

Chapter 3

Audit of Transactions

Audit of transactions of Government Departments, their field formations as well as that of autonomous bodies brought out several instances of lapses in management of resources and failures in the observance of the norms of regularity, propriety and economy. These have been presented in the succeeding paragraphs under broad objective heads.

3.1 Non-compliance with rules and regulations

For sound financial administration and financial control, it is essential that expenditure conforms to financial rules, regulations and orders issued by the competent authority. This not only prevents irregularities, misappropriations and frauds, but helps in maintaining good financial discipline. Some of the audit findings on non-compliance with rules and regulations are hereunder:

Public Works Department

3.1.1 Undue payment of ₹ 1.05 crore to the consultant.

Unauthorized amendment in the terms and conditions of payment resulted in undue payment of ₹ 1.05 crore to the consultant.

The rates of fees payable to the consultants were fixed as 3 *per cent* for non-repetitive works and 0.5 *per cent* for repetitive works by the Public Works Department (PWD). In August 2000 the Council of Ministers, Government of National Capital Territory of Delhi decided that fees payable to Consultant should be on lump sum basis instead of percentage basis. Further, the fee would not increase if there was an increase in the cost of the project.

M/s. Kapoor & Associates Consultants (Pvt.) Ltd. were appointed as Consultant for the 100 bedded hospital in Vansat Kunj by the Empowered Committee in 2001. Subsequently, a committee constituted for hospital projects reviewed the project and decided (August 2002) to construct a super specialty Institute of Liver and Biliary Sciences (ILBS) in lieu of 100 bedded hospital at the same place. As the consultant had already done some work for 100 bedded hospital, the consultant was asked to continue with the same plan by using the envelope of 100 bedded hospital.

The Executive Engineer, PWD Circle 27 conveyed (April 2004) the approval of the competent authority to appoint M/s. Kapoor & Associates Consultant

(Pvt.) Ltd. as consultant for construction of the ILBS. The consultancy charges were subject to an upper ceiling of ₹ 1.29 crore.

Audit scrutiny of the records of the Project Manager, Building Project Zone B-2 revealed that the conditions of upper ceiling of ₹ 1.29 crore was not included in the formal agreement signed with the Consultant (November 2004) and clause 4 (a) was inserted in the agreement which made the consultants entitled for 3 per cent of the actual cost of the construction as consultancy charges.

Audit observed that there was no mention of payment of consultancy charges on percentage basis in the appointment letter issued by the Executive Engineer to the Consultant (April 2004) and in the letter conveying the expenditure sanction of the Government to PWD (March 2004). Besides, the consultants had themselves offered (September 2003) a maximum ceiling on of ₹ 1.29 crore. Further, as against the upper ceiling of ₹ 1.29 crore fixed by the Competent Authority, PWD had already paid ₹ 2.34 crore to the consultant upto 13th running bill (March 2010).

Thus, the unauthorized amendment in the terms and conditions once approved by the competent authority for payment of consultancy charges resulted in undue payment of ₹ 1.05 crore to the consultants.

The matter was referred to the Government (June 2010). The Department stated (February 2011) that a careful study of the sanction of the Government for consultancy fee would reveal that this order did not mention the sanction amount as lump sum amount as interpreted by audit. Further, due to addition and alteration in the scope of work the Expenditure Finance Committee (EFC) in its 11th meeting (March 2005) approved the revised layout for Hospital restricting the consultancy charges to ₹ 1.29 crore. The consultant was aggrieved by decision of EFC and sought arbitration in February 2006. The EFC in its 13th meeting (January 2007) lifted the ceiling imposed by it in its 11th meeting. It was also stated that the agreement provisions with regard to fee for consultation with a ceiling of ₹ 1.29 crore had to be read with clause 4 (a).

The reply is not acceptable as the work was awarded with an upper ceiling of ₹ 1.29 crore which was also accepted by the consultant in September 2003 and in that case the clause 4(a) of the agreement should have been framed accordingly. The Department's contention regarding revision of ceiling of consultancy fee by the EFC is also not tenable as the upper limit of consultancy charges was the condition for appointment conveyed to the consultant in the appointment letter (April 2004). Moreover, the minutes of the 13th meeting of the EFC shows that the change in the terms and conditions for the payment to the consultant was not considered in the said meeting. Further, if the scope of the work was enlarged there ought to have been a separate agreement to justify the additional

payments. If that was not done, any payment in excess of the ceiling mentioned in the award letter constituted undue payment to the consultant.

3.1.2 Overpayment of ₹ 30.25 lakh to the consultant

Failure on the part of divisional authorities to verify the admissible amounts before making payments to consultant, resulted in overpayment of ₹ 30.25 lakh.

