

Chapter 3

Compliance Audit

- 3.1 Non-compliance with the rules**
- 3.2 Audit against propriety/Expenditure without justification**
- 3.3 Failure of oversight/governance**

CHAPTER 3

COMPLIANCE AUDIT

Compliance Audit of the Economic Sector departments, their field formations as well as that of the 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 the rules

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, misappropriation and frauds, but helps in maintaining good financial discipline. Some of the audit findings on non-compliance with rules and regulations are as under:

PUBLIC WORKS, PORTS AND INLAND WATER TRANSPORT DEPARTMENT

3.1.1 Contract Management in Public Works, Ports and Inland Water Transport Department

3.1.1.1 Introduction

The Public Works Ports and Inland Water Transport Department (PWP&IWTD) is responsible for planning, construction and maintenance of state highways and major district roads, bridges, buildings and maintenance of national highways. The department also undertakes construction of buildings on behalf of other departments under deposit contribution works. The Government provides funds in annual budget for creation and maintenance of assets. The department follows Karnataka Transparency in Public Procurement Act, 1999 (KTPP Act) and rules made there under for undertaking works. The Department functions under the administrative control of the Principal Secretary assisted by a Secretary, with two Chief Engineers (CE) and one Principal Chief Architect.

3.1.1.2 Audit objectives

The audit objectives were to assess adherence to the provisions of Transparency Act, performance of contracts and adequacy of system to ensure quality assurance of works.

3.1.1.3 Audit scope and methodology

The audit covering the period 2008-13 was conducted between February 2013 and July 2013. The records at the Secretariat, two Zonal Offices, 10³⁶ out of 39 divisions and one out of four Quality Control divisions were test checked based on units selected through simple random sampling method. The total outlay of the department during 2008-13 was ₹ 15,445 crore. The total number of contracts concluded in 10 test checked divisions were 18,375 out of which 486 contracts valued at ₹ 951.58 crore were scrutinised. The audit was confined to Communications and Buildings (C&B) wing of PWP&IWTD in view of large number of contracts involved.

Audit findings

3.1.1.4 Planning

Tardy implementation of the scheme

Effective implementation of scheme depends on a practical action plan conforming to laid out objectives, setting out annual physical and financial targets.

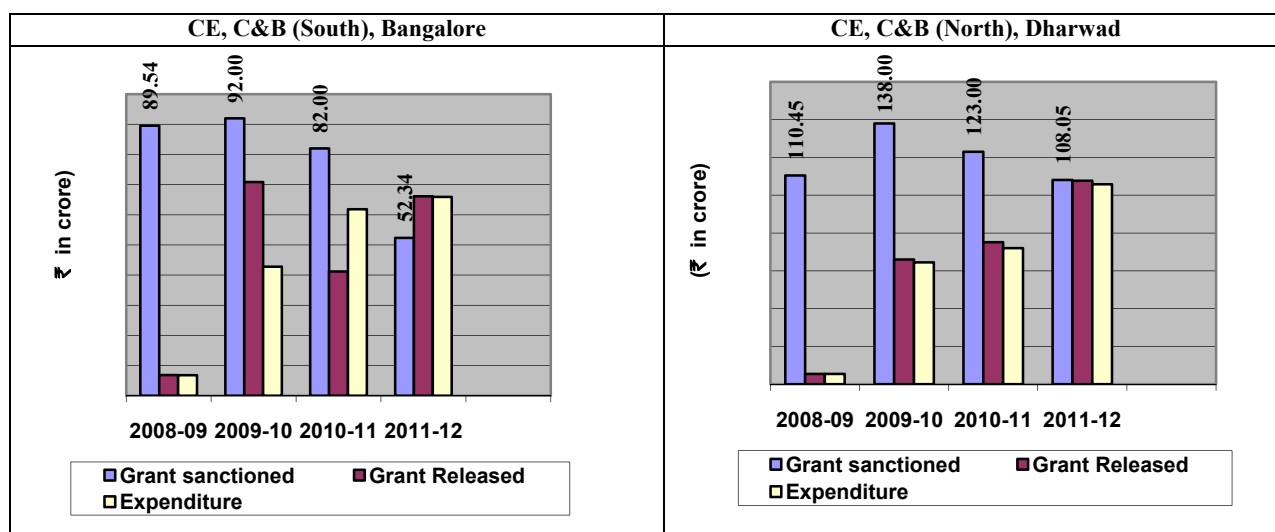
The average road length in the State was 68.73 Km per 100 sq.kms. The Dr. Nanjundappa Committee was appointed (October 2000) by Government to study regional imbalances among all the districts in the State and to advise the Government on remedial measures to redress the regional imbalances, including road development in the State. The Committee in its report (June 2002), while fixing the responsibility on Public Works Department for the development of roads in Karnataka, also identified 50³⁷ taluks as more backward and 40³⁸ taluks as less backward in the State which required improvement of roads as these taluks had road length which were below the state average road length. The expenditure incurred during the last five years ending 31 March 2013 on road development as per the Dr Nanjundappa Committee Report (Report) is shown in **Chart 3.1:**

³⁶ PWP&IWTD Division- Chitradurga, Kolar, Chickmagalur, Special Division Shimoga, No. 2 Buildings Division-Bangalore, Road and Buildings Special Division, Bangalore, Haveri, Belgaum, Huvina Hadagali and Karwar

³⁷ North Karnataka-37; South Karnataka-13

³⁸ North Karnataka-24; South Karnataka-16

Chart 3.1: Expenditure incurred on road development



(Source: Grant and Outlay statement furnished by the Department)

Despite the fact that the Report aimed at systematising the road development plan in the state with particular emphasis on addressing the deficiencies in the more backward taluks, Government failed to bring out a ‘Road Development Plan’ and fix a realistic target to overcome the deficiencies pointed out in the Report. Mere provisions of budgetary grants under a separate head called “Dr Nanjundappa Committee Report” failed to meet the objectives of the Report in the absence of a definite action plan and targets to meet the demand.

During 2008-13, against the budget provision of ₹ 479.50 crore for North Zone, only ₹ 254.18 crore was released and expenditure incurred was ₹ 247.70 crore. In respect of South Zone, ₹ 185.07 crore only was released against the budget grant of ₹ 315.88 crore. The short release of grants besides impacting the recommended road development also highlights lack of sustained interest by the department in addressing the achievement of budgeted objectives. During 2011-12, South Zone released a grant of ₹ 66.16 crore though the budget provision was only ₹ 52.34 crore. In 2010-11, South Zone spent ₹ 61.82 crore against grant of ₹ 41.20 crore released. The absence of action plan enabled selection of works at the discretion of the implementing officers and fiscal indiscipline. During 2012-13, no grants were sanctioned and released.

The Chief Engineer, (South) Zone, Bangalore stated (August 2013) that works were selected based on the recommendations of the field officer and that the decision made by the Executive Engineers (EE) were as per policy decisions contained in suggesting such works. It was also replied that efforts are being made to have information of all repairs and improvement of roads carried out in the software developed under Road Information System.

3.1.1.5 Estimation for works

A key aspect of an effective contract management is that all preliminary steps are taken before a contract is awarded *i.e.*, a detailed project report (DPR) is prepared and scrutinised thoroughly and the procurement process conforms to

the statutes and accepted norms of financial propriety. The DPR should contain the justification for taking up the work, details of survey and investigations conducted, cost and time estimation, availability of materials and provision for budget and the competent authority ought to have the estimate vetted for financial economy and effectiveness in attaining objectives.

Incomplete and inadequate details in the sanctioned estimates

For improvement of existing roads the guidelines issued by Indian Road Congress in IRC 81-1997 should be followed, which stipulate that the overlay thickness (thickness of bituminous layer laid over the existing road surface) of an existing road should be computed based on the design traffic and the extent of structural deficiency noticed in the reaches under construction.

In three Divisions³⁹, in respect of 83 road improvements works not involving widening, carried out at a cost of ₹ 64.64 crore, the report accompanying estimates did not mention the structural deficiency of roads, the details of improvement works carried out earlier, traffic census, etc. Despite the absence of these details, provisions towards structural improvements were made in the estimate towards embankment construction, sub grade and sub base layers, base layers throughout the carriageway in addition to bituminous layers of bituminous macadam (BM), dense bituminous macadam (DBM) as applicable to new constructions, in addition to bituminous surfacing. Even the details of the existing thickness of the pavement under construction were not mentioned in the estimates. The competent authority sanctioned these estimates without assessing the actual requirements. The only justification mentioned in these estimates was a general note mentioning about damages and pot holes caused due to monsoon rains which did not justify reconstruction of the road from sub-base upwards. If the problem related only to pot holes etc, it would have been more appropriate to have surface correction with bituminous layer after filling up of pot holes. The unjustified provision towards sub-base and base layers worked out to ₹ 19.19 crore⁴⁰ constituting 29.69 per cent of the estimated cost of these works.

Unwarranted items in the estimates

(i) In Chickmagalur Division, improvements to State Highway 64 from km 4.375 to km 10, costing ₹ 4.83 crore were sanctioned by Executive Engineer (EE) to augment the existing concrete road which had been damaged extensively. The scope of estimates included laying of 60 mm DBM and 40 mm BC besides edge, camber correction and crack filling for entire concrete surface. The work costing ₹ 4.83 crore was split up into 50 estimates and put to tender. All these works were awarded to a single agency in 50 separate agreements which were completed in three months as per agreement.

Since the existing pavement was already made of concrete, this ought to have been considered while computing total thickness of the existing road as shown in **Table 3.1:**

³⁹ Roads and Buildings Special Division, Chitradurga Division, Special Division Shimoga

⁴⁰ Excavation and embankment- ₹ 5.05 crore; GSB- ₹ 6.44 crore; WMM/WBM- ₹ 7.70 crore

Table 3.1: Statement showing the existing pavement and proposed thickness

| Traffic in MSA | Required thickness | Existing pavement | | | | Proposed thickness | | |
|----------------|--------------------|-------------------|------|-------------------|-------|--------------------|----|-------|
| | | Sub base | Base | Concrete pavement | Total | DBM | BC | Total |
| 136 | 720 | 285 | 300 | Not considered | 585 | 60 | 40 | 100 |

(Source: Details furnished by the divisions)

Despite the existence of the concrete pavement, providing 60 mm DBM (which was a binding layer) was not justified. The unwarranted provision resulted in avoidable extra expenditure of ₹ 1.41 crore towards 1,856.25 cum of DBM executed. The EE stated (July 2013) that the work was executed (March 2012) as per the instructions of local representatives in view of an ensuing local festival. Reply was not acceptable as surfacing with BC was sufficient to meet the objective of improving the riding quality. Further, the reply failed to justify the necessity of DBM layer since crack filling and camber correction were also provided.

(ii) As per MORTH⁴¹ specifications 601 and 602, cement concrete pavement consists of dry lean cement concrete of the required thickness as sub-base and unreinforced plain cement concrete over such prepared sub-base for wearing course. The Schedule of rates also contains a separate chapter for concrete pavement.

In 20 road works costing ₹ 3.92 crore pertaining to Roads and Buildings Division, Bangalore, instead of dry lean concrete as sub-base and unreinforced plain cement concrete as wearing course, the Department provided 150 mm thick cement concrete of 1:3:6 as sub-base and 150 mm thick reinforced cement concrete of M- 20 grade layer as wearing course respectively in the estimates and by adopting rates applicable to building specification. The estimates also provided laying wet mixed macadam (sub-base) of 250 mm in addition to two concrete layers. In terms of paragraph 6.5.1 of IRC -15 2002, the unreinforced cement concrete can be laid on sub-base of existing pavement having 150 mm thickness. Hence, providing 150 mm cement concrete of 1:3:6 at an additional expenditure of ₹ 69.12 lakh was avoidable. Also providing RCC as per building specification instead of unreinforced cement concrete as per IRC resulted in avoidable expenditure of ₹ 1.04 crore⁴².

The EE stated (August 2013) that in many villages the roads were very narrow having heavy traffic and therefore concrete pavement with steel reinforcement was found necessary. The reply was not acceptable as there was no mention in the estimate regarding density of traffic *etc.*, which could justify such extra costs.

Diversion of legislative approval on works

Public Accounts Committee in its sixth report (2009-10) observed that works included in Appendix-E should be regarded as list of works approved by the

⁴¹ Ministry of Road Transport and Highways

⁴² ₹ 27.57 lakh towards RCC and ₹ 76.42 lakh towards cost of steel

State Legislature and therefore expenditure on works not included in Appendix-E should be treated as unauthorised expenditure. We noticed that both the Controlling Officers and Implementing Officers failed to respect the Legislative sanction for works.

In three Divisions⁴³, 17 executed works costing ₹ 7.61 crore did not conform to the legislative sanction as provided in Appendix-E for the year 2011-12. In two cases of Chitradurga Division, the scope of work was changed during technical sanction as suggested by the Superintending Engineer/Executive Engineer. In another case in Chickmagalur Division, out of the sanction of ₹ 1.75 crore, only ₹ 50 lakh was utilised for the work and the balance amount of ₹ 1.25 crore was utilised for another work not included in Appendix-E. In Kolar Division, 14 works costing ₹ 5.28 crore provided in Appendix-E were substituted with new works not included in the Appendix. The deviations were not even subsequently approved by the Assembly through Supplementary or Revised proposals.

While, EE, Chitradurga replied (June 2013) that change in scope was found necessary as the changed reaches of the road were badly damaged, the EE, Chickmagalur stated (July 2013) that diversion was as per oral instructions of the Minister for Public Works and EE, Kolar Division stated (June 2013) that the changes were made based on local needs as suggested by the local MLA of which 13 works costing ₹ 4.48 crore were subsequently approved by the PWD Minister. Reply cannot be accepted as the diversion was not authorised by the Legislature and scope of works and changes were made on verbal orders.

3.1.1.6 Tendering for works

The KTPP Act, provides for transparency in the tendering process and to regulate the procedure in inviting, processing and accepting of tenders. The following deficiencies in adherence to the provision of the Act were noticed in the tendering process:

Entrustment of works by circumventing open tender system

The invitation of tender through E-procurement is mandatory in all cases where the value of procurement exceeds ₹ 20 lakh (which was revised to ₹ five lakh from 03 December 2012) as per KTPP Act and rules thereunder. Paragraph 167 of Karnataka Public Departmental Code strictly prohibits splitting of major works into smaller estimates so as to bring it within the delegated powers of the sanctioning authority and to evade the necessity of higher sanction.

