



Government of India
Ministry of Finance, Department of Revenue
Directorate General of Human Resources Development
Indirect Taxes & Customs
IRCON Building, West Wing,
Ground Floor, Plot No. C-4,
District Centre, Saket, New Delhi-110017



F. No. 8/B/85/HRD(EMC)/CRB/2015 Pt.

Dated: 10.08.2018

To,
The Chief Commissioner of Customs (All),
The Chief Commissioner of Customs (Preventive) (All),
The Commissioner of Customs (All) and
The Commissioner of Customs (Preventive) (All).

Sir/ Madam,

Subject: Compendium of instructions for Creation and Continuation of posts on Cost Recovery Basis in Customs facilities- reg.

As you are aware, staff is posted on Cost Recovery Basis in Customs facilities as per CBIC Circular No. 52/97-Customs dated 17.10.1997 in respect of ICD/ CFS and CBIC's Circular No. 16/2013- Customs dated 10.04.2013 in respect of Sea Port, Air Cargo Complex, Courier Terminal, Diamond Plaza and Airports. The Department of Expenditure is the Competent Authority to grant approval for Creation and Continuation of posts on Cost Recovery Basis in respect of Customs facilities.

2. Creation & Continuation of posts on Cost Recovery Basis and Exemption from the payment of Cost Recovery Charges in respect of Customs facilities viz. ICD, CFS, Sea Port, Air Cargo Complex, Courier Terminal, Diamond Plaza and Airports are to be sent to DGHRD. However, it has been observed that either these references are sent much after the due date or are erroneously addressed to Customs Wing in the CBIC directly which leads to inordinate delay in obtaining approval of the Competent Authority. First and foremost, Creation of Cost Recovery posts is essential before issuance of necessary Notification by the jurisdictional Commissioner of Customs for commencement of operations of Customs facilities. Thereafter, Exemption from Cost Recovery Charges, if any, is to be considered with prospective effect only. The delay in processing claims for grant of exemption leads to undue litigations as the Cost Recovery Charges accrue in the intervening period and liability on part of the custodian continues to accumulate, thus initiating litigations.

I. FOR CREATION OF POSTS ON COST RECOVERY BASIS: -

It is reiterated that the proposal for Creation of posts as per prescribed staffing norms, needs to be sent to DGHRD, CBIC along with the following information/ documents, at least three months in advance to enable sufficient time to seek the necessary approvals from IFU and Department of Expenditure and to enable timely commencement of facilities:

- (i) Checklist-I and Proforma-I duly filled in as per CBIC's letter D.O.F. No. A.11018/14/2008 Ad. IV dated 02.07.2018 (copies enclosed) along with requisite documents.
- (ii) Information in Checklist (Annexure-I) as per Department of Expenditure O.M. No. 7(1)/E.Coord.I./2017 dated 12.04.2017 for each category of posts along with requisite documents as mentioned in aforesaid Checklist (Annexure I).
- (iii) Copy of Letter of Approval/ Letter of Intent from the Competent Authority for setting up of the said Customs facility.
- (iv) Copy of an Undertaking to bear Cost Recovery Charges as provisioned in para- 5(2) and 6(1)(o) of HCCAR, 2009.
- (v) Copy of Notification issued under Section 7a of the Customs Act, 1962 by the CBIC declaring the place for unloading of imported goods and the loading of export goods or any class of such goods.

II. FOR CONTINUATION OF POSTS ON COST RECOVERY BASIS: -

a. The validity of posts on Cost Recovery Basis is for one year initially. **The permission is to be sought afresh every year.** Department of Expenditure takes an adverse note of delay in seeking permission before expiry

of one year & often advises DGHRD, CBIC to seek the continuation of posts well before expiry of validity of posts.

b. The Cost Recovery posts that were sanctioned or diverted from the regular Cadre Strength to the various Customs facilities before 18.12.2013 (date of issuance of Cadre Restructuring Notification, 2013) were subsumed in the regular Cadre strength of CBIC at that time. DGHRD vide Instruction F. No. 8/B/28/HRD(EMC)/CRB/2014 pt. dated 03.11.2015 had conveyed the Board's decision that the jurisdictional Chief Commissioners were the Competent Authority to consider the pending cases for grant of exemption wherein Cost Recovery posts were not sanctioned exclusively by the Ministry or were sanctioned prior to 18.12.2013 (date of issuance of Cadre Restructuring Notification, 2013). **However, the Cost Recovery posts that have been sanctioned after 18.12.2013 shall still require permission for continuance on yearly basis.** The regular cases of exemption where posts have been duly sanctioned (by DGHRD, CBIC) w.e.f. 18.12.2013 onwards shall continue to be processed by DGHRD, CBIC as per existing provisions.

c. The proposal for Continuation of posts on Cost Recovery Basis may be sent at least **two months before expiry of posts** in terms of Department of Expenditure O.M. No. 7(I)/E.Coord.I./2017 dated 12.04.2017 along with the following details:

(i) Information in Checklist-II (duly certified by the jurisdictional Commissioner) in terms of CBIC's letter D.O.F. A.11018/14/2008 Ad.IV dated 02.07.2008 (copy enclosed).

(ii) Total staff actually deployed (working strength) against total posts sanctioned on cost recovery basis with date of actual deployment (designation-wise).

(iii) A Break-up of cost recovery charges payable vis-à-vis actually paid (financial year wise) upto date by custodian of the facility along with supporting documents.

(iv) Workload involved (financial year wise) in terms of TEUs vis-à-vis documents (shipping bills/bills of entry).

(v) Revenue involved (financial year wise) from the date of commencement of operations.

