

CHAPTER VII- MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION

National Projects Construction Corporation Limited

7.1 Inordinate delay in terminating projects

National Projects Construction Corporation Limited terminated contracts in respect of six roads on detecting fake documents submitted by the contractor and inordinately delayed termination of contracts for another 30 roads. This led to additional cost of ₹ 16.42 crore on re-tendering contracts for completion of unfinished work in respect of 19 roads.

National Projects Construction Corporation Limited (NPCC) entered (August 2004) into a tripartite agreement with the Ministry of Rural Development (Ministry), Government of India, and Government of Bihar for executing construction, commissioning and maintenance of roads in the state of Bihar under the Pradhan Mantri Gram Sadak Yojana (PMGSY), a scheme intended to enhance rural development by promoting access to economic and social services through developing all-weather road connectivity. NPCC, being implementing agency, was to receive fee @ 10 per cent of the total project cost of the awarded works (for construction and five years maintenance) from the Ministry. NPCC was assigned projects during 2004-05 to 2009-10 comprising execution of construction of 692 roads at a cost of ₹1,431.63 crore. Accordingly, NPCC invited open tenders as per Standard Bidding Document¹ (SBD) and awarded works to the various contractors from time to time.

Scrutiny of records (February 2014) revealed that NPCC terminated contracts in respect of 36 roads² having contract value of ₹ 81.59 crore during September 2010 to August 2013. In this connection, it was observed that:

- Clause 12.1 of Section 2–Instructions to Bidders under SBD stipulates submission of various documents along with bid including documents in support of qualification, experience, ownership of construction equipment etc. NPCC accepted bids of M/s Birendra Tiwari Construction in respect of six³ roads (September 2009) without verification of documents prescribed under the SBD. Subsequently, on detecting that the contractor had submitted fake documents with the tenders, NPCC terminated contracts for three roads each in September 2010 and December 2010.

¹ SBD prepared by National Rural Roads Development Agency and adopted by the Government of Bihar.

² Buxar (8), Bhojpur (9), Rohtas (7), Patna (6) and Nalanda (6).

³ Buxar (3) and Bhojpur (3).

- The date of completion of works was 12 months after start of work as prescribed under the SBD. However, the contractors did not complete the work in respect of remaining 30 roads within the prescribed time. However, NPCC did not initiate timely action for termination of these non-performing contracts. Subsequently, NPCC terminated these contracts with inordinate delays which ranged between 744 days and 1838 days after schedule dates of completion of the construction/contract.
- In case of termination of contract because of the contractor's default, General condition number 24 of contract under SBD stipulates recovery of 20 *per cent* of the value of unfinished work from the contractor on account of additional cost for completing the work. NPCC invited fresh tenders during July 2013 to January 2014 for completion of the unfinished works in respect of 19 roads out of terminated contracts for 36 roads involving an additional construction cost of ₹ 16.42 crore beyond contractor's liability of 20 *per cent*. This additional construction cost included ₹ 1.88 crore in respect of contracts for five out of six roads earlier awarded to M/s Birendra Tiwari Construction.
- NPCC requested (January 2014) the Ministry for approval of ₹11.16 crore as additional cost for completion of unfinished work of nine roads. While considering NPCC's proposal, the Ministry observed (February 2014) that there was negligence to terminate the contracts on the part of the Company as it took about five years to terminate contracts in 2012-13 against their awarding in 2007-08. The Ministry further stated that as per clause 12 (c) of the tripartite agreement, in case of escalation due to delay/negligence of NPCC, cost would be borne by it.
- NPCC again sent justification in support of their proposal and requested (February 2014) the Ministry to accord approval for additional cost involved in terminated contracts for nine roads. Subsequently, NPCC requested (March 2014) the Ministry for approval of additional construction cost of ₹5.26 crore in respect of balance 10 roads. The Ministry, while addressing NPCC's earlier request of January 2014 and February 2014 maintained that excess cost in the nine road works was not on account of material change in scope of work or quantities but solely because of time overrun and directed (March 2014) NPCC to bear the additional cost for the terminated contracts and complete the work satisfactorily at the earliest.

Thus, award of contracts in respect of six roads to an ineligible contractor without following the tendering procedure scrupulously, and inordinately delayed termination of other incomplete contracts resulted in time and cost overrun to the tune of ₹16.42 crore in respect of completion of unfinished construction work of 19 roads. Progress of work relating to balance contracts for 17 roads ranged between 20 *per cent* and 95 *per cent* and fate of unfinished work of these roads was yet to be decided (May 2014). Further, denial of the Ministry to approve the additional cost corroborates the fact that additional cost has to be borne by NPCC.

The Management stated (March 2014) that as per SBD, evaluation of technical bids was to be completed within five working days from the date of bid opening and there was no

scope for verification of documents due to time constraint. Further, the PMGSY roads were located in remote villages, persistent law and order problem in rural areas contributed to delay in progress of work. The Management further stated (May 2014) that due to increase in cost of materials and closure of operating quarries in Bihar and inadequate release of fund from the Ministry, the contractors slowed down the work. As these factors were beyond their control, they were granted time extension to complete the work. The Management added that the Ministry was requested to approve additional cost for construction of 19 roads and NPCC would not execute the work if additional cost was not approved by the Ministry. NPCC also added that it had not awarded the work for these 19 contracts to any agency and, hence, there was no burden of additional cost as projected by Audit.

The Management's reply is not acceptable as the time schedule for bid evaluation was as per the SBD and was to be abided by. The additional cost was not on account of material change in the scope of work or quantities but solely because of time overrun as stated by the Ministry. The Management delayed termination of contracts leading to additional cost of ₹ 11.16 crore in respect of contracts for nine roads, which has to be borne by NPCC in terms of clause 12(C) of the Tripartite Agreement of August 2004. The Ministry also refused to accede to the Management's request and, therefore, the liability devolves on NPCC.

The matter was reported to the Ministry in December 2014; their reply was awaited (March 2015).