

Post- Award Contract Management Manual for PPP Concessions

Volume – II: Port Sector



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Preface

Over the last decade, Government of India (GoI) has been placing a strong emphasis on the use of Public Private Partnerships (PPPs) in its strategy for expanding the provision of infrastructure services. Also, to facilitate a large scale expansion of PPPs on a sustainable basis, GoI introduced several initiatives which inter-alia included establishment of PPPAC, PPPIADF, an Infrastructure Project Development Fund, Viability Gap Fund to provide financial support for PPP projects, implementation of a National PPP Capacity Building Program, development of knowledge products and guidance material including PPP toolkit. These initiatives have helped India develop a large PPP program in the infrastructure sector.

In the process of implementation of PPP projects, policy makers have been increasingly identifying issues related to project delivery of PPP projects. Such issues primarily focus on Post Award Contract Management of these PPP projects, at the transaction as well as programmatic level and also the broader fiscal implications such as, for example, direct and contingent liabilities.

With this objective, the Department of Economic Affairs, Ministry of Finance, Government of India has made an attempt to develop guidance material for improving the post-award management of PPPs, with particular focus on day-to-day monitoring and proactive management of key risks in a manner that best preserves the interests of the users of infrastructure services and the concessioning authority. The guidance material developed for Post Award Contract Management of PPP Concessions has three components:

Post Award Contract Management Guidelines: “Post-Award Contract Management Guidelines” have been developed as a quick reference strategic road map for Authorities and Contract Managers. The guidelines provide the foundation principles of post award contract management for PPP projects irrespective of the sectors. The Guidelines establish only “Why” and “What” of contract management practices and therefore, to understand “How” contract management needs to be undertaken in a specific sector, the “Post-Award Contract Management Manual” has been developed.

Post Award Contract Management Manuals: The Post Award Contract Management Manual for PPP Concessions has been designed to provide guidance on various activities required to be undertaken by the Authority officials at different stages of project lifecycle. The manuals have been developed for PPP projects in three sectors, viz. Highways, Ports and Schools (Volume I, II and III respectively), where each manual is based on the Model Concession Framework of Government of India for that sector. These manuals serve as model post award contract management guides with a detailed, step-by-step approach to effective contract management in these sectors.

Online Toolkit: The online toolkit is a web-based application which provides a quick reference, interactive and user friendly toolkit to understand and manage PPP projects. The online toolkit provides option to the users to use various checklists, project progress plans and excel tools to manage the PPP contracts. It also provides an interactive toolbox which is a dedicated tool for tracking progress of various post award activities. This feature allows officials to update the status of the activities, save their details and print for future use.

This toolkit would be available in the existing www.pppinindia.com web portal hosted by PPP Cell, Infrastructure Division, DEA. It can also be accessed through an existing online database by DEA for Infrastructure Projects, www.infrastructureindia.gov.in.

This guidance material for Post Award Contract Management for PPP Concessions has been developed by Deloitte Touche Tohmatsu India Private Limited. We would like to acknowledge the support and guidance of staff and officers of DEA, especially, Ms. Sharmila Chavaly, Joint Secretary, DEA and Ms. Abhilasha Mahapatra, Director, PPP Cell, DEA for providing their valuable inputs and feedback in making this guidance material highly comprehensive and user-friendly.

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List of Abbreviations

Abbreviation	Explanation
PPP	Public Private Partnership
FDI	Foreign Direct Investment
CA	Concession Agreement
CP	Condition Precedent
ROW	Right of Way
PPP PMU	PPP Project Monitoring Unit
PPP PRU	PPP Project Review Unit
TAMP	Tariff Authority for Major Ports
TEU	Twenty foot Equivalent Unit
SE	Superintending Engineer
DE	Divisional Engineer
MCA	Model Concession Agreement
LOIA	Letter of Intent for Award of Concession
SPV	Special Purpose Vehicle
MPT Act	Major Port Trusts Act
COD	Commercial Operations Date
O&M	Operations and Maintenance
RFQ	Request for Qualification
RFP	Request for Proposal
BOT	Build Operate Transfer
OMT	Operations, Maintenance and Transfer
EPC	Engineering, Procurement and Construction
KPI	Key Performance Indicator
TPC	Total Project Cost
NGO	Non-Governmental Organization
INR	Indian National Rupees
EE	Executive Engineer

Abbreviation	Explanation
NPV	Net Present Value
IFRS	International Financial Reporting Standards
EOI	Expression of Interest
PRS	Performance Review System
MIS	Management Information System
CPIS	Computerized Port Information System
PIS	Port Information System
PPP PIS	PPP Project Information System
SBI PLR	State Bank of India Prime Lending Rate
ICD	Inland Container Depot

Executive Summary

Introduction

PPP projects are generally long term in nature and undergo a full lifecycle, with Authority inviting applications from interested private parties through Requests for Qualification (RFQs) and Requests for Proposal (RFPs) and ending with its handover to the Authority upon expiry. Given this, there are number of stages through which a Port PPP Concession undergoes. **Of the five stages of the PPP lifecycle, the post-award stages commence upon issuance of Letter of Intent of Award (LOIA) to the successful bidder and end on expiry / termination of Concession.**

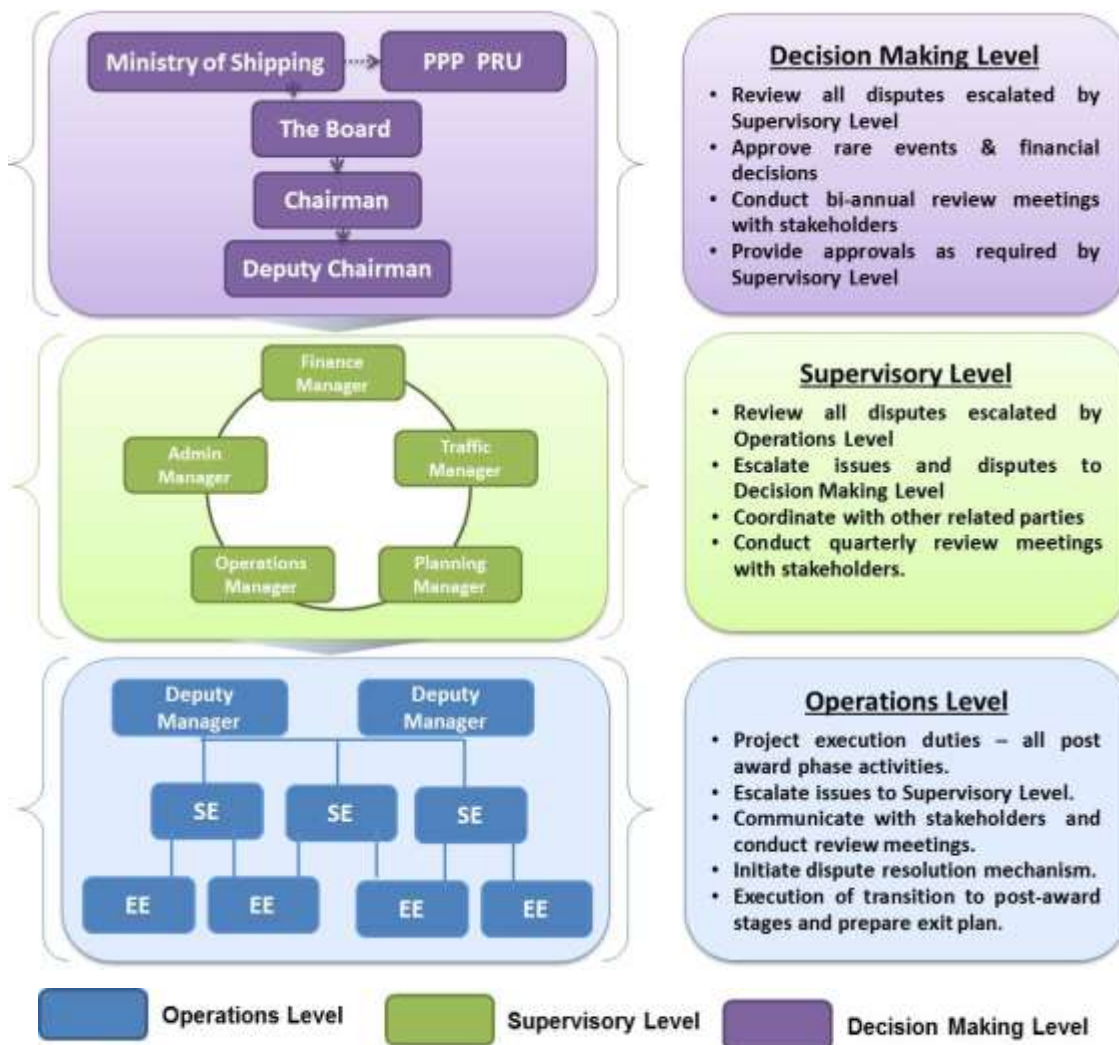
Thus, Post- Award Contract Management denotes all those activities that are required to be undertaken by the Authority to administer, manage, govern and execute the project from time of Award until its termination. This summary document on **Post- Award Contract Management Manual for Port PPP Concessions** has been designed to provide guidance to the Authority officials to effectively manage the project at different stages of project lifecycle by adopting the following step-by-step guide:



1

Step 1: Setting up of the Contract Management Team

The contract management team plays an important role in managing the entire gamut of activities in a Port project execution. Thus, members of Contract Management team from each level within the Authority have to be appointed keeping in mind their roles and responsibilities and ensuring that each one of them is apprised of their duties in a clear and transparent manner. In Ports, while the major governing Authority is the Port Trust for each port, the Ministry of Shipping presides over all Port Trusts and is responsible for approving all Port PPP concessions. Once the projects are approved and Concessionaire is sanctioned by the Ministry, the Concessions Authority/Port Trust is responsible for all activities. Hence, the Contract management team is set up at the Port Trust and consists of three levels: Operations Level, Supervisory Level, and Decision Making Level.



For detailed activities refer Chapter II – Key Elements of Post Award Contract Management

2

Step 2: Development of Contract Management Plan

A Contract Management Plan is necessary for a comprehensive understanding of procedures for approaching each contract management activity in a Port concession. It needs to be designed such that all aspects of contract management are covered and Authority officials are directed such that they execute their tasks with ease. The following diagram highlights process to be followed for development of a Contract Management Plan.



3

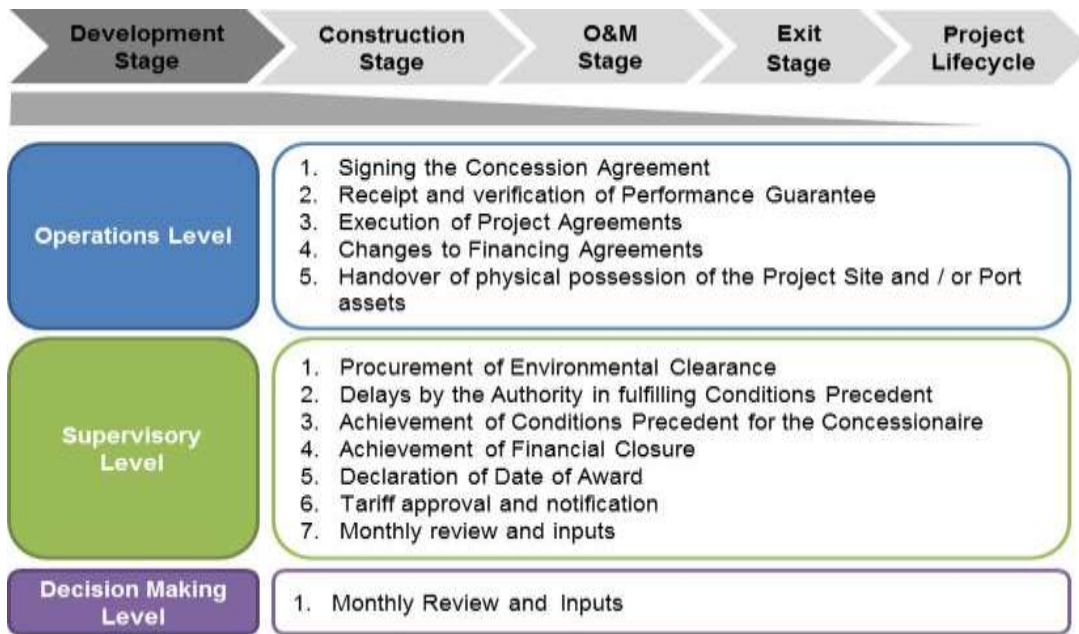
Step 3: Managing the Concession

After the contract management plan is designed, it is necessary to update and review the plan on a timely basis for effective implementation and execution of the project. Any changes or updates to the project, which may have a possible impact on the Contract Management plan must be documented as they occur. Thus, a stage wise plan depicted as below, effective from date of project award till contract termination, will help the Authority manage routine and rare Contract Management Activities.

3A

Step 3A: Contract Management at Development Stage

For the purpose of Contract Management, the Development stage commences from the date of issue of Letter of Intent for Award of Concession (LOIA) and continues till the declaration of Date of Award of Concession (date from which the concession period starts). During this stage, various activities are undertaken by the Concessions Authority for which different level of officials are made responsible as per the Contract Management Plan. The diagram below presents a level-wise list of activities during the Development stage of the project execution.

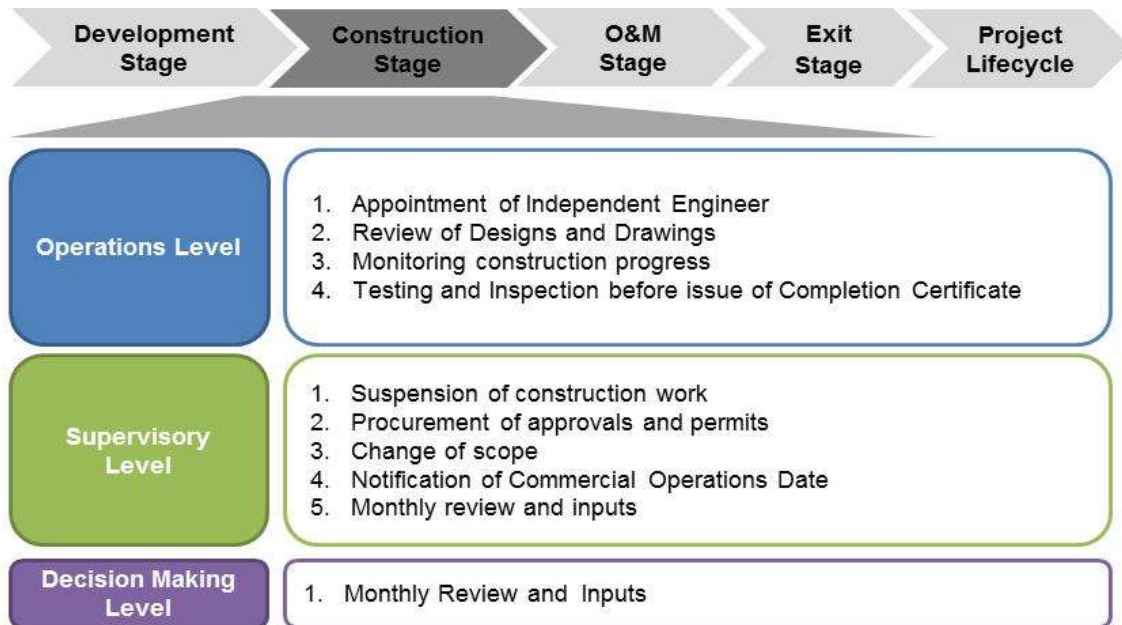


For detailed activities refer Chapter III – Contract Management Activities in Development Stage

3B

Step 3B: Contract Management at Construction Stage

For the purpose of Contract Management, the Construction stage commences from the Date of Award of Concession and continues till the completion of the construction (generally the Commercial Operations Date). The diagram below presents a level-wise list of activities in the Construction stage.

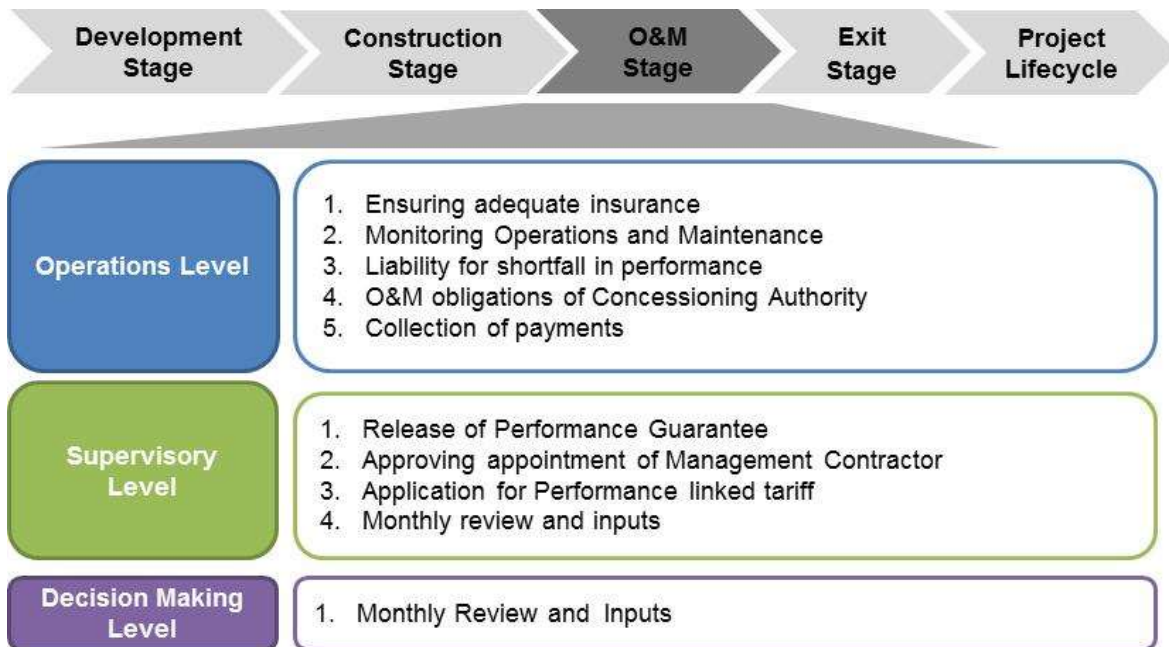


For detailed activities refer Chapter IV – Contract Management Activities Construction Stage

3C

Step 3C: Contract Management at Operations and Maintenance Stage

For the purpose of Contract Management, the Operations and Maintenance stage commences from the Commercial Operations Date (COD) and continues till the end of the Concession period. During this stage various activities are undertaken by the Concessions Authority where different levels of officials are responsible as per the Contract Management Plan. This section provides an activity based roadmap for post-award management of the contract in this stage. The diagram below presents a level-wise list of activities in the Operations and Maintenance stage.

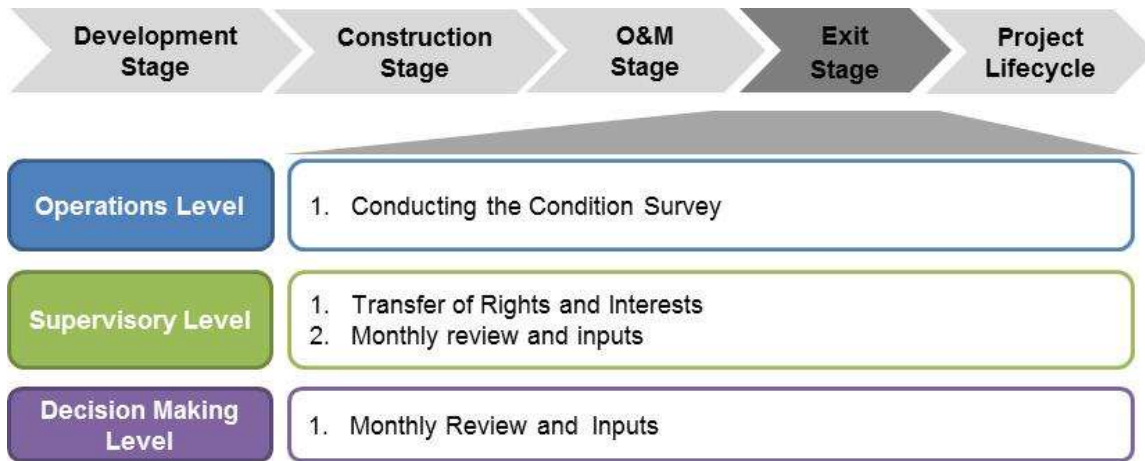


For detailed activities refer Chapter V – Contract Management Activities during O&M Stage

3D

Step 3D: Contract Management at Exit Stage

For the purposes of contract management, Exit Stage commences from the Termination Date and continues till the final settlement. The following diagram highlights key activities undertaken by Authority officials. On termination of the concession, the Concessionaire is responsible for completing contract responsibilities and handing over the Port Facilities and Assets back to the Concessions Authority. The Concessions Authority, on the other hand, is responsible for ensuring service continuity for users. The diagram below presents a level-wise list of activities in the Exit stage.

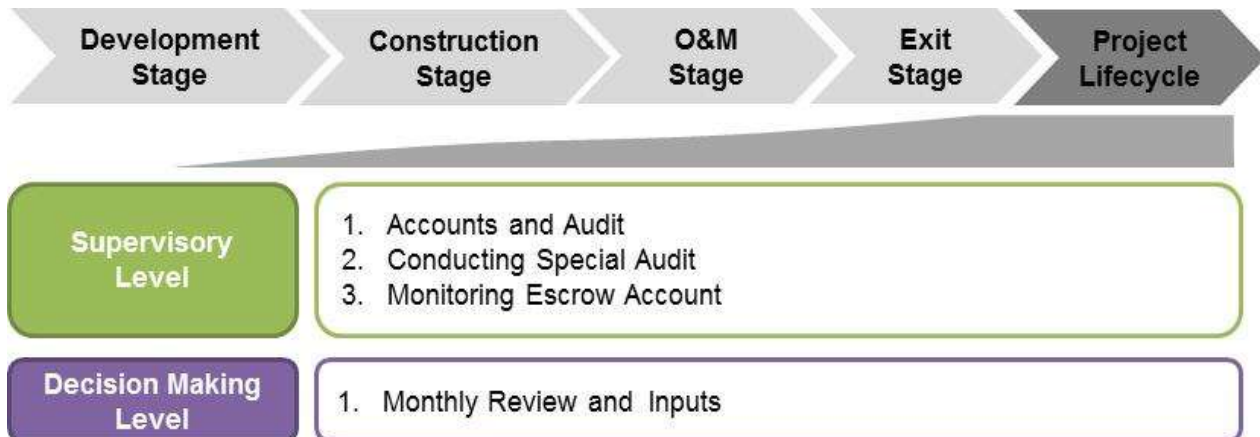


For detailed activities refer Chapter VI – Contract Management Activities during Exit Stage

3E

Step 3E: Contract Management during project Lifecycle

Throughout the Project life cycle (i.e. from Date of Award of Concession till final settlement), various key activities are undertaken by the Concessions Authority for which different levels of officials are made responsible as per the Contract Management Plan. The diagram below presents a level-wise list of post-award Contract Management activities throughout the project life cycle.



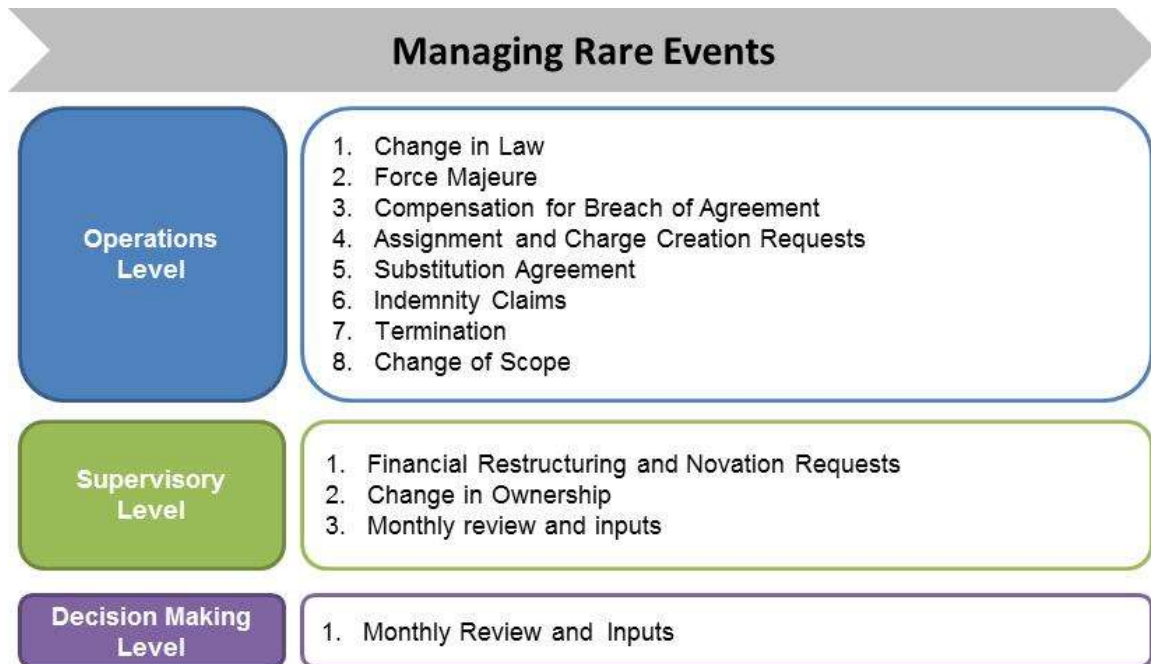
For detailed activities refer Chapter VII – Contract Management Activities During Project Lifecycle

3F

Step 3F: Managing Rare Events

There are many risks a project faces pertaining to change in policy, force majeure events such as natural calamities which are unexpected, untimely or premature terminations of project due

to unforeseen circumstances. Such events occur rarely, but when they do, they leave a huge impact on the project leaving the progress stalled for a long period and causing huge inconvenience to all stakeholders. This section describes all major rare events and how the Authority should manage them to limit the losses out of them.



For detailed activities refer Chapter XII – Managing Rare Events

3G Step 3G: Managing Issues and Disputes

It has often been observed that there have been considerable mismatch between the expectations of the Authority and deliverables of Concessionaire resulting in issues and disputes. These issues and disputes further leads to stalling and unending delays in the project progress damaging Authority’s reputation.

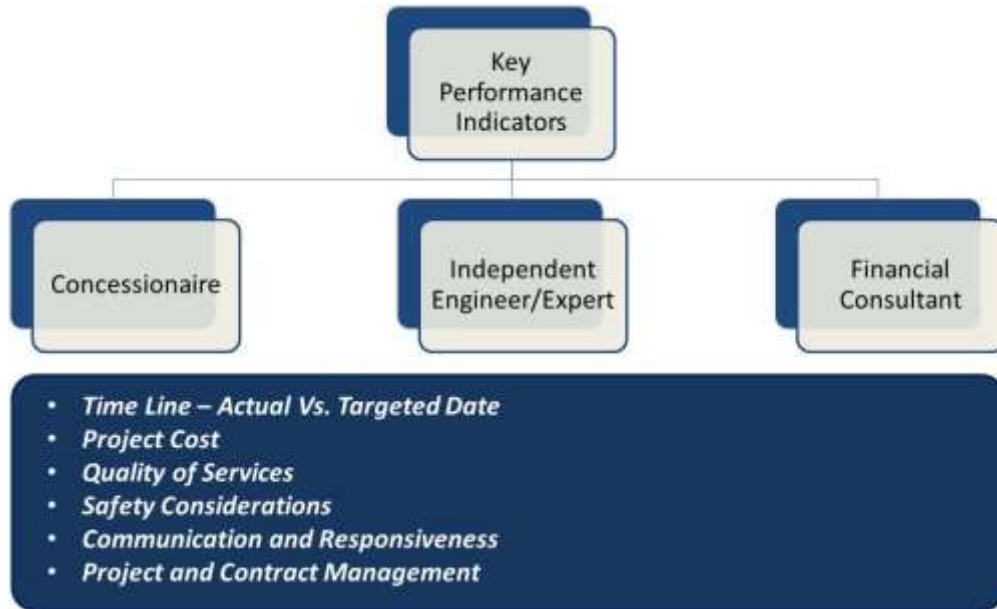
Therefore, timely resolution of these disputes is of great essence for the Authority as well for the users to achieve the desired project milestones as per the given timelines. Thus this section elaborates on how a well-defined Dispute Resolution Mechanism can be devised by the Port Authorities for effective tracking and resolution techniques.

For detailed activities refer Chapter X – Managing Issues and Disputes

4 Step 4: Performance Monitoring and Review

Performance of the Concessionaire and other related parties should be regularly monitored and reported by the Contract Manager to ensure the project remains within the pre-planned cost

levels and timelines. This section identifies Key Performance Indicators for each stakeholder that must be tracked and reviewed on a regular basis to ensure efficient project execution.

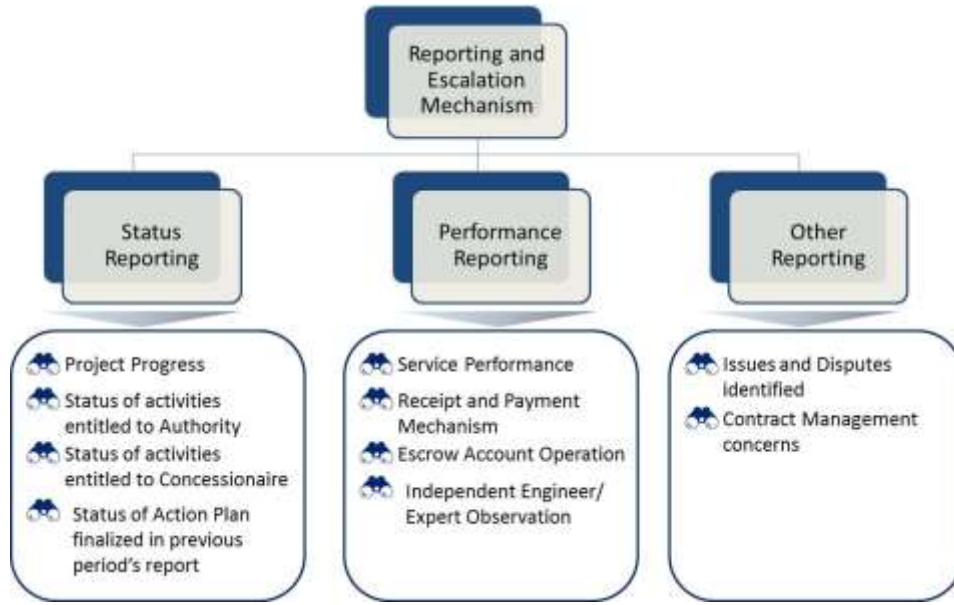


For detailed activities refer Chapter VIII – Performance Monitoring and Review

5

Step 5: Reporting and Escalation Mechanism

In any Port concession, even if management and monitoring of each project activity is done actively, it has been observed that no such activity is complete without regular and timely reporting of these activities by the Authority officials at higher levels. Moreover, it is critical from the project execution viewpoint that any issue which crops up is escalated in a timely fashion to the Supervisory and Decision Making Level for fast, suitable and timely action. This section describes how project status reporting, review and escalation activities are to be executed within Operations Level, Supervisory Level and Decision Making Level of the Authority and how performance should be reported on a regular basis to ensure smooth functioning of the concession.



