed by the Ministry of Defence for transfer or alienation of the land in favor of Ministry of Road Transport & Highways, Govt. of India."

- In S1.No.7 of the said format, the following may please be stated:

"NHAI/ MoRT&H is neither a land owning authority nor does it have an arrangement with the State/ UT governments for providing land for the project and is therefore unable to provide equal value land, transfer may please be considered on payment of current market value"

Besides the information required to be submitted as per format enclosed with the said MOD's letter, RO/PD may also please submit the following information additionally by incorporating these in the format itself at Sl.No.3 of the format:

i. NH No.
ii. Stretch
iii. Chainage of NH where Defence land is located
iv. Address of Local Defence Authority

The address at Sl.No.1 of the format shall be that of the NHAI HQ. Additionally, the address and telephone number of the PIU may also be included at Sl.No.1 so that clarification, if required on matters which are available locally, may be obtained by the authority directly, if it so desires.

VI: Acquisition of missing plots from bulk acquisition through mutual consent:

Acquisition of missing plots from bulk acquisition through Mutual Consent shall be done in accordance with the procedure laid down in the Manual of Guidelines issued by MoRTH.

VII: Return of unutilized land:

Ministry or Road Transport & Highways' has issued guidelines for return of unutilized land as per which if any land acquired under the National Highways Act, 19S6 for the projects of development of National Highways remains unutilised for a period beyond the period specified for setting up of the concerned project or for a period of five years from the date of taking over its possession, whichever is more, the said unutilised land, after obtaining approval of the Central Government; may be handed over to the respective State Government of the or the administration of the Union Territory, (as the case may be in which it fall for utilization as considered appropriate. (NHAI/11031/DGM(LA&Coord.)/2015/FTS-640/77058) **Appendix –** IV

VIII: Arbitrations & Court Cases:

The detailed guidelines for arbitration in land acquisition cases for NH projects have been given in Manual of Guidelines issued by MoRTH. These guidelines, inter-alia includes the relevant provisions of NH Act, 1956, procedure for appointment of Arbitrators. These guidelines shall be followed. The cases for appointment of Arbitrators shall be processed through Bhoomirashi portal.

IX: Capacity building and adequate infrastructure at PIU/RO level and support to CALAs/Arbitrators:

1 Facilities to CALA:

NHAI's concurrence for creation of dedicated Special Land Acquisition Units (SLAUs) as per prescribed norms, initially for a period of one year, shall be given by the Regional Officers. Proposals of additional staff/infrastructure to CALA shall be considered on case to case basis but only for a specified period. The cases for extension of SLAU beyond three years (initial one year and further two extensions of one year each) shall be submitted to NHAI HQ for approval of concerned Member through Technical Division.

2 Extension of Special Land Acquisitions Units (SLAUs) – (NHAI/11013/DGM/LA/(Coord)/2013/3 Date 30.01.2013):

(i) Proposals for approval of the extension of SLAUs and all other related matters shall be submitted by the ROs/Technical Division to the concerned Member. (NHAI/RO/MUM/S-B/NH-13/Infra.Facility/2021-22(E-92119))

(ii) While submitting the proposal to NHAI HQ for approval of extension of SLAUs, the following details shall be submitted:

(a) Summary of the amount sanctioned since the date of establishment of the SLAU and the expenditure incurred against previous sanctions in the following format -

Sl. No.	Approval Letter No. & Date of previous sanctions	Amount sanctioned (Rs.)	Expenditure incurred (Rs.)	Savings, if any (Rs.)	Remarks

(b) The staffing proposed for the extended period and the existing staff of the SLAU for which extension is being proposed in the following format:-

Sl. No.	Name of SLAU	Existing Post	No.	Post Proposed	No.	Reference of Proposal by CALA	Remarks

(c) The work done by the SLAU and proposed to be during the extension period should be provided in the following format:-

A. Name of CALA / SLAU Unit:

SL. No.	Work which was proposed to be done during the previous time extension from (date) to (date)	Work actually done during the previous time extension from (date) to (date)	Remarks

B. Name of CALA SLA Unit:

SL. No.	Work proposed to be done during the proposed extension period	Comment on the staffing proposed for such work as stated in Column (2)	Remarks
(1)	(2)	(3)	(4)

C. Name of CALA / SLA Unit:

Sl. No.	Additional land to be acquired for the project(Ha)	3A notified (Ha)	3D Notified (Ha)	Area of land for which award(s) have been declared by CALA (Ha)	Land area mutated in the name of Central Govt. during the previous extension period	Total additional land mutated in the name of Central Govt.	Remarks
	(1)	(2)	(3)	(4)	(5)	(6)	(7)

(ii) All previous sanction orders, etc., should be enclosed with the proposal submitted.
Project Directors should ensure that the proposal being submitted provides the above stated minimum information along with estimate. The proposal should be submitted through RO and necessary recommendation for the proposal should be made by RO. (FTS-62/71258 of 04.09.2015)

3 Provisions of support staff and contingencies to Arbitrators appointed under NH Act, 1956 (7.1.50), (Technical (183/2015) of 05.11.2015) & 7.1.74 of 2021 dated 1.11.2021

Subject	Authority	Remarks
Approve/sanction proposals for support staff and contingencies to Arbitrator	Full powers to RO	• Maximum Rs.40,000/-per month per arbitrator if pending cases 50-150 • Maximum Rs.60,000 pm per arbitrator if cases exceed 150.
Retd. Revenue Officer: upto Rs. 35,000/- per month or last pay drawn reduced by pension	Full powers to RO	The amount of remuneration for the persons engaged as such shall be increased by 5% per annum during the period of their engagement.
Retd. State Govt. Surveyor / Amin: upto Rs. 27,500/- per month or last pay drawn reduced by pension in terms	Full powers to RO	The amount of remuneration for the persons engaged as such shall be increased by 5% per annum during the period of their engagement.
Private Surveyor/ Amin: upto Rs. 27,500/- per month or wage rate applicable as per State Govt. orders, whichever is lower.	Full powers to RO	The amount of remuneration for the persons engaged as such shall be increased by 5% per annum during the period of their engagement.

