

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

Sub: Draft policy for private participation in rail connectivity and capacity augmentation projects.

A comprehensive draft policy containing six models for different specific categories of projects has been prepared based on the feedback and inputs received from stakeholders on the R3i and R2CI policies.

2. Once finalized, the policy would replace both R3i and R2Ci policies. The policy also aims at enabling State Governments in playing a proactive role in development and implementation of rail projects in their respective states.

3. Ministry of Railways seeks to provide their feedback/suggestions of stakeholders on the draft policy.

Feedback/suggestions may be sent to the undersigned through Email- mishrask61@gmail.com or by fax No.011-23782539.

(S.K.Mishra)
Executive Director/Traffic/PPP
Telefax -011-23782539

MODELS FOR PRIVATE PARTICIPATION IN RAIL-CONNECTIVITY AND CAPACITY AUGMENTATION PROJECTS

1. General

Indian Railways are operating in the core sector of the economy. To strengthen, modernise and expand the IR network, the investment requirement is huge. Ministry of Railways wishes to attract private capital for accelerated construction of fixed rail infrastructure. For this purpose, it has formulated PPP investment models for its existing shelf of projects and also for new projects.

These are generic models. The specific issues will be decided on a case-to-case basis. Depending on the model of private investment, Ministry of Railways will either grant direct permission or go in for competitive bidding for award of concession.

2. Who Can Participate.

- State Governments.
- Local bodies
- Beneficiary industries
- Ports
- Large import and export companies
- Co-operative Societies and other body corporates
- Infrastructure and Logistics providers. PIO/Overseas Corporate Bodies (OCB) (After FIPB clearance)
- Foreign Direct Investor (After FIPB clearance)
- Other investors.

3. Advantages to Investors

- Opens opportunity for returns from investment in rail projects.
- Ensure timely availability of rail infrastructure to the beneficiaries viz. Port, Industry and States.

4. **Advantages to the State Governments**

- Ensure timely development of rail infrastructure critical to the economic development of the State.
- Reduces congestion on the roads.
- Investment in rail is cost effective compared to road.
- It is environment-friendly.

5. **Objectives**

- Supplementing Government investment in rail infrastructure projects by private capital flows.
- Involving the States in creation/development of rail infrastructure for the common public good.
- Timely creation of rail transport capacity to avoid supply-demand mismatch.
- Ensuring availability of transport needs consistent with the expected GDP growth of 9%.

6. **Models and policy framework**

6.1 **Non-Government Railway Model-Salient Features:**

Applicability

This model shall be applicable to first and last mile connectivity projects at either end of the rail transportation chain providing connectivity to ports, mines, logistics parks or large- sized cluster of industries, which are handling goods traffic for multiple consignors or consignees. It is applicable for transportation of any kind of goods traffic and does not preclude running of passenger trains. These railways will be operated on “common carrier” principle for public transportation of goods and passenger. The railway connectivity will be developed on private land and it will be a Non-Government Railway project.

Legal/Policy Framework

It will be a Non- Government Railway under Railway's Act 1989. The Railway will become member of Indian Railway Conference Association. Under extant governmental policy, the train operation will be undertaken by the Zonal Railway serving the Non- Government Railway in a seamless manner. Proposal for such a Railway system will emanate from the beneficiaries of the first/ last mile connectivity.

Project Development and Project Structuring

- Project development and project structuring will be done by Project Developer to establish project cost, land requirement and other project component requirements. The project report will be examined by IR from the stand point of its meeting of operational requirement for the traffic being projected for the railway system.

Project Developer, Funding and Land acquisition

- It envisages financial participation of the project proponent in the development and creation of rail infrastructure for providing first/last mile connectivity under an agreement with MoR either on its own or as a joint venture with infrastructure financing and development institutions.
- Funds will be fully mobilised by the project proponent etc. without any participation by the Railways.
- Land for the line will be acquired by the Project Developer to provide connectivity with the main line railway system. Railway land for providing connectivity with main line will be made available on lease/license as per extant policy.

Construction

- Project construction will be done by Private Railway either through its own private agency or through Railways as special deposit work. Certification will be done as per rules/policy.