For detailed activities refer Chapter IX – Regular Reporting and Escalation

6

Step 6: Risk Management

The Authority needs to develop a comprehensive risk management plan for all PPP Concessions so that proactive management of risks is done on a regular basis. This section clearly lists down all major risks for a project and provides mitigation and monitoring practices.

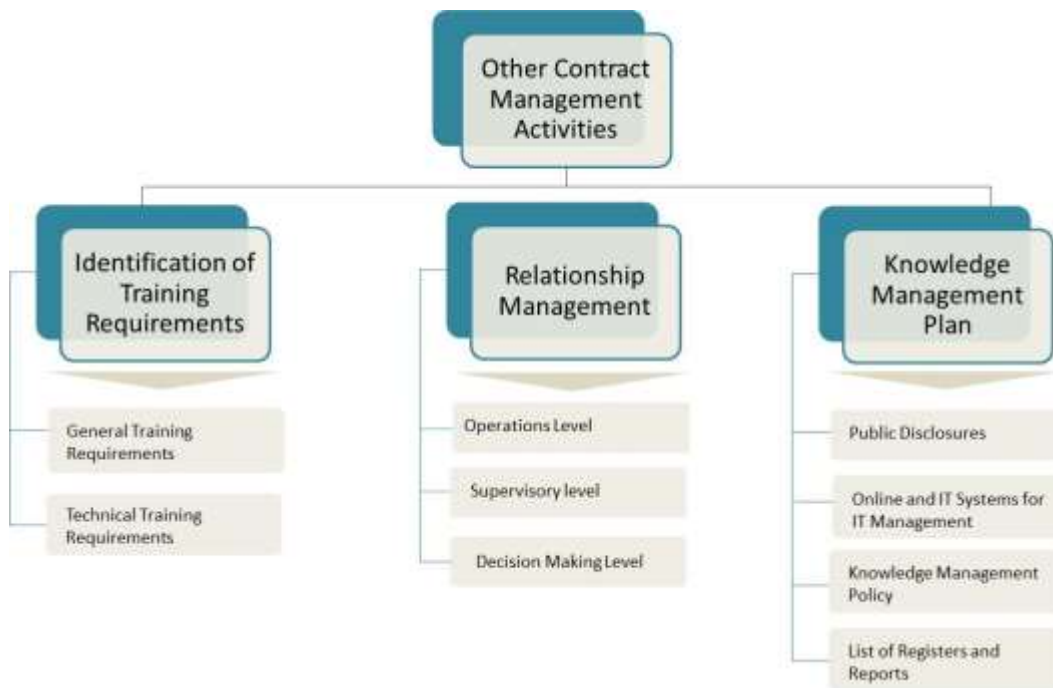


For detailed activities refer Chapter XI – Risk Management

7

Step 7: Other Contract Management Activities

Knowledge Management and Information Dissemination is an important aspect for managing all documented assets of the project which can be used for future references. This section clearly highlights the provisions to be made by the Authority for sound Knowledge Management and Information Dissemination practice.



For detailed activities refer Chapter XIII – Other Contract Management Activities

I. Introduction to Post-Award Contract Management in Port PPP Concessions

1. Defining Post- Award Contract Management in PPP Projects

Public Private Partnerships (PPPs) have gained immense importance in India in the last decade. Much of the India's success in rapid development of its infrastructure capabilities can be attributed to PPP projects undertaken by the Government of India (GOI). For any PPP project to commence, a Concession Agreement (CA) is signed between two parties i.e. the Authority and the Private Party/ Concessionaire. Each of these parties is assigned a set rights and obligations under the terms of Agreement.

The Post- Award period in any PPP Project, commences upon Award of Concession/ Project (i.e. from the Date of issue of Letter of Award to the Successful Bidder) and ends after the completion of the Project and expiry/ termination of Concession Agreement. Thus, with regards to the **Authority**,

“Post- Award Contract Management denotes all those activities that are required to be undertaken by the Authority to administer, manage, govern and execute the project from time of Award of project up till its termination.”

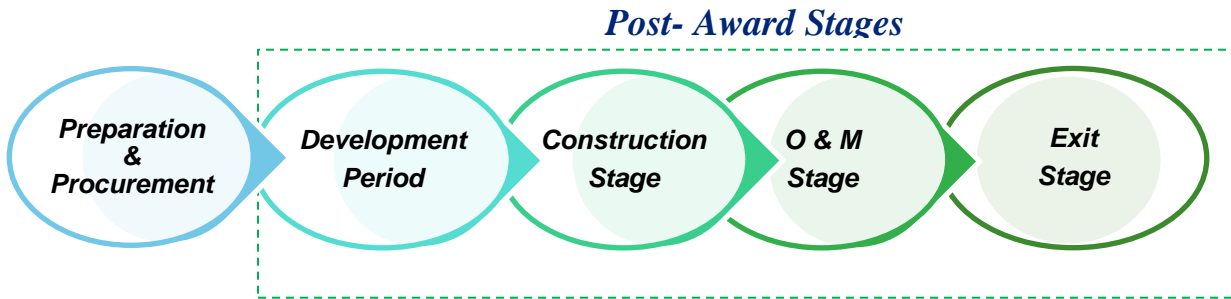
2. Understanding Project Lifecycle Stages for Post- Award Contract Management

PPP projects are generally long term in nature and undergo a full lifecycle, right from the Authority inviting applications from interested private parties through Requests for Qualification (RFQs) and Requests for Proposal (RFPs) and ending with its handover to the Authority upon expiry of Concession Period. Given this, there are number of stages through which a Port PPP Concession undergoes. The project lifecycle may be split into the five stages, namely, Project Planning and procurement, Development Period, Construction, Operations & Maintenance and Exit Stage, as shown in the adjoining figure.



The post-award stage commences upon issuance of Letter of Intent of

Award (LOIA) to the successful bidder and ends on expiry / termination of Concession. Thus, Post-Award stages in a Port PPP lifecycle consist of:



All four post-award stages of a Port project are marked by a timeline comprising a start and an end date. In each of these stages, a number of activities are required to be undertaken by the various officials within the Authority ranging from routine activities, rare event management to dispute management. Moreover, from the Authority’s perspective, Post- Award Management of Port PPPs is about ensuring that the PPP project meets its objective on continuous basis, while managing risks proactively and maintaining cordial working relationships and partnerships among various stakeholders.

*“This **Post- Award Contract Management Manual for Port PPP Concessions** has been designed to provide guidance on various activities required to be undertaken by the officials of the Authority at different stages of project lifecycle. Having said that, it is important to take note of what all is contained in this manual, to understand the criticality of development of this manual and the objectives it desires to serve. This chapter describes a brief background on ‘Why’ and ‘How’ this manual will add value to the Authority officials”*

3. Need for Manual for Post-award contract management of Port Concessions

The Concession Agreement clearly lays down the obligations of each contracting party to the Agreement, their associated risks and rewards and the policy and regulatory framework for the project implementation. In addition, it also addresses other important concerns such as User Protection, Independent Monitoring and Dispute Resolution Mechanism. Although the Concession Agreement clearly specifies the responsibility, various financial and operational issues emerge subsequent to the signing of the Agreement leading to major overhauls and stalling of the projects. In such a scenario, Contract Management in post-award phase of a PPP project becomes substantially important owing to the long tenure of the project, complex nature of activities, involvement of various stakeholders etc.

Thus, it is essential to develop a well-defined structure for Authority officials to be executed for supervision of the Concession Agreement. In India, Ports sector is governed by Ministry of Shipping at the Central Level and by various Port Trusts at the regional level. Further the tariff

is governed through a tariff regulatory body known as TAMP”. All project execution activities are overseen and governed by these three responsible Authorities, to resolve existing issues in a timely manner and avoid new issues to arise. Thus, it is important for all the Authority officials to understand their obligations and duties and act accordingly. To serve these needs, the “**Post-Award Contract Management Manual for Port PPP Concessions**”, hereby referred to as “*Manual*”, has been developed.

Even though “Post-Award Contract Management Guidelines” have been developed as a quick reference strategic road map for Authorities and Contract Managers, they are sector agnostic. While the Guidelines only establish “Why” and “What” of Contract Management practices, they are generic in nature. Therefore, to understand, “How” Contract Management needs to be undertaken in a specific sector, Post Award Contract Management Manual for Port PPP Concessions has been developed to serve as Model Guide for the Authority officials in the Port sector. Moreover, it clearly defines a detailed action plan for the Port sector Authorities at national level as major port concessions form a large part of PPP investment in India and hence hold immense importance for the exchequer.

4. Objectives of Post-Award Contract Management Manual for Port PPP Concessions

The key objective of Post- Award Management of Port PPPs is to ensure that the PPP project meets its objectives on a continuous basis, while managing risks proactively and maintaining cordial working relationships and partnerships with various stakeholders.

This Manual for Contract Management for the Ports sector has been designed to act as a *Model Guide* for all Port sector Authorities, to manage the contract during the Development, Construction, Operations & Maintenance and Exit stages of a PPP concession. It provides guidelines on:

- **Responsibilities and obligations** of each Authority official
- **Development of comprehensive Contract Management Plans**
- **Reporting and escalation mechanisms** for project status and any defaults
- **Rare event and dispute management mechanisms** for effective and fast resolution

The Manual has been developed in sync with the MCA for Major Ports in India. Although, it is comprehensive enough to be adopted directly for any port concession, each port concession is structured differently according to technical, market, operational, financial and other nuances. Also, rules, regulations and laws prevailing in each state for minor ports are different from each other and from those applicable to major ports. Hence, while planning for Contract Management of a project, the recommendations, templates and tools in this Manual also need appropriate customization by the Authority to meet project-specific requirements.

5. Coverage of Post- Award Contract Management Manual for Port PPP Concessions

Post- Award Contract Management starts from appointing a dedicated team within the Authority, having clear understanding of roles and responsibilities to be executed in a Port Concession. This team further establishes a Contract Management Plan elaborating all guiding rules and principles for effective management of the Port Concession. Finally, the team executes all Contract Management actions including routine as well as rare event management in reference to the plan. The manual majorly consists of the following:



6. Users of the Port PPP Concessions Manual

The users of this manual would include:



II. Key Elements of Post-Award Contract Management in Port PPP Concessions

Post-award contract management consists of a gamut of activities which form the overall Contract Management framework for any PPP project. This chapter provides a snapshot of all activities to be undertaken by Authority officials at various designations and during different stages of project execution.

1. Setting up the Contract Management Team

1 **Setting up the Contract Management Team**

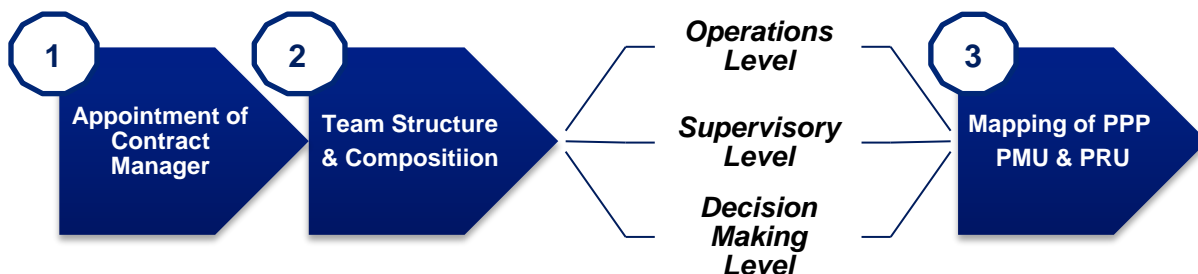
- a) Appointment of Contract Manager
- b) Identify officials within the organization/ authority for each of the 3 levels i.e.
 - i. **Operational Level**
 - ii. **Supervisory Level**
 - iii. **Decision Making Level**
- c) Setting up PPP Project Monitoring Unit (PMU) & PPP Project Review Unit (PRU)

In Ports, while the major governing Authority is the Port Trust for each port, the Ministry of Shipping presides over all Port Trusts and is responsible for approving all Port PPP concessions. Once the projects are approved and Concessionaire is sanctioned by the Ministry, the Concessions Authority/Port Trust is responsible for all activities. Hence, the Contract management team is set up at the Port Trust and consists of three levels:

- Operations Level,
- Supervisory Level, and
- Decision Making Level

The contract management team plays an important role in managing the entire gamut of activities in a Port project execution. Thus, members of Contract Management team from each level within the Authority have to be appointed keeping in mind their roles and responsibilities and ensuring that each one of them is apprised of their duties in a clear and transparent manner.

The process of identification and setting up of the team begins from appointing the contract manager who plays a critical role in coordinating with each team member and is the overall in-charge of the project. The process of setting up a contract management team consists of:



The next section describes the structure and timelines for appointment of the Contract Manager and the team.

1.1. Appointment of Contract Manager

The Contract Manager (Supervisory Level official) has direct responsibility for project execution and contract administration. The Contract Manager is the first point of contact for all project related issues and coordinates with other officials within the Authority.

Since the Contract Manager is appointed during the Development stage itself, rigorous selection process for appointing the appropriate person should be followed. The designated official will represent the Authority's interests and ensure that concessionaire's performance is in sync with the contract terms.

1.2. Team Structure and Composition

After the Contract Manager is selected, the next step is defining team requirements, its structure and composition. The Contract Manager must communicate the requirements for the contract management team and its operations to the Chairman at the Decision Making Level, along with details of roles and responsibilities of each member of the team.

The size of the team required is to be decided based on: Size of project, Complexity of project activities, risks envisaged and their potential consequences and quantum of efforts estimated for the appointed officials based on allocation of responsibility. Usually, not more than 3-4 representatives from Operations Level, 2-3 from the Supervisory Level and one Decision Making Level official needs to be appointed as a part of the team. Below is the color scheme used to indicate each of the Authority levels to aid users for developing better understanding. The authority level, its activities and its responsibilities have been indicated in the mentioned colour code throughout the manual.



The role and responsibilities of officers at each level and the frequency of their meetings should be defined as below.

Operations Level
<p><u>Constitution</u></p> <ul style="list-style-type: none">• Deputy Head of Dept.• Executive Engineer• Superintendent Engineer <p><u>Responsibilities</u></p> <ul style="list-style-type: none">• All post award contract management activities.• Escalate issues to Supervisory Level.• Communicate with stakeholders and conduct review meetings.• Execution of transition to post-award stages and prepare exit plan.

Supervisory Level

Constitution

- Chief Managers/ Chief Engineers representing Port Planning, Operations, Finance, Traffic & Administration.

Responsibilities

- Review all issues escalated by Operations Level
- Escalate issues to Decision Making Level
- Coordinate with other related parties
- Conduct quarterly review meetings with stakeholders

Decision Making Level

Constitution

- Board Members
- Deputy Chairman
- Chairman

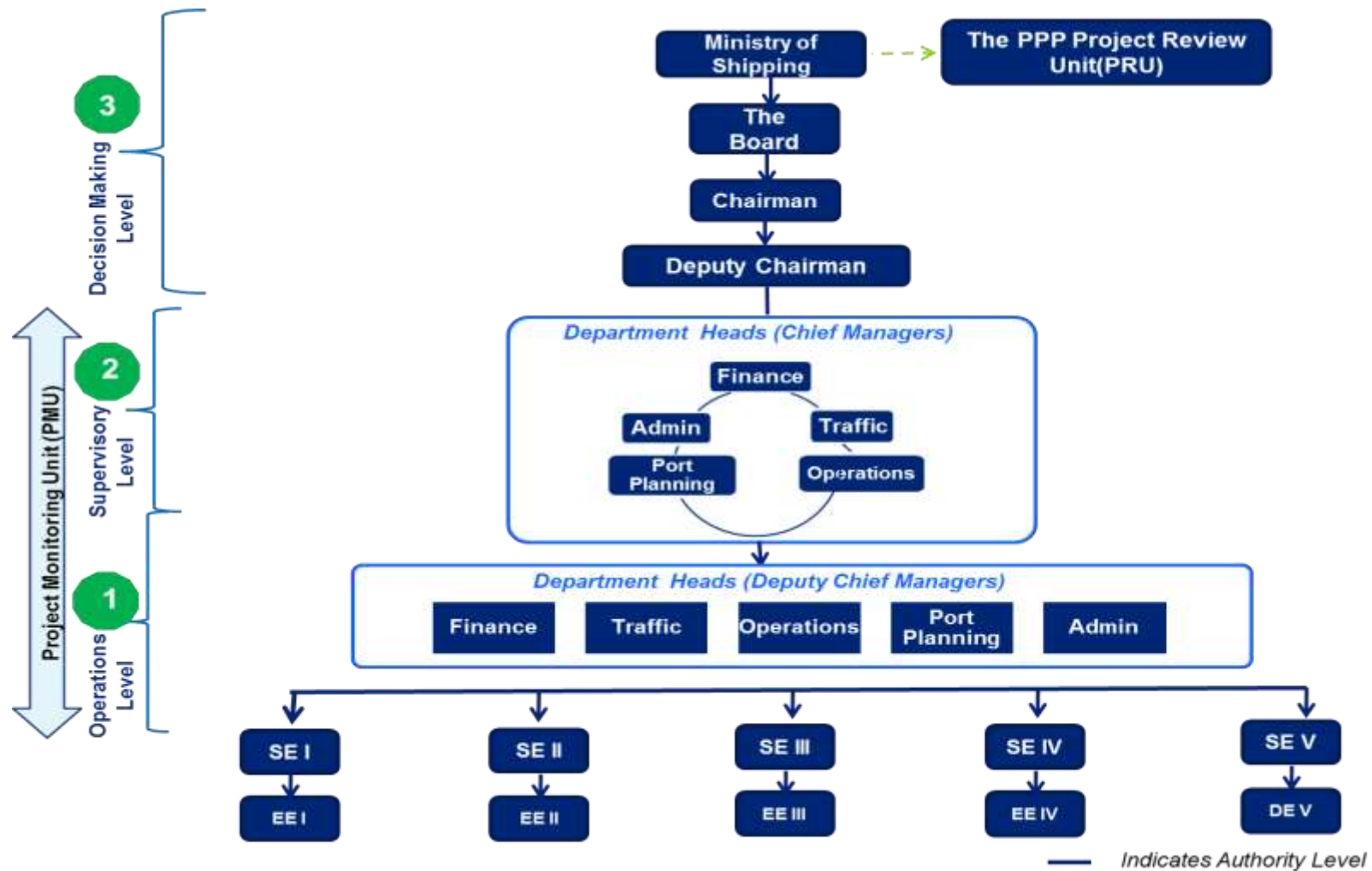
Responsibilities

- Review all disputes escalated by Supervisory Level
- Approve rare events & financial decisions
- Conduct bi-annual review meetings with stakeholders
- Provide approvals as required by Supervisory Level

The designations or responsibilities allotted to relevant personnel may vary from port to port. As per the Government of India guidelines¹, the PPP Project Monitoring Unit (PMU) comprises of the Operations and Supervisory Level at the Port while the PPP Project Review Unit (PRU) comprises the Decision Making Level officials at the Ministry. Apart from the Authority officials, there are other related parties such as Independent Engineer, Financial Consultant etc. who are appointed by the Authority. Since they play an important role in managing a Port PPP Concession, they should also form part of the Contract Management Team.

¹ Refers to Guidelines for Institutional Mechanism for Monitoring of PPP Projects by Govt. of India

The contract management team structure must be designed as per the project requirements. A model structure is shown below:



There are also other related parties such as the Independent Engineer, Financial Consultant, etc. which play an important role in managing a Port PPP Concession effectively on behalf of the Authority and are appointed by it. Hence, these parties also form a part of the Contract Management Team. The appointment mechanism and major responsibilities for these parties have been listed in **Annexure M, Appointment & Responsibilities of Other Related Parties**. They must be referred before selecting any related party.

2. Developing Contract Management Plan

2

Development of Contract Management Plan

- a) Stage- wise Contract management Activities i.e. Development, Construction, O&M & Exit
- b) Ongoing review plan

A Contract Management Plan is necessary for a comprehensive understanding of procedures for approaching each contract management activity in a Port concession. It needs to be designed such that all aspects of contract management are covered and Authority officials are directed such that they execute their tasks with ease. This makes the Contract Management Plan one of the most important documents for effective management of the project by the Authority.

. The process for development of a Contract Management Plan includes:



Template for a model Contract Management Plan is provided in **Annexure A** and procedure for development of Contract Management Plan is provided in **Annexure B**.

The main contents in any contract management plan include:



After the contract management plan is designed, it is necessary to update and review the plan on a timely basis for effective implementation and execution of the project. Any changes or updates to the project, which may have a possible impact (positive and negative) on the Contract Management plan must be documented as they occur.

Appropriate modifications must be made in the Plan to reflect the new scenarios and designated officials must be made responsible for tracking and implementing each change. A template for ongoing review of the Plan has been added as **Annexure C**.

The next section presents how Port PPP Concessions are to be managed.

3. Managing Port PPP Concessions

3

Managing the Concession

- a) Stakeholder & Lifecycle stage- wise Active Post award contract management
- b) Managing Rare events
- c) Managing Issues & Disputes

Managing Port PPP Concessions is a complex task with multiple activities throughout the project lifecycle. Each official within the Authority must undertake a series of tasks and report to its Supervisor on time, in case of any default.

An activity wise road map under each stage of the project has been developed which describes the role officers have to play at each level or project execution. To illustrate:



The key activities that are required to be undertaken by Operations Level between issue of LOIA and signing the Concession Agreement are provided below:

1. *Communicate the results of evaluation of bids and issue Letter of Intent of Award to the successful bidder*
2. *In case the successful bidder does not submit the LOIA acceptance within the stipulated timeline as specified in the bidding documents, the Authority initiates the process for forfeiture of bid security submitted by the successful bidder*
3. *In case of receipt of timely acceptance of the LOIA, the Concessions Authority seeks submission of draft SPV formation documents from the successful bidder*
4. *The Authority seeks comments on the draft SPV formation documents (as submitted by successful bidder) from Legal / Finance Department and communicates the same to the successful bidder*
5. *The Authority receives final SPV formation documents along with Certificate of Incorporation from the successful bidder and initiates the process for execution of the Concession Agreement*
6. *The Authority and the successful bidder signs the Concession Agreement*
7. *Report to the Supervisory Level in case of default*

1.1. Signing of the Concession Agreement

#	Activities	Responsibilities / Action Points	Timeline
a)	Concession Agreement Signing	Step 1: Concessioneing Authority to accept the LOIA acceptance letter from the successful bidder.	Within 7 days of issuance of LOIA
		Step 2: Concessioneing Authority may send reminder letter to the successful bidder in case the successful bidder does not submit the LOIA acceptance letter to the Concessioneing Authority.	Within 15 days of issuance of LOIA
		Step 3: Concessioneing Authority to accept the LOIA acceptance letter from the successful bidder after the reminder.	Within 7 days of receipt of reminder letter from Concessioneing Authority
		Step 4: Concessioneing Authority may forfeit the Bid Security in case the successful bidder does not submit the LOIA acceptance to the Concessioneing Authority within such timelines.	Within 7 days of issuance of reminder letter
		Step 5: Concessioneing Authority to review and approve the submitted draft documents for incorporation of an SPV by the successful bidder.	Within 15 days of acceptance of LOIA
		Step 6: Concessioneing Authority to send all legal documents (as submitted by successful bidder) to the Legal / Finance Department for review and comments. After receiving the opinion from Legal / Finance Department, Concessioneing Authority to communicate the same to the successful bidder.	Within 7 days of receipt of such documents
		Step 7: Concessioneing Authority to suggest required changes in SPV incorporation documents and further review and approve the revised documents submitted by the successful bidder.	Within 7 days of receipt of such comments
		Step 8: Concessioneing Authority to send all revised documents (as submitted by successful bidder) to the Legal / Finance Department for further review and comments. After receiving Legal / Finance Department's opinion, Concessioneing Authority to issue	Within 7 days of receipt of such documents

Contract Management Activities to be undertaken by the Authority officials for managing Port PPP Concessions during all four project execution stages, namely, Development Period, Construction, Operations & Maintenance and Exit, are described in detail in this manual. In addition to these, step by step procedure to be followed for management of issues, disputes and rare events are also described for reference of the users.

The following section lists key milestones to be achieved in a Port concession as per the Concession Agreement.

3.1. Key Milestones to be achieved in Port PPP Concessions

The tables below summarize timelines for key milestones of the project as per the MCA. These timelines must be referred by the Authority officials to ensure timely execution of project by the Concessionaire. For concessions signed prior to the development of MCA or for state level Ports, these timelines should be adequately modified by the Authority officials as per the project requirements.

Development Stage

#	Activities	Key Dates
1	Signing of Concession Agreement	Within 45 days of issuance of LOIA
2	Submission of Performance Guarantee	Within 90 days of CA signing date
3	Financial Closure	Within 90 days of CA signing date
4	Condition Precedent (CP)	Within 90 days of CA signing date
5	Date of Award of Concession	Within 90 days of CA signing date
6	Handing Project Site/ Port Assets	Within 90 days of CA signing date

Construction Stage

#	Activities	Key Dates
1	Scheduled Construction Completion Date	As specified in the Concession Agreement
2	Commercial Operation Date (COD)	After Completion of Construction

Operations & Maintenance Stage

#	Activities	Key Dates
1	Release of Performance Guarantee	6 months from date of Commercial Operations
2	Monthly Reports	Within 15 days from the end of each month
3	Appointment of Experts	Annually
4	Service Provision	As agreed in the Concession Agreement

Exit Stage

#	Activities	Key Dates
1	Termination Notice	At least 180 days before the Termination Date
2	Termination Date	After Expiry of the Concession Period or any date mutually agreed by both parties
3	Termination Payment	Within 15 days from Termination Date

The following section briefly describes the key activities to be undertaken by the Authority officials during project execution.

3.2. Key Activities in a Port Concession Lifecycle Stages

During any Port PPP Concession, Post- Award activities start from the Development Period and continue until the Exit stage of the project. Further, there are few activities which may be applicable during all stages or multiple stages of execution and hence have been categorized separately as “Activities to be undertaken throughout the Project Lifecycle”. This section lists down all major activities to be taken by each Authority official for each post- award project lifecycle stage.

A. Development Period

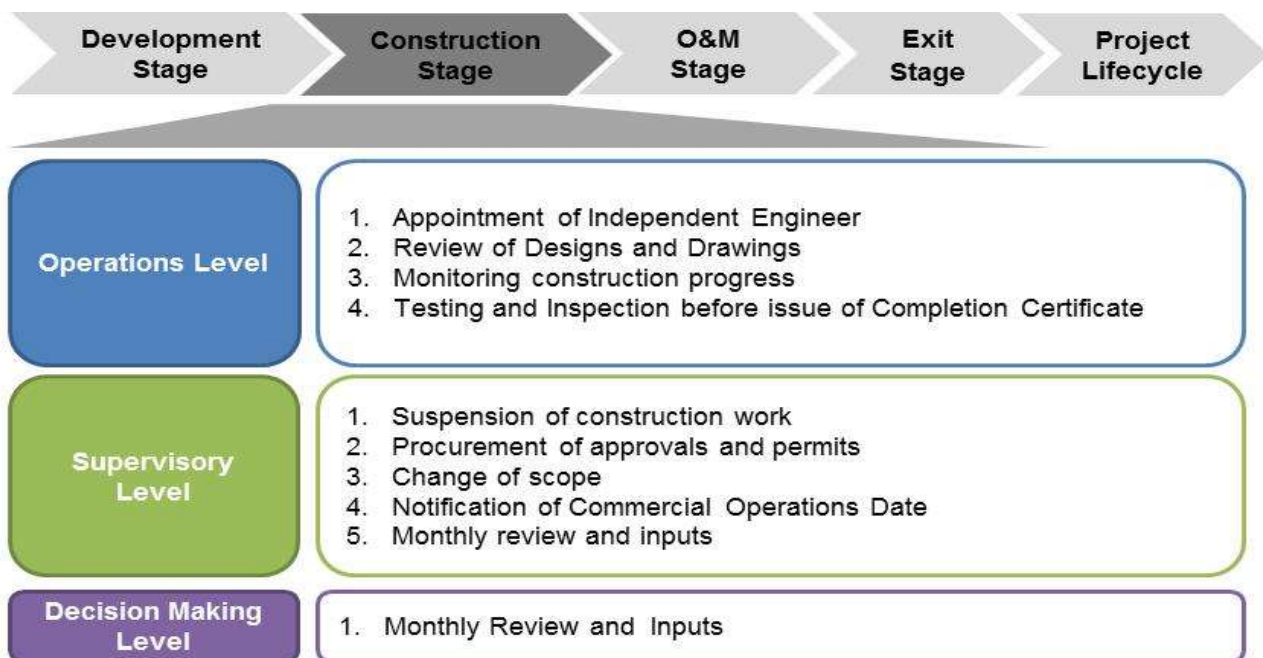
For the purpose of Contract Management, the Development stage commences from the date of issue of Letter of Intent for Award of Concession (LOIA) and continues till the declaration of Date of Award of Concession (date from which the concession period starts). During this stage, various activities are undertaken by the Concessions Authority for which different level of

officials are made responsible as per the Contract Management Plan. The diagram below presents a level-wise list of activities during the Development stage of the project execution.



B. Construction Period

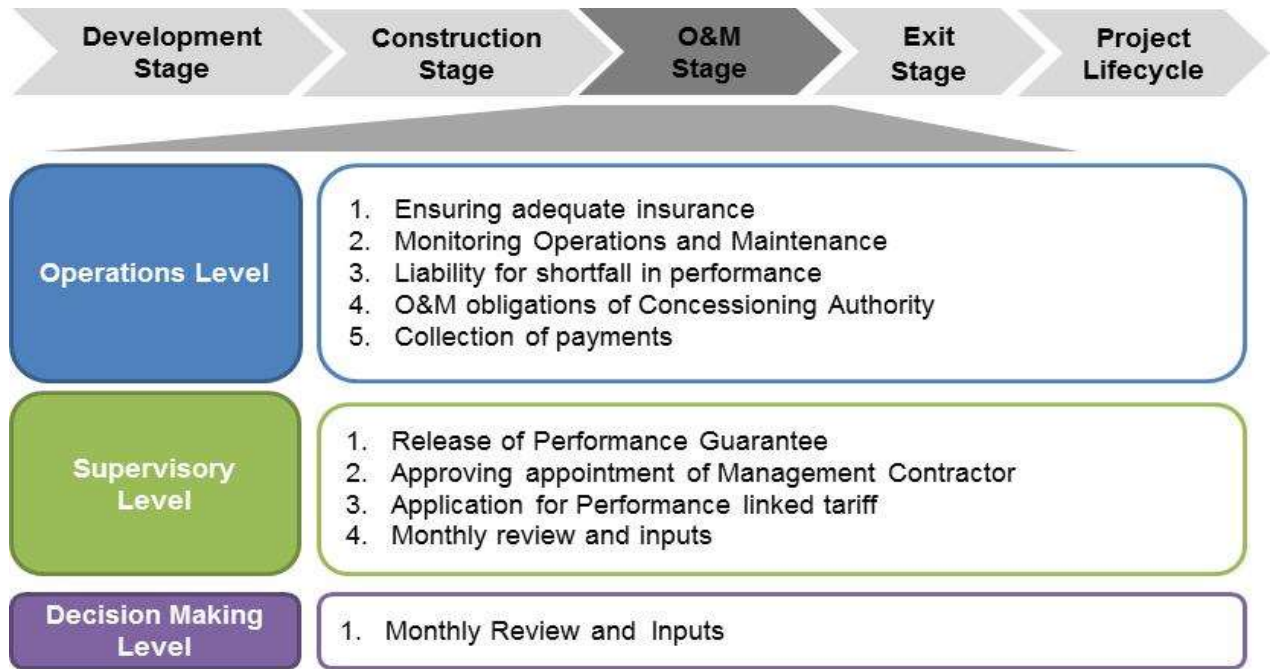
The Construction stage commences from the Date of Award of Concession and continues till the completion of the construction (generally the Commercial Operations Date). The diagram below presents a level-wise list of activities in the Construction stage.



