

No. NH-11011/30/2015-LA  
Government of India  
**Ministry of Road Transport & Highways**  
Transport Bhawan, 1, Parliament Street, New Delhi-110001

Dated, the 28<sup>th</sup> of December, 2017

To

1. Chief Secretaries to all State Governments/ Administrators of Uts;
2. The Additional Chief Secretary/ Principal Secretary/ Secretary, Public Works Departments of all State Governments/ Union Territories;
3. The Chairman, National Highways Authority of India, G-5&6, Sector- 10, Dwarka, New Delhi-75;
4. The Managing Director, National Highways Infrastructure Development Corporation Ltd, PTI Building, Parliament Street, New Delhi- 110001.

**Subject: Land acquisition under the National Highways Act, 1956 - comprehensive guidelines thereon.**

Sir,

I am directed to say that the land required for National Highway Projects is acquired under the provisions contained in Section 3 of the National Highways (NH) Act, 1956. Pursuant to the enactment of the RFCTLARR Act of 2013 and its coming into force with effect from 01.01.2014, certain provisions of the 2013 Act became applicable to the other related Acts mentioned in the Fourth Schedule, including the NH Act, 1956 with effect from 01.01.2015 in terms of Section 105(3) of the RFCTLARR Act, 2013.

2. Accordingly, the Ministry of Road Transport & Highways (MoRTH) has issued various OMs/ Circulars on the subject from time to time, as mentioned at Annexure-1. Similarly, the Department of Land Resources, Ministry of Rural Development, have also issued guidelines/ orders on the subject, being the nodal Department of Government of India for the administration of RFCTLARR Act, 2013 and its application to the other related statutes mentioned in the Fourth Sechedule of the Act ibid. These guidelines/ orders/ clarifications are mentioned in Annexure - 2.
3. The entire issue has been examined afresh in view of the calrifications emerging in due course of time. The Ld. Attorney General of India has also been consulted on certain issues. Accordingly, it has been decided to issue these comprehensively revised guidelines in supersession of the guidelines issued hereinbefore. These are as follows:

4. **Applicability of the 'RFCTLARR Act 2013' to the enactments mentioned in the Fourth Schedule of the Act ibid:**
  - (i) The 'RFCTLARR Act 2013' came into force with effect from 01.01.2014. Section 105 of the Act deals with the subject of applicability of provisions of the RFCTLARR Act, 2013 to the related statutes enumerated in the Fourth Schedule. Provisions of Section 105 (3) read as under:

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“(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.”

- (ii) The Central Government came out with an Ordinance (No. 9 of 2014) dated 31<sup>st</sup> December, 2014, entailing an amendment to, inter-alia, Section 105 vide Clause 10 of the Ordinance, substituting sub-section (3) of Section 105 and omitted Sub-section (4) of Section 105. The substituted sub-Section (3) is reproduced below:

“(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1<sup>st</sup> January 2015.”

- (iii) The provisions of Ordinance No. 9 of 2014 were continued further vide Ordinance No. 4 of 2015 dated 03.04.2015 and vide Second Ordinance dated 30.05.2015 (No. 5 of 2015) which was valid up to 31<sup>st</sup> August, 2015.

- 4.2 Subsequently, the Department of Land Resources, Ministry of Rural Development, Government of India, issued The RFCTLARR (Removal of Difficulties) Order, 2015 vide Notification dated 28<sup>th</sup> August, 2015. The said Order is reproduced below:

“(1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(2) It shall come into force with effect from the 1<sup>st</sup> day of September, 2015.

(3) The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.”

- 4.3 It is clear from a reading of the above that requisite action in compliance of Section 105(3) was taken within one year's time with the promulgation of Ordinance No. 9 of 2014 dated 31.12.2014. This position continued with the issuance of two Ordinances in 2015, which was thereafter followed by the

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'Removal of Difficulties Order" without any break in time. As such, operation of the provisions of RFCTLARR Act 2013, which came into effect from 01.01.2014, has been given effect in respect of the enactments specified in the Fourth Schedule (including the NH Act, 1956) with effect from 01.01.2015, in compliance of sub-section (3) of Section 105 of the RFCTLARR Act, 2013.

4.4 Following the notification of the aforesaid Ordinances, the Ministry of Road Transport & Highways issued a letter dated 29.04.2015 whereby the select provisions of RFCTLARR Act, 2013 were made applicable to the NH Act, 1956 with effect from 01.01.2015. A conjoint reading of the aforesaid shows that the Ordinance (Amendment) remained in force till 31<sup>st</sup> August 2015. '*Removal of Difficulties Order*' was issued by the Department of Land Resources on 28<sup>th</sup> August 2015, which took effect from 01.09.2015. However, since the date of application of the selected relevant provisions of the RFCTLARR Act, 2013 to the NH Act, 1956 was 01.01.2015 in terms of the Ordinance (Amendment) No. 9 of 2014, it remains an unambiguous and accepted position that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule have been made applicable to all cases of land acquisition under the NH Act, 1956, i.e. the enactment specified at Sr. No. 7 in the Fourth Schedule to the RFCTLARR Act, **with effect from 01.01.2015**.

**4.5 Applicability of Section 24 of the RFCTLARR Act 2013 to the NH Act, 1956.**

(i) MoRT&H had issued instructions vide OM bearing No. 11011/30/2015-LA dated 13<sup>th</sup> January 2016 clarifying that Section 24 of the RFCTLARR Act, 2013 was applicable to the NH Act, 1956. However, the issue as to whether Section 24 of the RFCTLARR Act, 2013 is applicable to the NH Act, 1956 has been under consideration and revisited in consultation with the Ld. Attorney General, who has observed as under:

"A reading of Section 24 makes it abundantly clear that the provision is applicable only to acquisitions that have been undertaken under the Land Acquisition Act, 1894, in as much as the legislative intent can be ascertained from the specific mention of the 'Land Acquisition Act, 1894'. Further, Section 105(1) of the RFCTLARR Act 2013 specifically excludes the application of any Section of the RFCTLARR Act 2013 to the Acts mentioned in the Fourth Schedule. The only exception to Section 105(1) is Section 105(3), which makes only the First, Second and Third Schedule applicable to the Fourth Schedule Acts."

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- (ii) As such, it is now clear that Section 24 of the RFCTLARR Act, 2013 is not applicable to the acquisitions under the NH Act, 1956.

