

247

बिहार गजट

का

पूरक(अ0)

प्राधिकारी द्वारा प्रकाशित

संस० 5(स०)/आयडा (Enabling Act, 2006)—04/2021—7213
उद्योग विभाग

संकल्प

26 दिसम्बर 2023

विषय :- बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम- 2006 की धारा 16 एवं 17 की शक्तियों को सरकार द्वारा आधारभूत संरचना विकास प्राधिकार को प्रत्यायोजित करने एवं अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) को P.P.P परियोजनाओं हेतु अधिसूचित करने के संबंध में।

1. राज्य के भौतिक एवं सामाजिक आधारभूत संरचनाओं के तीव्र विकास एवं निजी प्रक्षेत्र की भागीदारी तथा प्रारूपण, वित्त पोषण, निर्माण, परिसंचालन, रख-रखाव आदि से सम्बद्ध विषयों पर प्रशासनिक एवं प्रक्रियात्मक विलम्ब कम करने तथा विशेष परियोजना जोखिम चिन्हित करने के लिये बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 (Bihar State Infrastructure Development Enabling Act, 2006) लागू किया गया है, जिसके अंतर्गत आधारभूत संरचना विकास प्राधिकार का गठन किया गया है।

2. रियायती एकरारनामा (Concession Agreement) अत्यंत तकनीकी दस्तावेज है, जिसके मूल्यांकन के लिए पूर्व से आधारभूत संरचना विकास प्राधिकार गठित है। वर्तमान में राज्य स्तर पर कतिपय परियोजनाओं के कार्यान्वयन एवं अनुमोदन हेतु उक्त अधिनियम में निहित प्रक्रिया को सरलीकृत करने की आवश्यकता महसूस की जा रही है।

3. अतः अधिनियम की धारा 68 का प्रयोग करते हुए राज्य सरकार आधारभूत संरचना सामर्थ्यकारी (Enabling) अधिनियम, 2006 की धारा 16 एवं 17 की शक्तियों को आधारभूत संरचना विकास प्राधिकार को प्रत्यायोजित करती है। इस प्रत्यायोजन के फलस्वरूप सरकारी अभिकरण अथवा स्थानीय निकाय से जन-निजी भागीदारी (PPP) के अंतर्गत प्रस्ताव प्राप्त होने पर आधारभूत संरचना विकास प्राधिकार द्वारा मूल्यांकन एवं अनुमोदन के पश्चात् सरकार के समक्ष स्वीकृति हेतु उपस्थापित किया जायेगा, परंतु प्रस्ताव की स्वीकृति के पश्चात् रिव्हेस्ट फोर प्रपोजल (RFP) एवं रियायती एकरारनामा (DCA) पर स्वीकृति आधारभूत संरचना प्राधिकार द्वारा इस हेतु गठित प्राधिकृत समिति के अनुशंसा के पश्चात् दी जा सकेगी।

4. आधारभूत संरचना विकास प्राधिकार की Empowered Committee की 09 मार्च 2021 को हुई बैठक की कड़िका-4 अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) सहित शिक्षा आदि सेक्टर को भी बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 के अनुसूचि-III में जोड़ने का सुझाव दिया गया है। तदनुसार बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 के अनुसूचि-III के बिन्दु 15 पर दिये गये प्रावधान के अनुसार अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) को P.P.P. परियोजनाओं हेतु अधिसूचित किया जाता है।

5. प्रस्ताव पर मंत्रिपरिषद् की स्वीकृति प्राप्त है।

आदेश :- आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र में प्रकाशित किया जाय एवं इसकी प्रतिलिपि बिहार सरकार के सभी विभागों एवं महालखाकार, बिहार, पटना को सूचनार्थ भेजी जाए।

बिहार-राज्यपाल के आदेश से
(ह०) अरूप, अपर मुख्य सचिव।

GOVT. OF BIHAR

LAW DEPARTMENT

The Bihar Khadi and Village Industries (Amendment)
Act 1981



228

THE BIHAR KHADI AND VILLAGE INDUSTRIES

ACT 1981

AN

Act

TO AMEND THE BIHAR KHADI AND VILLAGE INDUSTRIES ACT,
1956

On the eve of 32nd anniversary of Indian Republic this act may be enforced by Legislature of the State of Bihar in the following manner.

1. Short title and commencement:—(i) This act may be called the Bihar Khadi and Village Industries (Amendment) act 1981.

(ii) It shall come into force at once.

2. Substitution of new section 2 of Bihar Act XIV of 1956.—For section 2 of the Bihar Khadi and Village Industries Act, 1956 (Bihar Act XIV of 1956) (hereinafter referred to as the said Act), the following section shall be substituted, namely:—

“2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) ‘Board’ means the Bihar State Khadi and Village Industries Board established under section 3;
- (b) ‘Chairman’ means the Chairman of the Board appointed under section 4 of the Act;
- (c) ‘Chief Executive Officer’ means the Chief Executive Officer of the Board appointed under section 4 of the Act;
- (d) ‘Commission’ means the Khadi and Village Industries Commission established under section 4 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956);
- (e) ‘Financial Adviser’ means the Financial Adviser to the Board appointed under section 4 of the Act;
- (f) ‘Khadi’ means any cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India, or from a mixture of any two or all of such yarns;

(g) 'Prescribed' means prescribed by rules made under the Act, and

(h) (i) 'Village Industries' means all or any of the industries specified in the Schedule to this Act, and shall include such other industry as the State Government may, by notification in the official gazette, specify in this behalf;

(ii) any other industry specified in the Schedule to the Khadi and Village Industries Commission Act, 1956 (61 of 1956).

3. Amendment of section 3 of Bihar Act XIV of 1956.—For sub-section (1) of section 3 of the said Act, the following sub-section shall be substituted, namely:—

"(1) As soon as may be after the coming into force of this Act there shall be established, for the purpose of this Act by the State Government a Board to be called the Bihar State Khadi and Village Industries Board."

4. Substitution of new section for section 4 of Bihar Act XIV of 1956.—For section 4 of the said Act, the following section shall be substituted, namely:—

"4. Constitution of the Board and terms of office.—(1) The Board shall consist of not more than eleven members appointed by the State Government among whom the Chief Executive Officer shall be an ex-officio member besides three other official members.

(2) The State Government shall nominate one of the non-official members to be the Chairman of the Board;

(3) The State Government shall appoint an officer of the State Government to be the Chief Executive Officer of the Board.

(4) The State Government shall appoint a person, not being a member of the Board, to be the Financial Adviser to the Board.

(5) The Board may invite, for discussion of any matter before it, officers of the State Government and experts specially qualified to advise on it;

Provided that any member so invited shall not be entitled to vote.

(6) The term of office of the non-official members of the Board shall be three years from the date of publication of their names in the official gazette and shall include any further period which may elapse between the expiration of the said period of three years and the date of publication in the official gazette of the names of the members of the succeeding Board;

(7) The non-official members may be re-appointed.

(8) The non-official members of the Board shall be paid such allowances from the funds of the Board as may be prescribed.

(9) The term of office and the terms and conditions of services of the Chief Executive Officer of the Board shall be determined by the State Government.

(10) The term of office and the terms and conditions of services of the Financial Adviser to the Board shall be such as may be prescribed.

5. Substitution of new section for section 5 of Bihar Act XIV of 1956.—For section 5 of the said Act, the following section shall be substituted, namely:—

“5. Resignation by the Chairman or a non-official member.—

The Chairman, or any other non-official member of the Board may, at any time resign his office by submitting his resignation to the State Government.”

6. Amendment of section 6 of Bihar Act XIV of 1956.—In section 6 of the said Act, the following proviso shall be added, namely:—

“Provided further that the provisions of clauses (a) and (b) of this section shall not apply to an official member of the Board.”

7. Amendment of section of Bihar Act XIV of 1956.—For section 7 of the said Act, the following section shall be substituted, namely:—

“7. Removal of a member of the Board.—(1) The State Government may remove from office of the Chairman or any member if he—

(a) refuses to act, or

(b) has become incapable of acting, or

(c) has abused his position in the Board so as to render his

- continuance on the Board detrimental to its interest, or
- (d) fails, without sufficient reason, to attend three consecutive meetings of the Board, or
 - (e) ceases to reside in the State of Bihar, or
 - (f) has since his appointment incurred any of the disqualifications specified in section 6, or
 - (g) is considered otherwise unsuitable to continue on the Board.

- (2) Any action taken under this section shall not be called in question in any court.
- (3) A member who has been removed under clause (e) or (f) of sub-section (1) shall not be eligible for re-appointment to the Board as member or in any other capacity."

8. Amendment of section 8 of Bihar Act XIV of 1956.—For section 8 of the said Act the following section shall be substituted namely :

"8. Filling of casual vacancies.—If any of the non-official members of the Board is unable, by reason of his death, resignation, removal or otherwise, to complete his full term of office, the vacancy so caused shall be filled by the appointment of another person and such person shall fill such vacancy for the unexpired portion of the term for which the member, whose place such person is appointed, would otherwise have continued in office."

9. Substitution of new section for section 11 of Bihar Act XIV of 1956.—For section 11 of the said Act, the following section shall be substituted, namely :—

"11. Constitution of the Advisory Council.—(1) To advise and assist the Board in the discharge of its functions under the Act, the State Government may, by notification in the official gazette, constitute an Advisory Council to be called the Bihar Khadi and Village Industries Advisory Council consisting of the chairman and besides the members of the Board such number of other members, not exceeding twenty-one, as are, in the opinion of the State Government, interested in the development of Khadi and Village Industries.

219 48
113

, or
seccu-

qualifi-

on the

ed in

(f) of
it on

ction

bers

tion,

office,

nt of

for

er, in

wise

IV of

subs-

and

this

offi-

l the

sis-

ard,

ie as

the

(2) The Chairman of the Board shall be the Chairman of the Advisory Council.

(3) The terms of office of the other members of the Advisory Council shall be three years from the date of publication of their names in the official Gazette.

(4) The State Government may if it thinks expedient, dissolve at any time the Advisory Council or accept the resignation of any member of the Advisory Council or direct that any person shall cease to be a member thereof and any such action of the State Government shall not be questioned in any court of law.

(5) The business of the Advisory Council shall be conducted in such manner as may be prescribed.

(6) The non-official members of the Advisory Council shall be paid such allowances from the funds of the Board as may be prescribed."

10. Amendment of section 12 of Bihar Act XIV of 1956.—For subsections (1) and (2) of section 12 of the said Act, the following subsections shall be substituted, namely :—

"(1) The Board shall have its Head Office at Patna and subordinate offices at such other places as the State Government may by notification determine.

(2)(i) The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner as may be determined by regulations made by the Board :

Provided that the Chairman whenever he thinks it may call special meetings.

(ii) Every meeting of the Board and its committees shall be presided over by the Chairman and in his absence the members present shall elect one of their members to preside at the meeting."

11. Amendment of section 13 of Bihar Act XIV of 1956.—For subsections (1) and (2) of section 13 of the said Act, the following subsections shall be substituted, namely

"13. Dissolution of the Board.—(1) If at any time the State Government is satisfied that—

- (a) the Board has, without reasonable cause or excuse made, fault in the performance of its duties or the discharge of functions, imposed by or under this Act, or exceeded or abused its powers, or
 - (b) circumstances have so arisen that the Board is rendered unable or may be rendered unable to discharge its functions under this Act, or
 - (c) it is otherwise expedient or necessary to dissolve the Board.
- the State Government may, by notification in the official Gazette, dissolve the Board and declared that the duties, powers and functions of the Board shall, during the period of dissolution, be performed, exercised and discharged by such person or authority, as may be specified in the notification.
- (2) The State Government may reconstitute the Board in accordance with the provisions of section 4.

12. Insertion of a new section 13A in Bihar Act XIV of 1956.—After section 13 of the said Act, the following section shall be inserted namely :—

“13 A. Effect of the dissolution of the Board.—On the Board ceasing to exist by dissolution under section 13—

- (i) all properties and funds which immediately before the said date were in the possession of the Board for the purpose of this Act shall vest in the State Government;
- (ii) all members shall vacate office as members of the Board and
- (iii) all rights, obligations and liabilities (including any liability under any contract) of the Board shall become the rights, obligations and liabilities of the State Government.”

13. Amendment of section 14 of Bihar Act XIV of 1956.—For clause (b) of sub-section (2) of section 14 of the said Act, the following clause shall be substituted namely :—

“(b) to help persons or association of persons by providing them with work in their homes and to give them financial assistance in the shape of loans and grants for any of the purposes of this Act on such terms and conditions as may from time to time be laid down—

217
115
18

le de-
of its
d or

ered
ions

ard,
te,
md
on,
au-
ce

—
d,

d
ad
s

f

r

.

1

- (i) by the Commission in case of loans and grants given by the Board out of the funds received from the Commission;
- (ii) by the State Government in case of loans and grants given by the Board out of the funds received from the State Government or otherwise and such terms and conditions may also provide for the recovery of the loans together with interests thereon, if any, or the grants."

14. Amendment of section 15 of Bihar Act XIV of 1956.—For clause (iii) of section 15 of the said Act, the following clauses shall be substituted, namely :—

- "(iii) to enter into any contract for the purpose of this Act, and
- (iv) to do all things necessary in the furtherance of the objects of the Act."

15. Insertion of new section 15A in Bihar Act XIV of 1956.—After section 15 of the said Act the following section shall be inserted, namely :—

"15-A. Constitution of Standing Finance Committee.—(1) The Board may constitute from amongst its members, a Standing Finance Committee consisting of the following members :—

- (i) the Chairman,
 - (ii) the Chief Executive Officer, and
 - (iii) three members elected from amongst the members of the Board.
- (2) The Financial Adviser to the Board shall be a permanent invitee to the Standing Finance Committee,
- (3) The Standing Finance Committee shall exercise such powers and perform such functions relating to the finances of the Board as may be delegated to it by the Board."

16. In section of a new section 15 B in Bihar Act XIV of 1956.—After section 15A of the said Act, the following new section shall be inserted, namely :—

"15B. General powers and functions of Chairman, members, Chief Executive Officer and Financial Adviser.

- (1) Chairman—The Chairman shall be responsible for the proper functioning of the Board and the implementation of its decisions and discharge of its duties and functions under the Act and, shall exercise such powers and discharge such functions as may be prescribed.
- (2) Member—A member of the Board shall be entitled to take part in the meetings of the Board, the Advisory Council and such committees of the Board of which he is a member.
- (3) Chief Executive Officer—The Chief Executive Officer shall be the chief executive of the Board and shall work under over all supervision of the Chairman. He shall perform such functions and shall exercise such powers as may be prescribed. He shall be responsible for implementing the decisions of the board and its Committees and shall exercise all administrative powers in discharge of such responsibilities.
- (4) Financial Adviser—The Financial Adviser shall advise the Board on matters of policy relating to receipts and expenditure and shall exercise such powers and discharge such duties and functions as may be prescribed.

17. Amendment of section 21 of Bihar Act XIV of 1956—For sub-sections (1) and (4) of section 21 of the said Act, the following sub-sections shall respectively be substituted, namely :

- “(1) The Board shall have two separate funds to be called the “Khadi Fund” and “Village Industries Fund” and all grants and advances made to the funds, from time to time, by the State Government or by the Commission for the purpose of development of Khadi or the development of village industries and all other receipts of the Board shall be credited to the “Khadi Fund” or the “Village Industries Fund” as the case may be and all payments by the Board for or in respect of “Khadi or Village Industries shall be made from the appropriate fund.”

“(4) The accounts of the Board shall be operated upon by such officers of the Board jointly or individually as it may authorise.”

18. Substitution of new section for section 27 of Bihar Act XIV of 1956—For section 27 of the said Act, the following section shall be substituted, namely :—

“27. Annual Report—(1) The Board shall prepare and forward to the State Government in such manner as may be prescribed, an annual report within three months of the end of the financial year, giving a complete account of its activities during the previous financial year.

(2) The report received by the State Government under sub-section (1) shall be laid before both the houses of the State Legislature as soon as may be after it is received by the State Government.