Proposals may be forwarded to the RO with details of disposal during the previous 12 months.

1. Sanction should be accorded on receipt of specific proposal from Arbitrators with full justification.
2. Amount sanctioned for facilities to Arbitrators shall be deducted from Administrative charges given to the State for LA activities.
3. The Arbitrator will open separate bank account, which will be jointly operated by PD NHAI. Concerned Technical Division will ensure that proper accounts of the expenditure are maintained for the audit of these accounts in the same manner as followed for depositing the amount by the Central Government with the Competent Authority for acquisition of land.
4. ROs/PDs should get necessary mutation of acquired land in the name of President of India by approaching State Revenue Authorities and submit a progress report every month on Data Lake. (NHAI/11013/NDLS/LA/2015/FTS-80/72702)

4 Resources for Regional Offices:

Provisions have been made for ROs to engage dedicated personnel at the Regional Offices in addition to those supporting the PIUs, CALAs and/or Arbitrators as follows:

Subject	Authority	Remarks
Engagement of LA Support Officials	Full powers to RO	• Atleast 1 per state

		• 1 per 15 CALAs in a state • For every 2 LASO 1 Steno-cum Data entry operator

Expected profile of SLAO:

1. Should be retired Revenue Officer of the relevant State Government who has retired not below the rank of SDM or equivalent.
2. Should have 10 years' minimum experience in the relevant State Revenue Department and have an in-depth understanding of the current Land Acquisition process.
3. Prior experience as a Land Acquisition official for a State or National Highway project is preferred.
4. Considering the requirement for frequent field visits, the officials should be below 65 years of age at the time of engagement or any extension of contract.

Engagement Structure:

1. To be engaged on a contractual basis for a period of 12 months. During the term of this engagement the official should not take up any other assignment.
2. Remuneration shall be equal to the amount of basic pay last drawn by them minus pension being received by them.
3. In addition, they would be eligible for reimbursement of expenditure on local (within city) transport / mobile-phone / internet facilities / food etc. on production of bills subject to a maximum of Rs. 10,000 per month. No separate Travelling / Daily allowance shall be admissible.
4. Lodging, boarding and intra-State travel during site-visits to PIUs or CALAs will be provided by NHAI as per entitlement of the official at the time of retirement.
5. Will not be entitled to any other allowances / facilities such as Dearness Allowance. HRA, Transport Allowance, Leave Travel Concession. Medical Attention / Central Govt. Health Scheme, Government Accommodation etc.

Process of engagement:

1. The eligible candidates will be identified, interviewed and selected by the RO.
2. Maximum 02 extensions are possible, contingent on periodic performance reviews. The first extension may be for a maximum of 12 months which may be approved by the RO. The second extension, for a maximum of 06 months may be approved by the Member (Admin) with the concurrence of the concerned Member.
3. The contract may be terminated by either of the parties immediately without notice at any point of time during the subsistence of the contract.

4. A performance review of the LA support official must be undertaken by the RO every 6 months describing in detail the impact of the work undertaken by the official, the work expected to be undertaken over the next 6 months as well as clear rationale for retaining the official. This report should be submitted to the Land Acquisition cell at HQ as well as the concerned Member for record.

5. Any deviations from the above guidelines will require approval from concerned Member/ Member (Admin) before appointment or extension of the LA support official.

5 Engagement of Consultant (LA):

Each PIU to engage and provide 01 retired State Govt Revenue Officer as Consultant (Land Acquisition) to each CALA, for acquisition of each unit area upto 100 Ha, subject to condition that no Consultant (LA) shall be engaged for acquisition of area less than 20 Ha.

Consultants (LA) thus engaged would be placed in the offices of CALAs for assisting in performance of tasks such as preparation of Notifications/Awards and disbursement of compensation under Sections 3A/3D/3G/3H of the NH Act, 1956. For the purposes of monitoring, the entire process of land-acquisition has been divided into 02 distinct sub-processes/milestones. The first sub-process commence upon publication of 3a Notification for appointment of CALA would last upto publication of 3D Notification subsequent to 3A publication, and the second sub-process would commence from publication of 3D notification and would last upto completion of disbursement of compensation subsequent to declaration of Award. Separate amounts shall be payable to Consultants (LA) as remuneration for accomplishment of each separate sub-process/milestone, and shall depend upon period within which each aforementioned milestone is accomplished.

The graded schedule of remuneration payable to Consultants (LA) for accomplishment of each separate sub-process/milestone is specified here in below:
Remuneration payable to Consultants (LA) shall depend upon the period within Which 02 distinct sub-process/milestones are accomplished, the first milestone being publication of 3D Notification subsequent to 3A Notification, while the second milestone would be accomplished upon completion of disbursement of compensation subsequent to declaration of Award.

Separate amount shall be payable to the Consultants (LA) as remuneration for the accomplishment of each sub-process/milestone and shall depend upon period within which each aforementioned milestone is accomplished. The graded schedule of remuneration payable to each separate sub-process/milestone is specifies below:

Month	Percentage of monthly emoluments Payable*
01	100
02	100
03	100
04	100
05	90

06	80
07	70
08	60
Beyond 08 months	50

** Monthly emoluments being equal* to *last pay drawn minus pension.*
An incentive equivalent to 04 times of last-pay-minus-pension shall be payable as one time incentive upon accomplishment of each milestone within a period of 04 months (as stated above; publication of 3D Notification subsequent to 3A Notification being the first milestone, and completion of disbursement of compensation subsequent to declaration of Award being the second milestone).

