

No. 11011/1/92/D(Lands)
Government of India,
Ministry of Defence,
New Delhi, the 4th February, 1992.

To

The Chief of Army Staff,
The Chief of Naval Staff,
The Chief of Air Staff,
The Chief of Controller Research and Development (s),
Ministry of Defence,
The Director General, Ordnance Factories,
The Director General, Defence Estates.

Subject: Processing and Finalisation of land Acquisition cases.

Sir,

1.1 Government receive proposals, from time to time, for the upward revision of the cost of acquisition of land, the administrative sanctions for which had been issued several years earlier. The time taken to complete acquisition of land and the escalation in the financial effect are considerable in almost every case.

1.2 Various factors which contribute to such time and cost-over-runs have been examined. It has been decided to enforce the following measures, with immediate effect, to streamline the processing of land acquisition cases. The measures to be adopted at each important stage of processing and finalisation by the User Organisations/Service Hqrs/DGDE/Ministry of Defence, including the Financial Division, are brought out hereunder.

Assessment of Necessity

2.1 (i) As far as possible, additional land requirements should be met out of the existing available/surplus Defence land holdings at various stations, including that in the custody of the sister Services/Departments at the required location, and even through suitable relocation of the proposed units/projects. In case the locational factors are inflexible, and the land costs are high the land requirement should be assessed on the most stringent basis, notwithstanding the fact that a larger holding may be justified with reference to the prescribed scales.

(ii) Proposals for acquisition of land should be moved only after the necessity for the total project has received Government approval.

Board Proceedings

3.1 (i) The Board proceedings should ensure that the determination of the quantum of land required and its location/identity as well as nature of ownership (agricultural/residential/industrial or private/state) are fully verified and have a reasonable degree of finality.

(ii) Whenever requirement of land for specific technical purposes such as special storage/repair facilities/installation of equipments/specialised training etc. is projected, the purpose, nature, size and location of land requirement should be assessed carefully and the complete basis of the projected land requirement clearly explained.

(iii) The latest applicable land norms should be strictly adhered to, while drawing up proposals. In case the norms for a particular purpose are not prescribed, the basis of determination of the quantum of land and the choice of location should be clearly brought out in the Board Proceedings.

(iv) The Board-Proceedings should contain clearly drawn up site plan and the Revenue survey particulars of the land proposed to be acquired.

(v) The Board Proceedings should contain the type and extent of the assets/structures standing on the land proposed to be acquired (buildings, tubewells, trees, etc.) for which compensation has to be paid. The Board Proceedings should contain, item-wise, the cost of land and the assets thereon and also the basis for estimating the cost and the date(s) to which the estimated cost pertains.

4.1 (i) Once the Board Proceedings are finalised, the proposal for land acquisition should be submitted to Government as expeditiously as possible along with recommendations/observations of Service HQR. and DGDE. If subsequent to the finalisation of Board Proceedings the plot(s) of land(s) to be acquired require to be varied for any reason, fresh Board Proceedings should be drawn up and submitted explaining the modifications made, to facilitate issuance of revised sanction.

(ii) Every proposal shall contain the Certificate of Willingness of the State Govt (i.e. NOC) to proceed with the acquisition, alongwith the period of validity of such Certificate.

(iii) Where it is proposed to invoke the Urgency Clause, under Section 17 of the Land Acquisition Act, the specific reasons justifying the same shall be explained in detail that the time of seeking the administrative sanction indicating the time-schedule of the construction programme on the land to be acquired.

(iv) To facilitate quick processing of land acquisition proposals by the concerned agency including Ministry of Defence, specific and clear information/data of the issues in the enclosed check-list (Annex-I) shall be furnished. If any other information/data is considered relevant or pertinent to a particular land acquisition proposal, the same shall also be furnished at the time of seeking administrative sanction.

Cost-Estimates

5.1 (i) The Board Proceedings shall indicate the estimates of cost of land, and assets/structures, trees, etc. thereon, on a realistic basis, as on the date of finalisation of the Board Proceedings. At the time of preparation of estimates the sales statistics for the three previous years as well as the latest sales data should be considered. If the latest sale data in respect of a particular category of land, in a particular area, shows a marked variation with the sales data in respect of the preceding three years, the reasons for such variation should be ascertained and explained in the Board Proceedings.

(ii) The administrative sanction should reflect the estimated market value of the land and assets market value of the land and assets thereon on a realistic basis as on the likely date of publication of Notification under Section 4(1) of the Land Acquisition Act. For this purpose, a maximum time-lag of 12 months between the date of administrative sanction and the date of publication of Notification under Section 4(1) of the Land Acquisition Act, may be anticipated. On this basis the market value may be estimated by escalating the value indicated in the Board Proceedings as per para. 5(i) above, at 12% per annum, upto one year beyond the date of administrative sanction.