Maintenance

- Maintenance of the project line and project assets will be done by the Non-Government Railway as per IR standards under supervision/ certification by the Zonal Railways on payment of supervision charges. Alternatively, Non-Government Railway may choose to entrust the maintenance to IR by entering into an O& M agreement.
- Renewal of project asset, technological up-gradation and capacity addition from time to time shall be undertaken by the project developer at its own cost as per IR standards.

Operations and Revenue Collection

- There will be seamless operation between IR network and the non-government railway system by IR with IR's rolling stock and locomotives. Railways will recover the cost of operation from non-government Railways (See Revenue Model).
- Commercial activities related to freight handling at the terminal will be done through Goods Clerk posted by IR whose cost shall be borne by IR. Freight for both outward and inward traffic will be collected by IR.
- IR will be permitted to run one pair of passenger trains with free access to infrastructure. Introduction of more passenger services will require consent of the Non-Government Railway. IR shall fully appropriate the revenue and bear the operational cost of passenger services.

Revenue Model

- Normal IR tariff/ freight rates shall apply on the project line. Freight revenue will be collected by IR and apportioned to the Non-Government Railway as per Inter Railway Finance Adjustment provided for under para 869 of Indian Railway's Finance Code Vol-I net of cost of operation and other fees/charges. Cost of operation shall be computed in terms of fixed (essential operational and commercial staff to operate the line such as station staff, gate-keepers and maintenance supervisors etc) and variable (rolling –stock usage, fuel/energy, crew etc) costs. A concession fee of 5% of the gross apportioned revenue and other charges such as demurrage on wagons at terminals operated by the Non-Government Railway shall also be recovered.

Sidings and new line connectivity

- IR will have full rights to provide new rail connectivity taking off from the project line or provide sidings from the project line. However, the cost of the new connectivities including modifications to stations/yards shall be borne by new entrants and interests of original customers of the Non-Government Railway for freight movement shall be protected.

Concession Period

- As the project line is on private land and the assets are fully private infrastructure, it will be transferred to IR in case of violations of specified terms of agreement at terms set out in the Agreement or by mutual consent at such terms as may be mutually agreed.

6.2 SPV Model for operationally necessary/ bankable sanctioned Railway projects appearing in the pink book- Salient Features:

Applicability

- It is generally applicable for sanctioned bankable **New line** and **Gauge Conversion** projects having clearly identifiable stake holders either as user of the line or utilities such as ports, mines, exporters, plants and the State Governments. Bankability of the projects, if required can be enhanced through innovative financial structuring such as sub ordinate debt, grants etc.

Project Development and project structuring, Land acquisition

- Project development will be done by Indian Railways or its PSU through consulting firms to establish project cost, land requirement, project design and other project component requirements, and project bankability.
- IR will do financial structuring of the project to make it bankable including Identification of risks and mitigation measures.
- Land acquisition will be done either by Indian Railways at the SPV's cost or by the SPV itself as mutually decided. Ownership of the land will vest with the Railways. Land will be given to the SPV

on annual token lease of one rupee for the entire concession period. Cost of acquisition of land will be refunded to the SPV on expiry/termination of concession.

- Railway land, as available, and MG/NG assets in case of Gauge Conversion projects ,required for the project will be made available on lease/license at a token rental/fee of Re 1.00 per annum.

Selection of equity partners, Funding, Revenue Model

- It envisages participation of the stakeholders and beneficiaries besides national level infrastructure funding institutions in the development and creation of rail infrastructure through appropriate concession.
- Financial participation will be through equity participation in the SPV. The SPV will be a joint venture with Railways as a partner with IR or its PSU holding a minimum of 26% equity shares. Selection of partners will be done through a transparent Expression of Interest process, with clearly laid down eligibility criteria and equity allotment criteria.
- Debt will be raised through Project Finance route without any guarantee by the Government of India.
- Revenue from the operation on the project line will be collected by IR through its commercial staff. Revenue stream of the SPV shall be established through revenue apportionment from freight operation for the project line length as per Inter-Railway Financial Adjustment as stipulated in IR Finance Code Vol-I. No apportionment of passenger revenues will be made. SPV will provide free access to IR passenger trains.
- Normal IR tariff/ freight rates shall be applicable. The SPV, will, however, be granted tariff freedom over the project line as per provisions of Railways' Act, 1989. Inflated tariff to improve bankability could be approved by Railway Board in specific cases.
- Commercial utilisation of railway land, commercial publicity rights as permissible under the law and public policy.