III. FOR EXEMPTION OF COST RECOVERY CHARGES: -

a. Cost Recovery posts of Customs facilities that have been in operation for two consecutive years and have fulfilled the eligibility norms (as mentioned in CBIC's Instruction F.No.434/17/2004-Cus-IV, dated 12.09.2005 for ICD/ CFS and in para- 3 & para-5 of CBIC's Circular No. 16/2013- Customs dated 10.04.2013 for Sea Port, Air Cargo Complex, Courier Terminal, Diamond Plaza and Airports) in the past two years can be considered for exemption.

b. The Cost Recovery posts should have the specific permission of Department of Expenditure for continuation before seeking/ claiming exemption in respect of any given Customs facility. The exemption of cost recovery charges shall be prospective with no claim for past period. The proposal for exemption may be sent in the prescribed Annexure (Checklist) & Proforma (copies enclosed).

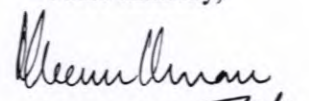
3. The above instructions may be followed while considering Creation of posts on Cost Recovery Basis or their Continuation or for seeking exemption from Cost Recovery Charges, once the facility becomes eligible for it.

4. These instructions may kindly be circulated widely to all Customs facilities and be publicized in the CBIC formations having posts on Cost Recovery Basis.

This issues with the approval of the Director General, HRD.

Encl: As above

Yours faithfully,


(Meenu Kumari) *7/12/18*

Additional Director (EMW/CRB)
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Copy to:

1. The Joint Secretary (Customs), CBIC for information.
2. The Webmaster, CBIC with request to upload on CBIC Website.

Check List-1**Creation of posts on CRB**

- (1) A copy of the sanction of Ministry of Commerce for establishment of ICD/EOU/CFS (as the case may be).
- (2) Date from which the sanction of the posts on CRB is sought.
- (3) In case the sanction has been sought belatedly, the reason there for.
- (4) Whether the cost recovery charges have been deposited by the firm in advance or whether the firm has furnished the requisite undertaking for depositing the cost recovery charges.
- (5) Whether some staff has already been deputed with the firm in anticipation of getting the sanction.
- (6) A certification that there is actually shortage of the posts in the categories in which the posts are proposed to be created supported with facts and figures. (This exercise is required to be conducted by the CBIC taking into account the total picture emerging out of all the concerned cadres taken together).
- (7) Whether the proposal was earlier seen in IFU/Deptt. of Expenditure, If so, replies to the queries raised by them. (In case the similar types of queries were earlier raised on a number of cases, the replies thereto has to be given on individual cases instead of clubbing all the cases together).

(Commissioner)

PERFORMA-I**CREATION OF COST RECOVERY POSTS ON TEMPORARY BASIS FOR**

Name of the firm for which posts are being created (M/s)	Minimum No. of posts proposed for creation		Period for which the posts are required	Brief justification for the creation and not being able to accommodate within the sanctioned strength	Workload involved in terms of documents as could be estimated	Revenue involved	How feasibility of sharing existing in every posts is ruled out.	Remarks
	Designation	No.						
1	2	3	4	5	6	7	8	9
	AC/DC							
	Supdt.							
	Inspector							
	TA/STA							
	Sepoy							

Certified that:

- 1) The above posts have been proposed to be created on cost recovery basis on the need expressed by the firm concerned
- 2) I am personally satisfied about the need to create the above posts and
- 3) Appropriate amount will be collected from the partly concerned.

(Commissioner)

CHECKLIST-II

Continuation of posts on Cost Recovery basis: -

1. Linking of the papers where approval of D/o Expenditure was given for sanction of the posts for earlier period :
2. Date from which continuation of posts is sought:
3. In case the proposal has been moved belatedly, the reason there for:
4. Furnishing a copy of the license for bonded warehouse indicating validity period:
5. Whether cost recovery charges have been deposited by the firm in advance:
6. Whether some staff has already been deputed with the firm in anticipation of getting the sanction:
7. A certificate that there is actually shortage of posts in the categories, even after cadre restructuring, supported with facts and figures:
8. Whether some queries/remark/ conditions were earlier made, put by D/o Expenditure/IFU. If so, replies/comments thereon:

ANNEXURE-C (CHECKLIST)**Checklist for examination of ICD/ CFS for their eligibility in respect of waiver of cost recovery charges**

1. Whether the ICD/CFS has been functioning for two consecutive years.
2. Whether the ICD/CFS have fulfilled the workload as per the prescribed benchmark in respect of TEUs and documents. The benchmark criteria shall be reduced by 50% for those ICD/CFS which are exclusively dealing with exports.
3. The customs staff should have been posted in the ICD/CFS facility, on cost recovery basis or such staff should have been continuously posted at the facility, which fact shall be duly certified by the concerned Commissionerate.
4. The waiver of cost recovery charges shall be prospective and hence, all the payment due to the Department should have been paid and the concerned Commissionerate shall certify that there is no dues from such facility towards the Department.
5. The infrastructural facilities in connection with receipt, storage, delivery, dispatch or other handling of imported or export goods in terms of 'Handling of Cargo in Customs Area Regulations, 2009' shall continue to be provided by the ICD/CFS facility to whom the waiver of cost recovery is being examined.
6. Rent free office space for Customs, transportation facility shall continue to be provided by the ICD/ CFS facility.
7. All the arrears of cost recovery charges in respect of Customs staff till the date of waiver should be paid by the ICD/ CFS facility.
8. On the prescription of jurisdictional Commissioner of Customs, necessary facility for installation of Customs EDI infrastructure, scanning equipments, etc. shall be provided.
