

U.P. Special Economic Zone (Amended) Policy – 2007

Part – 'B'

Selection of Developer, Allotment of Land and Arrangement of Master Plan Land Use etc.

1. APPLICABILITY/ EFFECT AND LAND ARRANGEMENT

1.1 **Applicability/ Effect:** Paragraphs 2, 3, 4 & 5 relating to the selection of developer and allotment of land will be applicable to such SEZs which will be implemented on PPP model. Therefore, SEZs to be implemented in the public sector or private sector shall not be governed by these points. These points will be applicable on those cases of private sector where land will be demanded from the Government/ Government Agency, as well. Facilities stated under para 6, 7 & 8 will be applicable on all the SEZs to be established in the State.

1.2 **Land Arrangement:** In view of the Policy decided by Government of India in their letter dated 15.06.2007 regarding acquisition of land for establishment of SEZ "Policy related to non-sanction of SEZ on compulsory land acquisition land" compulsory land acquisition shall not be done by Government of U.P. for establishment of SEZ. Rather, private developers shall arrange/purchase the land on their own for establishment of SEZ. In future, whatever Policy shall be decided by the Government of India for land acquisition for SEZ, the same shall automatically be adopted by the Government of U.P. and necessary action shall be taken accordingly. If an SEZ is to be established on Public Private Partnership (PPP) basis, then the selection of private partner shall be according to the guidelines decided by the Government. If Government/ Govt. Institute desires to establish an SEZ on its own or through a joint venture, then it shall arrange for the land under its prevailing rules.

2. PUBLIC NOTIFICATION AND RECEIPT OF PROPOSALS

2.1 In order to promote establishment of SEZs, Nodal Agency indicated under para 3.3 of this Policy will issue public notice for consideration on proposals received.

2.2 As per this Policy, proposals received under bid process (PPP process) shall be received by the Nodal Agency and they shall be considered. All the proposals shall be considered under bid process (PPP process). If SEZ is to be established on the basis of Public Private Partnership (PPP) then the selection of private partner shall be according to the guidelines decided by the Govt. for Public Private Partnership (PPP) projects. First of all, Nodal agency will immediately consider that proposal received is worth planning or not. If decision is in negative then entire application fee shall be refunded and if it is positive then immediate detailed consideration/ examination will be done under this policy.

3. SELECTION OF DEVELOPER

3.1 Selection of Developer shall be undertaken under Public Private Partnership (PPP) process of the Government on the basis of bid process.

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

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'	-	Remaining areas of the State.

3.3 The concerned Industrial Development Authority (Noida/ Greater Noida) shall be the nodal agency for category 'A' and UPSIDC or concerned Development Authority, as directed by the Government, shall be the nodal agency for the category 'B' and UPSIDC shall be the nodal agency for category 'C' as land acquisition in this area (if permissible under other provisions of this policy, then) shall be done by them for providing the land for SEZ.

3.4 If there is requirement of land acquisition in category 'C' SEZs, then the land acquisition (if permissible under other provisions of this policy, then) will be done by UPSIDC.

3.5 Duties/ Liabilities and Rights of the Developer and Nodal Agency shall be fixed as per DRA (Development Rights Agreement). For the purpose, proposed DRA can be used as given in the referred report of consultant, Ernst&Young.

3.6 Following arrangements shall be made in DRA :-

- (1) DRA shall be valid for 70 years from the date of execution, which can be terminated before 70 years as per conditions of the agreement. The agreement can be extended for further 20 years with mutual consent.
- (2) Developer Company shall be fully empowered to fix, levy and collect the fees / charges against usage and creation of various services & facilities provided by them, related to planning, design, financing, marketing, development of basic infrastructure & maintenance, operation, management and administration of zone.
- (3) Developer Company shall have to develop the zone in fixed phases, under development milestones as per terms & conditions of DRA. If Developer is failed to achieve the milestone within stipulated period then a cure period of 90 days can be granted on the payment of damages as fixed in DRA.
- (4) Minimum and maximum limitations of various land use shall be fixed.
- (5) Developer will have to produce an implementation scheme. This implementation scheme will be made on six monthly basis. As per this follow-up of work disposal shall be done by an independent engineer firm.
- (6) Maximum time limit for the entire development of SEZ shall be mentioned in the DRA. Consultant Company has given advise for the development of all three phases in 10 years.
- (7) Developer has to make available the performance bank guarantee. This guarantee will satisfy availability of various services & facilities and liabilities related to maintenance against a proper fees apart from other liabilities. For the redressal of complaints to be lodged by the established

units against the developer, there will be a Committee be constituted under the chairmanship of Development Commissioner of SEZ.