Construction

- Project construction will be done by the SPV. The SPV, may, however, choose to entrust construction to IR or its agencies by entering into a Construction Agreement. Certification will be done as per the extant rules/policy.

Maintenance

- Maintenance of the project line could be done either by the SPV or by IR through an O&M agreement. In case the maintenance is undertaken by the SPV, supervision/certification shall be done by IR on payment of supervision/certification charges by the SPV.

Operations

- Operations will be done by IR.

Recovery of O&M cost

- IR will recover O&M cost or cost of operation as applicable as per the Agreement. It will pay apportioned revenue net of O&M/operation cost as applicable, as per a pre-defined formula to be specified in the O&M or Operations agreement.

Concession period

30 years of operation or attainment of pay-back of equity invested at a discount rate of 7% above the rate on 10-year G-sec prevailing at the time of signing of the agreement, whichever is earlier, after which the project line will revert back to Railways.

Risk Mitigation

- Traffic guarantee and rolling stock availability agreement will be signed wherever such guarantees are forthcoming to mitigate the demand risk.

General Features

- SPV shall operate on common carrier principle for public transportation of goods and passengers. For rail users IR continues to be the interface.

6.3 Railway Projects on BOT awarded through Competitive Bidding- Salient Features:

Applicability

- This model shall be applicable to the sanctioned Railway projects where it is not possible to identify a stakeholder or strategic investor who can take a lead in making investment in the project line. The projects under this model will generally be long rail corridors carrying traffic generated from various streams. These will be sandwiched sanctioned new line and gauge conversion projects or dedicated freight corridors. In the absence of strategic investor, selection of investors will be done through competitive bidding process. The concessionaire so selected will design, build, finance, maintain and transfer the railway line at the end of concession period.

Project Development

- Project development, preparation of DPR, establishing financial viability & bankability will be done by MoR/Zonal Railway by engaging credible consultants and the project will be sanctioned as a railway project following the applicable procedure.

Selection of concessionaire

- The concessionaire will be selected through competitive bidding process. Positive or negative grant will be the bidding parameter.

Design, Build, Finance, Maintain and Transfer(DBFMT) Concession

- The project will be funded by the concessionaire. The concessionaire will design and build the project within the design & performance parameters specified by MoR. The statutory/mandatory design approvals, wherever required, will have to be taken from CRS or the

concerned Zonal Railway. However, it will be the responsibility of the concessioning authority/IR/Zonal Railways to get these approvals within a specific timeframe.

- Land acquisition for the project will be done by the Railways at their cost. Land will be owned by the Zonal Railways. It will be given to concessionaire on license.

Revenue share

- The net revenue payable to the concessionaire shall be fixed at 50% of the gross apportioned revenue. Apportioned revenue for the project section will be computed as per Inter Railway Financial Adjustment and 50% of the amount shall be deducted towards Operational expenditure. Regardless of actual running of trains, train chargeable to the route as per the routing indicated in the Railway Receipt (RR) shall be considered for apportionment.

Construction

- Project construction will be done by concessionaire through its own agency under mandatory certification and supervision from Railways.

Maintenance

- The concessionaire shall be responsible for maintenance of the project line to make it rail-worthy at all times including replacement/renewal of assets as per IR standards and specifications. Supervision and certification shall be done by IR on payment of specified charges.

Operation

- Train operation will be done by Indian Railways.

Concession Period

- Concession period will be fixed at 25 years. This shall include the Construction period. The concession period shall be subject to both upward and downward revision depending on shortfall/excess of traffic materialisation vis-à-vis the specified threshold traffic (80% of the total traffic to be carried during the Concession period expressed in terms of million tonne kilometres) on the Target Date(20 years after signing of the Agreement). Threshold traffic shall be determined on the basis of the Feasibility Report. For every shortfall of 5%, the Concession shall be extended by one year and the reverse principle shall apply if actual traffic exceeds the threshold traffic. However, the concession period shall not be less than 20years and more than 30 years.