19. Substitution of new section for section 30 of Bihar Act XIV of 1956—For section 30 of the said Act, the following section shall be substituted, namely :—

30. Direction by the State Government—In the discharge of its functions, the Board shall be guided by such directions and instructions as may be given to it, from time to time, by the State Government.”

20. Insertion of new section 32A in Bihar Act XIV of 1956—After section 32 of the said Act, the following section shall be inserted, namely :—

“32A. Sums due to the Board recoverable as Public demands —(1) All loans and grant under this Act, all interests if any, chargeable thereon, all misapplied, misutilised or unutilised grants made under any agreement expressed or implied or otherwise, and cost, if any, incurred in making or recovering the same, whether before or after the commencement of the Bihar Khadi and Village Industries (Amendment) Ordinance, 1966 (Bihar Ordinance no. ... of 1966) shall without prejudice to any other remedy provided by law, be recoverable under the Bihar

and Orissa Public Demands Recovery Act, 1914 (Bihar & Orissa Act IV of 1914).

- (2) If any question arises whether a sum is payable to the Board within the meaning of sub-section (1) the same shall be referred to the Director of Industries, Bihar who shall after making such enquiry as he may deem fit, and after giving the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question and his decision thereon shall be final and shall not be called in question in any court of law.

Explanation—For the purposes of this sub-section, Director of Industries means the Director of Industries of the Government of Bihar and includes any person not below the rank of a Deputy Director of Industries of the Government of Bihar whom the Director of Industries may authorise to perform his functions in this behalf.

21. Amendment of section 33 of Bihar Act XIV of 1916—Sub-sections (1) and (2) of section 33 of the said Act shall be amended as follows :—

- (i) For sub-section (1) of section 33 of the said Act the following sub-section shall be substituted, namely :

“(1) The State Government may by notification in the official gazette make rules to give effect to the provisions of this Act.”

- (2) (a) For clause (aa) of sub-section (2) of section 33 of the said Act, the following clause shall be substituted, namely ;—

“(aa) the terms of office and the terms and conditions of service of the Financial Adviser of the Board including his salaries and allowances to be paid to him by the Board.”

- (b) for clause (cc) of sub section (2) of section 33 of the said Act, the following clause shall be substituted, namely : —

"(cc) the powers and duties to be exercised and performed by the Chief Executive Officer and the Financial Adviser of the Board."

22. Amendment of section 34 of Bihar Act XIV of 1956. For clauses (b) and (c) of sub-section (2) of section 34 of the said Act, the following clauses shall be substituted, namely :—

"(b) remuneration, allowances and other conditions of service of members of the staff of the Board other than the Chief Executive Officer and the Financial Adviser of the Board, and

(c) functions and duties of the members of the staff of the Board other than the Chief Executive Officer and the Financial Adviser of the Board."

23. Repeal and savings.—(1) The Bihar Khadi and Village Industries (Amendment) Ordinance 1981 (Bihar Ordinance no. 33, 1981) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said act shall be deemed to have been done or taken in the exercise of powers conferred by or under this act as if this act was in force on the day on which such thing or action was done or taken.

Aims & Objectives

For organising, developing, and regulating Khadi & Village Industries in the State of Bihar and for constituting a Board to carry out the said objectives, Bihar Khadi & Village Industries Act, 1956 was promulgated. It is the responsibilities of Khadi & Village Industries Commission of India, which is also a corporation constituted under rule-61 of Khadi & Village Industries Act, 1956 to develop Khadi and Village Industries in India in planned manner. The Commission while implementing their own scheme, also provide funds the State Khadi & Village Industries Board for meeting its objectives. Because it was a new scheme, many difficulties arose from time to time in giving practical shape to the programme. It was felt that per guidance of Khadi & Village Industries Commission necessary amendment should be made

in the present Act. So that the Board can be empowered to recover their debts & other loans like Land revenue and to present their annual reports before the members of the State Assembly & Council. It was necessary to suitably amend the Act, Besides amendments revalidation of the ordinance has been made from time to time to meet the objectives as envisaged.

To get the above aims & objectives, the ordinance was revalidated by the Governor of Bihar from time to time to keep the rules in force, The last revalidation was made on 22 April, 1981 as ordinance, 1981 and again for publication it has been sent on 12.8.81 through law Deptt. This is the aim of this Act to substitute the former ordinance into an Act by the Legislature of the State of Bihar.

बिहार सरकार
उद्योग विभाग

संकल्प

विषय :- बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम- 2006 की धारा 16 एवं 17 की शक्तियों को सरकार द्वारा आधारभूत संरचना विकास प्राधिकार को प्रत्यायोजित करने एवं अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) को P.P.P परियोजनाओं हेतु अधिसूचित करने के संबंध में।

1. राज्य के भौतिक एवं सामाजिक आधारभूत संरचनाओं के तीव्र विकास एवं निजी प्रक्षेत्र की भागीदारी तथा प्रारूपण, वित्त पोषण, निर्माण, परिसंचालन, रख-रखाव आदि से सम्बद्ध विषयो पर प्रशासनिक एवं प्रक्रियात्मक विलम्ब कम करने तथा विशेष परियोजना जोखिम चिन्हित करने के लिये बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 (Bihar State Infrastructure Development Enabling Act, 2006) लागू किया गया है, जिसके अंतर्गत आधारभूत संरचना विकास प्राधिकार का गठन किया गया है।

2. रियायती एकरारनामा (Concession Agreement) अत्यंत तकनीकी दस्तावेज है, जिसके मूल्यांकन के लिए पूर्व से आधारभूत संरचना विकास प्राधिकार गठित है। वर्तमान में राज्य स्तर पर कतिपय परियोजनाओं के कार्यान्वयन एवं अनुमोदन हेतु उक्त अधिनियम में निहित प्रक्रिया को सरलीकृत करने की आवश्यकता महसूस की जा रही है।

3. अतः अधिनियम की धारा 68 का प्रयोग करते हुए राज्य सरकार आधारभूत संरचना सामर्थ्यकारी (Enabling) अधिनियम, 2006 की धारा 16 एवं 17 की शक्तियों को आधारभूत संरचना विकास प्राधिकार को प्रत्यायोजित करती है। इस प्रत्यायोजन के फलस्वरूप सरकारी अभिकरण अथवा स्थानीय निकाय से जन-निजी भागीदारी (PPP) के अंतर्गत प्रस्ताव प्राप्त होने पर आधारभूत संरचना विकास प्राधिकार द्वारा मूल्यांकन एवं अनुमोदन के पश्चात् सरकार के समक्ष स्वीकृति हेतु उपस्थापित किया जायेगा, परंतु प्रस्ताव की स्वीकृति के पश्चात् रिक्वेस्ट फोर प्रपोजल (RFP) एवं रियायती इकरारनामा (DCA) पर स्वीकृति आधारभूत संरचना प्राधिकार द्वारा इस हेतु गठित प्राधिकृत समिति के अनुशंसा के पश्चात् दी जा सकेगी।

4. आधारभूत संरचना विकास प्राधिकार की Empowered Committee की 09 मार्च 2021 को हुई बैठक की कंडिका-4 अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) सहित शिक्षा आदि सेक्टर को भी बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 के अनुसूचि-III में जोड़ने का सुझाव दिया गया है। तदनुसार बिहार राज्य आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 के अनुसूचि-III के बिन्दु 15 पर दिये गये प्रावधान के अनुसार अतिथि-सत्कार प्रक्षेत्र (Hospitality Sector) को P.P.P. परियोजनाओं हेतु अधिसूचित किया जाता है।

5. प्रस्ताव पर मंत्रिपरिषद् की स्वीकृति प्राप्त है।

आदेश :- आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र में प्रकाशित किया जाय एवं इसकी प्रतिलिपि बिहार सरकार के सभी विभागों एवं महालेखाकार, बिहार, पटना को सूचनार्थ भेजी जाए।

बिहार राज्यपाल के आदेश से



अपर मुख्य सचिव,
उद्योग विभाग, बिहार, पटना

ज्ञापांक- 7213

दिनांक- 26.12.2023

सं०सं०-5(स०)/आयडा (Enabling Act, 2006)-04/2021

प्रतिलिपि- महालेखाकार, बिहार, पटना/सरकार के सभी विभागों को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।



अपर मुख्य सचिव,
उद्योग विभाग, बिहार, पटना

106

निबंधन संख्या पी0टी0-40



बिहार गजट

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

29 चैत्र 1945 (श10)

(सं० पटना 333) पटना, बुधवार, 19 अप्रील 2023

विधि विभाग

अधिसूचना

19 अप्रील 2023

सं० एल०जी०-01-04/2023-2898/लेज।—बिहार विधान मंडल द्वारा यथापारित का निम्नलिखित अधिनियम, जिसपर महामहिम राज्यपाल दिनांक 15 अप्रैल, 2023 को अनुमति दे चुके हैं, इसके द्वारा सर्व-साधारण की सूचना के लिये प्रकाशित किया जाता है।

बिहार-राज्यपाल के आदेश से,
रमेश चन्द्र मालवीय,
सरकार के सचिव।

[बिहार अधिनियम 09, 2023]

आधारभूत संरचना विकास सामर्थ्यकारी (एनेबलिंग) (संशोधन) अधिनियम, 2023
बिहार आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 को संशोधन करने के लिए अधिनियम।
भारत-गणराज्य के चौहत्तरवें वर्ष में बिहार राज्य विधानमंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो:-

1. संक्षिप्त नाम, विस्तार और प्रारंभ। -

- (1) यह अधिनियम बिहार आधारभूत संरचना विकास सामर्थ्यकारी (एनेबलिंग) (संशोधन) अधिनियम, 2023 कहा जा सकेगा।
- (2) इसका विस्तार सम्पूर्ण बिहार राज्य होगा।
- (3) यह तत्काल प्रभाव से प्रवृत्त होगा।

2. बिहार आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 के अनुसूची V (ii) (क) में संशोधन।- उक्त अधिनियम के अनुसूची V (ii) (क) को निम्नलिखित के द्वारा प्रतिस्थापित किया जायेगा :-
"जहाँ स्वामित्व सरकार को वापस मिलनी है वहाँ सरकारी स्वामित्व की भूमि स्वीकृति से आधारभूत संरचना विकास प्राधिकार द्वारा निर्धारित अवधि के लिए रियायती पट्टा प्रभार पर परियोजनाओं के लिए दी जाएगी।"

रमेश चन्द्र मालवीय,
सरकार के सचिव।

19 अप्रील 2023

सं० एल०जी०-01-04/2023-2899/लेज-बिहार विधान मंडल द्वारा यथापारित और महामहिम राज्यपाल द्वारा दिनांक 15 अप्रील, 2023 को अनुमत आधारभूत संरचना विकास सामर्थ्यकारी (एनेबलिंग) (संशोधन) अधिनियम, 2023 (बिहार अधिनियम 09, 2023) का निम्नलिखित अंग्रेजी अनुवाद बिहार राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद-348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायेगा।

बिहार-राज्यपाल के आदेश से,
रमेश चन्द्र मालवीय,
सरकार के सचिव।

[Bihar Act 09, 2023]

Bihar State Infrastructure Development Enabling (Amendment) Act, 2023

AN ACT

Further to amend the Bihar State Infrastructure Development Enabling Act, 2006.

Be it enacted by the Legislature of the State of Bihar in seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.*—

- (1) This Act may be called the Bihar State Infrastructure Development Enabling (Amendment) Act, 2023
- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall come in to force with immediate effect.

2. *Amendment in Schedule-V (ii) (a) of the Bihar State Infrastructure Development Enabling Act, 2006.- The Schedule V (ii) (a) of the said Act shall be substituted by the following :-*

"Government owned land would be provided at concessional lease charges for projects where ownership would revert to the Government, within the period fixed by Infrastructure Development Authority from the date of grant of land"

Ramesh Chand Malviya,
Secretary.

अधीक्षक, सचिवालय मुद्रणालय,
बिहार, पटना द्वारा प्रकाशित एवं मुद्रित।
बिहार गजट (असाधारण) 333-571+400-डी0टी0पी0।
Website: <http://egazette.bih.nic.in>

116/410/504
28/03/2011

1182/10A
28.03.11

पत्रांक-01/(स0)यो0स्वी0(भूमि बैंक)-14/2009-00-

बिहार सरकार
उद्योग विभाग

पटना, दिनांक--

संकल्प

विषय:- औद्योगिक प्रोत्साहन नीति, बिहार-2006 की कंडिका 1.2(vii) रणनीति (Strategy) के अन्तर्गत भूमि बैंक योजनान्तर्गत निर्मित होने वाले कॉरपस/रिवॉल्विंग फंड का वास्तविक आकार, इस राशि से भूमि का अधिग्रहण एवं निष्पादन की प्रक्रिया, राशि के नियंत्रण एवं प्रशासन के लिए स्थाई दिशा निदेश।

औद्योगिक प्रोत्साहन नीति, 2006 की कंडिका 1.2(vii) के अन्तर्गत औद्योगिक एवं विकास योजनाओं की भूमि की आवश्यकताओं की पूर्ति के लिए एक भूमि बैंक की स्थापना का संकल्प लिया गया है। इस भूमि बैंक के माध्यम से राज्य में विभिन्न औद्योगिक एवं विकास कार्यों हेतु भूमि उपलब्ध कराई जानी है।

2. बिहार आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम, 2006 चैप्टर-2 धारा-10(xxxi) के अन्तर्गत आधारभूत संरचना विकास प्राधिकार को औद्योगिक क्षेत्र विकास हेतु सरकार के निदेशों के अन्तर्गत भूमि अर्जन करने, भूमि का आवंटन करने, भूमि के आवंटन को रद्द करने की शक्ति प्रदान की गई है। इसी अधिनियम की धारा-11(vii) के अन्तर्गत प्राधिकार को उद्योगों के विस्तार तथा अन्य विकासात्मक कार्यों के लिए भूमि का आवंटन करने, आवंटन को रद्द करने तथा संबंधित भूमि पर किसी प्रकार के अतिक्रमण को हटाये जाने की शक्ति प्राप्त है। उक्त अधिनियम के चैप्टर-7 विविध धारा-49(1) के अन्तर्गत आधारभूत संरचना विकास प्राधिकार को कुशल प्रशासन एवं अधिनियम के कारगर कार्यान्वयन के निमित्त सरकार द्वारा समय-समय पर निर्मित नीतियों एवं दिशा-निदेशों के अन्तर्गत उक्त अधिनियम में दिये गये अधिकारों का उपयोग एवं कार्यों का कार्यान्वयन करना है।

3. उपर्युक्त उद्देश्यों की पूर्ति के लिए भूमि बैंक योजनान्तर्गत निर्मित होने वाले कॉरपस/रिवॉल्विंग फंड का वास्तविक आकार, इस राशि से भूमि का अधिग्रहण एवं निष्पादन की प्रक्रिया, राशि के नियंत्रण एवं प्रशासन के लिए स्थाई दिशा निदेश जारी करने की आवश्यकता को मद्देनजर सम्यक विचारोंपरांत निम्न प्रावधान लागू होगी:-

(i) औद्योगिक प्रोत्साहन नीति, बिहार-2006 की कंडिका 1.2(vii) रणनीति (Strategy) के अन्तर्गत भूमि बैंक के लिए ₹ 15.00 अरब (पन्द्रह अरब) की अधिसीमा लागत पर कॉरपस/रिवॉल्विंग फंड की स्थापना की जायेगी।

(ii) भूमि बैंक योजनान्तर्गत निर्मित होने वाला कॉरपस/रिवॉल्विंग फंड आधारभूत संरचना विकास प्राधिकार के अधीन किन्तु इसके अपने फंड से अलग होगा तथा इसका संधारण प्राधिकार द्वारा गाँधी मैदान, पटना अवस्थित भारतीय स्टेट बैंक की मुख्य शाखा में बचत बैंक खात खोलकर किया जायेगा। इस खाते में संधारित राशि पर उदभूत व्याज की राशि इस कॉरपस/रिवॉल्विंग फंड का अभिन्न अंग होगा। इस फंड से भू-अर्जन कार्य हेतु अग्रिम के रूप में विधिवत राशि निर्गत की जायेगी, जो संबंधित अधियाची विभाग/निकाय से वसूलनीय होगी। अधियाची विभाग/निकाय से प्राधिकार इस मद में निहित राशि की 5% (पाँच प्रतिशत) राशि सेवा शुल्क के रूप में वसूल करेगा, जो इस कॉरपस/रिवॉल्विंग फंड का अंग होगा।

