

(English Translation)

Uttar Pradesh

Special Economic Zones New Policy – 2006

Part – 'B'

Selection of Developer, Allotment of Land and Provisions relating to Master Plan Land Use etc.

1. APPLICABILITY

Paragraphs 2, 3, 4 & 5, relating to the selection of developer and allotment of land will be applicable to such SEZs as will be implemented on PPP model. Accordingly, SEZs to be implemented in the public sector or private sector shall not be governed by these provisions. However, they will be applicable to those cases of private sector where land will be asked from the Government/ Government Agency. Facilities under paragraphs 6, 7 & 8 will be applicable to all the SEZs, which may be established in the State.

2. ISSUE OF PUBLIC NOTICE AND RECEIPT OF PROPOSALS

2.1 Nodal Agency indicated under Paragraphs 3.3 will issue public notice to take up for consideration the proposals that may be received under this Policy to promote establishment of SEZs.

2.2 Nodal Agency will receive suo moto proposals under this Policy and consider them. Proposals received shall be considered on ‘first come – first served’ basis. If more than one proposals are received for the same location, on the same date, they shall be considered as per paragraph 3.5.2. The Nodal agency will, first of all, consider if a S.E.Z. is to be planned or not as per the location of a proposal. If decision is in negative, entire application fee shall be refunded and if it is positive, immediate detailed consideration/examination shall be done under this Policy.

3. SELECTION OF DEVELOPER

3.1 Selection of Developer under PPP model may be undertaken based on following alternatives :

- i. On the basis of bid process
- ii. On the basis of suo moto proposal

The bid process will take substantially long time and as the Govt. of India is restricting the number of SEZs, as indicated in the minutes of Govt. of India’s ‘Board of Approval’ meeting dated 12.6.2006, the nodal agency, as per paragraph 3.3, will select the developer on the basis of suo moto proposal to facilitate a quicker decision. This shall be reviewed after one year, or, in case GOI reviews the restriction on number of SEZs. If more than 1,000 acres of land is involved in the proposal, prior approval of the State Govt. shall be obtained before selecting the developer.

3.2 SEZs to be developed, shall be divided into following three categories on the basis of location :

Category 'A'	–	Notified area of Noida/Greater Noida
Category 'B'	–	Notified areas of other Development Authorities of the State (including Industrial Development Authorities)
Category 'C'	–	Rest of the State.

3.3 Concerned Development Authority will be the nodal agency for category 'A' & 'B' areas and UPSIDC will be the nodal agency for the category 'C', because it will be acquiring land to provide for SEZ.

3.4 If there is need to acquire land in category 'C' SEZs, it will be done by UPSIDC.

3.5 Procedure for suo moto proposals

The process for the selection of a developer for a specific area, based on suo moto proposal received shall be as follows :

3.5.1 Pre qualification criteria for selection of developer.

(a) Financial Capability – Minimum networkth :

	Single Product SEZ	Multi Product SEZ		
Rs. in lacs, per acre	10	Cat. 'A'	Cat. 'B'	Cat. 'C'
		30	25	20

However, minimum net-worth will be Rs.100 crores.

(b) Project Development Capability – Must have developed projects with a capital investment of :

	Sector Specific SEZ	Multi Product SEZ		
Rs. in lacs, per acre	20	Cat. 'A'	Cat. 'B'	Cat. 'C'
		60	55	50

- Only such projects as have been commissioned by the date of pre qualification, will be taken into account.
- Must have developed a single project of minimum of Rs.200 crores, project cost for multi product SEZs in category 'A' & 'B'.

(c) Special provisions for sector specific SEZ to be set-up by the industry themselves :

Following special facilities will be admissible to facilitate industries to set up a sector specific SEZ related to their sector of industries :

(i). Different pre qualification standards :

Similar kind of units should be a part of the SPV format for development of SEZ and their minimum combined net worth should be Rs.8 lacs per acre with an average of combined turnover in the last three years at a minimum of Rs.30 lacs per acre.

(ii). All the land required for SEZ shall be acquired for such sector specific. Paragraph 3.4 shall be treated accordingly amended.

3.5.2 Nodal agency will charge prescribed processing fees while receiving proposals, which will be Rs.5 lacs for sector specific SEZ and Rs.20 lacs for multi product SEZ. This fee will be used for the purpose of fee payable to the consultant to be engaged for the selection of the developer.

3.5.3 The proposals received will be examined by the Screening Committee set-up by the Board of the Nodal Agency. Consultant engaged for the selection process will render necessary assistance to the Committee. In case of receipt of more than one proposal for the same area, they shall be examined on the basis of following :

- a) Viability of the SEZ project.
- b) Ease of implementation associated with the project.
- c) Development objectives of the projects including implementation time frame.
- d) Maximisation of benefits to the Government, etc.