#### **4.6 Date of determination of market value of land**

- (i) Another related but important question is regarding the date on which the market value of land is to be determined in cases where land acquisition proceedings had been initiated under the NH Act, 1956 and were at different stages as on 31.12.2014. While there is no ambiguity regarding land acquisition proceedings initiated on or after 01.01.2015, this question assumes significance in view of the financial implications in respect of cases where the process of acquisition was at different stages as on 01.01.2015.
- (ii) Section 26 of the RFCTLARR Act stipulates that "*the date for determination of market value shall be the date on which the notification has been issued under Section 11 (corresponding to Section 3 A of the NH Act)*". Same was the position under the 1894 Act. This is further fortified from the provisions contained in Section 69(2) of the RFCTLARR Act. As such, it is clarified that the relevant date of determination of market value of land is the date on which notification under Section 3 A of the National Highways Act, 1956 is published.
- (iii) By now, it is also a settled proposition that the First, Second and Third Schedule of the RFCTLARR Act, 2013 shall be applicable to the NH Act ,1956 with effect from 01.01.2015. As such, the following is clarified:
- (a) All cases of Land acquisition where the Awards had not been announced under Section 3G of the NH Act till 31.12.2014 or where such awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014, the compensation would be payable in accordance with the First Schedule of the RFCTLARR Act, 2013.
- (b) In cases, where the land acquisition process was initiated and award of compensation under Section 3G had also been announced before 01.01.2015 but the full amount of Award had not been deposited by the acquiring agency with the CALA, the compensation amount would be liable to be determined in accordance with the First Schedule w.e.f. 01.01.2015;
- (c) In cases, where the process of acquisition of land stood completed (i.e. Award under Section 3G announced by CALA, amount deposited by the acquiring agency with the CALA, and compensation paid to the landowners in respect of majority of the land under acquisition) as on or before 31.12.2014, the process would be deemed to have been completed and settled. Such cases would not be re-opened.

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**5. Payment of additional amount calculated @ 12% on the market value in terms of sub-section (3) of Section 30 of the RFCTLARR Act, 2013**

5.1 Another issue that has emerged pertains to the admissibility of payment of an additional amount calculated @12% per annum on the market value of land in respect of acquisitions under the NH Act, 1956 as it is not mentioned under the First Schedule to the RFCTLARR Act, 2013. The position has been carefully examined in terms of the provisions in this behalf. Sub-section (3) of Section 30 of the RFCTLARR Act reads as under:

“In addition to the market value of the land provided under Section 26, the Collector shall, in every case, award an amount calculated at the rate of twelve percent per annum on such market value for the period commencing on and from the date of publication of the notification of the Social Impact assessment study under sub-section (2) of Section 4, in respect of such land, till the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.”

5.2 Sub-section (3) of Section 105 of the RFCTLARR Act stipulates that:

“The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.”

5.3 The proviso under Section 26 of the RFCTLARR Act stipulates that “*the date for determination of market value shall be the date on which the notification has been issued under Section 11 (corresponding to Section 3 A of the NH Act)*”. Similarly, Section 69 (2) of the RFCTLARR Act, 2013 also stipulates that such additional amount is to be “*calculated @ 12% on such market value for the period commencing on and from the date of publication of the preliminary notification under section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier*”. Since the acquisition of land for the National Highways is exempted from the Social Impact Assessment, it is absolutely clear from a harmonious reading of all related provisions that the calculation of such amount shall be made with effect from the date of publication of the Notification under Section 3A of the NH Act, 1956.

5.4 The compensation amount has to be determined in accordance with the First Schedule, (which contains references to Section 26, 29 and 30(1) of the RFCTLARR Act) in its application to the NH Act. Provision for amount calculated @ 12%

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interest is under sub-section (3) of Section 30 of the RFCTLARR Act, to which no reference has been made in the First Schedule. Further, Section 30(3) stipulates that the additional amount calculated @ 12% is payable with effect from the date of publication of the notification of the Social Impact Assessment Study, which is not applicable to the land acquisition for National Highways. On the other hand, Section 69(2) of the RFCTLARR Act, 2013 stipulates that the additional amount calculated @ 12% is to be calculated from the date of publication of the preliminary notification under Section 11 (corresponding to Section 3(a) of the NH Act, 1956). Further, the Ordinances and the Removal of Difficulties Order do not include the portion "*being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be*". Hence, a strict textual reading of the relevant provisions shows that it is an arguable point if the 'amount' under Section 30(3) is payable in respect of land acquired under the NH Act, 1956 or not.

- 5.5 However, a harmonious reading of all the related provisions of the RFCTLARR Act, the pronouncements of the Courts on payment of compensation under Section 23 (1A), Section 23(2) and Section 28 of the Land Acquisition Act, 1894 in respect of land acquired under the NH Act, 1956, read with Section 105(3) of the RFCTLARR Act, 2013, especially when the market value has to be reckoned as on the date of issue of Section 3A of the NH Act, would go to show that payment of 'amount' of 12% on the market value of land from the date of publication of Section 3A of the NH Act, 1956 till the announcement of award under Section 3G or taking possession of land, whichever is earlier, is payable.
- 5.6 This issue has been examined in detail by the Lt. Attorney General who has finally opined "*that a holistic reading of the provisions of the RFCTLARR Act, 2013 would require the payment of the 'amount' mentioned under Section 30(3) of the RFCTLARR Act, 2013*". As such, in supersession of the OM bearing No. NH-11011/140/2017-P&M/LA dated 7<sup>th</sup> September 2017, vide which it was clarified that the said 'amount', not being part of the First Schedule to the Act, was not payable in respect of land acquisition under the NH Act, 1956, it is clarified that the 'amount' calculated @ 12% per annum, as prescribed under Section 30(3) of the RFCTLARR Act, 2013, though not specifically mentioned in the First Schedule, would be payable to the landowners.
- 5.7 Still, another set of two questions arise i.e. (i) the date from which the amount payable under Section 30(3) is to be calculated, and (ii) as to whether the 'amount' as mentioned in Section 30(3) of the RFCTLARR Act, 2013 is a stand-

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**alone component and paid as such or it would get added to the market value, and then count for the purposes of Multiplication Factor and/ or Solatium also.** This issue has also been examined by the Ld. Attorney General, whose opinion is reproduced below:

“There are two other issues that are related to payment of ‘amount’ under Section 30(3). The first is in regard to the date from which this amount has to be calculated. Section 30(3) states that this date will be the date of ‘social impact assessment’ under Section 4 of the RFCTLARR Act. However, Section 4 is not applicable to the national Highways Act, Therefore, as was being done earlier, this amount may be paid from the date of issuance of preliminary notification under Section 3A of the National Highways Act. **The second issue** is in regard to whether this ‘amount’ is a standalone component or whether the same has to be calculated after addition of the multiplication factor and solatium. The answer to this question is to be found in Section 30(3) which clearly states that the amount is payable in addition to the market value of the land and is calculated as a percentage of ‘market value’. There is a distinction between ‘market value’ and compensation. Market value is determined under Section 26. Section 27 provides that the Collector having determined the total market value, will proceed to determine the compensation. This compensation is determined under Section 28 of the Act. Therefore, a reading of these sections would lead to the conclusion that the ‘amount’ has to be awarded only on the ‘market value’ which in turn is determined under Section 26 of the Act.”

- 5.8 It may be noted that the computation of different components of the total compensation is in seriatum and sequential from Section 26 to Section 30 of the RFTCLARR Act, 2013. Keeping the aforesaid opinion of the Ld. Attorney General in view, and the fact that the payment of ‘amount’ under Section 30(3) has been prescribed as “In addition ...” after the provision for payment of solatium, **it is clarified that it would be payable as a ‘stand-alone component’ and shall not count for the purposes of Multiplication Factor and the Solatium.** Illustration given in Annexure - 4 to these guidelines may be referred for correct method of calculation of the compensation amount.

