

CHAPTER VI

AUDIT OF TRANSACTIONS

CHAPTER VI

URBAN DEVELOPMENT DEPARTMENT

MUNICIPAL CORPORATION OF GREATER MUMBAI

6.1 Loss of Revenue

Non-recovery of capitalised value and interest on account of redevelopment of properties by Estate Department of MCGM had resulted in loss of revenue of ₹ 45.45 crore.

The Estate Management Department in Municipal Corporation of Greater Mumbai (MCGM) approves proposal for redevelopment of properties, proposals for additions/modifications to properties, acquires and develops/allots vacant plots to provide public amenities like schools etc. MCGM levies charges/premium as applicable based on the existing rules on all such proposals.

During scrutiny (July 2010) of the records of the Estate Management Department of MCGM it was observed that Standing Committee Resolution of October 1996 approved the proposal for redevelopment of Municipal Property of BIT cottage at Matunga, 'F' North ward. This proposal for redevelopment was approved under Development Control Regulation 33(7). As per the stipulation of the approval, the developer (M/s. Vaishnavi Builders and Developers Pvt Ltd) had to pay MCGM a levy titled as Capitalised Value (CV) computed at the rate of ₹ 5000 per square foot (sq.ft.) on surplus area which was computed to be of the extent of 46533 sq. ft. Thus an amount of ₹ 23.27 crore was required to be recovered as CV and out of which 10 *per cent* was required to be recovered before issue of Commencement Certificate for the work of rehabilitation of building or upon execution of tripartite agreement (between developer, housing society and MCGM) whichever is earlier. Balance 90 *per cent* amounting to ₹ 20.94 crore was to be recovered at the time of issue of Occupancy Certificate for the building constructed on the surplus land.

This decision of the Standing Committee was subsequently modified by improvement committee in November 1997 which stipulated that out of 10 *per cent of CV* to be paid, only one *per cent* should be paid immediately and balance nine *per cent* was to be paid within 12 months i.e. by November 1998 and 15 *per cent* interest per annum was to be paid. The developer paid one *per cent* i.e. ₹ 23.26 lakh of the value of CV in January 1998 and balance nine *per cent* i.e. ₹ 2.09 crore was paid only in February 2006 instead of November 1998. However, interest at the rate of 15 *per cent* was neither levied nor collected from the developer. Even the commencement certificate which was required to be issued only after the collection of the stipulated nine *per cent* of the CV was found to have been issued in January 2003, while

the nine *per cent* of CV was paid as late as in February 2006. Also the balance CV of ₹ 20.94 crore was also not recovered.

Additional Municipal Commissioner while accepting the facts stated (December 2011) that demand notice for recovery of following amount has been issued to M/s Vaishnavi Builder and Developers.

1. The interest at the rate of 15 *per cent per annum* on delayed payment of CV amounting to ₹ 4.03 crore.
2. Recovery of balance CV of ₹ 20.94 crore plus interest of ₹ 18.21 crore totalling ₹ 39.15 crore.
3. Recovery of premium and additional rent alongwith interest for regularisation of 10300 sq.ft. area amounting to ₹ 2.27 crore.

Reply is not tenable as the money is yet to be recovered (May 2012). Thus, inaction on the part of Estate Management Department has led to non-recovery from developer.

The matter was referred to Government in November 2011. Reply has not been received (May 2012).

6.2 Unfruitful expenditure

Failure to communicate the supplier regarding suspension of the scheme in time led to unfruitful expenditure of ₹ 2.74 crore in purchase of flavoured milk in tetra packs.

With a view to provide additional energy, proteins, fats and also increase the attendance of the students in all Municipal schools, the MCGM decided (December 2006) to supply 200 millilitre cold Flavoured Milk(FM) in tetra pack during the year 2007-08. The standing committee (SC) sanctioned (August 2007) for awarding the order for supply of FM for the year 2007-08, 2008-09 and 2009-10 at ₹ 297.62 crore⁴² to M/s. Rastriya Majdoor Madhyavarti Sahakari Grahak Sangh Ltd (RMMSGs). The scheme was started from November 2007.

Audit scrutiny (September 2010) revealed that the scheme was stopped from 20 December 2007 due to instances of vomiting by the students on 14 and 19 December 2007 after drinking strawberry FM. Though supplies to students were suspended from 20 December 2007, RMMSGs was informed by Education Officer to stop the supply only on 26 December 2007.