28/03/11

28/03/11

(iii) यदि सरकार द्वारा भविष्य में इस कॉरपस/रिभाल्विंग फंड को समाप्त करने का निर्णय लिया जाता है, तो इस फंड की सम्पूर्ण राशि सरकार के निदेशानुसार एकमुश्त राज्य कोष में जमा कर दिया जायेगा।

(iv) आधारभूत संरचना विकास प्राधिकार इस फंड के द्वारा सरकार के विभागों/निकायों द्वारा विहित रीति से प्राप्त भूमि अर्जन के प्रस्तावों पर भूमि अर्जन की अग्रतर कार्रवाई करेगा। इस प्रकार की विहित रीति से प्राप्त भूमि अर्जन की अधियाचना को प्राधिकार संबंधित जिला के जिला भू-अर्जन पदाधिकारी को अग्रतर कार्रवाई हेतु अग्रसारित करेगा तथा भूमि अर्जन अधिनियम 1894 की धारा-4 के अन्तर्गत संबंधित भूमि की अधिसूचना निर्गत हो जाने पर अधिग्रहणाधीन भूमि का अनुमानित मूल्य एवं इस मद में होने वाले अन्य विधि संगत व्यय की राशि संबंधित जिला भू-अर्जन पदाधिकारी की मांग के आधार पर प्राधिकार नियमानुसार संबंधित जिला को भूमि बैंक मद से अग्रिम के रूप में निर्गत करेगा।

(v) संबंधित जिलों में प्राधिकार द्वारा निर्गत उक्त राशि किसी राष्ट्रीयकृत बैंक में योजनावार बचत बैंक खाता खोल कर संधारित की जाएगी तथा इस राशि पर उद्भुत ब्याज की राशि उक्त योजना राशि का अभिन्न अंग होगी। संबंधित भू-अर्जन पदाधिकारी, अधियाचित भूमि की जयघोष राशि एवं अन्य विधिसंगत व्यय की इस मद में प्राप्त अग्रिम राशि से सामंजित कर अवशेष राशि उद्भुत ब्याज की राशि के साथ प्राधिकार को अविलम्ब वापस कर देगे। उसी प्रकार यदि जयघोष एवं भूमि अर्जन पर अन्य विधिसंगत व्यय की राशि अग्रिम राशि से अधिक होती है तो संबंधित अन्तर की राशि जिला भू-अर्जन पदाधिकारी प्राधिकार से प्राप्त कर जयघोष राशि एवं अन्य विधिसंगत व्यय सामंजित कर इसका लेखा प्राधिकार को अविलम्ब उपलब्ध करायेगे।

(vi) जिला भू-अर्जन पदाधिकारी संबंधित अर्जित भूमि का विधिसंगत दखल कब्जा प्राप्त कर इसका दखल कब्जा विहित रीति से आधारभूत संरचना विकास प्राधिकार अथवा इसके निदेश पर सम्बंधित विभाग/निकाय को सौंप देगा। जिला भू-अर्जन पदाधिकारी अर्जित भूमि का पूर्व भू-धारियों की जमाबन्दी रद्द कर नये दखल-कब्जाधारी का नामान्तरण राजस्व अभिलेखों में करना भी सुनिश्चित करेगे।

(vii) अधिग्रहित भूमि पर दखल-कब्जा प्राप्त होने के पश्चात् इस पर होनेवाले किसी विवाद/वाद का सामना संबंधित जिला भू-अर्जन पदाधिकारी एवं अधियाची विभाग करेगा तथा किसी सक्षम न्यायालय द्वारा जयघोष की राशि में किसी बढ़ोत्तरी अथवा किसी वैधिक व्यय के वहन का दायित्व अधियाची विभाग का होगा।

(viii) कॉरपस की राशि का नियंत्रण एवं संचालन बिहार आधारभूत संरचना विकास सामर्थ्यकारी अधिनियम 2006 के चैप्टर-II, की धारा-4 द्वारा विहित रीति से प्राधिकार के द्वारा किया जाएगा। इस प्राधिकार के समक्ष इस फंड का अंतरिम लेखा प्रत्येक वित्तीय वर्ष की अंतिम आयोजित बैठक में एवं पूर्व वित्तीय वर्ष का अंतिम लेखा चालू वित्तीय वर्ष की प्रथम बैठक में रखकर इसका अनुमोदन प्राप्त किया जाएगा।

(ix) इस राशि का अंकेक्षण प्राधिकार की समान्य अंकेक्षण की प्रक्रियाओं के अन्तर्गत किया जाएगा। किन्तु इसका हानि लाभ का लेखा, बैलेंस सीट एवं बैंक रिकॉसिलियेसन रिपोर्ट अलग से तैयार किया जाएगा जो प्रत्येक वित्तीय वर्ष की उक्त प्राधिकार की अंतिम बैठक में रखा जाएगा। बैठक की कार्यवाही के साथ अंकेक्षण प्रतिवेदन उद्योग विभाग को प्रत्येक वर्ष उपलब्ध कराया जाएगा।

N. Singh

Alia

(x) लैंड बैंक योजना के कॉरपस/रिवॉल्विंग फंड के अंकेक्षण का अधिकार महालेखाकार, बिहार और वित्त (अंकेक्षण) विभाग का भी होगा।

आदेश:- आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र में प्रकाशित किया जाय एवं इसकी प्रतिलिपि सरकार के सभी विभागों एवं महालेखाकार, बिहार, पटना को सूचनार्थ भेजी जाय।

बिहार राज्यपाल के आदेश से,

ह0/-

सरकार के विशेष सचिव
उद्योग विभाग, बिहार, पटना।

ज्ञापांक-01/(स0)यो0स्वी0(भूमि बैंक)-14/2009-उ0-1352 पटना, दिनांक-28.3.11

प्रतिलिपि- प्रबंध निदेशक, आधारभूत संरचना विकास प्राधिकार, उद्योग भवन, गाँधी मैदान, पटना को संकल्प के अनुसार कार्रवाई करने हेतु प्रेषित।

सरकार के विशेष सचिव
उद्योग विभाग, बिहार, पटना।

26/3

N. K. Singh
28/11/10
(N. K. Singh)

Abinav
(P. K.) 29/11/10

28/3

Index

1. THE IDA (FINANCIAL, SERVICE AND TECHNICAL) REGULATIONS, 2007	-----	PAGE 2
2. SCHEDULE 1		
PART 1 - THE IDA (FINANCIAL & SERVICE) REGULATIONS	-----	PAGE 2
PART II - SERVICE REGULATION AND PROCEDURES	-----	PAGE 9
- ANNEXURE A TO SCHEDULE 1 (DETAILS OF POSTS)	-----	PAGE 17
- ANNEXURE B TO SCHEDULE 1 (ROLE OF IDA)	-----	PAGE 19
- ANNEXURE C TO SCHEDULE 1 (FINANCIAL POWERS)	-----	PAGE 20
3. SCHEDULE II		
THE IDA (TECHNICAL) REGULATIONS, 2007	-----	PAGE 2 5

SCHEDULE 1

INFRASTRUCTURE DEVELOPMENT AUTHORITY, BIHAR

IN EXERCISE OF POWERS CONFERRED UNDER SEC 66 READ WITH SECTION 10 (XXIX) OF BIHAR STATE INFRASTRUCTURE DEVELOPMENT ENABLING ACT, 2006, THE AUTHORITY, WITH APPROVAL OF THE STATE GOVERNMENT, IS PLEASED TO MAKE THE FOLLOWING REGULATIONS TO CARRY OUT THE PURPOSES OF THE SAID ACT

THE IDA (FINANCIAL, SERVICE AND TECHNICAL) REGULATIONS, 2007

PART 1

The Infrastructure Development Authority (FINANCIAL AND SERVICE)REGULATIONS 2007

CHAPTER-I

1.1 Short Title and Commencement:

These Regulations may be called Infrastructure Development Authority FINANCIAL AND SERVICE REGULATIONS 2007. It shall come into force from the date of publication of the Government Resolution in the official Gazette.

1.2 Application:

These Regulations shall apply to every employee of IDA including those on deputation and also on contract basis to the extent that they are not in contravention of the terms and conditions of their deputation/ contract to IDA.

1.3 Definition:

In these Regulations, unless context otherwise implies:

- i) **Act means** the Bihar State Infrastructure Development Enabling Act, 2006.
- ii) **Appointing Authority** – MD shall be the Appointing Authority.

- iii) **Bank** Means a scheduled nationalized bank in which the funds of the IDA may be kept in Savings/ fixed deposit account.
- iv) **Chairperson** means the Chairperson of the IDA.
- v) **Controlling authority** in relation to all the posts in category A, B and C shall be the Managing Director.
- vi) **Emoluments** means the emoluments as provided in schedule and as admissible on the relevant dates and may include allowances as specified in the Regulations.
- vii) **Employee** means any person serving the IDA on any post with regular emoluments, it includes those on deputation and also on contract basis.
- viii) **Employee on Deputation** means an employee of any other department /agencies/authority or non government organization or a Society whose services are obtained by the IDA on deputation.
- ix) **Government** means Government of Bihar
- x) **Inhouse Consultants** are the Consultants as indicated in Regulation 15 of the Technical Regulations of the IDA.
- xi) **Managing Director** means Managing Director of the IDA
- xii) **Nodal Agency for the PPP** means an Agency declared to be Nodal Agency for all PPP Projects.
- xiii) **PPP means** Public Private Partnership Project based on a contract or a concession agreement, between a government or a statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges.
- xiv) **Private Sector Company means** a company in which 51% or more of the subscribed and paid up equity is owned and controlled by a private entity.
- xv) **Regulations** mean Regulations of the IDA and as modified from time to time in accordance with the procedure laid in this regard.
- xvi) **Selection Committee** in respect of post means committee of that name indicated in the Regulations.

1.4 Committees

The following shall be the Committees under the Regulations:-

1.4.1 Project Appraisal Committee (PAC) formed with the approval of the IDA, and shall comprise of

- (i.) Managing Director, IDA
- (ii.) Director (Adm), Director(PI) and Director(Finance)
- (iii.) Chief Engineer, Technical Vigilance, Cab Sectt or his representative
- (iv.) Director (Technical), Deptt of Industries or his representative.
- (v.) Additional/Joint Secretary, Finance Department, Govt. of Bihar
- (vi.) Chairman , Bihar Pollution Control Board or his representative
- (vii.) Consultant(s) of the IDA - to be nominated by the MD.
- (viii.) Head , CII, Patna or his representative
- (ix.) One Representative each from BIA and FICCI.
- (x.) Secretary of the Deptt (whose project is under consideration) or his representative.

1.4.2(a) The Project Appraisal Committee (PAC) shall consider the projects and other expenditure proposals as appearing in Sec.4.1

1.4.2(b) All proposals will be submitted to the concerned authority having delegated powers provided for final approval. In case the designated authority does not agree with the recommendations of the PAC, she/he shall record the reasons for such disagreement.

1.4.3 Selection Committee formed for the purposes of recruitment and selection for the Category A ,B and C posts in IDA and shall comprise of

- (i) Managing Director - Chairman
- (ii) In charge Administration ,IDA
- (iii) A representative of SC/ST from the Department of Personnel and Administrative Reforms, Govt of Bihar.
- (iv) In house Consultant(s) of the IDA – to be nominated by MD.

The Selection Committee shall select all categories of employees. However, for category A, it shall also seek the approval of the IDA.

1.4.4 Internal Purchase Committee – MD shall constitute this committee. It shall clear proposals from Rs 1 lakh to Rs 10 Lakhs.

1.4.5 Technical Committee – shall comprise of the following –

1. Director (PI)
2. Chief Manager (Technical)
2. Chief Manager (BOT)
3. Chief Manager (PDA)

4. Chief Manager (PPP)
 5. Chief Manager (Legal)
 6. Representatives of CII/BIA
 7. In house Consultant(s) of the IDA – to be nominated by the MD.
- MD may reconstitute the above committee or add/delete members.

Chapter II FUND FLOW ARRANGEMENT

2.1 Funds of the Authority

The funds of the Authority shall consist of the following:

- Grants received from the Government of India.
- Grants-in-Aid from the State Government.
- Funds by the Govt Departments for carrying out specific projects under Plan and Non plan heads.
- Grants and donations from trade, industry, institutions and individuals.
- Receipts from disposal of assets.
- Receipts from User charges, concession/consultancy fee etc
- Interest earned from Deposits.
- Fee and penalties levied and realised.
- Income on management of Assets.
- Income on execution of projects for Govt Deptts, Govt agencies, Local Authorities of the State(s) or Central Government or any other projects entrusted or obtained through Competitive Bidding process or Negotiation.

The Authority shall be allowed to charge a handling fee (Establishment Cost) not exceeding @ 5% of project cost from such agencies/Govt Deptt as may be decided by the MD.

Chapter III - ROLE OF IDA

The IDA may, with regard to any PPP Project

- Work as a Consultant
- Render Advisory Assistance
- Approve Projects
- Execute Projects undertaken through IDA.

IDA may lay down regulations with regard to procedures, user charges, penalties etc in relation to PPP Projects. (Annexure B to Schedule I)

Chapter-IV FINANCIAL POWERS AND ACQUISITION/DISPOSAL OF LAND, BUILDINGS ETC

4. All proposals going to Authority must necessarily be approved by the PAC .

4.1 Powers and Procedures

- i) The IDA shall also lay down procedures for exercising financial powers to its various office bearers.(Annexure C to Schedule I)
- ii) The IDA shall also lay down procedures for acquisition of land , buildings and such other assets by purchase or otherwise, including their disposal .

4.2 Powers of the Managing Director

The Managing Director shall be the executive head of the IDA and shall be responsible for proper administration of the affairs and funds of the IDA and implementation of various activities of the Authority under the directions and guidance of the Chairman of IDA. For the effective discharge of his function he shall have powers to

- (a) Constitute steering group for each of the project components and functional areas.
- (b) Constitute a task force, comprising heads of the steering groups which would function as a cohesive team for achievement of the objects of the IDA.
- (c) Prescribe the duties of all officers and staff of the IDA.
- (d) Exercise such supervision and disciplinary control as may be necessary.
- (e) Coordinate and exercise general supervision over the activities of the IDA.
- (f) Conduct meetings of the IDA and keep a record of proceedings of these meetings in accordance with the Regulations and.
- (g) Discharge such other functions as may be assigned to him by the Chairman in furtherance of the objects of the IDA.
- (h) He shall exercise financial powers as mentioned in 4.1.

4.3 Powers of Chairman

- (a) The Chairman shall be responsible for overall administration of the affairs and funds of the IDA and implementation of various activities of the Authority.
- (b) The Chairman shall chair all the meetings of the IDA. In his absence, the Vice Chairman may chair the Board of the IDA.
- (c) He shall exercise financial powers as mentioned in section 4.1.
- (d) Chairman shall have power to co opt such members in the IDA Board as deems fit.

4.3.1 (a) The financial powers of the Authority, which have not been delegated to a subordinate authority, shall vest in the Chairperson.

(b) Unless otherwise provided by any special order, it shall be within the competence of an authority to exercise the financial powers delegated to another authority subordinate to it.

4.3.2 The Chairperson may approve of any activity in anticipation of the decision of the IDA and seek past facto approval on the same from the IDA.

4.4 Review / Revision of Financial Powers

The IDA may, from time to time, review and revise its own procedures and financial powers of the office bearers of the bodies of the Authority laid down as per Sec 4.1 above, if considered necessary.

Chapter V FINANCE AND ACCOUNTS

5.1 Basis of preparation of Financial Statements

The Financial Statement to be prepared on the cash basis of accounting and the applicable accounting standards issued by the Institute of Chartered Accountants of India .The financial records and accounts of the IDA shall be maintained in the forms and registers as prescribed .

5.2 Bank Accounts

The funds of the IDA shall be kept in a Scheduled Nationalised Bank.