During 2010-12, in Roads and Buildings Special Division, Bangalore, 40 road improvement works were split into 175 estimates of less than ₹ 20 lakh each to avoid E-procurement process. These contracts were accepted by EE with average tender premium of plus 4.75 *per cent* while the rates for similar works accepted through E-tendering during the corresponding period was *minus* 12.37 *per cent*. Deviations from norms and acceptance of significantly higher

⁴³ Chitradurga, Chickmagalur and Kolar

rates than prevailing rates for similar contracted works resulted in extra financial burden of ₹ 5.08 crore⁴⁴ to Government.

Also, in two divisions⁴⁵, 12 road works costing ₹ 15.90 crore were split into 136 estimates for which contracts were accepted by the Divisional Officers. In all these cases the road lengths of the original works measured from one to nine km and since the entire stretch was to be repaired, technical approval and administrative approval from higher authorities were necessary including that of Government. Of this, one State Highway improvement work costing ₹ 4.83 crore was split into 50 estimates and was contracted through manual process. Finally, all these works were awarded to a single agency on single bid with a premium of 4.7 per cent above the estimated cost. Bidding time allowed in these cases was one day as tender forms were issued only one day prior to the last date stipulated for submission of tenders.

The EE, Chickmagalur stated (July 2013) that the tenders were accepted as the offers received were found to be beneficial. Since splitting of works violated statutory provisions, did not allow transparency and accountability and did not prove to be economically beneficial to Government, this justification was not acceptable.

Irrelevant publicity

As per KTPP Rules and orders issued by the Government (March 2004), notice inviting tenders for all procurement for works costing between ₹ 10 lakh and ₹ 50 lakh shall be published in two local papers and two State Level newspapers in addition to publishing the same in District Bulletin. In No. 2, Building Division, Bangalore, for 38 works in and around Bangalore each costing between ₹ 10 lakh and ₹ 20 lakh, notification inviting tenders through manual procedure was published in newspaper editions from Gulbarga and Shimoga. The irrelevant publication defeated the objective of publicity and competition in the procurement process, as in all these cases only two bids were received.

Failure to allow prescribed bidding period

Rule 17 of KTPP Rules stipulate that the tender inviting authority shall ensure the minimum bidding time of 30 days for works costing up to ₹ two crore and 60 days for works costing above ₹ two crore. The rules further stipulate that any reduction in bidding time should be specially authorised for reasons to be recorded in writing. Government stipulated (September 2003) that tender documents should be made available for the entire period provided for submission of tenders in conformity with KTPP rules.

In ten test checked divisions, out of 486 works reviewed in audit, prescribed minimum bidding time was not allowed for 466 works costing ₹ 827.11 crore. For 280 out of 364 works costing up to ₹ two crore, the shortfall in bidding

⁴⁴ Procurement value ₹ 29.67 crore × 17.12 per cent (12.37 per cent + 4.75 per cent)
= ₹ 5.08 crore

⁴⁵ Chickmagalur and Kolar

time ranged between 16 to 29 days and for 83 out of 102 works costing ₹ two crore and above, the shortfall ranged from 31 to 59 days. Shortfall in bidding time was compounded with the departmental decision in restricting time allowed for issue of tender forms/ downloading of tender forms. Absence of sufficient bidding time inhibits transparency and competition in bidding which led to bid adjustment and tenders with high premium due to lack of participation of bidders as discussed in the following paragraphs.

3.1.1.7 Evaluation of tenders

For works costing ₹ 50 lakh and above, the Act stipulates invitation of bids in two cover system *i.e.* technical and financial bids. The technical bid detailing the technical qualifications would be opened first and financial bid of those technically qualified bidders only would be opened for further processing and acceptance. Instances were noticed (Three divisions–32 works costing ₹ 78.32 crore) where authorities either overlooked the laid down criteria or failed to attach significance to technical qualification of bidders as illustrated below;

- In two divisions, 16 contracts for works (₹ 43.77 crore) were awarded to contractors whose Certificates of experience had not been furnished. In Chickmagalur Division, the Experience Certificate furnished by a bidder actually related to another bidder, but the same was accepted.
- In Chickmagalur Division, the technical criteria on work experience for concrete item was not provided and the work costing ₹ 1.53 crore was awarded though the contractor had not furnished the requisite details.
- Contract for a work costing ₹ 2.37 crore was awarded to a contractor in Chickmagalur Division though his technical bid was initially rejected by the Superintending Engineer (SE).
- In Roads and Buildings, Special Division, Bangalore, contract for “Construction of Dr Babu Jagajivan Ram Bhavan” at Bangalore was awarded for ₹ 9.97 crore to an agency in March 2013. We observed that the two bidders participated in the tender had failed to meet the technical criteria but the financial bids of both the bidders were opened and work awarded to lowest tenderer in violation of the KTPP Act.

3.1.1.8 Negotiation and acceptance of tenders

Irregular acceptance of tenders

Where tenders are received with premium pegged over 10 *per cent* of Current Schedule of Rates (CSR), circular instructions of 3 December 2002, prescribe that the negotiations with the lowest tenderer for reduction of rates should not be resorted to. The preferred course of action should be the rejection of tenders and invitation of fresh tenders. This was further reiterated in Government circulars (August 2006 and June 2007) which stipulated that negotiation should be held only after inviting tenders for a minimum of three

times. While revising the delegation of powers in June 2009, the Government empowered Tender Scrutiny Committee (TSC) to conduct negotiations in respect of tenders of value between ₹ 50 lakh and ₹ five crore to bring it within a premium not exceeding ten *per cent* of CSR for submission to Tender Acceptance Committee (TAC), which was formed in September 2011. Thereafter, Government would issue tender acceptance order based on TAC recommendations.

During 2008-12, 1,057 tenders valued between ₹ 50 lakh and ₹ five crore, estimated to cost ₹ 1,473.78 crore were recommended by TSC for acceptance at the total cost of ₹ 1,721.49 crore after reduction of rates by contractors. The tender premium recommended varied between 11 *per cent* and 24.6 *per cent* of CSR, which should have been rejected as the prescribed limit of 10 *per cent* was exceeded. As seen from the TSC proceedings there were no indications of negotiations having been conducted (except for contractor's letters reducing their rates by some percentage). Further, 442 tenders costing ₹ 756.47 crore under the jurisdiction of CE (S) were accepted on single bids in the first call itself. Also, test check of 118 cases in five offices⁴⁶ revealed that specific orders accepting the tenders were not issued by the Government. As per the Government order of June 2009, it was necessary to have specific orders issued by Government justifying the acceptance of bids. Instead of rejecting the tenders by TSC, they were recommended for acceptance which were marked as "approved" by the Secretary. Even after formation of TAC, these tenders were not subjected to review by it. Thus, the procedure adopted by TSC was not in compliance with various instructions of Government and resulted in extra financial implication of ₹ 100.34 crore as calculated in **Table 3.2:**

Table 3.2: Tenders with tender premium above 10 *per cent* recommended by TSC
(₹ in crore)

| Office | Type of work | No of contracts | Amount put to tender | Contract price | Calculated loss due to excess premium accepted over 10 <i>per cent</i> | Average tender percentage above CSR |
|----------------------|--------------|-----------------|----------------------|-----------------|--|-------------------------------------|
| CE, C&B (South) Zone | Roads | 442 | 648.23 | 756.47 | 43.42 | 16.70 |
| | Buildings | 344 | 413.27 | 488.00 | 33.40 | 18.08 |
| | Bridges | 27 | 43.20 | 52.06 | 4.54 | 20.51 |
| CE, C&B (North) Zone | Roads | 169 | 273.42 | 312.51 | 11.75 | 13.91 |
| | Buildings | 72 | 86.35 | 101.49 | 6.51 | 17.53 |
| | Bridges | 3 | 9.31 | 10.96 | 0.72 | 17.72 |
| TOTAL | | | | 1,721.49 | 100.34 | |

(Source: Register of Tenders of respective Zonal Offices)

The action of the TSC in accepting tenders with substantially high premium undermines the basic essence of KTPP Act and instructions there under.

⁴⁶ EEs, No. 2 building Division, Bangalore, Chickmagalur, Chitradurga and Special Division, Shimoga and Chief Engineer, Communication and Buildings (North), Dharwad

3.1.1.9 Award of contracts

Award of contracts without obtaining performance security

The contract conditions stipulate that Performance Security Deposit (PSD) at five *per cent* of the contract value should be furnished by the successful bidder within 20 days from the date of communication of acceptance of tender. Failure to furnish the same would lead to cancellation of tenders and forfeiture of Earnest Money Deposit (EMD).

In three divisions, during 2008-13, the EEs entrusted 94 works valued at ₹ 221.34 crore to contractors without obtaining PSD aggregating to ₹ 11.07 crore based on the request of contractors to recover the same from running account bills. This not only violated the tender conditions but also resulted in extending undue financial benefits to contractors.

Award of contracts without additional performance security

The Clause 25.5 of prescribed contract document (KW-4) stipulate that wherever the rates quoted by a contractor are seriously unbalanced in relation to the estimated cost of the work to be performed, the employer may recover Additional Performance Security (APS) to protect against financial loss in case of default by the contractor.

The APS was being recovered when quoted rates were less than the employer's rates but this was not followed by all EEs. Since the term "seriously unbalanced" had not been defined in the contract documents, no uniform practice was followed by EEs. In six cases, APS of ₹ 2.49 crore was not collected even in respect of tenders with rates lesser than the cost of work.

Bid adjustment

We noticed that insufficient competition resulting in bid adjustment by tenderers.

- In Road and Buildings Special division, Bangalore, 25 works costing ₹ 4.59 crore for which tenders were invited (2011-12) in a single notification were shared by three bidders. While the bids were rotated in serial order, even the item rates in accepted tender quoted by different bidders remained the same. In another instance of tender notification (2011-12) for 25 works costing ₹ 4.97 crore, only two bidders participated for 22 works and one particular bidder was found to be lowest for all the 22 works.
- In No 2 Buildings division, 26 works tendered during 2012-13 at a procurement cost of ₹ 4.36 crore were rotated between two bidders each securing 12 works and 14 works by quoting tender premium within five *per cent* for the successful bids.

The tendency of bid adjustment inhibited transparency and competition in the procurement process which also affected fair pricing of contracts.

3.1.1.10 Execution of works

Change in scope of work after receipt of tenders

- The comprehensive improvement of Aurad-Sadashivagad road from km 551.46 to 583.06 (31.60 km) by KRDCCL was approved by Government in September 2009.

However, tenders for improvement of the road in the same chainage estimated to cost ₹ 13.83 crore were invited (October 2009) by EE, PWD Belgaum in six packages and tenders received from two agencies for a total of ₹ 17.19 crore was recommended to Government by the TSC for acceptance. As the work was already entrusted to KRDCCL for comprehensive improvement, the Secretary to Government in PWD restricted the scope of work to ₹ 4.20 crore with provision of 150 mm WBM, surface dressing and 20 mm premix carpet as wearing course while accepting (November 2009) the tenders. The change in scope of work after receipt of tenders and entrustment thereof with reference to rates quoted for the work as a whole was arbitrary besides violating the KTPP Act. An expenditure of ₹ 5.22 crore was incurred on the work before it was handed over to KRDCCL in December 2010.

Besides, the quality of construction was found to be substandard as reported by the Regional Commissioner, Belgaum.

- The notice inviting tenders for improvement to Avalahalli – Bhyratti road from km 0 to 11.30 estimated to cost ₹ 18 crore was issued on 11 February 2009 stipulating 11 March 2009 as the last date for submission of bids. The scope of the work was restricted to km 0 to 2.9 with an estimated cost of ₹ 4.50 crore and last date of submission of bids extended to 21 May 2009. While the evaluation of the bids for km 0 to 2.9 was in progress, the work in km 9 to 11.31 was entrusted (August 2009) to the lowest bidder *in lieu* of his tender for 0 to 2.9 km at the quoted rates for km 0 to 2.9 as per suggestion of Minister for Higher Education on the condition that the bill of quantities as well as the cost of work would remain unchanged as notified. Though the entrustment was ratified (October 2009) by Government, the action taken violated the provisions of KTPP Act.

Unauthorised widening

The improvement to Kommaghatta–Tavargere road from km 5.25 to 14 in Bangalore South taluk estimated to cost ₹ 12 crore was taken up in three contracts (January 2011 and March 2011) and were completed during January 2012 at an expenditure of ₹ 12.10 crore. Against the approved width of seven meters, the execution of the road surface was carried out to a width varying up to 17 meters in several reaches at an additional expenditure of ₹ 80.35 lakh.

The EE stated (April 2013) that in village limits the road width was more than seven meters and hence construction was taken up uniformly. The reply was

not acceptable as improvement was to be taken up for the existing road which had a carriage width of seven meters and execution of work beyond the approved width by the EE was not in accordance with the sanctioned estimate. The additional expenditure of ₹ 80.35 lakh was thus unauthorised.

Entrustment of additional reaches without approval

In Kolar Division, improvement of road⁴⁷ from Venkatagiri Kote border to Kolar via Bethmanagala in Bangarpete taluk was taken up under Central Road Fund with the approval of Ministry of Road Transport and Highways (Ministry) and was entrusted (December 2009) to an agency for ₹ 3.28 crore against the estimated cost of ₹ 3.27 crore. The work was completed in March 2013. Since savings of ₹ 72 lakh were available, the contractor was entrusted with the work of further reaches i.e. km 23.35 to 24.10 and 25.75 to 26.40 as variation items costing ₹ 71.60 lakh with the approval (March 2013) of CE. The utilisation of savings towards entrustment of works in reaches not provided in the sanctioned estimate as variation items was unauthorised and improper as variations items always refers to any variation incidental to the sanctioned work provided in the Bill of quantities. Further, approval from Government of India for additional reaches was not obtained before execution.

The EE stated (June 2013) that as it was not possible to execute the work on the same road by two agencies, therefore the balance portion of the work was entrusted to the same agency. The reply was not acceptable as chainages were different and not overlapping. Besides, the variation items should necessarily be incidental to the sanctioned work. Therefore entrustment of additional work out of savings was unauthorised.

