

Chapter-II
Performance Audit relating to
Government Company

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2 Performance Audit relating to Government Company

Haryana State Industrial and Infrastructure Development Corporation Limited

Acquisition of land, Development of Industrial Estates and their management

Haryana State Industrial and Infrastructure Development Corporation Limited was incorporated in 1967 for promoting medium/ large scale industries and developing Industrial Estates in the State. Some of the significant findings are as under:

Highlights

The Company has not prepared any perspective plan for acquisition and development of land for balanced industrial development in the State and failed to boost the Micro, Small and Medium Enterprises sector as per the requirements of the Industrial Policy.

(Paragraphs 2.6 and 2.6(ii))

Land measuring 7542.76 acres valuing ` 4,488.86 crore acquired between January 2006 and April 2013 has not yet been taken up for development of Industrial Estates.

(Paragraph 2.6(i))

The Company incurred extra expenditure of ` 742.92 crore and ` 112.61 crore on acquisition of land due to delay in filing of appeals in court and application of incorrect rates, respectively.

(Paragraphs 2.7(i) and 2.7(ii)(a))

There was delay in execution of development works, against the leviable Liquidated Damages of ` 19.34 crore, the Company levied Liquidated Damages of ` 5.86 crore only leaving a shortfall of ` 13.48 crore.

(Paragraph 2.8.1(iv))

The percentage of recovery of enhancement in cost of land decreased from 43 in 2014-15 to 12 in 2016-17. Due to poor recovery performance, the overdue amount from allottees increased from ` 1,144.56 crore to ` 1,871.04 crore during the period 2015-17.

(Paragraph 2.8.2(iv))

2.1 Introduction

Haryana State Industrial and Infrastructure Development Corporation Limited (Company) was incorporated in 1967 for promoting and administering medium/ large scale industries and developing Industrial Estates in the State.

The Company also decided to undertake (December 2005) the function of development of infrastructure in the State.

The Management of the Company is vested in the Board of Directors (BoDs) comprising a Chairman and seven directors including a Managing Director, who are appointed by the State Government. The Managing Director is the Chief Executive of the Company and is assisted by officers in the field and at Head Office of the Company. The Company has 17 field offices to carry out its activities.

2.2 Audit objectives

The audit objectives were to ascertain whether the:

- Company had a perspective plan for industrial development in synchronisation with the industrial policy of the State and was effective in achieving the same;
- legal, financial and social obligations were fulfilled in acquisition of land;
- the industrial areas were developed and managed in an economic, efficient, effective and transparent manner; and
- adequate internal controls (record maintenance, reconciliation and Management Information System *etc.*) were in place.

2.3 Scope of Audit

The working of the Company for the period 2007-12 was earlier reviewed and the review featured in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2012 – Haryana. The performance review was discussed by Committee on Public Undertaking (COPU) of the State Legislature in its 62nd report.

The present audit, conducted from November 2016 to May 2017, assessed the activities of acquisition of land, development of Industrial Estates and their management during the period 2012-13 to 2016-17. To achieve audit objectives, apart from scrutiny of records at Head Office of the Company, six field offices¹ out of 17 were selected for detailed scrutiny selected through Statistical Sampling method, where 88 *per cent*² of total expenditure was incurred on land acquisition and development.

An entry conference for the performance audit was held in January 2017 with the Managing Director of the Company. The audit findings were reported to the Company and the State Government in May 2017 and discussed in an exit conference held in July 2017, which was attended by Principal Secretary to the

¹ Manesar, Gurgaon, Kundli, Faridabad, Rohtak and Bawal.

² Expenditure of ` 10,114 crore out of ` 11,493 crore incurred on land acquisition and development during 2012-13 to 2016-17 (up to October 2016).

Government of Haryana, Industries Department and Managing Director of the Company. The views expressed by the Company and Government have been considered while finalising this Performance Audit.