Chapter VI AUDIT

6.1 Audit of Accounts

In order to have a satisfactory financial accountability it is essential to have an effective audit system for IDA.
Audit will be of two types – Internal and External.

6.1.1 External Audit

The purpose of external audit is to opine whether the financial statements of the IDA represent a true and fair view of the financial position as at end of the financial year

and of the operations for the year ended on that date. External audit, for the purpose of the submitting audited financial statements to the State Govt, will be carried out by a firm of chartered accountant. In addition, the C&AG of India through State AGs may carry out a supplementary audit under the C&AG "Duties, Powers & Conditions of Services Act, 1971."

6.1.2 Internal Audit/ Management Audit

The purpose of internal/ management audit is to determine whether the financial management arrangements including internal control mechanism as developed are working effectively, identify areas of for improvement and enhancing efficiency. The internal audit / management audit will be carried out by the Authority either on its own or through an outsourced arrangement.

Chapter VII MISCELLANEOUS

(A) The income and property of the Authority, howsoever, derived shall be applied towards the promotion of the objectives thereof, subject nevertheless to financial discipline in respect of the expenditure of grants imposed by the Government from time to time.

(B) If on the winding up or dissolution of the Authority there shall remain after satisfaction of its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members or any of them, but shall, consistently with the objectives of the Authority, be dealt with such manner as the Government may determine.

Chapter IX REMOVAL OF DOUBTS

Removal of doubts- Where a doubt arises as to the interpretation of any of the provisions of these Regulations, the matter shall be referred to the Board of IDA for decision.

Chapter X DUES OF IDA

The IDA shall be free to realize all its dues from firms/promoters/any individual/company as if they are dues recoverable under Bihar and Orissa Public Demands Recovery Act.

Chapter XI PPP Secretariat

The IDA shall host the Secretariat for PPP and shall be the Nodal Agency for PPP initiatives in the State.

PART II

SERVICE REGULATIONS AND PROCEDURES

1. Recruitment and Appointment

1.1 Recruitment would be through any of the following three routes:

A) Appointments from open market: all such appointments will be on contractual basis for a fixed tenure.

B) Appointments on Deputation basis: all such appointments will be regulated in terms of the State Government Regulations relating to Deputation of its officers/staff.

C) Individuals recruited and paid for by an outside agency [e.g. Government of India and /or Development Partners] but posted to work in Authority Secretariat: all such persons shall be governed by the terms of employment of the organisation /agency concerned. However, they shall be required to report to the MD.

1.2 Posts and Appointments to be of temporary nature - All appointments would be temporary and would be made for the contract/ deputation period as determined by the IDA. All the posts indicated in Annexure A to Schedule 1 are temporary in nature and may be abolished by the Authority. The Authority may create any additional posts, purely on temporary basis, if the need is felt.

1.2.1 All the employees on contract or deputation shall sign contract as applicable.

1.2.2 Normally all the contracts shall be for a period of 12 months.

1.2.3 The appointing authority shall be the MD or an officer designated by the MD.

1.2.4 A person who has resigned or has been dismissed from the IDA shall not be appointed again to any post.

1.3 Category of Posts and Minimum Qualification

- (i) The posts under the IDA shall be divided into groups as specified in *Annexure A* to Schedule 1. However, the authority may review the requirement every three years and may create additional posts if required as per work load or reduce the number of posts if found not required.
- (ii) The posts are categorised in Categories A, B and C. Recruitment to all categories shall be made by Selection Committee. For category C posts, the

Authority is empowered to obtain manpower from either private HRD Service Agencies or through direct advertisement according to the need and work. MD shall be competent to decide number for category C posts.

- (iii) All the posts, except Chairman, MD and Directors (Adm, Fin, and PI) can be filled from either deputation or contract.
- iv) In case of persons taken on deputation from State/Central Govt. or from any organization, the last salary drawn along with the deputation allowance, or project allowance as permissible will be payable by the IDA
- v) Minimum qualification for each post shall be as per Annexure A.

1.4 Termination of Service

- (a) The services of an employee may be terminated by the MD without assigning any reason by a notice of one month in writing to the employee or on payment of one month's pay and allowances in lieu of such notice.

- (b) The service of an employee shall stand terminated:-

- (i) If his appointment is made for a specified period on the expiry of such period unless the appointment is extended for a further period.

or

- (ii) If his appointment is made against a temporary post, on the abolition of the post or on the expiry of the period for which the post is created.

or

- (iii) If (s)he fails to resume duty on the expiry of the maximum period of extraordinary leave granted to him and after his explanation, if any, in reply to a show cause notice, which should be given in all such cases, has been taken into account.

Or

- (iv) If serious charges of misconduct against an employee are established.

1.5 Renewal of Contract & Re employment

- a) The MD may renew/cancel the contract at end of 12 months. Upon renewal, he may increase or decrease the remuneration for the next 12 months up to 10% (Ten percent). Beyond 10%, approval of IDA Board shall be necessary.
- b) MD shall be empowered to cancel the contract before the expiry of the term of the contract.

- c) An employee whose services have been removed from the Authority or who has resigned shall not be able to seek a reemployment of any type at any stage with the Authority.

1.6 Resignation

- a) An employee may resign from the service of the IDA by giving notice of one month in writing addressed to the appointing authority or on payment of one month's pay and allowance in lieu of such notice.
- b) The appointing authority may, if it deems proper in any special circumstances, permit an employee to resign from the service of the IDA by notice of less than a month.
- c) The resignation shall be effective from the date of its acceptance by the Appointing Authority.

1.7 Remuneration

- a) Remuneration for the posts under IDA shall be as specified in *Annexure A* to Schedule 1. These are consolidated package (including HRA) and nothing else shall be admissible. No other facilities like PF, Gratuity etc shall be applicable. TDS, however, shall be deducted as per Regulations
- b) The appointing authority may grant higher emoluments/ increments on the recommendation of the selection committee for a professional / technical post.
- c) An employee shall be entitled to the emoluments of the post to which (s) he is appointed from the date on which he assumes charge of the post.
- d) The emoluments in respect of any month shall be disbursed in the first week of the next month. An employee resigning from the service of the IDA without the prescribed notice shall not unless the controlling authority directs otherwise be allowed to draw emoluments due but not drawn. The emoluments so not allowed to be drawn shall not exceed the emoluments and admissible allowances for one month.

1.8 Travelling Allowance

The IDA shall be empowered to fix the TA/DA of the officers and Staff .

1.9 Leave Provisions

- a) Ten days in a year shall be the total leave admissible to employees on contract. Those on deputation shall be given leave as per Bihar Service Code.
- b) Leave cannot be claimed as a matter of right. When exigencies of IDA's service so require, the direction to refuse, postpone, curtail or revoke leave of any description or to recall to duty any employee on leave is reserved with the MD.
- c) An employee proceeding on leave shall intimate the competent authority his address during leave and shall keep the said authority informed of any change in leave address

1.10 Absence after Expiry of Leave

- a) Unless the authority competent to grant leave extends the leave, an employee who remains absent after the end of leave is entitled to no leave salary for the period of such absence.
- b) Wilful absence from duty after the expiry of leave renders an employee liable to disciplinary action.

2. GENERAL CONDITIONS OF SERVICE

2.1 Whole Time Employment

- (i) An employee may be required to serve the IDA at any place and in any post not lower than the post to which he is substantively appointed or to which he is reduced as a measure of punishment in accordance with the laid down provisions.
- (ii) An employee may be required to undergo a training programme within India.

2.2 Transfer and Joining Time

An employee of the IDA can be transferred to any place within Bihar or outside by the MD. Joining time of 3 days (within Bihar) and 7 days (Outside Bihar) may be granted to an employee on transfer to join a new post at a new station.

2.3 Conduct

- a) Every employee shall at all times maintain absolute integrity and devotion to duty.
- b) Every employee shall abide by and comply with the Regulations and Regulations of the IDA and all orders and directions of his/her superior authorities.
- c) Every employee shall extend utmost courtesy and attention to all persons with whom he/she has to deal in the course of his duties.
- d) Every employee shall endeavour to promote the interest of the IDA and shall not act in any manner prejudicial to the interest of IDA.
- e) No employee , while in service of the IDA shall take part in any unlawful activity / of activities of a political or a communal party.
- f) All knowledge and information not within the public domain which may be acquire during the work , shall be, for all time and for all purpose , regarded as strictly confidential and held in confidence , and shall not be directly or indirectly disclose to any person whatsoever, except with the written permission of IDA.
- g) No employee shall join or continue to be a member of an association the objects and activities of which are prejudicial to the interest of sovereignty and integrity of India, public order or morality.
- h) No employee shall bring or attempt to bring any outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to the service in the authority.

2.4 Misconduct

Any breach of these regulations shall be deemed to constitute a misconduct. Without prejudice to the generality of the terms 'misconduct', it shall deemed to include the following :-

- i) Willful insubordination or disobedience, whether or not in combination with others, of any lawful and reasonable order of his superior, or commission of any act subversive of discipline or of good behavior.
- ii) Participation in an illegal strike or abetting, inciting instigating or acting in furtherance thereof.
- iii) Willful slowing down in performance of work, malingering or abetment, or instigation thereof or interference with the work of other employees.
- iv) Theft, fraud or dishonesty in connection with the business or property of the Authority.
- v) Taking or giving bribes or any illegal gratification.

- vi) Absence without leave or over- staying the sanctioned leave without sufficient ground or proper or satisfactory explanation or absence from the employee's appointment place of work without permission or sufficient cause.
- vii) Habitual late attendance.
- viii) Breach of any law, rules, regulation or orders applicable to the establishment.
- ix) Collection without the permission of competent authority of any money except as sanctioned by the law of the land or the rules of the Authority for the time being in force.
- x) Engaging in any business or trade within the premises of the establishment.
- xi) Drunkenness riotous, disorderly or indecent behavior, gambling extortion or committing nuisance on the premises of the establishment
- xii) Habitual negligence or neglect of work .

2.5 Appeals and Review

2.5.1 Appellate Authorities

An appeal shall lie from any original orders made –

- (i) By the Managers to the Officer empowered by the MD.
- (ii) By any other Officer in the head quarter to the MD.
- (iii) By the MD to the Chairman.

2.5.2 Period for Appeals

No appeals shall be entertained unless it is submitted within a period of 15 days from the date on which the orders appealed against is communicated to the person concerned. Provided that the appellate authority may entertain the appeal after the expiry of the said period of it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

2.5.3 Submission of Appeals

- a) Every person submitting an appeal shall do so separately and in his own name.
- b) The appeal shall be addressed to the appellate authority, shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.
- c) Every appeal shall be submitted to the Managing Director who shall, unless he is himself the appellate authority, transmit it to the appellate authority.

2.5.4 Consideration of Appeal

The appellate authority shall consider every appeal in such manner as it deems fit and pass such order as it deems proper in the circumstances of the case.

Provided that no order shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such order.

2.5.5 Review

The IDA may, on its own motion or otherwise, review any order made by an authority and pass such orders as it deems fit in the circumstances of the case.

Where an employee who has been dismissed or suspended, is reinstated, the authority reinstating him shall make an order specifying:-

- (i) Whether the employee may draw for the period of his absence from duty any pay and allowances in addition to the pay and allowances admissible under regulations.
- (ii) Whether such period may be treated as on duty for all or any purposes.

3. MISCELLANEOUS

3.1 Authentication

All orders and decisions of the IDA shall be authenticated by the signature of the MD or by such other officer as may be specified by the IDA in his behalf.

3.2 Working Hours and Holidays

The MD shall be competent to decide the working hours of the IDA. The IDA shall observe such holidays as are observed by the Secretariat of the Government in Bihar located at Patna.

3.3 Personnel Records

The IDA shall maintain personnel records in such form as may be prescribed .

3.4 Deduction of tax at Source

Tax will be deducted as per income tax Regulations and the Authority shall register itself with the relevant authorities in this regard.

3.5 Removal of Doubts

Where a doubt arises as to whether any authority of IDA is superior to any other authority or as to the interpretation or application of any of the provisions of these regulations, the matter shall be referred to the IDA for decision.

Annexure A to Schedule 1

Sl. No.	Category	Name of the Post	Number Sanctioned	Remuneration (per month in Rs. Includes 15% HRA)	Minimum Qualification
1.	Category A	Director (Administration)	1	-	Serving Officers of IAS/BAS of the rank of ADM and above may apply.
		Director (Finance)	1	-	Serving Officers of IAS/IAAS/AG/other Gol Services may apply who have experience in Accounting and Fund Management..
		Director (Program Implementation)	1	-	Chief Engineer rank officers(Retd or serving)of Bihar Govt/Gol/PSUs may apply.
		Chief Administrative Officer	1	35000	MBA(Personnel Adm) /PG Diploma in HRD with at least 5 yrs experience
		Chief Consultant -Finance & Accounts	1	35000	MBA(Finance)/CFA/MFC/ICWA with at least 5 years experience
		Chief Consultant -Planning, Design & Architecture	1	35000	B Tech/BE (Civil) with at least 10 years of experience
		Chief Consultant -BOT	1	35000	B Tech/BE(Civil)/Diploma in Civil Engg PLUS MBA(Finance)/CFA/MFC/ICWA with 5 years experience in Infrastructure Sector.
		Chief Consultant - PPP	1	35000	MBA(Finance)/CFA/MFC/ICWA with at least 3 years experience in PPP projects.
		Chief Consultant - Technical	1	35000	BTech/BE (Civil) with at least 10 years of experience
		Chief Consultant - Legal	1	35000	LLB(5 Yr Course) with atleast 3 years experience. Additional qualification of MBA and Knowledge of negotiating Concessionaire Agreements shall be preferred.
2.	Category B	Consultant - Structure	1	25000	M Tech in Structural Engg with specialisation in Bridge Design with 5 years of experience
		Procurement Officer cum I/C House keeping	1	20000	Dip. in Business Management/Materials Management. 3 years minimum experience required.
		Consultant- Finance	1	20000	PG Diploma in Finance/Inter CA/ICWA with 2 years experience
		Consultant -Administration	1	20000	PG diploma in HRD or Personnel Mgt. Experience required is 2 years.
		Consultant -Advertising & PR	1	25000	PG Diploma in Mass Communication/Journalism/Advt/PR with 2 years experience
		Consultant - Planning	1	20000	BTech/BE (Civil) with at least 2 years of experience
		Consultant -Design	1	20000	BTech/BE (Civil) with at least 2 years of experience
		Consultant - Technical	1	20000	BTech/BE (Civil) with at least 2 years of experience
		Consultant - Law	1	20000	LLB (5 Yr Course)
		Finance Officers	2	20000	MBA (Finance)/M Com with 3 years experience
3.	Category C	Executives	As per need	12000	B Com/Diploma in Engineering (Any field) WITH Diploma in Computer Applications
		Accountant	As per need	12000	B Com/Inter CA with 2 years experience
		Computer Programmer	As per need	12000	MCA with 3 years experience
		Stenographer(Hindi)	As per need	10000	Graduate with Knowledge of shorthand and computers
		Stenographer (English)	As per need	10000	Graduate with Knowledge of shorthand and computers
		Computer Operators	As per Need	10000	Diploma in Computer Applications
		Cashier	As per need	10000	B Com/BSc (Maths)/BA (Maths)

	Store keeper	As per need	10000	Graduate with 5 years experience .
	Driver	As per need	5000	Matric with Drivers License
	Peon/Guards	As per need	4000	Matric
	GRAND TOTAL(A +B)	21	475000	

Note -

1. In category C posts, the MD is empowered to obtain manpower from either private HRD Service Agencies or through direct advertisement according to the need and work.
2. The salary indicated above is maximum. The MD may decide a lower package in any individual case if he so decides.
3. The Remuneration above includes 15 % HRA to be paid to all employees on contract.
4. MD may go for lesser years of experience if sufficient candidates are not available having required number of years.