As per the report submitted by the committee constituted (January 2008) for review of the scheme, the quality of the milk was as per the requirement but the committee recommended to provide Elaichi FM instead of strawberry FM and to create a joint task force (January 2008) to implement the suggestions in the report before resuming the scheme. The scheme was resumed from

⁴² 2007-08 – 53625000 packs @ ₹ 11.50 - ₹ 61.67 crore, 2008-09- 85800000 packs @ ₹ 13 - ₹ 111.54 crore and 2009-10- 85800000 packs @ ₹14.50 - ₹ 124.41 crore

27 February 2008 and continued upto 15 April 2008 i.e. till the end of educational year.

At the date of suspension (20 December 2007) of the scheme, 142695 packs costing ₹ 16 lakh supplied by RMMSGGS expiring in June 2008 were already in stock in the municipal schools. Another batch of 2807597 packs expiring in June 2008 available with RMMSGGS were also procured (May 2008) at ₹ 9.75 per pack (15 per cent below the approved cost of ₹ 11.50 per pack) for a total cost of ₹ 2.74 crore. Thus, a total stock of 2950292 tetra packs of milk was available with MCGM. As strawberry FM was not to be distributed to the students and the schools were closed in April-May 2008, 1497692 of tetra pack milk worth ₹ 1.47 crore meant for students were distributed (May-June 2008) to teachers, safai kamgar and class IV employees and 1452600 of tetra pack milk worth ₹ 1.43 crore were destroyed at Mulund dumping ground (July-November 2008) after the expiry of due date i.e. June 2008. The delay in informing RMMSGGS to stop their supply in time resulted in wasteful expenditure of ₹ 2.74 crore.

MCGM replied (June 2011) that as the tetra pack was printed with "only for municipal Education Department" the decision was taken (April 2008) to procure the stock lying with RMMSGGS. MCGM also stated (December 2011) that these tetra pack were procured to avoid short supply to other children.

The reply is not acceptable as the conditions of the agreement provided for supply as per indented quantities and rejection at the discretion of the MCGM. The department could have also informed supplier to stop supply immediately as provided in the conditions of the contract and not after six days of stopping then distribution to children. Thus failure on the part of MCGM to invoke conditions immediately and effectively resulted in wasteful expenditure of ₹ 2.74 crore.

The matter was referred to Government in November 2011. Reply has not been received (May 2012).

NASHIK MUNICIPAL CORPORATION

6.3 Undue benefit to the contractor

Irregular sanction of extra item resulting in undue benefit to the contractor amounting to ₹ 1.79 crore.

The Nashik Municipal Corporation (NMC) proposed (October 2007) to provide houses for urban poor under Jawaharlal Nehru National Urban Renewal Mission (JNNURM) by constructing buildings at site located at Chunchale in three packages for 6000 tenements (consisting 2000 tenements in each package) with all the infrastructure facilities such as roads, sewerage and water supply lines. The Government of India (GOI) and Government of Maharashtra (GOM) released grants (₹ 66.41 crore) for the project (April 2006-March 2010) to NMC on the basis of the Detailed Project Report (DPR). Tenders were invited (October 2007) for construction of tenements and the

work was awarded (May 2008) to M/s Pawar Patkar Construction Pvt Ltd (contractor) being lowest bidder for ₹ 52.46 crore per package (totalling ₹ 157.38 crore for three packages). The work was commenced (May 2008) and payment of ₹ 50.98 crore has been made as of May 2011. As per the terms and conditions of the tender, the contractor before tendering should visit the site and satisfy himself as to the characteristics of the ground etc. and carry out necessary tests to ascertain the sub-soil condition, etc.

During scrutiny of records at NMC, it was observed that in contravention to Clause, extra item of work for ₹ 6.30 crore was sanctioned by NMC (August 2009) for leveling of land as the site was hilly and uneven on the basis of a detailed contour survey conducted (October 2008) later on by a consultant. For this the contractor was paid (January 2010) ₹ 1.79 crore. Thus, irregular sanction of extra item resulted in undue benefit to the contractor.

NMC replied (February 2011) that the scope of work comprised of construction of building with all amenities and infrastructure services such as construction of roads, water supply lines and drainage line. Only general arrangement drawing was provided during the tender process hence profile correction could not be ascertained. Also the tender was called on “cost per tenement basis” and the expected cost for profile correction was not included in the scope of work nor considered in detailed estimate. Further, NMC stated that as per opinion of the project consultant, the foundation of 45 buildings can be done only after profile correction of the undulated and sloping ground hence excavation for profile correction was necessary.

The reply of NMC is not acceptable as the sanction of ₹ 6.30 crore was irregular and in deviation to conditions of tender which had binded the bidder to ascertain the sub-soil conditions before quoting the price. Further, as the tenders were invited on cost per tenement basis, subsequent approval of extra item was detrimental to the interest of other bidders as they had remained uninformed of this post tender deviations and approval of this extra item constituted 3.5 *per cent* of the original bid. Also, construction of buildings entails *inter-alia* construction of foundation for resting and therefore, how this vital aspect was not considered in the estimates, as has been stated, is not understandable.

The matter was referred to Government in November 2011. Reply has not been received (May 2012).

SOLAPUR MUNICIPAL CORPORATION

6.4 Short levy of property tax

Non-observation of the provision of the Bombay Provincial Municipal Corporation Act resulted in short levy of property tax of ₹ 13.36 crore due to excess deduction of allowances for repairs.