For detailed activities refer Chapter IV – Contract Management Activities Construction Stage

C. Operations & Maintenance Stage

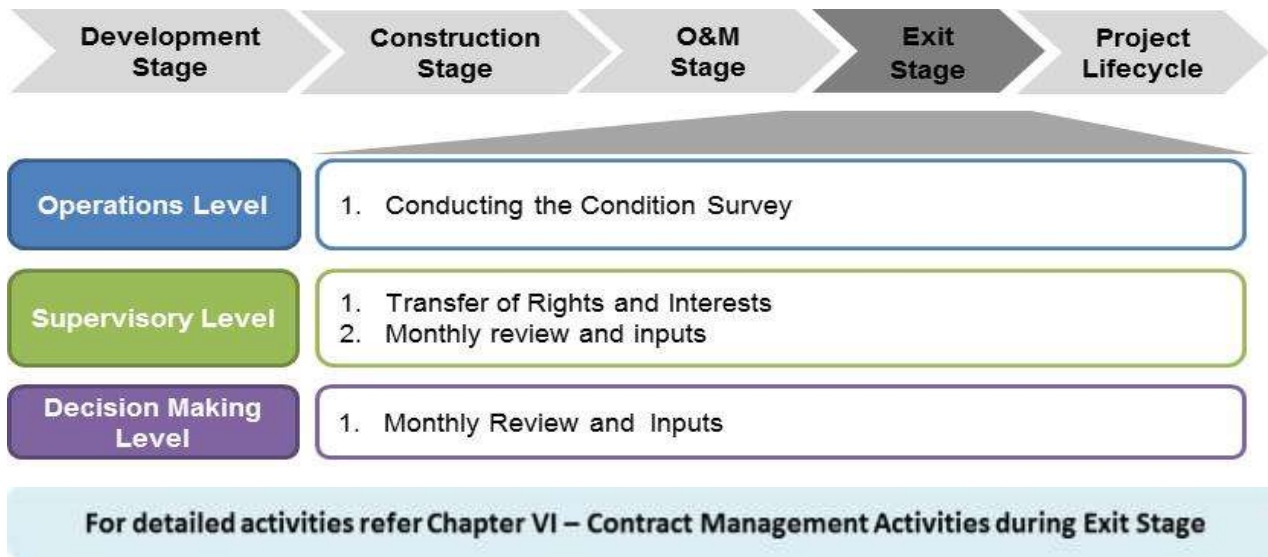
For the purpose of Contract Management, the Operations and Maintenance stage commences from the Commercial Operations Date (COD) and continues till the end of the Concession period. During this stage various activities are undertaken by the Concessions Authority where different levels of officials are responsible as per the Contract Management Plan. This section provides an activity based roadmap for post-award management of the contract in this stage. The diagram below presents a level-wise list of activities in the Operations and Maintenance stage.



For detailed activities refer Chapter V – Contract Management Activities during O&M Stage

D. Exit Stage

For the purposes of contract management, Exit Stage commences from the Termination Date and continues till the final settlement. The following diagram highlights key activities undertaken by Authority officials. On termination of the concession, the Concessionaire is responsible for completing contract responsibilities and handing over the Port Facilities and Assets back to the Concessions Authority. The Concessions Authority, on the other hand, is responsible for ensuring service continuity for users. The diagram below presents a level-wise list of activities in the Exit stage.



E. Throughout the Lifecycle

Throughout the Project life cycle (i.e. from Date of Award of Concession till final settlement), various key activities are undertaken by the Concessions Authority for which different levels of officials are made responsible as per the Contract Management Plan. The diagram below presents a level-wise list of post-award Contract Management activities throughout the project life cycle.



4. Performance Monitoring & Review

4 **Performance Monitoring & Review**

- a) KPI Monitoring- Stakeholder- wise
- b) KPI Monitoring- Stage-wise

Performance Monitoring & Review is an important activity from Contract Management perspective as it establishes accountability amongst stakeholders and increases transparency. Major stakeholders forming part of a specific Port PPP concession are:

- *Concessionaire*
- *Independent Engineer/Expert*
- *Financial Consultant*

For each of these stakeholders, Key Performance Indicators (KPIs) have been defined as a measure to assess their performance during project execution. Discrepancies, if any must be to the Supervisory and Decision Making level. More details on performance monitoring and review are provided in **Chapter VIII, Performance Monitoring & Review**.

5. Reporting & Escalation Mechanism

5

Reporting & Escalation Mechanism

- a) *Reporting & review within the Authority*
- b) *Escalation mechanism in cases of default*

Reporting forms an integral part of each Contract Management activity. It primarily includes reviewing the current status of the project and assessing whether the Concessionaire is adhering to all timelines and performance standards. In case of any default, the relevant Authority official needs to escalate it to the appropriate senior level official for timely action and resolution. This escalation and reporting mechanism must be followed through preparation and maintenance of registers and status reports on a regular basis. Templates for such registers and other relevant details have been provided in **Chapter IX, Regular Reporting & Escalation Mechanism**.

6. Risk Management

6

Risk Management

- a) *Risk mitigation & monitoring*

It is important for the Authority to proactively manage potential risks of a Port PPP Concession. Risk Management involves identifying risks, mitigating risks and monitoring risks. The Authority needs to ensure that risk threshold levels are not breached and sound mitigation strategies are adopted on a timely basis. Details on Risk Management along with a list of major risks to be managed are provided in **Chapter XI, Risk Management**.

7. Other Important Contract Management Activities

7

Other Important Contract Management Activities

- a) *Contract Management Team Training & Development*
- b) *Relationship Management- Forums for relationship management*
- c) *Knowledge Management*

Apart from the activities mentioned above, other important activities for Contract Management include training the Authority officials on a timely basis, establishing sound relationships with stakeholders of the project and establishing Knowledge Management systems. For more details, refer to ***Chapter XIII, Other Important Contract Management Activities.***

III. Contract Management Activities in Development Stage

For the purpose of contract management, the Development stage commences from the date of issue of **Letter of Intent for Award of Concession (LOIA)** and continues till the declaration of **Date of Award of Concession** (date from which the concession period starts). During this stage, various activities are undertaken by the Concessions Authority for which different level of officials are made responsible as per the Contract Management Plan. This chapter provides an activity based roadmap for post-award management in the “**Development stage**” of project execution. The diagram below presents a level-wise list of activities in the Development stage.



1. Activities to be undertaken by Operations Level

The sections below list activities for which the Operations Level is responsible. For detailed activities to be undertaken by the Operations Level including timelines, refer section 1 in Annexure D, Contract management activities in the Development stage.

1.1. Signing of the Concession Agreement

The key activities that are required to be undertaken by Operations Level between issue of LOIA and signing the Concession Agreement are provided below:

- ☞ *Communicate the results of evaluation of bids and issue Letter of Intent of Award to the successful bidder*

- *In case the successful bidder does not submit the LOIA acceptance within the stipulated timeline as specified in the bidding documents, the Authority initiates the process for forfeiture of bid security submitted by the successful bidder*
- *In case of receipt of timely acceptance of the LOIA, the Concessioneing Authority seeks submission of draft Special Purpose Vehicle (SPV) formation documents from the successful bidder*
- *The Authority seeks comments on the draft SPV formation documents (as submitted by successful bidder) from Legal / Finance Department and communicates the same to the successful bidder*
- *The Authority receives final SPV formation documents along with Certificate of Incorporation from the successful bidder and initiates the process for execution of the Concession Agreement*
- *The Authority and the successful bidder signs the Concession Agreement*
- *Report to the Supervisory Level in case of default*

1.2. Receipt and verification of Performance Guarantee

Once, the Concessionaire submits the Performance Guarantee in form of the Bank Guarantee, the Concessioneing Authority needs to verify and authenticate the same. The key activities undertaken by the Operations Level in this regard are provided below:

- *Verify the Bank Guarantee from issuing bank branch and its supervisory branch and ensure authentication*
- *Issue an acknowledgement to the Concessionaire*
- *In case of non-submission of Bank Guarantee within the stipulated timeline as mentioned in the Concession Agreement, proceed for encashment of bid security as per provisions of Concession Agreement*
- *Report to the Supervisory Level in case of default*

1.3. Execution of Project Agreements

As per the provisions of the Concession Agreement, the Concessionaire to submit the drafts of all Project Agreements (Escrow Agreement, Substitution Agreement and Financing documents), or any amendments or replacements thereto to the Concessioneing Authority for its review and comments. The key activities involved in this process are provided below:

- *To issue an acknowledgement to the Concessionaire*
- *The draft Agreements submitted by Concessionaire must be reviewed by Legal / Finance Departments*

- *Forward comments and change suggestions to the Concessionaire, if any*
- *Seek the response of above and acknowledge the revised communication*
- *Report to the Supervisory Level in case of default*

1.4. Changes to Financing Agreements

The Concessionaire needs to take a written consent from the Concessions Authority before making any addition, replacement or amendments to any of the Financing / Equity Documents. The key activities undertaken by the Operations Level in this regard are provided below:

- *Seek comments on Financing/Equity Documents (as submitted by the Concessionaire) from Legal and Finance Department and communicate the same to the Concessionaire*
- *After verification of the revised documents submitted by the Concessionaire, issue an approval letter for changes requested by Concessionaire*
- *Report to the Supervisory Level in case of default*

1.5. Handover of physical possession of the Project Site and / or relevant Port Assets

As per the provisions of the Concession Agreement, the Concessions Authority has to hand over the possession of the project site and / or other relevant assets of the port for the project purposes. The key activities to be undertaken by the Operations Level are provided below:

- *Procurement of all clearances for Project Site and in principle clearances for the project including consent for establishment*
- *Make the project site² available, free from all encumbrances, before the Date of Award of Concession*
- *Providing information about relevant Port's Assets as required by the Concessionaire*
- *Handing over the Port Asset's³ and the Concessionaire accepting possession of the Port's Assets on 'as is where is' basis*
- *Report to the Supervisory Level in case of default*

2. Activities to be undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 2 in Annexure D, Contract management activities in the Development stage.

² Project site includes the waterfront, existing berth, land, buildings and structures.

³ Port's Assets are the assets detailed out in the Concession Agreement belonging to the Concessions Authority

2.1. Procurement of Environmental Clearance

As per the provisions of the Concession Agreement, the Concessing Authority has to procure all clearances including those from Ministry of Environment and Forests and other in-principle clearances for the project. The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Request the competent Government Authority for environmental clearance approval*
- *To procure all Applicable Permits relating to environmental protection and in-principle approvals*
- *Report to the Decision Making Level in case of default*

2.2. Damages for delay by the Authority in fulfilling Conditions Precedent

As per the provision of the Concession Agreement the Concessing Authority has to pay liquidated damages on account of its failure or delay in fulfillment of Conditions Precedent (for which Concessing Authority is responsible). The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Operations level to receive the document and to be forwarded to the Supervisory Level*
- *Review the request received from the Concessionaire for payment of damages on account of Concessing Authority's delay / default in fulfilment of Conditions Precedent falling within its purview*
- *In case Supervisory Level determines that damages are to be paid, initiate the payment process*
- *Report to the Decision Making Level in case of default*

2.3. Achievement of Conditions Precedent for the Concessionaire

The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Seek comments on the draft Escrow Agreement, Financing Plan and Financing documents (as submitted by Concessionaire) from Legal / Finance Department and communicate the same to the Concessionaire*
- *Issue a letter to the Concessionaire regarding approval / acceptance of the Escrow Agreement, Substitution Agreement, and Financing Documents etc.*
- *Validate supporting documents of the applicable permits and representations and warranties as submitted by Concessionaire*
- *Validate receipt of constituent documents of the Concessionaire, resolutions adopted by Board of Directors of Concessionaire, Management Contract, Shareholding Certificate, and*

financial standing of the Concessionaire and obtaining concurrence from respective Departments

- *Issue an acknowledgement letter to the Concessionaire after receiving these documents and Performance Guarantee*
- *Report to the Decision Making Level in case of default*

2.4. Achievement of Financial Closure

Achievement of Financial Closure is part of the Conditions Precedent designated to the Concessionaire. The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Seek comments on the Financial Closure documents (as submitted by Concessionaire) from Legal / Finance Department and communicate the same to the Concessionaire*
- *Issue a letter to the Concessionaire regarding approval / acceptance of the Financing Agreement*
- *In case of delay in Financial Closure, initiate claim for damages for delay as per provisions of the Concession Agreement*
- *In case of failure to achieve Financial Closure, the Concessions Authority may consider to initiate termination as per the provisions of the Concession Agreement, encash bid security and appropriate the proceeds thereof as damages*
- *Report to the Decision Making Level in case of default*

2.5. Declaration of Date of Award

After both parties fulfill their Conditions Precedent, the Concessions Authority may declare the Date of Award of Concession. The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Issue acknowledgement to Concessionaire after receiving the status of Conditions Precedent from the Concessionaire*
- *If both the parties have fulfilled all of their Conditions Precedent, declare the Date of Award of Concession*
- *Report to the Decision Making Level in case of default*

2.6. Tariff approval and notification

The Concessions Authority must upfront apply for tariff fixation to the Tariff Authority for Major Ports in accordance with its guidelines. The approved tariff becomes part of the Concession Agreement. The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Prepare an application in accordance with TAMP's guidelines*
- *Submit the same and seek approval from TAMP*
- *Report to the Decision Making Level in case of default*

2.7. Monthly review and inputs

The Supervisory Level would be responsible for following key activities:

- *Ask for the monthly status reports of all ongoing projects from the concerned Operations Level*
- *Review all files/documents forwarded by Operations Level*
- *Provide required inputs for project execution*
- *Report to the Decision Making Level in case of default*

3. Activities to be undertaken by Decision Making Level

The sections below list activities for which the Decision Making Level is responsible. For detailed activities to be undertaken by the Decision Making Level including timelines, refer section 3 in Annexure D, Contract management activities in the Development stage.

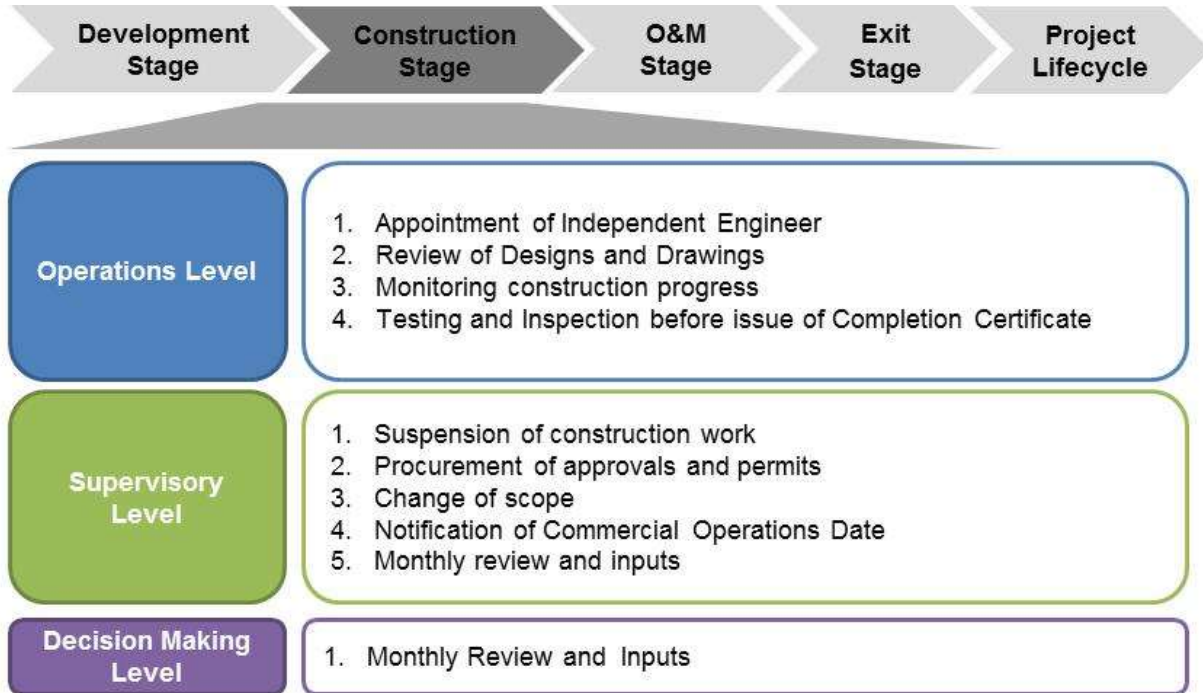
3.1. Monthly review and inputs

The Decision Making Level would be responsible for following key activities:

- *Ask for the monthly status reports of all ongoing projects from the concerned Supervisory Level*
- *Review all files/documents forwarded by Supervisory Level*
- *Take appropriate decisions as and when required*
- *Report to the Board / Chairman in case of default*

IV. Contract Management Activities in Construction stage

For the purpose of contract management, the Construction stage commences from the Date of Award of Concession and continues till the completion of the construction (generally the Commercial Operations Date). During this stage, various activities are undertaken by the Concessions Authority for which different level of officials are made responsible as per the Contract Management Plan. This chapter provides an activity based roadmap for post-award management in this stage. The diagram below presents a level-wise list of activities in the Construction stage.



1. Activities to be undertaken by Operations Level

The sections below list activities for which the Operations Level is responsible. For detailed activities to be undertaken by the Operations Level including timelines, refer section 1 in Annexure E, Contract management activities in the Construction stage.

1.1. Appointment of Independent Engineer

As per the provisions of the Concession Agreement, various activities are involved on part of the Concessions Authority to appoint an Independent Engineer. The key activities undertaken by Operations Level in this regard are provided below:

- *Issue an Expression of Interest (EOI) for selection of Independent Engineer*
- *Evaluate EOIs received from the interested parties and shortlist firms based on predetermined criteria*

- *Send list of shortlisted firms to the Concessionaire for scrutiny and comments, if any*
- *After considering the all relevant comments received from the Concessionaire, call for financial bids from the shortlisted firms*
- *Finalise Independent Engineer based on lowest fee quote*
- *Forward the Statement of Expenditure to the Concessionaire as received from the Independent Engineer*
- *Pay remuneration and reimburse cost / expense of Independent Engineer as per the provisions of the Concession Agreement*
- *Hold a tripartite meeting with the Concessionaire and Independent Engineer, in case the Concessionaire submits a representation against Independent Engineer*
- *Report to the Supervisory Level in case of default*

1.2. Review of Designs and Drawings

As per the provisions of the Concession Agreement, the Concessionaire submits the designs and drawings to the Concessions Authority. The Concessions Authority has the right but not the obligation to review such drawings. The key activities undertaken by Operations Level in this regard are provided below:

- *Forward designs and drawings submitted by the Concessionaire to the Independent Engineer for review*
- *In case Concessions Authority has any comments, observations and suggestions on such drawings, it may forward the same to the Concessionaire after obtaining certification of the Independent Engineer on the same*
- *Report to the Supervisory Level in case of default*

1.3. Monitoring construction progress

As per provisions of the Concession Agreement, the Concessionaire is to meet the project milestones as specified in the Concession Agreement. In case of any delay, the Concessions Authority is to respond as per the provisions of the Concession Agreement. The key activities undertaken by Operations Level in this regard are provided below:

- *Review monthly progress reports submitted by Concessionaire / Independent Engineer*
- *In case the Concessionaire does not meet the milestones within the specified timelines, Operations Level to issue a notice to the Concessionaire to pay damages for delay*

- *Calculate damages as per the provisions of the Concession Agreement*
- *In case the Concessionaire does not meet the extended timelines set forth in the Concession Agreement, the Operations Level may initiate termination process for the project*
- *Report to the Supervisory Level in case of default*

1.4. Testing and Inspection before issue of Completion Certificate

The key activities undertaken by Operations Level for issue of Completion Certificate are provided below:

- *Operations Level may designate Concessions Authority's representative to witness the tests determined and notified to the Concessionaire*
- *Review the report submitted by Independent Engineer (in case construction does not conform with the provisions of the Agreement)*
- *Process the reimbursement equivalent to half of the costs incurred on the Tests, as certified by the Independent Engineer*
- *Process own inspection based on the report submitted by Independent Engineer and notify the Concessionaire in case of any deficiency*
- *In case the Concessionaire does not complete the Punch list within period specified in the Concession Agreement, recover damages from the Performance Security*
- *In case the Authority grants extension of time to complete Punch List items and subsequently if the Concessionaire fails to complete the same within such extended period, Operations Level may proceed for termination of the Agreement*
- *Report to the Supervisory Level in case of default*

2. Activities to be undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 2 in Annexure E, Contract management activities in the Construction stage.

2.1. Suspension of construction work

The key activities undertaken by Supervisory Level in case of suspension of construction work are provided below:

- *In case Independent Engineer recommends suspension of construction work to the Concessions Authority, Supervisory Level may issue notice to the Concessionaire for the same*
- *Subsequent to Concessionaire's representation of the remedial measures, the Independent Engineer inspects the same and recommends the Concessions Authority to revoke the suspension*
- *The Supervisory Level may then revoke such suspension or instruct the Concessionaire to carry out such further remedial measures as may be necessary in the reasonable opinion of the Concessions Authority*
- *Report to the Decision Making Level in case of default*

2.2. Procurement of approvals and permits

The Concessions Authority upon written request from Concessionaire must assist them in obtaining immigration clearances, employment permits and residential premises for foreign personnel's employed. The Authority must also facilitate approval of Collector of Customs and import of equipment's and materials, publish requisite notifications in the Official Gazette and declare the Project Facilities and Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act. In addition, the Concessions Authority must ensure compliance with requirements of the Applicable Laws including but not limited to payment of customs and any other duties. The key activities undertaken by Supervisory Level for such approvals and permits are provided below:

- *Upon request from the Concessionaire begin process to obtain and grant required approvals and permits*
- *Approach appropriate government authority to obtain necessary approvals*
- *Report to the Decision Making Level in case of default*

2.3. Change of Scope

The Concessions Authority may require additional work or services beyond those included in the scope of the project. The key activities undertaken by Supervisory Level for change of scope are provided below:

- *Concessions Authority to determine the necessity and cost reasonableness of the Change of Scope*
- *Concessions Authority to issue a notice to the Concessionaire specifying in detail the works and services entailing the Change of Scope*
- *Review the response received from Concessionaire on the adverse impact and the likely cost to be incurred with respect to the Change of Scope*

- *Convey its agreement or disagreement on implementation of such change*
- *Subsequent to considering the response of the Concessionaire on the Change of Scope notice, the Concessions Authority may seek competitive bids from external parties and may award additional work accordingly, if the Concessions Authority so decides*
- *Process advance payment towards such change within specified timelines*
- *Report to the Decision Making Level in case of default*

2.4. Notification of Commercial Operations Date

After Construction is completed and Completion Certificate is issued by the Independent Engineer, the Concessions Authority must notify the Commercial Operations Date. The key activities undertaken by the Supervisory Level in this regard are provided below:

- *Receive a copy of Completion Certificate from the Independent Engineer*
- *Notify the Commercial Operations Date in the Official Gazette of India*
- *Report to the Decision Making Level in case of default*

2.5. Monthly review and inputs

The Supervisory Level would be responsible for following key activities:

- *Ask for monthly status reports of all ongoing projects from the concerned Operations Level*
- *Review all files/documents forwarded by Operations Level*
- *Provide required inputs for the project execution*
- *Report to the Decision Making Level in case of default*

3. Activities to be undertaken by Decision Making Level

The sections below list activities for which the Decision Making Level is responsible. For detailed activities to be undertaken by the Decision Making Level including timelines, refer section 3 in Annexure E, Contract management activities in the Construction stage.

3.1. Monthly review and inputs

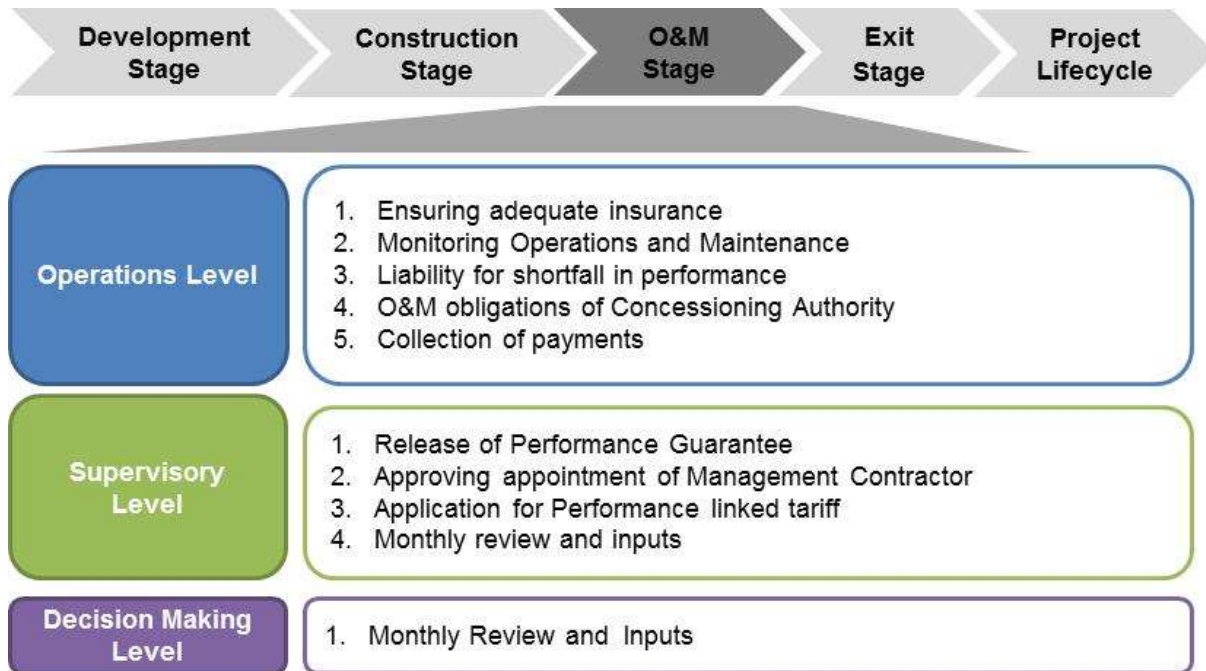
The Decision Making Level would be responsible for following key activities:

- *Ask for monthly status reports of all ongoing projects from the concerned Supervisory Level*
- *Review all files/documents forwarded by Supervisory Level*
- *Take appropriate decisions as and when required*
- *Report to the Board / Chairman in case of default*

Detailed activities to be undertaken by the Independent Engineer including timelines therefor have been included in section 4 in Annexure E, Contract management activities in the Construction stage.

V. Contract Management Activities in Operations and Maintenance Stage

For the purpose of contract management, the Operations and Maintenance stage commences from the Commercial Operations Date (COD) and continues till the end of the Concession period. During this stage various activities are undertaken by the Concessions Authority where different levels of officials are responsible as per the Contract Management Plan. This chapter provides an activity based roadmap for post-award management of the contract in this stage. The diagram below presents a level-wise list of activities in the Operations and Maintenance stage.



1. Activities to be undertaken by Operations Level

The sections below list activities for which the Operations Level is responsible. For detailed activities to be undertaken by the Operations Level including timelines, refer section 1 in Annexure F, Contract management activities in the Operations and Maintenance stage.

1.1. Ensuring adequate insurance

As per the provisions of the Concession Agreement, the Concessionaire purchases and maintains insurance covers as per the requirement of the project. The key activities undertaken by Operations Level in this regard are provided below:

- *Ensure that the Concessionaire is maintaining insurance for all insurable assets including Port's Assets, Project facilities and services and all insurable risks associated with the project*

- *Ensure that all funds received through insurance policy are utilized against the relevant claims being raised*
- *In case the Concessionaire does not maintain necessary insurance the Operations Level may pay the premia itself and recover the costs thereof from the Concessionaire*
- *Report to the Supervisory Level in case of default*

1.2. Monitoring Operations and Maintenance

As per the provisions of the Concession Agreement, the Concessionaire is responsible for the Operations and Maintenance of the Project facilities and services including Berth and Terminal operations, repairs and maintenance, replacement of equipment, repairs, replacement or restoration of facilities, removal / replacement of assets etc. The key activities undertaken by Operations Level in this regard are provided below:

- *Appoint Experts as required on an annual basis for verifying that the facility is operated and maintained in accordance with performance standards, Operations & Maintenance (O&M) standards and safety standards. On prior intimation, the Concessionaire has to provide the Experts access to the facility and all necessary cooperation for carrying out the verification*
- *Collect and review monthly performance reports submitted by Concessionaire on cargo traffic, unit gross output/ discharge rates at berth, daily output rates per vessel, tariff earned and collected, effective waiting time, and any other information relating to operations which the Concessioning Authority may require from time to time*
- *Report to the Supervisory Level in case of default*

1.3. Liability for shortfall in performance

In case the Concessionaire does not meet performance or safety requirements, the Concessioning Authority may collect damages from the Concessionaire. The key activities undertaken by Operations Level in this regard are provided below:

- *In case project services fall short of performance standards, the Operations Level may calculate the amount of liquidated damages payable by the Concessionaire in accordance with the Concession Agreement*
- *Concessionaire is entitled to make a written representation, upon which the Concessioning Authority may waive the damages in part or full*
- *Report to the Supervisory Level in case of default*

1.4. O&M obligations of Concessioneing Authority

As per the provisions of the Concession Agreement, the Concessioneing Authority is responsible for the Marine and Port service operations, granting necessary approvals and providing access of necessary infrastructure facilities and utilities. The key activities undertaken by Operations Level in this regard are provided below:

- *Ensure that agreed services are provided*
- *Ensure that related performance and safety standards are maintained*
- *Ensure that competing facilities are not operationalized before the time / traffic limits specified in the Concession Agreement are surpassed*
- *Report to the Supervisory Level in case of default*

1.5. Collection of payments

As per TAMP guidelines, 2013, the Concessionaire is supposed to pay license fee for use of Project Site, a percentage of revenue as Royalty and charges for use of utilities and related infrastructure to the Concessioneing Authority. The key activities undertaken by Operations Level in this regard are provided below:

- *Monitor receipt of payments from the Concessionaire on a regular basis*
- *Review six-monthly statement of Gross Revenue certified by Statutory Auditors of the Concessionaire*
- *Report to the Supervisory Level in case of default*

2. Activities to be undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 2 in Annexure F, Contract management activities in the Operations and Maintenance stage.