Role Of IDA

(In terms of Chapter III of the IDA(Financial and Service) Regulations, 2007)

Work involved	Role of IDA				
	As a Consultant to a Department /Agency	As an Advisory Body for Projects of other Deptts – PPP or otherwise.	As an Approving Authority of Infrastructure Projects – PPP or otherwise.	As an Agency directly executing its projects	As an Agency executing projects of other Departments
i) Project Identification	i) It may help Departments in Identifying projects at their request.	i) It may help Departments in Identifying projects at their request.	i) No Role	i) It shall identify projects on its own.	i) It may help Departments in Identifying projects at their request.
ii) Preliminary Appraisal	ii) It may appraise projects at the request of Deptt	ii) It may appraise projects at the request of Deptt.	ii) No Role	ii) It shall appraise its own projects.	ii) It shall appraise the projects.
iii) Preparation of DPRs	iii) It may prepare a DPR at a request.	iii) No Role	iii) No Role	iii) It shall prepare a DPR.	iii) It may prepare a DPR or work on a DPR prepared by the concerned Deptt.
iv) Technical Approvals of DPRs/BOQs	iv) No Role	iv) No Role.	iv) No Role	iv) It shall provide Technical Approvals.	iv) It may give technical approvals on its own or work on a DPR/BOQ already technically approved by the concerned Deptt.
v) Administrative approval of DPRs	v) No Role.	v) No Role.	v) It shall approve projects.	v) It shall approve projects..	v) It shall approve projects..
vi) Bids Invitation and Processing	vi) It may assist in bid invitation and processing	vi) No Role	vi) No Role	vi) It shall invite bids and process them.	vi) It shall invite bids and process them.
vii) Financial Closure	vii) It may assist in identifying the Financiers.	vii) No Role	vii) No Role	vii) It shall arrange its finances either through raising loans from Market or grants from Govt.	vii) The concerned Department shall transfer the required funds.
viii) Cabinet /Departmental Approval	viii) No Role	viii) No Role	viii) Other Departments shall take the approval Of IDA before taking Cabinet/Ministers approval	viii) It shall take the approval of the cabinet only in terms of Regulation 4.1	viii) The concerned Department shall arrange these approvals.
ix) Fixation of User Charges	ix) It may advise suitable formula.	ix) It may advise suitable formula.	ix) It may fix user charges or approve the charges proposed by the Deptt.	ix) It may decide to levy a user charge and collect it by itself.	ix) It may decide to levy a user charge and/or may let the Deptt collect it.

Annexure C to Schedule 1

FINANCIAL POWERS AND ACQUISITION/DISPOSAL OF LAND, BUILDINGS ETC
(In terms of Sec 4.1 of the IDA (Financial and Service) Regulations, 2007)

S No	Type of Expenditure/ Approval	Proposed Limit	Tendering Process	Whether to go to PAC or not	Competent Authority to Sanction
A	All procurement of Goods as defined under Regulation 124 of Bihar Finance (Amendment) Rules, 2005.	i) Upto Rs 15000 (Fifteen Thousand)	i) Off the shelf(as per Rule no. 131 C of Bihar Finance (Amendment) Rules, 2005)	i) No	i) MD
		ii)Rs 15000- Upto Rs1,00,000 (One Lac)	ii) Market Survey by obtaining at least three quotations (as per Rule no. 131 D of Bihar Finance (Amendment) Rules, 2005)	ii) No	ii) MD
		iii) Rs 1 Lacs - Upto Rs 10,00,000 (Ten Lacs)	iii) Limited tender (as per Rule no. 131 I of Bihar Finance (Amendment) Rules, 2005).The MD may decide to additionally go for advertisement in local Newspaper depending upon the nature of purchase.	iii) No (Goes to the internal purchase committee)	iii) MD
		iv) Rs 10 lacs - Upto Rs 25,00,000 (Twenty Five Lacs)	iv) Limited tender (as per Rule no. 131 I of Bihar Finance (Amendment) Rules, 2005) The MD may decide to additionally go for advertisement in local Newspaper depending upon the nature of purchase.	iv) Yes	iv) MD
		v) More than Rs 25,00,000(Twenty Five Lacs) upto Rs 50,00,000(Fifty Lacs)	v) Advertisement in local & national daily, the Indian Trade Journal & website(as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005)	v) Yes	v) MD
		vi) More than 50,00,000 (Fifty Lacs)	vi) Advertisement in local & national daily, the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005)	vi) Yes	vi)Authority. But Chairman may anticipate the Authority in case of urgency.

S No	Type of Expenditure/ Approval	Proposed Limit	Tendering Process	Whether to go to PAC or not	Competent Authority to Sanction
B	Identification of Projects to be taken up by the Authority/Deptt	i) Not required	i) Not required	i) No	i) Authority
C	Hiring of Consultants / Consultancy Firms / Independent Evaluators, both nationally and internationally, for preparing DPR as per the approved plan and evaluation of work being done.	i) For estimated cost of work/services upto Rs 25 Lakhs	i) As per Rule no. 131 Z(i) of Bihar Finance (Amendment) Rules, 2005)	i) Yes	i) MD
		ii) For estimated cost of work/services beyond Rs 25 lakhs	ii) Advertisement in local /National newspapers and Deptt website .(as per Rule no. 131 Z(ii) of Bihar Finance (Amendment) Rules, 2005). MD may also go for ICB.	ii) Yes	ii) Authority
D	Technical Approval/sanction of DPRs of Projects	i) DPRs for projects upto Rs 10 Cr	i) Not Required	i) No	i) Chief Manager(Tech) of Authority
		ii) DPRs for projects from Rs 10 Cr and beyond	ii) Not Required	ii) No	ii) Technical Committee of the Authority
E	Administrative approval of the DPRs of the projects.	i) Projects upto Rs 1 Crore ii) For projects up to Rs 20 Cr iii) For Projects beyond Rs 20 crores	i) Not Required ii) Not Required iii) Not Required	i) Yes ii) Yes iii) Yes	i) MD ii) Authority iii) Cabinet

F	Approval of BOQ of Projects for which AA is there.	i) Any Amount	i)Not Required	i)Yes	i)Technical Committee of the Authority
G	Finalising Tenders for works/Projects within the BOQ .	i)Any amount	i) Advertisement in local & national daily, the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005)	i) Yes	i) MD

S No	Type of Expenditure/ Approval	Proposed Limit	Tendering Process	Whether to go to PAC or not	Competent Authority to Sanction
H	i) Finalising Tenders for works/Projects above BOQ	i) Any Limit	i) Advertisement in local & national daily, the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005)	i) Yes	i) IDA
I	Auction of the Assets belonging to or Hypothecated to or confiscated by IDA	i) Upto Valuation of Rs 25 lakhs	i) Advertisement in local & national daily the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005). The MD shall get the valuation done by any of the Valuers registered with the Income Tax Deptt. Note – In case the maximum bid offered is less than valuation, the MD shall retender and then finalise the bid with maximum bidder whatever be the offer.	i) Yes	i) MD.
		ii) Beyond Rs 25 lakhs	ii) Same as above.	ii) Yes	ii) IDA
J	Purchase /Acquisition of Land, Buildings and such immovable assets by Authority.	i) As per rates fixed by Revenue Department	i) Advertisement in local & national daily, the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005). IDA shall follow guidelines for purchase of land to be issued separately.	i) Yes	i) IDA
		ii) At rates above than what is fixed	ii) Advertisement in local & national daily, the Indian Trade Journal &	ii) Yes	ii) Cabinet

		by Revenue Deptt	website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005) . <i>IDA shall follow guidelines for purchase of land, building and such assets to be issued separately.</i>		
K	Sale, Allotment, Mortgage and Disposal of Land, Buildings and such immovable assets acquired or purchased by or transferred to Authority.	i) At rates to be fixed by Authority.	i) Advertisement in local & national daily, the Indian Trade Journal & website (as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005) . <i>IDA shall follow guidelines for disposal of land, building and such assets to be issued separately.</i>	i) Yes	i) IDA
L	Hiring of contractual staff, including sanction of compensation package	i) For Staff of Category A	i)Advertisement in local & national daily, the Indian Trade Journal & website(as per Rule no. 131 H of Bihar Finance (Amendment) Rules, 2005)	i)No	i) IDA
		ii) For Staff of Category B and C	ii) Advertisement in Local Newspapers.	ii) No	ii) Full powers to Selection Committee .

S No	Type of Expenditure/ Approval	Proposed Limit	Tendering Process	Whether to go to PAC or not	Competent Authority to Sanction
M	All related activities in pursuance of plan approved by Authority, such as ,Preparation of DPRs, ,Project Appraisal, Advertisement charges, Advance to contractors, Repayment of earnest money/security deposit, Freight charges, demurrage, Furniture & fixtures(within Budget limit),stationery, conveyance, electricity & water charges, Insurance, legal charges, postage, telephone, Fax, Repair and maintenance of	i) Of all kinds	i) Advertisement in local /National newspapers as the MD may decide and depending upon the nature of expenditure.	i)No	i) Full powers to MD.

	equipment, Hiring of taxis, Auditors, all trainings, payment of TA/ DA / Honoraria to resource persons, TA/DA to Authority staff, payment related to documentation etc.				
N	Release of funds for implementation of projects approved by Authority	i) Of all kinds	i) Not required.	i) No	i) Full Powers to MD

Schedule II

Technical Regulations of the Infrastructure Development Authority, Bihar, 2007

1. Short Title and Commencement:

These Regulations may be called Infrastructure Development Authority, Bihar Technical REGULATIONS 2007. It shall come into force from the date of publication of the Government Resolution in the official Gazette.

2. Application:

These Regulations shall apply to every employee of IDA including those on deputation and also on contract basis to the extent that they are not in contravention of the terms and conditions of their deputation/ contract to IDA.

3. Definition:

In these Regulations, unless context otherwise implies:

3.1 Act means the Bihar State Infrastructure Development Enabling Act, 2006.

3.2 Appointing Authority in relation to any post under the IDA means the authority competent to make appointments to those posts under these Regulations.

3.3 Bank Means a scheduled nationalized bank in which the funds of the IDA may be kept in Savings/ fixed deposit account.

3.4 Controlling authority in relation to all the posts in category A, B and C shall be the MD.

3.5 Consultants on Retainer ship means such Consultants/Consultancy Firms as the Authority may hire on fee basis

3.6 Code means the PWD Code of the Govt. of Bihar.

3.7 Employee means any person serving the IDA on any post with regular emoluments, it includes those on deputation and also on contract basis.

3.8 Government means Government of Bihar.

3.9 Regulations means Regulations of the IDA and as modified from time to time in accordance with the procedure laid in this regard.

3.10. Schedule of Rates means the rates as approved by the IDA.

4. Schedule of Rates (SOR)

The rates/procedures followed by the PWD/CPWD/NHAI shall be followed. The IDA may make or revise its own SOR.

5. Bidding System

The Authority shall follow the two bid system - Technical and Financial, as mentioned in Regulation 131J of the Bihar Finance (Amendment) Regulations, 2005

6. Tenders

The Authority may go for a local or national tender. It may also go in for International Competitive Bidding (ICB) depending upon the nature of work.

6.1 Tender Dates

Normally, the Authority shall give 3 weeks time for inviting tenders worth Rs 50 Lakhs and above. For tenders worth below Rs 50 lakhs, 2 weeks time may be given.

6.2 Single Tenders

Single tenders may be accepted if there is adequate publicity.

7. Empanelment of Contractors

The Authority may evolve its own norms for empanelment/enlisting of contractors/ construction firms. It may take guidance from the enlistment norms adopted by the RCD. It may exempt agencies/contractors empanelled with RCD/CPWD/GoI/NHAI/GoI PSUs and other State Governments and their PSUs from separate registration requirements provided that after the work is allotted to the said agency/contractor shall have to be get registered with the Authority.

8. Standard Bidding Document

The Authority may make its own standard bidding document or may adopt any other document in practice with any State Govt/Gol/ Government Organisation.

9. Model Concession Agreement

The Authority may adopt the Model Concession Agreement (MCA) of the Planning Commission or adopt its own MCA for particular projects. This MCA shall form only the basis of negotiations with the agencies, the Authority may deviate from the Model on an individual basis depending upon the merits of each case

10. Plants and Machinery

For completion of its projects and/or to help enhance the capacity of its contractors/ Engineers, the IDA may purchase/hire plants and machinery, including maintaining Equipment Banks, for onward lending to the work agents for a price.

11. Security

The Authority shall take from all Consultants/Consultancy Firms/Contractors etc a Bank Guarantee of an appropriate amount from a nationalised Bank. The Bank Guarantee may be from a branch outside the State.

12. Consultants on Retainer ship

The Authority may hire national or international Consultants/Consultancy firms on a retainer ship basis against an annual/work based fee for assisting itself on planning , design , implementation and such other issue as the Authority may deem fit. The Authority may require these Consultants/Consultancy firms to be stationed in house.

Bihar State Infrastructure Development Enabling Act. 2006

AN ACT TO PROVIDE FOR THE RAPID DEVELOPMENT OF PHYSICAL AND SOCIAL INFRASTRUCTURE IN THE STATE AND ATTRACT PRIVATE SECTOR PARTICIPATION IN THE DESIGNING, FINANCING, CONSTRUCTION, OPERATION AND MAINTENANCE OF INFRASTRUCTURE PROJECTS IN THE STATE AND PROVIDE A COMPREHENSIVE LEGISLATION FOR REDUCING ADMINISTRATIVE AND PROCEDURAL DELAYS, IDENTIFYING GENERIC PROJECT RISKS.

CHAPTER – 1

PRELIMINARY

- 1 **Short title, extent, application and commencement:** -(1) This Act may be called the Bihar Infrastructure Development Enabling Act. 2006
- (2) It extends to the whole of the State of Bihar.
- (3) (a) It shall be deemed to have come into force with immediate effect
- (b) It shall apply to all Infrastructure Project implemented through Public Private Partnership in the sectors as may be notified by the Government under the Act from time to time. The Act will not apply to any Infrastructure Project which is undertaken by any joint venture between the State or Central Government Departments or between State or Central Government and any Statutory Body or between any Statutory Bodies or between the State or Central Government or Statutory Body and any Government Company or any Infrastructure Project which may be taken over by any private party or private sector undertaking upon privatization or disinvestment by the State or Central Government or Government Agency or by any Statutory Corporation or any Government Company or any Infrastructure Project which does not involve fresh, new, additional investment being made by a private sector participant or any Infrastructure Project which is expressly notified to be excluded from the provisions of the Act by the Government.