Execution of variations without approval

The sanction of Government should be obtained for variation exceeding five *per cent* of the contract value as per circular instructions of October 2008. In six divisions, 26 works with procurement value of ₹ 97.53 crore, the variation comprising extra items and excess quantity amounting to ₹ 27.41 crore were approved (2008-13) by the CE/SE though these powers to do so did not exist with them.

Further, in respect of seven works with procurement value of ₹ 26.19 crore, the variation items amounting to ₹ 14.79 crore were executed by EEs without obtaining approval from the competent authority, which amounted to unauthorised execution of works.

The EE, Shimoga and Chitradurga agreed (June 2013) to obtain approval of Government.

⁴⁷ Reaches in kms 13.50 to 18.55, 21.80 to 23.55, 24.10 to 25.75 and 29.10 to 32.50

Irregular substitution of work

Tenders were invited (July 2011) for resurfacing of SH-57 in km 207 to 216.40. While technical evaluation was in progress, SE suggested (25.07.2011) not to take up the work as the road length had been handed over to KSHDP for improvement. Instead, it was suggested to take up improvement works in SH 26 from chainage zero to seven km. Disregarding these instructions, the EE entrusted (September 2011) the work in SH 57 to an agency for ₹ 76.66 lakh allowing three months for completion. Simultaneously, the EE without even entering into separate agreement allowed the same agency to carry out the work on SH 26 from zero to seven km at the rates and items contracted as per agreement for SH 57. While no work was carried out on SH 57, an amount of ₹ 73 lakh was spent on SH 26 (March 2013).

Allowing the contractor to carry out the work in SH 26 without even a formal agreement and rate list not only violated the KTPP Act and codal provisions, but also the action taken was unauthorised in the absence of competent financial and technical approval for work in SH 26. It was also not clear if the work on SH 26 (km zero to seven) was necessary as no detailed estimate was prepared and got approved.

| | |
|-----------------|-----------------------------------|
| 3.1.1.11 | Enforcement of risk clause |
|-----------------|-----------------------------------|

Non-enforcement of contractual provisions

The terms of the contract stipulate levy of liquidated damages (LD), for delays in completion of the project or failure to achieve the stipulated progress as per milestone.

In 10 test checked divisions, 66 works with contract value of ₹ 116.33 crore were finalised without recovering LD from the contractors despite inordinate delay in completion of these works which ranged between one to 36 months. The LD leviable works out to ₹ 11.38 crore. We also noticed that in 24 works costing ₹ 46.45 crore, the EEs (Hadagali, Haveri and Special Division, Shimoga) levied LD less than the prescribed amount in the agreement resulting in short recovery of ₹ 4.46 crore. The EE, Kolar and Chickmagalur agreed to recover the amounts.

Failure to levy LD not only violated the contract conditions but also amounted to extending unintended financial benefit of ₹ 11.38 crore to the contractors.

Non recovery of extra cost

The contract conditions provides for recovery of extra cost in case of rescinding of contract.

The construction of Mini Vidhanasoudha at Bangarpet (Kolar Division) estimated to cost ₹ 1.50 crore was entrusted (May 2007) to an agency for ₹ 1.56 crore for completion by May 2008. The contractor had stopped the work after showing a progress of ₹ 21,350. The contract was rescinded

(August 2008) by the CE at the risk and cost of the contractor and the balance work was entrusted (May 2011) to a second agency for ₹ 2.38 crore with stipulation to complete the work by 30 November 2012. However, the extra cost ₹ 82.65 lakh⁴⁸ was not recovered from the first agency.

The EE stated (June 2013) that proposals will be submitted to competent authority and further action will be taken to recover the extra cost. However, in view of the delay of 32 months in re-entrusting the work, the possibility of recovery of extra cost appears to be doubtful.

3.1.1.12 Deposit works

Commencement of work before receipt of money

The “Work of construction of Rail Over Bridge” at Bhadravathy estimated to cost ₹ 12.60 crore was taken up (March 2010) on equal sharing basis with Railways. The estimate was revised (December 2011) with railways share of contribution at ₹ 8.94 crore as accepted by Railways. Though an expenditure of ₹ 11.01 crore had been incurred up to March 2013, only ₹ two crore had been received (February 2012) from the Railways. The non receipt of the balance amount of ₹ 6.94 crore from the Railways has affected the timely completion of work.

3.1.1.13 Quality control

Government issued (February 2010) detailed guidelines making both the implementing divisions and quality control divisions fully responsible for quality of works executed, renaming the existing quality control system into ‘Quality Assurance System’. The QC is headed by an officer of the rank of SE functioning under the administrative control of respective CEs’.

Review of records in four test checked divisions⁴⁹ under South Zone and records in Quality Assurance division, Dharwad (North Zone) revealed that the guidelines stipulated (February 2010) by Government for quality assurance of works executed were not followed as mentioned below:

- Reports on scrutiny of designs and surprise inspection carried out by the Quality Assurance Sub divisional officer were not being forwarded to the work monitoring cell.
- Compliance to 595 reports of inspection (April 2008 to March 2013) of Quality Assurance Divisions, Dharwad was not furnished by nine working divisions as of May 2013;
- No objection Certificates were not being obtained by implementing divisions nor issued by Quality Assurance divisions;

⁴⁸ Cost of balance work retendered (₹ 238.28 lakh) – cost of balance work as per original tender (₹ 155.63 lakh)

⁴⁹ Special Division Shimoga, Chitradurga, Chickmagalur and No. 2 Buildings Division, Bangalore

- Other than testing construction materials and random scrutiny of works, no other quality control checks, scrutiny of approved designs and submission of reports to Works Monitoring Cell, inspection of works on completion, *etc.*, were carried out.

A review of quality control inspection reports on 26 works estimated to cost ₹ 111.95 crore, received by the CE, C&B (North) Zone, Dharwad, revealed that the observations relating to defective works, use of sub standard material *etc.*, had not been followed up by the zonal office as compliance to the deficiencies pointed out was not on record.

Review of reports in the Works Monitoring Cell at Government also revealed that reports on scrutiny of approved designs on works as also surprise inspection of laboratories conducted by Quality Assurance sub divisions were not being received by them.

The EE, Quality Assurance Division, Dharwad, while, accepting the audit observations attributed (March 2013) the shortfall in Quality Assurance performance to inadequate staff. EE also stated that indents for field tests and list of completed works for issue of NOC's were not being received from implementing divisions.

Though proposals had been submitted (March 2010) by SE, Quality Assurance Circle, Dharwad, seeking additional manpower for effective quality assurance functions, CE, C&B (North), Dharwad, had sought Government permission to continue with the quality control mechanism as existed earlier. Non-compliance with prescribed guidelines by executing divisions coupled with inadequate staff in quality control divisions largely defeated the objectives of total quality assurance on works.

3.1.1.14 Conclusion

We observe that despite the recommendations of Dr. Nanjundappa Committee, the Department did not prepare a sustainable road development plan setting forth targets particularly to address the deficiencies in more backward and less backward taluks. Authorities consistently failed to follow the Codal provisions, provisions of KTPP Act and Rules, and directions of Government in the procurement process. Failure to observe fair contract management practices affected economy in tendering. Renewals of roads were not based on sustained action plan or as per prescribed norms which contributed to avoidable expenditure. Sanctions accorded by authorities were devoid of propriety and were not consistent with financial rules governing it. Effective quality assurance envisaged by Government was not implemented due to staff constraints.

3.1.1.15 Recommendations

We recommend that;

- Government may formulate a sustainable road development plan for effective implementation of road works;
- Compliance to the KTPP Act and rules made there under should be ensured;
- Work should be selected with objectivity and scope of work regulated as per approved norms;
- Sanctions accorded should be consistent with the financial rules governing it;
- Quality Assurance Wing to be made an independent wing directly reporting to Government and adequate manpower deployed for effective working of the divisions.

The matter was referred to Government in September 2013; their reply is awaited (December 2013).

3.1.2 Irregularities in release of funds and execution of works in Magadi

3.1.2.1 Introduction

The Government provides annual grants under different heads of account to public works divisions for construction and maintenance of roads, bridges and buildings. Detailed provisions are enumerated in Karnataka Budget Manual (KBM) as well as Departmental Code, Accounts Code and Karnataka Transparency in Public Procurements (KTPP) Act for preparation of budget estimates, for obtaining legislative sanction for works, preparation of estimate for works, invitation and award of contracts for procurement of goods and services and measurement and payment for works.

The Public Works, Ports & Inland Water Transport Department (PWD) Sub Division Magadi, in Ramanagara district was allocated grants of ₹ 250.62 crore during 2011-12 under several major heads of account⁵⁰ for improvement and maintenance of roads. The sub division prepared 1,946 estimates, out of which 1,549 estimates were sanctioned by SE splitting up works costing less than ₹ 20 lakh and awarded on manual tender basis with a stipulation to complete within two months. Out of 1,311 works entrusted to the contractors, 737 works were reported to have been completed and the total expenditure incurred to the end of 31 December 2012 was ₹ 137.86 crore. The status of the remaining 574 works was not verifiable from the records made available to audit.

⁵⁰ 3054, 5054, 2059 and 2216

3.1.2.2 Report of Joint Inspection Team and Legislature House Committee

Following allegations from elected representatives on large scale financial irregularities in the execution of road works in Magadi Sub-Division, the Government ordered ((June 2012) a joint inspection of works by the SE, Quality Assurance Circle, Bangalore and the EE, Work Monitoring Cell. The Government also directed not to make payment of bills and instructed that all tender process relating to these works be kept in abeyance until completion of the probe. Accordingly, the Chief Engineer (South) constituted (August 2012) an Inspection Team headed by SE to probe all aspects right from utilisation of grants to execution of works. The Inspection Team, besides scrutiny of records, also conducted physical verification of several works randomly selected and submitted (March 2013) their report to the Chief Engineer. The Inspection Team recommended cancellation of work orders, deletion of entries in the measurement books, recovery of amount etc., Further, a Legislature House Committee (Committee) took up (February 2013) the matter *suo motu* and recommended (April 2013) to the Government for rectification of the works, recovery of amount from contractors and taking action against the departmental officials responsible for the irregularities. The Report was placed (June 2013) in the House.

The Department replied (November 2013) that Executive Engineer, Assistant Executive Engineer and concerned Engineers in charge of works had been suspended and ₹ 5.33 crore had been recovered from contractors besides cancellation of 288 works as per the report of Inspection Team.

Audit Findings

Audit scrutiny of records of the PWD Secretariat in Government, Chief Engineer, Communication and Buildings (South Zone), Bangalore (CE), SE and the EE (March-August 2013) showed various lapses and irregularities. The audit findings are discussed in succeeding paragraphs. From our assessment, the authorities at different levels in the system failed to exercise necessary controls leading to large scale financial irregularities as detailed below:

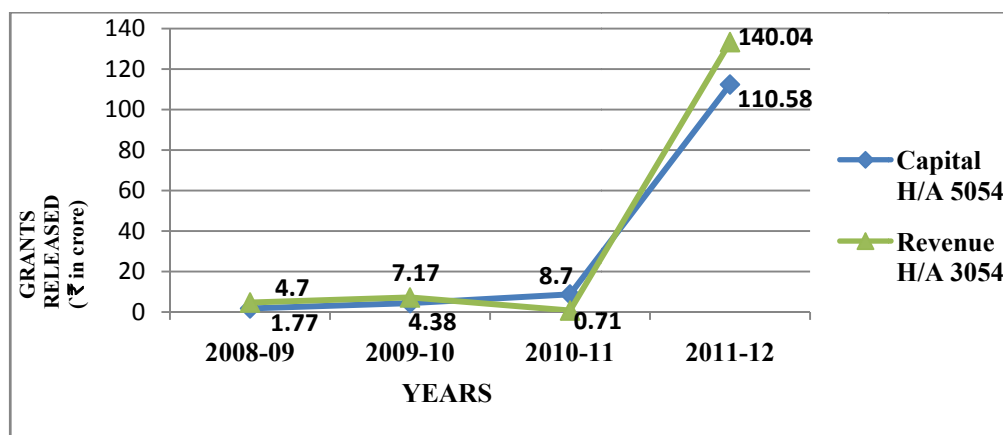
3.1.2.3 Disproportionate allotment of grants

In accordance with provisions (Paragraphs 132 to 134) of KBM, budgetary grants for 'Plan' heads are provided through Appendix-'E' which contains the list of ongoing works as well as fresh works proposed after administrative approval and technical sanction had been accorded by the competent authority and after prioritising the works in the order of urgency. For maintenance and repairs of roads, bulk grants are allotted by Government for further distribution to executing divisions based on length and category of road under its jurisdiction. The works are taken up after obtaining approval from SE, who is the competent authority for approval of programme of works of a division under his control.

The Appendix-E' of 2011-12 for road works prepared for only one major head of account (5054-Other Road Formation) included 85 works pertaining to Magadi subdivision with a budgetary allocation of ₹ 4.94 crore. The non-preparation of Appendix-'E' for other capital heads enabled allotment as bulk grants without having list of works, in violation of KBM provisions.

