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No. RW/NH-18019/4/2006-P&M

Dated, the 18th May, 2007

To

The Secretaries of States Union Territories, Public Works Departments (Dealing with National Highways and other Centrally sponsored schemes); The Engineer-in-Chief and Chief Engineers of State PWDs and UTs (Dealing with National Highways and other Centrally sponsored schemes); The Regional Officers, Department of Road Transport & Highways, Ministry of Shipping, Road Transport & Highways.

Subject : Delegation of powers of the Ministry to Regional Officers–Clarification of the Ministry's Circular No. NH-18019/5/2004-P&M (Pt.) dated 16th January, 2006-reg.

The Ministry, vide letter No. NH-18019/5/2004-P&L (Pt.), dated 16.1.2006, delegated powers to the Regional Officers (ROs) to regularize delay in award of works and approve variations and extra items on account of the urgency expressed by the Chief Engineers of the States during the meetings held in February 2005 and June 2005. However, certain specific clarifications have been sought by the RO, Lucknow, on the provisions stipulated in the above mentioned letter vis-à-vis the Ministry's circulars no. NH-11052/5/86-NHIII/DI, dated 1.7.1987 and No. RW/NH-33044/10/2000-S&R (R), dated 23.4.2001 regarding the following:-

- (i) The extent of variation which can be allowed in individual items.
- (ii) Approval of Excess in Quantity of Profile Corrective Course (PCC) beyond the sanctioned quantity.
- (iii) Approval in case of net saving in contract cost even after variation and extra items.
- (iv) Making/with holding payments from contractors' bills in case of concerned Executive Engineers of State PWD recommending bills for unapproved variations/extra items.

2. At the outset it is clarified that the Ministry's above mentioned Circular dated 16.1.2006 was issued only to streamline the procedure of DPP for expediting the progress of work by delegating some powers to the ROs

within the 5% excess over the sanctioned amount for the works as per the Ministry's circular No. NH-11026/2/99-US(D-1), dated 29.10.2001, which were vested with the Headquarter.

3. After due consideration of the submission made by the RO Lucknow following clarifications are given on these issues considering their general applicability and relevance for all the PWDs of States/UTs associated with NH works.

(a) **Variation in quantities of individual items:** The Ministry's Circular No. NH-11026/2/99-US (D.I.) dated 29.10.2001 specifies that in respect of the works sanctioned after 13.1.2000, the permissible excess of expenditure over the sanctioned cost will be 5% subject to the condition that other provisions contained in this circular are satisfied. It is also to be ensured while accepting tenders that the overall cost on the basis of the tender rates including contingencies, work charged establishment and agency charges does not exceed by more than 5% of the sanctioned cost. Therefore the Ministry's ROs may approve the variations in the individual items keeping this and also the provisions of permissible excess in the contract agreement of the works under execution in view, subject to the condition that the provision contained in the Ministry's circular No. NH-18019/5/2004-P&M (Pt.), dated 16.2.2006 are satisfied.

(b) **Variation in quantity of Profile Corrective Course:** The approval of variation in the quantity of the Profile Corrective Course for the change in the condition of pavement due to time lag of preparation of estimate and actual execution of work is to be governed as a variation in the individual item and also to be dealt accordingly as clarified above. This is in supersession of the Ministry's Circular No. RW/NH-33044/10/2000-S&R (R) dated 23.4.2001.

(c) **Utilisation of the savings from the contract cost:** In the context of the clarifications sought regarding the approving authority in case of net saving in contract cost even after variation and extra items, it is pertinent to mention that the Ministry's Circular dated 16.1.2006 clearly mentions that savings due to tender discounts shall not be utilized without prior approval of the Ministry. Similarly, any savings from the contract cost due to variations in the quantities of the sanctioned items are not to be utilized without prior approval of the Ministry. For such cases the recommendations of the RO shall be forwarded to the Ministry for consideration consistent with the clarifications given below.

(d) **Approval of work for execution of additional work and variation in quantities:** Various circulars, guidelines, etc. bring out clearly stipulate for obtaining approval of the works, which are not provided in the sanctioned scopes or beyond the permissible limit of the sanctioned quantity. Therefore, efforts are to be made in advance for assessment of the variations/additional items which require the Ministry's approval and also prior approval of the Competent Authority should be obtained before their execution. Further, in order to avoid contractual complications during the execution of work, the concerned Executive Engineer of State PWD shall inform about such possible variations/additional items to the Ministry's RO with details containing nature and extent of such variations/extra items including their justifications etc., and shall also forward the proposal to CE (NH) of PWD concerned for further necessary action. The Ministry's RO shall, thereafter, take up necessary action for approval or otherwise within his delegated powers and communicate his decision within a week of receipt of the proposal from CE (NH) of the State PWD. the payment for these items may be regulated accordingly. Variations/additional items requiring approval of the Ministry's HQ may also be sent within seven days by the RO after receipt of proposal from CE (NH) of the PWD concerned.

4. This issue with the approval of the Finance Wing vide U.O. No. 93/TF-II/07 dated 14.5.2007.
