

SIKKIM



GOVERNMENT

GAZETTE

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**GOVERNMENT OF SIKKIM
DEPARTMENT OF INFORMATION TECHNOLOGY GOVERNMENT OF SIKKIM**

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(RIGHT OF WAY POLICY)

Whereas the Government of Sikkim has been making several efforts to promote Information Technology in the state with the objectives of improving the state of economy, enhancing the quality of life of citizens, providing good governance and ensuring development with equity. Some of these efforts are attracting investments in Information Technology sector, implementation of electronic governance projects and promoting Information Technology education. Besides the ongoing efforts the government is committed to provide Optical Fiber Cable (OFC) connectivity to ensure the availability of high speed broadband.

Whereas the State Information Technology Policy stresses the need of availability of a robust telecommunication infrastructure with adequate bandwidth across the length and breadth of the state. The globally accepted method of creating broad band networks is through laying optical fiber as backbone. In Sikkim the optical fiber is to be laid along roads like the National Highways, State Highways and other road networks belonging to the Roads and Bridges Department, Rural Management Development Department (RMDD), Urban Development and Housing Department, Forest Department, Border Road Organization and also of that of the Army.

Whereas in the absence of general guidelines, proposals for laying telecom cables get delayed. Keeping this in view, the State Government has decided to frame a policy and to issue guidelines for issuing permissions to the Service Providers desirous of laying optical fiber cable in the State. This policy covers only laying of communication infrastructure in the State of Sikkim on the land belonging to any agency, including National Highways.

Now therefore, with the view to achieve the above objectives the State Government is hereby pleased to notify the Right of Way (ROW) Policy as under:

DEFINITIONS:

“**Agency**” refers to organization/company in-charge of the road.

“**Licensee**” refers to service providers availing the Right of Way for laying telecom cables.

1. The Right of Way Policy will be applicable for all roads owned and managed by State Government, Local Bodies, Public Sector Undertakings and Border Road Organization in the State. Permission for Right of Way will be granted by Secretary, Roads and Bridges Department/Rural Management and Development Department, Urban Development & Housing Department as per guidelines and design parameters laid down by the office of Chief Engineers with respect to

roads owned and managed by concerned Department. With respect to roads owned by other Departments of the Government, Local Bodies, Public Sector Undertakings etc. the appropriate authority for granting permission will be designated by them. However, in case of National Highway lands permission of Right of Way will be granted by Ministry of Road Transport and Highways (MORTH) or its designated authority.

2. The Secretary, Information Technology Department shall be the nodal officer and all such applications for Right of Way shall be routed through the Secretary/D.I.T who would then forward it to the concerned department. The agency availing the Right of Way should submit the completion report to Secretary, Information Technology Department so that update information of the Optical Fiber Cable Network in the state can be maintained.
3. A performance bank guarantee @ Rs 75.00 per route meter with a validity of one year initially (*extendable if required till satisfactory completion of work*) shall be furnished by each licensee as a security against improper filling/unsatisfactory compaction/restoration and damages caused to other underground installations/utility services and interference, interruption, replacement, disruption or failure caused thereof to any services. Notwithstanding this licensee shall be liable to pay full compensation to the aggrieved owners for any damage sustained by them by reasons of the exercise of Right Of Way facility. The Roads and Bridges Department/Rural Management and Development Department/ Urban Development & Housing Department, State Government or the Agency shall not be accountable or liable in any manner whatsoever and the licensee shall be solely responsible for above discrepancies. The above charge of Rs. 75.00 per route meter is liable to be reviewed every three years. The bank guarantee will lie in the custody of Secretary/D.I.T who will release it only after receipt of completion report and clearance from the concerned agency in-charge of the road.
4. Any service provider like Department of Telecommunication authorized and registered/licensed infrastructure providers, etc. is eligible to avail of the Right of Way facility/permission. However, enforceability for the permission so granted shall be restricted to the extent of provision/scope of service contained/defined for the license so granted by the Department of Telecommunication of the telecommunication infrastructure and also the agreement to be entered into by the service providing agencies with the Roads and Bridges Department or the concerned agency in charge of the road.
5. The validity of "Right of Way" in respect of Telecommunication Department/licensee would be co-terminus with the validity of license.
6. Roads and Bridges Department/Rural Management and Development Department /Energy and Power Department/Urban Development & Housing Department and the Agency in charge of the road will provide broad guidelines for various options depending upon topography and site conditions for availing of Right of Way.
7. The licensee/service provider shall be solely responsible for full compensation/indemnification of concerned Agency/aggrieved owners for any direct, indirect or consequential damage caused to them/claim or replacements sought for, at the cost and risk of the licensee. The concerned agency in coordination with owner shall also have the right to make good such damages/recover the claims by forfeiture of Bank Guarantee.
8. No licensee shall claim exclusive right on the Right of Way and any subsequent user will be permitted to use the Right Of Way, either above or below, or by the side of the utilities laid by first user, subject to technical requirements being fulfilled which shall be decided by the Secretary Roads and Bridges Department/Rural Management and Development Department/ Urban Development & Housing Department or Agency in charge of the road.
9. The permission granted shall not in any way be deemed to confer to the licensee/service provider any ownership right or any interest in route/highway land/property.
10. The licensee/service provider shall be responsible for ascertaining from the respective agency in coordination with owner, regarding the location with other cables, underground installation/utilities/facilities etc. before commencement of the work.
11. The licensee shall make his own arrangements for crossing drain, culverts, bridges, jhora, river etc at their own cost. If due to unavoidable reasons the road needs to be cut for crossing or laying of Optical Fiber Cable the licensee shall deposit the restoration cost/reinstatement charges as assessed by the government in coordination with the concerned agency.