In addition, during 2011-12, total grant of ₹ 245.68⁵¹ crore were allotted under different heads of account to Magadi Sub-division for road works. The grants so allotted represented an increase of nearly 27 times over the average grants allotted to Magadi Sub-Division during preceding three years. The details of grants allotted during 2008-12 were as shown in **Chart 3.2:**

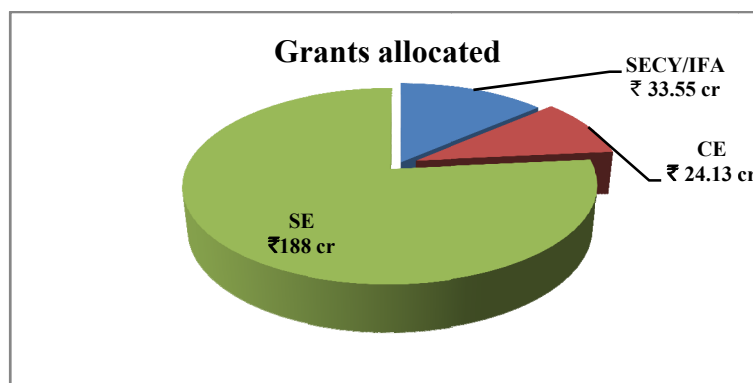
Chart 3.2: Grants allotted during 2008-12



(Source: Committee report for 2008-09 to 2010-11 and Appendix 'E' and grant letters for 2011-12)

Out of the total grants of ₹ 250.62 crore allotted to Magadi sub division, ₹ 110.58 crore were under 'Plan' head ("5054-Renewals of State Highways (SH)" - ₹ 58 crore, "5054-SH maintenance" - ₹ 28.14 crore, "5054-Suvarna Vikasa" - ₹ 19 crore, 5054 -ORF - ₹ 0.50 crore and through Appendix-'E' - ₹ 4.94 crore) and ₹ 140.04 crore were allotted under 'Revenue' Head of Account - 3054 for maintenance and repairs of roads under Chief Minister's Grameena Raste Abhivrudhi Yojane (CMGRAY), 13th Finance Commission grants and Roads and Bridges. The grants excluding Appendix-'E' allocations were allotted by different authorities are shown in **Chart 3.3:**

Chart 3.3: Allocation of grants by different authorities



(Source: Grant release letters)

⁵¹ Capital head -5054- ₹ 105.64 crore and Revenue head 3054- ₹ 140.04 crore

Our scrutiny revealed that;

- The Secretary/Internal Financial Adviser (IFA) did not ensure that the grants were allotted to works under capital heads of accounts only after approval by State Legislature resulting in unauthorised expenditure. There was no indication in release orders of IFA to the effect that approval of Secretary was obtained and hence issue of release orders by IFA was irregular.
- The CE allotted grants of ₹ 24.13 crore meant for ‘original’ and ‘repair’ works to Magadi Sub-division alone.
- Similarly, the SE irregularly allotted grants of ₹ 188 crore to Magadi Sub-division which were released for allocation among all the PWD divisions in his jurisdiction. The SE did not ensure prioritisation of works as per the prescribed rules and procedure nor did he submit the budget estimates to the Government.

The Department replied (November 2013) that grants were released based on the request by MLAs and works proposed by the elected representatives. Accordingly, the programme of works were submitted and approved by the competent authority.

The reply was not acceptable as the procedure laid down in the Budget Manual was not followed in allotment of grants as the works were to be identified and included in the Appendix-‘E’ for obtaining legislature approval before allotment of grants. Thus, the procedure adopted in release of grants by various authorities under capital head of accounts was irregular and improper.

3.1.2.4 Deficiencies in preparation and sanction of estimates

Splitting of estimates and programme of works

Paragraphs 167 and 192 (b) of Public Works Departmental Code prohibit splitting up of work just to bring it within the sanctioning limit of an officer and should be resorted to only in exceptional cases with the prior approval of the authority who is competent to accept the tender for the work as a whole. The circular instructions of Government (March 2011), while reiterating these provisions also stipulated that all the works relating to a single road should be clubbed and awarded for execution on “package tender basis”.

We, however, noticed that contrary to the codal provisions and circular instructions of Government, EE prepared 1,311 estimates of works each costing below ₹ 20 lakh. This splitting up facilitated invitation of manual tenders to avoid e-procurement and also obviated the necessity of securing the approval of Government which would have been required had they been tendered on a package basis.

Further, we noticed that in as many as 24 instances covering 1,005 works costing ₹ 155.70 crore, the programme of works was approved by SE on the same day of their submission by EE, which indicated lack of proper scrutiny, especially in view of a large number of road works been proposed outside the jurisdiction of Magadi Sub-Division.

The Department replied (November 2013) that works taken up under different heads during 2011-12 were based on the proposals of people's representatives. The reply was not acceptable as the estimates were split up below ₹ 20 lakh in all these cases and thus sanction accorded by competent authority was improper.

Preparation of estimates in excess of the road length

The Magadi Sub-division under its jurisdiction was having three State Highways (SH) for a length of 114.53 km and 15 Major District Roads (MDR) for a length of 161.35 km. During 2010-11, 26.83 km of SH 3 was transferred to KSHIP⁵² for improvement under a World Bank aided project and thus the effective length of SH reduced to 87.70 km either for improvement or their maintenance.

We noticed that 553 improvement works for a length of 179.72 km costing ₹ 109.40 crore in respect of four MDRs and two SH were sanctioned as against the actual total length of 130.30 km of these roads under its jurisdiction. The excess length of road thus sanctioned was 49.42 km and financial implications of executing these excess length of road works was ₹ 30.09 crore, out of which ₹ 9.19 crore had already been paid **(Appendix 3.1)**.

The Department replied (November 2013) that based on request of elected representatives, approach road improvement were carried out and ₹ 5.33 crore had been recovered so far as recommended by the Inspection Team.

The reply was not acceptable as the works proposed by the elected representatives do not fall under the jurisdiction of PWD. The departmental officers were required to appraise the correct position to the elected representatives as the connecting/link roads are under the jurisdiction of another authority *i.e.* PRI divisions instead of sanctioning the work. Thus, the execution of works outside the jurisdiction was highly irregular.

Inadequate details in estimates and fictitious estimates

The sanctioned estimates did not indicate chainages and instead mentioned areas falling in village limit, temple premises, panchayat office, in front of a house, *etc.*, thereby making it difficult to identify the reaches where work was proposed to be tackled. We noticed that in as many as 189 cases, more than one estimate was prepared for the same works leading to fictitious estimates. The SE, however, while sanctioning these estimates did not notice the repetition of works. The total estimated cost of these 189 works was ₹ 35.96 crore, out of which ₹ 22.50 crore had already been paid. The amount already paid included ₹ 10.36 crore relating to 53 fictitious estimates. The Inspection Team constituted by CE concluded that in many cases, the section officers in charge of work failed to identify the works and therefore recommended recovery of ₹ 42.43 crore towards extra length not tackled though payments were made.

⁵² Karnataka State Highways Improvement Project

The Department stated (November 2013) that as the kilometer stones in some of the roads in Magadi Sub Division are not existed and hence the estimates indicated only the land marks *i.e.*, near village limit, temple premises, panchayat office, *etc.* The reply was not acceptable as the estimates could always have included chainage details which are fixed entities which do not vary with presence or absence of milestones. The execution of several works could not be identified by Inspection Team during physical inspection due to absence of chainage details. Hence, sanction accorded by competent authority for the estimates which did not disclose relevant chainage details were incorrect and resulted in irregularities.

Road inventory not maintained

We observed that road inventory was not maintained in the Sub-Division or Division in respect of repairs and improvement works carried out in the past as required under IRC-SP-19-2001. Evidently, the improvement works were taken up without having adequate data.

The Department replied (November 2013) that road inventory data would be updated periodically.

Lack of transparency in tendering process

The KTPP Act provides that the works costing ₹ 20 lakh and above shall be done only through e-procurement.

Out of 1,946 works sanctioned, 368 were tackled on piece work system and 11 works were entrusted through e-procurement platform. Since works were split and kept below ₹ 20 lakh, manual tenders were invited for the remaining 1,549 works through 48 notifications. Out of these, 256 works covered under seven notifications were not executed and only 1,311 works under 41 notifications were awarded to contractors for execution.

We observed following irregularities in tender process which not only lacked transparency but also favoured selected few contractors for award of work.

- The EE invited (August 2011 – March 2012) short term tenders for all the 1,311 works under 41 notifications. The time allowed for submission of tenders was less than a week which was contrary to the provisions of KTPP Act, which prescribe minimum bidding time of 30 days.
- The bidders were required to deposit Earnest Money Deposit (EMD) of 2.5 *per cent* of value of amount put to tender along with bidding documents. Though, EMD amounting to ₹ 6.35 crore was not submitted by any of the bidders, the bids received were evaluated, accepted and works were awarded in gross violation of conditions governing acceptance of tenders.
- The circular instructions of the Government (June 2007 and January 2010), provided that single bids received with high tender premium and in response to first tender call itself should not be either recommended or accepted and the single bids received in the first tender

call where premium would not fall below five per cent even after negotiations, should be rejected. However, single bids received for 351 works under 18 tender notifications, in response to the first tender call were accepted.

- The bids including Schedule 'B' were required to be signed by the contractor and documents produced to audit did not contain signature of the participated bidders in respect of 321 works.
- As per Clause 24.1 of Section 2-Instructions to tenderers, the contractor should furnish performance security of five *per cent* of the contract value within 20 days from the date of acceptance of tenders. The non-furnishing of such performance security entails cancellation of award of contract and forfeiture of EMD. We noticed that in all these cases, work orders were issued without complying with the tender conditions, which was in violation of Transparency Act.
- The tender proceedings were not openly conducted and the tender proceedings were not kept on record.

The Inspection Team recommended 453 work orders involving ₹ 22.71 crore for cancellation as they were issued before acceptance of tenders.

The Department while accepting (November 2013) the tender irregularities stated that lapses occurred due to heavy work load, minimum bidding time was not allowed as the estimates were sanctioned at the tail end of the financial year, bidders deposited the EMD, *etc.* The Department also stated that 453 work orders involving ₹ 22.71 crore were cancelled as recommended by the Inspection Team.

The reply reinforces the dangers of rush of expenditure at the tail end of the financial year. However, we observed that not all expenditures were sanctioned at end of financial year; some were sanctioned as early as August 2011. The manual tendering process was abused to favour few contractors and vindicated by the fact that as many as 453 work orders involving ₹ 22.71 crore were cancelled due to irregular tender process.

Undue Favour to contractors

Three contractors were awarded 891 contracts valuing ₹ 175.48 crore as detailed in **Table 3.3:**

Table 3.3: Details of award of contracts

| Sl. No. | Contractor's name | Number of contracts awarded | Value of contracts (₹ in crore) |
|---------|-------------------|-----------------------------|---------------------------------|
| 1 | Sri Nanjaiah | 396 | 78.20 |
| 2 | Sri Kemparaju | 270 | 53.28 |
| 3 | Sri Shankar | 225 | 44.00 |

(Source: Information furnished by Division)

Clause 3.1 of the standard bid document stipulate formula for evaluation of available tender capacity of bidder for award of contracts. The formula takes into consideration the turnover during the last five years, tender period and works on hand. However, we observed that contracts aggregating to ₹ 44 crore to ₹ 78.20 crore were awarded to three contractors without considering the works already awarded. Had the bid capacity been properly evaluated by EE with reference to the total number of works entrusted to each contractor, above contractors would not have qualified.

The Controlling Officers failed to notice these violations and take appropriate action when copies of acceptance of tenders were received by them.

The Department replied (November 2013) that based on the tender process the works were entrusted to the successful bidder. The reply was not acceptable as the evaluation of tender was not carried out properly and single contractor was awarded large number of works.

3.1.2.5 Execution of works outside the jurisdiction

During 2011-12, 451 estimates costing ₹ 86.24 crore were sanctioned for improvement of roads under village limits, approach roads to MDR/SH, *etc.*, which did not primarily come under the jurisdiction of PWD but with Panchayat Raj Engineering Divisions. These works were taken up without obtaining prior consent of authority under whose jurisdiction these roads came. Since the details *viz.*, total length of the road, its condition, works carried out previously and traffic data were not available with the PWD, taking up these road works was irregular. The sanction for these ineligible works was conveyed under head of account “5054- SHs Renewals” despite these roads not being SHs. Payment of ₹ 54.68 crore for 289 out of these 451 ineligible works had already been made to the contractors.

The Department replied (November 2013) that as recommended by the Inspection Team action would be taken to recover the excess paid to the contractors and ₹ 5.33 crore had been recovered so far.

The reply was silent about irregularities in other works not verified by the Inspection Team in view of gross violation of procedures at all stages for all works pointed out elsewhere in the report.

3.1.2.6 Measurements of unduly large number of works on a single day

The provisions under Appendix VII of KPWD Code stipulate that EEs should check measure final claims of all works costing ₹ 25,000 and above, at least to the extent of 25 *per cent* of such measurements, before admitting the claims for payment and a Register of Check Measurements should be maintained for the purpose.

Scrutiny of sub-divisional records revealed that:

- Check measurements was not done by EE for any of the works.

- As seen from the running account bills paid, measurement and check measurement of works ranging from 25 to 85 works were done on a single day by section officer in charge of work and the Sub-divisional Officer, which was impracticable as works were situated at different places and involved taking measurement of several items. Thus, measurements for large number of works recorded as done on a single day cast serious doubts about the accuracy of measurements.

The Inspection Team pointed out that extra works aggregating 372 works valued at ₹ 71.23 crore were recorded in measurements books and recommended for their cancellation.

The Department accepted (November 2013) that so many works could not be accurately measured on a single day and as directed by the Inspection Team, 288 numbers of works estimates as well as agreements were cancelled. However, status of remaining 84 works as recommended for cancellation by Inspection Team was not furnished.

3.1.2.7 Fraudulent payment of bills

We noticed that the Sub Division prepared fake bills in respect of nine works which were already passed for payment by misrepresenting facts such as referring to the Measurement Book (MB) which was issued to some other Sub division and referring to the MB which recorded measurements of different works. The total fraudulent payment so made was ₹ 1.70 crore (**Appendix 3.2**).

The Department did not furnish any specific reply to the observation and recovery made in this regard

3.1.2.8 Undue benefit to contractors by premature refund of performance security

As per provisions of the contract, refund of performance security (PS) should be made based on the requisition of the contractor and after expiry of the period prescribed in the contract after completion of work. The refund bill duly signed by the departmental officer and acknowledged by the contractor should indicate reference to recoveries of PS effected and credited to Deposit head originally.

We noticed that PS aggregating to ₹ 6.78 crore was recovered in running account bills in respect of 178 works and released to the contractors, without requisition of such refund, before expiry of the prescribed period of 24 months from the date of completion of work. The refund bills did not contain the signatures of the contractors, the sub divisional Officer and the EE. There was no reference to voucher number and the date in which the PS was originally recovered and credited to Deposits head.

The Department while accepting the lapses stated (November 2013) that the same would be avoided in future.

3.1.2.9 Quality control of works

Quality control reports from the Quality Control Division of PWD were not made available by the Division in respect of these road improvement works. Hence, the quality of works could not be verified in audit.