- (8) Works/ liabilities of concerned nodal agency shall be mentioned in DRA.
- (9) Wherever applicable, as per requirement, to make arrangements for Lease Deed execution in favour of Developer for every phase and arrangement of land value & lease deed by the nodal agency.

4. **VALUE OF LAND**

- 4.1 Value of the land to be made available for the SEZs of category 'A' & 'B' shall be fixed on the basis of the prevailing rules of the Institution/ Authority providing/ allotting land. Therefore, it will be necessary that authorities shall keep on fixing the land rates (developed & undeveloped) for the various purposes from time to time. These will have to be mentioned in DRA. Because there are no development authorities in category 'C', therefore in the absence of fixed rates of land for the various purposes, nodal agency will charge entire amount (inclusive of interest and all other charges) spent on land acquisition for the SEZ.
- 4.2 Total 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 development authority / UPSIDC, as far as charges to be levied by the developer from the units to be established under the SEZ. This will be market regulated.

5. **USE OF LAND FOR VARIOUS PURPOSES**

As minimum 50% processing area has been fixed by the Government of India, in this context the land utilisation has been fixed for different purposes as under :-

LAND USE	LIMIT
1. Processing Area	Minimum 50%
2. Green belt and basic amenities	Minimum 25-25% of both processing and non-processing areas.
3. Commercial, Institutional and Residential	Maximum 10, 10 and 15% of total area respectively.

6. SPECIAL ECONOMIC ZONE LAND USE UNDER MASTER PLAN

- 6.1 The master plan land use of approved area for SEZ shall be SEZ which shall be a separate land use. After the notification of Government of India is issued under section 4(1) of Special Economic Zone Act, 2005, the State Government shall issue the notification for change of land use of concerned area into SEZ without any changing fee in the case of para 6.2.2 and after the payment of necessary changing fee in the case of 6.2.3, the procedure of this land use shall be kept separate from the normal legal procedure. A suitable amended legal procedure shall be made for this purpose.
- 6.2 Since residential, commercial etc. purposes are also admissible in non-processing area beside industrial (processing area) in SEZ, therefore -
- 6.2.1 Under SEZ land use commercial and social purposes such as educational, medical, hotel, entertainment, residential and commercial complex etc. shall be admissible upto such extent which are admitted/sanctioned by notified regulations or under provisions under Special Economic Zone Act, 2005 by the Government of India same F.A.R/F.S.I shall be admissible in processing area which shall be admissible for industrial land use in that development area. But in case of I.T., gems & jewellery and Biotech SEZ this shall be admissible F.A.R/F.S.I for institutional land use. The FAR/ FSI in the non-processing area of the SEZ shall be decided on the basis of the land use applicable in the concerned development authorities/updated master plan of the corporation and as mentioned in the building regulation. In case of contradiction in the provisions of FAR/ FSI of the Master Plan and Building Regulations, FAR/ FSI shall be as per the provisions of National Building Code. This FAR/ FSI shall be as applicable on the date of submission of the map. For above mentioned admissibility of F.A.R/F.S.I for SEZ in category 'C', the provisions of U.P. State Industrial Development Authority shall be followed.
- 6.3 If any land is made available or allowed for SEZ by the nodal agency, the land use of such land shall be assessed without fee in S.E.Z.

- 6.4 If sanction of SEZ is given on the land allotted earlier and situated in the development area of any development authority, the land use shall be changed in SEZ after taking prescribed changing fee for change into industrial land use for processing area and after taking prescribed changing fee for change into residential land use for non processing area. If the norms for changing fee are not prescribed, it shall get prescribed by the government.
- 6.5 If the land of SEZ is outside of the development area of any development authority, the land use SEZ shall get prescribed - provided that the construction map of non processing area shall be sanctioned only when minimum 50 per cent processing area has got developed. But even then the construction map of non processing area shall be sanctioned only for that proportionate area. Such areas shall be included in the development area of U.P. State industrial development authority for bringing them in the area of proper planning authority.