The Executive Engineer PWD Division XVI entered (June 1994) into an agreement with M/s C.P. Sabharwal and Associates (consultant) to provide consultancy for construction of staff quarters at Shalimar Bagh, Delhi on a plot measuring 13.9 acres. The fee in respect of non-repetitive works to consultant was payable @ 3 per cent of actual cost of construction subject to a ceiling of cost of corresponding items as per approved Preliminary Estimates/Revised Preliminary Estimates. For repetitive works requiring no additional design and developmental work on the part of the consultant except to release additional drawings, with revised titles and periodic supervision, a fee of 0.5 per cent was payable. As per clause 5(a) of the agreement the cost of development charges on land, cost of path way, landscaping and other development work was to be excluded from the cost of construction for the purpose of working out of consultancy fees.

As 4.55 acres of land, out of total plot area of 13.9 acres, was encroached upon by Jhuggis, phase-I was to be constructed on available plot for which the administrative approval and expenditure sanction of ₹ 54.73 crore was accorded in April 2004. This phase included construction of 299 (143 type-III and 156 type-IV) staff quarters. The work of construction was awarded (February 2007) to lowest tenderer at the tendered cost of ₹ 47.81 crore and work was scheduled to be completed in November 2008. However, the work was not completed as of January 2011.

Audit examination revealed that a sum of ₹ 96.34 lakh had been paid to consultant as consultancy fee as of January 2011 (upto ninth Running Bill paid in March 2009), which included ₹ 73.57 lakh for phase-I, ₹ 15.04 lakh for phase-II and ₹ 7.73 lakh for electrical work. It was observed that the consultancy fee was calculated on actual cost of the project including the cost of development work also, whereas the consultancy fee was to be paid on actual cost subject to a ceiling of the estimated cost, which worked out to ₹ 46.68 lakh for phase-I. Thus, the Department had made an overpayment of ₹ 30.25 lakh (including service tax of ₹ 3.36 lakh) to the Consultant.

The Department stated (November 2009) that preliminary estimate approved in April 2004 for ₹ 54.73 crore (including ₹ 36.17 crore for civil works) were based on Plinth Area Rate (PAR) 1992 plus cost index 97. However, the work was awarded in February 2007 for ₹ 47.81 crore. At that time the cost index had increased to 254 against 97 at the time of preparation of preliminary estimate. Accordingly, cost of proportionate civil work at the time of award, worked out to ₹ 94.71 crore. Further, the work was still in progress and actual cost of construction could not be determined at this stage. The revised estimate for obtaining the revised AA&ES was under preparation.

The reply is not acceptable as consultant was eligible only for payment @ 3 per cent of actual cost of construction subject to ceiling of cost of corresponding items as per approved Preliminary Estimates /Revised Preliminary Estimates excluding cost of development work as per agreement. As per this condition the fee payable to consultant works out to ₹ 46.68 lakh as against ₹ 73.57 lakh paid by the Department. The contention of Department regarding Revised Preliminary Estimates is also not tenable as the Department had already made excess payment and revised estimate was yet to be approved.

Thus, failure on the part of Department to verify the admissible amount to consultant resulted in an overpayment of ₹ 30.25 lakh.

3.1.3 Avoidable expenditure of ₹ 1.48 crore and overpayment of ₹ 40 lakh

Adoption of a price variation clause in its work contracts by PWD, which was not in line with general conditions of contract, resulted in avoidable expenditure of ₹ 1.48 crore in five works. Besides incorrect implementation of this clause resulted in overpayment of ₹ 40 lakh out of which ₹ 39.97 lakh has been recovered at the instance of audit.

Rule 204 (ii) of GFR stipulates that standard forms of contracts should be adopted wherever possible, with such modifications as are considered necessary in respect of individual contracts. The modifications should be carried out only after obtaining financial and legal advice.

Payments on account of price variations of labour, materials and Petroleum, Oil and Lubricants (POL) to be used in work are made to the contractors under clause 10CC of General Conditions of Contract. But this clause is not applicable for works where stipulated period of completion is 18 months or less. A new clause 10CA was introduced in September 2004 for escalation in such cases, which was applicable for escalation in respect of reinforcement steel bars and/ or cement only whereas clause 10C was applicable for other components (labour etc., the price of which vary due to statutory orders).