6.4 Connectivities funded by users, but to be used as multi-user lines -Salient Features:

Applicability

- As per current policy, the single user rail connectivity to mines and plants is provided under the private siding policy. Such a policy has been found wanting in case where the length of the rail connectivity is long and cost of construction is so high that it cannot be loaded to the main facility/project. The industry recognises the fact that such single -user connectivity cannot be provided by the railways with their funds or by providing commercial returns to investors. Many such longer rail connectivities ,though initially for single users, have significant potential to become multi-user facilities in future with development of other industry, mining etc. Nevertheless, they do expect a partnership with Railways to develop the rail infrastructure speedily in a manner which does not put undue burden on Railways.

Project Development, Financing, Construction, Maintenance and Operation

- The project will be structured and developed on the lines described in para 6.1.The project developer will develop, construct and maintain the line as per IR standards. IR shall operate the line, collect the freight and pay 50% of the apportioned earning computed in terms of Inter-Railway adjustment as compensation to the original developer till the estimated cost of the project sanctioned/vetted by IR at the

time of execution of agreement is recovered. For the purpose of apportionment, all loaded traffic moving on the line shall be considered. Thereafter, the line shall be taken over by IR.

Sidings and new line connectivity

- IR will have full rights to provide new rail connectivity taking off from the project line or provide sidings from the project line. However, the cost of the new connectivities including modifications to stations/yards shall be borne by new entrants and interests of original customers of the Non-Government Railway for freight movement shall be protected.

6.5 Capacity Augmentation (Doubling/Thirdline/Fourth line,etc) with funding provided by customers.

This model addresses doubling/ multiple line projects where some customers are beneficiaries of the capacity addition and may be interested in funding the project for expeditious completion/commissioning.

Project Development, Financing, Construction, Maintenance and Operation

- The project will be sanctioned as a railway project on the basis of an MOU/Agreement entered into between Railways and the Customers wishing to fund the project in full or part. It will be constructed, maintained and operated by Railways. The ownership of the line and its operation and maintenance will always remain with Railways. In return, Railways will pay 7% of the amount invested through freight rebate on freight volumes every year for 30 years or till the funds provided by the project beneficiary is recovered, whichever is earlier.

6.6 Capacity Augmentation (Doubling/Thirdline/Fourth line,etc)- Annuity Model

Applicability

This model is applicable to sanctioned doubling, third line and fourth line projects where it may not be possible to find funding from any specific user.

Project Development, Financing, Construction, Maintenance and Operation

- Indian Railways will be responsible for project formulation, DPR, Final Location Survey etc. The feasibility report would be prepared by a consulting firm to provide an indicative assessment to the prospective bidders. The prospective bidders will carry out due diligence on the feasibility report.
- Indian Railways shall also be responsible for finalization of Engineering Scale Plans & Signal Interlocking Plans, if any as also technical standards and specifications.

Land acquisition

- Land acquisition and shifting of structures to the extent required would be done by IR.

Nature of Design, Build and Transfer concession and selection of the concessionaire

- The concession would be for financing and construction. Supervision and certification of construction would be carried out by IR under guidelines specified in the agreement.
- Train operations and maintenance will be by IR i.e. IR will manage stations, signals, level crossing gates, if any, running of trains and section control.
- IR shall, based on the requisite papers submitted by the Concessionaire, apply for and obtain CRS sanction.
- Non-interlocking (NI) activities preceding operationalisation of the double/multiple line will be undertaken within a stipulated period after Construction Completion Certificate in respect of the civil works is furnished by the Concessionaire. NI will be done by the Concessionaire under the supervision of IR.
- Track-mounted technological tools could be deployed to eliminate possibility of disputes on account of flat-wheels, hot axles, hanging parts during the period of defect liability. In addition, an appropriate mechanism would be set up for resolution of technical disputes.

Revenue model

- The concessionaire would be paid through annuity for limited predetermined period. Annuity will be determined through competitive bidding
- Annuity payments will be budgeted and paid on a committed basis.

6.7 State Governments: In case state governments or their agencies evince interest in developing and taking up any railway project in their respective states, they can participate under the schemes described herein. In particular, if projects can be structured as a Non-Government Railways as defined in the Railways Act,1989, they will be permitted to take up such projects under the framework described in para 6.1 above. Further, they will be permitted to bid out such projects within the boundaries of the Concession Agreement . In other words, they will not create any additional encumbrances on the project assets or additional obligations on Railways. They will be, however, fully responsible to meet their commitments to Ministry of Railways regardless of the outcome of the bidding.