- 2. Definitions:** (a) "Act" means the Bihar Infrastructure Development Enabling Act, 2006;
- (b) "Infrastructure Project or Project" means a Project in the sectors as notified under the Act by the Government;
- (c) "Government" means the State Government of Bihar;
- (d) "Government Agency" means any department of the Government or any corporation or body owned or controlled by the Government by reason of the Government holding not less than fifty one percent of paid-up share capital in such corporation or body;
- (e) "Best Effort" means best efforts made in the circumstances;
- (f) "Bidder" means any entity including any Bidding Consortium, who has submitted a proposal to undertake an Infrastructure Project under Public private Partnership;
- (g) "Bidding Consortium" means if the proposal for the project is made jointly by more than one entity, then such group of entities shall be referred to as a Bidding Consortium;
- (h) "Categories of projects" means categories specified in Schedule II of the Act and such other categories as may be notified by the Government from time to time;
- (i) "Infrastructure" means public works relating to infrastructure for utilizing the natural resources.
- (j) "Member" means a member of the Infrastructure Development Authority which includes the Chairperson, the Vice Chairperson, any other member of the Infrastructure Development Authority;
- (k) "Notification" means a notification published in the Bihar Gazette and the word "notified" shall be construed accordingly;
- (l) "Person" Shall include any company or association or body of individuals, whether incorporated or not;
- (m) "Charges for Abuse or Abuser Charges" means the levy of charges by the Infrastructure Development Authority on any Developer, if any Developer abuses any right accorded under the Concession Agreement, in the course of development, implementation, operation, maintenance, management and transfer of any infrastructure Project, to the extent as may be specified in the Concession Agreement or such other agreement as may be prescribed by the Government;
- (n) "Company" means any entity incorporated by memorandum of association under the Companies Act, 1956 or incorporated under any other statute or deemed to be incorporated under the laws of India or the laws of any other country of the World;

- (o) "Concession Agreement" means a contract of the nature specified in Schedule-I between the developer and the State Government or Government Agency or the Local Authority relating to any Infrastructure Project or such other contract as may be prescribed from time to time by the Government;
- (p) "Conciliation Board" means the Conciliation Board established under section 32 of the Act;
- (q) "Developer" means any private Sector Participant who has entered into a contract for the Infrastructure Project with the Government or Government Agency or Local Authority under the Act.
- (r) "Generic Risks" means circumstances that have the potential to adversely affect the development of a Project or interest of the participants to the Project or interest of the Government or Government Agency or Local Authority in the nature of construction period risk, operation period risk, market and revenue risk, finance risk, legal risk and miscellaneous risks as enumerated in Schedule IV of the ACT.
- (s) "Government Company" means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government company as defined;
- (t) "Investment" means preliminary and pre-operative expenses, capital expenditure, lease on land and equipment, interest during construction, administrative expenses, all operating and maintenance expenses including expenses incurred on recovery of User Levies;
- (u) "Prioritized Project" means any Project, which is notified by the Infrastructure Development Authority as a prioritized project under the Act;
- (v) "Private Sector Participant" means any person other than Central Government or State Government or Government Agency or any joint venture between Central Government or State Government Departments or any Statutory Body or Authority or Local Authority or any Corporation or Company in which Central Government or State Government or Government Agency, Statutory Body or Authority or Local Body is holding not less than fifty one percent paid-up share capital;
- (w) "Prescribed" means prescribed by rules or regulations made under this Act;

(x) "Public Private Partnership" means investment by private Sector Participant in an Infrastructure Project of the Government Agency or the Local Authority in the State;

(y) "Regulations" means regulations made under section 66 of the Act;

(z) "Responsive Bid" means a bid from an eligible Bidder which complies with all the requirements prescribed by the tender documents or other documents as the case may be;

(aa) "Rules" means rules made under section 67 of the Act;

(bb) "Local Authority" means any municipal corporation or municipal council or any panchayat or any other statutory body formed, elected or appointed for local self-Government;

(cc) "Construction" means any construction reconstruction, rehabilitation, improvement, expansion addition, alteration and related works and activities including supply of any equipment, materials, labour and service related to build or rehabilitate any infrastructure Project comprising of physical structures or systems or commodities or for utilization or resources or provision of services;

(dd) 'Sectors' means sectors as notified under Schedule III of the Act and as may be notified from time to time by the Government;

(ee) "Sector Regulator" means the regulatory authority for a Sector or Sectors as may be notified by the Government from time to time;

(ff) "Sole Bid" means when in competitive bidding process there is only one Responsive Bid received by the Government Agency or the Local Authority;

(gg) "State" means the State of Bihar;

(hh) "State Support" means grant by the State of any administrative support, asset-based support, foregoing revenue benefits support, undertaking contingent liabilities by providing guarantees or financial support to the Developer as enumerated in Schedule V of the Act;

(ii) "Swiss Challenge Approach" means when Private Sector Participant (Original Project proponent) submits an Unsolicited or *suo-motu* proposal and draft contract principles for undertaking a category II Project, not already initiated by the Government Agency or the Local Authority and the Government Agency or the Local Authority then invites competitive counter proposals in such manner as may be prescribed by the Government. The proposal and contract principles of the Original Project Proponent would be made available to any interested applicants;

however, proprietary information contained in the original proposal shall remain confidential and will not be disclosed. The applicants then will have an opportunity to better the Original Project proponent's proposal. If the Government finds one of the competing counter proposals more attractive, then the original Project Proponent will be given the opportunity to match the competing counter proposal and win the Project. In case the original project Proponent is not able to match the more attractive and competing counter proposal, the Project is awarded to the Private Sector Participant, submitting the more attractive competing counter proposal;

(jj) "Unsolicited or *suo-motu* Proposal" means a proposal in respect of a Project not already initiated by the Government or Government Agency or Local Authority and which proposal is submitted by any Private Sector Participant to the Government Agency or Local Authority in respect of any Infrastructure in the State supported by project specifications, technical, commercial and financial viability and *prima facie evidence* of the financial and technical ability of such Private Sector Participant to undertake such Project with full details of composition of the Private Sector Participant and his financial and business background; and

(kk) "User Levies" means the right or authority granted to the Developer by the Government Agency or the Local Authority to recover investment and fair return on investment and includes toll, fee, charge or benefit by any name.

(ll) "Lead Consortium Member" means in case of a Bidding Consortium, that consortium member vested with the prime responsibility of developing a Project, holding not less than 26% equity stake in the Bidding Consortium and also holding the highest equity stake amongst all other consortium members. In the event of two or more consortium members holding the highest equal equity stake, the Bidding Consortium shall clearly indicate in the Bid which consortium member is to be considered the Lead consortium Member and the consortium member so indicated or named shall be the Lead Consortium Member;

(mm) "Lender" means any financial institution or bank or any entity providing financial assistance with or without security or giving any advances to any Developer for completing or implementing any Project under the Act;

(nn) "Linkage Infrastructure Project" means from any Project under the Act any road link to the nearest State Highway, National Highway or rail link or water transmission link to the nearest practical water source including an existing pipeline or

canal or water body or sewerage link to the nearest practical sewerage transmission line or sewerage treatment facility or such other facility;

(oo) "Mega Infrastructure Project" means any Project implemented or undertaken through Public Private Partnership under the Act requiring an investment as may be prescribed by the Infrastructure Development Authority.

(pp) "Local Laws" means laws other than central laws and applicable to the state;

(qq) "Non Profit Organization" means any organization formed for promoting commerce, art, science, religion, charity or any other useful object and applies its income in promoting its objects and prohibits the payment of any dividend to its members and does not allow its corpus or income to be lent or advance or diverted or utilized or exploited by its members or office bearers or any other company in which they or any of them may be interested or connected;

(rr) "Polluter Charges" means levy of prescribed charges by the Infrastructure Development Authority on any Developer, if any Developer pollutes the environment or does not adhere to the specifications and measures for environment preservation and conservation agreed under the contract with the Government or the Government Agency or the Local Authority or fails to stop polluting the environment within 30 days of receipt of notice in writing from the Infrastructure Development Authority or the Government Agency or the Local Authority;

CHAPTER – II

ESTABLISHMENT, CONDUCT OF BUSINESS AND EMPLOYEES OF THE INFRASTRUCTURE DEVELOPMENT AUTHORITY.

3. Constitution of Infrastructure Development Authority :-

- (1) The Government may, with effect from the date of notification or from such date as may be specified there, constitute an authority.
- (2) Such an authority will be known as "The Infrastructure Development Authority"
- (3) The Authority constituted under sub-section (1) shall be a body corporate having perpetual succession and common seal, with power to acquire, hold and dispose of property both movable and immovable to do all things incidental to and necessary for the purposes of this Act and to contract and may by the said name sue and be sued.

4. Composition of the Authority:-

- (1) The Chief Secretary to the Government shall be the Chairperson of the authority, and the vice chairman would be the Development Commissioner. The Authority shall consist of a Chairperson and such other members not exceeding fifteen in the aggregate including Ex-officio members.

- (2) There will be a Managing Director of the Authority appointed by the Government. In addition, in the Authority as per the laid down procedure, the following officers shall be appointed.

1. Director Finance
2. Director Project Implementation
3. Director Administration

- (3) The Ex-officio members of the Authority shall be the following:

1. Industrial Development Commissioner, Department of Industries, Bihar, Patna
2. Secretary, Finance Department, Bihar, Patna
3. Two representatives from Industry sector
4. Secretary, Energy Department, Bihar, Patna
5. Secretary, Road Construction Department, Bihar, Patna
6. Secretary, Urban Development Department, Bihar, Patna
7. Three experts nominated by the Government.

5. **Term of office of the Members:-** Every member other than the Ex-officio member shall hold office during the pleasure of the Government.

6. **Term and conditions of service:-** The terms and conditions of service of the members of the Authority including the honoraria and the allowances to be paid to them shall be such as may be prescribed.

7. Meetings of the Authority:- The Authority shall meet at such times and places and observe such procedure in regard to transaction of business at meetings including the quorum as may be provided by the regulations.

8. Appointment of officers and staff of the Authority:- The Authority may appoint such officers and members of staff as it may require in carrying out its functions and discharging its duties under this Act in such manner as may be prescribed.

9. Constitution of committees:- (1) The Authority may, from time to time constitute such committee or committees consisting of such members for performing such of its functions as may be provided by the regulations.

(2) The Authority shall invite such persons from the fields of banking, commerce, industry, environment, law, technology and the like or a person nominated by the Government from time to time, to assist the Authority in carrying out its functions under this Act .

10. Functions of the Infrastructure Development Authority:- The functions of the Infrastructure Development Authority shall be as follows:-

- (i) to conceptualize and identify projects and ensure their conformance to the objectives of the States;
- (ii) to receive and consider projects under the Act from the Government or Government Agency or Local Authority and process the same;
- (iii) to advise the Government or Government Agency or Local Authority, as the case may be, on the project and give recommendations or suggestions in that behalf;
- (iv) to co-ordinate between concerned department of the Government and Government Agency for the project;
- (v) to monitor the competitive bidding process for Category II Projects and provide for course correction, if required;
- (vi) to provide enablers for projects;
- (vii) to prioritize and categorize projects and to prepare a project shelf;
- (viii) to prepare road map for project development;
- (ix) to identify inter – sectoral linkages;
- (x) to prepare guidelines for the implementation of the Act;
- (xi) to decide financial support and approve allocation of contingent liabilities for projects;
- (xii) to take necessary steps for implementation of the provision of the Act and to achieve the objective of the Act;
- (xiii) to approve the terms of reference for consultancy assignments in Category II projects and the consultant selection process thereof;
- (xiv) to recommend and approve bid documents, risk sharing principles and bid processes for Category II project ;
- (xv) to approve the scale and scope of a Suo-motu proposal or project undertaken through Swiss-Challenge Approach and to recommend modifications of a non financial nature if required;

- (xvi) to resolve issues relating to project approval process;
- (xvii) to prescribe time limits for clearances necessary for any project;
- (xviii) to review periodically the status of clearances and ensure that clearances are accorded within specified time frames and grant clearances if not granted within time frames or if denied, as may be specified;
- (xix) to decide issues pertaining to user levies including but not limiting to prescribing mechanism and procedure for setting, revising, collecting and/or regulating user levies and to decide and settle disputes relating to user levies;
- (xx) to approve sectoral policies and model contract principles;
- (xxi) to issue and /or amend guidelines needed to effectively implement the Act;
- (xxii) to coordinate with sector regulator/s;
- (xxiii) to administer and manage the Fund and its assets;
- (xxiv) to coordinate execution of the projects with Government, Government Agency and Local Authority;
- (xxv) to supervise or otherwise ensure adequate supervision over the execution, management and operation of project;
- (xxvi) to build public opinion;
- (xxvii) to fix and provide for recovery of fees, levies, tolls and charges as may be specified from time to time;
- (xxviii) to levy and recover charges for abuse and polluter charges from the developer;
- (xxix) to prescribe regulations to regulate its own procedures;
- (xxx) to take all steps necessary for enforcing the provisions of the Act and realizing the objectives of the Act;
- (xxxi) land acquisition, land allotment and land-allotment cancellation related to industrial area development under this rule and provided in the act. or as per the government direction;
- (xxxii) to implement orders issued by state government from time to time for development of industrial area;
- (xxxiii) to take necessary actions regarding dispute related with the Authority;
- (xxxiv) to realise fee, cess or any other payment in any name regarding industrial area development and other developmental plan;
- (xxxv) to disburse works entrusted by government from time to time.

11. Powers of the Infrastructure Development Authority:-

- (i) Notwithstanding anything contrary in any other laws for the time being in force, the Infrastructure Development Authority shall have the power to grant any clearance or permission required for any project and such clearance or permission when granted shall be final, binding and conclusive on the concerned state level statutory bodies or administrative bodies or authorities, as the case may be.

(ii) Notwithstanding anything contrary in any law for the time being in force, the Infrastructure Development Authority may give directions to any Government Agency or Local Authority or other Authority or Developer or Person with regard to implementation of any project under the Act or for carrying out its functions under this Act and such Government Agency or Local Authority or other Authority or Developer or Person shall be bound to comply with such directions.

(iii) The Infrastructure Development Authority shall have power to call upon any Government Agency, Local Authority or any other Body or Authority or Developer or Person to furnish information, details, documents and particulars in connection with or in relation to any project, which such Government Agency, Local Authority or Body or Authority, Developer or Person shall furnish to the Infrastructure Development Authority without any delay or default.

(iv) The Infrastructure Development Authority shall have power to inspect, visit, review and monitor any project and its implementation, execution, operation and management through its official or officials and the persons in charge of the project shall be bound to give full cooperation to the Infrastructure Development Authority.

(v) The Infrastructure Development Authority shall have all powers to enable to carry out its functions under the Act.

(vi) Under the clause of this act, Authority shall be responsible for the planned development of the industrial area and will prepare related master plan and provide incentive to industries in those area and its ancillary benefits.

(vii) Authority shall have powers of land allotment for industrial area development or for any area development, removal of any type of encroachment on the lands, and to cancel the allotments.

(viii) For the implementation of aforesaid points, Authority will have powers to formulate necessary rules, for this, under Bihar, Orissa Municipality Act, 1922, section 196-197, 198-199, 200-201 and 202 and the powers of the municipal commissioners as specified.

(ix) All the due amounts under the provision of the Act will be realisable as dues of land revenues under Bihar Public Demand Recovery Act 1914.

(x) Authority, shall have powers to formulate rules/bye-laws for the purposes of exercising its financial powers, establishment/ Administration, Industrial area Development or implementation of entrusted works related to development.

12. Report to the Government:-The Infrastructure Development Authority shall submit quarterly report as regards its working and operation to the State Government.

CHAPTER –III

INFRASTRUCTURE PROJECT DELIVERY PROCESS

13. Participation:- Any private sector participant may participate in financing, construction, maintenance, operation and management of Infrastructure Projects under the Act.

14. Project identification :- Either the Infrastructure Development Authority or the Government Agency or the Local Authority may identify or conceptualize any Infrastructure Project. If the Authority identifies or conceptualizes any Infrastructure Project, then the same will be referred by the Authority to the concerned Government Agency or the Local Authority for its consideration and further action. If the Government Agency or Local Authority identifies or conceptualizes any infrastructure project, then the same will be referred to Infrastructure Development Authority for its consideration, evaluation and further action as may be required.

15. Prioritisation of Projects:- The Infrastructure Development Authority will prioritize projects based on demand and supply gaps, inter-linkages and any other relevant parameters and create a project shelf

16. Recommendations by the Infrastructure Development Authority:- The Government Agency or the Local Authority in accordance with the advice recommendations and suggestions of the Infrastructure Development Authority shall submit the project to the Government along with proposed concession agreement relating thereto for its consideration and sanction.

17. Sanction by the Government:- The Government shall consider the proposal submitted by the Government Agency or Local Authority and the proposed concession Agreement and either accept the proposal and Concession Agreement with or without modification or return the proposal and concession agreement to the Government Agency or the Local Authority for reconsideration or reject the proposal within such time as may be prescribed. The Government Agency or the Local Authority will take suitable action on the decision taken by the Government on the proposal and the concession agreement including revising and resubmitting the proposal and the concession agreement if returned by the Government for reconsideration by the Government Agency or the Local Authority.

Provided that if the Bidder whose proposal submitted for sanction is not in a position to implement the project, the Government may at the request of the Government Agency or the Local Authority with the approval of the Infrastructure Development Authority consider the proposal of the Bidder offering the second most competitive bid for sanction.

18. Consultant selection:-The Government Agency or the Local Authority shall ensure adequate competition in the consultant selection process for any project. They may, frame the terms of reference for consultant studies and in case of Category II projects and present the same for approval and modification, if necessary, by the Infrastructure Development Authority.

Provided that in the case of such selection process adequate weightage shall be given to the technical capabilities.