Audit conducted a test check of contracts relating to following five works awarded by B-131 and F-132 divisions of PWD:

Sl. No	Name of Work	Name of Div	Date of Award	Name of Contractor	Estimated Cost	Tendered Cost	Stipulated date of start	Stipulated date of Completion	Actual Date of Completion
					₹ In Crore				
1.	Construction of Integrated Complex for Delhi Judicial Academy, National law School and National Institute for Mediation and Conciliation at Sector -14, Dwarka SH: Institutional Complex	B131	12 March 2007	M/s JMC (India) Ltd	23.29	38.67	27 March 2007	26 March 2008	June 2009
2.	Construction of Integrated Complex for Delhi Judicial Academy, National law School and National Institute for Mediation and Conciliation at Sector -14, Dwarka SH: Residential Complex, chairman's residence	B131	September 2007	M/s Parnika Commercial and Estates (Pvt.) Ltd	14.84	24.52	25 September 2007	24 December 2008	In progress
3.	Construction of Integrated Complex for Delhi Judicial Academy, National law School and National Institute for Mediation and Conciliation at Sector -14, Dwarka SH: Boy's and Girls Hostel	B131	September 2007	M/s Parnika Commercial and Estates (Pvt.) Ltd	12.42	20.68	25 September 2007	24 December 2008	In progress
4.	Construction of Grade Separator at Ring Road, G.T. Karnal Road Intersection at Azadpur, Delhi. SH: C/o Main Flyover i.e. Underpass, Pedestrian sub-way, Service Road, Drainage, Electrical, Landscaping and Allied Work	F132	April 2007	M/s. Navayuga Engineering Co. Ltd.	56.87	87.37	12 May 2007	11 November 2008	In progress
5.	Construction of Grade Separator at Mangol Puri crossing on outer Ring Road, New Delhi. SH: C/o Main Flyover at level service roads, drainage, electrical and allied works, extension of existing pedestrian subway	F132	February 2007	M/s. Valecha Engineering Ltd.	18.94	29.46	14 March 2007	13 June 2008	In progress

Audit observed that though the standard clauses 10CC and 10CA were available to compensate the contractor for variation in prices yet these clauses were not incorporated in the NIT/ agreements of above works. Instead a new clause 10CCA was adopted which was not in line with general conditions of contract issued by the Central Public Works Department (CPWD) and its manual provisions. In this clause, the components of material and labour were taken as labour 22 *per cent*, steel 25 *per cent*, cement 15 *per cent*, fuel 5 *per cent* and machinery and machine tools 18 *per cent* and payment/recovery on account of price variation was to be made bill wise. The clause was inserted without taking any legal or financial advice as required under 204(ii) of GFR.

Due to inclusion of 10CCA clause in the agreement the department had to pay ₹ 10.38 crore to the contractors in the shape of price variation. Audit observed that this amount included ₹ 1.27 crore on account of machinery component which was not payable under any provision of CPWD manual. Further, in building works, fuel component is very low and as per CPWD manual, no price variation is payable on fuel in building works. Audit, however, noticed that an amount of ₹ 21 lakh was paid on account of escalation of fuel in building works at serial. No. 1 to 3 above. Thus, out of a total of ₹ 10.38 crore paid to the contractors in the shape of price variation an amount of ₹ 1.48 crore (₹ 1.27 crore + ₹ 0.21 crore) was avoidable.

Further, in case of works at serial No. 1 to 3 the department made an overpayment of ₹ 40.33 lakh due to wrong interpretation of price variation clause in agreements. The price variation was to be paid for each bill in accordance with the period covering the dates of measurement whereas the department paid the price variation as per the dates of payment of each bill which resulted in shifting of period for each payment and, therefore, the contractors were overpaid an amount of ₹ 40.33 lakh. Upon being pointed out in audit, Department has recovered (December 2010) an amount of ₹ 39.97 lakh from the contractors.

The matter was referred to the Department in July 2010. The Department stated (August 2010) that the PWD had taken up large infrastructure works of flyovers/grade separators/underpasses of high magnitude in Delhi. Considering these aspects the Department looked for price variation clauses adopted for tenders in other organizations, which carry out such large infrastructure works like Delhi Metro Rail Corporation (DMRC) etc. Therefore, price variation clause adopted in DMRC was considered and found more suitable for infrastructure works of PWD and the same was adopted.

The reply was not acceptable on the following grounds:

- Works at Sl. No. 1 to 3 relate to construction of buildings only for which standard price variation clauses were available. Moreover, clause

32.10.1 of CPWD Manual clearly indicates that standard clause 10 CC and 10 CA are applicable for both flyovers and buildings works.

- Payment of price escalation on the machinery and machine tools was not justifiable as these were capital goods, which are one time purchase and deployed at sites as required.
- Adoption of DMRC's price variation clause without following the due procedure was not justified as situation of CPWD is different and its General Conditions of Contract have well formulated clauses 10 C, 10 CA and 10CC for this purpose.

