



Government of Jammu & Kashmir
J&K Economic Reconstruction Agency
Hotel Tramboo Continental Dalgate Srinagar
13 C/C, Gandhi Nagar, Jammu



Office Order No:- 07 JK ERA of 2010
Dated :- 19.5.2010

Whereas, J&K ERA was constituted to implement externally aided projects and is presently implementing various infrastructure projects under Asian Development Bank funding ; and

- 2) Whereas, contracts under Loan-I were tendered and awarded to the eligible bidders after following the due procedure / ADB guidelines and are governed by the contract agreement; and
- 3) Whereas, the contracts have provision of 'Taking over Certificate' after completion of work and issuing 'Performance Certificate' after defect liability and subsequent release of 'Performance Security' which is in the form of Bank Guarantee deposited by the contractor at the commencement of the work; and
- 4) Whereas, the contract agreement provides for time bound completion of the contracts which, inter-alia, depends upon providing encumbrance free site to the contractor; and
- 5) Whereas, contract agreement do not pre define sections/parts of a contract; and
- 6) Whereas, in some of the projects a situation may arise, where the Employer (ERA) is not able to provide encumbrance free site to the contractor while on the remaining available site of the sub-project the work has been completed in all respects by the contractor; and
- 7) Whereas, in one of the project, the contractor has been representing for issuance of 'Taking Over Certificate' and 'Performance Certificate' in section/parts and proportionate release of Performance security; and
- 8) Whereas, the matter was considered in meeting held on 10-04-2010 under chairmanship of Chief Executive Officer, J&K ERA in which Director Central, Director Urban, Director Transport, FA/CAO and Team Leader Project Management Consultants (PMC) were also present and the issue was considered in its totality and its implication on other sub-projects of ERA were discussed and a policy frame work was proposed for partial take over and release of proportionate Performance Security in cases where delay is on account of the shortcomings on part of the Employer and where the contractor has completed all works in all respects in the available section; and

- 9) Whereas the proposal was submitted to Hon'ble Chairman ERA who was pleased to approve the same.
- 10) Now, therefore, it is hereby ordered that the issue of partial take over and proportionate release of Performance Security in cases only where delay is on account of the shortcomings on part of the Employer and where the contractor has completed all works in all respects in the available section shall be governed by following frame work:-
- a) Engineer of the contract, on an application from contractor, shall propose section / parts in such sub-projects clearly identifying the reasons for defining such a section. Engineer shall certify that "all works in the section made available to the contractor have been completed by contractor in all respect."
 - b) Project Implementation Unit (PIU) should send its recommendation and provide a similar certificate as above.
 - c) Concerned Director shall review section/parts and recommend for the approval of Chief Executive Officer.
 - d) Once the section is defined, Engineer of the contract shall issue "Taking Over Certificate" of the part on its completion with prior approval of PIU.
 - e) Performance Certificate for the said section/part shall be issued by the Engineer of the contract after the defect liability period is over as per the contract.
 - f) Engineer of the contract & PIU, through concerned Director, shall recommend release of part Performance Security, which shall be released with approval of the Chief Executive Officer.

However all other contracts which do not fall under this category as define in the para 6, shall be governed by the relevant clauses of the respective contracts.

-Sd-

Chief Executive Officer
J&K ERA

No:- ERA/CEO/01/Adm/5050-65

Dated:- 19-05-2010.

Copy to:-

- 1) Director Central/Urban/Transport, J&K ERA.
- 2) FA/CAO, J&K ERA.
- 3) Project Manager Urban/Transport Kashmir, J&K ERA.
- 4) Project Manager Urban/Transport Jammu, J&K ERA.
- 5) Project Manager JKUSDIP Kashmir/Jammu, J&K ERA.
- 6) SA to CEO for information of CEO.
- 7) Team Leader PSU, PMC, PSC, DSCs.
- 8) Office Order file.

Administrative Officer
J&K ERA