Rule 7 (1) of Chapter VIII (Taxation Rule) under Schedule ‘D’ of Bombay Provincial Municipal Corporation (BPMC) Act, 1949 states that in order to fix ratable value of any building or land assessable to a property tax, there shall be deducted from the amount of the annual rent for which such land or

building might reasonably be expected to let from year to year a sum equal to 10 *per cent* of the said annual rent, and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever. Further, Rule 9(b) of the said schedule of BPMC Act states that the ratable value of each building and land is determined in accordance with the provisions of the Act.

Scrutiny of assessment files (July 2010) of the Assessor and Collector (City Area) and Special Executive Area(City Extension Area) of Solapur Municipal Corporation(SMC) for the period from 2005-06 to 2009-10 revealed that while arriving at the annual ratable value, the Corporation with the consent of the Standing Committee/General Body deducted 15 *per cent* allowances for repairs instead of 10 *per cent* as per the BPMC Act resulting in short levy of property tax of ₹ 13.36 crore.

SMC stated (October 2010) that the rate of 15 *per cent* allowances for repairs was approved in the General Body and the Standing Committee meeting held on 17 December 1996.

The reply is not tenable as the rate of 10 *per cent* of the abatement was provided for in the BPMC Act and any *suo moto* revision was thus be possible only after appropriate amendment in the Act requiring concurrence and approval of Government of Maharashtra. Other Municipal Corporations such as Pune, Nagpur and Mumbai continued to provide for 10 *per cent* abatement in lines with provisions mentioned earlier. Thus non-observation of the provision of the BPMC Act resulted in short levy of tax to the extent of ₹ 13.36 crore⁴³.

The matter was referred to Government in November 2011. Reply has not been received (May 2012).

NaNDED WAGHALA CITY MUNICIPAL CORPORATION

6.5 Short levy of water charges

The Nanded Waghala City Municipal Corporation had levied water charges on 442 non-residential properties at residential rates which resulted in short levy of water charge amounting to ₹ 65.33 lakh.

Nanded Waghala City Municipal Corporation (NWCMC) decided (April 2005) to levy water charges at the rate of ₹ 1500 and ₹ 6600 per connection *per annum* from 2005-06 onwards for half inch pipe connection for residential and non-residential properties, respectively.

A scrutiny of records (March 2010) of Water Supply and Sewerage Department (WSSD) and the Property Tax Department (PTD) of NWCMC revealed that there were 442 non-residential properties and to these properties water charges were levied at the rate of ₹ 1500 per connection *per annum* (391 properties) and at the rate of ₹ 3000 per connection *per annum* (51

⁴³ ₹ 9.02 crore in respect of city area and ₹ 4.34 crore in respect of city extension area

properties) against ₹ 6600 per connection *per annum*. The short levy of water charges worked out to ₹ 21.77 lakh for the year 2008-09.

The Deputy Commissioner, NWCMC accepted the fact (October 2011).

Thus, due to non-levy of water charges as per approved rate for non-residential properties, the Corporation short recovered to the tune of ₹ 65.33 lakh for three years 2008-09 to 2010-11.

Despite passage of more than one and half years, recovery of short levied amount has not been done.

The matter was referred to Government in January 2011. Reply has not been received (May 2012).

NAGPUR CITY MUNICIPAL CORPORATION

6.6 Non-levy of water connection charges

Failure of the Nagpur City Municipal Corporation to levy water connection charges in slum area from April 2009 to October 2010 resulted in non-levy of ₹ 27.37 lakh.

As per provisions contained in Sub-clause 6(C) of Bye-Laws 6 of the Nagpur City Municipal Corporation (NCCMC) Assessment and Collection of Water Rate (bye-laws) 2009 (as amended in April 2009), every house in slum area shall be provided with water connections with 15 mm diameter pipe on collection of ₹ 600 per house (cement concrete house) and ₹ 500 per house (non-cement concrete house) at the time of installation.

Scrutiny of records (June 2010) of Executive Engineer, Water Works Department (EEWWD) of NCCMC, Nagpur revealed that the Corporation released water connections to 5057 houses (2086 cement concrete house and 2971 non-cement concrete house) in the slum area of Dharampeth Zone during the period from April 2009 to October 2010. However, no water connection charges were collected from the consumers at prescribed rate. This has resulted in short collection of water connection charges amounting to ₹ 27.37 lakh.

The EE, WWD of NCCMC while accepting the fact stated (June 2010) that as per policy and to reduce wastage of water through Public Stand Posts, the water connections were provided. Installation of meters on existing and new connections was under consideration and water connections/installations charges would be levied from consumers at the time of recovery of water charges. In May 2011, the NCCMC stated that water connection charges would be recovered from next billing cycle.