2.4 Audit criteria

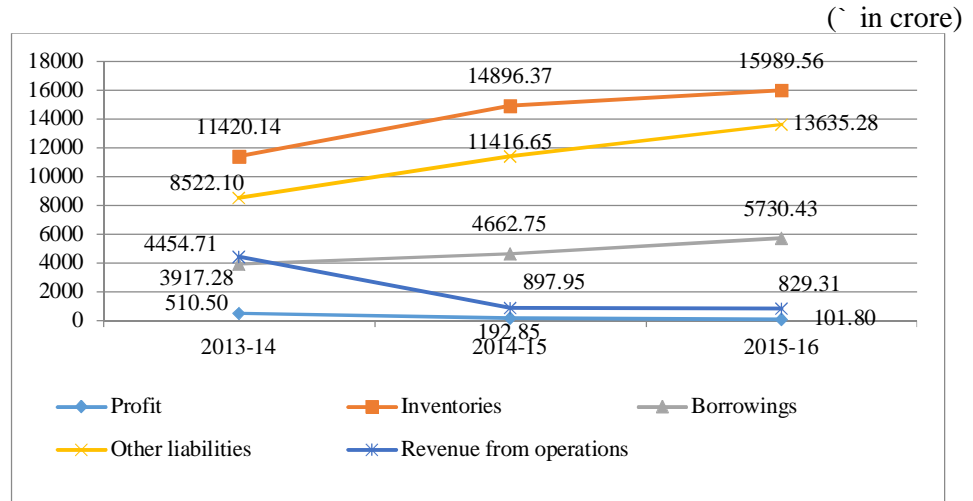
The audit findings are evaluated against audit criteria sourced from the following:

- Land Acquisition Act 1894, Land Acquisition Act 2013, State Industrial Policy, Rehabilitation and Resettlement Policy and awards of Land Acquisition Collectors;
- Decision of the BoDs relating to land acquisition, development, allotment of plot and estate management;
- Provisions of Works Manuals/ Haryana PWD Code, Notice Inviting Tenders, Work Orders for award and execution of works;
- Estate Management Procedure-2011 and 2015; provisions of Regular Letter of Allotment; and
- Internal control procedures of the Company.

2.5 Financial management

The Company adopted accrual system of accounting in place of cash system of accounting from the year 2013-14. The chart below indicates the financial position of industrial area activity for the three year period ending 31 March 2016³:

Chart 2.1: Financial position of industrial area activity



³ The Company has not finalised the accounts for the year 2016-17 as yet.

Audit observed the following:

- i) To meet the cost of land acquisitions and enhanced compensations, the Company resorted to borrowings which increased from ₹ 3,917.28 crore in 2013-14 to ₹ 5,730.43 crore in 2015-16. The increased borrowings put an extra burden on the cost of plots resulting in reduced demand and increase in unsold inventories. The debt to equity ratio⁴ of the Company increased from 40:1 during 2012-13 to 94:1 during 2016-17 against the ideal norm of 2:1.
- ii) Due to poor financial position, out of enhancement in compensation of ₹ 9,140.57 crore awarded by the Courts in selected units during the period 2010-11 to 2016-17, the Company could pay ₹ 6,359.64 crore only, leaving unpaid balance of ₹ 2,780.93 crore pending for periods ranging from one year to seven years (March 2017). The delayed payments of compensation to land owners will entail payment of interest, leading to increase in cost of plots as all costs including interest are recovered from the allottees. The Management stated that enhanced compensation was pending payment due to paucity of funds. The Company therefore needs to work out modalities and business plans to deal with the situation.
- iii) As per the Rehabilitation and Resettlement policy 2007, annuity @ ₹ 15,000 per acre per annum was payable to the landowners for a period of 33 years which was to be increased by ₹ 500 every year. In cases where land was acquired for Special Economic Zone (SEZ) purpose, the annuity was to be paid at double the rates. Audit observed that though the land acquired (2006) at Gurugram could not be used for SEZ and had been de-notified in June 2014, the Company continued to pay annuity at double the rates. It had paid ₹ 1.07 crore in excess from 23 June 2014 to December 2014. During exit conference, the Management stated that payment was made as per Government decision. The reply is not acceptable as the Company has been overburdened due to payment of annuity at double rates, even after the de-notification in June 2014.

2.6 Perspective planning for balanced development

The State Government has declared the Company as the nodal agency for development of infrastructure and industrialization in the State. The key objectives of the Industrial Policy 2011 and 2015 of the State Government, *inter-alia*, were:

- a. higher and sustainable economic growth by attracting investments in focused manner,
- b. sustainable development by adopting environment friendly technologies and supports the Micro, Small and Medium Enterprises (MSME) sector and
- c. simplification of estate management procedures.