The Department replied (November 2013) that due to rush of works QC reports of some of the works have not been observed and agreed to follow in future.

3.1.2.10 Lack of Monitoring of works and Internal control failures

There was total lack of monitoring and supervision by any of the higher authorities (EE/SE/CE) during the course of execution of works although the SE/CE were required to regularly monitor and supervise these works as per Paragraph 9 to 29 of KPWD Code. Quality control reports were not available with the Department in respect of any of the works claimed to have been executed.

The Secretary/IFA failed to obtain a complete list of works proposed to be under taken by the CE/SE/EE in respect of allocated grants, even though a huge amount of the allocated grants under capital heads were passed on without enlistment under Appendix E. The IFA and Secretary were also failed to correlate monthly expenditure statement received from subordinate officer with details of works in progress. IFA is required to conduct meeting of their controlling officer every month and to monitor the expenditure as per circular instructions of July 2003.

The CE allocated grants to the extent of ₹ 212.13 crore without prioritising the works as per the prescribed procedure and did not submit any budget estimates to the Government. The CE failed to monitor the progress of works and did not conduct departmental inspection of the division/sub division thereby resulting in total absence of budgetary and expenditure controls.

The SE did not exercise proper checks after irregularly allocating/diverting grants to extent of ₹ 188 crore to the sub division. As per the provision of PWD code, technical scrutiny of estimates has to be carried out by the SE/EE. However the SE failed to detect the following irregularities:

- Estimates without chainage-wise details,
- Duplicate estimates,
- Splitting up of estimates,
- Execution of works without his approval.

The SE did not monitor the progress of works during the monthly meetings as they did not figure in the monthly progress reports of the division.

The EE split up the estimates to bring all the 1,311 works within his powers to invite manual tenders. The EE did not ensure maintenance of Register of Tenders and Tender Opening Register to record all the details of tender proceedings. The EE did not check measure or inspect any of the works executed by the sub-division. The EE failed to appraise the higher authorities about the progress of works executed in the division/sub division.

The Divisional Accountant (DA) has to assist and advise the EE on financial matters, up keeping of accounts and due compliance with the rules and procedures prescribed by the Government. The DA, as an Internal Auditor and Financial Advisor, failed to highlight the ongoing irregularities and their implications. The DA failed to score out all items of work recorded in the MB after the bill is passed for payment and a reference to the voucher number, date and the amount of payment recorded in the MB could have prevented more than one payment in respect of the same work. The DA did not advise the EE against premature refund of PS and failed to detect irregular remittance of royalty to Deposits head.

Government in their Circular (August 1993) instructions have fixed target for conducting surprise checks of works apart from regular checks by CE/SE/EE⁵³ to improve the quality and progress of works and submit a report on such inspections/checks in the prescribed form to the Government. The Divisional Officer is also expected to inspect the accounts records of sub-division office and to check a percentage of initial accounts as per Paragraph 444 of Departmental Code.

We observed that no such inspections were carried out by CE/SE/EE in respect of the works executed in the Magadi sub division during 2011-12.

The Department did not furnish any specific reply to the observation and reasons for not conducting surprise inspection in respect of works executed in Magadi Sub-Division.

| |
|----------------------------|
| 3.1.2.11 Conclusion |
|----------------------------|

Grants of ₹ 250.62 crore were allotted to subdivision without ascertaining necessity and absence of Appendix 'E' facilitated allotment of bulk grants for original and capital nature of works contrary to codal provisions. The works proposed for village roads, link roads though not under the jurisdiction and road length exceeding the actual road length was approved by controlling officer without proper scrutiny. The estimates were split below ₹ 20 lakh in order to invite manual tenders and tendering process was violated at every stage to favour few contractors. There were irregularities in taking measurements and EE did not check measure the works to the extent prescribed before payment of bills. There were instances of payment by creating fake bills and duplication of estimates. The bills of road improvement works were paid without quality control reports. Thus, the

⁵³ CE – Minimum five works per month; SE – Minimum eight works per month;
EE – Minimum 12 works per month

expenditure of ₹ 75.93 crore incurred on excess road length, ineligible works, duplicate works and on account of double payments was indicative of fraudulent payments. The quality control reports in respect of road improvement works were not produced. The monitoring was lacking and Controlling Officers did not conduct surprise checks in respect of works executed by Magadi Sub division during 2011-12.

3.1.2.12 Recommendations

- The Government in Finance Department should ensure timely preparation of Appendix-‘E’ before release of funds;
- The Controlling Officers should not sanction the estimates which do not include all relevant details;
- The funds should not be allotted for works falling under other jurisdictional authorities;
- All excess payments should be recovered at the earliest and works orders and extra measurements recorded should be cancelled as recommended by Inspection Team;
- The Government may consider giving wide publicity in the departmental websites about the Notification Inviting Tenders, works in progress with details up to chainage level and also invite the views of the stake holders as to the quality of works executed;
- Signage boards at work spots should be exhibited displaying details of works as done in NABARD assisted projects for Public awareness;
- Register of Road should be scrupulously maintained in all divisions to indicate the complete history of works undertaken on the road in lines of the Codal provisions;
- The treasury which performs financial check on vouchers presented for payment should check whether details of works have been noted on the voucher including specific area chainage, *etc.*

The matter was referred to Government in September 2013; their reply is awaited (December 2013).

3.1.3 Irregularities in execution of road improvement works

Adoption of unrealistic vehicle damage factor by consultants in road improvement estimates resulted in overdesigning of pavement thickness and avoidable extra cost of ₹ 42.83 crore. Irregular appointment of project management consultant, led to irregular/excess payment of ₹ 1.59 crore.

The IRC guidelines (IRC 37-2001) specify the Vehicle Damage Factor (VDF) should be carefully arrived at by conducting Axle Load Surveys (ALS) and realistic values should be considered for designing the pavement thickness. If the project size does not warrant ALS, the guidelines recommend adoption of

indicative values of VDF based on traffic density of commercial vehicles during design life and minimum factor being 1.5 and maximum of 4.5.

Government sanctioned (February/June 2009) ₹ 212 crore for improvement, strengthening and upgradation of 105 km of road in Mandya and Mysore districts to provide good roads for pilgrims visiting Panchalinga Darshana⁵⁴ (PD) event at Talakad to be held in November 2009. The Chief Engineer accorded technical sanction to six estimates submitted by the Consultant in February 2009/June 2009.

The contracts of four works were awarded between May 2009 and September 2009 to M/s RMN Infrastructure Limited⁵⁵ and M/s VDB Projects Limited and the remaining two works were awarded in May 2010 and June 2010 to M/s G Balaraj and M/s RMN Infrastructure Limited. Out of four works awarded before the PD, only two works were scheduled for completion (November 2009) before the PD but none of the works could be completed as scheduled. Five works were completed between March 2011 and November 2012 while one work was still under progress (May 2013). The total expenditure incurred on works was ₹ 196.75 crore.

Our scrutiny of records in EE, PW&IWTD, Mysore (February 2013) showed improper planning, unwarranted expenditure on account of excess pavement thickness as well as extra payment to project management consultants in execution of work as brought in succeeding paragraphs.

Uneconomical design due to excessive pavement thickness

The preparation of Detailed Project Report (DPR) with cost estimates for road improvement works under PD was entrusted to a consultant at a cost of ₹ 92.56 lakh. The consultant had adopted VDF value of 20.28 obtained from ALS for calculating design traffic and finalised pavement thickness. The ALS conducted was found deficient as detailed below:

- The terms of reference only mentioned that traffic analysis to be made in terms of numbers from the data supplied by the Department and did not specify conducting ALS by the consultant.
- The ALS was conducted on a sample size of just 84 two axle vehicles against the traffic density of 1,098 commercial vehicles which includes tandem/multi axle vehicles.
- ALS was done at only one place *i.e.*, Sargur Hand Post and the VDF value so derived was adopted for other roads also contrary to guidelines.
- The IRC guidelines also stipulate that origin and destination survey should also be conducted along with ALS. However, no origin and destination survey was conducted by the consultant.
- The maximum prescribed VDF value being 4.5 as per IRC guidelines, the VDF value of 20.28 adopted exceeded the prescribed maximum value.

⁵⁴ The Panchalinga Darshana is held at Talakad in Karnataka and involves the darshana of five shivaling during an auspicious period as per Hindu Panchanga

⁵⁵ Three works

Adoption of higher VDF value resulted in overdesigning of pavement thickness leading to avoidable extra cost of ₹ 42.83 crore as detailed in **Appendix 3.3**.

The Superintending Engineer (SE) stated (April 2013) that the ALS was conducted at Sargur Hand Post to get a realistic value of VDF and designed for worst scenario. SE also stated that the roads were running in wet lands and subjected to heavy loading. The reply was not acceptable as department had not specified ALS and neither approved sample size nor class of vehicles, date, duration, location, *etc.*, in order to obtain realistic VDF values. The consultant had worked out minimum (3.45) and maximum (20.28) VDF but had adopted maximum VDF as realistic value without citing any reasons.

Irregular appointment of project management consultants

Government approved (August 2009) appointment of project management consultants (PMC) for completion of road works before PD and the consultant who had prepared DPR was appointed as PMC on short term tender basis for one year period at a contract price of ₹ 4.13 crore. The selection of PMC was flawed as eligibility criterion was changed after invitation of tenders. The bidding conditions stipulated that the consultants or joint venture partner should have rendered similar services for a value of ₹ 30 crore in Karnataka with minimum annual turnover of ₹ 1.50 crore in any of the preceding three years and possess valid accreditation certificate issued by National Accreditation Board for Testing & Calibration Laboratories (NABL). The CE modified this criterion to include “associates” after issue of request for proposals for PMC:

- The modification was done only to suit particular firm as the consultant who was appointed as PMC was incorporated only during previous year (September 2008) and did not possess NABL certificate. The consultant had entered into “memorandum of understanding” with another firm having NABL certificate and therefore eligibility criterion was modified to include “associates”. The consultant did not satisfy the financial criteria as it had not rendered similar services in Karnataka for the value of ₹ 30 crore.
- The PMC contract was awarded in December 2009 for a period of one year. The change in eligible criteria subsequently was made only to suit the particular consulting firm as it was already supervising the road works from September 2009 *i.e.* before award of PMC contract. Thus, the tender process was vitiated and award of contract was irregular.
- The agreement was also defective leading to irregular and excess payment. The PMC was appointed in December 2009 for supervision of six works at a contract price of ₹ 4.13 crore (1.95 *per cent* of estimated value of six works) and payable at monthly rate of ₹ 34.45 lakh. The consultant was paid for the period from 15 September 2009 to 15 September 2010. The payment of ₹ 1.03 crore for the period from September 2009 to December 2009 was irregular and hence recoverable as the period was before PMC contract was awarded.

- The payment to PMC as per agreement was to be made at ₹ 34.45 lakh per month for supervising all the six road works for one year, but only four road works were awarded at the time of agreement in December 2009 and two works were awarded only during May/June 2010. Thus, PMC actually supervised only four works from December 2009 to May 2010. Hence, the payment for this period was to be limited for these four works but paid for all the works which resulted in excess payment of ₹ 56 lakh towards the service not rendered.
- Further, the objective of Government to appoint PMC was to complete the works before PD that was scheduled in November 2009. However, the PMC was appointed (December 2009) only after the PD. The delay defeated the very purpose of appointment of PMC and expenditure of ₹ 4.13 crore was unjustified.

The SE replied (April 2013) that the payment of ₹ 1.03 crore made to PMC prior to agreement would be reviewed for taking necessary action.

The matter was referred to Government in March 2013; their reply is awaited (December 2013).

3.1.4 Loss of revenue due to illegal sand mining

Uncontrolled illegal sand mining in Mulbagal taluk of Kolar district resulted in loss of revenue of ₹ 2.54 crore to Government in respect of three sand blocks

The sand mining was under the control of the Department of Mines and Geology (DMG) till 2010-11. The sand deposited along the river banks was disposed through public auction by the DMG. However, many sand deposits could not be disposed/auctioned due to various reasons. In order to overcome this problem, the Government of Karnataka formulated the Karnataka Sand Policy 2011 effective from 01 April 2011. The Public Works, Ports and Inland Water Transport Department (PWD) was entrusted with the responsibility of quarrying and sale of sand deposits in all identified blocks under the monitoring and guidance of the concerned Deputy Commissioner (DC) of the District in co-operation with other Government Departments through co-ordination committees formed for this purpose.

Accordingly, a District Sand Monitoring Committee (DSMC) was formed (February 2011) in Kolar district under the Chairmanship of the DC. The PWD and DMG jointly inspected (February 2011) all sand deposits of the district and identified 20 blocks estimated to possess 9.42 lakh cum of sand in five taluks of the district. The committee approved (August 2011) quarrying in only 20 blocks and to establish nine check posts.

The Executive Engineer, PWD, Kolar (EE) invited tenders (November 2011) for quarrying operations for 11 approved blocks with the estimated quantity of 5.26 lakh cum and bids for three blocks (estimated quantity 2.10 lakh cum) (Block No. 5, 7 and 8) of Mulbagal taluk were received. The agreements were executed with three contractors on 30 and 31 January 2012 for 1.25 lakh cum. The contractors commenced sand mining from 06 February 2012 and had

extracted 29,434 cum in three blocks as of 27 August 2012. The Assistant Executive Engineer, PWD, Mulbagal in letter of 31 August 2012 informed EE about the non-availability of further quantities of sand in these three blocks and requested that matter be referred to Director, Mines & Geology for further action. Thereafter the quarrying was stopped. Tenders were not invited for the remaining 17 blocks including eight blocks for which no bids were received in the first call.

From the scrutiny (November 2012 and June 2013) of the records of EE, PWD, Kolar, we observed that there was large scale illegal sand mining in Mulbagal taluk during 2011 and 2012 as reported by the different offices⁵⁶. Further, we observed that in Mulbagal taluk, only two check posts were operated from January 2012 by the DSMC though 82 *per cent* of sand deposits of the district were identified as available, whereas other taluks where very small percentage of (7.90 and 4)⁵⁷ sand deposits were provided with two check posts. Thus, the number of check posts operated in Mulbagal taluk was found insufficient.