2.1. Release of Performance Guarantee

Before releasing the Performance Security the Supervisory Level officer needs to verify whether the Concessionaire has submitted all required documents. The details of activities to be undertaken in this regard are provided below:

- *Verify documentary evidence submitted by Concessionaire with respect to release of Performance Guarantee*
- *If the Concessionaire fulfills the required criteria as per the Concession Agreement, Concessioneing Authority may release the Performance Guarantee*

- *Report to the Decision Making Level within one day of default, if any*

2.2. Approving appointment of Management Contractor

As envisaged in the RFP, the Concessionaire is entitled to engage a Management Contractor to operate and maintain berth facilities and services. Subsequent to the appointment, the Concessionaire has to provide a copy of the Management Contract to the Concessions Authority and the same should not be amended, substituted or revoked without the prior written consent of the Concessions Authority. The key activities undertaken by Supervisory Level in this regard are provided below:

- *Review the Management Contract documents submitted by Concessionaire*
- *Convey its decision without any delay*
- *Report to the Decision Making Level in case of default*

2.3. Application for Performance linked tariff

As per TAMP guidelines, 2013, the Concessionaire is eligible to apply for Performance linked tariff from the second year of operations. If it does so, TAMP seeks views of the Concessions Authority on compliance with Performance Standards. The key activities undertaken by Supervisory Level in this regard are provided below:

- *On receipt of reference from TAMP on the Concessionaire's proposal for Performance linked tariff the Supervisory Level hosts the proposal on the Port Concessions Authority's website seeking user comments*
- *Forward comments, if any, received from users on the Concessionaire's achievement of performance standards to TAMP after obtaining consent from Chairman*
- *Also forward the Concessions Authority's comments on the Concessionaire's achievement of performance standards to TAMP*
- *Report to the Decision Making Level in case of default*

2.4. Monthly review and inputs

The Supervisory Level would be responsible for following key activities:

- *Ask for monthly status reports for all ongoing projects from the concerned Operations Level*
- *Review all files/documents forwarded by Operations Level*
- *Provide required inputs for project execution*
- *Report to the Decision Making Level in case of default*

3. Activities to be undertaken by Decision Making Level

The sections below list activities for which the Decision Making Level is responsible. For detailed activities to be undertaken by the Decision Making Level including timelines, refer section 3 in Annexure F, Contract management activities in the Operations and Maintenance stage.

3.1. Monthly review and inputs

The Decision Making Level would be responsible for following key activities:

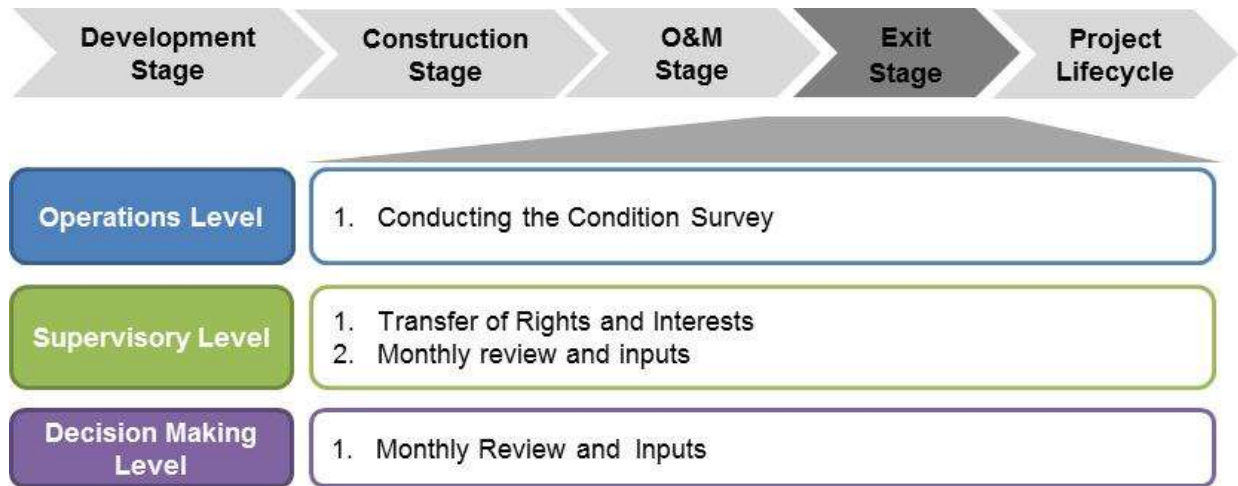
- *Ask for monthly status reports for all ongoing projects from the concerned Supervisory Level*
- *Review all files/documents forwarded by Supervisory Level*
- *Take appropriate decisions as and when required*
- *Report to the Board / Chairman in case of default*

VI. Contract Management Activities in Exit Stage

For the purposes of contract management, Exit Stage commences from the Termination Date and continues till the final settlement. During this stage various activities are undertaken by the Concessing Authority, for which different levels of officials are made responsible as per the Contract Management Plan.

On termination of the concession, the Concessionaire is responsible for completing contract responsibilities and handing over the Port Facilities and Assets back to the Concessing Authority. The Concessing Authority, on the other hand, is responsible for ensuring service continuity for users.

This chapter provides an activity based roadmap for post-award management in the exit stage. It also provides illustrative plans for asset handover and service continuity. The diagram below presents a level-wise list of activities in the Exit stage.



1. Activities to be undertaken by Operations Level

The sections below list activities for which the Operations Level is responsible. For detailed activities to be undertaken by the Operations Level including timelines, refer section 1 in Annexure G, Contract management activities in the Exit stage.

1.1. Conducting the Condition Survey

The Condition survey is meant to ascertain the condition of Project Facilities, verify compliance with the Concessionaire's obligations under the Concession Agreement and prepare an inventory of assets comprised in Project Facilities and Services. The Operations Level would be responsible for the following key activities:

- *At least 6 months prior to the expiry of the Concession Period, Concessionaire is responsible to conduct a Condition survey and an inventory of entire Project Facilities and Services*

- *The Concessions Authority may appoint an “Expert” to oversee the Condition Survey process*
- *If the Concessions Authority observes that Project Facilities have not been operated and maintained as per the Agreement, the Authority may direct the Concessionaire to take all necessary steps to put the assets in good working condition*
- *In case the Concessionaire fails to conduct this survey, the Concessions Authority to initiate the same and get reimbursed by the Concessionaire for its costs*
- *Report to the Supervisory Level in case of default*

2. Activities to be undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 2 in Annexure G, Contract management activities in the Exit stage.

2.1. Transfer of Rights and Interests

The Concessionaire shall transfer all rights, titles and interests in the Project Facilities and Assets executing necessary deeds and documents. It shall handover Project Contracts, drawings, manuals, records etc. as well as applicable permits. Subsequent to this, both Concessionaire and Concessions Authority shall be discharged from their obligations under the Concession Agreement. The following key activities are to be undertaken by the Supervisory Level:

- *Ensure both parties meet their respective obligations on contract expiry*
- *Ensure smooth transfer of Project Assets considering safety of users and avoiding undue delay or inconvenience to users*
- *Report to the Decision Making Level in case of default*

2.2. Monthly review and inputs

The Supervisory Level would be responsible for following key activities:

- *Ask for monthly status reports on all ongoing projects from the concerned Operations Level*
- *Review all files/documents forwarded by Operations Level*
- *Provide required inputs in the project execution*
- *Report to the Decision Making Level in case of default*

3. Activities to be undertaken by Decision Making Level

The sections below list activities for which the Decision Making Level is responsible. For detailed activities to be undertaken by the Decision Making Level including timelines, refer section 3 in Annexure G, Contract management activities in the Exit stage.

3.1. Monthly review and inputs

The Decision Making Level would be responsible for following key activities:

- Ask for monthly status reports on all ongoing projects from the concerned Supervisory Level
- Review all files/documents forwarded by Supervisory Level
- Take appropriate decisions as and when required
- Report to the Board / Chairman in case of default

4. Asset Handover Plan

The Concessions Authority must plan for Asset Handover sufficiently in advance, in coordination with the Concessionaire, and ensure that the handover process is completed by the contract termination date. The table below presents an indicative asset handover plan. This must incorporate any additional termination requirements specified by the Concession agreement or mutually agreed to by the parties.

Activity (Illustrative)	Responsible person / team	Supervisor person / team	Deadline (Illustrative)
Major maintenance / replacement required	Concessionaire	Operations Level Concessions Authority Expert appointed by Authority	Contractually agreed timelines
Finalizing Asset register	Concessionaire	Operations Level Concessions Authority Expert appointed by Authority	1 year before contract termination
Testing and Inspection	Concessionaire	Operations Level Concessions Authority, Expert appointed by Authority	60 days before contract termination
Handover of operations records	Concessionaire and Operations Level Concessions Authority	Supervisory Level Concessions Authority	30 days before contract termination
Legal transfer of asset ownership	Concessionaire, Legal Consultant	Operations Level and Supervisory Level Concessions Authority	0-30 days after contract termination

5. Service Continuity Plan

Planning for service continuity involves a two-step process:

5.1. Step 1 – Assessing ability of existing assets to serve market requirements

The condition of the existing assets must be compared with market requirements to ascertain whether the existing port can fulfil current market needs.

Category	Factor	Unit	Value / Remarks (<i>Illustrative</i>)
Condition of Port Facilities	Residual life of civil structures	Year(s)	10 years
	Residual life of equipment's	Year(s)	6 years
	Quality of Port's assets	N/A	Good
	Maintenance requirements	N/A	Medium
Market requirements	Traffic levels	Tons / TEUs	[xx] per annum
	Alternative facilities	N/A	None
	Other market needs	N/A	None

Operations Level Concessions Authority must carry out such analysis and present a summary to Supervisory level. A detailed technical / engineering study and traffic study will be required for this analysis. This activity must be done at least one year before contract termination to allow sufficient time for ensuring service continuity.

5.2. Step 2 – Analyze and choose amongst options

Based on analysis in Step 1, Supervisory Level must analyze and choose amongst various options. A recommendation must be placed before Decision Making Level personnel who would take the final decision. This process must be done at least 10 months to one year prior to contract termination.

The table below presents various likely scenarios and illustrative recommended actions under each scenario.

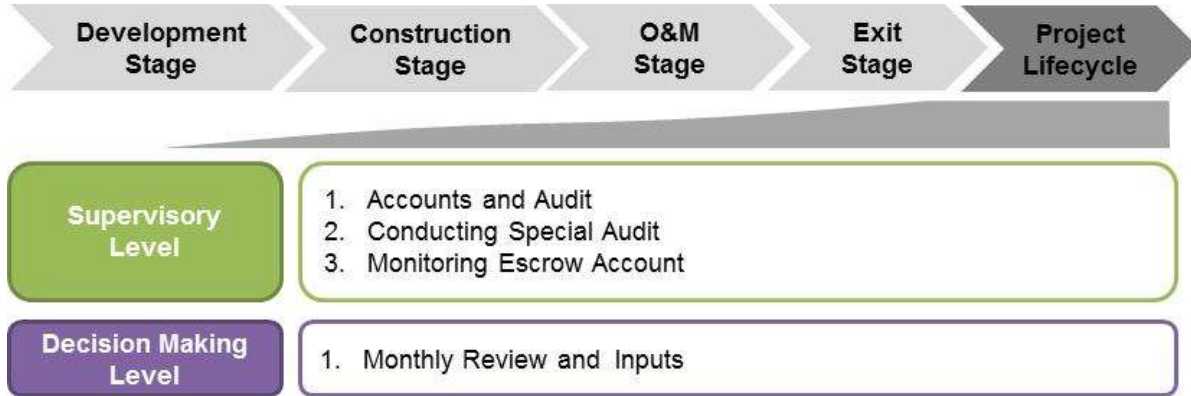
#	Scenario (<i>Illustrative</i>)		Recommended action
	Can existing Port Assets serve market requirements?	PPP suitable?	
1	Yes	Yes	Fresh OMT contract
2	Yes	No	Outsource O&M
3	No	Yes	Fresh BOT contract

#	Scenario (<i>Illustrative</i>)		Recommended action
	Can existing Port Assets serve market requirements?	PPP suitable?	
4	No	No	<i>Engineering Procurement Construction (EPC) / Item rate contract</i>

Step 1 (section 6.1) above will help conclude whether the port assets can serve market requirements. For PPP suitability, a preliminary feasibility analysis must be carried out by appointing a financial consultant. Additional aspects may also affect the decision for service continuity. These will depend on the nature and complexity of the project and any special termination requirements of the Concession agreement. These must also be taken into account.

VII. Contract Management Activities throughout the Project Life Cycle

Throughout the Project life cycle (i.e. from Date of Award of Concession till final settlement), various key activities are undertaken by the Concessioneering Authority for which different levels of officials are made responsible as per the Contract Management Plan. This chapter provides a roadmap for post-award management activities throughout the project life cycle. The diagram below presents a level-wise list of activities to be undertaken throughout the project lifecycle.



1. Activities to be undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 1 in Annexure H, Contract management activities throughout the project life cycle.

1.1. Accounts and Audit

As per the provisions of the Concession Agreement, the Concessionaire shall maintain books of accounts and supporting evidences with respect to capital and debt raised, capital and revenue expenses, vessel / user wise information, cargo handled by category, tariffs charged and amount collected. These records must be audited and submitted to the Concessioneering Authority for review every month. The key activities undertaken by Supervisory Level in this regard are provided below:

- ☞ *Inspect and verify the books of accounts of the Concessionaire periodically*
- ☞ *In case of any discrepancy, communicate the same to the Concessionaire and ensure that it is rectified*
- ☞ *Report to the Decision Making Level in case of default*

1.2. Conducting Special Audit

The Concessioneing Authority may appoint an Additional Auditor to conduct a Special Audit of Gross Revenue and the financial statements of the Concessionaire. The key activities undertaken by Supervisory Level in this regard are provided below:

- *Appoint an independent firm of Chartered Accountants as an Additional Auditor to conduct Special Audit*
- *If the Gross Revenue reported by the Additional Auditor is higher than that reported by the Concessionaire's Statutory Auditor, the auditors shall meet to resolve the differences*
- *Concessioneing Authority require the Concessionaire to pay Royalty and / or Interest as applicable on the difference amount, in case applicable*
- *Report to the Decision Making Level in case of default*

1.3. Monitoring Escrow Account

The key activities undertaken by Supervisory Level for monitoring the Escrow Account are provided below:

- *Monitor deposits to and withdrawals from the Escrow Account*
- *Ensure withdrawals and appropriations are in the order of priority specified in the Concession Agreement*
- *At the end of the Concession Period, ensure amount in the Escrow Account is appropriated in the order of priority specified in the Concession Agreement*
- *Report to the Decision Making Level in case of default*

2. Activities to be undertaken by Decision Making Level

The sections below list activities for which the Decision Making Level is responsible. For detailed activities to be undertaken by the Decision Making Level including timelines, refer section 2 in Annexure H, Contract management activities throughout the project life cycle.

2.1. Monthly review and inputs

The Decision Making Level would be responsible for following key activities:

- *Ask for monthly status reports on all ongoing projects from the concerned Supervisory Level*
- *Review all files/documents forwarded by Supervisory Level*
- *Take appropriate decisions as and when required*
- *Report to the Board / Chairman in case of default*

VIII. Performance Monitoring and Review

Performance of the Concessionaire and other related parties should be regularly monitored and reported by the contract manager to ensure the project remains within the pre-planned cost levels and timelines. In case a performance monitoring and rating system exists in the organization, the results of such regular monitoring shall be additionally sent to officials designated for that purpose.

This chapter identifies Key Performance Indicators (KPIs) that must be tracked, reported and reviewed on a regular basis to ensure efficient project execution. KPIs here have been separately identified for each stakeholder, i.e. the Concessionaire, Independent Engineer, Expert, and financial consultant for all major activities within a project lifecycle.

1. Concessionaire

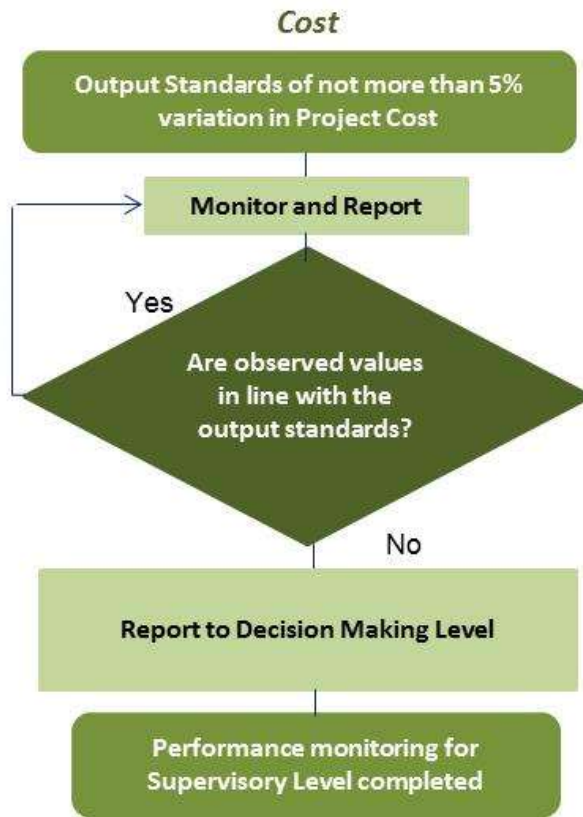
For any project to be executed smoothly, Concessionaires' performance needs to be monitored regularly. As the Concessionaire is the main party to the contract and is primarily responsible for project execution, it is important that Concessionaire's performance is tracked on regular basis to identify defects and deficiencies in construction, implementation and execution. A key component for a successful performance monitoring tool is a well-defined set of Performance Indicators against which the Concessionaire needs to be evaluated for ensuring that all project deliverables meet the required timelines and are quality compliant.

This section identifies a set of KPIs which would help in evaluating Concessionaires' performance. In addition, allocation of responsibility (to designated Authority official) for monitoring the respective KPI would also form a key element of this section. Having said that, the overall performance of the Concessionaire will be evaluated through the project lifecycle based on the following six key Rating Disciplines:

- *Time Line – Actual Vs. Targeted Date*
- *Project Cost*
- *Quality of Services*
- *Safety Considerations*
- *Communication and Responsiveness*
- *Project and Contract Management*

This evaluation framework attempts to interlink KPIs with these Rating Disciplines. The Concessionaire's performance will be evaluated against each of these KPIs and will be compared against the acceptable performance range for the respective indicator. Discrepancies, if any, and beyond the control of the Authority in-charge need to be escalated to the next level on timely basis so that necessary action can be taken on the same. To illustrate this idea, the monitoring and review process of the Performance standard on Project Cost has been described in the below flowchart:

Concessionaire's Performance Monitoring for Project



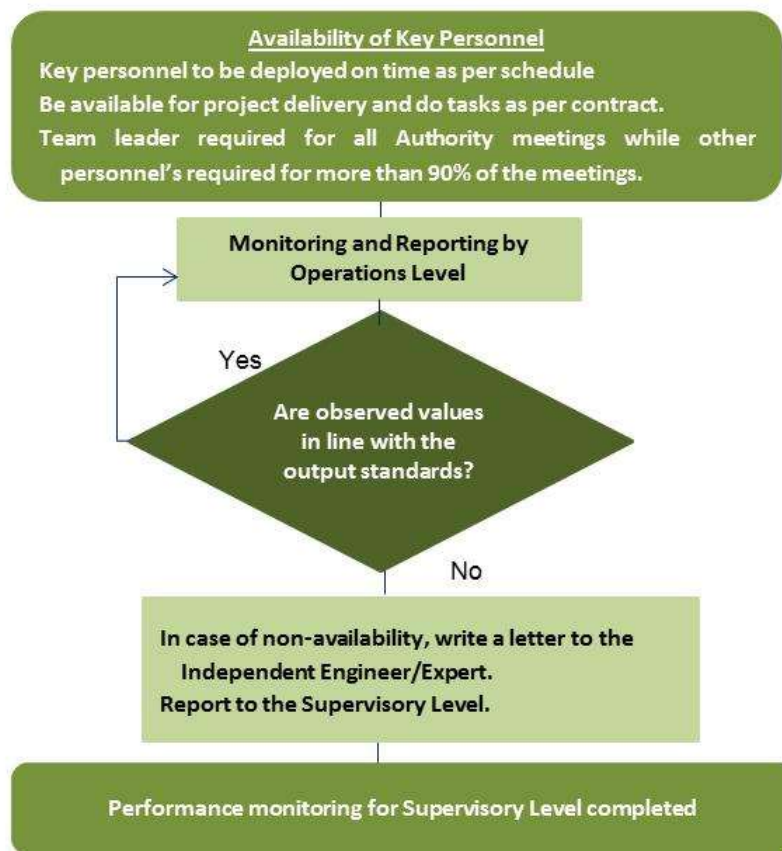
Details on each of these performance parameters and KPIs can be found in section 1 and 2 of **Annexure I**.

2. Independent Engineer/Expert

The Independent Engineer/Expert has a major role to play in ensuring that the project progress is in line with the set timelines, the quality of project developed by the Concessionaire is as per the desired standards and discrepancies/issues, if any, have been flagged and brought to the notice of the Authority officials in a timely manner. Major performance parameters to be monitored for reviewing Independent Engineers'/Experts' performance are:

- *Independent Engineer/Expert KPIs throughout the Lifecycle*
- *Time Line – Actual Vs. Targeted Date*
- *Quality of Services*
- *Communication and Responsiveness*
- *Project and Contract Management*

Independent Engineers'/Experts' Performance Monitoring for Project and Contract Management



As an example, to demonstrate the monitoring and review procedure of the Performance standard on Project and Contract Management for the Independent Engineer, a flowchart has been developed as shown below:

Details on each of these performance parameters and KPIs can be found in section 3 in ***Annexure I, KPIs for Independent Engineer/Expert throughout the project lifecycle.***

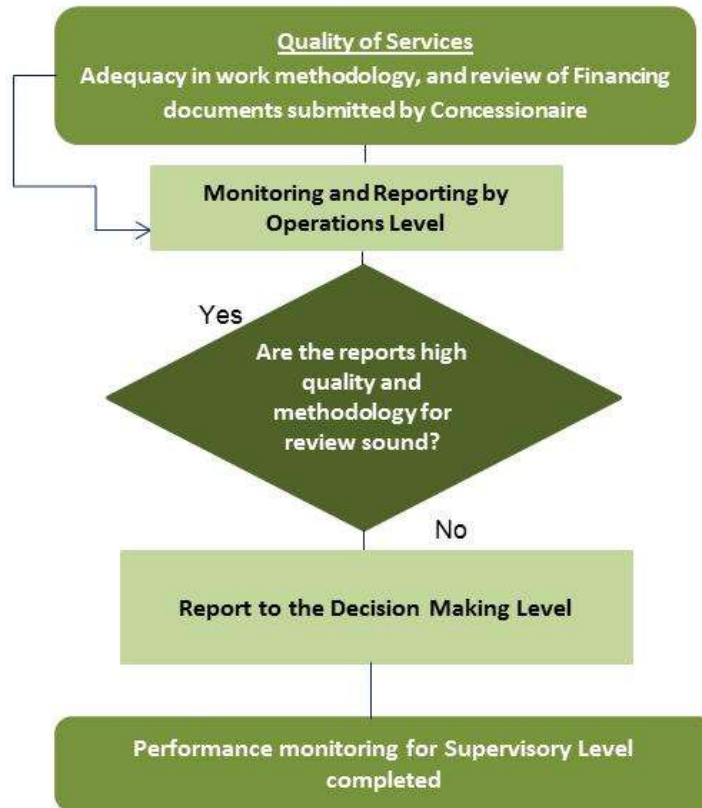
3. Financial Consultant

Financial Consultant has a significant role in reporting and taking care of all financial matters related to a project. They review all the financing documents submitted by the Concessionaire and hence provide verdict on whether the Concessionaire has submitted accurate documents with zero errors.

- *Time Line – Actual Vs. Targeted Date*
- *Quality of Services*
- *Project and Contract Management*

To state an example, the monitoring and review process of the Performance standard on Quality of Services has been described in the below flowchart:

Financial Consultants' Performance Monitoring for Quality of Services



Details on each of these performance parameters and KPIs can be found in section 4, ***Annexure I, KPIs for Financial Consultant throughout the project lifecycle.***

IX. Regular Reporting and Escalation Mechanism

In any Port concession, even if management and monitoring of each project activity is done actively, it has been observed that no such activity is complete without regular and timely reporting of these activities by the Authority officials at higher levels. Moreover, it is critical from the project execution viewpoint that any issue which crops up is escalated in a timely fashion to the higher Authority level for fast, suitable and timely action. This chapter describes how project status reporting, review and escalation activities are to be done within all levels, Operations Level, Supervisory Level and Decision Making Level of the Authority and performance is reported on regular basis to ensure smooth functioning of the concession.

1. Regular Reporting and Review

Reporting has to be done on a regular basis to apprise higher levels in the Authority of the project status and key issues in implementation of the same. Once information has been provided, supervisory levels must review the same to provide suggestions and intervene at appropriate times to ensure that the project remains on track.

1.1. Operations Level to Supervisory Level Reporting

The objective of Operations Level to Supervisory Level reporting is to apprise Supervisory Level of the project progress and seek support for key decisions or approvals. The Operations Level to Supervisory Level reporting includes Status reporting, Performance reporting and other reporting. Within each category, the following reports must be prepared at Operations Level and submitted to Supervisory Level for review on a monthly basis. Supervisory Level members should then meet on a monthly basis to review submissions from Operations Level and take appropriate action on the same. The following sections provide templates for generation of the stated reports and illustrations to complete the templates. These templates must be modified appropriately as per respective Concession Agreements and project specifications.

1.1.1. Status Reporting

A. Project Progress

Stage (<i>Illustrative</i>)	Sub-stage (<i>Illustrative</i>)	Completed? (<i>Illustrative</i>)	Remarks (<i>Illustrative</i>)
Development	Land transfer	Yes	
	Environmental clearances	No	
	Other clearances and approvals	Yes	
	Financial closure	Yes	
	Tariff approval and notification	Yes	
	Declaration of date of award of concession	Yes	
Construction	Appointment of Independent Engineer	No	

Post Award Contract Management Manual for Port PPP Concessions

Stage <i>(Illustrative)</i>	Sub-stage <i>(Illustrative)</i>	Completed? <i>(Illustrative)</i>	Remarks <i>(Illustrative)</i>
	Drawings and designs approval	<i>No</i>	
	Commencement of construction	<i>No</i>	
	Completion of construction	<i>No</i>	
	Testing and certification	<i>No</i>	
	Completion of punch list	<i>No</i>	
	Declaration of Commercial Operations Date (COD)	<i>No</i>	
Operations and Maintenance	Appointment of Experts for Performance and Safety reviews	<i>No</i>	
	Ongoing Operations and Maintenance	<i>No</i>	
	Review and notification of performance-linked tariff	<i>No</i>	
	End of Operations and Maintenance	<i>No</i>	
Termination	Condition survey	<i>No</i>	
	Asset transfer	<i>No</i>	
	Contract termination	<i>No</i>	
	Service continuity	<i>No</i>	

B. Status of Activities entitled to Authority

Activity <i>(Illustrative)</i>	Status <i>(Illustrative)</i>	Responsible person <i>(Illustrative)</i>	Original completion date <i>(Illustrative)</i>	Target date <i>(Illustrative)</i>	Reason for delay <i>(Illustrative)</i>	Plan of action <i>(Illustrative)</i>	Support needed <i>(Illustrative)</i>
Land transfer	<i>Complete</i>	<i>Operations Level</i>	<i>Apr, 2012</i>	<i>May, 2013</i>	<i>Preexisting encumbrances</i>	<i>N/A</i>	<i>N/A</i>
Environment clearances	<i>Ongoing</i>	<i>Operations Level</i>	<i>May, 2012</i>	<i>Sep, 2013</i>	<i>Claims and NGO activism</i>	<i>Escalate</i>	<i>Decision Making Level intervention with Ministry</i>

C. Status of Activities entitled to Concessionaire

Activity (Illustrative)	Status (Illustrative)	Responsible person (Illustrative)	Original completion date (Illustrative)	Target date (Illustrative)	Reason for delay (Illustrative)	Plan of action (Illustrative)	Support needed (Illustrative)
Performance Security	Complete	Operations Level	Apr, 2013	Apr, 2013	N/A	N/A	N/A
Escrow agreement	Complete	Supervisory Level	Apr, 2013	Apr, 2013	N/A	N/A	N/A
Substitution agreement	Complete	Supervisory Level	Apr, 2013	Apr, 2013	N/A	N/A	N/A
Representations and warranties	Complete	Supervisory Level	Apr, 2013	Apr, 2013	N/A	N/A	N/A
Legal opinion of Concessionaire's authority	Complete	Operations Level	Apr, 2013	Apr, 2013	N/A	N/A	N/A
Financial closure	Complete	Supervisory Level	Jan, 2014	Jun, 2014	Financial risks	N/A	N/A
Drawings /designs	Complete	Operations Level	Jun, 2014	Jun, 2014	N/A	N/A	N/A
Asset handover	Not started	Operations Level	Jun, 2032	Jun, 2032	N/A	N/A	N/A

D. Status of Action Plan finalized in previous period's report

Activity (Illustrative)	Status (Illustrative)	Responsible person (Illustrative)	Original completion date (Illustrative)	Target date (Illustrative)	Reason for delay (Illustrative)	Plan of action (Illustrative)	Support needed (Illustrative)
Escalation of environment issue	Completed	Decision Making Level	Jan, 2008	Jan, 2008	N/A	N/A	N/A

1.1.2. Performance Reporting

In addition to the project execution reporting, performance reporting must also include reports on financial health of the SPV, risk levels, payment reports and observations of the Independent Engineer/Experts appointed for project inspection.