19. Developer selection processes:- The Government Agency or the Local Authority may adopt appropriate Developer selection process including any of the following process, namely:-

(I) DIRECT NEGOTIATIONS:

(i) The Government Agency or the Local Authority may directly negotiate with a Bidder for implementing;

(a) Category -I projects initiated by a Bidder; or

(b) the projects which involve proprietary technology, or franchise which is exclusively available with the Bidder globally; or

(c) the projects where competitive bid process has earlier failed to identify a suitable Developer; or

(d) the projects in prescribed social infrastructure sectors where a non-profit organization seeks to develop a project; or

(e) a linkage infrastructure Project with the concerned Mega Infrastructure Project.

(ii) In case a developer is selected through direct negotiations, the Government Agency or the Local Authority may renegotiate the financial offer or recommend that all subsequent procurement for the project is made through the competitive bidding, procurement process, the cost of the project be determined after such competitive bidding procurement process and renegotiate the financial offer based on the revised cost of the project.

(II) SWISS CHALLENGE APPROACH:

(i) The Swiss Challenge Approach will be followed in any project belonging to Category-II initiated by a private sector participant who is hereinafter referred to as 'Original Project Proponent', by a *suo-motu* proposal.

(ii) The Original Project Proponent must submit to the Government Agency or Local Authority:-

(a) details of his technical, commercial, managerial and financial capability;

(b) technical, financial and commercial details of the proposal;

(c) principles of the concession agreement.

(iii) The Government Agency or the Local Authority would first evaluate the original Project Proponent's technical, commercial, managerial and financial capability as may be prescribed and determine whether Original Project Proponents capabilities are adequate for undertaking the project.

(iv) The Government Agency or the Local Authority shall forward such *suo-motu* proposal to the Infrastructure Development Authority along with its evaluation within prescribed time for the approval of the Infrastructure Development Authority.

(v) The Infrastructure Development Authority would then weigh the technical, commercial and financial aspects of the Original Project Proposal and the concession agreement along with the evaluation of the projects by the Government Agency or the Local Authority and ascertain if the scale and scope of the project is in line with the requirements of the State and whether the sharing of the risks as proposed in the Concession Agreement is in conformity with the risk-sharing framework as adopted or proposed by the Government for similar projects, if any and if the project is in conformity with the long term objective of the Government.

(vi) If the Infrastructure Development Authority recommends any modification in the technical, scale, scope and risk sharing aspects of the proposal or the Concession Agreement, the Original Project Proponent will consider and incorporate the same and resubmit its proposal within the prescribed time to the Government Agency or the Local Authority.

(vii) If the Infrastructure Development Authority finds merit in such *suo-motu* proposal, the Infrastructure Development Authority will then require Government Agency or the Local Authority to invite competing counter proposals using the Swiss Challenge Approach giving adequate notice as may be prescribed. The original Project proponent will be given an opportunity to match any competing counter proposals that may be superior to the proposal of the Original project Proponent. In case the original Project proponent matches or improve on the competing counter proposal, the project shall be awarded to the original Project Proponent, otherwise the bidder making competing counter proposal will be selected to execute the project.

(viii) In the event of the project not being awarded to the original Project proponent and being awarded to any other Bidder, the Government Agency or the Local Authority will reimburse to the original Project proponent reasonable costs incurred for preparation of the *suo-motu* proposal and the Concession Agreement. The *Suo-motu* proposal and the Concession Agreement prepared by the Original Project Proponent shall be the property of the Government Agency or the Local Authority as the case may be.

(ix) The reasonable costs of preparation of the *suo-motu* proposal and the Concession Agreement shall be determined as per the norms prescribed by the Government and shall be binding upon the Original Project Proponent.

(III) COMPETITIVE BIDDING.

(i) Competitive Bidding will be adopted in all Projects initiated by the Government Agency or the Local Authority. The notice inviting participation will be adequately publicised by the Government Agency or the Local Authority as may be prescribed.

(ii) The bid process will be designed to assist and ascertain, technical, financial, managerial and commercial, capabilities of the Developer.

(iii) In case of a two stage process being adopted for a Mega Infrastructure Project, the Government Agency or the Local Authority may require all Bidders to obtain from their Prospective Lenders, financial terms, expectations regarding State Support, comments on the Concession Agreement and other project documents (hereinafter called "Deviations").

(iv) Any Deviations proposed shall be enclosed in a separate envelope and shall not be part of the envelope containing the financial or the commercial offer with regard to a Project. The procedure for determining the common set of Deviations and the effect to be given to such common set of Deviations shall be as may be prescribed.

(v) All proposals shall be opened and evaluated at a common platform in a free and fair manner.

(vi) It will be open for the Government Agency or the Local Authority to adopt one or two stage process depending upon the complexity of the project.

(vii) The Government Agency or the Local Authority will periodically inform the Infrastructure Development Authority of the progress of all Projects undertaken through a two-stage bid process.

20. Approval of contract principles:- In case a model contract for a Sector has not been adopted or in case there are Deviations proposed vis-a-vis the approved model contract for a Sector, then, the Infrastructure Development Authority will formulate or approve the contract principles as the case may be.

21. Selection Criteria:- The Government Agency or the Local Authority will first satisfy itself about the technical ability of the Developer to undertake and execute the Project and will follow,-

(a) One or combination of one or more of the following criteria for Developer selection through competitive bidding in Build Own Operate and Transfer, Build Operate and Transfer and Build Own and Operate Projects,-

- (i) Lowest bid in terms of the present value of user fees;
- (ii) Highest revenue share to the Government;
- (iii) Highest up front fee;
- (iv) Shortest concession period;
- (v) Lowest present value of the subsidy;
- (vi) Lowest capital cost and Operation & Management Cost for Projects having a definite scope;
- (vii) Highest equity premium; and
- (viii) Quantum of State Support solicited in present value.

(b) For Build Transfer, Build Lease and Transfer and Build Transfer and Lease Projects selection criteria used will be the lowest net present value of payments from the Government.

(c) Such other suitable selection criteria the Infrastructure Development Authority may allow or determine.

22. Treatment of Sole Bid:- In case of the competitive bidding process resulting into a Sole Bid, the Government Agency or the Local Authority shall in consultation with the Infrastructure Development Authority, either,-

- (i) accept the Sole Bid, or
- (ii) re-negotiate financial offer, or
- (iii) reject the Sole Bid.

23. Treatment of limited response:- In case the competitive bidding process does not generate sufficient response and if even a Sole Bid is not received, then the Government Agency or the Local Authority shall in consultation with the Infrastructure Development Authority either,-

- (i) modify either the pre-qualification criteria and/or the risk sharing provisions and restart the bid process; or
- (ii) may cancel the competitive bid process; or
- (iii) in case of (ii) above, may have direct negotiation with any Private Sector Participant.

24. Treatment of Bid submitted by a consortium:- (i) All proposals submitted by a Bidding Consortium shall enclose a memorandum of understanding executed by all consortium members setting out the role of each of the consortium members and the proposed equity stake of each of the consortium members with regard to a Project.

(ii) The lead Consortium Member of a pre-qualified Consortium cannot be replaced except with the prior permission of the Infrastructure Development Authority and which permission will be considered only in case of acquisition or

merger of the Lead Consortium member Company. Further, after a Bidding Consortium is selected to implement any Project, the Lead Consortium member shall maintain a minimum equity stake of 26% for a period of time, as specified in the Sector Policy or the Concession Agreement.

(iii) Replacement of other Consortium Members may be permitted, provided the same is not prejudicial to the original strength of Consortium as determined in course of the evaluation of original bid or proposal.

(iv) Any change in the shareholding or composition of a Consortium shall be with the approval of the Infrastructure Development Authority.

25. Speculative Bids:- The Government Agency or the Local Authority with the approval of the Infrastructure Development Authority will be entitled to treat the speculative or unrealistic bids as non-responsive and reject the same.

26. No negotiation on financial or commercial proposal:- Save as otherwise provided in the Act, the Government, or the Government Agency or the Local Authority will not negotiate with the Bidder on the financial or commercial aspect of the proposal submitted by the Bidder.

27. Bid Security (1) The Bidder will be required to submit a bid security along with the proposal for undertaking the Infrastructure project, the bid security amount will be determined based on the Project cost by the Government Agency or the Local Authority.

(2) The procedure for refund of bid security will be specified in the request for proposal. In any event, the bid security of unsuccessful Bidder would be returned within 30 calendar days from the date of selection of the Developer.

CHAPTER-IV

GENERIC RISKS DISCLOSURE AND ALLOCATION, SECURITISATION, RIGHT OF LENDERS AND FACILITIES TO BE PROVIDED BY THE GOVERNMENT AGENCY OR THE LOCAL AUTHORITY.

28. Generic Risks Disclosure and its allocation and treatment:- The Government Agency or the Local Authority will as far as possible disclose Generic Risks involved in a Project and a list of such Generic Risks along with allocation and treatment of such Generic Risks may be provided in the Concession Agreement or other contract to be entered into between the Government Agency or the Local Authority and the Developer. The Government Agency or the Local Authority will make optimum disclosure of the Generic Risks, however if any risk is not disclosed due to inadvertence or due to circumstances beyond the control of the Government Agency or the Local Authority, then the same shall not be a ground for any claim, demand or dispute by the Developer.

29. Facilitation of securitization:-The Government Agency or the Local Authority may facilitate a Developer to securitize Project receivables and Project assets in favour of Lenders subject to such terms as may be fixed by the Government or the Infrastructure Development Authority to safeguard the successful implementation, completion, working, management and control of the project.

30. Rights of Lenders:-The Lenders will be entitled to recover their dues from the Developer and Project receivables in the form of User levies and in the event of default by the Developer in completing or implementing a project, the lenders will have the right to substitute the Developer with the consent of the Government and subject to the approval of such substituted Developer by the Government Agency or the Local Authority and by the Infrastructure Development Authority, on the Same terms and conditions as applicable to the previous Developer or with such modifications as may be specifically approved by the Infrastructure Development Authority.

31. Facilities to be provided by the Government Agency or the Local Authority:- The Government Agency or the local Authority will provide all facilities to the Developer for obtaining statutory clearances at state level, for providing power and water at Project Site during construction on such terms as may be prescribed and provide best effort support for obtaining Central Government clearances and assistance in rehabilitation and resettlement activities if any incidental to the Project on such terms as may be prescribed.

CHAPTER-V

CONCILIATION BOARD.

32. Establishment of Board:-The State Government may by notification, establish a Board to be called the "Conciliation Board" with effect from such date as may be specified.

33. Constitution of the Board:-The Board will comprise of 3 members with a Chairperson and two other members who shall be experts in the field of either infrastructure or finance or banking or law.

34. Head Quarters :-The Board will have its permanent Head Quarters at Patna and the Board shall meet under the Chairpersonship of the Chairperson.

35. Term of office of the members:-Every member of the Board shall hold office for a term of 3 years from the date of appointment. The State Government shall be entitled to reappoint any member or members for one more term of 3 years.

36. Terms and conditions of appointment:-The terms and conditions of appointment, remuneration and perquisites of the members shall be such as may be prescribed by the Government.

37. Functions of the Board:-The functions of the Board shall be as follows,-(a) To assist the Government Agency, or Local Authority and any Developer in an independent and impartial manner to reach an amicable settlement of their disputes arising under the Act or the Concession Agreement;

(b) The Board shall be guided by principles of objectivity, fairness, obligations of the parties, the usages of the trade and the circumstances governing the disputes including the good business practice prevalent in the national and international field covered by the dispute between the parties;

(c) The Board may conduct the conciliation proceedings in such a manner as it may consider appropriate, taking into account the circumstances of the case, the wishes of the parties that may be expressed and for reaching a speedy settlement of the dispute;

(d) The Board may, at any stage of the conciliation proceedings, make proposals for settlement of dispute. Such proposal need not be in writing and need not be accompanied by any statement of reasons therefor.

But for procedures other than provided under this Act the Arbitration and Conciliation Act 1996 (26 of 1996) will be applicable.

38. Administrative assistance:- In order to facilitate the conduct of the conciliation proceedings, the Board with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

39. Powers of the Board:-The Board shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908 while dealing with the conciliation proceedings in respect of the following matters, namely:-

- (i) The summoning and enforcing the attendance of any party or witness and examining the witness on oath;
- (ii) The discovery and production of any document or other material as evidence;
- (iii) The reception of evidence on oath;
- (iv) The requisitioning of the report of any body or any analysis or decision from the appropriate forum or laboratory or other relevant sources;
- (v) The power to regulate its own procedure and prescribe rules; and
- (vi) any other matter, which may be prescribed.

40. Judicial proceeding:- Every proceeding before the Board shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (XLV of the Act 1860) and the Reconciliation board shall be deemed to be a Civil Court under section 195 and Chapter XIV of the Criminal Procedure Code.

41. Application and Scope:-Any dispute, claim, or difference arising out of or in connection with or in relation to any Concession Agreement or contract between the Government Agency or Local Authority on the one hand and the Developer on the other hand, shall as far as possible, be amicably settled between the parties. In the event of any dispute, claim or difference not being amicably resolved, such dispute, claim or difference shall be referred to the Conciliation Board. The party initiating conciliation shall send to the other party a written invitation to conciliate under this part, briefly identifying the subject matter of the dispute, claim and/or difference. The party initiating conciliation shall file the invitation with the Board in such Form as may be prescribed.

CHAPTER-VI

INFRASTRUCTURE PROJECTS FUND.

42. Establishment of the fund.:-The Government shall establish a fund to be called the "Infrastructure Projects Fund" and shall contribute a sum of Rs.1000 lakhs to the fund. The Government will make such further contributions to the fund as it may deem appropriate from time to time.

43. Fees and charges to be credited to the fund.:-The Government Agency or the Local Authority will inter alia levy fees and charges on the application for projects and project fee on the developer under the Concession Agreement as may be prescribed from time to time and which fees shall be credited to the fund.

44. Administration of the fund.:-The fund will be administered and managed by the Infrastructure Development Authority and the Infrastructure Development Authority will be entitled to appoint an officer or officers for the management, control and administration of the fund.

45. Utilisation of the fund.:-The Infrastructure Development Authority will utilize the Fund for achieving objects and purposes of this Act and financing the activities of the Infrastructure Development Authority for realizing the objects and purposes of the Act.

46. Operation the fund.:- The fund will be operated by and under the name of the Infrastructure Development Authority.

47. Formulation of policy and regulations for the fund.:- The Infrastructure Development Authority shall formulate its policy and regulations for financing, working, administration and management of the fund.

48. Audit report of the fund.:-The working of the fund shall be subject to audit by Comptroller and Auditor General and the Infrastructure Development Authority shall submit a report every year as regards the working and operation of the fund to the State Government who will present the same before the Legislative Assembly of the State.

CHAPTER-VII

MISCELLANEOUS

49. Control by Government.:- (1) The Infrastructure Development Authority shall exercise its powers and perform its function under the Act in accordance with the policy framed and guidelines laid down from time to time by the Government and it shall be bound to comply with such directions, which may be issued, from time to time, by the Government for efficient administration and effective implementation of the Act.

(2) If, in connection with the exercise of the powers and the performance of the functions of the Infrastructure Development Authority under the Act, any dispute arises between the Infrastructure Development Authority and the Government, the Government shall decide the matter and the Government's decision shall be final.

50. Transparency.:- The Infrastructure Development Authority shall ensure transparency while exercising its powers and discharging its functions.

51. Abuser charges.:- (1) The Infrastructure Development Authority shall be entitled to levy abuser charges for abuse, on the Developer, if any Developer abuses the rights granted to the Developer under the Concession Agreement.

Provided the Infrastructure Development Authority shall give an opportunity of not less than fifteen days from the date of service of a notice to the Developer to show cause in writing, why such abuser charges should not be levied on him, before passing the order under this section.

(2) The Concession Agreement will provide as to what will constitute abuse of rights granted to the Developer. The abuser charges will be as prescribed by the Infrastructure Development Authority from time to time:

Provided that abuser charges levied under this section shall be final and conclusive subject to provisions of section 57 of the Act.

52. Polluter charges. (1) The Infrastructure Development Authority shall be entitled to levy Polluter Charges for pollution of the environment on the Developer, if the Developer pollutes the environment and/or does not adhere to the specified mitigation measures as provided in the Concession Agreement.