Thus, illegal sand mining lead to shortage of 0.96 lakh cum of sand in the three blocks and loss of revenue amounting to ₹ 2.54 crore at the rate of ₹ 265⁵⁸ per cum being recovered from public towards cost of sand *minus* extraction cost.

The extent of illegal mining in other blocks of Mulbagal taluk and resultant loss of revenue could not be assessed as no survey/assessment was conducted after February 2011.

The EE stated (November 2012/June 2013) that there was not much sand available as assessed and the remaining sand is not of good quality and stopping of illegal mining/transportation is the duty of all the departments who are members of DSMC and that the sand quarries were identified on visual survey and points fixed by using GPRS. The EE stated that number of check posts were operated as per the decision of the DSMC, additional manpower required for extraction of sand was not provided by Government and that other departments could not effectively control the illegal mining of sand leading to loss to Government.

Reply regarding the quality of sand was not acceptable as there was no proof with the Department having conducted any tests regarding the quality of sand remaining in the quarries. Further there were no measurements of the sand pits excavated for extraction of sand and thus there were no control mechanisms to assess the quantity removed from the quarries.

The matter was referred to Government in May 2013, their reply is awaited (December 2013).

⁵⁶ Tahsildar, AEE, PWD Sub Division, Mulbagal, EE, PWD Division, Kolar

⁵⁷ Bangarpet, Kolar taluks

⁵⁸ ₹ 600 – ₹ 335 = ₹ 265

3.1.5 Unintended benefit

Failure to levy liquidated damages as per the contractual provisions for road works executed after completion of the defect liability period resulted in unintended benefit of ₹ 2.16 crore to a contractor

The contract of “Upgradation of Road from Krishna Bridge to Lokapur” for a length of 55.63 km forming part of Karnataka State Highways Improvement Project (KSHIP) was awarded (May 2004) to a contractor for ₹ 67.62 crore and a consultant designated as “the Engineer” (Project Management Consultant– PMC) was appointed for administration and management of contract. The work was to be executed against prescribed milestones (MS) with overall completion in 30 months. The agreement clauses provides for issue of Taking Over Certificate (TOC) for any milestone on its substantial completion as per certificate of the Engineer and for levy of liquidated damages (LD)⁵⁹ for each day of delay in completion subject to a maximum of 10 per cent of the contract value.

The completion of work under all MS was delayed on account of delay in acquisition and handing over of land/removal of encumbrances, heavy/unseasonal rains, execution of additional utility ducts, etc., and extension of time was approved by Project Director (PD) on recommendations of the Engineer. The Engineer issued (September 2007) TOC for all the MS on the ground that the works were substantially completed on 30 June 2006, 13 June 2007 and 19 June 2007 after obtaining an undertaking from the contractor that the outstanding works⁶⁰ would be completed within the Defect Liability Period (DLP) of one year. The total payments including price adjustments made to contractor was ₹ 77.71 crore. The MS-wise details of work are as given in Table 3.4:

Table 3.4: Milestone-wise details of work

| Mile Stone/ length | Date of commencement/due date for completion | Extension of time approved | Date of take over | Date of completion of DLP |
|-----------------------|--|----------------------------------|----------------------|---------------------------------|
| MS-I/15km | 14.05.2004/13.05.2005 | 23.05.2006 | 30.06.2006 | 30.06.2007 |
| MS-II/24 km | 14.05.2004/13.05.2006 | 13.06.2007 | 13.06.2007 | 13.06.2008 |
| MS-III/16.63km | 14.05.2004/13.11.2006 | 20.06.2007 | 19.06.2007 | 19.06.2008 |

We noticed (October 2011) from the records in the Office of the PD that the works under all the MS were completed at the end of January 2008. The Engineer certified that contractor had completed all incomplete items within DLP but actually balance works (₹ 1.48 crore) under MS-I were completed after DLP and delay works out to 215 days (01 July 2007 to 31 January 2008). The Certificate issued by the Engineer was accepted (July 2009) by KSHIP for final settlement of the bill though it was factually not correct. The delay in completion of work attracts levy of LD. However, LD for 37 days for the period from 24 May 2006 to 30 June 2006 was only proposed. The LD

⁵⁹ At ₹ 1,00,254 for MS-I, ₹ 1,63,507 for MS-II and ₹ 3,71,607 for MS-III

⁶⁰ MS I - ₹ 3.86 crore, MS II - ₹ 3.97 crore and MS III - ₹ 4.51 crore

recoverable for 215 days in respect of MS-I works out to ₹ 2.16 crore (₹ 1,00,254 per day) which was not recovered resulting in unintended benefit to the contractor.

Government stated (September 2013) that the Steering Committee, which is the competent authority, had approved the extension of time on the recommendations of the Engineer and that the Engineer issued completion certificate on substantial completion of work as per the condition of contract. Government also stated that liquidated damages of ₹ 74.18 lakh has been levied for MS-I for 37 days, the time elapsed between extension of time and issue of TOC. Government further stated that LD clause ceases after the TOC was issued. The reply was not acceptable as Clause 48 stipulates two dates for completion of permanent works (to be executed as per contract), one relating to substantial completion for which TOC is issued by the Engineer and the other for completion of balance works during DLP as indicated in the TOC for each section. Thus, failure of the contractor to complete the balance work within DLP attracts LD for the number of days elapsed between time of completion and date indicated in the TOC, as per provisions of LD clause.

3.1.6 Avoidable extra cost

Use of higher grade cement concrete for leveling course resulted in avoidable extra cost of ₹ 97.43 lakh and unintended benefit of ₹ 41.43 lakh to contractors due to consumption of lesser quantity of cement than specified in the tender documents.

The cement concrete pavement is designed based on IRC 15:2002 and IRC 58:2002. The IRC guidelines stipulate a course of dry lean concrete (DLC) of 100 mm thickness over prepared subgrade base and M-40 cement concrete of 300 mm thickness.

The Government gave (February 2011) administrative approval to the work of improvement of 8.5 km in selected reaches of State Highways (48 and 69) divided into nine reaches at an estimated cost of ₹ 25 crore which involved construction of cement concrete over the existing bituminous road which had worn out at several places. As per the request of the Department, the Professor & Head of Department of Civil Engineering, National Institute of Technology, Karnataka, Suratkal (Consultant) after inspection (December 2010) initially suggested (11 January 2011) providing DLC as leveling course in places where Semi Dense Bituminous Concrete (SDBC) had worn out and later revised (20 January 2011) to richer mix *i.e.*, M-15 cement grade concrete. The Chief Engineer, Communications & Buildings (North), Dharwad (CE) technically sanctioned (February/March 2011) the works which falls under the jurisdiction of two divisions⁶¹. The works were awarded (between July 2011 and November 2011) for ₹ 25.10 crore on tender to different contractors and were under progress. An expenditure of ₹ 16.80 crore was incurred (March 2013).

⁶¹ Executive Engineers, Karwar and Sirsi Divisions

Our scrutiny (February and May 2013) of records showed avoidable extra cost and unintended benefit to the contractors aggregating to ₹ 1.39 crore as brought in the succeeding paragraphs:

Unwarranted use of higher grade CC for leveling course

The consultant had suggested use of CC M-15 in place of 100 mm DLC, as DLC would not withstand the load as traffic could not be diverted to alternate route during construction period. Accordingly, the sanctioned estimates provided CC M-15 as leveling course below the CC M-40 pavement. In the absence of alternate roads, the work has to be carried out in half portion of the road allowing other half portion for traffic movement as per Clause 112 of Specification for Road and Bridge Works (Fourth revision). The pavement thickness arrived by Consultant based on traffic loads was 300 mm of CC M-40 and hence CC M-15 grade provided with lesser thickness (100 mm) and also lower grade mix⁶² would not withstand the traffic load. The DLC as leveling course as recommended initially was justified and use of CC M-15 grade was avoidable in view of the actual execution. The injudicious decision in providing CC M-15 grade resulted in extra cost of ₹ 97.43 lakh.

The Executive Engineer, PWD, Karwar stated (February 2013) that the DLC has to be laid only on sub grade and for laying DLC the entire Black Top surface was to be scarified and rebuilt with Granular Sub Base and Wet Mix Macadam which would be costlier. The CC M-15 was considered since leveling course has to be laid on bituminous surface.

The reply was not acceptable since IRC recommends laying of DLC as a sub base above the sub grade. In the instant case, the DLC was suggested by Consultant for leveling course on the existing damaged surface and change was done on non-technical grounds.

Unintended benefit to contractors

The sanctioned estimates provided with 480 kg per cum for CC M-40 item and rate was revised accordingly for inviting tenders. During execution, the Quality Control authorities approved (November/December 2011) design mix of 425 kg per cum for CC M-40 grade item and hence usage of cement was less than that specified in tender. However, the differential cost of 55 kg per cum in cement usage was not recovered from contractors bills which had resulted in unintended benefit of ₹ 41.43 lakh to the contractors.

The Executive Engineer, PWD, Sirsi agreed (May 2013) to recover the amount from the contractors.

The matter was referred to Government in July 2013; their reply is awaited (December 2013).

⁶² Compared to M40 grade mix

3.1.7 Avoidable extra cost

Improper procedure followed in taking up construction of building works belonging to other departments resulted in avoidable extra cost of ₹ 92.82 lakh to Government

As per Paragraph 105 of Karnataka Public Works Departmental Code, the PWD accords administrative approval and technical sanction to works falling under its jurisdiction. For works belonging to other departments, the PWD technically sanctions the work for taking up execution after obtaining administrative approval from department concerned. The communication of administrative approval by other departments meant authorisation to PWD to take up the work and it is the duty of the concerned department to provide funds for execution.

The Secretary, Social Welfare Department (SWD) accorded administrative approval (March 2005) for construction of two boys hostel buildings⁶³ for backward class students at an estimated cost of ₹ 1.08 crore based on the proposals (2004-05) sent by Chief Engineer, Communication & Buildings (North), Dharwad (CE), who had assured availability of funds under major head of account (MHA) 4225 –Capital Outlay on Welfare of Scheduled Caste, Scheduled Tribe and other Backward Classes. The contracts were awarded (March 2007) to two contractors at the tender cost of ₹ 1.14 crore⁶⁴ for completion in nine months and twelve months excluding monsoon period. The contractors achieved a financial progress of ₹ 18.33 lakh⁶⁵ and execution of works were stopped (March 2008) due to non-payment of bills by PWD. The bills could not be paid as funds under MHA 4225 were not made available by SWD. The Director, SWD informed (May 2008) PWD that it had taken up 150 new works and also stated that the administrative approval was accorded as availability of fund was assured by PWD. The pending bills were cleared (March 2010) by PWD by charging to MHA 4059-Capital Outlay on Public Works. As both the contractors gave willingness (November 2011) to execute the balance works as per Schedule of Rates of 2011-12 (SR), the revised estimates for two works aggregating to ₹ 2.12 crore were approved (June 2012) with cost escalation of ₹ 1.04 crore. The supplementary agreements for balance work of ₹ 1.33 crore and ₹ 55.25 lakh were executed (November 2012) with contractors for completion in May 2013. The works were not yet completed though expenditure of ₹ 1.31 crore had been incurred on the two works (May 2013).

Scrutiny of records (October 2012) of the Executive Engineer, PWP&IWTD Division, Bagalkote (EE) showed that grants of ₹ 42.90 lakh was provided in Appendix 'E' by the PWD for these works in the year 2004-05 but lapsed as works were not taken up during the year, as administrative approval was not received. The grants were not provided in the subsequent two years. Though,

⁶³ At Jamakhandi (estimated cost ₹ 75 lakh) and at Savalagi (estimated cost ₹ 33 lakh)

⁶⁴ ₹ 78.26 lakh + ₹ 35.75 lakh

⁶⁵ Physical progress of works: Jamakhandi – up to lintel level, Savalagi – up to plinth level

a provision of ₹ 43.50 lakh was made in budget for the year 2007-08, the bills amounting to ₹ 18.33 lakh submitted (up to January 2008) by the contractors were not paid as funds were not released by SWD. The SWD insisted that the initial sanction itself was given with the condition that PWD had proposed the works by assuring funds itself. The PWD had to provide funds under MHA 4059 for completion of works. The proposal forwarded by PWD to take up the works was irregular and in contravention of provisions as the user department proposed the works by according administrative approval and hence was also responsible to provide funds for execution by PWD. Following improper procedures and failure to take remedial action resulted in delay of five years in construction of hostels leading to non-provision of intended benefits to the backward class students and avoidable extra cost of ₹ 92.82 lakh⁶⁶ to Government.

The EE stated (October 2012) that the work was sanctioned by the SWD and the delay was due to non-allotment of grants by the user department (SWD). The reply did not clarify as to why the initial proposal by PWD was accepted though it was in contravention of rule and why the rule was invoked later only to seek administrative approval from SWD, since PWD was already providing funds for the purpose. Because of the lack of coordination between PWD and SWD, there was cost escalation in the project.

The matter was referred to Government in July 2013; their reply is awaited (December 2013).

COMMERCE AND INDUSTRIES DEPARTMENT

3.1.8 Loss due to under recovery of cost

Karnataka Industrial Areas Development Board allotted developed plots to three industrial units at Narasapura Industrial Area at subsidised rates against the approval accorded by Government for allotment of undeveloped land resulting in loss of ₹ 104.40 crore .

Karnataka Industrial Areas Development Board (Board) approved (August 2010) formation of Narasapura Industrial Area layout (NIA) and fixed tentative price (FTP) at ₹ 85 lakh per *acre* (LPA) to allottees. In addition to the FTP, ₹ 6.70 LPA was payable by allottee towards Tertiary Treated Water (TTW).

The Government accorded (November 2010) in principle approval for establishing aerospace components, structures and assembly unit proposed by M/s Mahindra Aerospace Private Limited (MAPL) and allotted (January 2011) 12 *acres* of undeveloped land at subsidised rate of ₹ 42.65⁶⁷ LPA plus TTW cost of ₹ 6.70 LPA. The Board allotted (February 2011) 12 *acres* to MAPL. The MAPL had also requested for allotment of additional land of eight *acres*

⁶⁶ Value of work as per supplementary agreement (₹188.50 lakh) *minus* value of balance work as per original agreement (₹95.68 lakh)

⁶⁷ Includes five *per cent* premium for corner site

which was approved (May 2011) by Government and alternate developed land of 20 acres in lieu of original allotment was allotted.