Project Directors are delegated with powers for engagement of necessary numbers of Consultants (LA), who would be in addition to those already engaged for supporting PIUs and Arbitrators. Project Directors are also directed to draw-up a panel of retired State Government Revenue Officers who would be available as for engagement as Consultants (LA) in the future and intimate the same to their RO. (No. 7.1.53/2017 dated 31.07.2017)

6 Provision for additional CALAs in cases where CALAs are highly loaded:

CALAs with workload of acquiring private eland of more than 140 Ha. shall be deemed as "highly loaded" CALAs. For these RO shall raise a request to the State Government for appointment of an additional CALA in the same district, so that the load may be equally distributed and CALAs in the District can ensure land acquisition within timeline of 02 years. (Administration/Finance 178/2016)

7 Provision for additional Arbitrators in cases where Arbitrators appointed under NH Act, 1956 are highly loaded:

An Arbitrator shall be deemed to be highly loaded if there are more than 500 applications for arbitration pending before the Arbitrator at any point of time from one or more projects in a district, irrespective of whether the said applications are heard in the same hearing (clubbed cases) or not.

RO may request State Government to nominate an additional Arbitrator in respect of a district, if it felt that an additional Arbitrator may help to dispose pending arbitration applications within 06 to 08 months or earlier. The additional Arbitrators in a district shall be provided with support staff and facilities, as is being provided to Arbitrators ordinarily appointed. The proposal for appointing additional Arbitrators alongwith the support staff in consultation with the State Governments may be processed as per the procedure in case of Arbitrator ordinarily appointed. (Administration/Finance 180/2016)

X: DELEGATION OF POWERS:

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
1	No. 7.1.68/2021 dated 5th January, 2021	Payment for Joint Measurement- Survey (JMS) as per rates payable under State Govt. Orders	PD	
2	No. 7.1.63/2019 dated 18.11.2019	Power to approve revision of the costs of preconstruction activities in case of Variation in preconstruction costs within the sanctioned estimates and contingencies put together (details to be given in the format provided at Circular No. 7.1.75/2021	RO	
3	No. 7.1.63/2019 dated 18.11.2019	Power to approve revision of the costs of preconstruction activities in case of Variation in preconstruction costs within 10% of the project cost(details to be given in the format provided at Circular No. 7.1.75/2021	Concerned Member	
4	No. 7.1.63/2019 dated 18.11.2019	Power to approve revision of the costs of preconstruction activities in case of Variation in preconstruction costs more than 10% of the project cost but less than 25% of the project cost (i.e. within the range of 10-25% of the project cost) (details to	Chairman	

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
		be given in the format provided at Circular No. 7.1.75/2021		
5	No. 7.1.63/2019 dated 18.11.2019	Power to approve revision of the costs of preconstruction activities in case of Variation in preconstruction costs is more than 25% of the project cost(details to be given in the format provided at Circular No. 7.1.75/2021	Board of NHAI	
6	No. Administration/Finance (125/2013) dated 30.09.2013	Payment for publication of Notification under the NH Act and other Notices / Advertisements etc. in Newspapers.	RO	Authority to sanction/ release of payment for publication of Notifications under the NH Act, and other notices/ Advertisements etc. in Newspaper, only in cases where the Notification etc. could not be published at DAVP rates for valid reasons (preferably to the lowest bidder). PD would remain competent to issue advertisements as per DAVP rates.
7	No. 18.24/2017 dated 21st August 2017	Approval of Compensation for Land Acquisition determined by CALA under NH Act, 1956 (decision taken by EC in its meeting held on 24.07.2017)	Full Powers to ROs	(i) The award of compensation is made by CALA on or after 01.01.2015 as per the provisions of RFCTLARR Act, 2013. (ii) The compensation for structures falling within ROW shall be strictly as per Policy Guidelines (7.1.51) dated 10.04.2017.

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
8		Approval of Compensation for Land Acquisition enhanced by the Arbitrator/ Court (including interest) (decision taken by NHAI Board in its meeting held on 17.08.2017)	Full Powers to ROs	(i) Procedure for processing Arbitral Awards shall continue to be governed by Circular No. NHAI/13/LA/Policy/2006 dated 06.09.2010. Paras 1(a), 1(b) and 1(c) of Circular dated 06.09.2010 are cancelled. (ii) RO may seek legal advice from NHAI's Counsel prior to deciding whether to accept or challenge a court order enhancing compensation. Provided that [as per Para-1(1) of Circular No. NHA1/13/LA/Policy/2006 dated 06.09,2010],Arbitral Awards which have been upheld by a Court must not be challenged in a higher court
9	NO. 18.27/2017 dated 27th September 2017	Approval of Awards declared by CALA/Arbitrator in respect of compensation of land	Full powers to ROs	(a) RO may approve the award after examined by the committee comprising of RO,PD(concerns),GM/DGM RO office and representative of Finance attached to RO (b) CALA's Awards wherein compensation for land/assets has been determined in accordance with methodology/guidelines adopted by the State Govt. for their own projects shall be accepted. (c) In case it is felt that CALA's Award deviates from established norms,

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
				RO may submit the same to concerned District Collector for advice, and dispose the matter in accordance with advice tendered by the District Collector. (d) Arbitral Awards may also be generally accepted so as to avoid accumulation of interest liability on NHAI. (e) In case it is felt that an Arbitral Award deviates from established norms, RO may submit the same to the State Govt for advice and dispose the matter in accordance with advice tendered by the State Govt.
10	No. Administration/Finance (125/2013) dated 13.09.2013	Payments of Administrative Charges to state govt. for land acquisition.	RO	Authority to sanction /release Administrative Charges as per rates levied by the state Govt.
11	No. Administration/Finance (125/2013) dated 13.09.2013	Payments of Capitalized value of land.	RO	Authority to sanction /release Capitalized value as per rates levied by the state Govt.
12	No. Administration/Finance (125/2015) dated 16.08.2013	Selection of Govt. approved valuator for Valuing assets other than land (i.e. structures / trees / bore-wells / ponds etc.) where concerned local dept. (i.e. PWD/ Agricultural / Horticulture / forests etc.) is unable to undertake the task of valuation of the assets.	RO	In case concerned local Dept. is unable / unwilling to take on the task of valuing assets, RO's may invite bids for selection of Govt. approved valuators. Bids are to be invited at fixed prices as opposed to percentages of the values determined for the assets, restricted to 01% of assets value (so as to guard against the tendency to