(2) The Infrastructure Development Authority shall give an opportunity of not less than fifteen days from the date of receipt of notice to the Developer to show cause, in writing why such Polluter Charges should not be levied on the Developer, before passing the order under this section.

(3) The Polluter Charges will be as prescribed by the Infrastructure Development Authority.

Provided that the Polluter Charges levied under this section shall be final and conclusive subject to provisions of section 57 of the Act.

53. Appeal:- (1) An appeal shall lie to the Government against the order passed by the Infrastructure Development Authority under section 11, 51 and or section 52 of the Act within 30 days from the date of receipt of the order subject to the rules prescribed by the Government in this regard.

(2) the decision of the Government under sub-section (1) shall be final and conclusive.

54. Indemnity by the Developer:- The Developer shall be bound to indemnify the Government Agency or the Local Authority against any defect in design, construction, maintenance and operation of the Project and shall undertake to reimburse all costs, charges, expenses, losses and damages in that behalf.

55. Recovery of costs, charges, dues, fees, and fines:- The Infrastructure Development Authority or the Government Agency or the Local Authority or the Conciliation Board shall be entitled to recover all sums due to it under the Act, whether by way of costs, charges, dues, fees or fines.

56. Application of fines and charges:- The Infrastructure Development Authority or the Government Agency or the Local Authority or the Conciliation Board imposing the costs, charges, fees and fine under the Act may direct that the whole or any part there of shall be applicable towards payment of the costs of the proceedings.

57. Penalties:- (1) Whoever fails or omits to comply with or contravenes any of the provisions of the Act or order or directions of the Infrastructure Development Authority shall be liable for each of such failure or omission or contravention for fine which shall not be less than Rs.50,000/- (Rupees Fifty Thousand) but which may extend up to Rs.100,00,000/- (Rupees One Crore) or shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with both.

(2) Whoever fails or omits to comply with or contravenes any of the provisions of the Act or order or directions of the Board shall be liable for each of such failure or omission or contravention for fine which shall be up to Rs.50,000/- (Rupees Fifty Thousand) or shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to two years or with both.

58. Offences by companies:- (1) Where an offence under the Act has been committed by a company, every person who at the time when the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such an offence.

(2) Notwithstanding anything contained in sub-section (1), wherein an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceed against and punished accordingly.

For the purposes of this section,-

- (a) "Company" means a body corporate and includes a firm or other association of individuals; and
- (b) "Director" In relation to a firm, means a partner in the firm.

59. Power to compound offences:- The Infrastructure Development Authority and the Conciliation Board may for reasons to be recorded in writing either before or after the institution of proceedings compound any offences relating to contravention of any provisions of the Act or order made by it.

60. Cognizance of offences.:- (1) No court shall take cognizance of any offence punishable under the Act, except upon a complaint in writing made by an officer of the Infrastructure Development Authority or Conciliation Board as the case may be and no Court other than the Metropolitan Magistrate or a Judicial Magistrate of First Class or a Court superior thereto shall try any such offence.

(2) The court may, if it sees reasons so to do dispense with the personal attendance to the officer of the Infrastructure Development Authority or the Conciliation Board filing the complaint.

61. Penalties and proceedings not to prejudice other actions.:-The proceedings and actions under this Act against a person contravening the provisions of the Act or orders passed by the Infrastructure Development Authority or the Conciliation Board shall be in addition to and without prejudice to actions that may initiated under other Acts.

62. Protection of action taken in good faith.:- No suit, claim or other legal proceedings shall lie against the Infrastructure Development Authority or Conciliation Board or the Chairman or other members of the Infrastructure Development Authority or Conciliation Board or the staff or representatives of the Infrastructure Development Authority or Conciliation Board in respect of anything which is in good faith done or intended to be done under the Act or any rules or regulations or orders made there under.

63. Members and staff of Infrastructure Development Authority or conciliation Board to be public servants. :- The Chairman, other members and officers and other employees of the Infrastructure Development Authority or Conciliation Board appointed for carrying out the objects and purposes of the Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

64. Bar of Jurisdiction.:-Any order or proceedings under the Act including but not limiting to any notification of a Project as Infrastructure project, categorization or prioritization of Projects, Concession Agreement, bid process, selection of Developer, modification of any proposal, sanction of any proposal, implementation and execution of any Project, actions of Infrastructure Development Authority, actions of the Government or the Government Agency or the Local Authority, actions of the Board, grievance or objection of any party or person or group in respect of any Infrastructure Project, validity, legality, efficacy of any action or decision in respect of any Infrastructure Project of Infrastructure Development Authority or the Government or the Board, dispute settlement or dispute resolution in respect of any matters under the Act shall be heard only by the High Court and by no other court or courts subordinate to the High Court.

65. Power to remove difficulties.:- (1) If any difficulty arises in giving effect to the provisions of the Act or the rules, regulations, scheme or orders made hereunder, the State government may by order published in the Official Gazette, make such provision, not inconsistent with the provisions of the Act as appears to it to be necessary or expedient for removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as may be after they are made, be placed on the Table of the Legislative Assembly of the State and shall be subject to such modification by way of amendments or repeal as the legislative Assembly may make either in the same session or in the next session.

66. Power to make regulations.:- The Infrastructure Development Authority and conciliation Board may make regulations, with the approval of the Government, by notification in the official Gazette, for the proper performance of their respective functions under the Act.

67. Power to make rules.:- (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act Shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly

agrees in making any modifications in the rule or in the annulment of the rule, the rule shall from the date on which the modification or the annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

68. Delegation of Powers.:- The Government may by notification, direct that any power exercisable by the Government under the Act shall be exercisable by an officer of the Government, subject to such terms as may be specified in such notification.

69. Act to override other State laws.:- If any provision contained in any State Act is repugnant to any provision contained in the Act, the provision contained in the Act shall prevail and the provision contained in any such State Act shall to the extent of repugnancy be void.

SCHEDULE-1

(See Section 2(o))

The following Concession Agreement or arrangements with their variation and combinations may be arrived at by the Government Agency or the Local Authority for undertaking Infrastructure Projects. The arrangements enumerated hereinafter are indicative in nature and the Government Agency or the Local Authority shall be entitled to evolve and arrive at such Concession Agreement or arrangement incorporating any of the arrangements as may be found necessary or expedient for any specific Project.

(i) **Build - and Transfer (BT)** - A contractual arrangement whereby the Developer undertakes the financing and construction of a given infrastructure or development facility and after its completion hands it over to the Government, Government Agency or the Local Authority. The Government, Government Agency or the Local Authority would reimburse the total Project investment, on the basis of an agreed schedule. This arrangement may be employed in the construction of any infrastructure or development Projects, including critical facilities, which for security or strategic reasons, must be operated directly by the Government or Government Agency or the Local Authority.

(ii) **Build-Lease- and-Transfer (BLT)** - A contractual arrangement whereby a Developer undertakes to finance and construct infrastructure Project and upon its completion hands it over to the Government or Government Agency or the Local Authority concerned on a lease arrangement for fixed period, after which ownership of the facility is automatically transferred to the Government or Government Agency or the Local Authority concerned.

(iii) **Build-Operate-and-Transfer(BOT)**- A contractual arrangement whereby the Developer undertakes the construction , including financing of a given infrastructure facility, and the operation and maintenance thereof. The Developer operates the facility over a fixed term during which he is allowed to charge facility users appropriate tolls, fees, rentals and charges not exceeding those proposed in the bid or as negotiated and incorporated in the contract to enable the recovery of investment in the Project. The Developer transfers the facility to the Government or Government Agency or the Local Authority concerned at the end of the fixed term that shall be specified in the Concession Agreement. This shall include a supply-and-operate situation which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the Government, Government Agency or the Local Authority so requires, operates the facility providing in the process technology transfer and training to Government, Government Agency or the Local Authority nominated individuals.

(iv) **Build-Own-and-Operate (BOO)** - A contractual arrangement whereby a Developer is authorized to finance, construct, own, operate and

maintain an infrastructure or Development facility from which the Development is allowed to recover his total investment by collecting user levies from facility users. Under this Project, the Developer owns the assets of the facility and may choose to assign its operation and maintenance to a facility operator. The transfer of the facility to the Government, Government Agency or Local Authority is not envisaged in this structure, however the Government, Government Agency or Local Authority may terminate its obligations after specified time period.

(v) **Build- Own- Operate- Transfer (BOOT)**- A contractual arrangement whereby a Developer is authorized to finance, construct, maintain and operate a project and whereby such Projects is to vest in the Developer for a specified period. During the operation period, the Developer will be permitted to charge user levies specified in the Concession Agreement, to recover the investment made in the Project. The Developer is liable to transfer the project to the Government, Government Agency, or the Local Authority after the expiry of the specified period of operation.

(vi) **Build-Transfer-and-operate(BTO)**-A contractual arrangement whereby the Government or Government Agency or the Local Authority contract out an infrastructure facility to a Developer to construct the facility on a turn-key basis, assuming cost overruns, delays and specified performance risks. Once the facility is commissioned satisfactorily, the Developer is given the right to operate the facility and collect user levies under a Concession Agreement. The title of the facilities always vest with the Government, Government Agency or the Local Authority in this arrangement.

(vii) **Contract-Add-and-Operate(CAO)**-A contractual arrangement whereby the Developer adds to an existing infrastructure facility which it rents from the Government, Government Agency or the Local Authority and operates the expanded Project and collects user levies, to recover the investment over an agreed franchise period. There may or may not be a transfer arrangement with regard to the added facility provided by the Developer.

(viii) **Develop-Operate-and-Transfer-(DOT)**- A contractual arrangement whereby favourable conditions external to a new Infrastructure Project which is to be built by a Developer are integrated in the BOT arrangement by giving that entity the right to develop adjoining, property and thus, enjoy some of the benefits the investment creates such as higher property or rent values.

(ix) **Rehabilitate-Operate-and-Transfer-(ROT)**- A contractual arrangement whereby an existing facility is handed over the private sector to refurbish, operate (collect user levies in operation period to recover the investment) and maintain for a franchise period, at the expiry of which the facility is turned over the Government or Government Agency or the Local Authority. The term is also used to describe the purchase of an existing facility from abroad, importing, refurbishing, erecting and consuming it within the host country.

(x) **Rehabilitate-Own-and-Operate-(ROO)**- A contractual arrangement whereby an existing facility is handed over to the operator to refurbish and operate with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility and collect user levies in perpetuity.

SCHEDULE-II**[See Section 2(h)]****CATEGORIES OF PROJECTS**

All Infrastructure Projects may be categorized based on the extent of Government support required and the exclusivity of the rights granted. The Government Agency or the Local Authority with the approval of the Infrastructure Development Authority will be entitled to evolve any further category or categories of the Project having combination of categories as per the priority and other requirements of the Government Agency or the Local Authority. The Government Agency or the Local Authority with the approval of the Infrastructure Development Authority may divide the Project into following categories:

1. CATEGORY - I PROJECTS: shall be Projects where,-

- (i) no fiscal incentives in the form of contingent liabilities or financial incentives are required;
- (ii) the Project is viable even when land is granted at the market rates;
- (iii) no exclusive rights are conferred on the Developer;
- (iv) minimal inter-linkages are required.

2. CATEGORY - II PROJECTS: shall be Projects where,-

- (i) Government or Government Agency will be required to provide assets support;
- (ii) financial incentives in the form of contingent liabilities or direct financial support are required to be provided;
- (iii) exclusive right are conferred on the Developer;
- (iv) extensive linkages i.e. support facilities for the project such as water connection etc. are needed.

SCHEDULE-III**[See Section 2 (dd)]****SECTORS**

1. Roads (State Highways, Major District Roads, Other District Roads & Village Roads), Bridges and Bypasses
2. Health
3. Land reclamation
4. Canals, Dams
5. Water Supply, treatment and distribution
6. Waste management
7. Sewerage, drainage
8. Public Markets
9. Trade Fair, Convention, Exhibition and Cultural Centers
10. Public buildings
11. Inland water transport
12. Gas and Gas Works
13. Sports and recreation Infrastructure, Public gardens and parks
14. Real Estate
15. Any other Projects or sectors may be notified by the Government.

SCHEDULE-IV

[See Section 2 (r)]

GENERIC RISKS

The Government Agency or the Local Authority will endeavor to disclose, allocate and provide for the treatment of the following risks in the Concession Agreement as may be applicable to a Project.

I. Construction Period Risks:

- (i) Land Expropriation
- (ii) Cost Overruns
- (iii) Increase in Financing Cost
- (iv) Time & Quality Risk
- (v) Contractor Default
- (vi) Default by the Developer
- (vii) Time, Cost & Scope of identified but related Work, and variations.
- (viii) Environmental Damage-Subsisting\On going.

II Operation Period Risks:

- (i) Government Agency Default.
- (ii) Developer Default.
- (iii) Termination of Concession Agreement by Infrastructure Development Authority or Government or Government Agency.
- (iv) Environmental Damage - Ongoing
- (v) Labour Risk.
- (vi) Technology Risk.

III Market & Revenue Risks:

- (i) Insufficient Income from User Levies
- (ii) Insufficient Demand for Facility.

IV Finance Risks:

- (i) Inflation
- (ii) Interest Rate
- (iii) Currency Risk

V Legal Risk:

- (i) Changes in Law
- (ii) Title/Lease rights
- (iii) Security Structure
- (iv) Insolvency of Developer
- (v) Breach of Financing Documents

VI Miscellaneous Risks:

- (i) Direct Political Force Majeure
- (ii) In-direct Political Force Majeure
- (iii) Natural Force Majeure
- (iv) Sequestration
- (v) Exclusivity
- (vi) Development Approvals
- (vii) Adverse Government Action/In Action
- (viii) Provision of Utilities
- (ix) Increase in Taxes
- (x) Termination of Concession by the Government
- (xi) Payment Failure by the Government

SCHEDULE-V

[See Section 2 (hh)]

STATE SUPPORT

The Government will consider the grant of following forms of State Support, ranked in its order of preferences i.e.

- (i) Administrative Support
- (ii) Asset Support
- (iii) Foregoing Revenue Streams
- (iv) Guarantees for contingent liabilities; and
- (v) Financial Support

(i) Administrative Support

The State Government will offer the following administrative support to all the Project covered under the Act, namely:-

- (a) Provide State level statutory clearances within specified time limits after the Project is sanctioned in favour of the Developer.
- (b) Automatically grant non-statutory State level clearances, if a Project meets specifications as may be prescribed.
- (c) Provide Best Effort support for obtaining all central level clearances.
- (d) Undertake all rehabilitation & resettlement activities and recover the cost from Developer.
- (e) Provide construction power and water at Project site.
- (f) Acquire land necessary for the Project, if the same does not already belong to the Government.

(ii) Asset Based Support:

The State Government will offer asset based support to all Category II Project covered under the Act. The Category I Projects will receive asset based support only if the sector policy specifically provides for the same. The asset based support comprises:

- (a) Government owned land would be provided at concessional lease charges for Projects where ownership would revert to the Government, within a maximum period of 33 years from the date of grant of land;
- (b) The State Government will commit/facilitate development of linkage Infrastructure for Projects.

(iii) Foregoing Revenue Streams:

The Government will forego revenue streams in case of all Category II Projects. Government will forego revenue streams in case of Category I Projects only if the sector policy specifically provides for the same. Such support would be in the form of.-

(a) exemption of sales tax on all inputs required for Project construction.

(b) exemption of stamp duty and registration fees on the first transfer of land, from the Government to the Developer and on Project agreements registered in the State.

(c) Exemption from payment of seginiorage fees i.e. cess on minor minerals during construction period.

(iv) Guarantees:

(a) The Government may guarantee receivables only in the case of Category II Projects, provided they are not collected directly from users.

(b) The Government may also provide off take guarantees if it is the service distributor and is responsible for collection of user levies.

(V) Financial Support:

(a) Direct financial support may be considered only in the case of Category II Projects.

(b) The Government will have the final authority to approve direct financial support.

(c) Infrastructure Development Authority will ensure that appropriate Project structuring will eliminate, to the extent possible, the need for financial support.

(d) Extent of financial support will be used as one of the selection criteria whenever financial support is to be provided.