Thus, unjustified adoption of a new price variation clause by PWD in above works resulted in extra expenditure of ₹ 1.48 crore.

3.1.4 Wasteful Expenditure of ₹ 74.64 lakh

Failure of the PWD to adhere to manual provisions of getting the expenditure sanction and ensuring proper land-use resulted in wasteful expenditure of ₹ 74.64 lakh.

Rule 129 of GFR and Para 2.1 of CPWD Works Manual provide that no work shall be commenced or liability incurred in connection with it, until administrative approval has been obtained from the appropriate authority, expenditure sanction accorded and allotment of funds made. Para 4.1.2 (*Appendix-4*) of CPWD Works Manual further prescribes that the prescribed proforma should be filled by the administrative department certifying the availability of land and ensuring proper land-use.

Scrutiny of records of Project Manager B-13 revealed (April 2008 to March 2009) that a work of architectural consultancy for the construction of Police Training College (PTC) at Jharoda Kalan, New Delhi was awarded (October 1997) to M/s AG Krishna Menon (consultant). As per terms and conditions of the agreement, 20 per cent of the payment was to be made to the Consultant on approval of preliminary drawings from the employer and Delhi Urban Arts Commission (DUAC) at conceptual stage and on approval of preliminary estimates.

The preliminary designs of the PTC complex were approved by the Delhi Police in September 1998. The DUAC conveyed approval of layout plan and design in May 1999. The PWD, accordingly, sent (September 1999) an estimate of ₹ 37.95 lakh to Delhi Police for payment of consultancy charges. As consultancy fee was not paid by August 2002, the PWD again sent the estimates to Delhi Police for payment of consultancy fee. The Delhi Police informed (January 2004)

the Government of NCT of Delhi that Administrative Approval and Expenditure Sanction ((A/A & E/S) for payment of consultancy fee could not be accorded as the land use had not been changed from the existing agricultural to institutional status. Accordingly, consultancy fee could not be paid to the consultant.

The consultant invoked (March 2006) the relevant clause of agreement for appointment of an arbitrator to adjudicate the dispute. The Arbitrator awarded (April 2007) ₹ 32.88 lakh in favour of Consultant as his payable fee and a further amount of ₹ 12.22 lakh as loss of profit along with simple interest @ 8 per cent till date of payment. The award was challenged (August 2007) by the PWD in the High Court of Delhi, which dismissed the case in December 2007. Accordingly, Department paid ₹ 74.64 lakh to consultant in July 2008 (including ₹ 32.88 lakh as payable fee, ₹ 12.22 lakh as loss of profit, ₹ 29.33 lakh as interest and ₹ 0.20 lakh as cost of arbitration fee) after a delay of more than six months from the date of court decision.

Thus, failure of the PWD to adhere to manual and GFR provisions in appointment of the consultant and incurring liability on works without even ensuring proper land-use and getting the expenditure sanction from the client department resulted in wasteful expenditure of ₹ 74.64 lakh.

The matter was referred to the Department in September 2009. The Department stated (November 2009) that contract with the consultant was entered into with full knowledge of client department and in anticipation of expenditure sanction by Police Department. It further stated that payment could not be made to the consultant earlier due to non-issue of A/A & E/S by the client department. The reply is not tenable as Department incurred the liability for consultancy work before getting A/A & E/S and without ensuring proper land use.

3.2 Audit against propriety/expenditure without justification

Authorisation of expenditure from public funds has to be guided by the principles of propriety and efficiency of public expenditure. Authorities empowered to incur expenditure are expected to enforce the same vigilance as a person of ordinary prudence would exercise in respect of his own money and should enforce financial order and strict economy at every step. Audit has detected instances of impropriety and extra expenditure.

Public Works Department

3.2.1 Irregular award of work resulting into excess expenditure of ₹ 1.27 crore

The PWD awarded the work to a contractor over and above 10 per cent of justified cost in violation of provisions of CPWD manual resulting in undue benefit of ₹ 1.27 crore to the contractor.

Section 18 of CPWD Works Manual (2003) casts responsibility upon tender accepting authority to satisfy itself about the reasonableness of rates before acceptance of tender. Reasonableness of rates shall primarily be assessed on the basis of justified rates, which are based on market rates of labour, material, cartage etc. The major items on the whole costing at least 90 per cent of the estimated cost put to tender are analyzed to work out the justified cost. Further section 18.12.1 *ibid* stipulates that variations up to plus 10 per cent might be allowed, but in no case rate higher than 10 per cent should be accepted.