Audit observed that the Company had not prepared any perspective plan for acquisition and development of land. The Company rather acquired land considering the expansion requirements in the existing estates and areas

⁴ Debt Equity Ratio = Long term borrowings/ Share Capital.

earmarked in the master plans of the towns without assessing the market conditions. Resultantly, there was non-utilization of land after its acquisition, lack of balanced industrial growth of the State, the MSME Sector not getting the boost as envisaged in the Industrial Policy and accumulation of unsold plots as discussed below:

i) Non-utilization of land after its acquisition

The lack of planning and unresolved issues in development of land resulted in non-utilization of 7542.76 acres land valuing ₹ 4,488.86 crore acquired during January 2006 to April 2013 as detailed below:

Sl. No.	Purpose of acquisition of	Area (acres)	Value (₹ in crore)	Remarks/ Reasons for non- utilization
1.	Development of Phase-V in Industrial Model Township Manesar	668	368.55	The Company acquired (March 2006) land under section (u/s) 17 (emergency clause) of the LA Act. However, the land was not in contiguity and remaining 216.17 acres land required for integrated development was acquired in January 2017. Thus, the purpose of acquiring land under emergency clause was not achieved.
2.	Setting up of SEZ at Gurugram	1590	1,619.28	The land was acquired in January 2006. After abandonment of SEZ project, the State Government decided (May 2013) to utilize 1100 acres of land for Global City Project in joint venture with Delhi Mumbai Industrial Corridor Development Corporation. Further developments were awaited (March 2017).
3.	For Institutional purpose at Sector 39, Rai	385.90	110.31	The land earmarked for institutional purpose in the Master plan of the town was acquired in June 2008. The layout plan was finalized by February 2013. The land is yet to be developed (March 2017).
4.	Land for Industrial Model Township Mewat (Nuh)	1501.54	734.62	The Company acquired land in May 2010. The contract for its development was awarded in February 2014, but the same was put on hold as there is a proposal to allot the entire land to some prospective developer. The decision was pending (March 2017).
5.	For 2100 MW Gas based Power Plant in Bahadurgarh	174.79	63.76	The land was acquired in July 2011. But after abandonment of the SEZ project at Gurugram, no plan has been made for utilization of this land. 174.79 acres land is not in contiguity. Decision for consolidation of the land was pending so that integrated planning could be done (March 2017).
6.	Sewerage Treatment Plant, Bahadurgarh	21.36	14.65	
7.	For development of Industrial Model Township Kharkhoda, (Sonapat)	3201.17	1,577.69	The Company acquired this land in March/April 2013 as the same was earmarked for Industries in the Master plan of the town. In June 2014, it was decided to develop the land under Public Private Partnership mode and a Memorandum of Understanding was signed in January 2016. No further progress has been made (March 2017).

The Management in exit conference stated that the land would be utilized in near future.

ii) The Company had not made any plans for construction of sheds/ flatted factories in its Industrial Estates during 2012-17. Audit noticed that 31 sheds planned during 1994 at Gurugram have not been constructed even till date after a lapse of more than 22 years leading to non-utilization of 1.80 acres land valuing ` 24.06 crore. Thus the Company failed to boost the MSME sector as per the requirements of the Industrial Policy. During exit conference, it was stated that the land would be utilized in near future.

iii) The Company acquired 26,794.66 acres of land up to 31 March 2017, out of which 24,760.75 acres (92.41 *per cent*) fall within National Capital Region (NCR)⁵. Of the land acquired in NCR, as much as 7542.76 acres has not been taken up for development so far. Further, out of 43.71 lakh sqm of unsold plots, 10.46 lakh sqm plots (24 *per cent*) were lying unsold in vicinity of Delhi as on March 2017.

Thus, inadequate planning coupled with implementation issues resulted in poor implementation of industrial policy which failed to give boost to MSMEs.