1. **Service Performance** – Report must be prepared as illustrated in section on KPIs
2. **Receipt and Payment mechanism and escrow account operations** – A periodic receipt - payment report must be generated including the following details:

<i>Date (Illustrative)</i>	<i>Receipt / Payment description (Illustrative)</i>	<i>Amount (Illustrative)</i>	<i>Adjustments (Illustrative)</i>	<i>Adjustment amount (Illustrative)</i>	<i>Responsible person / team (Illustrative)</i>	<i>Further action required (if any) (Illustrative)</i>
<i>May, 2014</i>	<i>Revenue Share - Royalty</i>	<i>INR 50 crores</i>	<i>N/A</i>	<i>NIL</i>	<i>Operations Level</i>	<i>N/A</i>
<i>June, 2014</i>	<i>License fee</i>	<i>INR 2 crores</i>	<i>N/A</i>	<i>NIL</i>	<i>Operations Level</i>	<i>N/A</i>
<i>June, 2014</i>	<i>Charges for usage of Utilities and Services</i>	<i>INR 50 lacs</i>	<i>N/A</i>	<i>NIL</i>	<i>Operations Level</i>	<i>N/A</i>

- 3. Independent Engineer’s / Expert’s observations** – Operations level officer must review the report submitted by Independent Engineer/Expert (as applicable) and forward their key observations and comments on the same to Supervisory Level at appropriate levels.

1.1.3. Other Reporting

- 1. Issues or disputes identified** – Specific issues or disputes that arise in the contract which cannot be resolved at Operations Level must be forwarded to the Supervisory Level. Additionally, issues or disputes that are settled at the Operations however are significant enough to merit Supervisory Level’s attention must also be reported.
- 2. Contract Management concerns** – While planning for contract administration or while undertaking an ongoing review of the contract, the Operations Level team may identify concerns which may cause potential time or cost overruns in the future. Such concerns, to the extent identified in advance, must also be reported appropriately to the Supervisory Level.

1.2. Supervisory Level to Decision Making Level Reporting

The objective of Supervisory Level reporting to the Decision Making Level is to appraise Decision Making Level of key issues/ challenges in contract administration and of activities that require their approval and/ or intervention. Supervisory Level reporting to Decision Making Level also consists of Status reports, Performance reports and other reports. These reports are required to be submitted at-least on a quarterly basis. Decision Making Level members must then meet each quarter to review the submissions from Supervisory Level and take appropriate action on the same. In case of emergency, the status/ performance must be reported not later than 3 days from the date of occurrence of such event, for immediate action and approvals. The following sections provide templates for generation of the stated reports and illustrations to complete the templates. These templates must be suitably modified as per respective Concession Agreements and project specifications.

1.2.1. Status Reporting

A. Project Status and Approvals Required

Stage <i>(Illustrative)</i>	Sub-stage <i>(Illustrative)</i>	Decision Making Level approvals required at this stage <i>(Illustrative)</i>	Deadline approval <i>(Illustrative)</i>	Remarks <i>(Illustrative)</i>
Development	Environmental clearances	N/A	N/A	Decision Making Level intervention required with Ministry
Construction	Commencement of construction	N/A	N/A	Not commenced pending environmental clearance

Additional support required from Decision Making Level for Operations Level and Supervisory Level tasks – Reports should also list type of support required from Decision Making Level, apart from approvals identified above, for completing responsibilities of Operations Level and Supervisory Level.

1.2.2. Performance Reporting

Concessionaire non-performance – Non-performance on part of the Concessionaire, as identified by KPI reporting, may cause significant cost/time overruns and therefore must be reported on priority. The following template needs to be completed from the KPI report for Performance reporting.

KPI <i>(Illustrative)</i>	Threshold <i>(Illustrative)</i>	Actual <i>(Illustrative)</i>	Reason for non-performance <i>(Illustrative)</i>	Action plan to control performance <i>(Illustrative)</i>	Responsible person / team <i>(Illustrative)</i>
Gross Berth output	25 moves / hour	20 moves / hour	Frequent breakdown of crane	Better preventive maintenance measures	Operations Level

Additional concerns – Key observations of Independent Engineer or Expert must be reported to the Decision Making Level. The following is a template for the same.

Concern <i>(Illustrative)</i>	Reason for concern <i>(Illustrative)</i>	Action plan to control performance <i>(Illustrative)</i>	Responsible person / team <i>(Illustrative)</i>
Lack of	Expert's report highlights fall in	Use of alternative	Operations

Concern (Illustrative)	Reason for concern (Illustrative)	Action plan to control performance (Illustrative)	Responsible person / team (Illustrative)
<i>sufficient preventive maintenance</i>	<i>performance and consequent traffic disruption</i>	<i>maintenance contractors</i>	<i>Level</i>

1.2.2. Other Reporting

Issues or disputes identified – Specific issues or disputes that arise in the contract which cannot be resolved at Supervisory Level must be communicated to Decision Making Level immediately. Additionally, issues or disputes that are settled at the Operations Level or Supervisory Level itself but are significant enough to merit Decision Making Level’s attention must also be reported.

2. Escalation in case of default

In case any party does not fulfil Concession Agreement requirements, they to be escalated to the appropriate level within the Authority. Escalation is required in the following conditions:

- (a) Default by Concessionaire or other parties like Independent Engineer, Escrow Agent, etc.
- (b) Default within the Authority

For both these scenarios, the escalation mechanisms are defined as follows:

2.1. Escalation on Default

Initiator / Designated official	Report to	Time line for action
Operations Level – Executive Engineer (EE) and Superintending Engineer (SE)	Operations Level - Deputy Head of Department	Within 5 day of default
Operations Level Deputy Head of Department	Supervisory Level Chief Mechanical Engineer and Chief Engineer with copy to Decision Making Level - Chairman and Deputy Chairman	Within 5 days of default
Supervisory Level - Chief Mechanical Engineer and Chief Engineer	Decision Making Level - Chairman and Deputy Chairman	Within 5 days of default

It should be noted that at each level of Authority, escalation should be done within the timeline so that the next level of Authority gets sufficient time to review and take appropriate action on the same or escalate it to higher level. In case the issues are not resolved even at the Decision Making Level Authority, they may be escalated further up to the Ministry as an exception and undergo dispute resolution procedure. A detailed framework on dispute resolution is provided in the next chapter.

X. Managing Issues and Disputes

Even if the Authority and other stakeholders try to forge the best possible professional relationship, it has often been observed that there have been considerable mismatch between the expectations of the Authority and deliverables of Concessionaire and/or other related parties resulting in issues and disputes. These issues and disputes further leads to stalling and unending delays in the project progress, causing great inconvenience to the users and damaging Authority’s and Government’s reputation. Therefore, timely resolution of these disputes is of great essence for the Authority as well for the users to achieve the desired project milestones as per the given timelines. This chapter talks about how a well-defined Dispute Resolution Mechanism can be devised by the Port Authorities for effective tracking and resolution techniques.

1. Managing Issues

The private party must maintain a service register to track all service delivery issues and initiatives undertaken to resolve the same. The Concessioneing Authority is responsible for periodic review of the register, to ensure that all service delivery issues are addressed and closed within a reasonable span of time. The Authority should provide adequate support to the Concessionaire to minimize service delivery issues. Operations Level Authority must review the service register on a monthly basis. Major Service delivery issues must be reported to and reviewed by the Supervisory level and Decision Making Level officers within the Authority. A review report must be maintained by the Operations Level to record their reviews. A report template is shown hereunder.

Review date <i>(Illustrative)</i>	Reviewed by <i>(Illustrative)</i>	Major issues during the period <i>(Illustrative)</i>	issues the <i>(Illustrative)</i>	Action taken on the issues <i>(Illustrative)</i>	Status of issues <i>(Illustrative)</i>	Issues to be escalated <i>(Illustrative)</i>
Mar, 2014	Operations Level	Break-down in container handling crane	Both	issues addressed and closed within 10 days	Resolved	N/A
June, 2014	Operations Level	Portion of Port road caved in	Not resolved till date		Pending	To be escalated to immediate supervisor

2. Dispute Resolution Mechanism as per MCA

Designing a comprehensive dispute resolution mechanism is an uphill task where interests of all stakeholders should be served in the best possible manner and an amicable solution should be realized within specified timelines. The Authority officials should focus on designing the mechanism in a manner such that prior to resorting to any legal action, disputes are solved through amicable discussions between the parties, mediation or conciliation and closed well in time. It is a common observation that disputes pending in courts take much more time for resolution compared to the ones solved through discussions between the parties. Also, as the intensity of dispute increases, the relationship between the stakeholders is damaged and long term negative effects can be seen. Given these constraints, a step by step approach to Dispute resolution has been clearly specified in the MCA defined as below.

2.1. Amicable Settlement

As per the provisions of the Concession Agreements / contracts, the settlement of disputes is to be undertaken through amicable settlement first involving both parties in dispute.

2.2. Expert Mediation

If this doesn't resolve it, an expert may be appointed through mutual consent by both parties sharing the cost equally.

2.3. Arbitration

Finally if the Mediation method also fails, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. Unless the Parties mutually agree otherwise, within 30 (thirty) Days of invocation of the arbitration, the rules of arbitration prescribed by the International Centre for Alternative Dispute Resolution, New Delhi shall apply to the arbitration.

The arbitration shall be by a panel of three Arbitrators, one to be appointed by each Party and the third, who shall act as presiding arbitrator, to be appointed by the two arbitrators appointed by the Parties. The arbitration shall be invoked by one party issuing to the other a notice in writing invoking the arbitration and appointing an Arbitrator. Upon receipt of the notice, the other Party shall appoint the second Arbitrator. The two Arbitrators so appointed shall appoint the third Arbitrator who shall act as the 'Presiding Arbitrator'. If the other Party fails to appoint a second Arbitrator within 30 (thirty) Days from the receipt of the request to do so, then the Arbitrator so appointed by the first party shall adjudicate the disputes as 'Sole Arbitrator'.

3. Dispute Resolution Tracker for Effective Management

Along with this, a Dispute Resolution Tracker should also be maintained to track all disputes and ensure that they are resolved as soon as possible. An indicative template for Dispute Resolution Tracker is presented below which must be modified as per the Authority's requirements:

Dispute (<i>Illustrative</i>)	Background of dispute (<i>Illustrative</i>)	Possible consequence(<i>Illustrative</i>)	Responsible person (<i>Illustrative</i>)	Dispute resolution procedure (<i>Illustrative</i>)	Deadlines (<i>Illustrative</i>)	Trigger to Escalate dispute (<i>Illustrative</i>)
Change in scope requiring additional structures	Lack of robust technical studies	Delay in construction and increase in project cost	Operations Level	Inter-party discussions	August 2013	Dispute not resolved within 3 inter-party meetings
Need to redo drawings	Owing to technical issues	Delay in construction and increase in project cost	Operations Level	Mediation	January 2014	Dispute not resolved within 5 mediation meetings

XI. Risk Management

There are many risks a Port or Port concession might be prone to during the project lifecycle such as delays in change of scope, risks pertaining to lower revenues than projected etc. Such risks if not mitigated and controlled in a timely manner, may occur frequently and may become reasons of dispute as observed often. Therefore, risk management forms a critical activity from the contract management perspective and needs special attention by the Authority officials. The Authority needs to develop a comprehensive risk management plan for the project so that proactive management of risks is done on regular basis. This chapter lists all major risks for a Port project and provides mitigation and monitoring practices for Port PPP concessions. This must be modified as per the requirements of the project and Authority.

1. Risk Mitigation and Monitoring

Risk management is a complex process and post identification of the risks it is necessary that they are actively monitored and mitigated. While, risk mitigation involves assessing the likelihood and consequences of each risk and strategizing alternatives to mitigate the same, risk monitoring requires tracking each risk from time-to-time and preparing an action plan in case the risk materializes. While risk mitigation proactively manages all potential risks, risk monitoring actively administers and controls the existing risks within their acceptable limits. For effective risk management, a risk register in the following format should be designed where all types of risks, their likelihood and their impacts should be elaborated by relevant Authority officials.

Impact - Risk Occurrence

		5 (Catastrophic)	4 (Major)	3 (Moderate)	2 (Minor)	1 (Negligible)
Likelihood - Risk Occurrence	5 (Certain)	Extreme	Extreme	Major	Major	Medium
	4 (Likely)	Extreme	Extreme	Major	Medium	Minor
	3 (Possible)	Extreme	Major	Major	Medium	Minor
	2 (Unlikely)	Major	Major	Medium	Minor	Minor
	1 (Rare)	Medium	Medium	Minor	Minor	Minor

In addition, mitigation and control strategies should be designed for the same. It must be noted that, in case a particular official is unable to control a materialized risk, the same should be communicated to the next supervisory level in the Authority. Risk identification, mitigation and monitoring practices will vary from project-to-project. Depending on how the Concession Agreement allocates risk between parties and the nature of the project. Hence, the above register must be updated to reflect project specific needs.

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Category	Risk	Threshold	Likelihood	Impact	Responsible Authority	Frequency of monitoring	Mitigation strategy	Action plan in case risk materializes
Contractually Allocated Risks	Statutory Clearances Risk	Delay over 1 month	Medium	Time overruns	Supervisory Level	Fortnightly	Advanced planning and better coordination between Government entities	Escalate issue and seek higher authority support
	Environmental Risks	Delay over 1 month	High	Time and cost overruns, Risk premium quoted by Concessionaire	Supervisory Level	Fortnightly	Detailed studies into site contamination at the pre-award stage, regular environment audits	Evaluate option of bearing additional costs
	Traffic Risk	2.5% of projected traffic	High	Fall in revenues	Operations Level, Traffic Manager	Monthly	Developing alternative revenue sources	Increase concession period, provide alternative revenue streams
Residual Risks	Design and Engineering Risk	Deviation from design and safety standards	Low	Time overruns Decline in service or safety standards	Operations Level	Fortnightly	Stricter inspections by Independent Engineer/Expert, Performance Guarantees, provisions for penalties	Claim damages, Evaluate the option of replacing Concessionaire with a new one
	Construction Risk	Delay over 1 month	Medium	Time overruns Decline in service or safety standards	Operations Level	Monthly	Stricter inspections by Independent Engineer/Expert, performance guarantees, provisions for penalties and liquidated damages	Claim damages, Evaluate the option of replacing Concessionaire with a new one
	Operation and Maintenance Risk	Delay over 1 month or major deviation from safety standards	Medium	Time overruns Decline in service or safety standards	Operations Level	Monthly	Stricter inspections by Expert, Performance Guarantees, Provisions for penalties and liquidated damages	Claim damages, Evaluate the option of replacing Concessionaire with a new one
	Financial Risk	Different for each key	High	Restructuring, Refinancing,	Supervisory	Monthly	Higher eligibility requirements at the time of	Claim damages, Evaluate the

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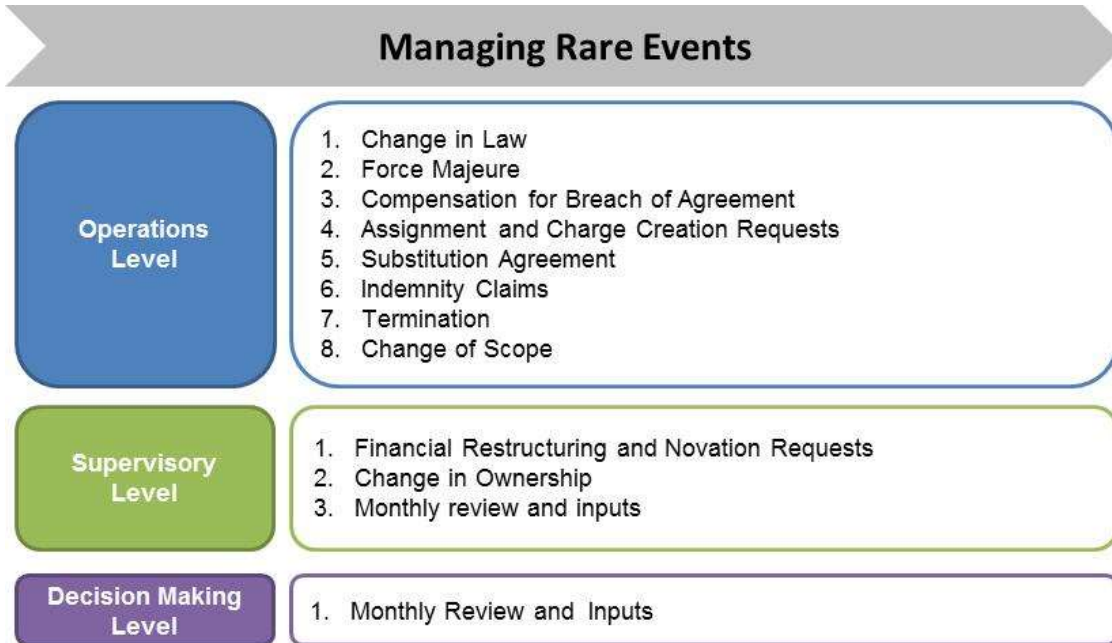
Category	Risk	Threshold	Likelihood	Impact	Responsible Authority	Frequency of monitoring	Mitigation strategy	Action plan in case risk materializes
		ratio		Renegotiation, Termination	Level		bidding, financial covenants, collaterals, guarantees, hedging through financial products	option of replacing Concessionaire with a new one
	Concessionaire Managerial Risk	Change in top management of the Concessionaire	High	Restructuring, Renegotiation, Termination	Supervisory Level	Monthly	Higher eligibility requirements at the time of bidding, lock-in requirements for a certain time period	Evaluate the option of replacing Concessionaire with a new one
	Take Back Risk	Delay beyond prefixed Response Timelines	Medium	Time overruns, penalties	Supervisory Level	Monthly	Robust processes, competent contract management team and strict adherence to timelines	Train / replace contract management team personnel
Contract Variations Risks	Change in Scope	Different as per different requirements	Medium	Time and cost overruns Restructuring, Renegotiation, Termination	Operations Level	Quarterly	Detailed market studies at the pre-award stage through expert consultants	Minimize impact through transparency and detailed planning
	Change in Law or Policy	Potential impact – over 5% cost escalation, over 5% reduction in revenue or delay over 1 month	High	Time and cost overruns, revenue reduction, Additional approvals required	Operations Level	Quarterly	Increasing awareness of possible changes and planning ahead for responding to changes, if any	Minimize impact through transparency and detailed planning
Unidentified	Force Majeure	N/A	High	Multiple	Supervisory	Quarterly	Insurance	Minimize impact

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Category	Risk	Threshold	Likelihood	Impact	Responsible Authority	Frequency of monitoring	Mitigation strategy	Action plan in case risk materializes
or Unresolved Risks	Risk			(depending on type of event)	Level		Having disaster recovery and business continuity plans in place	through transparency and detailed planning
	Social Risks	Substantial negative user perception	Medium	Time and cost overruns Restructuring, Renegotiation, Termination	Operations Level	Monthly	Wider public communications, greater transparency, more user surveys at the development stage	Deeper engagement with public and community interest groups

XII. Managing Rare Events

As described in the last chapter, there are many risks a project faces pertaining to change in policy, force majeure events such as natural calamities which are unexpected and untimely or premature terminations of project due to unforeseen circumstances. Such events occur rarely, but when they do, they leave a huge impact on the project leaving the progress stalled for a long period and causing huge inconvenience to all stakeholders. This chapter describes all major rare events and how the Authority should manage them to limit the losses out of them. The diagram below presents a level-wise list of activities to be undertaken to manage rare events.



1. Activities Undertaken by Operations Level

The sections below list activities for which the Operations Level is responsible. For detailed activities to be undertaken by the Operations Level including timelines, refer section 1 in Annexure J, Handling Rare Events.

1.1. Change in Law

Since port concessions are generally long term in nature ranging from 20-30 years, there may be situations when a legal amendment or new law is passed after the signing of the contract which might have an impact on the project progress. In such a scenario, the impact of the change in law observed is calculated on the project and the residual payment is made by either the Authority or the Concessionaire to the other party to compensate for it. If the Authority/ Concessionaire, do not wish to provide monetary compensation, a reduction/ extension in concession period may be calculated which will lead to the same Net Present Value (NPV) of the project as was at the time of signing the contract. Some of the key activities undertaken by Operations Level in this regard are provided below:

- *To issue a notice to the Concessionaire regarding Change in Law, if any*
- *To review the request submitted by the Concessionaire regarding Change in Law*
- *To arrange a meeting with Concessionaire to modify the relevant terms of the agreement to mitigate the impact of the Change in Law.*
- *To send all related documents to the Financial / Legal Department for review and comments and also estimate the variation in NPV as per the provision of Concession Agreement.*
- *To process the payment to the Concessionaire against Change in Law as per the provision of the Concession Agreement, if any.*
- *To send a notice to the Concessionaire for recovery of payment against Change in Law as per the provision of the Concession Agreement, if any*
- *Report to the Supervisory Level in case of default*

Change in Law Checklist

A checklist to ensure that all the required steps are done by the Authority to nullify the change in law effect has been provided in Annexure K

Change in Law Toolkit

An excel toolkit to calculate the effect of change in law is also provided in **Annexure L**.

1.2. Force Majeure

An extraordinary event or circumstance which is beyond the control of affected party is referred as Force Majeure Event. This primarily includes events such as wars, riots, or natural calamities like earthquake, floods, hurricane etc. Such unavoidable incidents impact the project by obstructing the ability of the parties to meet their obligation as specified in the Concession Agreement. Some of the key activities undertaken by Operations Level in this regard are provided below:

- *To issue a notice to the Concessionaire to report occurrence of Force Majeure, if any*
- *To receive periodic (fortnightly/monthly) reports from the Affected Party until the Party continues to get affected by such events.*
- *To receive notification from the Affected Party on the efforts initiated to mitigate the impact of the event.*
- *To assess the impact on Concession period and allocation of cost upon occurrence of Force Majeure event.*
- *To process for the required adjustment in the Concession Period or any other timeline, as required.*
- *If Force Majeure is for more than 120 days, Operations Level may issue a notice to the Concessionaire for termination.*

- ☞ *In case Concessionaire issues a notice for termination, Operations Level may make a representation on behalf of the Authority to the Concessionaire in this regard.*
- ☞ *Report to the Supervisory Level in case of default*

Force Majeure Checklist

A checklist to ensure that the all the required steps are done by the Authority to nullify the Force Majeure effect has been provided in **Annexure K**.

1.3. Compensation for Breach of Agreement:

In endeavor to enforce the clauses of the agreement and implement the contract effectively, both the signing parties of the contract i.e. Concessionaire and Authority are bound to compensate for any breach as per the contract terms. Compensation to be paid would be arrived at post evaluation of default and corresponding raise of demand from the affected party. Some of the key activities undertaken by Operation Level in this regard are provided below:

- ☞ *To review the documents submitted by Concessionaire with respect to the breach of Agreement.*
- ☞ *Process for the compensation against the breach of the Agreement*
- ☞ *To raise compensation demand for material default, supported by necessary particulars.*
- ☞ *Report to the Supervisor Level & Decision Making level within one day of default, if any*

1.4. Assignment and Charge Creation Requests

Concession agreement signed by the Concessionaire and the Authority, entitle the Concessionaire to assign or subcontract work in selected instances only. If the Concessionaire wants to assign or hire a sub-contractor for tasks not mentioned in the concession agreement, approval from Authority is required and requests for the same need to be created. Some of the key activities undertaken by Operations Level in this regard are provided below:

- ☞ *To review the request submitted by Concessionaire and may decline the consent without assigning any reason, if required*
- ☞ *Process to assign and/ or transfer any of its rights and benefits and/or obligations under this Agreement*
- ☞ *Report to the Supervisory Level in case of default*

1.5. Substitution Agreement

As per the provisions of the Concession Agreement, Project Agreements contains provisions that entitle the Concessioning Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of termination or suspension. The key activities undertaken by Operations Level in the event of termination or suspension are:

- ☞ *To evaluate the project with respect to the substitution*

- *Secure necessary approvals*
- *Implement the right of substitution*
- *Report to the Supervisory Level in case of default*

1.6. Indemnity Claims

During the tenure of the concession agreement, various claims could arise due to interaction with numerous stakeholders as part of the project. In lieu of this, consent of both the parties is required to settle respective claims through a pre-defined process specified in the Concession Agreement. Some of the key activities undertaken by Operations Level in this regard are provided below:

- *The Concessions Authority to notify the Concessionaire on receipt of request for processing claims to the third party or for entitlement as the beneficiary of an indemnity.*
- *The Operations Level to review such claim or entitlement on behalf of the Concessions Authority.*
- *The Concessions Authority to process the claim payment subsequent to the approval of the Concessionaire.*
- *Report to the Supervisory Level in case of default*

1.7. Termination

In case of Concessionaires' default, the Authority may suspend all rights of the Concessionaire and will collect all fees and revenues on behalf of the Concessionaire. Some of the key activities undertaken by Operations Level in this regard are provided below:

- *To issue notice to the Concessionaire in writing specifying in reasonable detail the underlying Event of Default and request the Concessionaire to make a representation within specified timelines.*
- *To inform the Lender's representative about Authority's intention to issue Termination Notice and request the Senior Lenders to make a representation within specified timelines.*
- *After receiving the Representation from Concessionaire and the Lender's representative, to take adequate action as per the provisions of the Concession Agreement.*
- *To issue a termination notice, upon occurrence of Concessionaire's default or withdraw the notice in case the event of default has been cured or waived*
- *In case of the Authority default and after receiving an intimation of termination notice from Concessionaire, Operations Level would make representation to the Concessionaire.*
- *To process for the termination payment, in case of termination.*

- *After termination of the Project, Operations Level would start the process to take possession and control of the Project and all materials and plants of the site as per the provisions of the Concession Agreement.*
- *Report to the Supervisory Level in case of default*

Termination Checklist

A checklist to ensure that the all the required steps are done by the Authority to nullify the Termination effect has been provided in Annexure K.

Termination Toolkit

An excel toolkit to calculate the effect of Termination is also provided in **Annexure L**.

1.8. Change of Scope

A Change of Scope event occurs when a change is proposed in the scope of activities of the project that could not be estimated at the time of signing of the contract. Some of the key activities undertaken by Operations Level in this regard are provided below:

Change of Scope – Proposed by Authority

- *To issue a notice to the Concessionaire to consider Change of Scope, if necessary.*
- *To issue a notice to the Concessionaire specifying in reasonable detail the works and services contemplated thereunder.*
- *To convey preferred option to the Concessionaire and make efforts to agree upon the time and costs for implementation thereof with assistance of the Independent Engineer/Expert.*
- *To execute the Change of Scope Agreement with the Concessionaire.*
- *To issue an order requiring the Concessionaire to proceed with the change of scope.*
- *Report to the Supervisory Level in case of default*

Change of Scope – Proposed by Concessionaire

- *The Authority may or may not accept the Change of Scope suggested by the Concessionaire.*
- *In case the Authority accepts the Change of Scope, Operations Level would issue a notice to the Concessionaire specifying in reasonable detail the works and services contemplated thereunder.*
- *To convey preferred option to the Concessionaire and make efforts to agree upon the time and costs for implementation thereof with assistance of the Independent Engineer/Expert.*
- *To execute the Change of Scope Agreement with the Concessionaire*
- *To issue an order requiring the Concessionaire to proceed with the Change of Scope thereof.*

- *Report to the Supervisory Level in case of default*

Payment for Change of Scope

- *To start the process to make the advance payment to the Concessionaire as per the provision of the Concession Agreement.*
- *To process for the disbursement of bills as per the provision of the Concession Agreement*
- *Report to the Supervisory Level in case of default*

Change of Scope Checklist

A checklist to ensure that the all the required steps are done by the Authority to nullify the change in scope effect has been provided in Annexure K.

2. Activities Undertaken by Supervisory Level

The sections below list activities for which the Supervisory Level is responsible. For detailed activities to be undertaken by the Supervisory Level including timelines, refer section 2 in Annexure J, Managing Rare Events.

2.1. Financial Restructuring and Novation Requests:

Any change in the financial structure of the project subsequent to the financial closure, should be communicated to the Authority. In addition, this change in the financial structure due to change in equity stakes of the consortium members or debt refinancing should be in line with the specific clauses of the Concession Agreement. Some of the key activities undertaken by Supervisory Level in this regard are provided below:

- *To send all Legal documents (as submitted by Successful Bidder) to the Legal / Finance Department for review and comments.*
- *After receiving the opinion from Legal / Finance Department, Authority to communicate the same to the Successful Bidder.*
- *To issue a letter to the Concessionaire and approve the documents subject to the incorporation of comments.*
- *Report to the Decision Making Level in case of default*

2.2. Change in Ownership

Some of the key activities undertaken by Supervisory Level in this regard are provided below:

- *To send all legal documents submitted by the successful Bidder to the Legal / Finance Department for review and comments.*
- *After receiving the opinion from Legal / Finance Department, Concessions Authority to communicate the same to the Successful Bidder*

- *To issue a letter to the Concessionaire and approve the documents subject to the incorporation of comments.*
- *Report to the Decision Making Level in case of default*

Change in Ownership Checklist

A checklist to ensure that the all the required steps are done by the Authority to nullify the equity transfer effect has been provided in Annexure K.

2.3. Monthly review and inputs

The Supervisory Level would be responsible for following key activities:

- *To ask for the monthly status reports of all ongoing projects from the concerned Operations Level.*
- *To review all the files/documents forwarded by Operations Level.*
- *To provide required inputs for project execution.*
- *Report and escalate to the Decision Making Level in case of default*

3. Activities Undertaken by Decision Making Level

3.1. Monthly review and inputs

The Decision Making Level would be responsible for following key activities:

- *To ask for the monthly status reports of all ongoing projects from the concerned Supervisory Level.*
- *To review all files/documents forwarded by Supervisory Level.*
- *To take required decision as and when required.*
- *Report to the Board / Chairman in case of default*

XIII. Other Important Activities for Post-Award Contract Management

Knowledge Management and Information Dissemination is an important aspect for managing all documented assets of the project which can be used for future reference. This chapter highlights the provisions to be made by the Authority for sound Knowledge Management and Information Dissemination practice.

1. Identification of Training Requirements

The Contract Management team at each level (Operations Level, Supervisory Level and Decision Making Level) should be provided appropriate training to ensure that they execute their roles with efficiency and effectiveness. These training programs should include a general overview on contract management, project management, and information and knowledge of the industry sectors they operate in.

The table below provides a list of training courses required at different levels.

