

No. NHIII/P/14/77

*Dated the 6th July, 1977*

Subject : Procedure regarding processing of sanctioning of revised estimates for National Highway works received from the State Governments consequent upon the cancellation of the original contract at the risk and the cost of the original contractor, when the balance work is proposed to be entrusted to another contractor

The matter regarding the processing of the Revised Estimate for National Highway works received from the State Governments, consequent upon the cancellation of the original contract at the risk and the cost of the defaulting contractor, which might finally involve possible Government recoveries from that contractor on the settlement of the disputes in the arbitration/courts, that may

arise out of the breach of the terms and conditions of the contract and the decision of the State Government to have the balance work carried out from another contractor, has been under consideration for sometime past. The question as to whether the elements of the risk and cost (viz. full cost as per the new contract for the balance work and the original contract rates for work done before abandonment by the previous contractor) should be provided for in the Revised estimate has also been considered. It has been decided in consultation with the Integrated Finance Division that as it will not be possible to take these elements into account while examining the Revised estimate, two separate clauses, one (as in Annexure I) for incorporation in the revised sanction letter or in the letter agreeing to the excess consequent to the higher tender for National Highway road or bridge work and the other (as in Annexure II) for incorporation in the Technical note accompanying the revised sanction for a National Highway road or bridge work should be adopted forthwith in respect of all cases where the original contractor having defaulted, the work is proposed to be carried out through another contractor at the risk and the cost of the original contractor as per the terms and conditions of his agreement, so that the financial commitment arising out of the arbitration award/court decision are properly taken care of as and when the same come to be known after the announcement of the arbitration award/court decision in favour of the Government in the normal course.

2. With a view, however, to ensure that proper watch is kept on the recoveries that become due to the Government from the defaulting contractors as a result of the favourable arbitration award/court decision, it has further been decided that all the works sections in the Roads Wing should keep a note of the recoveries to be effected together with the relevant particulars in the "Job Registers" and follow them up by calling for 'Quarterly Reports' from the State Governments regarding the progress of recoveries of the Government dues and by constantly reviewing the position on their receipt, at Chief Engineer's/Director General (Road Development)'s level. All the works sections, in the Roads Wing should accordingly complete the Job registers by keeping notes therein, of the cases where Government recoveries are already due from the contractors and also by keeping these registers upto date for all times in future. The sections should also in all recovery cases immediately address the State Governments for intimating to this Ministry the latest position in respect of each case of recovery. It is needless to emphasise in this connection that the 'Job Registers' with the recovery notes duly recorded therein should invariably be kept upto date, so as to ensure that no recovery case is lost sight of in any circumstances. The sections should also ensure that the aforesaid instructions are meticulously followed and that the recoveries whenever they become due from the contractors are pursued vigorously until the same are effected in toto from the contractor (s) concerned.

Copy to : —

1. PS to DG (RD).
2. All ADG's, CE/SEs/EEs in the Roads Wing
3. All Under Secretaries.
4. D.O.I., D.O.II & D.O.III.
5. Works Sections, Roads Wing.

*ANNEXURE I*

Draft of the para to be incorporated in the revised sanction or in the letter agreeing to the excess consequent to the higher tender for a National Highways Road or bridge work where the original contractor having defaulted the work is proposed to be carried out through another contractor at the risk and cost of the original contractor as per the terms and conditions of his agreement.

The revised technical approval and sanction to the work allowing an excess over the originally sanctioned cost of the work consequent to higher tender is on the understanding and stipulation that the State Government would recover from the defaulting contractor the extra amount so involved as per the terms and conditions of the agreement and of effecting the recovery would credit the amount to the expenditure account of the work-sanctioned in question thus nullifying the corresponding excess. It is imperative that the State Government would try their level best and take all necessary and positive steps to effect the recovery and would pursue the case vigorously upto the end. The State Governments are requested to send us a quarterly report on the progress made on effecting the recovery.

*ANNEXURE II*

Draft of the comment to be incorporated in the Technical Note to accompany the revised sanction for a National Highway road or bridge work where the original contractor having defaulted the work is proposed to be carried out through another contractor at the risk and cost of the original contractor as per the terms and conditions of his agreement.

Most of the excess is due to the fact that the original contractor having defaulted the work is proposed to be carried out through another contractor at the risk and cost of the original contractor as per the terms and conditions of his agreement. Accordingly this revised sanction is on the understanding and stipulation that the State Government would try their level best to effect recovery and would pursue the case vigorously upto the end by taking all necessary and possible steps. It is expected and stipulated that after the

recovery, the amount will be credited to the expenditure account of the work-sanction in question thus nullifying the corresponding excess. The State Governments are requested to send us a quarterly report on the progress made on effecting the recovery.

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