3.5.4 Recommendation of the Screening Committee along-with recommendations of Chief Executive Officer of the Nodal Agency shall be placed before the Board of Nodal Agency, and it shall make the final selection. While making selection, modifications/amendments

may be made in the proposal which shall be acceptable to the developer.

3.5.5 Rights and obligations of the Developer and Nodal Agency shall be fixed as per ‘Development Rights Agreement’ (DRA). For the purpose, proposed DRA, as given in the referred report of consultant, M/s. ‘Ernst&Young’, can be used.

3.5.6 Following shall be provided in the DRA :

i. Period of validity of the DRA shall be for 70 years from the date of execution, which can be terminated earlier, as per conditions of the Agreement. The Agreement could be extended for further period of 20 years with mutual consent.

ii. Developer Company shall have full authority and powers to fix, levy and collect fees/charges for usage and creation of various services & facilities provided by them, relating to planning, design, financing, marketing, development of basic infrastructure and maintenance, operation, management & administration of the Zone.

iii. Developer Company would have to develop the Zone, as per the development milestones and in such phases, as may be decided in the DRA and its terms & conditions. If the Developer fails to achieve the milestone within the stipulated period, a cure period of 90 days can be granted on the payment of damages as fixed in the DRA.

iv. Minimum and maximum limits for various land uses shall be fixed.

v. Developer will be required to submit an implementation scheme, which shall be prepared every six months. An Independent Engineer firm shall monitor its implementation.

vi. Maximum time-limit for the entire development of SEZ shall be disclosed in the DRA. Consultant has advised a period of 10 years for development in, upto, three phases.

vii. Developer will be required to furnish performance bank guarantee. Amongst others, this guarantee will assure provisioning of various services & facilities discharging responsibilities of maintenance against appropriate fees. For the redressal of complaints against the developer, by units established, a Committee constituted under the Chairmanship of Development Commissioner of SEZ shall look into them.

viii. The DRA will also list the works to be done by the concerned nodal agency and its other responsibilities.

ix. To provide for land-price and lease-rental and execution of lease deed in various phases by the nodal agency.

4. LAND PRICING

4.1 Land price for the SEZs of category 'A' & 'B' shall be based on the land use and the rates prevailing for those land uses at the time of executing the lease deed, shall be applicable. Therefore, it would be necessary for the Authorities to fix rates for land (developed & undeveloped) for various purposes from time to time. This would have to be stated in the DRA. Since there are no Development Authorities in category 'C', in the absence of fixation of rates of land for the various purposes, nodal agency will charge full cost (inclusive of interest and all other charges) of acquisition of land for the SEZ.

4.2 Full cost of land shall be recovered upfront, as lease premium, before the execution of lease. If developer offers share in revenue also, that can be accepted but this cannot be accepted as an alternative of lease-premium in part or in total.

4.3 There will be no interference of the Development Authority/UPSIDC, in cost price to be charged by the developer from the units to be established under the SEZ. This will be market regulated.

5. USE OF LAND FOR VARIOUS PURPOSES

It will be mandatory to develop the SEZ land in following proportions. If developer so wishes, he may increase the proportion of basic infrastructure, greens and industrial use :

Land Use	Percentage of developed land	Minimum / Maximum Limit
1. Greens	As per proposal of the proposed investor	Minimum percentage, fixed under legal restriction
2. Basic Infrastructural Facilities	– do –	Minimum 20%
3. Industrial #	– do –	Cat. ‘A’: Minimum 45% Cat. ‘B’: Minimum 35% Cat. ‘C’: Minimum 25%
4. Commercial # # Institutional Housing Entertainment	– do – – do – – do – – do –	Maximum 10% Maximum 05% Maximum 15% Maximum 05%

- * Industrial, institutional, commercial and residential lands shall be defined before execution of the DRA, as per the genera policy of the concerned Development Authority. If no such definitions are available, the definitions applicable in the nearby area shall be used.
 - ** Land for entertainment purposes shall allowed to be used for theatres, amusement parks, museums and such other similar facilities for public entertainment. However, malls and shopping complexes shall be excluded.
- # Subject to the condition that land under industrial purposes shall always be more than requirements of the rules, enactments and policies of Govt. of India. Sector specific SEZs, to be established by the industries for themselves, will have minimum 45% industrial use.

Maximum 35% of land under category 'B' & 'C', SEZ shall be reserved for commercial, institutional, housing and entertainment purposes without any restriction inter se. However, this mutual flexibility will be admissible only if it does not cause any deviation in the developmental and social objectives. But in no case, there will be any compromise on the cost of land.