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
				exaggerate asset- values for inflating valuation fees.)
13	No. Administration/Finance (125/2013) dated 30.09.2013		RO	Authority to release Valuator's fee as per rates chargeable by concerned local Dept. (if the Dept. has valued the assets), or as per rates quoted by the lowest bidder selected for the task. (Bids are to be invited at fixed rates.)
14	No. Administration/Finance (125/2013) dated 30.09.2013		RO	Authority to release fees chargeable by concerned local Dept.(for vetting the valuation of assets arrived at by Govt. approved Valuator), as per order issued by the State Govt./ concerned Dept.
15	No. 7.1.52/2017 dated 14th June 2017	To check the reasonability and to challenge the order of enhancement of compensation passed by Reference Court under Land Acquisition Act, 1894,	Full powers to ROs	
16	No. 7.1.49/2016 dated 04th November 2016	For approval of proposals for institution of legal proceedings or defending legal cases in Courts in respect of land acquisition matters, including cases in the State of Jammu & Kashmir where land is acquired under the J&K LA Act	CGM(LA)	Power to challenge arbitral awards in Courts shall continue to lie with ROs.

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
17	No. Technical (203/2016) dated 30.03.2016	For hiring of equipment and labourers for removal of hindrances within a project Rs. 10 Lakh per project.	RO	RO shall ensure measurement of each structures alongwith videography for records.
18	No. Administration/Finance (125/2013) dated 30.09.2013	Provision of resources (i.e. personnel / Office furniture / vehicle / stationery etc.) to CALA where SLAU's have not been constituted and extension of the same.	RO	Authority for provision / extension of resources to CALA where SLAU's have not been constituted, is delegated as follows: (i) 01 time grant of ₹ 03 lacs for purchase of furniture / office equipment. (ii) Monthly expenses @ 1.5 lac (iii) Office space (only in case of accommodation cannot be provided within premises of local Administration / PIU) as per entitlement of a PIU headed by a DGM.
19	No. Administration/Finance (125/2013) dated 30.09.2013	Extension for SLAU's	RO	02 extension of 01 year each beyond the initial period of 01 year.
20	No. 7.4.5/2017, Dated the 17th, October, 2017	Green Highways Projects through Govt. Agencies	Full Powers to RO	Subject to vetting of proposal by Green Highways Division
21		Release of funds to Government Agencies	Full Powers to RO	The mobilization and subsequent advances as per OM no.11013/1/2K/EnvGHD/464 dated 19.07.2017
22		Green Highways Projects through Private Agencies/NGOs	Powers to ROs to approve up to 10 Kms NH length.	Project estimates to be based on MoRD SOR for roadside plantation released vide circular No 11017/17/2008-NREGA dated 14.07.2014. Further agencies to be selected based on Competitive Bidding on Quality Cost

S. No.	Policy Number	Subject delegated	Extent of delegation	Remarks
				Based Selection (QCBS).
23		Release of funds to Private Agencies/NGOs	Full powers ROs.	Reimbursement subject to actual work done and verified by PIUs
24		Agreement signing with Govt/ Private Agencies	Full powers to PD in charge of the project area	Subject to approval of RO

Stipulated land should be acquired and handed over encumbrance free & hindrance free to the Contractor/Concessionaire in time or that part of the project will be descoped or the project will be terminated if the land is not handed over, but in no case this issue will be kept pending. PD will daily devote adequate time to the issue of acquisition of land and handing over to the Contractor/Concessionaire, till 100% land in every project is handed over. PD also needs to fill data in Data Lake/PMS Portal; RO have to daily monitor every PDs progress in this matter. Concerned CGM (T) and Member have to monitor the progress twice a week and brief Chairman once a week. (Circular No. 7.1.65)

Also the Appointed date of the projects may be declared only after the Contractor/Concessionaire certifies about the availability of un-encumbered & unhindered length in the prescribed format. (Circular No. 7.1.61)

XI: Settlement of Arbitral Awards/ Court Orders relating to payment compensation for Land Acquisition:

For expeditious disposal of Arbitral Awards/ Court Orders pertaining to Land Acquisition in respect of NH stretches, which were entrusted/ transferred to NHAI through Gazette Notifications, duly collecting comprehensive details from Chief Engineers of State PWDs & ROs of MoRTH (a copy of format prescribed by MoRTH for submission of such details is enclosed). Also ATR was to be sent to CGM (LA) on monthly basis. These instructions pertain to Arbitral Awards/ Court Orders on LA, where LA was taken up by State PWDs/ MoRTH and such NH stretches were subsequently entrusted/ transferred to NHAI. All ROs have to collect the details from State PWDs/ MoRTH and furnish ATR to CGM (LA), without any further delay.

It has been further decided that for NH stretches with NHAI on which LA has been/ is being taken up by NHAI, all PDs of NHAI shall submit the following details to ROs of NHAI, similar to the cases at Para-1 above, to examine and dispose of Arbitral Awards/ Court Orders on LA taken up by NHAI.