The Government concurred (September 2011 and November 2011) to the allotment of 96 acres of land to M/s Honda Motorcycles and Scooter India Private Limited (HSMI) for establishing their third factory and 12 acres of land to M/s Cerebra Integrated Technologies Limited for establishing “E-Waste Re-cycling Plant” as proposed (August 2011) by the Board at the subsidised rate of ₹ 40.62 LPA similar to allotment made in respect of MAPL. The Board while approving the allotment of 96 acres to HSMI resolved (November 2011) that any additional land to HSMI would be allotted at regular rate of ₹ 85 LPA. However, the additional land of 23.05 acres to HSMI was allotted (September 2012) at the same subsidised rate by Board in contradiction to its earlier resolution. Thus, HSMI was allotted totally 119.05 acres of developed land at subsidised rate.

We observed (February/July 2013) that the total development cost for establishing NIA was ₹ 462.09 crore with allottable area of 418.29 acres. Thus, the cost per acre of allottable area works out to ₹ 1.10 crore. Though, Government in their letters (November 2010, May 2011, September 2011, November 2011 and September 2012) approved the Board’s proposal of allotment of undeveloped land at subsidised rate, the Board allotted developed plots at subsidised rate to these three firms which resulted in loss of ₹ 104.40 crore⁶⁸.

The Government stated (December 2013) that Board has resolved (July 2013) for revision of the tentative allotment rate to ₹ 138.50 LPA for allotments made at NIA excluding bulk allotment made at subsidised rates to three companies since they are anchor industries in the field of automobiles which attracts vendor industries. There would be no loss to the Board in view of revision of tentative allotment rates to other allottees.

The reply was not acceptable as:

- As per prevailing rules, there is no provision to fix or approve any cross subsidised rate in allotment of land and to adjust under recovery of cost from one set of industries against cost on vendor industries.
- The July 2013 Board resolution was an afterthought and resolved after issue of audit observation. Recovery of differential cost from other allottees is highly doubtful as their consent had not been obtained for *post facto* escalation.
- The Government had ordered for allotment of undeveloped lands to these two companies but Board allotted developed lands.
- The anchor industry is defined as an “industry with capital investment of ₹ 500 crore or more in the first phase and having minimum of 15 vendor units in the same industrial area”. As per this definition, the MAPL cannot be categorised as anchor industry as their capital investment was ₹ 284 crore only.

⁶⁸ MAPL { 20 acres × (₹ 110 lakh - ₹ 42.651 lakh) } = ₹ 13.47 crore + HSMI {119.05 acres × (₹ 110 lakh - ₹ 40.62 lakh) } = ₹ 82.60 crore + M/s Cerebra Integrated Technologies Ltd (12 acres x (₹ 110 lakh -40.62 lakh)= ₹ 8.33 crore

3.1.9 Undue benefit due to excess sanction of incentive

The Government sanctioned excess interest free loan in violation of provisions of Industrial Policy 2009-14. The Government also irregularly released ₹ 20.94 crore even before commencement of commercial production from the expanded capacity.

The Government introduced (February 2009) Industrial Policy 2009-14 (new IP) effective from April 2009 in place of IP 2006-11(Original IP)⁶⁹ to attract more investments and spur industrial growth in the State. The new IP offered various incentives and concessions for investments made on or after 01 April 2009 to the extent of at least 50 *per cent* of the original investment. The State Level Co-ordination Committee (SLCC) approved (May 2009) operational guidelines for granting various incentives and concessions offered in the new IP. As per operational guidelines, a unit which had obtained benefits during implementation stage of original IP was also entitled for other benefits under new IP, provided,

- Sanction and first release of loan by financial institutions/banks should be after 01 April 2009.
- Orders for supply of machinery should be placed only after 01 April 2009.
- Date of commercial production should be in operational period of new IP.

M/s Jaykay Cements Limited⁷⁰ (Company) proposed to establish (1997) one⁷¹ million tons per annum (MTPA) capacity cement manufacture plant at Muddapur village in Bagalkot district at an investment of ₹ 300 crore. The Company's proposal to increase the capacity of plant to 2.5 MTPA including two power plants at total investment of ₹ 750 crore was approved by Government in February 2007. The Company was granted (February 2007) incentives (entry tax/special entry tax exemption of ₹ 8.97 crore – up to July 2009) and concessions in terms of original IP subject to commissioning of plant within two years. The Company's subsequent proposal (April 2008) to enhance the capacity of the plant to three MTPA and 50 MW captive power plant at a total investment of ₹ 850 crore was approved by Government in February 2010. The Company had commenced commercial production in October 2009. The Company sought (February 2010) for grant of "interest free loan on VAT", a new incentive introduced in new IP.

The Commissioner, Commerce & Industries Department, (DIC) recommended (May 2010) for approval of the proposal. The Government rejected (May 2010) the recommendation for the reasons that company had (i) already exercised its option (13 February 2007) to avail benefit under original IP and availed entry tax/special entry tax exemption up to March 2009, (ii) already availed loan of ₹ 525 crore from financial institutions, (iii) invested more than 50 *per cent* of the project cost of ₹ 750 crore prior to 01 April 2009.

⁶⁹ In force from 01 April 2006

⁷⁰ Renamed as M/s JK Cement Works

⁷¹ Expandable to 2 MTPA

Following Company's representation, the issue was referred to SLCC which recommended (October 2010) for extending benefits as per new IP subject to repayment of entry tax exemption availed by company under original IP for the reasons that company had (i) not placed supply order for all the machinery prior to 01 April 2009, (ii) availed benefits under original IP before the introduction of new IP, (iii) not exercised option to remain under original IP in terms of Annexe-5 of new IP, etc.

Accordingly, Government issued order in October 2010 and DIC issued (July 2011) VAT Loan Eligibility Certificate (New Enterprises) for ₹ 521.39 crore being 50 *per cent* of the value of the investment on fixed assets (₹ 1,042 crore) as "interest free VAT loan", which could be availed in 10 years. The loan was repayable in four annual instalments on completion of 10 years from the date of release of loan.

We observed (February 2013) that grant of "interest free VAT loan" was incorrect as company did not fulfill the conditions laid down in operational conditions referred to in the introductory paragraph, since;

- loan to company was sanctioned⁷² by financial institutions prior to April 2009 and it had invested ₹ 771.42 crore before 01 April 2009; out of which ₹ 425.42 crore was towards supply of machinery.
- the output from plant had not exceeded 2.5 MTPA as total production was 1.82 MTPA during 2011-12 and commercial production of the expanded capacity had not commenced.

The Company has fulfilled only the condition of additional investment towards expansion *i.e.* ₹ 271.58 crore (₹ 1,042 crore *minus* ₹ 771.42 crore). Therefore, the Company was eligible for "interest free VAT loan" of ₹ 135.79 crore (50 *per cent* of ₹ 271.58 crore) as against ₹ 521 crore sanctioned and excess incentive granted was ₹ 385.21 crore. Further, the Company had been granted the incentive of ₹ 20.92 crore (as of August 2012) even before it had commenced commercial production from expanded capacity and the release of incentive was irregular and recoverable along with interest.

The Commissioner stated (May 2013) that:

- the incentive to the Company has been allowed as per clause 'K' of conditions of the Industrial policy 2009-14 and also stated that the earlier decision of the Government refusing the benefit was not in order.
- the Company availed incentive under 2006-11 policy as 2006-11 policy only was in force at the time of project clearance and entry tax exemption on the capital goods brought was claimed under the said policy. To continue in 2006-11 policy exercising option again was mandatory, which was not done by the Company.

⁷² Investment made by the Company before 1 April 2009: Plant & Machinery- ₹ 425.42 crore, Foundations & other expenses - ₹ 280.00 crore, and Land & etc- ₹ 66 crore

- the investment made prior to 01 April 2009 and after 01 April 2009 cannot be treated as under two different policies but should be treated as under one policy.

The reply was not acceptable for the following reasons:

- Government initially rejected the proposal for reason that more than 50 per cent of the project cost was invested prior to 1 April 2009 and that the Company had already availed entry/special entry tax exemption up to 31 March 2009. The option under Clause 'K' of the new IP is applicable for availing incentives and concessions under previous IP. Hence, the option was not applicable for those who had already availed incentives and concessions under previous IP.
- The exercising of option as per Annexe-5 of new IP was mandatory only for availing capital investment subsidy which was introduced in new IP for large and mega projects, which was also extended to units covered by previous IP in order to remove disparity between the two IPs. Such option was to be exercised before 30 June 2009. Therefore, by not exercising option, the Company does not qualify to come over to new IP.
- As per operational guidelines, the quantum of incentives has to be regulated based on additional investments made after 1 April 2009. Therefore, incentive granted on ₹ 771.42 crore invested prior to 1 April 2009 resulted in extending undue benefit to the Company.

Allowing the Company to refund the benefit already availed under previous IP was a new condition stated by Government in the sanction order to benefit the Company which was not contemplated under new IP.

The matter was referred to Government in March 2013; their reply is awaited (December 2013).

3.1.10 Avoidable liability due to misinterpretation of rules

Karnataka Industrial Areas Development Board had to bear tax liability due to non-deduction of income tax at source from land compensation payments. This resulted in excess payment of ₹ 12.08 crore to land owners besides loss of ₹ 1.58 crore towards payment of interest.

The Karnataka Financial Code⁷³ stipulates that the Drawing and Disbursing Officer should deduct all statutory deductions from the bills before making payment and any violation in this regard would be considered as negligence. Further, as per Section 194-LA⁷⁴ of the Income Tax Act, 1961 (IT Act), any person responsible for making payment should deduct 10 *per cent* as income tax out of compensation payment, exceeding ₹ one lakh in a financial year, towards compulsory acquisition of immovable property, under any law, other

⁷³ Article 3 read with Article 341

⁷⁴ Effective from 01 October 2004

than agricultural land. The tax deducted at source should be credited to Government account within prescribed date. Any default in observing the statutory provisions entails payment of tax with simple interest⁷⁵ by the person responsible to deduct tax.

We observed (January 2013) from records of Karnataka Industrial Areas Development Board (KIADB) that statutory provisions were not followed by Special Land Acquisition Officer (SLAO) in following cases causing unwarranted liability to the Board:

- The Income Tax Officer, Hubli (ITO) conducted (August 2011) survey of records of SLAO, KIADB, Dharwad covering the period from May 2010 to April 2011 and found that income tax was not deducted from compensation amount of ₹ 144.48 crore paid to 28 land owners for acquisition of their immovable property other than agricultural lands. During the enquiry proceedings, the SLAO cited circular issued (December 2001) by State Government for non-deduction of tax at source and deduction was resumed after instructions (April 2011) from higher authorities. SLAO further stated that the KIADB would take the responsibility for collecting the tax due from land owners and remit to the income tax department. The explanation was rejected by the income tax authorities who held (September 2011) SLAO as “assessee in default” and issued notice (September 2011) under section 156 of IT Act for financial year 2010-11 (assessment year 2011-12) demanding a sum of ₹ 16.02 crore (Principal - ₹ 14.44 crore, interest - ₹ 1.58 crore) with directions to pay the same within 30 days. The demand was reduced as some land owners had filed income tax returns for TDS amount aggregating to ₹ 2.36 crore. As the payment was not made by SLAO, the tax authorities attached (December 2011) the bank accounts of SLAO and deducted a sum of ₹ 13.66 crore (Principal - ₹ 12.08 crore, interest - ₹ 1.58 crore). Thus, failure to deduct tax at source by SLAO resulted in excess payment to land owners in addition to causing avoidable liability of ₹ 13.66 crore to the Board. The Controller of Finance, KIADB had instructed (February 2012) recovery of the amount from the land owners.

The Government stated (December 2013) that an amount of ₹ 4.15 crore has been recovered by SLAO, Dharwad up to March 2013. However, it was observed that only the principal amount was recovered and the amount paid towards interest was not being recovered.

⁷⁵ For non-deduction of tax – at one *per cent* interest from date on which tax was deductible on tax amount not deducted (Section 201 (1) of IT Act 1961
For delay in remittance of tax – at 1.5 *per cent* from the date on which tax was deducted to date of remittance {Section 201 (1A) of IT Act, 1961}

INFORMATION TECHNOLOGY, BIOTECHNOLOGY, SCIENCE & TECHNOLOGY DEPARTMENT

3.1.11 Excess release of grants

The improper and deficient scrutiny in release of grants for establishing biotechnology finishing schools resulted in excess release of grants towards ineligible investments aggregating to ₹ 7.93 crore, out of this ₹ 4.39 crore remain unutilised.

As a part of Biotech Policy II (Policy), the Government of Karnataka announced (July 2009) establishment of Biotechnology Finishing Schools (BTFS) and constituted (May 2010) a Selection Committee (SC) for framing guidelines regarding course content, duration, selection procedure, university affiliation, etc. Based on the guidelines submitted (May 2010) by SC, the Government approved (June 2010/December 2010) establishment of 12 finishing schools and extended financial assistance to a maximum of 25 per cent of the cost of necessary laboratory equipment, gadgets and instruments procured. The reimbursement was subject to a maximum of ₹ one crore per school and the following conditions were to be satisfied:

- The schools shall procure the required equipment and other related gadgets relevant to the courses offered as per the list approved by SC, and
- the procurements so made would be scrutinised and inspected by the committee for recommending for release of Government share.

As per the recommendation of SC in December 2010, the reimbursement procedure was changed (February/May 2011) to advance release of grants. Government released (February 2011/May 2011) ₹ six crore to 12 schools (₹ 50 lakh per school) through Managing Director, Karnataka Biotechnology and Information Technology Services (KBITS) established on 07 December 2000, as a Society under the Karnataka Societies Registration Act. It was also specified that further release would be considered after the institutions invest their share of 75 per cent in the setting up of the BTFS and any investment made prior to Government Order shall not be counted for determining their share. The KBITS was required to furnish Utilisation Certificate (UC) through Director, Information Technology and Bio-Technology, Bangalore.

The balance grant of ₹ six crore was released to all the BTFS by KBITS during June 2012 based on the UCs submitted by the institutions and report (April 2012) of Inspection Committee set up by the SC.