12. In case of up gradation of the road or extension of road carriage width, the cables/ducts or any other structures laid by the licensee shall be shifted and re-laid by the licensee at their own cost and within specified period indicated by the Roads and Bridges Department/Rural Management and Development Department or the agency in-charge of the road.
13. Shifting of existing facilities like telephone cables, electrical lines, electrical poles etc. wherever required would be done in a time bound manner and at their own cost. The service provider will ensure that there is no hindrance to the free flow of traffic.
14. The licensee/ service provider shall ensure that the debris/waste material if any shall be disposed by them at their own cost failing which the owner of the road will do so at the cost of the licensee. The digging of the trenches would be strictly regulated so that cables are laid and trenches are filled up before the close of the work every day. Filling should be completed to the satisfaction of the Department. While carrying out digging work, necessary caution like barricading, traffic diversion signs, danger lighting etc. shall be provided by the user.
15. Restoration/reinstatement of the road damaged due to digging and other activities while laying cables/ducts or construction of structures while availing the Right of Way will be done by the Service Provider to the satisfactory level of the land/road owner department.
16. The Roads and Bridges Department/Rural Management and Development Department/Urban Development & Housing Department/ Agency in-charge of the road will grant permission based on topography and site specific conditions within 15 (fifteen) days along with map after receipt of application and deposit of restoration/reinstatement charges.
17. As per the site conditions if private land has to be utilized or private structures are to be utilized, the licensee/service provider will be required to meet the cost of land acquisition/rentals etc. as the case may be.
18. The cables/pipelines shall be underground at approved depth as per the direction of Secretary, Roads and Bridges Department/Rural Management and Development Department/Urban Development & Housing Department. Any structure above ground shall be aesthetically provided for/landscape with required safety measures as per the direction of the Secretary, Roads and Bridges Department/Rural Management and Development Department/Urban Development & Housing Department or the agency in-charge of the road.
19. In case of overhead cables/ducts to be placed from point to point connection, usage of high tension poles can be accessed once the clearance for the same has been undertaken from the Energy and the Power Department. The Secretary, Energy and the Power Department will be the nodal authority to take any such decision. The Department of Energy & Power will allow the use of spare cores available under Rental/lease basis to the companies desirous of expanding the data service area.
20. There will be a provision of reinforced ducts in all important new roads being constructed in Sikkim. This duct will be used for laying communication cables by the various service providers. The agency in charge of the roads will be authorized to levy yearly rental or onetime payment as charges on mutually agreeable terms and conditions.
21. The Department of Information Technology or State Government should be allowed to use the Mobile Base Transceiver Stations (BTS) towers along with Power of Service Providers for setting up a communication equipment for establishing their own captive telecommunication links if required free of cost.
22. The service provider shall provide a dedicated 8mbps leased line to the Department of Information Technology with internet at Gangtok and a 8mbps leased line to each of the District Administrative Centre's (DACs) at the three outlying districts HQs (Gyalshing, Namchi and Mangan) from the State Data Center located at Gangtok. This facility will be made available to the State Government till the date the Service Provider has operations in Sikkim.
23. Any dispute arising between the signatories to an agreement under this policy shall be settled /resolved in accordance with the procedures outlined in the agreement i.e. all disputes will be

settled at Gangtok. In case of breach of any of the clauses of the agreement, the Government will be empowered to terminate the contract after giving a show cause notice of 15 days. One officer of the rank of Financial Commissioner to be nominated by the Government of Sikkim and another one to be nominated by the Applicant will act as Arbitrators to whom the matter will be referred to and the decision of the Arbitrators will be final and binding on both the parties.

By order and in the name of the Governor.

**Rajesh Verma
Principal Director
Department of Information Technology
Government of Sikkim**