2.7 Acquisition of land

For the purpose of development of industrial infrastructure, the Company acquires land through the Department of Industries, Government of Haryana as per the provisions of the Land Acquisition Act (LA Act). The Company acquired 5,800.11 acres of land valuing ` 4,424.82 crore during 2012-17. For acquisition of land, the Company is actively involved with the Government starting from the drafting of notification under section 4 (u/s 4) of the LA Act to the announcement of the award and disbursement of compensation. For acquisition of land, the State Government issues notification u/s 4 and 6 of the LA Act on the basis of draft notifications prepared and forwarded by the Company. Objections received, if any, u/s 5A of the LA Act, are heard by the Land Acquisition Collector (LAC) and after completion of hearing, the recommendation on the objections made by the LAC is forwarded to the Company for their remarks. The Company after scrutiny submits draft notification u/s 6 of the LA Act to the State Government for issue within one year of issue of notification u/s 4. Before announcement of award, the LAC submits proposed award to the Company detailing the amount of compensation to be announced and intimating them to deposit the amount in its account. The award is announced by LAC u/s 11 of the Act within two years from the date of issue of section 6 notification. The Company deposits the compensation amount in the account of LAC before the announcement of award. Section 17 of the LA Act empowers the Government for acquisition of land in case of emergency wherein hearing of objections u/s 5A of the LA Act is dispensed with. The State Government has also the power to withdraw any land from acquisition under section 48 of the LA Act.

⁵ Faridabad, Gurgaon, Mahendergarh, Bhiwani, Nuh, Rohtak, Sonapat, Rewari, Jhajjar, Panipat, Palwal, Jind and Karnal.

Audit observed the following:

i) *Extra expenditure due to delay in filing of appeal*

The Company acquired (9 March 2006)⁶ 955.92 acres of land under section 17 of the LA Act at a cost of ₹ 176.55 crore⁷ (land cost @ ₹ 12.50 lakh per acre) under emergency clause at Industrial Model Township Phase V, Manesar. The land holders approached the Hon'ble Punjab and Haryana High Court against this acquisition which quashed (16 April 2009) the acquisition order except in those cases where (a) compensation was accepted by the land owners or (b) the petitions were filed after the award (9 March 2006). The Company could acquire 611.67 acres of land. After quashing (April 2009) of acquisition proceedings by the High Court, the Company was to file appeal in all the cases within the time limit allowed by the Court but it filed appeal in 10 cases in which the Court allowed (28 January 2011) acquisition of another 56.33 acres land. This process was completed during October 2013 and September 2016 at the rate of ₹ 12.50 lakh per acre. The State Government/ Company were negligent in pursuing their remedy of appeal and failed to provide appropriate reasons for condoning the inordinate delay in filing the appeals. Further, there was also lack of co-ordination between the Government and the Company as they were filing appeal separately. There was delay of 337 to 415 days in filing appeal in another 19 cases⁸. As a result, the Court quashed (January and September 2011) the acquisition proceedings. The acquired land measuring 668 acres was not in contiguity and could not be taken up for development. The Company therefore decided (October 2013) to acquire the land acquisition proceedings of which had been quashed by the Court by initiating fresh procedure. It acquired (20 January 2017) 216.17 acres of land at a cost of ₹ 818.10 crore⁹ (cost of land ranging between ₹ 1.50 crore to ₹ 1.90 crore per acre).

Thus, had the appeals been filed timely in all cases, the Company could have acquired the land at old rate of ₹ 12.50 lakh per acre and extra expenditure of ₹ 742.92 crore¹⁰ on 216.17 acres land could have been avoided.

The Management stated that delay was inherent in Government working. The reply was not acceptable as there was lack of co-ordination between Company and State Government as both were filing the appeals separately and the very purpose of invoking emergency clause was defeated.

ii) *Non compliance of LA Act*

a) *Extra expenditure due to application of incorrect rates*

As per LA Act, the Land Acquisition Collector (LAC) shall take into consideration the market value of the land on the date of notification u/s 4.

⁶ Notification u/s 4 of the LA Act was issued on 17 September 2004.

⁷ Cost of land – ₹ 119.49 crore + Solatium @ 30 per cent – ₹ 35.85 crore + interest @ 12 per cent – ₹ 21.21 crore = ₹ 176.55 crore.

⁸ In 12 cases by the State Government and in seven cases by the Company.