Reply is not tenable as the water connection charges should have been recovered at the time of providing water connections and though more than one year has been lapsed since release of water connections no recovery has been made so far (November 2011).

The matter was referred to Government in November 2010. Reply has not been received (May 2012).

6.7 Excess payment of contribution towards cultural activities

Non-observance of prescribed provision of Nagpur City Municipal Corporation Act, 1948 by the Municipal Corporation, Nagpur resulted in excess payment of contributions of ₹ 1.99 crore to the various organizations/Agencies towards cultural activities.

As per provisions contained in Section 58(ra) of NCMC Act, 1948, Municipal Corporation can make contribution towards entertainment and cultural events and the total expenditure on account of contributions towards all cultural activities during a financial year shall not exceed ₹ 25000 or such higher amount as the State Government may sanction from time to time by notification published in Official Gazette. The amount of ₹ 25000 has been notified and this has not been revised as of October 2011.

Scrutiny of records (June 2010) of NCMC revealed that the Municipal Commissioner (MC) had spent ₹ 1.99 crore on account of contributions to voluntary organizations for organizing exhibitions, sports and cultural events (25 instances) in last two years (₹ 1.53 crore in 2008-09 and ₹ 45.75 lakh in 2009-10) as against the permissible limit of ₹ 25000 in a financial year (₹ 50000 for two years). This has resulted in excess payment of contributions of ₹ 1.99 crore.

NCMC while accepting the facts stated (June 2011) that the financial assistance has been made to these organizations as per approval of General Body of NCMC. However, neither relevant provisions in the Act nor order of the Government permitted any such expenditure exceeding the ceiling of ₹ 25000 for a year.

The Sports and Cultural Officer of NCMC in reply further stated (June 2011) that the Chief Accounts and Finance Officer did not raise any objection while making payment to the various cultural organizations. However, during the year 2010-11, no assistance for such activities has been rendered.

The reply was indicative of the weak internal control mechanism of the NCMC and thus the payment of contribution of ₹ 1.99 crore was in violation of provisions of NCMC Act and therefore was irregular.

The matter was referred to Government in October 2010. Reply has not been received (May 2012).

AMRAVATI MUNICIPAL CORPORATION**6.8 Idle investment on construction of building of abattoir**

Building for an abattoir completed at a cost of ₹ 95.95 lakh was not put to use since its completion for want of consent from the Maharashtra Pollution Control Board rendering the expenditure infructuous.

As per section 25 and 26 of Water (Prevention and control of pollution) Act, 1974 (Act), no industry or operator process or any treatment and disposal system can be established without the previous consent of Maharashtra

Pollution Control Board (MPCB).

Scrutiny of the records of Amravati Municipal Corporation (AMC) (September 2011) revealed that Government of India approved (March 1998) the project of modernization of abattoir at Tarkheda-Valgaon road in AMC limit at an estimated cost of ₹ 98.20 lakh and released grant of ₹ 47 lakh⁴⁴ between January 2000 and February 2003 to the AMC. AMC had applied (May 2003) for consent to establish slaughter house, but MPCB did not give the consent on the ground of non-submission of details of Effluent Treatment Plant (ETP), solid waste treatment and slaughtering of animals process. Though the AMC has not acquired the land required for ETP and bio-digester, it proceeded (March 2004) with award of tender for construction of building at a cost of ₹ 95.95 lakh and the work was completed in March 2005. The Amravati MC again applied (June 2006) after a lapse of nearly two years from start of construction of building to MPCB for consent to operate abattoir. MPCB had pointed out (April 2008) that the land for establishment of ETP and bio-digester was inadequate. The AMC acquired (January 2010) the additional land for ETP but same could not be established till September 2011. Thus, due to delay in acquiring land for establishment of ETP and bio-digester even after six years of construction of building of abattoir, the expenditure of ₹ 95.95 lakh remained infructuous.

The Environment Conservation Officer of AMC stated (September 2011) that a Project Management Consultant has been appointed and action was being taken by the Veterinary Department and Construction Division of AMC to construct the ETP and bio-digester.

The matter was reported to Government in November 2011. Reply has not been received (May 2012).

6.9 Thematic Audit on “Repairs and Maintenance to road works in Municipal Corporation of Greater Mumbai”

6.9.1 Introduction

The Municipal Corporation of Greater Mumbai (MCGM) is controlled by the City of Mumbai Municipal Act, 1888. The Municipal area of 437.71 square kilometer (sq.km.) is divided into 24 wards which are grouped under administrative zones to serve the civic needs of nearly one crore citizens. One of the main function of the MCGM is construction and maintenance of public roads and bridges in motorable condition within municipal limit excluding highways and freeways, flyovers of Maharashtra State Road Development Corporation (MSRDC), roads in jurisdiction of Mumbai Metropolitan Regional Development Authority (MMRDA), Maharashtra Housing and Area Development Authority (MHADA), Public Works Department (PWD) and Mumbai Port Trust (MBPT). All the roads with a width of nine meters or less are classified as minor roads and they are maintained and looked after by the Ward offices. Roads with a width of more than nine meters and all bus routes

⁴⁴ ₹ 10 lakh vide order dated 07 January 2000 and ₹ 37 lakh vide order dated 24 February 2003

even if they are narrower are looked after by the Central Agency. The division of length between the two categories was approximately equal.