The Executive Engineer B-131 (erstwhile YBP-III) Division, PWD awarded (12 March 2007) the work of “construction of Integrated Complex for Delhi Judicial Academy, National law School and National Institute for Mediation and Conciliation at Sector-14, Dwarka SH: Institutional Complex” to M/s JMC at their tendered cost of ₹ 38.67 crore (estimated cost ₹ 23.29 crore) with stipulated date of completion being 26 March 2008. The work was actually completed in June 2009, i.e., after a delay of about 15 months. The contractor had been paid ₹ 41.35 crore (February 2011) for work done and ₹ 2.91 crore on account of price variation (up to 17th RA bill).

Test check of the justification statement prepared by the division/project office revealed that justified amount was actually 44.31 per cent higher than estimated cost and the tendered cost was more than ten per cent higher than justified cost. As the rates were higher, the tender was proposed for reconsideration. However, the Chief Engineer added 0.2 per cent on account of additional facilities to be provided by the contractor (*viz.* vehicle, mobile, computer operator, clerk, security guard, etc.), one per cent for mandatory labour cess and a further five per cent of justified amount considering that the agency had to complete the work in a reduced period of 12 months and hence it will not be able to earn bonus (maximum five per cent of the tendered cost as per clause 2A of the tender) which it could have earned had required 32 months been given to it and it could complete the work at least five months prior to the scheduled date.

Audit observed that this addition of five *per cent* was not correct as clause 2A was still applicable to the contract and accordingly the contractor was eligible for bonus in case work was completed before scheduled date. Bonus, in any case, is an incentive for timely completion and in no way can be added as cost to justify award of work at unduly high rates. The contractor had, in fact, completed the work with 15 months delay. Thus, the contention of the Department of non-earning of bonus by the contractor was based on wrong notion.

The award of work to M/s JMC at rates in excess of ten *per cent* over justified cost was irregular as shown below:

(₹ in crore)

Estimated cost (EC)	23.29
Justified cost (calculated from the percentage over EC)	33.99 45.95% above EC (after incorporating amounts for Labour Cess, vehicle, mobile, computer operator, clerk, security guard, etc.)
10 % over Justified cost	37.39
Tendered cost (final negotiated amount)	38.66
Difference	1.27

Thus award of work over and above 10 *per cent* of justified cost resulted in undue benefit of ₹ 1.27 crore to the contractor.

The matter was referred to the Department in September 2009. The Department stated (October 2010) that had the full period of 32 months been allowed to contractor, he would have been able to earn bonus in case of early completion and thus adding of five *per cent* in justified cost on this account was correct. The reply of the Department is not acceptable on account of two reasons. Firstly, the competent authority approved 22 months as the original scheduled period while approving the pre-qualifying criteria. Secondly, the Director (Planning and Infrastructure) specifically recommended that in case agency did not complete the work within stipulated time (12 months) the only remedy available to the Departments was to levy penalty under clause 2, and also recommended that negotiations be held with the tenderer to bind him that in case the work was not completed within stipulated time, additional five per cent of tendered cost would be recovered in addition to the penalty levied under clause 2. However, the Department did not modify the penalty clause. The contractor actually completed the work in 27 months. This was also not fair to other bidders who could have also bid had they been aware of increase of stipulated time to 27 months.

Thus, non-adherence to the codal provisions resulted in undue benefit of ₹ 1.27 crore to the contractor.

Department of Health and Family Welfare

3.2.2 Excess purchase of surgical instruments costing ₹ 75.00 lakh, stents for cancer patients amounting to ₹ 14.88 lakh and unfruitful expenditure of ₹ 57.23 lakh in Lok Nayak Hospital.

The Lok Nayak Hospital purchased surgical instruments at a cost of ₹ 1.22 crore in March 2001. After a lapse of nine years, 28 to 84 per cent surgical instruments costing ₹ 75.00 lakh were lying unused. Besides excess purchase of stents by the Hospital resulted in wasteful expenditure of ₹ 14.88 lakh. Four Modular Operation Theatres costing ₹ 57.23 lakh could not be installed in the hospital even after lapse of two years of their receipt.

(i) Excess Purchase of surgical instruments costing ₹ 75.00 lakh

As per Rule 137(i) of General Financial Rules, the quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organisations. The specifications so worked out should meet the basic needs of the organisation without including superfluous and non-essential features, which may result in unwarranted expenditure. Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory costs.