⁹ Cost of land – ₹ 346.65 crore + Solatium @ 100 per cent – ₹ 346.65 crore + interest @ 12 per cent – ₹ 124.80 crore = ₹ 818.10 crore.

¹⁰ Calculated for the period September 2004 to January 2017 after allowing interest @ 12 per cent per annum from the date of notification u/s 4 of LA Act issued in September 2004.

The price of land is fixed by a committee comprising of Divisional Commissioner, Deputy Commissioner, District Revenue Officer cum LAC and representative of the Company.

For acquisition of 6.2 acres of land in a village Kharawar, Tehsil Sampla, for Industrial Model Township Phase II, Rohtak, the Company got notified (6 October 2010) land u/s 4 of the LA Act. After fixing (25 May 2012) the price of ₹ 25.65 lakh per acre, the land was acquired on 10 October 2012.

The Company notified acquisition of another 964.43 acres land in Baliyan, Kherisadh, Kharawar and Nonand villages, Tehsil Sampla, u/s 4 on 11 January 2010. The same Committee while fixing (16 November 2012) the price observed that the average sale rate of the land during 2009-10 ranged between ₹ 2.43 lakh and ₹ 22.98 lakh per acre, but it fixed the price at ₹ 31 lakh per acre citing current market situation and increased (December 2012) to ₹ 33 lakh per acre on the farmers' representation. The Company acquired (January 2013) 924.33 acres land @ ₹ 33 lakh per acre.

Audit observed that the Committee violated the provisions of the LA Act by fixing the price prevailing on the date of its meeting *i.e.*, December 2012 instead of the rate on the date of notification (11 January 2010) as stipulated u/s 4 of the LA Act. This resulted in acquisition of 924.33 acres land at a higher rate by ₹ 7.35 lakh (₹ 33.00 lakh - ₹ 25.65 lakh) per acre leading to an extra expenditure of ₹ 112.61 crore¹¹.

The Management stated that the acquisition rates were fixed considering market rates, collector rates *etc.* and taking into consideration the representations of the farmers. The reply was not acceptable as the Committee was to consider the collector rates *etc.* for the year 2009-10, whereas, it had considered the same for the year 2010-11 and current rates as well which was a violation of the LA Act. Thus the Company ended up paying higher rates for acquisition of land notified in 2009-10 *vis-à-vis* that of 2010-11.

b) Payment of interest

For acquisition of 5309.59 acres of land during 2012-17 at six selected units, the Company paid interest @ 12 *per cent* from the date of gazette notification instead of from date of publication of such notification in local newspapers which was at a later date which was a violation of Section 23 (i) (a) of the LA Act. This resulted in avoidable payment of interest of ₹ 9.34 crore for the period ranging from three to 61 days to the land owners.

The Management stated that there is single date of notification whereas there are at least two dates of publication in the newspapers and therefore the date of notification in the official gazette was considered. The reply was not acceptable as the LA Act provides that the later date of publication in newspaper would be considered as the date of public notice.

¹¹ Cost of land of 924.33 acres @ ₹ 7.35 lakh - ₹ 67.94 crore + interest amount (11 January 2010 to 2 January 2013) - ₹ 24.28 crore + solatium @ 30 *per cent* - ₹ 20.39 crore = ₹ 112.61 crore.

iii) Unfruitful expenditure due to acquisitions in pockets

The Company got notified (5 October 2005) 885.02 acres land at Kundli u/s 4 of the LA Act. Subsequently, 824.63 acres land was notified (4 October 2006) u/s 6 of LA Act. In the meanwhile, the Director Town and Country Planning had already granted licenses for major portion of land to the private colonizer in the area notified for acquisition. The Company agreed (September 2008) to release 653.84 acres of land developed/ being developed by the colonizer and acquired (17 October 2008) 168.07 acres land valuing ` 45.38 crore which was scattered and unsuitable for contiguous development.

Audit observed that no development activity had been taken up even after lapse of more than eight years. Of this, 95.91 acres land valuing ` 25.39 crore had also been encroached (March 2017). Thus, due to acquisition of land in pockets, the Company incurred unfruitful expenditure of ` 45.38 crore and suffered interest loss of ` 33.24 crore¹².