(i) Copy of sanction letter of the work for which land acquisition has been carried out, along with copy of revision of the original sanction, if any;

(ii) Chronological history of the case, including date-wise details of land acquisition and construction work, and case history of enhancement of LA compensation;

(iii) Copy of CALA's Awards and Awards/ Orders of Arbitrator/Court;

(iv) Details of payments previously made to landowners on the basis of CALA's Awards;

(v) Details of other cases pending with/ decided by Arbitrator/ Court pertaining to land acquisition for the same stretch, alongwith status thereof;

(vi) Copy of legal opinion on Arbitral Award/ Court Order on the basis of which additional compensation is required to be paid; and

(vii) Duly signed 'B' statement from CALA showing calculation of requisite payment. Statement to be in tabular format indicating names of landowners, name of village, Survey/ Khasra No, area of land, corresponding to Arbitral Award Court Order on which the enhancements are based. (Circular No. 7.1.55/2019)

XII: Legal Instructions related to Land Acquisition cases:

1 Delegation of power in respect of legal matters of NHAI/MoRTH:

Project Directors are authorized to defend the interest of NHAI/ MoRTH in legal matters. In case, where MoRTH may also be a proforma respondent, the concerned PD should formally request for necessary direction from the Ministry. If instructed to defend MoRTH too, PD should instruct the Advocate hired to defend the MoRTH's interest also in the same matter. In case where Central Government counsel appears on behalf of NHAI, the fee paid to him would be as per the approved fee schedule of central Government subject to the condition that it does not exceed the amount payable as per NHAI's fee schedule. If he is also defending the interest of MoRTH, additional fee is not payable. Likewise, a counsel appearing on behalf of MoRTH would not be paid extra for defending the interest of NHAI. (Instructions issued vide letter No NHAI/11013/DGM(LA/Coord)/2013/FTS-4954/46766 Dt. 11.12.2013)

Power to challenge Arbitral Awards in District Courts on the basis of recommendation of concerned PIU and the RO's/PIU's legal counsel is delegated with RO's. Appropriate legal counsel may be engaged by RO's/PIU's for this purpose.

2 Guidelines for processing Arbitral Awards:

The Arbitral Awards has be processed as per following guidelines:

- Upon declaration of Arbitral Award, concerned PIU shall immediately obtain a copy of the award and initiate a case for disposal of the same in accordance with relevant policy

guidelines, and also otherwise ensure that filing of appeal against the Arbitral Award by NHAI does not get time barred. Concerned PIU is to implead NHAI as party in all Arbitration proceedings if the Arbitrator has not already issued notice to NHAI.

- The amount (in respect of which the authority to accept an Arbitral Award has been delegated) includes interest on the enhanced amount awarded by the Arbitrator.
- Compensation determined by CALA is to be deposited with him prior to initiation of Arbitration proceedings only on condition that (i) Possession of land is transferred to NHAI, and (ii) Compensation shall be disbursed only subsequent to due approval by HQ.
- CALA's award which have been upheld by the Arbitrator are not to be pursued into Court, for simple reason that successive endorsement of the Award by CALA/ Arbitrator point to merit possessed by CALA's Award.
- Cases Where Award declared by CALA has been challenged by Landowners, whereupon the Arbitrator has enhanced compensation and his Arbitral Award has been upheld by a court, also ought not to be pursued into a higher court.
- For ready availability of necessary information, for processing Arbitral Award timely, details of court cases pertaining to such Awards be submitted on Bhoomirashi Portal.
- While submitting cases for consideration of RO/HQ, PIU shall furnish their observation/ recommendation in the matter.
- As per Explanation (ii) of section 194LA of the Income Tax Act, 1961: For the purposes of this section ….."Immovable property" means any land (other than Agricultural land) or any building or part of a building.' Consequently; (i) Income Tax is not deductible from the enhancement awarded on compensation for Agricultural land (ii) Since the definition of "immovable Property "in the Income Tax Act, 1961 includes building or parts thereof, Income Tax is deductible on the enhancement awarded on compensation for building standing on Agricultural land (iii) Since the definition of "immovable property" in the Income Tax Act, 1961 does not include trees/ bore-wells/ponds etc. Income Tax shall not be deductible on the enhancement awarded on compensation for such trees/ bore-wells/ponds etc.
- Income Tax is chargeable on the amount by which an Arbitrator has enhanced compensation and interest thereon, subject to condition that aggregate amount of such payments: i.e.(i) compensation awarded by CALA (ii) enhancement awarded by the Arbitrator, and (iii) interest on the enhancement awarded by the Arbitrator, during the financial year, exceeds one hundred thousand rupees.
- Section 3H (6) of the NH Act stipulates that "Subject to the provision of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this act". Section3H (5) of NH Act provides for payments of interest @ 09% per annum on the enhanced amount (from the date of declaration taking possession under Section 3D to date of deposit of the enhanced amount). Accordingly, since applicability of provision of the Arbitration and Conciliation act have been made subject to provision of the NH Act and since the NH Act contains its own specific provision pertaining to payment of interest, it follows that the provisions of NH Act pertaining to payment of interest would preponderate/ prevail over those of the Arbitration & Conciliation Act: Interest would therefore be payable @ 09% per annum on the enhanced amount, as provided under the NH Act. (Circular No NHAI/13/LA/Policy/2006 dt 06.09.2010)

3 Adherence to extant guidelines in empanelment of Law Firms/ Advocates:

All RO's and PD's are advised to ensure adherence to extant guidelines, including those in respect of requirement of Min. 10 years' experience for an Advocate to be eligible for engagement/ empanelment, rotation of cases etc. for all cases, including those for which routine instructions to defend the interest of NHAI/ MoRTH are forwarded by NHAI HQ.

For cases at High court, there should be a panel of at least five Advocates amongst whom cases can be allotted on rotational basis. The panel should be formed after the concerned RO forwards the CV's of the advocates to HQ and after they get scrutinized by Legal and LA division and approved by the Member (A). For cases at District level/Tribunals, PD should follow a similar process. In court cases where both MoRTH & NHAI are respondent and where vital interest is involved, Ld. Attorney Solicitor General at the fee prescribed by Govt. of India or at higher fee, if required may be engaged after approval of the competent authority. (Circular No. Administration/Finance 163/2015 dt. 10.09.2015)

4 Schedule of Legal Fee:

Schedule of fee payable to Advocates/ Techno- legal Experts/ Law Firms w.e.f. 04.06.2014.