Scrutiny of records revealed (January 2010) that the hospital had purchased 27,500 non-consumable surgical instruments costing ₹ 1.22 crore during the month of March 2001 for different departments. Audit observed that 28 to 84 per cent instruments costing ₹ 75.00 lakh, were lying unutilized even after a period of nine years. Thus, injudicious purchase of surgical instruments, resulted in blockade of funds of ₹ 75.00 lakh for a period of nine years.

The matter was referred to the Department (March 2010). The Department replied (June 2010) that these instruments do not undergo any wear and tear when kept idle and stay new for several decades. Therefore, these instruments will fulfill the requirement of the Hospital for a long time. Further, the cost of these instruments has now become more than double or thrice the original value and there will not be any need for a long time to spend excessive money on these items.

The reply is not acceptable as the budget was provided to meet the requirement of the hospital during the year. As technology is changing fast, these instruments can become obsolete or outdated in a short time. Besides it was in contravention of the provisions of GFR 21(ii), which stipulate that expenditure should not be prima-facie more than the occasion demands.

Thus, injudicious procurement resulted in blockade of Government funds to the extent of ₹ 75.00 lakh for more than nine years. Had the hospital assessed its requirement realistically, these instruments would not have been lying idle and funds could have been made available to other deserving areas. The hospital needs to streamline its inventory system to avoid such blockade of Government money.

(ii) Wasteful expenditure of ₹ 14.88 lakh on purchase of stents for cancer patients

Stents are used in cancer patients to relieve obstructions due to (i) direct blockages within the tube (or lumen) due to cancer growth, (ii) narrowing of the lumen from tumor growth outside pressing on the tube and narrowing the lumen, and (iii) occasionally from the build up of scar tissue (fibrosis) from radiation therapy. Stenting is a procedure in which cylindrical structure (stent) is placed into a hollow tubular organ to provide artificial support and maintain the potency of the opening. Although it is most often used for cardiovascular functioning, it is also utilized to manage obstruction in cancer patients.

Audit scrutiny revealed that Lok Nayak Hospital purchased 80 Covered/Uncovered Biliary Wall Stents and Esophageal Stents for an amount of ₹ 20.55 lakh from M/s Batra Enterprises in June 2004. As per delivery challan, the expiry date of these stents was in 2007. However, audit observed that out of 80 stents, only 22 stents could be used for the patients within the expiry period and 58 stents amounting to ₹ 14.88 lakh could not be used within this period. These expired stents were lying in the store of Endoscopy Department.

The matter was referred to the Hospital in March 2010, which stated (June 2010) that Esophageal Stents are made of material that can last the life-time of a patient. The indicated expiry date refers to the sterilisation process, which in these stents lasts for three years as shown in the print of the label. Further, Lok Nayak Hospital has the same sterilisation process (Ethylene Oxide) machine available and can sterilise these items for three years at a time without any harm to the device or the patients.

The reply is not acceptable, as the hospital should have assessed the requirement before purchasing these stents and ensured their utilization within the prescribed normal life of the stents.

(iii) Unfruitful expenditure of ₹ 57.23 lakh due to non-installation of Modular Operation Theatres

Scrutiny of records revealed that the Hospital purchased nine Modular Operation Theatres (OTs) at a cost of ₹ 1.82 crore in March 2007 through Equipment Procurement Cell of Delhi Government. Four of these Modular operation theatres, i.e., OT 1 & 2 at ground and OT 1 & 2 at second floor for Casualty were received in the Hospital in March 2008 and a payment of ₹ 57.23 lakh being

the 80 per cent of cost was made (March 2009) to the supplier as per terms and conditions of purchase order. The equipments could not be installed even after two years of their receipt in Casualty on ground floor and second floor resulting in idle investment and affecting patient care services for which the equipments were procured.

The matter was referred to the Department (March 2010). The Department stated (June 2010) that the construction of OT 1 and OT 2 on the ground floor was delayed because the area is such that suspension/relocation of casualty services would have been necessary for several months. The construction of OT 1 and OT 2 on second floor of the Accident and Emergency Block was delayed due to certain structural issues as the building where these modular OTs were to be installed was already constructed before the order for purchased of modular OTs was placed. Further, two modular OTs have been made functional w.e.f. October 2010. However, the Department did not furnish completion/installation certificate in support of its statement.

The reply of the Department is not acceptable, as purchase of modular OTs should have been synchronized with the availability of space, infrastructure and operating staff to achieve optimum benefits.

3.3 Failure of Oversight/Governance

The Government has an obligation to improve the quality of life of the people for which it works towards fulfillment of certain goals in the area of health, education, development and upgradation of infrastructure and public service. However, Audit noticed instances where the funds released by Government for creating public assets for the benefit of the community remained unutilized/blocked and/or proved unfruitful/unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. A few such cases have been discussed as follows.