6. **SPECIAL ECONOMIC ZONE LAND USE UNDER MASTER PLAN**

6.1 The Master Plan Land Use of the area approved for SEZ shall be SEZ, which would be a district land use. State Government shall issue a notification for the conversion of concerned land use into SEZ after the Government of India has issued a notification under section 4(1) of Special Economic Zone Act 2005. In the case of sub-paragraph 6.2.2, land use will be converted without charging any fee, whereas, in the case of sub-paragraph 6.2.3, necessary conversion-fee shall be charged. Procedure for such conversion of land use will be different from the normal legal procedure. A suitable amended legal procedure shall be formulated and followed for this purpose.

6.2 Since, besides the industrial (processing area) purposes, residential and commercial etc. purposes are also admissible in non-processing area of a SEZ, hence :

6.2.1 Under the SEZ land use, commercial and social purposes, such as, educational, medical, hotel,

entertainment, residential and commercial complexes etc., shall be admissible up to the extent, they are allowed/provided by the rules and provisions notified by the Government of India, under the SEZ Act 2005. In the processing area, the same F.A.R./F.S.I. shall be available, as is admissible for industrial land use in that particular development area. However, in the case of I.T., gems & jewellery and biotech SEZs it shall be the same, as admissible for institutional land use. Same FAR/FSI as available for residential purposes in that development area shall be available overall, to the entire non processing area, except the common facility area falling under it. The developer may divide this overall available FAR/FSI among various purposes within the ceilings prescribed for those purposes, under this policy. However, within that ceiling he would be able to divide it amongst different plots of land for that purpose. Provisions, applicable in Uttar Pradesh State Industrial Development Authority shall be followed for availability of FAR/FSI as mentioned above in case of SEZs in Category 'C'.

6.2.2 If land is made available by the nodal agency or allowed to be used for the setting up of SEZ, it shall be allowed SEZ Land Use, free of charge.

6.2.3 If an SEZ is permitted to be set up on land, already allotted in the development area of a Development Authority, the land use shall be converted into SEZ, after charging conversion fee, prescribed for industrial land use for the processing area, and for non processing

area conversion charges prescribed for residential land use shall be charged. If the norms for conversion-charges are not prescribed, they shall be formulated or got formulated by the State Government.

6.2.4 If the land of SEZ is located outside the development area of any Development Authority, the SEZ land use shall be assigned without charging any fee, provided that the construction plans of non processing area shall be sanctioned only when minimum 50 percent processing area has been developed. Even then, the construction plans for the non processing area shall be sanctioned only for proportionate area. To bring such areas under proper planning authority they shall be included in the development area of U.P. State Industrial Development Authority for bringing them.

7. LIABILITY OF DEVELOPMENT CHARGES AND SANCTION OF LAY OUT PLANS / SUB LAY OUT PLANS / BUILDING MAPS

7.1 Since the internal development shall be done/got done by the developer himself, no internal development charges shall be payable.

7.2 If SEZ utilizes an existing infrastructure, which was developed by the government, no external development charges shall be levied. However, external development charges for a particular infrastructure will be payable, if it is developed by a local body/government agency and used directly.

7.3 No external development charges of any kind shall be levied for any existing public infrastructure. However, if strengthening/upgradation of such infrastructural facilities are required to be done for SEZ, then proportionate expenditure shall be payable by SEZ developer.

7.4 Sanction of Development Works Plan :

Wherever a Development Rights Agreement (DRA) has been executed, sanction shall be granted accordingly. In other cases, the lay out plan shall be sanctioned by the concerned Development Authority. The building map shall be deemed to be automatically sanctioned on the authentication/certification (as conforming to local building bye laws/sanctioned lay out plan/master plan), by an architect.

8. **Allowing Sub-Leases**

8.1 Leases/sub leases will be allowed on land, made available for SEZ by Government or Government Agency to meet the requirements of the regulations of the Government of India or the State Government. The Developer or units holding lease or sub lease would be allowed to mortgage, to avail financial facilities.

8.2 If the land earmarked for SEZ was made available by Government or a Government Agency for any industrial/institutional purposes but there was no provision for 'sub leases' in the lease conditions, sub leasing will be allowed, granting relaxations in lease

conditions to meet the requirements of the SEZ regulations on payment of following charges :

- Transfer fees payable for transfer as per the normal provisions of the allotting institution. If there is no such provision in the concerned institution, the Policy of any other suitable public institution shall be followed for this purpose.
- If such land is proposed to be given on sub-lease to a 100% subsidiary company, then no transfer fee shall be charged.