## **6. Issue of the Multiplication Factor (MF)**

- 6.1 It is clear that the compensation of land acquired under the NH Act, 1956 with effect from 01.01.2015 is to be determined in accordance with the provisions contained in the First Schedule to the RFCTLARR Act, 2013 (in so far as it relates to the Multiplication Factor prescribed by the appropriate government).
- 6.2 The Department of Land Resources, Ministry of Rural Development, Government of India issued a Notification dated 9<sup>th</sup> February 2016 in this behalf, which reads as under:

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"In exercise of the powers conferred by column No. 3 of serial No. \*2 of the First Schedule read with sub-section (2) of Section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government, hereby, notifies that in the case of rural areas, the factor by which the market value is to be multiplied shall be 2.00 (two)."

- 6.3 Soon after the aforesaid Notification was issued by the Department of Land Resources, certain states like Andhra Pradesh, Maharashtra, Punjab, Jharkhand, Chhattisgarh and Bihar started using a Multiplication Factor of 2.00 in respect of land acquired/ to be acquired for the NH Projects (read Central Government Projects) on the basis of 9<sup>th</sup> February Notification of the Department of Land Resources whereas the Multiplication Factor applicable to the jurisdiction of the state was to be notified by the appropriate government. The MoRTH also issued two OMs dated 12.08.2015 and 08.08.2016 on the subject. A reference was made in this behalf by the then Chairman, NHAI to the Secretary, Department of Land Resources. Certain references were also made by the states. The reference specifically mentioned the issue of two different sets of MFs being adopted by certain states for the Central Projects and the State Projects. The State of Chhattisgarh continues with such classification even on date.
- 6.4 Some of these confusions have been set at rest and clarified by the DoLR vide its letter F. No. 13013/ 02/ 2016-LRD dated 8<sup>th</sup> May, 2017, more specifically the issue of differential MFs for the State and the Central Projects. The DoLR has further clarified vide its F. No. 13013/02/2016-LRD dated 14<sup>th</sup> December 2017 that the DoLR Notification of 9<sup>th</sup> February 2016 was applicable only to the UTs, except Puducherry, as the DoLR is the appropriate Government only in respect of the UTs, except Puducherry.
- 6.5 The DoLR Notification of 9<sup>th</sup> February 2016 prima facie appears to be inconsistent with the provisions contained in the First Schedule, especially in respect of the following three points:
- (i) Firstly, it gave an impression (though erroneous) as if the Central Government was the 'appropriate government' to notify the Multiplication Factor (MF) in respect of all Central Government projects across all the states;
  - (ii) Secondly, it did not clearly state that the Notification was applicable only in relation to the Union Territories, except Puducherry;
  - (iii) Thirdly, the prescription of a MF of 2.00 without co-relating the distance of the project from the urban area is prima facie inconsistent with the contents of the First Schedule. The said entry reads as under:

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Serial Number (1)	Component of Compensation package in respect of land acquired under the Act (2)	Manner of determination of value (3)	Date of determination of value (4)
2.	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (one) to 2.00 (Two) based on the distance of project from the urban area, as may be notified by the appropriate Government.	

- 6.6 The DoLR, however, has clarified the position with regard to the points mentioned at (i) and (ii) of para 6.5 above, as mentioned under para 6.4 above. The DoLR has clarified vide its OM of 8<sup>th</sup> May 2017 that there cannot be two sets of Multiplication Factors, one for the state projects and the other for the Central projects. Since the issue regarding sub para (iii) of para 6.5 above still remained unsettled, the matter was referred to the Ld. Attorney General, who has opined as under:

“The MoRTH has sought my opinion on whether it is open to the appropriate Government to fix a uniform multiplication factor of 2 for all rural lands. The query is a result of notifications issued by the Department of Land Resources and certain states like ... which have stated a multiplication factor of 2 in respect of land acquired/ to be acquired for all National Highway Projects whereas a different multiplication factor has been prescribed for land acquired by the State Government.

In my opinion, the appropriate government must have a graded approach to fixing the multiplication factor. This is evident from the words in the schedule “1.00 (one) to 2.00 (two) based on the distance of project from the urban area”. For this purpose, the appropriate government has to apply its mind and take into consideration the distance of lands from urban areas.”

- 6.7 A number of states like West Bengal, Rajasthan, Maharashtra and others have already notified the graded scale of Multiplication Factor as applicable in their respective jurisdiction. The position in this behalf, as available with MoRTH on the date of issue of these guidelines, is enclosed as **Annexure - 3**. While the matter is being taken up with the DoLR again to revisit its Notification of 9<sup>th</sup> February 2017 with regard to a single Multiplication Factor of 2.00 for the rural areas *qua* the UTs (except the state of Puducherry), the concerned officers of MoRTH and NHAI/ NHIDCL are advised to take up the matter with the states where a uniform MF of 2.0 has been notified for the Rural Areas without using a scale/ graded MF linking the distance of the project area from the urban limits.
- 6.8 The Chief Secretaries of the concerned states like Bihar, Chhattisgarh, Gujarat, Jharkhand, Uttrakhand and Uttar Pradesh are requested to take necessary corrective measures in this matter in order to ensure that the ‘multiplication factor’ notified in their respective states is in conformity with the legal provisions

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in the First Schedule to the RFCTLARR Act, 2013, as also advised by the Attorney General of India.

**6.9 Keeping the aforesaid in view, it is clarified as under:**

- (i) The multiplication factor by which the ‘market value’ is to be multiplied in case of urban areas shall be 1.00 (One) as specified in the First Schedule. The ‘Urban Area’ shall mean the area situated within and up to the boundary of the Urban Local Body as notified by the concerned State Government (i.e. a Municipal Corporation/ Council/ Committee, by whatever name it may be called).
- (ii) The multiplication factor by which the market value is to be multiplied in case of rural areas (from the end-point of the urban limit) shall be the one as notified by the concerned State Government, being the appropriate government for such state. It may be noted that the Multiplication Factor notified by the State shall remain the same for the state government and the central government projects. There cannot be two different sets of multiplication factors in the same state, as already clarified by the Department of Land Resources, Ministry of Rural Development, vide its OM dated 8<sup>th</sup> May, 2017.
- (iii) As regards the Multiplication Factor in the case of rural areas in the Union Territories (other than Puducherry), the Multiplication Factor shall be 2 (Two) in terms of the DoLR Notification No. S.O.425 (E) dated 09.02.2016 till the same is reviewed by the Department of Land Resources.
- (iv) The Multiplication Factor by which the market value is to be multiplied in case of rural areas situated in the Union Territory of Puducherry shall be the same as notified by the Government of Union Territory of Puducherry.