6.9.2 Organisational set up

The office of the Chief Engineer (CE) Roads, Traffic and Bridges Department was established in the year 1998. Earlier, it was the Road and Storm Water Drain Department (SWD) headed by a CE. The Bridges Department was merged in CE from 18 November 2006. The organizational set up of the Road Department under the MCGM is depicted in **Appendix XIII**.

The roles and responsibilities at the level of central agency and wards are as follows:

Name of the functionaries	Roles and responsibilities
Director, Engineering Service and Project (ES&P)	Overall in-charge of the Road Department. Chief Engineer and Dy. Chief Engineer of Central Agency are working under technical guidance of the Director, ES&P.
Dy. Municipal Commissioner (DMC)	Overall in-charge of the Zone of the wards. Ex. Engineer (maintenance) at ward level of each zone is working under the control of DMC.
Chief Engineer, Roads, Traffic and Bridges	Head of the Road Department. Dy.C.E. of Central Agency working under the control of C.E. Road Department.
Dy. Chief Engineers, City, Western and Eastern Suburb of Central Agency	In-charge of the Divisions viz. City, Western and Eastern suburb divisions, who are looking after the roads with width above nine meter and all bus routes even if they are narrower.
Executive Engineers (maintenance)	Ward level in-charge for maintenance of the roads and are looking after the roads with a width of nine meters or less classified as minor roads.

6.9.3 Audit Objectives

The audit was conducted with a view to assess whether :

- the repairs were properly planned and adequate provision of funds was made,
- the proper tendering process had been followed for repairs and maintenance of road works,
- the repairs were undertaken effectively and economically, and
- system of monitoring and evaluation of works was established and was effective.

6.9.4 Audit Criteria

The criteria used for the performance audit were:

- Mumbai Municipal Corporation Act, 1888 (MMC Act)

- Municipal Account Code, 1971
- Report of the Standing Technical Advisory Committee (STAC Report) on Roads in Greater Mumbai (2004)
- General Conditions of the Contract for civil works (GCC),
- Orders, circulars, guidelines issued by State Government/MCGM.

6.9.5 Audit coverage and methodology

The thematic audit of repairs and maintenance to road works in MCGM, covering the period from 2007-08 to 2010-11⁴⁵ was conducted during October 2011 to November 2011 selecting all three⁴⁶ divisions and six⁴⁷ ward offices by random selection. The objectives, scope of audit and methodology were discussed in the entry conference held on 25 August 2011 with CE, Roads, Traffic and Bridges. The audit findings on performance audit were discussed with CE in the exit conference which was held on 30 November 2011. The audit findings are discussed in succeeding paragraphs.

6.9.6 Physical and financial status of Road Department

The MCGM is maintaining 1941 Kilometers (KMs) of roads, of which 506 KMs situated in city, 928 KMs situated in Western suburb and 507 KMs situated in Eastern suburb. The length of asphalt road decreased to 1436 KMs (2010-11) from 1570 KMs (2006-07) due to conversion to cement concrete (CC) road. As a result, length of CC roads increased to 505 KMs (2010-11) from 371 KMs (2006-07).

Details of revenue expenditure and capital expenditure incurred by Central Agency and ward offices against the budget estimates for Department as a whole including roads, traffic and bridges works for the year 2007-08 to 2010-11 were as follows :

Particulars	2007-08		2008-09		2009-10		2010-11	
	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals
Revenue Expenditure	233.24	276.88	222.43	193.48	248.42	220.87	294.52	225.44
Capital Expenditure ⁴⁸	687.46	546.03	1051.34	930.56	1077.01	864.70	627.73	495.36
Total	920.70	822.91	1273.77	1124.04	1325.43	1085.57	922.25	720.80

(Source: SAP system generated reports of MCGM)

⁴⁵ The MCGM introduced the SAP system from the year 2007-08, hence the audit coverage is considered for last four years

⁴⁶ City, Eastern Suburb and Western Suburb

⁴⁷ D, G/north, K/west, L, N and P/north

⁴⁸ Capital expenditure reflects expenditure incurred on improvement and strengthening of roads

6.9.7 Audit Findings

6.9.7.1 Idle investment of ₹ 2.34 crore in pothole filling machines

With a view to mechanically and speedy filling of potholes by using spray injection patcher, order for supply of three imported pothole repairing machines at a cost of ₹ 2.34 crore was placed (June 2008) on M/s Speco Infrastructure, Mumbai. The scope of work *inter-alia* contained (a) one year free maintenance and comprehensive maintenance for next three years at ₹ 26 lakh per year and (b) the supplier has to maintain and operate the machine for filling of potholes and spot repairs for approximate quantity of 15000 square meter (sq.m.) at ₹ 630 per sq.m. during first year.