From the records of Director, Department of Information Technology & Biotechnology, we observed that the grants were released despite the finishing schools not complying with the stipulated conditions. The scrutiny by SC/KBITS was deficient and improper monitoring resulted in excess release of grants for the reasons stated below:

- SC had not approved the list of required equipment and other related gadgets before release of first tranche of grants, as per sanction orders.
- SC members inspected the institutions between January and March 2012 *i.e.* before release of second installment of grant of ₹ six crore. As per the report of inspection, the cost of procurement of equipment/gadgets from Government grant ranged from ₹ 28 lakh to ₹ 48 lakh in respect of seven BTFS and details regarding remaining five were not on record.
- As seen from the expenditure statements and UCs furnished by the 12 institutions, we noticed that investments made prior to cut-off period which were not to be counted towards 75 *per cent* share were included besides expenses towards ineligible items *viz.*, construction of buildings, site development, leased area cost, electrical installations, furniture, mini bus, salaries and administrative expenditure and hence these items were not reimbursable. The total expenses incurred by each of the 12 institutions towards procurement of equipment/instruments/gadgets ranged between ₹ 0.42 crore and ₹ 2.97 crore and hence several institutions were not even eligible to receive second instalment of grant as they had not invested their 75 *per cent* share.
- As of May 2013, the unspent balances from Government contribution held by 11 institutions was ₹ 4.39 crore *i.e.* more than one-third of total grant released by Government. These details were obtained at the instance of audit which evidently indicates that monitoring was poor.

The actual expenditure incurred by the institutions towards procurement of equipment/gadgets during the eligible period (June 2010 to May 2013) aggregates to ₹ 16.36 crore and against the 25 *per cent* grant of ₹ 4.07 crore eligible for release to them, ₹ 12 crore was released. The improper scrutiny and lack of monitoring resulted in excess release of ₹ 7.93 crore.

Government replied (August 2013) that, an inspection committee constituted to inspect and report about the infrastructure setup and utilisation of grants by the institutions for BTFS has reported that the total investment by each institution in setting up of BTFS was more than ₹ three crore. Government also stated that instruments/equipment are not available off the shelf and hence not all the institutions could procure them before the start of the academic course.

The reply was not acceptable as financial assistance to a maximum of 25 *per cent* was only towards cost of necessary laboratory instruments, gadgets and equipment and does not include cost of infrastructure.

3.2 Audit against propriety/Expenditure without justification

Authorisation of expenditure from public funds is to be guided by the principles of propriety and efficiency. 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 noticed instances of impropriety and extra expenditure, some of which are hereunder.

FOREST, ECOLOGY AND ENVIRONMENT DEPARTMENT

3.2.1 Wasteful expenditure

The work of rejuvenation of Channapatna lake in Hassan town, which was de-notified a decade earlier, was stopped mid-way leading to wasteful expenditure of ₹ 3.57 crore.

The rejuvenation of Channapatna lake in Hassan town, covering an area of 159.39 acres, was taken up under National Lake Conservation Plan for which Government of India (GOI) provides 70 per cent grant and balance to be borne by State Government. The lake had turned dry with extensive weed growth and sewerage was also let into the lake. The project was mooted by Lake Development Authority (LDA), Karnataka in response to a request of then Hon'ble Member of Parliament, Hassan. The cost was estimated at ₹ 6.35 crore by Government of Karnataka (GoK). However, GOI accorded (January 2005) sanction for ₹ 4.97 crore by deleting items of works like construction of boat jetty, providing electrical works and the fountains etc., and reducing quantity in some other items. The LDA technically sanctioned (July 2005) the work and entrusted (July 2005) the work to Deputy Commissioner, Hassan (DC) who in turn appointed Hassan Urban Development Authority (HUDA) as the implementing agency. The work portion costing ₹ 4.42 crore was entrusted (October 2005) to a contractor for completion in 12 months excluding rainy season. The contractor had stopped execution of the work in April 2006 after achieving financial progress to the extent of ₹ 3.28 crore. The unspent balance available with LDA/HUDA was ₹ 68 lakh out of the ₹ 4.24 crore received from GOI.

The non-completion of work was discussed in several meetings and the DC after inspection (December 2009) reported that the project would not serve the intended purposes by completing balance work as several deviations had taken place in execution of work. A proposal was sent to LDA by DC to re-design the project with an additional cost of ₹ 27.21 crore. The contract was terminated in January 2010 and it was decided to assign the project to more technically competent department. The Empowered Committee of LDA directed (April 2010) DC to fix responsibility on the concerned for deviation/delay in execution of work and rejected the modified proposal. The LDA asked (October 2010) the DC to return the fund released under the project; while DC informed (February 2011) the State Government that the work was executed as per the estimate approved by LDA. The LDA while furnishing (November 2012) the status report to GOI stated that the whole work was carried out in an unplanned manner and more importance was given to urbanisation in the form of setting up of bus stand and office buildings etc. The LDA further stated that intended purpose cannot be achieved by completing balance work and sought advice for refunding the unspent balance.

No progress was made in this regard and rejuvenation of the lake was not achieved after incurring an expenditure of ₹ 3.57 crore.

We observed (February 2012/June 2013) from the records of DC, LDA that the lake was not in existence when rejuvenation work was taken up by LDA in 2003. In November 1996 itself, the Government had taken decision to de-notify the command area of the lake which had turned highly polluted causing health hazard due to discharge of sewerage and decision to de-notify was taken as per the recommendation of Karnataka State Pollution Control Board in consultation with Department of Health/Agriculture and Hassan City Municipal Council. The notification was issued and the lake was breached in December 1996 by the DC in pursuance of Government direction for allotment of lake bed at market price to Urban Development Department for development to overcome health hazard.

There were railway tracks built on the lake bed and 55 acres of lake bed was allotted to different agencies by the DC for urban development and water source had dried up. Hence, the decision to rejuvenate a non-existing lake by LDA was irregular and DC/HUDA failed to appraise the factual position to LDA in 2003. The circumstances under which a non-existing lake was sought to be rejuvenated by the LDA without formal hand over by Government were not forthcoming from the records. The rejuvenation proposal had resulted in wasteful expenditure of ₹ 3.57 crore and despite this, the DC had further proposed for additional expenditure of ₹ 27.21 crore.

The LDA initially stated (June 2013) that the work was taken up as per request of people's representative and also stated that notices have been issued to DC to enquire into diversion of lake land for non-lake activities and to refund the amount. However, the CEO, LDA admitted (September 2013) that the lake was not handed over to LDA either through notification or Government Order. Thus, rejuvenating the lake by LDA was devoid of authority as likelihood of fructification was remote and consequently there was a wasteful expenditure of ₹ 3.57 crore.

The matter was referred to Government in July 2013; their reply is awaited (December 2013).

WATER RESOURCES DEPARTMENT – MINOR IRRIGATION

3.2.2 Avoidable outlay on ill-conceived project

The work of improvements to a percolation tank were taken up without conducting adequate survey and assessing benefits. The work remained incomplete due to land acquisition problems whereas cost of land acquisition had increased by four times.

The Government approved (March 2010) 'Improvements to Mysorammanadoddi tank' in Anekal taluk, Bangalore Urban district at an estimated cost of ₹ 2.20 crore with the objective of increasing storage capacity of the tank from 0.0234 million cubic meter (mcum) to 0.1012 mcum. It was anticipated that these improvements would increase the yield from the bore-

wells in surrounding areas and consequently increase the area under irrigation. The sanctioned estimate amongst other items included raising the height of the bund and waste-weir by two meters, removal of silt and also included cost of acquisition of 5.90 hectare (ha) of additional land amounting to ₹ 78.31 lakh.

The contract of civil works was awarded (December 2010) to a contractor at his quoted rates of ₹ 1.32 crore (minus 24.62 *per cent* of current schedule of rates) for completion in 11 months (August 2011). The contractor could achieve a financial progress of ₹ 78.37 lakh during the contract period before stopping the work⁷⁶ (August 2011). The contractor had completed raising the height of the bund and partly completed the work relating to removal of silt, waste-weir, *etc.* The waste-weir was tackled up to ground level as raising the height further would result in submergence of land which was yet to be acquired. The land acquisition process was still in preliminary stage due to non-receipt of requisite details from revenue authorities. The Sub-Divisional Officer proposed (May 2013) pre-closure of work anticipating considerable delay in land acquisition as preliminary notification under Land Acquisition Act, itself had not commenced. The improvement work which commenced in December 2010 had remained incomplete and the delay would result in further cost overrun.

Scrutiny of records (January 2013) of the Executive Engineer, Minor Irrigation Division, Bangalore (EE) showed that the survey conducted was deficient and the objective of increasing storage capacity of the tank was not achievable without acquisition of further land as brought out in the succeeding paragraphs:

- Though the objective was to increase the storage capacity of the tank, no survey was conducted to assess the rate of percolation. The cost benefit ratio was not worked out and project report did not contain data on extent of suffering *atchkat*⁷⁷, number of bore-wells, additional area that would be benefitted due to increase in storage capacity, *etc.*
- The land acquisition process for additional land of 5.90 ha had not commenced as EE had not deposited the amount with revenue authorities. As per information furnished (July 2013) by EE, the cost of land per acre was ₹ 30 lakh and cost of land acquisition works out to ₹ 4.38 crore against provision of ₹ 78.31 lakh, which is grossly inadequate to meet the land acquisition cost.
- The existing storage capacity of the percolation tank was 0.0234 mcum (23,400 cum) which was proposed to be increased to 0.1012 mcum at an estimated cost of ₹ 2.20 crore involving submergence of additional land. Further, provision for silt removal for 36,334.34 cum was also provided and out of which 29,112.36 cum (0.0291 mcum) had been removed. The silt accumulation in the tank exceeded the existing storage capacity of the tank.

⁷⁶ Physical progress: Waste weir up to RL 100m (old level), removal of silt 29,112 cum

⁷⁷ Command area

Thus, the project was ill-conceived and taken up without conducting adequate survey to assess the benefit accrued, which resulted in abandonment of the project after incurring an expenditure of ₹ 78.37 lakh.

The EE stated (July 2013) that land acquisition proceedings were held up as revenue authorities had not made available *podu*⁷⁸ maps and hence recommendations were made to close the work. EE also stated that silt deposited was 36,334.34 cum and accordingly provision was made in the estimate for its removal.

The reply regarding silt removal was not acceptable as the quantity of silt removed was far in excess of the existing storage capacity of the percolation tank, besides the project report also stated that the water level in the tank was full throughout the year.

The matter was referred to Government in July 2013; their reply is awaited (December 2013).

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 fulfilment of certain goals in the area of health, education, development and up gradation of infrastructure and public service *etc.* However, Audit noticed instances where the funds released by Government for creating public assets for the benefit of the community remained unutilised/blocked and/or proved unfruitful/unproductive due to indecisiveness, lack of administrative oversight and concerted action at various levels. One such case is discussed below:

COMMERCE AND INDUSTRIES DEPARTMENT

3.3.1 Mismanagement of investments

Karnataka Industrial Areas Development Board officials had irregularly deposited ₹ 12 crore and mismanaged the entire transaction leading to the entire amount remaining unencashed much after maturity

The Karnataka Industrial Areas Development Board (Board) invests surplus funds with scheduled banks in short term and long term securities. The Board on 14 September 2011 deposited a cheque of ₹ 25 crore drawn on Corporation Bank with Punjab National Bank (PNB), Rajajinagar Branch, Bangalore for a term deposit of one year at 9.75 *per cent* interest rate. The amount was debited to the Board account on 16 September 2011. However, Fixed Deposit Receipt (FDR) was issued by Sankari West Branch, Salem, Tamil Nadu and the same was accepted by the Board.

⁷⁸ Bifurcation made on survey number into sub-survey numbers

The Controller of Finance of the Board forwarded (7 September 2012) the FDR to PNB, Rajajinagar Branch, Bangalore for crediting the proceeds into its accounts on maturity.

As the proceeds of FDR of ₹ 12 crore were not received, the Board took up (21 September 2012) the matter with the Manager, PNB, Rajajinagar branch (Manager). The Manager stated (29 September 2012) that the proceeds in respect of said FDR have not been received from PNB, Sankari West Branch, Salem and advised (20 October 2012) the Board to take up the issue directly with the PNB branch where the deposit was actually parked. This advice was not accepted by the Board. The Board's contention that the cheque was deposited with the Rajajinagar Branch and therefore they alone should discharge was not accepted by PNB, Rajajinagar branch by stating (September 2012) that the deposit was transferred to Sankari West Branch, Salem as per the instruction of the Board as Sankari West Branch, Salem had offered interest rate of 9.75 *per cent*. The stalemate continued and proceeds of FDR of ₹ 12 crore with interest due on the same have not been received till date (December 2013).

We observed (January 2013) the following financial impropriety and negligence on the part of the Board:

- The Board issued a cheque towards fixed deposit in favour of PNB, Rajajinagar Branch expecting an interest rate of 9.75 *per cent* though the Bank had offered only 9.60 *per cent*. The expectation about obtaining a higher rate was not backed by any commitment from the Bank.
- When the cheque was handed over to PNB, Rajajinagar, an undertaking from the Manager was obtained which stated that maturity proceeds would be paid either through banker's cheque or pay order and failing which, "we undertake to pay interest at 18 *per cent* per annum for days default". Ordinarily, neither such undertaking is given by any scheduled bank on receipt of a fixed deposit nor it is insisted upon by a depositor. Obtaining of such an undertaking suggested that the depositor was doubtful of the fructification of this deposit.
- It is not clear how and why the Board accepted the FDRs issued by another branch of the PNB when it had submitted the application form to a different branch.
- It was necessary to vigorously pursue and primarily correspond with the branch which had issued the FDRs for its discharge. Instead, the Board chose to correspond with Rajajinagar Branch for the discharge of FDR.

The matter was not taken up at Government level and was not being pursued legally either.

The Government stated (December 2013) that the matter was investigated by CBI at the instance of PNB. The Executive Officer also stated that the Board had resolved (July 2013) to file recovery suit against PNB and departmental enquiry against two officials as recommended by CBI, would be conducted.

**BANGALORE
THE**

**(ANITA PATTANAYAK)
Principal Accountant General
Economic & Revenue Sector Audit**

COUNTERSIGNED

**NEW DELHI
THE**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**