S.No.	Legal subjects	Schedule of Fee
1.	Before Supreme Court	
a.	In Writs, Civil or Criminal Revision/Appeals/Arbitral Matters etc.	
i.	Appearance	₹ 9,000/- per case per appearance
ii.	Drafting of Special leave petition/ Writ/ Counter Affidavits/Rejoinder/ Appeal/ Interim Application/ Reply to interim application/ Affidavits Rejoinder to the Application etc	₹ 44,000/- (Lump sum)
b.	Filling of caveat	₹ 9,000 per caveat
c.	Fee payable to Advocate on record	₹ 10,0000/- per case
2.	Before High Court	
a.	In Writs, Civil suits/Counter Claims or Civil or Criminal Revisions/Appeals/Arbitral Matters/Petition/ Any other Petition etc	
i.	Appearance	₹ 7,000/- per case per appearance
ii.	Drafting of Writ/ Counter Affidavits/Rejoinder, Civil Suits/ Written statement/Replication or Civil or Criminal Revision/ Appeals/ Petition/ Interim	₹ 37,500/- (Lump sum)

	Application/ Reply to interim application/ Affidavits/Rejoinder to the Application/ any other Petition etc.	
b.	Filling of caveat	₹ 7,000/- per caveat
3.	Before District Court	
i.	Appearance before District Court/ City Civil Court/Consumer Court/ Small Causes Court/ Appellate Tribunal	₹ 5,000/- per case per appearance
ii.	Drafting of Civil Suit/ Written Statements/ Replication or Civil or Criminal Revision/Appeal/Petition etc. / or any other/ Reply/Appeal/ Interim Application/Reply to interim application/ Affidavits/ Rejoinder to the Application etc.	₹ 37,500/- (Lump sum)
4.	Before any other Authorities/Tribunals/Commission/ Forum/ EO/ Labour Court/CIC etc.	
i.	Appearance	₹5,500/- per case per appearance
ii.	Drafting of Petition/ Reply/Rejoinder/Appeal/ Interim Application/Reply to interim Application/Affidavit/ Rejoinder to the Application etc.	₹ 31,000/- (Lump sum)
5.	Before Arbitral Tribunal (Civil Engineering Contracts)	
i.	Appearance	₹ 12,500/- per case per appearance irrespective of No.s of Legal counsels appearing before Arbitral Tribunal
ii.	Drafting of Statement of Claims/ Statement of Defence/ Rejoinder/Interim Application/Reply to interim Application/Affidavit/ Rejoinder to the Application etc.	₹ 9,000/- per claim
iii.	Written synopsis	₹ 3,000/- per claim
6.	Techno Legal Experts (Before Arbitral Tribunal)	
i.	Appearance	₹ 12,500/- per hearing
ii.	Drafting of Claims/counter Claims/ Rejoinder/Statement of Defence/ Interim	₹ 12,500/- per claim

	Application/Reply to interim Application/Affidavit/ Rejoinder to Application and Agreement etc.	
iii.	Study of Documents	₹ 6,000/- per claim
iv.	Conference with Client's Representatives/ Legal Counsel	₹ 9,000/- prior to date of hearing
v.	Clerical charges	₹ 10% of per day hearing
vi.	Service Tax	As applicable
vii.	Misc. Expenses such as photocopy, power point presentation etc.	As per actual
	Other Legal Works	
7.	Vetting of Documents/Conveyance deed/ any other Agreements/ Deeds etc.	₹ 6,500/- ₹ 25,000/- (Max) as per work involved (per documents)
8.	Drafting of Legal Opinion/ Brief for Legal Opinion/ Notices/ Reply to Notice	₹ 6,500/- ₹ 25,000/- (Max) as per work involved
9.	Consultation/ Conference	
a.	In the Office of Counsel	₹ 2,000/- per hour
b.	Any other Place	₹ 2,500/- per hour(plus conveyance allowance as per actual)
c.	Site Inspection (time spent also to include travel time)	₹ 3,000/- per hour(plus conveyance allowance as per actual)
d.	Conference with Senior Counsel i. Before Supreme Court ii. Before High Court iii. Before District Court iv. Before any other Authorities/ Tribunals/Commission/Forum/EQ/ Labour Court/CIC etc. v. Before Arbitral Tribunal (Civil Engineering Contracts)	 ₹ 4,000/- per hour ₹ 3,000/- per hour ₹ 2,500/- per hour ₹ 2,500/- per hour ₹ 3,000/- per hour

10.	Land Acquisition Matters	
	Before Arbitrator appointed by Central Govt.	
i.	Appearance	₹ 2,000/- per case per appearance and maximum of ₹ 9,000/- for 5 or more cases clubbed together.
ii.	Drafting of petition/reply/rejoinder/ Affidavits/ Interim application/ reply to interim application/ additional affidavit/ rejoinder to the application etc.	₹ 19,000/- (Lump sum)

Notes:

1. If an Advocate is required to undertake an outstation journey in connection with any matter of NHAI, he shall be entitled to a sum of ₹ 10,000/- per day for Sr. Advocate and ₹ 5,000/- per day for junior Advocate over and above the fee payable to him. Lodging, boarding, traveling and local travel expenses will be allowed only for those Counsels who are 100 Kms. Away from their HQ to the place of meeting.
2. The charges applicable during outstation journey for Techno- Legal expert and Legal counsels will be as per schedule given below:

These charges are reimbursable on submission of bills

Travelling Expenses	Economy Class (By air), First Class AC (By Train) and AC Car (By Road)
Lodging and Boarding	₹ 18,000/- per day in (metro cities)
	₹ 8,500/- per day in (other cities) ₹ 3,500/- per day, if any Advocates/ Techno Legal Expert makes his own arrangements.
Local Conveyance	₹ 2,000/- per day

3. Whenever a Sr. counsel is to engaged, his charges shall be payable separately, including for conference, drafting appearance etc. directly to the counsel. Specific approval in writing of the Competent Authority for engagement of the Senior Counsel shall be required.
4. Where the cases are filed in one and same court or any Authority and matters are similar (not materially different) which are heard as bunch matters and pleading like filling of reply, counter affidavits, rejoinder, written statement etc. are also similar than for first three cases, the payment may be made full as per the captioned Policy Circular's schedule and 50% up to 10 cases and thereafter, 10% for rest of the cases.
5. Charges for photocopying, typing,, binding, courier/postage charges, local conveyance charges etc. shall be paid as per actuals.