Type	Course	Contents	Level	Frequency	Pedagogy	Procurement
General	Fundamentals of Contract Management	<ul style="list-style-type: none"> • What is Contract Management • Overview of Contract Management Guidelines • Key issues in Contract Management • Policy / Guidance for Contract Management 	Operations Level, Supervisory Level, Decision Making Level	One-time	Lecture / E-learning	Internal
	Project management	<ul style="list-style-type: none"> • General overview of Project Management • Project Management tools and techniques 	Operations Level, Supervisory Level	One-time	Team projects	Internal
	Commercial and financial skills for PPPs	<ul style="list-style-type: none"> • Understanding of PPP contract • Commercial aspects of PPP contracts • Financial Modeling • Value-for-Money assessment • Public Sector Comparator 	Operations Level, Supervisory Level, Decision Making Level	One-time	Lecture / E-learning	Internal
	Negotiation skills	<ul style="list-style-type: none"> • General Negotiation skills 	Operations Level, Supervisory Level, Decision Making Level	One-time	Case studies / Team projects	External
Technical	Developing Contract Management Plans	<ul style="list-style-type: none"> • Overview of contents of various plans • How to prepare the plans • How to update plans 	Operations Level, Supervisory Level	One-time	Case studies / Team projects	External
	Performance Monitoring	<ul style="list-style-type: none"> • Information collection and analysis 	Operations Level, Supervisory	One-time	Case studies / Team	External

Type	Course	Contents	Level	Frequency	Pedagogy	Procurement
		<ul style="list-style-type: none"> • Helpdesk systems • KPI generation and reporting • Regular reporting and review • Knowledge Management 	Level		projects	
	Risk Management	<ul style="list-style-type: none"> • Risk identification • Risk mitigation • Risk monitoring 	Operations Level, Supervisory Level	One-time	Case studies/ Projects	External
	Relationship Management and Dispute Resolution	<ul style="list-style-type: none"> • Type of Stakeholders involved • Partnership protocols • Issue Management and Escalation procedure • Dispute resolution 	Operations Level, Supervisory Level, Decision Making Level	One-time	Case studies / Team projects	Internal
	Change Management and Contingency Planning	<ul style="list-style-type: none"> • Types of changes/ contingencies • Planning for management of changes and contingencies 	Operations Level, Supervisory Level, Decision Making Level	One-time	Case studies / Team projects	Internal
Sector-specific	Issues specific to a particular sector	<ul style="list-style-type: none"> • Sector specific issues / risks / concerns • Sector updates • International sector updates 	Operations Level, Supervisory Level, Decision Making Level	Bi-annual	Seminar	External

Depending upon the skill level of resources of the team, the Contract Manager must decide who should undergo which training module. Also, certain projects may have added bunch of complexities which may call for additional training courses. The Contract Management Plan must ensure that every person on the Contract Management Team undergoes the courses mandatory for his/her level. A control process to ensure this must be in place.

Apart from identifying type of courses, the Contract Manager must also finalize the training method (pedagogy). This involves various alternatives such as case studies, team projects, lectures, e-learning or seminars. The Contract Manager also needs to finalize, whether the training would be imparted by an internal resource or through an externally procured trainer.

2. Establishing Regular Review Forums for Relationship Management

To ensure a close and cordial relationship between the Government Authority, Concessionaire and other related parties, a formal forum structure must be established at all three levels (to match the Authority's institutional structure). In addition, meetings must also be conducted regularly to obtain updates on project progress as well as discuss ideas and issues pertaining to the project execution. The constitution of each level, roles and responsibilities, and meeting frequencies must be fixed in advance. An illustration of such a formal forum structure is given below.

Level	Authority	Purpose	Constitution	Responsibilities	Meeting frequency
Operations Level	Project Operations Level Forum	Day-to-day coordination with Concessionaire	<ol style="list-style-type: none"> 1. Authority Contract Manager (Operations Level) 2. Authority Assistant (Operations Level) 3. Independent Engineer/Expert 4. Concessionaire Contract Manager 5. Concessionaire Assistant 	<ul style="list-style-type: none"> • Ensure close coordination between Authority and Concessionaire • Discuss and close issues and small disputes that arise from time-to-time 	Weekly
Supervisory Level	Project Supervisory Level Forum	Middle management coordination with Concessionaire	<ol style="list-style-type: none"> 1. Authority Supervisory Manager (Supervisory Level) 2. Authority Contract Manager (Operations Level) 3. Concessionaire Senior Manager 4. Concessionaire Contract Manager 	<ul style="list-style-type: none"> • To discuss and resolve issues that arise from review of reports by Authority at Supervisory Level • Forum for Concessionaire to voice opinion and discuss any concerns relating to the contract • Plan for contract administration 	Monthly
Decision Making Level	Decision Making Level Forum	Ensure close strategic relationship with Concessionaire	<ol style="list-style-type: none"> 1. Authority Chairman (Decision Making Level) 2. Authority Contract Manager (Operations Level) 3. Concessionaire Director 4. Concessionaire Contract Manager 	<ul style="list-style-type: none"> • To voice strategic concerns that the Authority or Concessionaire may have regarding the contract • To discuss and resolve issues which have substantial impact on the contract 	Quarterly

Through these forums it can be ensured that the relationship between the Authority and the Concessionaire is well maintained and issues, if any are first resolved amicably rather than resorting to formal resolution procedures. As per the project requirements, representatives from Port users can also be included in these forums to seek their opinions on project and solve their grievances, if any.

3. Knowledge Management Plan

As mentioned in the Guidelines, a comprehensive knowledge management and information dissemination plan should be developed as part of increasing efficiency and effectiveness of contract management system. Knowledge management and information dissemination will include:

- Public disclosures
- Online and other IT systems for knowledge management
- Knowledge Management Policy

3.1. Public disclosures

The Authority should target to increase the flow and information and transparency, by mandating the private party to maintain a database of important documents available for access to the general public and other stakeholders. Back-up copies of documents and accessible resources should be also maintained. Those documents that must be included in a category of comprising:

- Concession Agreement
- Maintenance Manual
- Maintenance Program
- Maintenance Requirement
- Safety Guidelines

Implementation of a Knowledge Management System by the private party involved in the agreement would assist the Authority in meeting its own accountability requirements and building a robust transparent system. Also, all disclosures must be made, withheld under the provisions of the Right to Information Act, 2005.

3.2. Online and other IT Systems for Knowledge Management

Technology can be leveraged to a great extent these days to manage all documents. Some of the key applications which must be a part of the knowledge management system within and outside the Authority are:

Within the Authority:

- I. **Performance Review System (PRS)**- The system should display all KPIs and their current status with respect to a Concessionaire's performance in a particular project. Also, it should be able to generate reports and send the data on fortnightly, monthly and quarterly basis to Operations Level, Supervisory Level and Decision Making levels within the Authority where exceptions in KPIs may be highlighted. The access to this system should be at all levels.
- II. **Monthly Management Information System (MIS)**- It should capture all transactions related to a project on daily basis and generates a report regularly for the review of the Authority officials. This is of major use to the Operations Level and Supervisory Level officials.

Between Authority and other stakeholders:

- I. **Computerized Project Information System (CPIS)** – CPIS a computerized system should be developed to manage and monitor status of Port Projects and provide an online and real time monitoring facility of report generation for the on-going projects using web based portal of the Authority, if any. The data required to generate these reports has to be entered online by the team of the respective Project Managers.
- II. **Port Information System (PIS)** – Port Information System (PIS) should be developed as an application where data of Port corridors with features of graphical viewing through GIS technology should be available.

- III. **PPP Project Information System (PPP PIS):** This system should include information on all existing and past PPP Projects, their progress, reports from the Independent Engineer/Experts and other stakeholders on the project health.

After the entire knowledge has been retrieved, stored and uploaded in a structured manner, it should be updated at regular intervals so that all the decisions are taken up with latest information on current health of the progress of a project.

3.3. Knowledge Management Policy

It is essential that all knowledge which is generated in form of communications and documents are maintained in a coherent manner within the Authority. Also, how the flow of information happens within the Authority is also a critical part of Information Dissemination Plan. At all three levels, Operations Level, Supervisory Level and Decision Making Level, information flow should be in accordance with the requirements and mapped to the roles and responsibilities of the officials at that level.

A policy on reviewing all the applications and systems developed as part of the plan, and escalation within the Authority should be designed. This policy should include:

- All protocols within the Authority Levels
- All compliance requirements to be met in documentation such as following IFRS accounting principles
- Training and user manuals as appendix to assist users in operation of these systems

This policy should be created by the Contract Manager after consultation with all stakeholders and their respective need and requirement.

Also, a Knowledge Management Register needs to be maintained where key details regarding all knowledge databases and systems are recorded. A sample Knowledge Management Register is shown below:

Sl. No	Knowledge Source/ Data Application	Brief description on usability	Authorities with access to it	Contact Person in case of issues faced

3.4. List of Registers and Reports

The following is a list of registers and reports to be maintained for Contract Management. These registers / reports must be maintained by the Operations Level team and forwarded to Supervisory Level and Decision Making Level officials as required.

Register / Report	Coverage
KPI Report	KPIs for each stakeholder
Service Performance Register	Indicators for Service level obligations of the Concessionaire

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Status report on Project Stage	Project stage and sub-stage
Status report on Activities which are Authority's responsibility	Status of fulfilment of Authority's obligations
Status report on Activities which are Concessionaire's responsibility	Status of fulfilment of Concessionaire's obligations
Status report on action plan finalized in previous period's report	Status of previous period's action plan
Risk Register	Identify and monitor risks
Issue Tracker	Track service delivery issues
Dispute Tracker	Track status of resolving disputes
Ongoing Review Register	Track changes / updates
Complaints Register	Track public grievances and related action taken

The following registers and reports must be maintained by the Concessionaire and submitted to the Authority from time-to-time. These registers / reports should be reviewed by the appropriate person at the Authority and necessary action must be taken on the same.

Register Report	Contents	Frequency of submission	Submitted to	Action plan of Authority
Service Register	List service delivery issues and action taken to resolve them	Monthly	Operations Level	Identify major issues, update Issue tracker and escalate issues, if necessary
Complaints Register	Track public grievances and related action taken	Monthly	Operations Level	Identify major complaints and escalate if necessary

Annexures

A. Template for Contract Management Plan

Activity	Detailed Activates assigned	Primary Responsibility	Reporting Authority	Timelines	Escalation on Default
Stage Wise Contract Management Activities					
1. Development Stage					
1.1. <i>Signing of Concession Agreement</i>					
1.2. <i>Receipt and Verification of Performance Guarantee</i>					
1.3. <i>Obligations Relating to Various Project Agreements</i>					
1.4. <i>Changes to Financing Agreements</i>					
1.5. <i>Handing over the Physical Possession of the Project Site and / or Port's Assets</i>					
1.6. <i>Environmental Clearance</i>					
1.7. <i>Compensation Damage for delay in Fulfilment of Conditions Precedent by the Concessioneing Authority</i>					
1.8. <i>Conditions Precedent for the Concessionaire</i>					
1.9. <i>Financial Closure</i>					
1.10. <i>Declaration of Date of Award</i>					
1.11. <i>Tariff Approval and Notification</i>					
2. Construction Stage					
2.1. <i>Independent Engineer</i>					
2.2. <i>Designs and Drawings</i>					

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Activity	Detailed Activates assigned	Primary Responsibility	Reporting Authority	Timelines	Escalation on Default
<i>2.3. Construction Milestones</i>					
<i>2.4. Suspension of Construction Work</i>					
<i>2.5. Completion Certificate</i>					
<i>2.6. Approvals and Permits</i>					
3. Operations and Maintenance Stage					
<i>3.1. Insurance</i>					
<i>3.2. Release of Performance Guarantee</i>					
<i>3.3. Appointment of Management Contractor</i>					
<i>3.4. Operations and Maintenance</i>					
<i>3.5. Liability for Shortfall in Performance</i>					
<i>3.6. O&M Obligations of the Concessions Authority</i>					
<i>3.7. Performance Linked Tariff</i>					
4. Exit Stage					
<i>4.1. Condition Survey</i>					
<i>4.2. Transfer of Rights and Interest</i>					
5. Project Lifecycle					
<i>5.1. Accounts and Audit</i>					
<i>5.2. Special Audit</i>					

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Activity	Detailed Activates assigned	Primary Responsibility	Reporting Authority	Timelines	Escalation on Default
<i>5.3. Monitoring Escrow Account</i>					
6. Performance Monitoring					
<i>6.1. KPI's for Concessionaire</i>					
<i>6.2. KPI's for Independent Engineer/Expert</i>					
<i>6.3. KPI's for Financial Consultant</i>					
7. Rare Event Management					
<i>7.1. Change in Law</i>					
<i>7.2. Force Majeure</i>					
<i>7.3. Assignment and charge Creation Request</i>					
<i>7.4. Substitution Agreement</i>					
<i>7.5. Indemnity Claims</i>					
<i>7.6. Terminations</i>					
<i>7.7. Change of Scope</i>					
<i>7.8. Change in Ownership</i>					

B. Procedure for Development of Contract Management Plan

Step 1: Need Assessment for Contract Management

The focus of any contract management plan lies in solving the issues faced by the Authority and other stakeholders involved in the project. Thus, for an effective problem identification and resolution, it is important to conduct a detailed “**Need Assessment**”. This approach follows the ‘first principle’ school of thought, where it is imperative to identify the need the contract management plan would fulfill or in other words ascertain, “why do the stakeholders need a contract management plan”. The contract management plan would then be developed focusing on the needs of the stakeholders to deliver them best experience possible.

Step 2: As- is Analysis of Contract Management Practices

The first part of drafting a contract management plan is to undertake an analysis of best contract management practices followed within the organization and outside. This helps the Authority to identify innovative solutions and best SOPs that can be leveraged to help in the PPP project. Key focus should be on similar PPP projects sector wise in developing countries, due to strong similarities in the issues being faced. A thorough analysis needs to be done including but not limited to document review, management interviews, site visit and others.

Step 3: Draft the Plan

The development of an effective contract management strategy must be carefully planned. The contract manager can begin the planning process by asking the following questions:

- **What contract management tools and processes may be required for the project?** Manager should list the tools and processes relevant to the particular project.
- **What human, financial and technology resources are available?** The available resources may dictate the form taken by contract management tools and processes.
- **What time constraints should be set for the development of the contract management tools and processes?** The time constraints should be matched to both the available resources and the expected project delivery dates and milestones.

Step 4: Develop and Implement Contract Management Tools and Processes

After obtaining appropriate resources, and collecting and analyzing relevant information, project manager should proceed to develop and implement the necessary contract management tools and processes. The processes and tools developed and implemented for contract management purposes should be collated in a “**Contract Management Plan**”. The Contract management plan and the performance reports produced over the life of the contract are key documents for the project. Few contract management tools include:

- *Risk Register*
- *KPI Templates*
- *Issues management review report*
- *Dispute Resolution Tracker*
- *Tool to analyze effect of Traffic variations*
- *Tool to analyze effect of Termination*
- *Tool to analyze effect of Change in Law*



#	Risk Category	Details	Likelihood	Consequences



Dispute	Background of dispute	Possible consequences	Responsible person / team

More details on each one of them can be found in their respective chapters.

Step 5: Establish a System of Ongoing Contract Management and Review

In establishing a system of ongoing contract management and review, the project manager relies on the same tools and processes that have been identified earlier. The project manager should also establish a culture of ongoing contract management which includes the systematic review of the contract management strategy and tools and processes during the lifecycle of the project. Senior management needs to support the culture of effective contract management in the relevant government entity.

As part of establishing an effective contract management culture, contract manager and its team should have undertaken training that provides skills and competencies in the contract management of PPP projects

C. Template for Ongoing Review Plan

Category	Type of Change (<i>Illustrative</i>)	Description of change (<i>Illustrative</i>)	Action plan (<i>Illustrative</i>)	Responsible person for tracking change (<i>Illustrative</i>)
Contract Management arrangements	Contract Management Team	Key personnel leaving the organization	Plan to recruit internally / externally, train and onboard the new resource	Operations Level, Supervisory Level, Decision Making Level (as applicable)
	Management team of Concessionaire	Change in key contract management personnel of the Concessionaire	Update risk register, onboard new personnel in the partnership structure	Operations Level, Supervisory Level, Decision Making Level (as applicable)
Performance obligations	Service level obligations	Reduction in traffic	Revise service performance register to reflect changed threshold level	Operations Level
Project risks	New insurance products	New products to transfer risks	Evaluate insurance product and update risk mitigation strategy	Operations Level
	New financial market products	Possibility to hedge interest rate or currency risks / possibility to refinance	Evaluate options and update risk mitigation strategy	Operations Level
Rare events	Competing facility	Potential diversion of traffic due to competing facility	Revise Performance KPIs for Concessionaire, Update risk register	Operations Level, Supervisory Level

D. Contract management activities in the Development stage

1. Activities to be undertaken by Operations Level

1.1. Signing of the Concession Agreement

	Activities	Responsibilities / Action Points	Timeline
a)	Concession Agreement Signing	Step 1: Concessioneing Authority to accept the LOIA acceptance letter from the successful bidder.	Within 7 days of issuance of LOIA
		Step 2: Concessioneing Authority may send reminder letter to the successful bidder in case the successful bidder does not submit the LOIA acceptance letter to the Concessioneing Authority.	Within 15 days of issuance of LOIA
		Step 3: Concessioneing Authority to accept the LOIA acceptance letter from the successful bidder after the reminder.	Within 7 days of receipt of reminder letter from Concessioneing Authority
		Step 4: Concessioneing Authority may forfeit the Bid Security in case the successful bidder does not submit the LOIA acceptance to the Concessioneing Authority within such timelines.	Within 7 days of issuance of reminder letter
		Step 5: Concessioneing Authority to review and approve the submitted draft documents for incorporation of an SPV by the successful bidder.	Within 15 days of acceptance of LOIA
		Step 6: Concessioneing Authority to send all legal documents (as submitted by successful bidder) to the Legal / Finance Department for review and comments. After receiving the opinion from Legal / Finance Department, Concessioneing Authority to communicate the same to the successful bidder.	Within 7 days of receipt of such documents
		Step 7: Concessioneing Authority to suggest required changes in SPV incorporation documents and further review and approve the revised documents submitted by the successful bidder.	Within 7 days of receipt of such comments

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Activities	Responsibilities / Action Points	Timeline
	<p>Step 8: Concessioneing Authority to send all revised documents (as submitted by successful bidder) to the Legal / Finance Department for further review and comments.</p> <p>After receiving Legal / Finance Department’s opinion, Concessioneing Authority to issue an approval letter to the successful bidder for incorporation of the SPV.</p>	Within 7 days of receipt of such documents
	<p>Step 9: Concessioneing Authority to review and approve the following documents for incorporation of SPV and successful bidder to form the SPV:</p> <ul style="list-style-type: none"> • Board Resolution or Power of Attorney in favor of one of the Directors of the SPV to execute the Concession Agreement. • Legal opinion and request to the Concessioneing Authority to accept the Concessioneaire as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder / consortium under the LOA. 	Within 7 days of approval of incorporation of SPV
	<p>Step 10: Concessioneing Authority to send all documents (as submitted by the Concessioneaire) to the Legal / Finance Department for review and comments.</p> <p>After receiving the Legal / Finance Department’s opinion, Concessioneing Authority to issue a letter to the Concessioneaire and agree to enter in to Concession Agreement.</p>	Within 7 days of receipt of such documents
	<p>Step 11: Concessioneing Authority to accept the Concessioneaire’s mutual consent for signing of the Concession Agreement.</p>	Within 7 days of receipt of such consent from Concessioneaire
	<p>Step 12: Concessioneing Authority to declare the Concession Agreement signing date.</p>	Within 7 days of receipt of such acceptance
	<p>Step 13: Concessioneing Authority and Concessioneaire to execute the Concession Agreement.</p>	Within 45 days of Issuance of LOIA

1.2. Receipt and verification of Performance Guarantee

#	Activities	Responsibilities / Action Points	Timeline
a)	Submission of Performance Guarantee	Step 1: Concessions Authority to accept Performance Guarantee in form of Bank Guarantee from the Concessionaire.	Within 90 days of signing of Concession Agreement
		Step 2: Concessions Authority to verify the Bank Guarantee from the respective bank and subsequently issue an acknowledgement to the Concessionaire.	Within 7 days of receipt of such Guarantee
b)	Encashment of Bid security	Step 1: The Concessions Authority may encash the Bid Security and appropriate the proceeds thereof as damages in case the Performance Guarantee is not provided by the Concessionaire within agreed timelines.	Within 7 days of end of 90 of signing the CA
		Step 2: Agreement shall be deemed to have been terminated by mutual agreement of the Concessions Authority and Concessionaire.	Within 7 days of end of 90 of signing the CA

1.3. Execution of Project Agreements

#	Activities	Responsibilities / Action Points	Timeline
a)	Obligations relating to Project Agreements	Step 1: Concessions Authority may review and comment on drafts of all Project Agreements, including any amendments thereto or replacements thereof.	Within 7 days of the receipt of the drafts of such Project Agreements
		Step 2: Concessions Authority to forward all such documents to the Legal / Finance Department for review and comments. After receiving Legal / Finance Department's opinion, Concessions Authority to communicate the same to the Concessionaire.	Within 7 days of receipt of such documents
		Step 3: Concessions Authority to send all revised documents (as submitted by Concessionaire) to the Legal / Finance Department for further review and comments.	Within 7 days of receipt of such comments

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#	Activities	Responsibilities / Action Points	Timeline
		After receiving Legal / Finance Department's opinion, Concessioneing Authority to issue an approval letter to the Concessionaire for the project agreements.	
		Step 4: Concessioneing Authority and Concessionaire to execute the Project Agreements.	Within 7 days of approval
		Step 5: Concessioneing Authority to receive from the Concessionaire a true copy of such Project Agreement duly attested by a Director of the Concessionaire, for its record.	Within 7 days of execution of Project Agreements or amendment thereto

1.4. Changes to Financing Agreements

#	Activities	Responsibilities / Action Points	Timeline
a)	Written consent from Concessioneing Authority	Step 1: Concessionaire to obtain written consent of the Concessioneing Authority before making any addition, replacement or amendments to any of the Financing Agreements.	N/A
		Step 2: Concessioneing Authority to review the proposal submitted by the Concessionaire and communicate the comments, if any. Concessioneing Authority to not unreasonably withhold its consent for restructuring or rescheduling of the Debt Due.	Within 7 days of receiving of such request

1.5. Handover of physical possession of the Project Site and / or Port's assets

#	Activities	Responsibilities / Action Points	Timeline
a)	Handing over of project site / port's assets	Step 1: Upon receipt of notice from the Concessionaire, Concessioneing Authority to hand over project site and / or port's assets	Within 90 days of signing the CA

2. Activities to be undertaken by Supervisory Level

2.1. Procurement of Environmental Clearance

#	Activities	Responsibilities / Action Points	Timeline
a)	Environmental Clearance	Step 1: Upon receipt of notice from Concessionaire to procure Applicable Permits relating to environmental protection and conservation of the site, Concessions Authority to send application for such permit to the competent government authority	N/A
		Step 2: Concessions Authority to ensure that all such permits are obtained within agreed timelines	Within 90 days of signing the CA

2.2. Damages for delay by the Authority in fulfilling Conditions Precedent

#	Activities	Responsibilities / Action Points	Timeline
a)	Damage for delay by the Concessions Authority	Step 1: Upon receipt of notice from Concessionaire for damage for delay, if the Concessions Authority does not meet any of the Conditions Precedent within the specified period, the Concessions Authority to pay the 0.1% of Performance Guarantee for each day of delay until the fulfillment of such Conditions Precedent, subject to a maximum of 5% of the Performance Guarantee to the Concessionaire as damages, provided that the delay does not occur due to breach of this Agreement by the Concessionaire or due to Force Majeure. Concessions Authority to review the request for damages received from the Concessionaire and negotiate appropriately with the Concessionaire	Within 7 days of request received from Concessionaire
		Step 2: Process the claim for damages and transfer the payment	Within 7 days from approval of request

2.3. Achievement of Financial Closure

#	Activities	Responsibilities / Action Points	Timeline
a)	Financial	Step 1: Concessions Authority to accept three copies of Financing Agreement	Within 90 days of

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#	Activities	Responsibilities / Action Points	Timeline
	Closure	<p>along with 3 true copies of the financial package and financial model (in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders) submitted by the Concessionaire. All documents should be duly attested by a Director of the Concessionaire. Concessionaire to execute the Financing Agreement also.</p> <p>Step 2: Concessioning Authority to send Financing Agreement to the Legal / Finance Department for review and comments.</p> <p>After receiving the opinion from Legal / Finance Department, Concessioning Authority to communicate the same to the Concessionaire.</p> <p>Step 3: Concessioning Authority to further review the revised Financing Agreement submitted by the Concessionaire after making all changes suggested by Concessioning Authority.</p> <p>Step 4: Concessioning Authority to send revised Financing Agreement to the Legal / Finance Department for further review and comments.</p> <p>After receiving the opinion from Legal / Finance Department, Concessioning Authority to issue a letter to the Concessionaire and declare the Financial Closure, if the terms and conditions of Financing Agreement is acceptable to the Concessioning Authority or ask for the further changes, if any and repeat the above process.</p>	<p>signing the CA</p> <p>Within 7 days of receipt of such documents</p> <p>Within 7 days of receipt of such comments</p> <p>Within 7 days of receipt of such documents</p>
b)	Delay in Financial Closure	<p>Step 1: In case of delay in Financial closure, Concessioning Authority to receive payment of Damages to the Concessioning Authority at the rate of 0.1% of the Performance Guarantee for each day's delay, subject to a maximum of 5% of the Performance Guarantee. Concessioning Authority to issue a notice for the damage claim to the Concessionaire</p> <p>Step 2: The performance period shall be deemed to be extended by the number of days for which damages are paid and if Financial Close is not achieved within such extended period, the agreement shall be liable to be terminated.</p> <p>Step 3: Upon Termination, the Concessioning Authority to encash the Bid Security and appropriate the proceeds thereof as damages. If the Bid Security shall have been</p>	<p>Within 7 days of end of 90 of signing the CA</p> <p>Within 7 days of end of 90 of signing the CA</p> <p>Within 7 days of end of</p>

#	Activities	Responsibilities / Action Points	Timeline
		<p>substituted by Performance Security, the Concessing Authority shall be entitled to encash therefrom an amount equal to Bid Security.</p> <p>If Financial Close has occurred on account of failure of the Concessing Authority, the Bid Security / Performance Guarantee shall be returned to the Concessionaire</p>	90 of signing the CA

2.4. Declaration of Date of Award

#	Activities	Responsibilities / Action Points	Timeline
a)	Status of Conditions Precedent	<p>Step 1: Concessing Authority to receive a written update from the Concessionaire at least once a month about the status of Conditions Precedent which it is responsible.</p> <p>Step 2: Concessing Authority to notify the Concessionaire in writing at least once a month about the status of Conditions Precedent for which it is responsible.</p>	Monthly
b)	Condition Precedent of Concessionaire	<p>Step 1: Concessing Authority to</p> <p>a) Get all Conditions Precedent documents verified from Legal / Finance Department</p> <p>b) Declare the Date of Award of Concession</p> <p>c) If all Conditions Precedent are not fulfilled within specified period then damages would be claimed from Concessionaire</p> <p>d) Damages would be appropriated from Performance Guarantee</p>	Within 7 days of receiving of such documents
c)	Appropriation of Performance Security	<p>Step 1: Concessing Authority may encash and appropriate damages from the Performance Security upon Concessionaire default or failure to meet Conditions Precedent. This value should be 0.2% of Performance Guarantee for each day of delay until the fulfillment of such Conditions Precedent, subject to a maximum of 5% of the Performance Guarantee, provided the delay does not occur as a result of failure on account of the Concessing Authority or due to Force Majeure.</p> <p>Step 2: In case the Concessionaire does not cure its default within extended period,</p>	<p>Within 7 days from 90 of signing the CA</p> <p>Within 7 days of expiry</p>

#	Activities	Responsibilities / Action Points	Timeline
		the Concessions Authority is entitled to encash and appropriate such Performance Guarantee as damages and to terminate the Agreement.	of extended period

2.5. Tariff approval and notification

#	Activities	Responsibilities / Action Points	Timeline
a)	Tariff approval and notification	<p>Step 1: Prepare an application in accordance with TAMP's guidelines</p> <p>Step 2: Submit the same and seek approval from TAMP</p>	Complete during bidding stage as per TAMP's guidelines

2.6. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Supervisory Level officer to review and provide inputs on the monthly status reports received from Operations Level Officer on all ongoing projects and report to the Decision Making Level in case of default.	1 day of default

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

3. Activities to be undertaken by Decision Making Level

3.1. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status	Step 1: Decision Making Level officer to review and provide inputs on the monthly status reports received from Supervisory levels on all ongoing projects and report to	5 days of default

#	Activities	Responsibilities / Action Points	Timeline
	reports and review of documents	Board / Chairman in case of default.	

Escalation:

In case of any default, the issue has to be escalated by the Decision Making Level within 5 days of default.