**7. Bulk Acquisitions/ Purchase of Land through Consent of Landowners**

- 7.1 Various state governments have come out with their respective guidelines/ policies/ rules/ statutes for acquisition of land on consent basis. Proposals have been received in MoRTH from such state governments for acquisition of land for the National Highways within their jurisdiction under their respective consent acquisition policies/ guidelines/ statutes. MoRTH has agreed to the proposals of the following states and issued OMs in this connection subject to the condition that the compensation amount paid in such cases is in consonance with the provisions of the RFCTLARR Act 2013, as applicable to the NH Act, 1956 for the purpose:

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Sr. No.	Subject	Date of Issue
(i)	Kerala, Chhattisgarh	02.08.2016
(ii)	West Bengal, Uttar Pradesh, Telangana, Punjab,	03.08.2016
(iii)	Rajasthan, Goa, Odisha,	24.08.2016
(iv)	Bihar,	29.08.2016
(v)	Maharashtra, Himachal Pradesh	26.09.2016
(vi)	Karnataka	16.11.2016
(vii)	Madhya Pradesh	06.09.2017

7.2 In supersession of the above OMs, it has been decided by the Competent Authority that following guidelines shall be followed henceforth with immediate effect and until further orders regarding Bulk acquisition/ Purchase of Land through Consent of landowners:-

- (i) There is a specific Central statute for acquisition of land for the National Highways i.e. **National Highways Act, 1956**. As such, legally, the Central Government and its authorised project executing agencies are competent to acquire land for the construction/ development of National Highways under the NH Act, 1956 and the States do not have a case to insist that the land for the NHs in their jurisdiction should be acquired under the statutes/ policies framed by the State Governments/ UT Administrations.
- (ii) However, considering the urgent need for minimizing litigation and ensuring early availability of land for completion of the NH projects, land for NH projects can be procured through direct purchase with the consent of the landowners in accordance with the existing Acts/ Rules/ Policies of the concerned State Governments subject to the condition that the total amount of compensation so worked out will be no more than what is payable when the land is acquired under the NH Act, 1956, which in any case is in conformity with the compensation payable in accordance with the provisions of RFCTLARR Act, 2013.
- (iii) Further, MoRTH/ NHAI/ NHIDCL would also be agreeable to acquisition of land for the NH Projects in accordance with such consent mechanism of the state subject to the condition that the concerned State Government/ UT Administration agrees to bear the incremental cost, if any, from its own resources. To illustrate, if the amount of total compensation payable for one hectare land in terms of the First Schedule to the RFCTLARR Act, 2013 [including the amount calculated @ 12% in terms of Section 30 (3) of RFCTLARR Act, 2013] is Rs. 1.50 crore/ hectare and the amount determined under the consent mechanism of the state government works out to Rs. 1.75 crore/ hectare, the State Government/ UT Administration would have to

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bear the differential compensation amount of Rs. 25.00 Lakh/ hectare from its own sources.

- (iv) Henceforth, with the above principles having been laid down, there will be no need to issue any state specific guidelines on the subject.

#### **8. Acquisition of land for Missing Plots**

The Ministry has issued detailed guidelines vide its letter dated 15.03.2016 for acquisition of land through consent of landowners, preferably limited to 10% of total quantum of land acquisition in a construction package in the cases of (i) Missing plots which are inadvertently left out from the bulk acquisition, and/ or (ii) additional land required due to alteration of alignment at implementation stage. These guidelines shall continue to remain in force until further orders.

#### **9. Notification of a stretch as a NH under Section 2 of the NH Act, 1956 before initiating the process of Land Acquisition under Section 3 of the NH Act?**

- (i) The issue as to whether it is necessary to notify a certain stretch as a National Highway under Section 2 of the NH Act before initiating the process of acquisition of land for building a National Highway under Section 3 of the NH Act has come up for consideration. The Ministry was of the view that Section 2 and Section 3 of the NH Act are independent of each other. This issue was also referred to the Lt. Attorney General for his opinion. The Attorney General has advised vide his supplementary reference dated 24.12.2017 as under:

"Section 3A deals with the power to acquire land and Section 3A(1) provides as follows:

*3A Power to acquire land, etc. - (1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.*

Under Section 3A(1), the Central Government may acquire land for the purpose of building a National Highway. The term 'building' is not defined in the National Highways Act. The New Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn) defines 'building' as '*the act of one who builds*'. The term 'build' is defined as '*to construct or erect, as a house; to form by uniting materials into a regular structure; to make; to establish by gradual means; to raise as on a support or foundation*'. When the Central Government notifies land for acquisition, the nature of these lands may be paddy fields or waste lands or vacant lands. These lands cannot be called a Highway. What is acquired is only land without a Highway existing at the

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time. The very concept of a Highway is defined in common law as '*a way over which there exists a public right or passage... at all seasons of the year freely... to pass and re-pass without let or hindrance ('Halsbury's Laws of England, 4<sup>th</sup> Edn. Vol 21 Page 9).* Vacant lands and paddy fields can never be termed as Highways. It is only when the road is built/ constructed and established, and is able to take traffic, and when a passage comes into existence for persons to pass and re-pass, that it can be notified.

In view of the above, my answer to the query is that it is not necessary to notify a road project as a National Highway in terms of Section 2 of the National Highways Act, 1956 for initiating the process of land acquisition under Section 3A of the Act .

I advise accordingly."

- (ii) Accordingly, it is clarified that it is not necessary that a stretch must be notified as a National Highway under Section 2 of the NH Act, 1956 before initiating the process of land acquisition under Section 3 for building a National Highway.
- 10. **Competent Authority for Land Acquisition (CALA) and due diligence at the time of determination of compensation amount by the Competent Authority.**
  - (i) The Central Government (i.e. the Ministry of Road Transport & Highways) appoints the Competent Authority for Land Acquisition (CALA) in exercise of its powers under Section 3(a) of the NH Act, 1956. As such, the CALA appointed by the Central Government, is obliged to take all action for acquisition of land under the NH Act, 1956 and the guidelines issued by the Central Government on the subject.
  - (ii) It may be noted that the provisions contained in the RFCTLARR Act, 2013 from Section 26 to Section 30 are in seriatum i.e. sequential. Para 5.8 of these guidelines may be referred in this behalf. As such, an illustration on how the total compensation amount is to be calculated is given in **Annexure-4**. This has to be strictly followed by all CALAs appointed by the Central Government.
  - (iii) Certain undesirable practices have come to notice of the Central Government. These include change in the nature of land or adoption of incorrect classification of land for determination of market value of land. It may be noted that the nature of land has to be taken as recorded in the revenue records on the day of publication of Section 3A notification. For instance, if some landowner/ interested person has raised a factory building or a commercial building upon the land under acquisition without obtaining the "Change in Land Use" from the competent authority prescribed by the

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state government, he/ she cannot take the benefit of treatment of such land as “Industrial” or “Commercial”. Therefore, due diligence has to be exercised by the CALA while determining the land use/ nature of land and working out the market value of land.

- (iv) It may be further noted that the market value of land is to be determined as on the date of publication of the preliminary Notification under Section 3A of the NH Act, 1956. It is for this reason that in addition to the market value of land and solatium, the landowner is also paid an amount calculated @ 12% per annum from the date of initial notification under Section 3A till the announcement of Award or possession of land, whichever is earlier. Instances have come to notice where the landowners/ interested persons have undertaken certain improvements over the land notified under Section 3A after the publication of notification in order to enhance the quantum of compensation. This would include plantation of trees on such land to add value. As such, the CALAs are duty bound to ignore any improvement done over the notified land after the date of notification while determining the compensation amount and announcing the Award under Section 3G of the NH Act, 1956.
- (v) The CALA, while announcing the Award under Section 3G, shall append a certificate at the end of his Award that he/ she has strictly followed the legal provisions and these guidelines in determination of the compensation amount.