Public Works Department

3.3.1 Wasteful expenditure/loss of ₹ 25.62 lakh besides blockade of ₹ 14.20 crore

Due to inadequate planning a project to construct a hospital at Dwarka, conceived fourteen years ago, could not materialise even after incurring an expenditure of ₹ 14.20 crore and wasteful expenditure of ₹ 25.62 lakh.

The Department of Health decided (December 1996) to construct a 500 bedded hospital at Dwarka through PWD. The land for the purpose was allotted (March 1997) by the Delhi Development Authority (DDA) at a cost of ₹ 3.90 crore. Subsequently, the PWD appointed (December 1997) M/s Jasbir Sawhney as

consultant for the project. The preliminary drawings were approved by Directorate of Health Services (DHS) in July 2000 and approval of Delhi Urban Art Commission (DUAC) was received in March 2001. The approval of Expenditure Finance Committee (EFC) and cabinet were received in August 2004 and November 2004 respectively. The administrative approval and expenditure sanction amounting to ₹ 124.07 crore was conveyed in December 2004. In June 2005 the Chief Engineer, PWD-I intimated the change of Floor Area Ratio (FAR) from 150 *per cent* to 200 *per cent* of plot area and consequently, the Health Department decided in June 2007 to increase the bed capacity of hospital from 500 to 750 beds and to include provision of a medical college in the hospital. It was also decided to install Base Isolation System in the foundation of building to make the building earthquake resistant.

The revised Preliminary Estimate (PE) amounting to ₹ 349.80 crore for construction of 750 bedded hospital (hospital) was approved by the Health Department in November 2007. The tenders for skeletal work for construction of hospital at Dwarka were floated in July 2007. The same were however not approved due to poor response. The tenders for hospital were called again in January 2008 and May 2008 but were not accepted pending approval of revised plans from local bodies. The work for construction of the hospital has not been awarded so far (January 2011). As of January 2011, ₹ 1.54 crore had been paid to the consultant.

In the mean time, the work of providing base isolation system and its proof checking was awarded to M/s Dynamic Isolation System (Manufacturer) in May 2008 at a total cost of ₹ 8.90 crore. The PWD started receiving bearings (base isolators) from January 2009 and as of January 2011, 530 base isolators had been received and a payment of ₹ 12.66 crore including import duty of ₹ 2.97 crore had been made.

As the work for skeletal work was yet to be awarded, the bearings were required to be kept in safe custody by PWD. Therefore, a store was got constructed in March 2009 at a cost of ₹ 3.83 lakh. The Department incurred an expenditure of ₹ 4.57 lakh on watch and ward for the safety and security of the bearings for the period from 1 April 2009 to 24 January 2011. Meanwhile, on 16 June 2009 a theft took place at the store and 20 Bearings costing ₹ 15.82 lakh (including custom duty) were stolen from the store. At the instance of audit an amount of ₹ 2.05 lakh was recovered from the agency (June 2010) on account of stolen goods. The bearings were subsequently insured (June 2009 and June 2010) at a total cost of ₹ 3.45 lakh. Thus, non finalisation of tender for skeletal work resulted in wasteful expenditure of ₹ 25.62 lakh on security and safety of bearings.

In April 2009 the Principal Secretary (Health) directed the Chief Engineer, PWD not to invite any tender due to change in fiscal scenario of Delhi Government, as such proposals may be taken up under Public Private Partnership (PPP) mode. Thus, the project to construct hospital at Dwarka, conceived fourteen years ago, could not be given final shape till date (January 2011) even after incurring an expenditure of ₹ 14.46¹ crore and the Government was still not clear whether the project would be implemented through PWD or PPP.

The matter was referred to Department in September 2009, which replied (December 2009) that the expenditure has been incurred with correct motive and good intention but could not result in fruitful exercise as the competent authority later on decided to reject the tender pending clearance from the local bodies. The expenditure incurred so far would be useful whether the project is executed by the PWD or under PPP mode. The reply is not acceptable as it is reflective of inadequate planning on the part of the State Government. Besides due to lack of coordination between Health department and PWD of Delhi Government there has been a long delay in the execution of the project and clarity on the mode of the execution was still wanting. Further, the PWD should not have undertaken any liability till the revised plans were approved by the local bodies. The revised plans were not approved as of February 2011.

Thus, inadequate planning of the Delhi Government not only resulted in blockade of ₹ 14.20 crore and an avoidable expenditure of ₹ 25.62 lakh but also depicted lackadaisical attitude of the Government towards providing health facilities to the residents of Dwarka.

