

(File no. 27(3)/2012-IPHW)
Government of India
Ministry of Electronics and Information Technology (MeitY)
6, CGO Complex
New Delhi – 110003.

Date: 04.12.2019

NOTIFICATION

Subject: Clarification on land requirements under Modified Special Incentive Package Scheme(M-SIPS)

References:

- i. Guidelines for the operations of the MSIPS dated 07-10-2012 (File no. 27(3)/2012-IPHW.*
- ii. Guidelines for effective functioning of revised MSIPS dated 24-02-2016(File no. 27(3)/ 2012-IPHW Vol-II*
- iii. Notification regarding amendment to revised MSIPS dated 30-01-2017(File no.*
- iv. Supplementary guidelines on land requirements under MSIPS dated 01-02-2019 (File no. 27(3)/ 2012-IPHW Vol-II)*

1. The Modified Special Incentive Package Scheme (M-SIPS), to offset disabilities and encourage investments in the Electronics System Design and Manufacturing (ESDM) sector in India, was notified on 27th July, 2012. The Guidelines were issued on 7th October, 2012. The Scheme was available to units located both in SEZ / non-SEZ regions. The scheme provided 20% of capital expenditure to units located in SEZ areas and 25% of capital expenditure to units located in non-SEZ areas. The scheme was initially opened to receive applications for 3 years i.e. till 26-07-2015. As per the MSIPS guidelines dated 07-10-2012, “applicant has to provide proposed location in the application. In case not confirmed, level of readiness of the sites under consideration, details of proposed occupancy (self owned or leased) to be mentioned.”

2. Further, the Cabinet, in its meeting on 21-07-2015, approved the extension of the scheme for another 5 years along with a few procedural simplifications and addition of 15 new verticals. Incentives were made available for 10 years from the date of application of the project instead of date of approval. The notification for revised MSIPS was issued on 03-08-2015. Guidelines for effective functioning of revised M-SIPS were issued on 24th February, 2016.

3. The Scheme was further amended vide notification dated 30-1-2017. As per these amendments, the incentives were made available for investments made within 5 years from the date of approval. Applications under the Scheme were to be received till 31st December 2018 or till such time that the incentive commitment reached Rs. 10,000 crore, whichever is earlier. CEO, NITI Aayog conducted a review of M-SIPS programme on 04-09-2017. In this review, CEO, NITI Aayog stated that M-SIPS is a hugely successful scheme. Considering the investments that M-SIPS is attracting in the country for manufacturing in electronics sector.

the sector requires continuous push with the overall objective of promoting Make in India; not only to meet the domestic demand but also to promote India as a hub for electronics manufacturing, CEO, NITI Aayog recommended that there is a need to continue the M-SIPS till 31th December, 2018 in its present form. Accordingly, the scheme was continued till 31th December, 2018.

4. Further, with regard to the lease condition included in Annexure-3 (vii) of Guidelines dated 24-02-2016 : ***“In case the land has been leased, the lease should be for at least 10 years from the date of application under M-SIPS”***, there have been certain scenarios where due to Central / State / Local Authority rules and regulations, applicants have expressed inability in complying with such lease condition. Such scenarios have been listed below:

- i) **When the Unit is located in SEZ Area:** Lease agreements between the units and SEZ authorities were generally for 5 years and subject to further renewal of unit approval.
- ii) **Unit Located in a Non – SEZ area and land is on lease from State Development Authorities which is expiring prior to 10 year period from the date of application:** The state authorities renew the lease only after the expiry of the existing lease. Thus, it is not possible for the applicant to furnish a 10 year lease document on the date of filing M-SIPS application.
- iii) **Unit Located in a Non – SEZ area and land is taken on sub-lease from a lessor and the lessor has less than 10 years lease rights from any State or Parastatal Agency:** In such cases, state or parastatal agencies extend the sub-lease rights only after the expiry of the lease period and not while the lease is still valid. Thus, it is not possible for the applicant to furnish a 10 year lease document on the date of filing M-SIPS application.
- iv) **Possession of land received from State Government / any of its entities, where sale agreement is subject to achievement of construction milestones:** It is not possible for the applicant to furnish a sale document on the date of filing M-SIPS application as advance possession has been given in such cases on basis of sale agreement without registering a sale deed.