Audit scrutiny revealed (October 2011) that all three pothole filling machines were supplied (November 2008) to MCGM and payment of ₹ 2.34 crore was released (2008-09). Further, an amount of ₹ 0.58 crore was paid (2009-10) for a quantity of 9171 sq.m. executed against the 15000 sq.m. estimated, on account of pot filling work done through machine. Subsequently, one machine each was allotted to City, Western suburb and Eastern suburbs and were kept in the mechanical workshops of the MCGM at Worli, Santacruz and Ghatkopar respectively. The machines could not be used for filling potholes on minor roads having width less than nine meters, as it would affect the moving traffic on these roads. A test check of the records of six⁴⁹ wards and the information made available by 13⁵⁰ wards, it was observed that out of the total quantity of 714544.10 sq.m of pothole filling executed during 2010 and 2011 (monsoon), a meager quantity (141.75 sq.m) of pothole filling was done by machines.



Pothole filling machine in Mechanical Division at Ghatkopar (Eastern Suburb) dated 18 October 2011



Pothole filling machine in Mechanical Division at Worli (City) dated 11 October 2011

Thus, due to non-utilisation of the machines, the investment of ₹ 2.34 crore became idle with liability of ₹ 52 lakh towards comprehensive maintenance for two years.

MCGM stated (December 2011) that the machines were procured on experimental basis and would be implemented, if found successful.

The reply is not acceptable as MCGM has not considered the fact that the machines could only be used for certain width of roads before their procurement.

⁴⁹ D,G/north, K/west, L, N and P/north

⁵⁰ A, B, C, E, F/south, F/north, H/west, K/east, M/east, M/west, P/south, R/south and T

6.9.7.2 Blockade of funds of ₹ 1.76 crore due to inordinate delay in development of 'Road Management and Maintenance System'

Considering the large network of roads in Mumbai and the problems faced, the MCGM based on recommendation (December 2004) of STAC decided to improve its ability to plan and manage road maintenance operation through the development of Road Management and Maintenance System (RMMS). For this purpose, Mumbai Urban Transport Project (MUTP) was initiated during the year 2006-07 with the aid of World Bank.

The MCGM placed (September 2007) a Letter of Assignment (LoA) on M/s Sheladia Associates Inc, USA (In JV) in association with Pell Frishmall Consultant Ltd., UK and Frishmall Prabhu (India) Pvt. Ltd. at a cost of ₹ 3.19 crore for rendering technical assistance for development of RMMS in MCGM.

As per the payment schedule of agreement,

- 10 per cent of contract price was to be paid on submission of inception report,
- 20 per cent on submission of first quarterly report,
- 25 per cent on submission of second quarterly report,
- 25 per cent on submission of third quarterly report and on satisfactory trial run of the computerized maintenance and management system and
- remaining 20 per cent on approval of the final report.

The consultant completed the work and submitted (November 2008) their final report. The MCGM released ₹ 1.76 crore by the end of March 2009 being 55 per cent of the value of the agreement.

Audit scrutiny revealed (October 2011) that the consultant had not completed the work to the satisfaction of World Bank and MCGM. The final report prepared (November 2008) by the consultant was not approved by the MCGM as the consultant was stated to have skipped many of the tasks. Therefore, the MCGM informed (December 2008) the consultant to restructure the schedule of the project and complete the balance work immediately. There was no response from the consultant so far (November 2011). The MCGM could not initiate any penal action against the consultant as there was no provision in the contract/terms of reference. Further, no Bank Guarantee/Security Deposit was obtained by MCGM before execution of agreement. This has resulted in blockade of funds of ₹ 1.76 crore from March 2009 due to inordinate delay in development of RMMS.

During Exit Conference (November 2011), CE assured that reply would be obtained from the concerned Deputy CE and submitted to Audit, which is awaited (May 2012).

6.9.7.3 Award of pothole filling and spot repairs work without inviting tender

The ward wise biannual tenders for pothole filling and spot repairs were originally awarded (May 2008) to 24 Civil Works Contractors (CWC) vide

contract No. AC- 76 for the period from 12 May 2008 to 31 March 2010. The scope of work was to carry out the work of pothole filling as well as spot repairs for all major and minor roads. The rates quoted by the CWC ranged between 23 *per cent* below and 7.20 *per cent* above the Fair Market Rate (FMR).