E. Contract management activities in the Construction stage

1. Activities to be undertaken by Operations Level

1.1. Appointment of Independent Engineer

#	Activities	Responsibilities / Action Points	Timeline
a)	Appointment of Independent Engineer	Step 1: Concessioneing Authority shall issue EOI for selection of Independent Engineer and receive bids from interested parties	21 days of signing the CA
		Step 2: Evaluate EOIs received and shortlist bidders	7 days of receipt of EOIs
		Step 2: Concessioneing Authority to forward list of shortlisted bidders along with their profile to the Concessionaire	30 days of signing the CA
		Step 3: Concessioneing Authority to await objections, if any, from the Concessionaire on the shortlisted bidders' list	15 days of forwarding the list
		Step 4: After considering objections of the Concessionaire, if any, the Concessioneing Authority to invite financial bids from shortlisted bidders and select the Independent Engineer firm based on the lowest fee quote	15 days of end of 15 days of forwarding the list

1.2. Review of Designs and Drawings

#	Activities	Responsibilities / Action Points	Timeline
a)	Review of Designs and Drawings	Step 1: Concessioneing Authority has the right but not the obligation to review designs and drawings submitted by the Concessionaire and to provide comments on the same	7 days of submitting the drawings
		Step 2: Concessioneing Authority to receive and maintain set of records of final approved designs and drawings duly certified by Independent Engineer	7 days of forwarding comments

1.3. Monitoring construction progress

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly Progress Report	Step 1: Concessions Authority is entitled to receive monthly progress reports from the Concessionaire and the Independent Engineer during the Construction period.	Within 7 days of the close of each month
b)	Damages in case milestones are not met	Step 1: In case the Concessionaire does not meet construction milestones within the specified period, Concessions Authority to issue a notice to the Concessionaire to pay damages, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Concessions Authority.	Within 7 days of 90 days of Scheduled Milestone date
		Step 2: Concessions Authority to receive payment for damages by the Concessionaire in a sum calculated at the rate of 0.1% of the amount of Performance Security for delay of each day until such Milestone is achieved.	N/A
		Step 3: In case the aggregate delay exceeds 180 days or the aggregate liquidated damages payable exceeds 5% of the EPC, the Concessions Authority shall be entitled to terminate the CA.	Within 7 days of exceeding the time / value limit

1.4. Testing and Inspection before issue of Completion Certificate

#	Activities	Responsibilities / Action Points	Timeline
a)	Tests	Step 1: Concessionaire to notify the Independent Engineer of the date it intends to commence commercial operations	At least 60 days before project completion date
		Step 2: Independent Engineer to determine the date and time of Tests in consultation with the Concessionaire and notify the Concessions Authority.	N/A
		Step 3: Concessions Authority may designate its representative to witness the Test	N/A
		Step 4: In case the Concessionaire and Independent Engineer fail to mutually agree on dates for conducting Tests, the Concessionaire shall fix dates by providing not less than 10 days' notice to the Independent Engineer.	N/A
		Step 5: Independent Engineer to conduct all Tests in accordance with Schedule I and determine compliance with Specifications and Standards.	N/A
		The Independent Engineer to direct the Concessionaire to remedy/rectify the	

#	Activities	Responsibilities / Action Points	Timeline
		defects/deficiencies or suspend/delay such Tests, in case the performance of the Project does not confirm to required specification and standards. After the completion of each Test, Independent Engineer to provide copy of all Test data and detailed Test results to the Concessionaire and Concessions Authority.	
b)	Completion Certificate	The Independent Engineer to issue a Completion Certificate to the Concessionaire and the Concessions Authority, upon determining all Tests to be successful.	7 days of completing Tests
c)	Provisional Certificate	The Independent Engineer may issue a Provisional Certificate if the tests are successful and the Project can be safely commercially operationalized, though certain works or things are outstanding and not yet complete.	7 days of completing Tests
d)	Punch List	Step 1: The Provisional Certificate shall have a Punch List of incomplete/outstanding Items appended thereto, which is jointly signed by the Independent Engineer and Concessionaire.	N/A
		Step 2: In case the Concessionaire does not complete the Punch List Items within 90 days or such other extended period as granted by the Concessions Authority, the Concessions Authority shall be entitled to terminate the agreement.	Within 7 days of the end of the prescribed period

2. Activities to be undertaken by Supervisory Level

2.1. Suspension of construction work

#	Activities	Responsibilities / Action Points	Timeline
a)	Inspection	Step 1: The Concessions Authority is entitled to receive a monthly Inspection Report from the Independent Engineer including deficiencies in construction with respect to the scope of the project and Specifications and Standards.	Within 7 days of inspection
b)	Suspension of work	Step 1: Concessions Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the construction works upon recommendation from the Independent Engineer.	Within 7 days of receipt of such request from Independent Engineer
		Step 2: Independent Engineer to inspect remedial measures and make a report to the Concessions Authority recommending whether or not the suspension may be revoked.	Within 7 days of inspection

#	Activities	Responsibilities / Action Points	Timeline
		<p>Step 3: Upon receiving the recommendations of the Independent Engineer, the Concessions Authority to either revoke the suspension or instruct the Concessionaire to carry out such further remedial measures as may be necessary in the reasonable opinion of the Concessions Authority.</p> <p>In case further remedial measures taken by Concessionaire are not reasonable in the opinion of the Concessions Authority, the Concessions Authority to repeat the above process until suspension is revoked.</p>	Within 7 days of receipt of such request from Independent Engineer

2.2. Procurement of approvals and permits

#	Activities	Responsibilities / Action Points	Timeline
a)	Approvals and Permits	<p>Step 1: Upon Concessionaire's request, Concessions Authority may approach relevant Government Authorities for approvals / permits</p>	Within 7 days of the receiving request
		<p>Step 2: Concessions Authority to file application and ensure procurement of required approvals / permits</p>	N/A

2.3. Change of scope

#	Activities	Responsibilities / Action Points	Timeline
a)	Change of scope	<p>Step 1: If the change of scope is within the cost limits specified in the Concession Agreement, the Concessions Authority to issue a notice to the Concessionaire detailing the change in scope</p>	N/A
		<p>Step 2: Concessions Authority to review the feedback on adverse impact and cost to be incurred, as received from the Concessionaire and convey its agreement or otherwise thereto</p>	7 days of receiving feedback
		<p>Step 3: If an adverse impact is notified by the Concessionaire and / or Concessions Authority disagrees with the cost assessment, the parties shall mutually modify the change of scope as necessary</p>	30 days of notification of adverse impact / cost
		<p>Step 4: If an adverse impact / cost is not notified and the change of scope is to be proceeded with, issue an order requiring Concessionaire to proceed with the implementation of such change</p>	30 days of change of scope notice

#	Activities	Responsibilities / Action Points	Timeline
		Step 5: Concessioneing Authority to process advance payment of 20% of cost of change of scope towards such change	7 days of change of scope order
		Step 6: Concessioneing Authority to process remaining payment against bills submitted by the Concessionaire	30 days of receipt of such bills
		Step 7: Concessioneing Authority may, if it so decides, also seek competitive bids from external parties and award additional work accordingly	N/A

2.4. Notification of Commercial Operations Date

#	Activities	Responsibilities / Action Points	Timeline
a)	Notification of Commercial Operations Date	Step 1: Concessioneing Authority to receive a copy of the Completion Certificate from the Independent Engineer	N/A
		Step 2: Concessioneing Authority to notify the Commercial Operations Date in the Official Gazette of India	7 days of receiving Completion Certificate

2.5. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Supervisory Level officer to review and provide inputs on monthly status reports received from Operations Level on all ongoing projects and report to the Decision Making Level	1 day of default

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

3. Activities to be undertaken by Decision Making Level

3.1. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Decision Making Level officer to review and provide inputs on monthly status reports received from Supervisory Level on all ongoing projects and report to the Board / Chairman.	5 days of default

Escalation:

In case of any default, the issue has to be escalated by the Decision Making Level within 5 days of default.

4. Activities to be undertaken by Independent Engineer

#	Activities	Responsibilities / Action Points	Timeline
a)	Drawings	Step 1: Independent Engineer shall review the drawings provided to it by the Concessionaire and convey its observations to the Concessionaire.	Within 21 days of submission
		Step 2: Independent Engineer shall review the revised drawings as submitted by the Concessionaire, and convey its observations	Within 7 days of submission
b)	Construction	Step 1: Independent Engineer shall inspect Construction works every month and make an Inspection Report, including any lapses / deficiencies observed	Before 20 th of each month
		Step 2: Independent Engineer may require the Concessionaire to carry out tests on a sample basis to determine that construction work including any remedial work, conforms to Construction standards. It shall monitor and review the results thereof.	Time-to-time
		Step 3: Independent Engineer shall review construction progress and if it identifies that completion of the Project is not feasible within the specified time, it shall require the Concessionaire to indicate steps proposed to be taken to expedite project progress. The Independent Engineer shall review such steps and send its comments	Concessionaire to indicate steps to expedite project within 15 days of Independent

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#	Activities	Responsibilities / Action Points	Timeline
		to the Concessions Authority and Concessionaire.	Engineer's notice therefor
		<p>Step 4: If the Independent Engineer finds that it is not safe to carry on Construction works, it shall make a recommendation to the Concessions Authority to suspend such works forthwith.</p> <p>Upon adequate remedial measures being taken by the Concessionaire, it shall inspect such safety measures and recommend to the Concessions Authority on whether the suspension is to be revoked.</p> <p>If suspension is not due to fault of Concessionaire, the Independent Engineer shall determine the extension of time for completion to which the Concessionaire is reasonably entitled and notify the Concessions Authority and the Concessionaire of the same.</p>	Time-to-time
		Step 5: The Independent Engineer shall carry out necessary Tests and subsequently issue Provisional Certificate and / or Completion Certificate.	7 days of completing Tests

F. Contract management activities in the Operations and Maintenance stage

1. Activities to be undertaken by Operations Level

1.1. Ensuring adequate insurance

#	Activities	Responsibilities / Action Points	Timeline
a)	Notice to the Concessioning Authority	Step 1: Concessioning Authority to receive notice from the Concessionaire stating information on the insurances that it proposes to effect and maintain	Within 45 days prior to commencement of the Operations and Maintenance Period
		Step 2: Concessioning Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary. In the event of any disagreement relating to such insurances, the Dispute Resolution Procedure will apply	Within 30 days of receipt of such notice
b)	Evidence of Insurance Cover	Step 1: Concessioning Authority to receive notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance.	Within 15 days of obtaining any insurance cover
		Step 2: No such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 10 days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Concessioning Authority.	At least 10 days' notice
c)	Remedy for failure to insure	Step 1: If the Concessionaire fails to effect and keep in force all insurances for which it is responsible, the Concessioning Authority has the option to either keep in force such insurances, pay the premia and recover the costs thereof with interest at SBI PLR + 2% per annum from the Concessionaire or by exercising right of set off	N/A

1.2. Monitoring Operations and Maintenance

#	Activities	Responsibilities / Action Points	Timelines
a)	Monthly reports	Step 1: Concessionaire shall provide monthly reports to the Concessions Authority on operations of the terminal as prescribed in the Concession Agreement and additional information requested by the Concessions Authority	Within 15 days of end of each month
b)	Appointment of Experts	Step 1: Concessions Authority may for the purpose of verifying that the facility is operated and maintained in accordance with performance standards, O&M standards and safety standards appoint Experts on an annual basis The Concessionaire shall provide access to the facility and provide all necessary cooperation to such Experts for carrying out the verification	Annually

1.3. Liability for shortfall in performance

#	Activities	Responsibilities / Action Points	Timelines
a)	Shortfall in performance	Step 1: In case O&M of the facility does not conform to performance or safety standards, the Concessions Authority shall calculate the amount of liquidated damages payable by the Concessionaire and demand the same through a notice in writing	N/A
		Step 2: Concessionaire to pay the damages claimed or make written representation for their waiver	Within 30 days of the demand
		Step 3: Upon receiving written representation, Concessions Authority may decide to waive the damages in part or full	3 days of receiving written representation

1.4. O&M obligations of the Concessions Authority

#	Activities	Responsibilities / Action Points	Timelines
a)	Service provision	Step 1: Concessions Authority to ensure services are provided as agreed in the Concession Agreement and related performance and safety standards are maintained	N/A
b)	Procuring approvals	Step 1: Concessions Authority to ensure they provide necessary support to procure government approvals for O&M as required by the Concessionaire from	N/A

#	Activities	Responsibilities / Action Points	Timelines
		time-to-time	
c)	Utilities and Services	Step 1: Concessioning Authority to provide access to all necessary infrastructure facilities and utilities to the Concessionaire for operations and maintenance of the facility at rates available to other commercial customers	N/A
d)	Competing facilities	Step 1: Concessioning Authority to ensure that competing facilities are not operationalized before the time / traffic limits specified in the Concession Agreement are achieved	N/A

1.5. Collection of payments

#	Activities	Responsibilities / Action Points	Timeline
a)	Collection of payments	Step 1: Monitor receipt of payments from the Concessionaire on a regular basis	Monthly
		Step 2: Review six-monthly statement of Gross Revenue certified by Statutory Auditors of the Concessionaire	Half-yearly

2. Activities to be undertaken by the Supervisory Level

2.1. Release of Performance Guarantee

#	Activities	Responsibilities / Action Points	Timeline
a)	Release of Performance Security	Step 1: Upon receipt of request from Concessionaire, Concessioning Authority to release the Performance Guarantee after the expiry of 6 months from the Date of Commercial Operations provided Concessionaire is not in default of the Concession Agreement.	Within 7 days of receiving of such request

2.2. Approving appointment of Management Contractor

#	Activities	Responsibilities / Action Points	Timeline
a)	Appointment	Step 1: Concessioning Authority shall receive and review (if necessary)	N/A

#	Activities	Responsibilities / Action Points	Timeline
	of Management Contractor	Management Contract documents submitted by the Concessionaire.	
		Step 2: Concessionaire shall seek prior written consent of the Concessioneing Authority before amending, substituting or revoking the Management Contract.	N/A
		Step 3: Concessioneing Authority to convey its decision expeditiously.	Within 7 days of receipt of request

2.3. Application for Performance Linked tariff

#	Activities	Responsibilities / Action Points	Timelines
a)	Service provision	Step 1: Concessioneing Authority shall host the Concessionaire’s proposal for Performance linked tariff on the Port Concessioneing Authority’s website seeking user comments within 21 days of posting	On receipt of reference from TAMP
		Step 2: Forward comments, if any, received from users on the Concessionaire’s achievement of performance standards to TAMP Also forward the Concessioneing Authority’s comments on the Concessionaire’s achievement of performance standards to TAMP	15 days of last date of receiving user comments

2.4. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Supervisory Level officer to review and provide inputs on the monthly status reports received from Operations Level Officer on all ongoing projects and report to Decision Making Level	1 day of default

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

3. Activities to be undertaken by Decision Making Level

3.1. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Decision Making Level officer to review and provide inputs on the monthly status reports received from Supervisory Level Officer on all ongoing projects and report to Board / Chairman.	5 days of default

Escalation:

In case of any default, the issue has to be escalated the Decision Making Level within 5 days of default.

G. Contract management activities in the Exit stage

1. Activities to be undertaken by Operations Level

1.1. Conducting the Condition survey

#	Activities	Responsibilities / Action Points	Timeline
a)	Condition survey	Step 1: Concessionaire shall conduct a Condition Survey under the Concessions Authority's supervision	6 months prior to expiry of Concession period
		Step 2: If the Project Facilities have not been operated and maintained as per the Agreement, Concessions Authority shall require the Concessionaire to take all necessary steps to put the assets in good working condition	7 days of submission of Condition Survey report
		Step 3: In case the Concessionaire fails to conduct this survey, the Concessions Authority may itself initiate the survey and get reimbursed by the Concessionaire for the same	6 months prior to expiry of Concession period

2. Activities to be undertaken by the Supervisory Level

2.1. Transfer of Rights and Interest

#	Activities	Responsibilities / Action Points	Timeline
a)	Transfer of rights and interest	Step 1: Concessions Authority to execute necessary deeds and documents and complete legal formalities to transfer rights, titles and interests in Project Facilities and Assets	To be started 6 months before contract expiry and completed by contract expiry
		Step 2: Concessions Authority to take handover of project documents, data, permits, approvals etc. from Concessionaire	To be started 6 months before contract expiry and completed by contract expiry

2.2. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Supervisory Level officer to review and provide inputs on the monthly status reports received from Operations Level Officer on all ongoing projects and report to Decision Making Level.	1 day of default

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

3. Activities to be undertaken by Decision Making Level

3.1. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Decision Making Level officer to review and provide inputs on the monthly status reports received from Supervisory Level Officer on all ongoing projects and report to Board / Chairman.	5 days of default

Escalation:

In case of any default, the issue has to be escalated the Decision Making Level within 5 days of default.

H. Contract management activities throughout the project life cycle

1. Activities to be undertaken by Supervisory Level

1.1. Accounts and Audit

#	Activities	Responsibilities / Action Points	Timeline
a)	Accounts and Audit	Concessions Authority to receive and review books of account and financial statements submitted by the Concessionaire	Annually
		Concessions Authority to review statement of Gross receipts submitted by the Concessionaire	Half-yearly
b)	Special Audit	Concessions Authority to appoint an independent firm of Chartered Accountants as an Additional Auditor to conduct Special Audit of Gross receipts, if necessary	N/A
		If the Gross Receipts as determined by Additional Auditor is higher than that certified by the Statutory Auditor of the Concessionaire, the Concessions Authority shall require the Concessionaire to pay Royalty and / or Interest applicable as per the Concession Agreement on the difference amount	N/A

1.2. Monitoring Escrow Account

#	Activities	Responsibilities / Action Points	Timeline
a)	Monitoring Escrow Account	Concessions Authority to monitor deposits into and withdrawals from the Escrow Account and ensure they are in the order of priority specified in the Concession Agreement	Monthly

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

2. Activities to be undertaken by Decision Making Level

2.1. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Decision Making Level officer to review and provide inputs on the monthly status reports received from Supervisory Level Officer on all ongoing projects and report to Board / Chairman.	5 days of default

Escalation:

In case of any default, the issue has to be escalated the Decision Making Level within 5 days of default.

I. Performance Monitoring- Key Performance Indicators (KPIs)

1. Stage wise Concessionaire KPIs

1.1. Concessionaire KPIs during Development Stage

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
1. Time Line – Actual Vs. Targeted Date							
a)	Signing of Concession Agreement	Bidder to incorporate an SPV under the Companies Act, 1956 (or as per amended versions of the Act) and request the Authority to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium under the LOIA and execute the Concession Agreement within 30 days of acceptance of LOIA	Concessionaire	Within 30 days of acceptance of LOIA	Operations Level	To ensure the Concession Agreement has been executed on time In case of any delay, write a letter to the Concessionaire. Report to the Supervisory Level	Within 15 days
b)	Submission of	Concessionaire to Submit Performance	Concessionaire	Within 90 days of date	Operations Level	To ensure performance	Within 7 days from 90 of Signing of CA

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
	Performance Security	Security within specified timelines as detailed in the Concession Agreement.		of signing of Concession Agreement.		<p>security has been submitted on time</p> <p>In case of any delay, encash the Bid Security and appropriate the proceeds thereof as Damages.</p> <p>Report to the Supervisory Level</p>	
c)	Financial Closure	The Concessionaire to achieve financial closure within targeted timelines as specified in the Concession Agreement.	Concessionaire	Within 90 days of date of Concession Agreement	Supervisory Level	<p>To ensure that Financial Closure has been achieved on time</p> <p>In case of any delay write a letter to the Concessionaire and</p>	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						appropriate liquidated damages. Report to the Chairman	
d)	Appointment of Independent Engineer/Expert	The Concessionaire to scrutinise the relevant records of the Authority to ascertain whether the selection of firms for Independent Engineer/Expert has been undertaken in accordance with the procedure prescribed in the Concession Agreement.	Concessionaire	Within 15 days of receiving the aforesaid list of firms.	Operations Level	The Authority to ensure appointment of the Independent Engineer/Expert takes place in timely manner. a) The Authority to shortlist bidders based on their technical capability. b) The Authority to forward	Within 30 days of receiving comments

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						brief profiles of the shortlisted bidders to the Concessionaire. c) The Authority to receive inputs from Concessionaire. d) The Authority to call for financial bids from the shortlisted bidders. e) The Authority to finalise the	

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						Independent Engineer.	
e)	Fulfilment of Conditions Precedents	Concessionaire to meet all Condition Precedents as specified in the Concession Period Within 90 days from the date of Agreement.	Concessionaire	Within 90 days from signing of CA or any time decided by both parties	Supervisory Level Officer (F)	To ensure all Condition Precedents of the Concessionaire have been fulfilled on time In case of any delay, penalty payment would be appropriated from performance Security. Report to the Chairman and Deputy Chairman.	Liquidated Damages
2. Project Cost							

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
a)	Variance in project cost	No/least variation in Total Project Cost in the Financing Agreement (at the time of the financial closure) with respect to Total Project Cost mentioned in the Concession Agreement.	Concessionaire	-	Supervisory Level	<p>To ensure that the deviation in Total Project Cost is less than or equal to 5% from the cost approved by the Authority at the time of Financial Closure or as approved by the Independent Engineer/Expert.</p> <p>In case, a variation greater than 5% is observed report Supervisory Level with a copy to the</p>	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						Chairman.	
3. Quality of Services							
a)	Quality of finalized drawings/ design incorporating Independent Engineer's/Expert review /suggestions	95%-100% of the technical design has been accepted as right first time. Revisions and suggestions given on draft drawings/reports by Independent Engineer/Expert have been fully incorporated and submitted on time.	Concessionaire	-	Operations Level	To review the drawing/designs submitted by Concessionaire. In case the Concessionaire has not incorporated the suggestions of the Independent Engineer/Expert, write a letter to the Concessionaire Report to the Supervisory Level.	Within 15 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
4. Communication and Responsiveness							
a)	Correspondence with key Authorities and parties	The Concessionaire to obtain permits/approvals including custom clearance, fire and safety department and Labor commissioner and others as specified in the Concession Agreement on time.	Concessionaire	-	Operations Level	To ensure the Concessionaire has procure all applicable approvals on time If concessionaire does not procure all applicable permits on time, Authority to write a letter to the Concessionaire. Report to the Supervisory Level	Within 30 days
5. Project and Contract Management							
b)	All Insurances	Undertaking insurance covers for mitigating risks	Concessionaire		Operations	To ensure the Concessionaire	10 days prior to expiry of each term

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
	maintained and renewed timely	and renewing the same on or before time.	naire		Level	<p>e has maintained the Insurance and renewed the same on time</p> <p>If concessionaire has not maintained the Insurance and renewed the same on time, Authority to write a letter to the Concessionaire.</p> <p>Report to the Supervisory Level.</p>	of insurance

1.2. Concessionaire KPIs during the Construction Stage

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
1. Time Line – Actual Vs. Targeted Date							
a)	Timely submission of monthly progress report	All 12 monthly progress reports in a year to be submitted on time to the Independent Engineer/Expert/Authority.	Concessionaire	Monthly	Operations Level	To ensure Concessionaire has submitted all monthly progress report and other relevant information on time. In case of any delay, write a letter to the Concessionaire. Report to the Supervisory Level.	Within 7 days
b)	Financial Progress status corresponding to Physical Progress	The variation between the financial and the physical progress should not exceed 10% at any stage of project execution.	Independent Engineer/Expert	Monthly	Operations Level	To ensure the variation between the financial and the physical progress does not exceed 10% at any stage of	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						<p>project execution</p> <p>In case the variation is more than 10%, write a letter to the Concessionaire.</p> <p>Report to the Supervisory Level.</p>	
c)	Achievement of Project Milestones and Scheduled Project Completion Date	The concessionaire to achieve all the project milestones on time and the project to be completed within the scheduled project completion date as specified in the Concession Agreement.	Independent Engineer/ Expert	On milestone Date	Operations Level	<p>To ensure that the Concessionaire meets all milestones as per the Schedule of the Concession Agreement</p> <p>In case of any delay in achieving any of the milestones, write a letter to the Concessionaire.</p> <p>Report to the Supervisory Level.</p>	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
2. Quality of Services							
a)	Quality of Machinery and Equipment used	<p>The concessionaire in accordance with relevant standards should provide the type and capacity of equipment/machinery required for handling the specified cargo/containers.</p> <p>The equipment/machinery should conform to the standards specified in the Concession Agreement and Code of practices.</p>	Independent Engineer/Expert	-	Operations Level	<p>To ensure that the Equipment/Machinery used by the Concessionaire conform to the standards specified in the Concession Agreement.</p> <p>If Concessionaire fails to do so, Operations Level may write to the Concessionaire in this regard.</p> <p>Report to the Supervisory Level.</p>	Within 7 days of notice from Independent Engineer/Expert
c)	Quality of Construction and extent of defect identified	No major defects or deficiencies to be identified in the design, construction or implementation of the project..	Independent Engineer/Expert	-	Operations Level	To ensure that the quality of the construction is maintained as per the standards specified.	Within 7 days of Notice from Independent Engineer/Expert

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						In case of any variation write a letter to the Concessionaire Report to the Supervisory Level.	
3. Communication and Responsiveness							
a)	Responsiveness on delivering additional scope of work	The concessionaire to provide timely responses covering the following aspects to the satisfaction of Independent Engineer/Expert (1) Any adverse impact which the Change of Scope is likely to have on the Project. (2) the cost to be incurred by the Concessionaire for and in respect of such Change of Scope.	Independent Engineer/Expert		Operations Level	To ensure that Concessionaire responds on time to the satisfaction of Independent Engineer/Expert. In case of any delay in response or not as per the direction of the Independent Engineer/Expert, write a letter to the Concessionaire Report to the Supervisory Level.	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
b)	Responsiveness to instruction, queries or notice of Authority, Independent Engineer/Expert– Clarity, Completeness and Timeliness	Concessionaire to be responsive to the instructions issued and queries raised, . Concessionaire responds promptly on more than 90% of the occasions to the satisfaction of the Independent Engineer/Authority.	Independent Engineer/Expert		Operations Level	To ensure that the Concessionaire is available and responds on all occasions to the satisfaction of the Independent Engineer/Expert/A authority. In case response from the Concessionaire is not up to Independent Engineer/Expert /Authority's satisfaction, write a letter to the Concessionaire Report to the Supervisory Level.	Within 7 days

1.3. Concessionaire KPIs during the Operations and Maintenance stage

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
1. Time Line – Actual Vs. Targeted Date							
a)	Meeting target timeline for correction works	The Concessionaire to repair or rectify the defects or deficiencies, as set forth by the Independent Engineer within the timelines specified in the Concession Agreement.	Independent Engineer/ Expert	-	Operations Level	To ensure that the correction works have been completed on time In case of any delay, write a letter to the Concessionaire. Report to the Supervisory Level.	Within 7 days of Notice from Independent Engineer/Expert
b)	Submission of Monthly Reports	All 12 monthly reports (in a year) on cargo traffic, unit gross output/ discharge rates at berth and daily output rated per vessel to be submitted on time to the Authority. The concessionaire shall not be penalized for any delay on account of the	Concessionaire	Monthly	Operations Level	To ensure that the Concessionaire has submitted monthly reports on time In case of any delay, write a letter to the	Within 7 days of Notice from Independent Engineer/Expert

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
		Authority.				Concessionaire. Report to the Supervisory Level.	
c)	Timely payment of Royalty	All monthly royalty payments to be made prior to the seventh day of the succeeding month.	Concessionaire	Monthly	Operations Level	To ensure that the Concessionaire has made all monthly royalty payments on time. In case of any delay, write a letter to the Concessionaire. Report to the Supervisory Level.	Within 7 days
d)	Provide Certified Accounts on time	The Concessionaire to submit to the Concessions Authority a financial statement of the Gross Revenue for every six monthly period	Concessionaire	Within 30 days of end of such period	Operations Level	To ensure that the Concessionaire has submitted Gross Revenue statements on	Within 7 days of Notice from Independent Engineer/Expert

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
		ending 30th September and 31st March every year, duly certified by its Statutory Auditors.				time In case of any delay, write a letter to the Concessionaire. Report to the Supervisory Level.	
2. Quality of Services							
a)	Quality of Maintenance during operation period	The concessionaire to conform to the maintenance requirements of the concession agreement.	Independent Engineer/ Expert	-	Operations Level	To ensure that the quality of the maintenance is as per the good industry practice and all comments/ notices issued by Independent Engineer/Expert has been resolved In case the comments of	Within 7 days of Notice from Independent Engineer/Expert

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						Independent Engineer/Expert have not been resolved, write a letter to the Concessionaire. Report to the Supervisory Level.	
b)	Curing Timelines for Default Punch list items and Maintenance Requirements	Timelines for curing breach for Punch List items or on default of maintenance requirements of the project to be served without any delay.	Independent Engineer/Expert		Operations Level	To ensure that the breach or default for punch list items and maintenance requirements were addressed within specified timelines. In case of any delay, write a letter to the Concessionaire. Report to the Supervisory	Within 7 days from expiry of specified timelines

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						Level.	
c)	Authenticity of traffic figures provided during operation period for traffic sampling	On conduct of Traffic sampling by Authority through Independent Engineer/Expert /Independent Consultant, minimum acceptable or no discrepancies to be reported for the concessionaire.	Independent Engineer	Monthly	Operations Level.	To ensure that the traffic figures provided by Concessionaire are in line with the actual figures. In case of deviation, write a letter to the Concessionaire. Report to the Supervisory Level.	Within 7 days
3. Project and Contract Management							
a)	Escrow account withdrawals	The order of withdrawals and appropriations from the escrow account by the Concessionaire to be in line with the specifications of the	Escrow Agent	Monthly	Operations Level	To ensure non-occurrence of escrow default and withdrawal to be made as per the Concession	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
		Concession Agreement,.				<p>Agreement</p> <p>In case of any deviation, write a letter to the Concessionaire.</p> <p>Report to the Supervisory Level.</p>	
b)	Payment outstanding to Independent Engineer/Expert /Sub-Contractors/ Other Agencies	No delay to be recorded for the payment made to the Independent Engineer/Expert/Statutory Auditor and no adverse notice to be received by the Authority relating to the delay in the payment to the sub-contractors.	Concessionaire	Monthly	Operations Level	<p>To ensure that the Concessionaire has made the payment to the Independent Engineer/Expert /Statutory Auditor/ Sub-contractors or other agencies if any on time.</p> <p>In case of any delay, write a letter to the Concessionaire.</p>	Within 7 days

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						Report to the Supervisory Level.	
4. Safety Considerations							
a)	Compliance with the safety measures	The Concessionaire to ensure compliance with the safety standards set out under Applicable Law/international conventions, as relevant, from time to time including those required under the Concession Agreement.	Independent Engineer	-	Operations Level	To ensure that the Concessionaire complies with all safety measures as per Concession Agreement. In case of any deviation, write a letter to the Concessionaire. Report to the Supervisory Level.	Within 7 days

2. Additional Performance Standards for the Concessionaire

Parameter	Performance Standards
Gross Berth Output	The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo.

Parameter	Performance Standards
	<p>In case of dry and break-bulk cargo, the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity.</p> <p>The Gross Berth Output shall be calculated as the total cargo handled (either loaded/unloaded) from the ship during a month divided by the time spent by the ship at the terminal number of working days of ships in that month at that terminal. While determining the number of working days from the ship hours, the berth allowance of specific hours shall be subtracted from the total hours.</p> <p>In the case of containers the crane rate shall be measured by dividing total number of TEUs lifted on/off from ships by the elapsed crane time. The elapsed crane time is the total allocated crane hours less operational and non-operational delays.</p> <p>The indicative norms for Gross Berth Output for different categories of cargo should be as specified in the Concession Agreement.</p>
Transit Storage Dwell Time for Containers	<p>The Transit Storage Dwell Time for a container shall mean the total time for which the container remains in the terminal. The Transit Storage Dwell Time for containers shall be calculated as an average and shall be the sum of the transit storage of each container handled during the month at that terminal divided by the number of containers.</p> <p>To further clarify, the date and time a container is discharged from the vessel till the said container leaves the out - gate of the Terminal, is the total transit storage time for import box. In case of export the time and date from which the container enters the terminal till the time and date it is loaded on to a vessel will be the storage time. The details of time of discharge, gate-in, gate-out and loading need to be maintained in respect of each container including ICD containers.</p> <p>Unclaimed cargo or any cargo that has been detained by the customs or any Government Authority may be excluded.</p>
Transit Storage Dwell Time for Bulk Cargo	<p>The Transit Storage Dwell Time for coal/coke/mixed dry bulk cargo/liquid cargo shall be calculated, as half of average parcel size of above cargo vessels in a month divided by average disposal of cargo from the port per day.</p>
Transit Storage Dwell	<p>The Transit Storage Dwell Time of Break Bulk cargo shall be calculated in the same manner as calculated</p>

Parameter	Performance Standards
Time for Break Bulk Cargo	for container in the terminal. The Transit Storage Dwell Time for Break Bulk Cargo is the sum of time of each unit of cargo that remains in the Port in a month divided by the number of cargo units handled during that month in the terminal. To further clarify, the time the break bulk cargo remains in the port will commence from the date and time of landing till the date and time of exit from the Port in case of import and for export from the date and time the cargo entered the Port area till the date and time of the shipment.
Turn-around Time for receipt/delivery operation	The Turn-around Time for receipt/delivery operation shall be the sum of time taken for loading/ unloading of cargo divided by the number of trucks/trailers/rakes deployed, as the case may be, in a month. Further, in case the truck/trailer/rake does both unloading and loading operations on a single entry into the terminal, the time allocated shall be doubled for those trucks/trailers/rakes.

3. Independent Engineer/Expert

The Independent Engineer/Expert has a major role to play in ensuring that the project progress is in line with the specified timelines, the quality of project developed by the Concessionaire is as per the desired standards and discrepancies/issues, have been flagged and brought to the notice of the Authority officials in a timely manner. This section lists those KPIs that help the Authority officials monitor whether the Independent Engineer/Expert is working as per the expectations set from it.