(iii) The full financial implication of every land acquisition proposals shall be projected as per following details:-

- (a) Market value, separately for the land and the assets/structures thereon, assessed on the basis outlined above.
- (b) Additional compensation at 12% per annum, as per Section 23(1-A) of L.A. Act, for a maximum period of 36 months from the date of Notification under Section 4(1) *ibid*.
- (c) Solatium at 30% of market value under Section 23(2) *ibid*.
- (d) Contingency of 2% of market value to cover the administrative cost of Notification, etc.

(iv) If the Urgency Clause under Section 17 *ibid* is proposed to be invoked, then the total financial implication should be revised accordingly.

(v) The administrative sanction should indicate the estimated cost of each element mentioned in sub-paras. (iii) to (iv) above separately.

(vi) In addition, if the disturbance allowance payable due to the fifth element under Section 23(1) *ibid* or if the rehabilitation grant, if any payable, can be estimated on a reasonable basis, then the same should be projected with the details thereof, at the time of obtaining administrative sanction. However sanctions for such payments shall require to be secured separately.

6.1 In the case of State Govt. lands which may be offered at a pre-determined price, the likelihood of further escalation if any, and liability of payment towards any other charges should be clearly brought out at the time of seeking the administrative sanction.

7.1 At the time of submission of the case for administrative sanction, the time schedule proposed for acquisition, with or without invoking the Urgency Clause, and the likely requirement of cash-flow and availability of budget provisions should be brought out.

8.1 Provisions of funds should be made on the basis of realistic assessment of the likely time by which the awards would be finalised.

Notification under L.A. Act.

9.1 As the market value of the land is determined with reference to the date of publication of the Notification, under Section 4(1) of L.A. Act, the timelag between the issuance of the administrative sanction and the date of publication of the said Notification should be brought down to the minimum and should not, normally, exceed 12 months. For the purpose, immediately after issuance of the administrative sanction, the Service/User Organisation should provide the concerned field officer of DGDE with maps identifying the exact location and alignments of lands to be acquired. The size, identity, location or alignment of the lands should not be changed after issuance of administrative sanction, excepting correction of clerical or drawing errors. If any other change is considered necessary, fresh sanction of the Govt. should be taken.

10.1 Systematic efforts should be made to expedite action on the part of the State Government authorities under Section 6, 9, 11, and 17 of the Land Acquisition Act, as applicable, with a view to expediting the final declaration of Awards. If intervention of Ministry of Defence or the Service HQrs is considered necessary, such intervention should be sought well in time.

11.1 In cases of land acquisition estimated to cost more than Rs. 1 crore, efforts should be made to obtain negotiated awards under Section 11(2) of the Land Acquisition Act in case such negotiated awards are likely to be advantageous to the interest of the Government. Prior approval of Government should, however, be secured before opting for negotiated awards.

Payment of Compensation

12.1 Once Awards are announced, compensation should be paid without delay subject to confirmation by the Service Head quarters of the continued requirement of the land and with the approval of the competent authority.

13.1 The Local Military Authority/the Service HQrs/Organisation should maintain constant liaison with DGDE and his formations to ascertain the progress of important cases so that realistic budget provisions can be made well in time.

14.1 Wherever possible, efforts should be made to obtain draft Awards well in advance of the date of declaration of the final Awards so that adequate time is available for processing proposals for payment of compensation.

15.1 If the final compensation amount awarded exceeds the amount provided in the administrative sanction by more than 10% the revised approval of the appropriate authority shall be secured, explaining in detail each factor contributing to the escalation before the compensation is deposited. The checklist enclosed as Annex-II shall be used for this purpose.

Monitoring and review

16.1 Each Service Hqrs/Department/Concerned Organisation shall undertake a quarterly review of the progress of their land acquisition cases which involve acquisition of more than fifty acres of land of an estimated acquisition cost of more than Rs. 1 crore. For this purpose the concerned Service Hqrs/Department/Organisation shall obtain from DGDE information in the format at Annex-III. The outcome of the review shall be furnished to the Ministry (to the undersigned, by name) within 45 days of the end of the relevant quarter. Report for quarter ending 31st March 1992 and for the full year 1991-92 shall be furnished to the Ministry by 15th May, 1992.

17.1 Besides the aforesaid quarterly reviews, the DGDE shall undertake monthly review of all pending cases and advise the Ministry of cases in which time bound decisions are required. Based on the monthly reports of DGDE and the quarterly reports to be furnished by the Service Hqrs/Department/Organisation, the Ministry will decide whether proceedings in regard to any pending case deserve to be dropped, for given reasons. If so, the Ministry will promptly inform the concerned State Government that further action may be taken in the case.

18.1 Instructions on the above lines may be issued to all subordinate formations/organisations under your control.

19.1 This issues with the concurrence of the Ministry of Defence (Finance) vide their u.o. No.160/Dir (Fin/Works)/92 dated 30-1-92.

Yours faithfully,

Sd/-

(RANGAN DUTTA)

Joint Secretary to the Govt. of India.

Copy for necessary action to:-

1. JS (Air)/JS (Navy)/JS (OF).
2. Addl. FA(C)/Addl FA(J)/Addl FA(K)/Addl. FA(R).
3. Others concerned.