The scope of pothole filling work in CWC contract (AC 76) was restricted to minor roads for the year 2009-10. The work of filling of potholes with pothole filling machines was entrusted (March 2009) at ₹ 630 per sq.m. to M/s Speco Infrastructure, which was not in CWC. The work order specified the scope of work, to the extent of pre-monsoon pothole filling work of medium and major roads, in the entire municipal area with use of pothole filling machine. In case of breakdown of pothole filling machine or any other problem contractor should attend the potholes by making alternative arrangement within the stipulated time limit. Subsequently, the Standing Committee decided (May 2009) to award the work of pothole filling through conventional method also to M/s Speco Infrastructure at 23 *per cent* below FMR with the applicable tender conditions of the CWC No. AC 76, without inviting tenders. The contractor executed 776261 sq.m. quantity out of 785432 sq.m. of pothole filling by means of conventional method (at ₹ 819 per sq.m.) during 2009 (monsoon) and the Corporation released (March 2010) ₹ 63.58 crore.

Thus, awarding of contract without inviting public tenders was not only in violation of Section 72(1) of the MMC Act, 1888 but also resulted in extending of unintended benefit to the contractor. Apart from this, the Corporation could have avoided extra cost of ₹ 14.67⁵¹ crore if all the work of pothole filling in major roads was executed by the machines instead of conventional method.

In reply Dy. CE (Roads) City stated (January 2012) that during the monsoon period pothole detected are required to be attended within 24 hours for ease to traffic and public movement and it was not possible to attend all potholes in monsoon at various location in wards by one machine, hence the contractor was allowed to fill potholes by conventional method.

The reply is not acceptable as the main purpose of procurement of machine was to carry out pothole filling work on major roads speedily with latest technology at low cost. Further, the work was awarded without inviting tenders.

6.9.7.4 Non-recovery of Additional Security Deposit of ₹ 20.98 crore

As per tender condition No. 3.44 of the CWC No. 76, the contractor should submit Additional Security Deposit (ASD) at the rate of three *per cent* of the estimated cost for every percentage quoted below 12 *per cent* in form of DD/Pay order in the name of MCGM before awarding of additional work. Audit scrutiny revealed (November 2011) that the ASD of ₹ 20.98⁵² crore was

⁵¹ 776261 x (₹ 819 - ₹ 630)

⁵² (23-12) x 3 = 33, i.e 33 *per cent* of ₹ 63.58 crore = ₹ 20.98 crore

not recovered (November 2011) from the above agency resulting in undue financial aid to the contractor. Besides, the Corporation was deprived of using the interest free amount of ₹ 20.98 crore on account of ASD which resulted in loss of interest of ₹ 0.84 crore to the Corporation for the period from February 2009 to September 2009 at the rate of six *per cent* per annum.

In reply Dy CE (Roads) City Division (January 2012) stated that as per MCGM's requests the contractor reduced the cost of filling of pothole to 23 *per cent* from 12 *per cent* and they have completed the work satisfactorily. Further, Additional Municipal Commissioner had accorded approval for not to insist for ASD based on reduction in rate by 23 *per cent* rate.

The reply is not acceptable as the ASD was required to be recovered before awarding of contract as per tender condition No.3.44 of the CWC No. 76.

6.9.7.5 Loss of interest due to delay in recovery of Additional Security Deposit for additional works

As per clause 3.44 of instructions to the tenderer, the contractor should deposit with MCGM, three *per cent* of the estimated cost of works as ASD by way of demand draft/pay order before awarding of work, which should be refunded after satisfactory completion of work. The terms and conditions of original contract *mutatis mutandis* apply to the additional work also.

Audit scrutiny revealed (October/November 2011) that an amount of ₹ 35.01 crore on account of ASD for 48 asphalt and CC road works was recovered with a delay ranging between 1 to 24 months, after issue of work order for additional work. Due to delay in recovery of ASD on additional works the Corporation incurred a loss of ₹ 1.38 crore being the interest at six *per cent* per annum.

6.9.7.6 Awarding of works by variation in original contracts without inviting tenders

As per the provisions contained in section 72(1) of the Mumbai Municipal Corporation (MMC) Act, 1888, public tenders were to be invited before entering into any contracts for execution of any work involving expenditure exceeding ₹ 50,000. Apart from this, the Commissioner, MCGM also issued guidelines from time to time that award of any additional work by variation to the original contract was strictly prohibited.

Audit scrutiny revealed (December 2009 and October 2011) that 30 out of 46 cement concrete (CC) road works and 29 out of 42 asphalt road works having additional contract cost of ₹ 469.09 crore and ₹ 233.22 crore, against original cost of ₹ 755.05 crore and ₹ 405.07 crore respectively were awarded by variations directly to the ongoing contractors during the year 2007-08 to 2010-11, without inviting any tender as detailed in **Appendix XIV**. The variation to the original cost in respect of CC roads was 62 *per cent* and for asphalt roads it was 57 *per cent*. The variations were mainly due to taking up of fresh road works at different locations from original works entrusted by the department to ongoing agencies for which tenders could have been invited.