## **11. Disbursement of Compensation amount and possession of land**

- (i) It has been observed that the process of disbursement of compensation amount to the landowners or the persons interested therein goes on for a long period for a variety of reasons, which leads to delays in taking possession of the land acquired and required for construction of the highway. Some of the most common reasons are mentioned as under:
  - (a) There are certain landowners who do not maintain their usual residence where the land is situated and can be called as absentee landowners;
  - (b) The land records are not updated and the successors-in-interest are not clearly identified with their respective shares.
- (ii) It is, therefore, important that the CALAs adopt the following procedure in order to ensure that the possession of acquired land is not delayed for any reasons:
  - (a) Apart from issue of notice to the landowner/ person interested therein

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in terms of sub-section (1) of Section 3E of the NH Act, 1956, a public notice may also be published in the same set of two newspapers in which the Notification under Section 3A (3) was published informing the landowners/ persons interested in the acquired land about the announcement of the Award by the CALA in respect of subject land, calling upon them to collect the compensation amount from the office of the CALA within a period of sixty days.

- (b) As soon as the period of 60 days is over, another public notice may be caused to be published in the same set of newspapers, calling upon such landowners to surrender or deliver possession thereof to the competent authority forthwith, failing which the possession shall be taken with the assistance of the local police in accordance with sub-section (2) of Section 3E of the NH Act, 1956.
- (iii) A typical sample/ format of the two sets of Public Notices are enclosed as Annexure - 5.

## 12. Appointment of Arbitrator under Section 3G(5) of the NH Act, 1956

- (i) Reference is made to Section 3G(5) of the NH Act, 1956 which stipulates that "*If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government*".
- (ii) Further, attention is also drawn to sub-section (4) of Section 3H of the NH Act, 1956 which stipulates that "*If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated*".
- (iii) A perusal of the above provisions makes it clear that the jurisdiction of the 'Arbitrator' appointed by the Central Government and that of the 'Principal Civil Court of original jurisdiction' have been clearly demarcated.
- (iv) The CALAs may, while making a reference to the 'Principal Civil Court of original jurisdiction' wherever required, may also seek leave of such Court to deposit the undisbursed amount of compensation in respect of such landowners/ interested persons with the Court so that the possession of such land is not held-up on this account, leading to delays in taking up the highway development works.

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**13. Administrative charges for Land Acquisition for NH Projects**

A total of 13 states levy administrative charges for acquisition of land for the National Highways. Demi-official communications have been sent at the level of Secretary, MoRTH to Chief secretaries of these states in this behalf. A copy of the said letter, which is self contained, is enclosed as **Annexure-6**. Action may be taken by all concerned accordingly.

**14. Supersession of previous guidelines:**

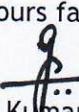
With the issue of these comprehensively revised guidelines, the guidelines mentioned at **Part A of Annexure-1** continue to remain in operation for the time being till these are also comprehensively revised , whereas those mentioned under **Part B of Annexure-1** are superseded. These guidelines shall take effect from the date of issue.

**15. Savings:**

The Ministry has been issuing guidelines on the subject of Land Acquisition from time to time based on clarifications/ developments as these came along, which may have resulted in higher outgo on account of amounts of compensation paid to the landowners. Since it is practically not feasible to recover any such excess paid amount from the landowners/ interested persons, it is clarified that any compensation amount paid in the past in terms of guidelines issued by the Ministry from time to time, and which may not be payable in terms of these revised guidelines, shall be deemed to have been paid as per the extant guidelines and shall not be called into question on account of these revised guidelines.

- 16.** These guidelines, which issue with the approval of the Hon'ble Minister, Road Transport & Highways, may be brought to the notice of all concerned for further necessary action and strict compliance.

Yours faithfully,

  
Amit Kumar Ghosh  
Joint Secretary to the Government of India  
Tel No. 011-23718527

Enclosures - As Above

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**Copy for necessary action to:-**

1. Director General (Roads Development) & Special Secretary, MoRT&H
2. All the Addl. Director Generals of MoRTH;
3. CE (P-1)/ CE (P-2)/ CE (P-3)/ CE (P-4)/ CE (P-5)/ CE (P-6)/ CE (P-7)/ CE (P-8)/ CE (LWE)/ CE (SARDP- NE)/ CE (NHDP- IVA)/ CE (Mon.)/ CE (Planning)
4. All ROs/ ELOs/ PIUs of the MoRT&H/ NHAI/ NHIDCL

**Copy for information to:**

1. PS to Minister (RTH&S)
2. PS to MoS (RTH&S)
3. Sr. PPS to Secretary (RT&H)
4. PPS to AS & FA.



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**Annexure- 1**

<b>Guidelines/ Instructions issued by the Ministry of Road Transport &amp; Highways from time to time</b>		
<b>Sr. No.</b>		
	<b>Subject</b>	<b>Date of Issue</b>
<b>A.</b>	<b>Previous Guidelines that continue to operate</b>	
(i)	RFCTLARR (Amendment) Ordinance, 2015	03.04.2015
(ii)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – First Schedule reg.	29.04.2015
(iii)	RFCTLARR (Amendment) Second Ordinance, 2015	30.05.2015
(iv)	RFCTLARR (Removal of Difficulties) Order, 2015	28.08.2015
(v)	Acquisition of missing plots through consent reg.	15.03.2016
(vi)	Guidelines for monitoring of Land Acquisition for NH Projects – engagement of consultant reg.	19.04.2016
(vii)	Facilities to CALA and TILR reg.	16.06.2016
(viii)	Guidelines for monitoring of Land Acquisition for NH Projects – appointment of additional CALA reg.	20.07.2016
(ix)	Facilities to arbitrator reg.	04.10.2016
<b>B.</b>	<b>Previous Guidelines which stand superseded</b>	
(i)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Multiplication factor reg.	12.08.2015
(ii)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Second and Third Schedule reg.	11.09.2015
(iii)	Acquisition of land for NH Projects – Return of unutilized land reg.	09.12.2015
(iv)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Section 24 reg.	13.01.2016
(v)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Multiplication factor reg.	31.03.2016
(vi)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Multiplication factor reg.	08.08.2016
(vii)	Administrative charges and other charges payable to State Government reg.	17.10.2016
(viii)	Applicability of Interest in determination of amount payable as compensation	07.09.2017
(ix)	<b>Acquisition of land through consent as per concerned State Government - reg.</b>	
(a)	Kerala, Chhattisgarh	02.08.2016
(b)	West Bengal, Uttar Pradesh, Telangana, Punjab	03.08.2016
(c)	Rajasthan, Goa, Odisha	24.08.2016
(d)	Bihar	29.08.2016
(e)	Maharashtra, Himachal Pradesh	26.09.2016
(f)	Karnataka	16.11.2016
(g)	Madhya Pradesh	06.09.2017



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**Annexure – 2**

**Guidelines/ Instructions issued by the Department of Land Resources, Ministry of Rural Development, Government of India on the subject of land acquisition from time to time**

Sr. No.	Subject	Date of Issue
(i)	Applicability of RFCTLARR Act 2013 to Land acquisition under the NH Act, 1956 – First Schedule - reg.	29.04.2015
(ii)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – Second and Third Schedule - reg.	11.09.2015
(iii)	Applicability of RFCTLARR Act 2013 to land acquisition under the NH Act, 1956 – First Schedule - reg.	13.01.2016
(iv)	Aplicability of the Multiplying factor provided in the First Schedule to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013	F. No. 13013/02/2016-LRD dated 8 <sup>th</sup> May 2017
(v)	Notification of the multiplying factor provided in the First Schedule to the RFCTLARR Act, 2013	F. No. 13013/02/2016-LRD dated 14 <sup>th</sup> December 2017