7. PAYMENT OF DEVELOPMENT FEE AND SANCTION OF LAY-OUT PLAN/SUB LAY-OUT PLAN/ BUILDING MAP

- 7.1 Since the internal development shall be made/caused to be made by the developer itself, there shall be no payment of internal development fee.
- 7.2 If necessary external development work is done by SEZ Developers on their own then no external development fee shall be charged. In case any external development work done by the Government / Government Institution then its cost shall be payable as per rules.
- 7.3 No outer development fee of any kind shall be charged for any existing public infrastructure but if fortification/ upgradation of those infrastructural facilities for SEZ shall be necessary then proportionate expenditure shall be payable by SEZ developer.
- 7.4 **Sanction of plan of development works:**
Where there is an agreement on D.R.A., this work shall be done accordingly. In other cases the lay-out plan shall be sanctioned by the development authority concerned. The building map shall be deemed to be automatically sanctioned on the authentication of empanelled Architects (if empanelment done, otherwise

any registered Architect) of concerned land allotting Institution/ Authority (as per building bye-laws/ sanctioned lay-out plan/master plan).

8. **Admissibility of sub-lease**

8.1 Lease/sub-lease will be admissible on land made available for SEZ by Government or Government Institution according to the requirement of regulations by the Government of India or the state government. The lease or sub-lease holder developer or units may avail financial facilities by mortgaging the lease or sub-lease.

8.2 If the land marked for SEZ was made available for industrial purposes/institutional purposes by the government or any government institution but there was no admissibility of sub-lease in the conditions of the lease, the sub-lease will be made available according to the requirements of the SEZ regulations exempting the conditions of the lease and charging the following fee on such land:-

- On payment of transfer fee payable for transfer in accordance with the normal procedure of the allotting institution but if there is no procedure as such in the institution, then the policy of any other suitable institution shall be followed for this purpose.
- If such land is proposed to give on sub-lease to a cent-percent subsidiary company of the allotting institution/company, then no transfer fee shall be charged.

9. **Special provisions for I.T.S.E.Z.**

9.1 Land use of I.T. S.E.Z.:

If a SEZ is proposed on any land/plot allotted earlier for I.T. Park/ITES by any authority, then the fixed land use conversion charges shall be payable only on the non-processing area of the ITSEZ. Accordingly, for calculating the land use conversion charges, if any norms have been approved in the past regarding ratio of processing area and non-processing area for IT activities of any institute, then the conversion charges shall be charged only in case of non-processing area is more than the above ratio.

- 9.2 In view of the para 10.6 of U.P. IT Policy - 2004 " the Mega Investment units shall be made available land at a rate which is atleast 25% lesser than the sector rate, by Development Authorities, Industrial Development Authorities, Housing Development Board", 25% exemption on land allotment rate for only SEZ Processing Area of ITSEZ shall be applicable and accordingly at the time of calculating the land allotment rate, if any norms have been approved in the past regarding the ratio of processing area and non-processing area, then 25% exemption shall be applicable as it is on the above ratio limit on processing/non-processing area and in case non-processing area is more than the said ratio, then institutional usage rate shall be charged on the additional area. In cases where this 25% exemption is already been availed and SEZ has been approved on that land subsequently or an SEZ is proposed to be established, then in these cases the difference, if any, according to this system shall be charged and recovered.
- 9.3 In view of the para 10.17 of U.P. I.T. Policy-2004, 50% more FAR to be allowed for IT units in earmarked areas/ I.T. Parks (STPs), it has been decided that 50% additional FAR shall be available for only the processing area of ITSEZ. No additional FAR shall be allowed in the non-processing area but in case additional FAR has already been approved for any area, and it is not possible to withdraw it, then the increased FAR should continue. But in no case the additional FAR in non-processing area shall be approved for future land allotments.
- 9.4 The norms laid by Government of India shall be followed for processing area/non-processing area of IT SEZ.
- 9.5 As only 25 acres the land is required for IT SEZ, which is a very small land area, there seems no proper justification to execute DRA (Development Rights Agreement) for the purpose. However, the concerned authority/institute may decide on the necessary security measures, as required, on their own.