The urgency for taking up the works as variation to original contract was also not justified. This has not only resulted in violation of MMC Act and directives circulated by MCGM from time to time, but also deprived of the benefit of competitive rates.

In reply Deputy Chief Engineer, (Roads) City, Western Suburb Division stated (November 2011) that during the execution of asphalt/CC road contract works local councilors, MLAs, MPs had insisted for improvement of various roads within their ward limit on top priority basis to give immediate relief to road users. Accordingly, estimates had been prepared for improvement of various roads in CC paver blocks. As it was difficult to float the fresh tenders for completing the due process of invitation of tenders before forthcoming code of conduct to be declared for general election of members of parliament and thereafter member of legislative assembly in State, it was proposed to vary the existing contracts to improve the roads on urgent basis.

The reply of the department was not acceptable as the department should have planned for inclusion of all road works after reviewing the demands of local councilors, MLAs, MPs before inviting tender and should have ensured that there is no variation to the original work which is in violation of MMC Act and this also deprived the MCGM from the benefit of competitive rates.

6.9.7.7 Deprivation of benefit of rebate of ₹ 1.40 crore due to tendering before finalization of design

The work of concreting and improvement of side strips of roads in ‘S’ and ‘T’ wards (Work code E-196) was awarded (April 2007) to M/s. Rupesh Corporation & Supreme Infra India Ltd. (JV) for a tendered cost of ₹ 12.68 crore with a rebate of 12.80 *per cent*. The time period for the work was 12 months excluding monsoon.

Before awarding of above work the department asked (December 2006) IIT Mumbai to analyse and submit the design for work of widening and construction of the Mulund Goregaon Link road between eastern express highways and railway flyover bridge. Despite knowing well in advance that the designs of widening work were going to be changed after receipt of detailed report from the IIT, the department had included (October 2006) the said work in the tender of E-196. The contract was revised (December 2008) to tendered cost of ₹ 15.59 crore after receipt of detailed design from the IIT and sanctioned fair item⁵³ of ₹ 10.96 crore without rebate due to change in design.

Thus, due to inviting the tender before finalisation of design of the widening and construction of Mulund Goregaon link road between eastern express highways to railway flyover bridge, the department was deprived of the benefit of rebate of ₹ 1.40 crore at 12.80 *per cent* on fair item of ₹ 10.96 crore.

⁵³ Fair item – Item not included in tender document and rate of which is not in prevailing FMR

6.9.7.8 Non-implementation of recommendations made by Standing Technical Advisory Committee

With a view to get expert advice on all aspects of road construction, design, maintenance and specifications, for achieving better quality of roads having regard to the importance of Mumbai, a Standing Technical Advisory Committee (STAC) under the chairmanship of Pr. Secretary, PWD to evaluate road related issues was appointed (September 2004). The Committee submitted (December 2004) the report and made 90 recommendations. Few illustrative important recommendations of the STAC *inter alia* pertaining to quality control aspects which were not implemented is given below:


- 1) Incorporation of quality control and quality assurance provisions in the specifications and proper degree of supervision of work.
- 2) Introduction of a system of maintaining proper quality records, methods, statements for controlling quality of work, records of non-confirming work, result of quality audit, etc.
- 3) Checking the work of contractor at senior level like Ex-Engineer, Dy. Chief Engineer who should review the test results, collect samples at random and then certify about satisfactory completion of road. A drill of minimum site inspections, recording their observations and checking by senior engineers should be specified.
- 4) Progressive development of Maintenance Management System. preparation of checklists for maintenance and repairs of roads which can be classified into current or routine maintenance. Detailed proposals should be framed for special repairs as per need with the help of Pavement Maintenance Management System.
- 5) Whereby various attributes of that work are graded on a scale of 0 – 5 and sum total of such grading gives an idea of the quality index of the work. Use of quality index of construction and maintenance work introduced by the Indian Road Congress to review the work of contractors and supervisory staff.
- 6) Quality audit through external agency as per ISO 9000.
- 7) Preparation and publication of Quality Assurance Manual.
- 8) Introduction of concept of Quality Grading of works on the basis of various attributes.

6.9.8 Conclusion

On overview of repair and maintenance of road works in MCGM revealed that the works of software development taken up on recommendation of STAC to improve the ability to plan and manage road maintenance operation better was not finalised and remained incomplete after incurring considerable expenditure. Three pothole filling machines imported three years ago for mechanically and speedy filling of potholes were not put to use due to narrow roads, traffic problems and are lying idle from last two years. Large number of

works having sizeable value were awarded by variation as additional works without inviting tenders in violation of the provision of MMC Act, 1888.

The matter was referred to Government in December 2011. Reply has not been received (May 2012).



(MALA SINHA)

Principal Accountant General (Audit) I,
Maharashtra

Mumbai,
The 4 July, 2012

Countersigned



(VINOD RAI)

Comptroller and Auditor General of India

New Delhi,
The 5 July, 2012