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**Annexure – 3**

**Multiplication factor notified by the State Governments in compliance to Sr. No. 2 of the First Schedule to the RFCTLARR Act, 2013**

Sr. No.	Name of the State	Multiplication Factor for acquisition of Land in Rural Areas			Reference No.
1.	Andhra Pradesh	1. 1.25 – Other than Scheduled areas, and 2. 1.50 for scheduled (Tribal) areas			
2.	Bihar	2.00 (Two)			
3.	Chhattisgarh	1.00 for the State Projects, and 2.00 for the Central Projects			Dated _____
4.	Gujarat	Multiplication Factor of 2 (two)			Resolution No. LAQ: 22-2014/179/GH dated 10.11.2016
5.	Haryana	1.00 (one)			Gazette Notification No. 2331-R-5-2014/16094 dated 4 <sup>th</sup> December 2014
6.	Himachal Pradesh	1.00 (One)			Govt Gazette dated 2 April 2015
7.	Jharkhand	2.00 (Two)			Calculation of interest component under Section 30(3) made part of the amount on which 100% solatium is to be paid.
8.	Karnataka	1. 1.5 in respect of project areas outside the limits of urban areas extending up to 5 kms, and 2. 2.00 (Two) in all other rural areas			No. RD 58 Bhuswabe 2014 dated 03-05-2014
9.	Kerala	Sr. No.	Distance from Urban Area	Multiplication Factor	No. B1/321/2017-REV dated 09/08/2017
	(i)	Urban area		1.00	
	(ii)	Up to 10 kms from outer limit of Urban Area		1.2	
	(iii)	From 10 km - 20 km		1.4	
	(iv)	From 20 km – 30 km		1.6	
	(v)	From 30 km to 40 km		1.8	
	(vi)	From 40 km and above		2.0	
10.	Madhya Pradesh	1.00 (One)			Dated 29.09.2014 published in the State Gazette dated 3 <sup>rd</sup> October 2014
11.	Maharashtra	1. 1.50 for Areas covered by Regional Plans for Districts as well as Development Plan prepared in			Dated 26 <sup>th</sup> May 2015

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**Annexure – 3**

**Multiplication factor notified by the State Governments in compliance to Sr. No. 2 of the First Schedule to the RFCTLARR Act, 2013**

Sr. No.	Name of the State	Multiplication Factor for acquisition of Land in Rural Areas			Reference No.
		accordance with the provisions of the Maharashtra Regional Town Planning Act, 1966 for non-Municipal areas, excluding the areas mentioned in clauses (a) to (d) above; 2. 2.00 for Rural Area, excluding the areas mentioned in Entries 1 and 2 above			
12	Meghalaya	Sr. No.	Distance in Km from Urban Area (as the crow fly)	Multiplier Factor	10 <sup>th</sup> September 2014
		(i)	< 10 kms	1.00	
		(ii)	10 and above	1.1	
		(iii)	20 and above	1.2	
		(iv)	30 and above	1.3	
		(v)	40 and above	1.4	
		(vi)	50 and above	1.5	
		(vii)	60 and above	2.00	
13	Odisha	Sr. No.	Radial Distance from Urban Area	Multiplier Factor	No. LA (a)-46/13 (Misc) 4030/R&DM dated 07.02.2014
		(i)	0-10	1.00	
		(ii)	11-20	1.20	
		(iii)	21-30	1.40	
		(iv)	31-40	1.80	
		(v)	Above 40	2.00	
14	Punjab	1. 1.00 (one) in case the affected area is situated up to 10 kms from the limits of an urban area, and 2. 1.25 in case the affected area is situated beyond the above distance.			No. 24/84/2013-LR-1/6/96 dated 30.10.2014
15	Rajasthan	Sr. No.	Radial Distance from Urban Area	Multiplier Factor	Notification Dated 14.06.2016
		(i)	0-10 kms	1.25	
		(ii)	>10 kms but up to 20 kms	1.50	
		(iii)	>20 kms but up to 30 kms	1.75	
		(iv)	>30 kms	2.00	
16	Tamil Nadu	Sr. No.	Distance of Project from Urban Areas	Multiplier Factor	No. SROA-41(c-3)/2017 dated 20 <sup>th</sup> September, 2017
		(i)	Within 30 kms	1.25	

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**Annexure – 3**

**Multiplication factor notified by the State Governments in compliance to Sr. No. 2 of the First Schedule to the RFCTLARR Act, 2013**

Sr. No.	Name of the State	Multiplication Factor for acquisition of Land in Rural Areas			Reference No.
		(ii)	Beyond 30 kms and within 50 kms	1.5	
		(iii)	Beyond 50 kms	2.0	
17	Telengana	(i) 1.25 – Other than Scheduled areas, and (ii) 1.50 for scheduled (Tribal) areas			G.O. Ms. No. 50 dated 19.12.2014
18	Uttarakhand	2.00 (Two)			10 October 2016
19	Uttar Pradesh	2.00 (Two)			Notification dated 22 October 2014
20	West Bengal	Up to 20 km from nearest urban area	1.1	No. 2083-LA/3M-49/14 dated 30 <sup>th</sup> July 2014	
		Above 20 km and up to 40 km	1.2		
		Above 40 km and up to 80 km	1.3		
		Above 80 km and up to 100 km	1.5		
		Above 100 km and up to 120 km	1.75		
		Above 120 km	2.00		

**Note:** The above information is subject to any updation/ correction.

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Annexure – 4

### **Method of Calculation of the Total Compensation amount**

- Step 1: Determination of market value of land in accordance with Sub-section (1) of Section 26, read with sub-section (3) of Section 26 and Section 28 of the RFCTLARR Act, 2013;
- Step 2: Apply the Multiplication Factor to the amount determined in accordance with step 1 above in terms of sub-section (2) of Section 26 of the RFCTLARR Act, 2013;
- Step 3: Calculate the value of assets (buildings, trees etc.) attached to the land under acquisition in terms of Section 29 of the RFCTLARR Act, 2013;
- Step 4: Add the amount determined under Step 2 and Step 3 and then provide for 100% solatium on the amount so arrived;
- Step 5: Calculate the amount @ 12% per annum on the market value determined under Step 1 in terms of Section 30(3) of the Act;
- Step 6: Total Compensation amount = **Step 4 + Step 5.**

#### **Illustration**

Step	Action in Sequence	Illustrative Amount (per hectare)
1	Determination of <u>basic market value</u> of land in accordance with Sub-section (1) of Section 26, read with sub-section (3) of Section 26 and Section 28 of the RFCTLARR Act, 2013, say:	40,00,000/-
2	Apply the Multiplication Factor to the amount determined in accordance with step 1 above in terms of sub-section (2) of Section 26 of the RFCTLARR Act, 2013	Say, MF is 1.25 = 50,00,000/-
3	Calculate the value of assets (buildings, trees etc.) attached to the land under acquisition in terms of Section 29 of the RFCTLARR Act, 2013, say:	5,00,000/-
4	Add the amount determined under Step 2 and Step 3 and then provide for 100% solatium on the amount so arrived:	50,00,000/- + 5,00,000/- = 55,00,000 x 2 = 1,10,00,000/-
5	Calculate the amount of interest on <u>basic market value</u> @ 12% in terms of Section 30(3) of the Act, Say:	4,00,000.00
6	Total Compensation amount	1,14,00,000/-

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**Annexure – 5 (i)**

1. Sample/ Format of the **First Public Notice** to be issued by the CALA upon announcement of Award under Section 3 G of the NH Act, 1956.