6. All out of pocket expenses, including service tax at applicable rates, shall be payable in addition to the above rates.

7. The adjournment charges/ fee shall be payable @50% of the appearance fee only and this 50% fee shall also be applicable when the court does not sit and also in case of non-effective hearings. Further, this 50% fee would not be admissible if the adjournment has been declared prior to the day of hearing.

5 Bunch matters and clubbing of Land acquisition matters:

All matters filed before an Arbitrator under section-3G(5) of the NH act, 1956 arising from the same award of CALA pertaining to the same village shall be treated as " bunch matter". Similarly, all appeals in the District Court arising from the same award of an Arbitrator pertaining to the same village shall be treated as "bunch matters".

However, if after examination of draft reply/ draft written statement / draft counter affidavit/ draft rejoinder etc. by PD concerned, it is felt that there is any substantial material change in the said reply/ written statement / counter affidavit / rejoinder etc. in comparison to other matters being heard against one particular award pertaining to the same village, a proposal for excluding the same from "bunch matters" shall be submitted by PD to RO concerned. Only on approval of the proposed by the Regional Office concerned, the same shall be considered as excluded from the "bunch matter".

Clubbing:

i. Case numbers which are heard in the same hearing shall be treated as clubbed cases.

ii. The case number which are mentioned in the Cause list of a particular date of hearing before an Authority (Arbitrator/ District Court), shall be considered to be heard in the "same hearing" mentioned in (i) above.

iii. The Project Director, PD shall arrange to club all bunch matter cases for which application/ petition have been filed before the Arbitrator/ District Court within a period of six months from the date of a particular award by CALA/ Arbitrator. All bunch matters cases arising from application filed after the said period of six months and within a subsequent period of six months shall be similarly arranged to be clubbed by PD, if the cases are not already clubbed by the Arbitrator. The process of clubbing bunch matter cases in every six monthly periods shall be continued by PD.

iv. Fees Payable:

(i) Fees Chargeable for Appearance:

Case numbers which pertain to a bunch matter and which are clubbed, shall be treated as a single case for the purpose of Appearance mentioned in Clause 10 (i) and Clause 3 (i) of the Schedule of Legal Fee annexed with the Circular No. 11041/217/2007- Admn dated 04.06.2014.

(ii) Fees Chargeable for Drafting, etc.:

The Fees Chargeable for Drafting. etc., as per Clause IO(ii) and 3(ii) of the 'Schedule of Legal Fee' annexed with the Circular No. 11041/217/2007-Admn dated 04.06.2014 shall be applicable to bunch matters irrespective of the time when a bunch matter case I case number was filed before the Authority (Arbitrator or District Court).Clubbing of bunch matter cases/case numbers shall not be a relevant consideration for calculating the fees chargeable for Drafting, etc., as per Clause IO(ii) and 3(ii) of the 'Schedule of Legal Fee' annexed with the Circular No. II0411217/2007-Admn dated 04.06.2014. The SI.No.(4) of 'Notes' under the 'Schedule of Legal Fees' of the said circular shall be applicable in respect of Drafting Charges, etc. payable as per the said Clause 10(ii) and Clause 3(ii). It has been stated in said SI. No. (4) of 'Notes' under the 'Schedule of Legal Fees' RO shall shortlist a group of Advocates for LA cases after obtaining a recommendation from PD. The cases should be rotated amongst the said short listed Advocates.

It is important that before making payments, PDs must insist on daily order sheets/internal orders of the judicial officers on their files indicating the presence of advocates and summary of days' proceedings.

No payment shall be made for an adjournment if the same is not at the behest of the concerned PD, NHAI. If for some reasons adjournments have been sought by our Advocates and they claim payment for that day, then it should be made only on the written orders of PD explaining the reasons why adjournments had to be sought.

(iii) The issue regarding bunch matters was dealt specifically along with clarification contained in circulars dated 19.12.2011, 24.1.2012 and 15.5.2012 which are still in force. Besides, another circular dated 4.9.2014 was issued regarding clubbing/bunch matters etc. citing the situational illustrations.

The issue about bunch matters has been explained in detail in circular dated 24.1.2012 and in the dated circular dated 4.9.2014. The circular dated 24.1.2012 inter-alia states that

The bunch matters would constitute all claim petitions filed under one Award covering the claim petitions of the Awardees of a village or villages." i.e. for a village or group of villages, there is only one award and cases flowing out of one award will be considered bunch matters/clubbed cases. Even here, PD has been given discretion to segregate the cases, in case of material difference. (Circular No. NHAI/Legal Cell/Opinion/2015 dated 01.04.2015)

6 Revised structure of fee to lawyers appearing before Land Acquisition Arbitrators:

To incentivize the lawyers, the structure of fee to lawyers for appearing before Land Acquisition Arbitration Arbitrators appointed under NH Act, 1956, is hereby revised as under:

		<= 10 hearings	10 – 20 hearings	> 20 hearings

i.	Drafting of petition / reply / rejoinder / affidavit / interim application / reply to interim application / additional affidavit / rejoinder to the application, etc.	**Continues to be as per NHAI circular No.11041/217/2007-Admn. dated 04.09.2014{Policy Matters: Administration /Finance (142/2014)} read with the circular No.11041/217/2007-Admn dated 04.06.2014{Policy Matters: Administration /Finance(140/2014)}.**		
ii.	Appearance fee per hearing per case (<5 clubbed cases)	Rs. 2,000/-	Rs. 1,000/-	Rs. 500/-
iii.	Appearance fee per hearing per case (>= 5 **clubbed and bunch matter cases**)	Rs 9,000/-	Rs 4,400/-	Rs. 2,100/-
iv.	Fixed incentive in case of disposal within 6 months	Rs. 11,000/- (Lump sum)		

Note: the period or periods when an arbitrator appointed by the Central Govt. is unavailable in his place of posting under the concerned State Govt. and is therefore unable to allot dates for hearings, shall be excluded from the aforesaid period mentioned in the table above.