In all above cases, the applicants were not able to meet the requirement of having either ownership rights or minimum 10 years lease due to rules and regulations of either State Government or any of its parastatal agencies or SEZ rules. **To address the above issues, supplementary land guidelines were issued on 01-02-2019 (Ref page: 400-402/c).**

5. In terms of paragraph 2.4 of the supplementary guidelines, it was stipulated that the cases having conditional sale deed with State Government will be considered under MSIPS provided that the applicant fulfils the condition as laid down by the State Government and sale deed is duly signed prior to disbursement of incentives. However, representations were received for consideration of cases of conditional lease agreements with State Government also. Thus, it is required to substitute the words ‘Sale Deed’ with ‘Sale Deed or Lease Deed’ in paragraph 2.4 of the supplementary guidelines. Thus, paragraph 2.4 may be read as

“For all such cases where the possession of land is given by the State Government or any of its authority and Sale Deed or Lease Deed is subject to fulfilment of some condition,

such cases will be considered under MSIPS, however disbursement of incentives will happen only after the applicant fulfils the condition as laid down by the State authorities and Sale Deed or Lease Deed is duly signed between them.

The remaining guidelines under Supplementary Guidelines on land requirements under MSIPS dated 01/02/2019 will remain applicable.

6. Annexure-3 of land requirements under guidelines dated 24-02-2016 states that the **“applicant should at the time of applying, identify the location for the project/ phase(s) of the project alongwith possession letter. In case the land has been leased, the lease should be for at least 10 years from the date of application under M-SIPS.”** The said amended Guidelines dated 24-02-2016 have to be read in conjunction with Para 4.3 of the original Guidelines dated 07-10-2012 which stated that **“Location proposed to be mentioned in the application. In case not confirmed, level of readiness of the sites under consideration, details of proposed occupancy (self owned or leased) to be mentioned.”** The purport of issuing such guidelines was to ensure that in case the applicant was having lease over project land before filing the M-SIPS application, then such lease deed should be for atleast 10 years from date of filing the MSIPS application. There has been some ambiguity in interpretation of the land guidelines and a view has been taken that applicant should be having lease over land at the time of filing application under M-SIPS and such lease should be for atleast 10 years from the date of application. Thus, many applications of Time Zone III, where the investment window has been amended and investments are to be considered from date of approval and not from date of application, have been put on hold due to insistence of having lease over land at the time of filing application. Due to such ambiguity in interpretation of land guidelines, many cases have been kept pending at different stages of approval.

7. It is pertinent to point out that in the absence of clarification on project land issues, significant project investments are held up. Such cases have been processed after ensuring their readiness both in terms of land and investment before according approval of the project. These applicants had applied as per the notification dated 30th January, 2017 and completed the land requirements before such cases were either taken up to the Appraisal Committee or were being processed for appraisal. In many cases, the applicant companies had completed the requisite formalities to get the ownership / lease of land and obtain possession from the relevant Government agencies but procedural formalities on part of such land allotting Government agencies caused delay in execution of the lease deeds. Thus, delay in getting lease deed executed has been caused due to factors beyond the control of the applicants. The applicants have contended that there is no contribution from their side in delaying the land related formalities and procedures. Applications for such cases have remained pending with the Ministry at various levels for last 8 to 10 months. Representations have been received from the applicants in this regard who have either postponed or withdrawn their investments in view of lack of clarity in land guidelines. This is acting as a dampener to the ecosystem of electronic manufacturing in the country that has been hailed as a success story and contributed significantly to the Indian economy in general and the flagship Make in India

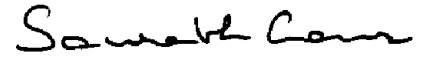
program in particular. Thus, it is imperative that procedural disabilities or ambiguities that hamper the development of this sector be addressed.

8. In light of the above, it is important that any ambiguities in project land guidelines be removed and such guidelines should unequivocally clarify that land should be in possession of the applicant, either through a registered sale deed or a registered lease deed / sub-lease deed at the time of approval of the application. Thus, the following guidelines are issued for project land under MSIPS.

“For applications covered under the amendment notification dt. 30.01.2017 (under Time Zone III), i.e. those who have submitted applications but were acknowledged on or after 30.01.2017, Applicant must have executed registered sale deed or lease deed and obtained possession of the land prior to according approval of the project. If the lease deed has been executed prior to the application under this scheme, tenure of such lease must be minimum 10 years from the date of application. Any lease deed, that has been executed between the date of application and date of Approval, must have a tenure of minimum 10 years from the date of execution of such lease deed.”

These guidelines are read in conjunction with Supplementary Guidelines on land requirements under MSIPS dated 01/02/2019.

This issues with the approval of Hon'ble MEIT.



(Saurabh Gaur)

Joint Secretary to Government of India

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