<b>Public Notice</b>			
Announcement of Award for acquisition of land for construction of a National Highway for Land owners/ persons interested therein			
Sr. No.	Notification	Names of Newspapers in which published	Date of Newspaper
1	Section 3 A		
2	Section 3 D		

Kind attention of all landowners/ interested persons is invited to the Notification dated \_\_\_\_\_ issued under Section 3A of the NH Act, 1956 for acquisition of land for the building/ construction of a National Highway and the Notification dated \_\_\_\_\_ issued under Section 3 D of the NH Act, 1956 and published in the following newspapers:

It is informed that the undersigned has announced the Award in respect of the said land under Section 3 G of the NH Act, 1956 vide order dated \_\_\_\_\_. The land acquiring agency (MoRTH/ NHAI/ NHIDCL) has placed the requisite amount of compensation at the disposal of the undersigned. Notices have also been issued to the concerned landowners/ interested persons as required under Section 3 E of the NH Act, 1956.

Accordingly, all the concerned landowners/ interested persons are hereby informed/ notified through this additional **Public Notice** that the claimants entitled to receive the compensation amount may collect their amount of compensation from the office of the undersigned on any working day between \_\_\_\_\_ am to \_\_\_\_\_ pm within a period of 60 days and surrender or deliver the possession of the subject land to the undersigned, failing which the possession of subject land will be taken with police assistance on expiry of the period of 60 days.

( \_\_\_\_\_ )  
Competent Authority for Land Acquisition, and  
(name of the regular office and address)  
Dated: \_\_\_\_\_

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**Annexure – 5 (ii)**

2. Sample of the Second Public Notice to be issued by the CALA upon announcement of Award under Section 3 G of the NH Act, 1956.

**Public Notice**  
for Land owners/ persons interested therein for  
**Delivery of possession of land acquired for construction of a National Highway**

Kind attention of all landowners/ interested persons is invited to the Public Notice published in the following newspapers informing them regarding:

- ❖ Announcement of award;
- ❖ Calling upon them to collect the compensation amount within a period of 60 days; and
- ❖ Requesting the landowners to handover the possession of the subject land to the undersigned.

Sr. No.	Names of Newspapers in which published	Date of Newspaper
1		
2		

The prescribed time of 60 days has expired on \_\_\_\_\_.

Accordingly, all the landowners/ interested persons are hereby called upon to hand over the possession of the acquired land to the undersigned immediately, failing which the same shall be taken with the police assistance in accordance with sub-section (2) of Section 3 E of the NH Act, 1956.

Needless to say, such of the landowners/ interested persons, who have still not collected their compensation amount, may collect the same on any working day from the office of the undersigned.

( \_\_\_\_\_ )  
Competent Authority for Land Acquisition, and

(name of the regular office and address)  
Dated: \_\_\_\_\_

0-0-0-0-0

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**Annexure - 6**

D.O. No. NH-11011/73/2016-LA (pt.)  
December 11, 2017

Dear Sh. \_\_\_\_\_

Kindly recall my D.O. letter dated 06.07.2017 on the subject of **Administrative Charges** being levied by your state for acquisition of land for the National Highway Projects as a percentage of the compensation amount (copy enclosed for ready reference).

2. It may be noted that the states of Andhra Pradesh, Jammu & Kashmir, Karnataka, Odisha, Telangana, Rajasthan, North-Eastern states (except Assam) do not levy any administrative charges for acquisition of land for the National Highways. However, 13 states including your state have been levying these charges as per the details given in **Annexure-1**. Excepting the state of Uttarakhand (who have agreed with the Ministry's proposal), we have not received any response to my aforesaid DO reference from any other state.

3. It is understood that your state has prescribed these charges as a percentage of the amount of compensation towards administrative costs under the rules framed under the 1894 Act. The determination of compensation amount, use of multiplication factor and provision of 100% solatium under the revised law has completely changed the landscape whereby the compensation amount has gone up by 3 to 4 times whereas the prescribed percentage of administrative costs has not been rationalized. On the other hand, the States appoint the Competent Authority for Land Acquisition (CALA) for acquisition of land for the National Highways, who are not committed to this work on full-time basis and the support system is left wanting. As a result, the NHAI/ NHIDCL supplement these resources and deploy Land Acquisition Supporting Units comprising of retired revenue officials and other support systems. As such, it is the need of the hour to re-visit these charges and rationalise the same.

4. The administrative costs involved in Land Acquisition for NHs and associated facilities by a state involve the process/ steps as tabulated in the enclosed **Annexure-2**. A perusal of the details given in the enclosure shows that even if an officer i.e. CALA, along with a supporting staff of two personnel, and then the costs associated with the functions discharged by the Arbitrators appointed under Section 3-G(5) for settlement of arbitral issues, are deployed on full-time on the given jobs, their salaries, office expenses, office accommodation, use of vehicle(s) etc. for a period of one full year also would only be a small fraction of the administrative charges vis-à-vis the amount calculated @ 2.5% of the compensation amount.

5. You would appreciate that construction of NHs generate a lot of value and economic activity. As a matter of fact, these serve as major arteries of economic development and growth in the state concerned. Ideally, keeping in view that the state is the major beneficiary of the economic gains arising from National Highways developed/ constructed within its jurisdiction, the administrative costs should be borne by the state government as its token contribution in this behalf. You would agree that the administrative costs on land acquisition for the National Highways cannot be reckoned as a source of additional revenue generation for the state. As such, the states



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are expected to contribute their bit in this endeavour and the least they can do is to assist in the administrative process as part of their contribution. In any case, treatment of levy of administrative charges for Land Acquisition by the State concerned as a source of revenue generation, beyond the actual costs incurred in the process, is unacceptable.

6. Notwithstanding the above, in case you still decide to levy and recover the administrative costs for acquisition of land for the National Highway Projects in your state, I request you to kindly revisit the existing level of administrative costs and take recourse to any of the following options:

- (i) Raise a bill for the actual expenditure incurred by the State Government on land acquisition for the National Highways (this would entail a complex accounting problem in terms of working out the part time and effort of the deployed officers); or
- (ii) Consider prescribing a fixed amount per hectare acquisition cost (as in the case of Haryana, it is Rs. 1.00 lakh per acre or Rs. 2.5 lakh per hectare); or
- (iii) Cap the administrative charges at a uniform rate of 2.5% of the compensation amount, while allowing for adjustment of the expenditure incurred by the Project Implementing Agencies of this Ministry, on engagement of the Special Land Acquisition Support Units to assist the CALAs.

7. The project executing entities of MoRTH (e.g. NHAI/ NHIDCL and others) have been advised to restrict the payment of administrative charges up to 2.5% of the compensation amount in respect of land acquisition for all the on-going and future NH projects. I am constrained to clarify that it will be extremely difficult for the MoRTH and its project executing agencies to proceed further with their NH projects in your state without any further reference on the subject in the event your state has any reservations in accepting the above principle. I would be grateful if the Ministry could be informed about the decision of the state in the matter.