In addition to a variable pay per hearing based on the number of hearings, the structure provides a fixed incentive of Rs. 11,000/- per case **(or clubbed and bunch matter cases)** for disposal of a case (or clubbed cases) within 6 months of filing. (Circular No. 11014/11/2016-HR-I 7.1.48/2016 dated 28.10.2016)

7 Seeking Opinion from Legal and Arbitration Cell:

NHAI should seek legal Opinion/ advice through the Legal and Arbitration Cell rather than directly from Law firms/ Advocates disregarding the guidelines issued on the subjects.

All RO's/PD's must obtain prior approval of the Legal & Arbitration Cell at NHAI, HQ through concerned Technical Division before engaging any Law Firm/ Advocate for litigation or for taking any expert Legal opinion etc. The Proposal of RO's/PD's shall be put up to the Competent Authority by Legal & Arbitration Cell for seeking the approval keeping in view the nature of case vis-à-vis the expertise of the Law Firms/Advocates, on case to case basis. To avoid delay, the correspondence in this regard may be carried through e-mails. (Circular No. No. Administration/ Finance (152/2014) Dt. 10.10.2014)

Powers	**To whom delegated**	**Extent of Delegation**
	Chairman	Full Powers

Legal Charges relating to Court and Arbitration cases including Fees of Senior Advocates/ASGs/Techno Legal Experts/Arbitrators etc.	Member (Admin)	Up to Rs. 1.50 lakh
	CGM (legal)	Up to Rs. 50,000/-
	CGMs/GMs/Project Director	As per prescribed rates.

8 Applicability of Article -137 of The Limitation act, 1963:

Provision under section-43 of the Arbitration & conciliation Act, 1996 clarified that the Limitation provided under Article -137 of the Limitation Act, 1963 would be applicable in the matter of filing an Arbitration petition/ Application invoking the Arbitration, which is three years from the date of cause of action, as repeatedly held by the courts of Law and the Hon'ble Supreme court.

All Ro's/PD's may refer supra ground for defending cases in Court/ Tribunals, where application are filed before an Arbitrator under the NH act,1956 after a lapse of several years from the declaration of an award by CALA. (Circular No. NHAI/11013/DGM(LA&Coord)/2014/FTS-619,205/52416 dated 21.05.2014)

9 Irregularities in the Award of the Arbitrator:

Arbitrator has no *locus standi* to revisit his own Arbitral Award, once passed under provision of section-31 of Arbitration & conciliation Act, 1996. RO's / PD's must examine such matters thoroughly while processing/ approving the cases of enhancements in compensation amount for Land Acquisition and in case action found *ultra vires* or any irregularity is found the same may also be taken up with the State govt. in addition to challenging the Arbitral Award before the District Court. (Circular No. 7.1.63/2019. Dt. 18.11.2019)

10 Summoning of top level officers for High Court proceedings:

In several High court proceeding, senior level officer of the government are being summoned for matter which can be explained/ Clarified by RO's/PD's who are fully conversant with the case. In such cases, Advocates should submit application to exempt higher level officers from personal appearance while also informing the concerned division at NHAI, HQ. If the court agrees, the officer deputed by NHAI HQ to appear in person should get the reply vetted by the HQ and also apprise the concerned division from time to time of the development on the case. (Circular No. NHAI / FTS 46562/ DGM (LA & COORD.) Dt 06.12.2013)

11 Instructions to counsels for defending the LA cases:

While examining many court cases relating to Land Acquisition, it has been observed that Counsel's for the National Highways Authority of India made Commitment/Statement before the Hon'ble Courts without taking prior written approval of the Competent Authority. It results in loosing of Case before the Hon'ble Courts and causing in acceptance of unwanted claims before the

Hon'ble Courts. It put the financial burden on the Public Exchequer. In order to defend the NHAI stand effectively and ensure that no case is lost without any proper defence.

All ROs/PIUs to warn all Advocates that no Commitment/Statement should be made before the Hon'ble Courts without prior approval in writing from the concerned RO. (Circular No. NHAI/11013/LA/ Instruction to counsels/ 2021/ E-61121Dt 03.02.2021).

Appendix – I

Format

To
PD, NHAI

Certification of project length (land) available without any encumbrances & Obstructions/ hindrances; and request for declaring the Appointed Date

Name of Project:

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We, M/s (Name of Concessionaire/ Contractor) have inspected all the sites handed over to us by NHAI under the subject contract/concession agreement related to the project mentioned above. We are satisfied that Right of Way (RoW) handed over to us in a total length of km as given in Table-I below is without any encumbrance and without any obstructions/ hindrances, and is sufficient to undertake construction of the works as per defined scope in the said contract/ concession agreement.

Table-1

Chainage		Length of Reach (in Km)
From	To	

Thus, out of total project length of km, we have been handed over km length, without any encumbrance & without any obstructions/ hindrances, which constitutes % of total project length.

We are willing and ready to start the work and request NHAI to declare the Appointed Date w.e.f…..

Witness-1
(Proof of Identity enclosed)
enclosed

(Authorised Signatory of Contractor/Concessionaire)
Power of Attorney of Authorised Signatory

Witness-1