



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Road Transport and Highways)

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NHAI/Policy Guidelines/Miscellaneous Guidelines/2021

Policy Circular No.18.63/2021 dated 08th January, 2021

(Decision taken on e-file Comp. No.-52082)

दूरभाष / Phone : 91-11-25074100/25074200

Sub: Standard Operating Procedure to decide penal action in case of failure of structures/ highway in NHAI projects.

Number of instances have been noticed where bridges/ structures/ approaches to structures, etc. have failed pre-maturely on account of serious lapses/omissions on the part of Concessionaires/ Contractors/ Consultants. Therefore, following Standard Operating procedure is hereby issued to decide upon the extent of penalty against such companies/ firms and key personnel of the firms.

1.1 Constitution of Expert Committee and compliance of post-accident mechanism as spelt out in NHAI's Policy Guidelines no. 18.51 dated 28.08.2020 and no. 18.54 dated 29.09.2020 without any delay.

1.2 During the currency of investigation, the concerned key personnel of the Contractor/ Concessionaire (eg, Project Manager, Bridge Engineer, etc.) and Consultancy Firm (eg, Team Leader, Resident Engineer, Bridge Engineer, Material Engineer etc.) may be kept under suspension from working on the project/ any other project of NHAI so as to ensure that the investigation is not influenced. Further, if the suspended personnel are found not guilty after conclusion of the investigation, they shall be treated as on duty during the period of suspension and the salary of key personnel of consultancy firms will be paid as per the consultancy agreement.

1.3 The following penal actions shall be taken in case of any reports on failure of structures/ poor quality of services after ensuring proper investigation.

Sr. No.	Type of Failure	Action to be taken against the concerned based on investigation			
		Contractor/ Concessionaire		Consultant	
		Firm	Key Personnel	Firm	Key Personnel
i)	Minor failure of structures/ highway due to design/ construction/ maintenance defect wherein no casualties are reported.	Rectification by contractor/ concessionaire on own cost + penalty of Rs. 30 lakh and written warning.	The key personnel may be kept on watch list for any future recurrence besides issuing written warning.	Token penalty of Rs. 5 lakhs on consultancy firm engaged during construction/ maintenance besides issuing written warning.	The key personnel may be kept on watch list for any future recurrence besides issuing written warning.
ii)	Major failure of structures/ highway due to design/ construction/ maintenance defect wherein no casualties are reported.	Rectification by contractor/ concessionaire on own cost and/or Debarment upto 1 year + Financial Penalty of Rs. 50 lakh to Rs. 5 Cr. depending upon the severity of failure/ neglect.	Debarment of concerned key personnel upto 2 years in NHAI works.	Monetary penalty of Rs. 20 lakhs on consultancy firm engaged during construction/ maintenance and/or Debarment upto 1 year	Debarment of concerned key personnel upto 2 years in NHAI works.
iii)	Major failure of structures/ highway due to construction/ maintenance defect leading to loss of human lives besides loss of reputation etc.	Rectification by contractor/ concessionaire on own cost and/or Debarment upto 2 years + Financial Penalty of Rs. 1 Cr. to Rs. 10 Cr. depending upon the severity of failure/ neglect.	Debarment upto 3 years	Monetary penalty of Rs. 40 lakhs on consultancy firm engaged during construction/ maintenance and/or Debarment up to 2 years	Debarment upto 3 years

Note:

- i. The term Concessionaire implies all promoters of the SPV of the PPP project having 26% or more stake, whereas the term Contractor implies all Joint Venture Partners (jointly & severally responsible) in case of a EPC contract or the approved EPC Contractor working under SPV of a Concession.
- ii. The term Consultant refers to Authority Engineer, Independent Engineer, DPR/ Design Consultant, Proof Consultant & Safety Consultant.
- iii. In case of delayed failure i.e., failure due to construction but reported during maintenance period after the defaulting Contractor/Concessionaire has been demobilised, action shall be taken against the concerned Contractor/Concessionaire/Consultant only.
- iv. In case of lack of clarity in cost of structure the latest normative cost norms issued by MoRTH shall be adopted.

1.4 For each repeated lapse by the firm, the penalty for the subsequent offence shall be enhanced by an additional 50% as compared to penalty imposed in the previous instance applicable against the category of penalty under consideration.


1.5 In case the outcome of investigation is unclear or on the basis of conjectures, no action on debarment shall be taken and only suitable monetary penalty shall be imposed on all contracting/consulting firms engaged in construction/maintenance.

2. The firms/ individuals on which penal/ deterrent action was taken may represent to the "Reviewing Authority" in NHAI against the action/ penalty imposed.

3. The Competent Authority for approval of penal action against the Concessionaire /Contractors / Consultants will be the Chairman, NHAI and the Reviewing Authority will be the Executive Committee.

4. Suitable action on NHAI officials will be taken depending on the extent of dereliction of duties by the concerned officials keeping in view the Conduct Rules.

5. This SOP is applicable prospectively. However, in cases where decisions were taken, the agency/ individual may represent to the "Review Committee".


(Sheo Shankar Jha)
CGM (Coord.)

To
All officers of NHAI HQ/ROs/PIUs/CMUs/Site Offices

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