With regards

Yours sincerely,  
Sd/-  
(Y. S. Malik)

1. Shri Rajive Kumar,  
Chief Secretary to Government of Uttar Pradesh,  
Lal Bahadur Shastri Bhavan,  
UP Secretariat, Lucknow-226001
2. Shri Vinod Kumar Pipersenia,  
Chief Secretary to Government of Assam  
Secretariat, Dispur,  
Guwahati - 781006
3. Shri J. N. Singh,  
Chief Secretary to Government of Gujarat,  
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4. Shri Malay Kumar De,  
Chief Secretary to Government of West Bengal,  
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Kolkata - 700001

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5. Dr. K. M. Abraham  
Chief Secretary to Government of Kerala,  
Secretariat, Thiruvananthapuram
  6. Shri Anjani Kumar Singh,  
Chief Secretary to Government of Bihar,  
Old Secretariat, Patna - 800 015
  7. Shri V C Pharka,  
Chief Secretary, Government of Himachal Pradesh,  
Secretariat, Shimla-171001
  8. Sh. Sunil Kumar  
Chief Secretary to Government of Chhattisgarh  
CM Secretariat, D.K.S. Bhawan,  
Mantralaya, Raipur,  
Chhattisgarh – 492001
  9. Smt. Raj Bala Verma  
Chief Secretary to Government of Jharkhand,  
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  10. Shri Basant Pratap Singh,  
Chief Secretary to Government of Madhya Pradesh,  
Vallabh Bhavan, Bhopal-462003
  11. Shri Sumeet Mullick,  
Chief Secretary to Government of Maharashtra,  
Mantralaya, Mumbai-400032

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**Annexure-1**

**Details of Administrative Costs/ Charges levied by 13 States on acquisition of land for the National Highways**

1. The States of J&K, Punjab, Rajasthan, Karnataka, Andhra Pradesh, Telengana, and Tamil Nadu and all North-east States (except Assam) are not levying any administrative costs/ charges for acquisition of land for the NHAI projects. In case of Haryana also, the rates are very reasonable and the state has never insisted on payment of the same.
2. Following 13 states are levying the administrative charges on acquisition of land for the National Highways:

Sr. No.	State	Admin. Charges (AC)	Remarks
1	Assam	10% of the Compensation Amount	(i) Not all States are charging Administrative Costs (AC) at present. As per section 3(i) of RFCTLARR Act, 2013, AC is included in the cost of acquisition and such AC is to be specified by the appropriate Govt.
2	Bihar	20.5% of the Compensation Amount (20% + 0.50% contingencies)	
3	Chhattisgarh	10% of the Compensation Amount	
4	Gujarat	10% (for valuation amount above Rs.10 Lakh)	
5	Haryana	Rs. 1.00 lakh per acre as per clause 19 (ii) of Government of Haryana Government Notification dated 09.11.2010.	(ii) As may be seen, different State Governments are charging different ACs which do not appear to be based on any norm. Land acquisition expenses, on an average, have increased by 3 to 4 times as compared to pre-January, 2015 acquisitions, however, administrative charges being levied by the State Governments have not been rationalized.
6	Himachal Pradesh	9% (7% towards establishment charges + 2% contingencies) of Compensation Amount to be paid to the State Government.	
7	Jharkhand	6% to 21% of the Compensation Amount (5% to 20% Establishment Charges + 1% AC)	
8	Kerala	20% on cost of land or 50% of the total establishment charges of the regular LA Unit, whichever is less (as per order dated 14.06.1999).	
9	Madhya Pradesh	10% of the Compensation Amount	
10	Maharashtra	6% (3% AC to be deposited with State Govt. + 3% ( to be deposited in PLA) for facilities to the office of LAO)	
11	Uttarakhand	10% of the Compensation Amount	The State has agreed to levy administrative charges @ 2.5% of the compensation amount.
12	Uttar Pradesh	10% of the Compensation Amount	
13	West Bengal	10% of the Compensation Amount + capitalisation of 50% of market value of land.	

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**Annexure-2**

<b>Sr. No.</b>	<b>Activity</b>	<b>Scope of work</b>	<b>Agency bearing/ sharing the Costs</b>
<b>A.</b>	<b>Land Acquisition proceedings</b>		
1	Section 3(a) of the NH Act, 1956	Notification of Competent Authority for Land Acquisition (CALA) by the Ministry on the recommendations of the State concerned	Involves no administrative costs. Invariably, CALAs are full-time serving officers who look after this work in addition to their own office work.
2	Section 3-A of the NH Act, 1956	Preparation of the Notification Issue of initial Notification containing brief description of the land.	Basic ground-work done by the Land Acquisition Supporting Unit (comprising a team of contract/ retired revenue officials) engaged by NHAI/ NHIDCL and cost met by the acquiring agency.
		Vetting and issue of Notification by CALA	The time and effort put in by the CALA and his supporting staff of one or two employees is very limited.
		Publication in the newspapers	Cost of publication in the newspapers is borne by MoRTH or its agency e.g. NHAI, NHIDCL etc.
3	Action under Section 3-B of the NH Act	Survey and Investigation of the land	Action by CALA duly supported by the DPR Consultant and the land Acquisition Supporting Unit of NHAI/ NHIDCL.
4	Section 3-C of the NH Act, 1956	Invitation, examination and settlement of Objections received/ filed by the landowners/ interested persons	This is a substantive work but the inputs are provided by the DPR Consultants/ Land Acquisition Supporting Unit
7	Section 3-D of the NH Act, 1956	Declaration of Acquisition	The basic ground work and details under this sub-section are prepared by the DPR Consultants and the Land Acquisition Supporting Units, of course with due involvement/ association of the revenue officials of the jurisdiction. The actual expenditure on issue/ publication of Notices in the local newspapers is in any case borne by the land acquiring agency
8	Section 3-E of the NH Act, 1956	Power to take possession	-do-
9	Section 3-F of the NH Act, 1956	Entering upon the land vesting in the Central Government	-do-
10	Section 3-G of the NH Act, 1956	Determination of amount payable as compensation	The details under this sub-section are prepared by the DPR Consultants and the Land Acquisition Supporting Units, of course with association of the revenue

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Sr. No.	Activity	Scope of work	Agency bearing/ sharing the Costs
			officials of the jurisdiction. The actual expenditure on issue/ publication of Notices in the local newspapers is borne by the land acquiring agency.
11	Section 3-H of the NH Act, 1956	Deposit and payment of amount	-do-
<b>B. Arbitral proceedings</b>			
12	Section 3 G (5) of the NH Act, 1956	Appointment of Arbitrator	By the Central Government on the recommendations of the State Government
		Receipt of claims	By the Arbitrator's Office
		Hearings	By the Arbitrator
		Adjudication of the Claim	By the Arbitrator
	<b>Note:</b>	<p>The NHAI separately pays financial assistance for engagement of supporting staff required to assist the Arbitrator for all the processes (up to a period of one year):</p> <ul style="list-style-type: none"> <li>(i) An amount of Rs. 40,000/- per month where the no. of Arbitration cases are up to 150.</li> <li>(ii) An amount of Rs. 60,000/- per month if the number of Arbitration cases are more than 150.</li> </ul>	

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