3.3.2 Extra expenditure of ₹ 5.42 crore and delay in completion of a hospital building due to illegal rescission of contract

Due to unlawful rescission of the contract of M/s. United Builders by the Department, the balance work has been executed at much higher rates resulting in extra cost of ₹ 5.42 crore.

The Executive Engineer, Delhi College of Engineering Project, PWD, Government of NCT of Delhi, awarded the work for construction of Orthopedic Block at LNJP Hospital in July 2000 to M/s United Builders (Agency-I) at the tendered amount of ₹ 14.41 crore with stipulated date of completion being 30th July 2002. As the progress of work was very slow, the Department held M/s. United Builders responsible for slow progress and served notice under Clause 3 of the Agreement in October 2002 and rescinded the contract at the risk and cost of the Agency-I. The agency approached the Chief Engineer Zone-II, PWD for appointment of an Arbitrator to adjudicate various claims.

¹Cost of bearing (₹ 12.66 crore), payment to consultant (₹ 1.54 crore) and cost of safety and security (₹ 0.26 crore)

The Chief Engineer appointed an Arbitrator in September 2003. The Arbitrator conducted few hearings and resigned (June 2006) from this case. The Chief Engineer appointed another Arbitrator in June 2006. The second Arbitrator published his award in July 2007 and held the Executive Engineer responsible for slow progress of work as the Department failed to provide hindrance free site, supply drawings/design and other details necessary for execution of the work to the contractor, holding that the rescission of the contract under Clause 3(a), (b) and (c) of Agreement was illegal, unjustified and bad in law he directed the Department to release the amount of ₹ 60.54 lakh withheld by it with interest @ 10 *per cent* from 11th June 2003 to the date of award and @ 12 *per cent* from the date of award to actual date of payment.

The Department challenged the award in Hon'ble High Court of Delhi in August 2007 but the Hon'ble High Court also upheld (September 2007) the decision of the Arbitrator. Accordingly, the Department made a payment of ₹ 87.11 lakh to the contractor on 12th October 2007, which included ₹ 26.57 lakh as interest. Thus, unlawful rescission of contract and unnecessary withholding of the amount of ₹ 60.54 lakh of the contractor resulted in extra expenditure of ₹ 26.57 lakh.

Further, the Department awarded the balance work to M/s. Bharat Construction Company (Agency-II) on 17 April 2003 at a tendered amount of ₹ 12.79 crore with the stipulated date of completion of 26 November 2004. The rates of items received in the contract were much higher than the rates of the first contract. The contractor had completed 80 *per cent* of work till December 2005. The Department rescinded this contract as well in May 2006 because of slow progress of work and also debarred the agency from tendering for work in PWD, Delhi. The Agency challenged the order of the Department in Hon'ble High Court of Delhi and the Court held the decision of the Department for debarring the agency unlawful and imposed a fine of ₹ 5000 on the Department.

The balance work of agency-II was awarded to M/s. Dewan Chand (Agency-III) in December 2006 at the tendered amount of ₹ 9.39 crore with stipulated date of completion of 21st June 2007. The rates of items received in the contract were much higher than the rates of first contract. The difference in the cost of the work done by agency-II and agency III as compared to the rates of agency-I worked out to ₹ 5.15 crore. This excess expenditure could have been saved had the Department not unlawfully rescinded the contract of Agency-I.

Thus, unlawful rescission of the contract of Agency-I by the Department resulted in extra cost of ₹ 5.15 crore paid to Agency-II and Agency III apart from payment of interest of ₹ 26.57 lakh. It also prolonged the scheduled completion of the hospital building, which was scheduled to be completed in July 2002 but could be completed only in December 2010.

The matter was referred to the Department (February 2010). The Department stated (June 2010) that its decision to rescind the contract was appropriate as it could not wait indefinitely for resuming the work by the agency. The Department further stated (October 2010) that the agency was provided full co-operation and assistance for execution of work by removing various hindrances encountered at site from time to time. But the performance of the agency decreased with time and later the work was completely suspended.

The reply is not acceptable as the slow progress of work was attributable to the Department, e.g., non-fulfillment of commitments by the Department regarding providing hindrance free site and various drawings to the contractor in time. The arbitrator also held the Department responsible for non-supply of drawing and hindrance free site. The order of the arbitrator was also endorsed by the Hon'ble High Court and accepted by the Department.

Thus, even after rescission of the contract twice and spending an extra amount of ₹ 5.42 crore, the Department could not maintain the pace of work and building was not handed over till December 2010, resulting in denial of health care facilities to patients.