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
1. Time Line – Actual Vs. Targeted Date							
a)	Timely Reporting of change in scope and flagging of expected delays in	Timely reporting of change in scope, additional works, variations in cost & quality, seeking approval from collector of customs and other issues that could have	Reports from Independent Engineer/Expert	Monthly	Operations Level	To ensure that the Independent Engineer/Expert is Timely Reporting of change in scope and flagging of expected delays in achieving project	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
	achieving project milestones	resulted in delay in achieving project milestones. All such measures to facilitate Authority in taking timely actions.				milestones In case of any delay, write a letter to the Independent Engineer. /Expert Report to the Supervisory Level	
b)	Adherence to timelines for reviews and reporting	All the Inspection Reports and review activities like conducting tests, overview of status, progress, quality and safety of construction are completed on time.	Reports from Independent Engineer/ Expert	Monthly	Operations Level	To ensure that the Independent Engineer/Expert is reviewing and reporting all mentioned reports on time In case of any delay, write a letter to the Independent Engineer/Expert. Report to the Supervisory Level.	Within 7 days
c)	Timely curing of Defects by Concessionaire	Timely review of curing of defects by the concessionaire.	Reports from Independent Engineer/ Expert	-	Operations Level	To ensure that the Independent Engineer/Expert is reviewing the curing of defects made by the	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
						<p>Concessionaire on time.</p> <p>In case of any delay, write a letter to the Independent Engineer/Expert.</p> <p>Report to the Supervisory Level.</p>	
2. Quality of Services							
a)	Accuracy in the review of Design, Document, Drawings and Procedures	The Independent Engineer/Expert to review the accuracy of design and drawings furnished by the Concessionaire along with supporting information.	Reports from Independent Engineer/Expert	-	Operations Level	<p>To ensure high accuracy levels of the Independent Engineer//Expert.</p> <p>In case of deficiencies in the report or methodology adopted for review, write a letter to the Independent Engineer/Expert.</p> <p>Report to the Supervisory Level.</p>	Within 7 days
b)	Maintenance during	Inspection to be carried out before 20 th	Reports from	-	Operations	To ensure that the Inspection carried	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
	Defect Liability/O &M period	<p>of each month or as per provision of the Agreement.</p> <p>(2) Comprehensive review to be conducted and appropriate comments to be offered on Drawings and Documents including the work methodology adopted, materials used and their sources and conformity of Construction Works with the Construction and Safety Standards.</p> <p>(3) The defects or deficiencies noted are to be clearly in conformity with Good Industry Practice and requirements stated in the agreement.</p> <p>(4) Curing of defects by the concessionaire to be adequately</p>	Independent Engineer/Expert		Level	<p>out at least once in a month with timely reporting by the Independent Engineer/Expert</p> <p>In case of any delay, write a letter to the Independent Engineer/Expert.</p> <p>Report to the Supervisory Level.</p>	

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
		monitored and ensuring that the deficiencies by the Concessionaire to be addressed.					
3. Communication and Responsiveness							
a)	Timely reply/address of Authority Queries/comments	The Independent Engineer/Expert to be always available/responsive during consultancy contracts and bidding stage included post submission during project procurement phase.	Reports from Independent Engineer/Expert	-	Operations Level	To ensure that the Independent Engineer/Expert responds to the Authority queries/comments on time In case of any delay, write a letter to the Independent Engineer/Expert. Report to the Supervisory Level.	Within 7 days
b)	Adequacy of Responses to Authority queries	The responses to the Authority queries to be factual, consistent and the Independent Engineer/Expert to show considerable ease in discussing	Reports from Independent Engineer/Expert	-	Operations Level	To ensure that the response received from Independent Engineer/Expert are factual and consistent In case of any	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
		project details during the meetings. More than 90% of responses to be acceptable to the Authority.				deviation/doubts, write a letter to the Independent Engineer/Expert. Report to the Supervisory Level.	
4. Project and Contract Management							
a)	Availability of key personnel	Key personnel to be deployed on time as per schedule and to be available for project delivery and carrying out tasks as per proposed job description in the contract. Team leader to be available for all the meetings with Authority while other key personnel's to be available for more than 90% of the meetings.	Reports from Independent Engineer/Expert	-	Operations Level	To ensure that the key personnel of Independent Engineer/Expert are available in the meetings In case of non-availability of key personnel, write a letter to the Independent Engineer/Expert. Report to the Supervisory Level.	Within 7 days

4. Financial Consultant

S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
i. Time Line – Actual Vs. Targeted Date							
a)	Timely Delivery of Reports	Reports to be delivered and review activities to be conducted on time or with less than 5% delay in Business days.	Reports from Financial Consultant	-	Operations Level	To ensure that Financial Consultant reviews and submit the report on time In case of any delay, write a letter to the Financial Consultant. Report to the Supervisory Level.	Within 7 days
ii. Quality of Services							
a)	Adequacy in work methodology, and review of the Financing documents	The Consultant to review the documents as per the Concession Agreement.	Reports from Financial Consultant	-	Operations Level	To ensure that the accuracy level of the review is as per the Good Industry Practices.	Within 7 days

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S.No	Parameter	Description	Source	Stipulated Timeline for Completion	Responsible Official	Action Point	Review/ Escalation Period after stipulated timeline
	submitted by Concessionaire					In case of any deficiencies, report to the Supervisory Level.	
iii. Project and Contract Management							
a)	Availability of key personnel	Key personnel to be deployed on time as per schedule and need to be available for project delivery and carrying out tasks as per proposed job description in the contract. Team leader to be available for all the meetings with Authority while other key personnel's to be available for more than 90% of the meetings.	Reports from Financial Consultant	-	Operations Level	To ensure that the key personnel of Financial Consultant are available in the meetings In case of non-availability of key personnel, write a letter to the Financial Consultant. Report to the Supervisory Level.	Within 7 days

J. Handling Rare Events

1. Activities to be undertaken by Operations Level

1.1. Change in Law

#	Activities	Responsibilities / Action Points	Timeline
a)	Change in Law – Increase in Cost	Step 1: The Authority to receive notice from the Concessionaire in case change in law results in increase in costs or reduction in net return post tax.	
		Step 2: On receipt of notice by the Concessionaire, the Parties shall meet at the earliest but no later than 30 days from the date of notice and settle on mutually agreeable amendments to the Agreement.	Within 30 days of receipt of such Notice
		Step 3: In case no Agreement is reached within 90 days of such notice; the Authority may receive a notice from the Concessionaire to settle the financial impact of Change in Law.	Within 90 days of receipt of such Notice
		Step 4: The Authority to make payment to the Concessionaire to compensate for the financial loss on account of Change in law within 15 days of receipt of such notice.	Within 15 days of receipt of such Notice
b)	Change in Law – Reduction in Cost	Step 1: The Authority to issue notice to the Concessionaire in case change in law results in reduction in costs or increase in net return post tax.	Within 30 days of such event
		Step 2: Subsequent to issuance of notice to the Concessionaire, the Parties shall meet at the earliest but no later than 30 days from the date of notice and settle on mutually agreeable amendments to the Agreement.	Within 30 days of such Notice
		Step 3: The Authority to issue notice to Concessionaire, in case no agreement is reached within 90 days of the previous notice.	Within 90 days of such Notice

#	Activities	Responsibilities / Action Points	Timeline
		Step 4: The Authority to receive amount specified therein from the Concessionaire, within 15 days of receipt of such notice along with particulars thereof.	Within 15 days of such notice
c)	Protection of NPV	The Parties to rely on the Financial Model to establish a net present value (the “NPV”) of the cash flows of the project – wherein the NPV of the project after incorporating the compensation subsequent to the Change in Law should be equivalent to the NPV without any occurrence of the Change in Law.	
d)	No claim in the event of recovery from Users	The Authority shall not be liable to reimburse any sum on account of a Change in Law to the Concessionaire, if the same is recoverable from the Users.	

1.2. Force Majeure

#	Activities	Responsibilities / Action Points	Timeline
a)	Force Majeure Event	<p>Step 1: Affected party shall by notice report occurrence of Force Majeure event to the other party including particulars of:</p> <ul style="list-style-type: none"> (a) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof; (b) estimated duration and the effect or probable effect which such Force Majeure Event has on the Affected Party’s ability to perform its obligations under the Agreement; (c) Measures which the Affected Party has taken for alleviating the impact of such Force Majeure Event; (d) Any other relevant information. 	Within 7 days of event
		Step 2: Authority to assess the impact on Concession period and allocation of cost upon occurrence of Force Majeure event.	Within 7 days of receipt of such request.

#	Activities	Responsibilities / Action Points	Timeline
		<p>Step 3: On the occurrence of the Force Majeure Event, the Affected Party shall be excused from the performance of the obligations as reasonably warranted. Correspondingly, the Affected Party shall be granted by the other party extension of time through extension of Concession Agreement. Each Party shall bear its costs, if any, incurred as a consequence of the Event.</p>	
		<p>Step 4: If the Force Majeure Event subsists for a period of more than 120 the parties may mutually decide to terminate the Agreement.</p>	Within 120 days of the Event
		<p>Step 5: Informing the other Party regarding the intention of issuing the termination notice and granting 15 days' time to make a representation.</p>	

1.3. Substitution Agreement

#	Activities	Responsibilities / Action Points	Timeline
a)	Substitution Agreement	The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Concessionaire pursuant to the agreement for substitution of the Concessionaire (the "Substitution Agreement")	

1.4. Compensation for Breach of Agreement

#	Activities	Responsibilities / Action Points	Timeline
a)	Compensation for Breach in Agreement - default by the Authority	<p>Step 1: Authority to receive compensation demand for material default, supported by necessary particulars from the Concessionaire</p>	Within 7 days of event
		<p>Step 2: Authority to pay within 30 days of receipt of the demand</p> <p>(a) The Authority in addition to payment of compensation may extend the Concession Period. Such extension would be equivalent to the period by which COD was delayed or the collection of Fee remained suspended.</p> <p>(b) In the event that a Competing facility is opened, the Authority to pay to the Concessionaire.</p>	With Within 30 days of receipt of the demand in 7 days of receipt of such request.

#	Activities	Responsibilities / Action Points	Timeline
b)	Compensation for Breach in Agreement - default by the Concessionaire	Step 1: Authority to raise compensation demand for material default, supported by necessary particulars	Within 7 days of such default
		Step 2: The Authority to receive all direct costs suffered or incurred by Concessionaire as a consequence of such material default within 30 days of receipt of the demand.	

1.5. Indemnity Claims

#	Activities	Responsibilities / Action Points	Timeline
a)	Indemnity claims	Step 1: In the event, either Party is notified for an indemnity claim, it shall notify the other Party (the “Indemnifying Party”) within 15 days of receipt of the notification and shall not settle or pay the claim without the prior approval of the Indemnifying Party.	Within 7 days of receipt of such claim
		Step 2: In the event that the Indemnifying Party contests or disputes the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved thereby.	

1.6. Termination

#	Activities	Responsibilities / Action Points	Timeline
a)	Termination for Concessionaire’s Default	Step 1: The Authority is entitled to terminate the Agreement by issuing a Termination Notice to the Concessionaire. The Authority shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 days to the Concessionaire to make a representation before issuing the Termination Notice	Within 7 days of Termination Notice
		Step 2: Authority to get representation from Concessionaire within 15 days of intimation by the Authority.	

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#	Activities	Responsibilities / Action Points	Timeline
		<p>Step 3: The Authority is also required to send a copy of the notice (notice of intention to issue a Termination Notice) to the Lenders' Representative and grant 15 days for making a representation on behalf of the Senior Lenders.</p>	<p>Within 7 days of Termination Notice</p>
		<p>Step 4: The Senior Lenders to make representation to the Authority within 15 days of intimation.</p>	
		<p>Step 5: The Authority at its own discretion may either withhold Termination or suspend the rights of the Concessionaire for a period of 180 days from the date of Lender's representation.</p> <p>If Lenders' Representative procure that the default specified in the notice shall be cured within 180 days, the Authority shall withdraw its notice and restore all the rights of the Concessionaire.</p> <p>Upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the period of 180 days by period not exceeding 90 days.</p>	
		<p>Step 6: If the termination is after the Date of Commercial Operation, due to a Concessionaire Event of Default, the compensation payable by the Concessions Authority to the Concessionaire shall be the lowest of: the Book Value, 90% of Debt due, or the actual project cost. No compensation shall be payable to the Concessionaire if the Concessionaire fails to maintain Insurance Cover.</p>	
b)	Termination for Authority Default	<p>Step 1: Authority to receive Termination notice from Concessionaire upon occurrence of any default on account of Concessions Authority.</p> <p>Subsequently, Authority to be informed by the Concessionaire of its intention to issue the Termination Notice. The Concessionaire to grant 15 days to the Authority to make a representation on the issue of the Termination Notice.</p>	
		<p>Step 2: Authority to submit a representation to Concessionaire within 15 days of intimation by the Concessionaire.</p>	<p>Within 15 days of such intimation</p>

#	Activities	Responsibilities / Action Points	Timeline
		Step 3: The Authority shall pay to the Concessionaire an amount equal to the aggregate of Debt Due and 150% of Equity upon Termination on account of Authority's default.	

1.7. Change of Scope

#	Activities	Responsibilities / Action Points	Timeline
a)	Change of Scope – Proposed by Authority	<p>Step 1: The Authority may propose Change of Scope to the Concessionaire provided that the:</p> <ul style="list-style-type: none"> • Cost of implementing a single Change of Scope shall not exceed a sum corresponding to 5% of the estimated project cost. • Cumulative cost of implementing orders pertaining to Change of Scope shall not exceed a sum corresponding to 20% of the estimated project cost, and No such Change of Scope shall be made in the Construction Phase if it is likely to delay the completion of the Project beyond the Scheduled Completion Date. 	
		Step 2: Authority to issue a notice to the Concessionaire specifying in reasonable detail the works and services contemplated thereunder (the “Change of Scope Notice”)	Within 7 days of receipt of such request
		Step 3: Upon receipt of notice from the Authority, the Concessionaire to provide cost to be incurred in respect of such Change of Scope and the adverse impact if any on the project to the Authority.	
		Step 4: Upon receipt of the information, the Authority to convey its consensus or otherwise to the parties to the Agreement.	
		Step 5: In case the Authority agrees the Change of Scope, the Authority and the Concessionaire to reach a consensus for the cost and time. Both the parties may	

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#	Activities	Responsibilities / Action Points	Timeline
		<p>seek intervention of an Expert, to resolve differences, if any.</p> <p>Step 6: The Authority and the Concessionaire to execute the Change of Scope Agreement.</p> <p>Step 7: Upon reaching an agreement, the Authority to issue an order requiring the Concessionaire to proceed with the performance thereof.</p>	<p>Within 7 days of Change of Scope Agreement</p>
b)	Change of Scope – Proposed by Concessionaire	<p>Step 1: Concessionaire may propose Change of Scope of work to the Authority and shall by notice in writing request the Authority to consider such Change of Scope.</p> <p>Step 2: The Authority to inform the Concessionaire in writing, either the acceptance of such Change of Scope with modifications, if any, or reasons for not accepting the same,</p> <p>Step 3: In case the Authority accepts the proposed change of scope, Authority to issue a notice to the Concessionaire specifying in reasonable detail the works and services contemplated thereunder (the “Change of Scope Notice”)</p> <p>Step 4: Upon receipt of notice from the Authority, the Concessionaire to provide cost to be incurred in respect of such Change of Scope and the adverse impact if any on the project to the Authority.</p> <p>Step 5: Upon receipt of the information, the Authority to convey its consensus or otherwise to the parties to the Agreement.</p> <p>Step 6: In case the Authority agrees the Change of Scope, the Authority and the Concessionaire to reach a consensus for the cost and time. Both the parties may seek intervention of an Expert, to resolve differences, if any. .</p> <p>Step 7: The Authority and the Concessionaire to execute the Change of Scope Agreement.</p> <p>Step 8: Upon reaching an agreement, the Authority to issue an order requiring the</p>	<p>Within 7 days of receipt of such request</p> <p>Within 7 days of Change of Scope</p>

#	Activities	Responsibilities / Action Points	Timeline
		Concessionaire to proceed with the performance thereof	Agreement
c)	Payment for Change in Scope	Step 1: Authority to make an advance payment to the Concessionaire for a sum equivalent to 20% of the cost of Change of Scope as agreed.	Within 30 days of Change of Scope Agreement
		Step 2: The Authority to execute payment of bills with respect to the Change of Scope of work commenced by the Concessionaire. The payment would be subject to receipt of supporting documents from the Concessionaire.	
		Step 3: Expert to certify the Cost and the advance amount against the Change of Scope	
		Step 4: The Authority to disburse amounts as certified by the Statutory Auditors and Experts within 30 days of receipt of such bills.	Within 30 days of receipt of bills.

2. Activities to be undertaken by Supervisory Level

2.2. Financial Restructuring and Novation Requests

#	Activities	Responsibilities / Action Points	Timeline
a)	Financial Restructuring and Novation	Step 1: Authority to <ul style="list-style-type: none"> • Issue an acknowledgement to Concessionaire. • Get all Legal documents (as submitted by Concessionaire) verified from the Legal / Finance Department. • Suggest required changes or approve the documents for further processing. 	Within 15 days of receipt of such request

2.3. Change in Ownership

#	Activities	Responsibilities / Action Points	Timeline
a)	Equity	Step 1: Authority to	Within 15 days of

	Transfer	<ul style="list-style-type: none"> • Issue an acknowledgement to the Concessionaire. • Get all Legal documents (as submitted by Concessionaire) verified from the Legal / Finance Department. • Suggest required changes or approve the documents for further processing. 	receipt of such request
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2.4. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Supervisory Level officer to review and provide inputs on the monthly status reports received from Operations Level Officer on all ongoing projects and report to Decision Making Level.	1 day of default

Escalation:

In case of any default, the issue has to be escalated by the Supervisory Level within 1 day of default.

3. Activities Undertaken by Decision Making Level

3.2. Monthly review and inputs

#	Activities	Responsibilities / Action Points	Timeline
a)	Monthly status reports and review of documents	Step 1: Decision Making Level officer to review and provide inputs on the monthly status reports received from Supervisory Level Officer on all ongoing projects and report to Board / Chairman.	5 days of default

Escalation:

In case of any default, the issue has to be escalated the Decision Making Level within 5 days of default.

K. Checklists

1. Change of Ownership

#	Checklist Item	Tick (if yes)	Comments (if any)
1.	Clarity on justification of equity transfer / buy / sale	<input type="checkbox"/>	
2.	Ownership buyer, if new, has agreed to all Concession Agreements	<input type="checkbox"/>	
3.	Opinion from Financial / Legal Consultant has been taken	<input type="checkbox"/>	
4.	No risk on national security or no restriction imposed on new party perspective imposed under the Applicable Law or the conditions of bidding (including restrictions to avoid anticompetitive and monopolistic practice) and/or public policy	<input type="checkbox"/>	
5.	All comments of Financial / Legal Consultant or Authority is resolved.	<input type="checkbox"/>	
6.	Is in compliance with Concession Agreement	<input type="checkbox"/>	
7.	No disproportionate rights to any owner	<input type="checkbox"/>	
8.	No increase in Authority's liability in amount and time	<input type="checkbox"/>	
9.	No objection from Decision Making Level in Authority issued as a necessary condition	<input type="checkbox"/>	
10.	Draft documents reviewed by Authority for checking compliance with Concession Agreements and Authority policy	<input type="checkbox"/>	
11.	Letter issued to the Concessionaire and approval given to all documents subject to the incorporation of comments	<input type="checkbox"/>	

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#	Checklist Item	Tick (if yes)	Comments (if any)
12.	Executed version of the Agreements submitted to Authority within 15 days of execution	<input type="checkbox"/>	

2. Change of Scope

#	Checklist Item	Tick (if yes)	Comments (if any)
1.	Clarity on reason for change of scope	<input type="checkbox"/>	
2.	Interested party has issued a notice to other party regarding change of scope	<input type="checkbox"/>	
3.	Entire information related to Change of Scope is provided by Concessionaire to the Authority	<input type="checkbox"/>	
4.	The Information submitted by Concessionaire was reviewed by the Expert pertaining to costs and	<input type="checkbox"/>	
5.	The options, cost and time line was decided by Authority with assistance from the Independent Engineer	<input type="checkbox"/>	
6.	A Change of Scope Agreement has been executed between Concessionaire and Authority	<input type="checkbox"/>	
7.	Check if the particular change of scope is permitted under agreement	<input type="checkbox"/>	
8.	Increase in cost due to single change of scope is less than 5% of Total Project cost (TPC) and less than 20% of TPC for cumulative cost of Change of Scope	<input type="checkbox"/>	
9.	Change of Scope doesn't delay the completion of the Project beyond the Scheduled Completion Date in the Construction Period	<input type="checkbox"/>	
10.	Methodologies for effecting change in scope analyzed and plan of action finalized	<input type="checkbox"/>	

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#	Checklist Item	Tick (if, yes)	Comments (if any)
11.	Payment for change in scope agreed upon	<input type="checkbox"/>	
12.	Change of scope formalized in a formal change of scope order	<input type="checkbox"/>	
13.	A Change of Scope Agreement has been executed between Concessionaire and Authority	<input type="checkbox"/>	
14.	Relevant work to start and payment of note more than 20% of the Change of Scope cost to be made accordingly		

3. Change in Law

#	Checklist item	Tick, if yes	Comments (if any)
1.	Private Party's understanding of the changes in service obligations due to change in law is adequate	<input type="checkbox"/>	
2.	Authority assigned to look after the management of all changes due to change	<input type="checkbox"/>	
3.	Opinion from Financial / Legal Consultant has been taken	<input type="checkbox"/>	
4.	The Financial Position has been compared with Financial Model submitted at the time of Financial Closure	<input type="checkbox"/>	
5.	The Financial position of the Concessionaire is same as it was before the Change in Law	<input type="checkbox"/>	
6.	If Change in Law is resulting in reduction in costs, there is financial gain to the Private Party by more than [xx] crore in any Financial Year because of Change in Law for which the Authority has to seek compensation	<input type="checkbox"/>	

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#	Checklist item	Tick, if yes	Comments (if any)
7.	The private party to compensate the govt. in lump- sum payments or not exceeding four half yearly installments, subject to payment of interest at SBI PLR + 2% (two percent) on the amount the payment of which is deferred.	<input type="checkbox"/>	
8.	The variation in Financial position is not recoverable from the users	<input type="checkbox"/>	
9.	If Change in Law is resulting in increase in costs and there is an additional cost to be borne by the Private Party in any Financial Year because of Change in Law for which the Private Party can seek compensation for the additional cost beyond Rs. <i>[yy]</i> Crore after negotiation with the Authority or extension in Concession Period.	<input type="checkbox"/>	
10.	Information provided to all stakeholders involved	<input type="checkbox"/>	
11.	Meeting called for all parties to discuss and agree on required changes	<input type="checkbox"/>	
12.	Is in compliance with the Concession Agreement	<input type="checkbox"/>	

4. Renegotiation

#	Checklist item	Tick, if yes	Comments (if any)
1.	Change proposed is agreed by both parties	<input type="checkbox"/>	
2.	Information provided to all stakeholders involved	<input type="checkbox"/>	
3.	Costing for the renegotiation agreed and understood by both parties	<input type="checkbox"/>	
4.	Contract Management Team considered employing a third party in the renegotiation process	<input type="checkbox"/>	

#	Checklist item	Tick, if yes	Comments (if any)
5.	Opinion from Financial / Legal Consultant has been taken	<input type="checkbox"/>	
6.	Timelines & scope of project redefined	<input type="checkbox"/>	
7.	Increase/ Decrease in funds justified	<input type="checkbox"/>	
8.	Is in compliance with the Concession Agreement	<input type="checkbox"/>	
9.	Payment mechanism and scheduled restructured as per the renegotiated contract	<input type="checkbox"/>	

5. Force Majeure

#	Checklist item	Tick (if yes)	Comments (if any)
1.	Any Political Event, Non-Political Event or any other Event as defined in the Concession Agreement has occurred in India	<input type="checkbox"/>	
2.	Affected party has issued notice to other party to report happenings	<input type="checkbox"/>	
3.	All information related to Force Majeure event is provided by the Affected party	<input type="checkbox"/>	
4.	Information provided to all stakeholders involved	<input type="checkbox"/>	
5.	Parties meet to discuss and decide on a collective response	<input type="checkbox"/>	
6.	Correct classification of force majeure event as political event, non-political event or other event	<input type="checkbox"/>	

#	Checklist item	Tick (if yes)	Comments (if any)
7.	Continuation/Termination of agreement due to force majeure	<input type="checkbox"/>	
8.	Agreement on effect of Force Majeure on Concession period	<input type="checkbox"/>	
9.	Costs arising due to force majeure allocated	<input type="checkbox"/>	
10.	Termination payment determined and paid, if required	<input type="checkbox"/>	
11.	Formal agreement among all stakeholders regarding proceedings	<input type="checkbox"/>	

6. Termination

#	Checklist item	Tick (if yes)	Comments (if any)
1.	Affected party has issued notice to other party issuing termination	<input type="checkbox"/>	
2.	Information provided to all stakeholders involved	<input type="checkbox"/>	
3.	Parties met to discuss and agree on timelines	<input type="checkbox"/>	
4.	Termination Payment is estimated as per the Concession Agreement	<input type="checkbox"/>	
5.	Opinion from Financial / Legal Consultant has been taken	<input type="checkbox"/>	
6.	Agreement on termination payment to be made between parties	<input type="checkbox"/>	
7.	Authority to take possession and control of project/equipment	<input type="checkbox"/>	

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#	Checklist item	Tick (if yes)	Comments (if any)
8.	Assume control over access rights and personnel of project	<input type="checkbox"/>	
9.	Closure of agreement by completing payment and other formalities	<input type="checkbox"/>	

L. Tools

1. Termination Toolkit

This model illustrates how during early termination event, either because of the Concessionaire or the Authority, the payment to be made to the Concessionaire will be calculated. This has been made in line with the Model Concession Agreement for Major Ports.

Dashboard

All amounts in the model are in Rs Cr

Financial Structuring

Means of Finance

Equity Infused	100.00
Debt Due	200.00
Insurance Claims admitted or received	100.00
Insurance Claims (not admitted and paid)	50.00
Book Value	250.00
Amount Due to Concessioneing Authority	50.00
Actual Project Cost	300.00

Project Particulars

Project Particulars

Concession Period (yrs)	30
Construction Period (mnths)	30
Construction Ending FY	31-Mar-18
FY No.	3
No. of operational months in Construction Ending FY	6
First FY Ending	31-Mar-16
FY No.	1
No. of months in first FY	12

Key Dates

Date of Award of Concession	1-Apr-15
Date of Construction Completion	30-Sep-17
Commercial Operations Date	1-Oct-17
Termination Date	31-Mar-18
4th Anniversary from COD	30-Sep-21

Key Information

Termination Period	After COD
Insurance Cover	Yes

Termination Payment

Termination Type	Concessionaire Default
Book Value	250.00
Debt Due	90%
Insurance claim admitted or received	0.00
Insurance Claims (not admitted and paid)	40.00
Equity	0%
Amount Due to Concessioneing Authority	0.00
Termination Payment	180.00

Reason	% of Debt Due	Equity
Non-political FM Event	100%	
Other FM Event	100%	
Political FM Event	100%	150%
Authority Default	100%	150%
Concessionaire Default	90%	

2. Change in Law Toolkit

This model illustrates how impact of Change in Law event can be calculated. This has been made in line with the Model Concession Agreement for Major Ports.

Dashboard		<i>All amounts in the model are in Rs Cr</i>	
Project Particulars			
Project Particulars			
Concession Period (yrs)	30		
Construction Period (mnths)	36		
Key Dates			
Appointed Date	1-Jun-15		
Date of Construction Completion	31-May-18		
COD	1-Jun-18		
Termination Date	31-May-45		
Key Information			
Concession Period Considered (yrs)	30		
Total Project Cost	100		
Change In Law Conditions			
Change in law year	1-Jun-20		
Change in cashflows	10%		
First FY Ending	31-Mar-16	Construction Ending FY	31-Mar-19
FY No.	1	FY No.	4
No. of months in first FY	10	f operational months in Construction Endi	10
Initial Revenue (in INR Cr.)	12	Last FY Ending	31-Mar-46
Discount factor	11%	FY No.	31
		No. of months in last FY	2

M. Appointment & Responsibilities of Other Related Parties

Related party	Scope of Work	Appointment Mechanism
Escrow agent	<ul style="list-style-type: none"> ▪ Segregation of funds ▪ Notification of balances ▪ Communications and notices ▪ Regulatory Approvals 	<ul style="list-style-type: none"> ▪ Appointed by the Concessionaire
Independent Engineer/ Expert <i>(Expert is appointed to execute the role of Independent Engineer during O&M stage of the project)</i>	<ul style="list-style-type: none"> ▪ Review of the Drawings and Documents; ▪ Review, inspection & monitoring of Construction Works ▪ Conducting Tests on construction completion & issuing Completion/ Provisional Certificate ▪ Review, inspection and monitoring of O&M ▪ Review, inspection and monitoring of Divestment Requirements determining the costs of any works or services and/or their reasonableness; ▪ Determining, the period or any extension for performing any duty or obligation; ▪ Assisting the Parties in resolution of disputes 	<ul style="list-style-type: none"> ▪ Refer to activity 1.1 under Chapter IV, Activities to be undertaken by Operations Level
Senior Lenders	<ul style="list-style-type: none"> ▪ Novation (changes to funding arrangements). ▪ Approve disbursement of loan to Concessionaire ▪ Approve Termination in case of financial default by Concessionaire ▪ Submit project progress report to Govt. body ▪ Provide consent on loan agreement between concessionaire and authority ▪ Refinancing/ restructuring 	<ul style="list-style-type: none"> ▪ As per the provisions of the Model Concession Agreement
Legal Consultants	<ul style="list-style-type: none"> ▪ Preparation of legal documents ▪ Undertake all legal proceedings on behalf of Authority for the project 	<ul style="list-style-type: none"> ▪ Selected in the Pre-Award Stages of PPP Contract
Financial Consultants	<ul style="list-style-type: none"> ▪ Prepare financial documents ▪ Financial feasibility analysis ▪ Transaction Advisor which includes advisory until Financial closure 	<ul style="list-style-type: none"> ▪ Selected in the Pre-Award Stages of Port PPP Contract

Bibliography

For development of these guidelines a number of external sources of literature and references have been referred to. They can be enlisted as follows:

Model Concession Documents

- [MCA for Private Sector Projects in Major Ports](#)

Databases:

- [DEA PPP in India Web Portal](#)
- [PPIAF PPI Database](#)

PPP Guidelines, Manuals and Toolkits:

- [Partnership Victoria, Contract Management Policy, 2003](#)
- [Partnership Victoria, Contract Management Guide, 2003](#)
- [Municipal Service Delivery and PPP Guidelines](#)
- [DEA Guidelines for appraisal of PPP projects in India](#)

Other Collection of Links

- [DEA PPP Cell Website Links](#)