During exit conference the Management stated that the efforts would be made to utilize this land.

iv) Extra expenditure due to incorrect release of land

The Company got notified (22 June 2006) 476.73 acres land u/s 4 of the LA Act at Rai, Sonapat. After receiving representation from the landowners, 132.63 acres land was released and 344.83 acres land was acquired (28 November 2008) @ ` 55.72 lakh per acre. Thereafter, while finalising the layout, the Company found (October 2012) that some more land is required and again acquired on 16 February 2016, 10.64 acres land (1.47 acres land related to four persons released earlier and 9.17 acres land of *Rasta and Dhanas* (common land) pertains to Panchayat left out inadvertently) @ ` 167.76 lakh per acre. Audit observed that due to release of land earlier/ left out inadvertently at the initial stage, the Company had to incur extra expenditure of ` 7.96 crore¹³.

The Management stated that the expenditure incurred on acquisition would be loaded on the saleable area and be recovered from the allottees. The reply is not acceptable as this would burden the allottees with higher cost.

v) Avoidable payment due to overvaluation of shadow/ fruit trees

As per the Rehabilitation and Resettlement Policy of the State, ground survey of land to be acquired is required to be done three to six months before issue of notification u/s 4 of the LA Act. The Company got notified (April 2010) 3,364.64 acres land u/s 4 of the LA Act for setting up of IMT Kharkhauda, Sonapat. Thereafter, the award for 3201.20 acres land was announced in March-April 2013. The supplementary awards for payment of compensation for tubewells, shadow/ fruit trees were also made in October 2013.

¹² (` 42 crore for 101 months @ 8.76 per cent - ` 30.97 crore) + (` 3.38 crore for 92 months @ 8.76 per cent - ` 2.27 crore) = ` 33.24 crore.

¹³ ` 17.86 crore less ` 9.90 crore (after loading interest @ 9.25 per cent p.a. on ` 55.72 lakh per acre for 87 months from December 2008 to February 2016).

The field office at Kharkhauda reported (6 November 2013) that some of the farmers had planted shadow/ fruit trees after notification of the land u/s 4 to take undue benefit as the *khasra/ girdawari*¹⁴ showed no such entries for the crops of Kharif 2009 and Rabi 2010. The Company paid (October 2013) compensation of ` 18.45 crore to the farmers for these trees.

The Company constituted (November 2013) a Committee¹⁵ headed by Additional Deputy Commissioner (ADC), Sonapat to conduct an inquiry in the matter. The sub-committee¹⁶ constituted by the Committee, after a joint survey concluded (June 2014) that the valuation of trees was on higher side and assessed its value at ` 7.91 crore only. However, the Committee has not submitted its report even after lapse of more than three years. The Management stated that the report was delayed due to shifting of ADC, Sonapat repeatedly. The Management contention is not tenable as the change of officers notwithstanding the report should have been finalised by the office concerned. Thus, considering the valuation made in June 2014, the Company made avoidable payment of ` 10.54 crore (` 18.45 crore – ` 7.91 crore).

Audit observed that before acquisition of land, the Company neither conducted any survey of land nor verified the *khasra/ girdawari* for the crops of Kharif 2009 and Rabi 2010 showing entries of shadow/ fruit trees which resulted in avoidable payment of ` 10.54 crore.

During exit conference it was stated that ADC, Sonapat would be requested to submit the report in time bound manner.

vi) *Under valuation of Kundli Manesar Palwal Expressway and excess recovery from allottees*

The Company acquired 555.34 acres of land at Industrial Estate (IE) Bahadurgarh during October 2003 to January 2004 and 1015.07 acres of land at Industrial Model Township (IMT) Bawal, Phase II in May 2006. Thereafter, the Company transferred (June 2009) statutory green belt of 112 acres¹⁷ land valuing ` 11.99 crore from these Industrial Estates to the Forest Department, Haryana for compensatory afforestation pertaining to Kundli Manesar Palwal (KMP) Expressway project¹⁸.

We observed that the Company paid (2010-12) enhancement of ` 115.02 crore on the total land of Industrial Estate Bahadurgarh and the same is being recovered from the allottees since July 2014, without considering the fact that 46.22 acres of land had already been transferred to Forest Department. This resulted in excess recovery of ` 9.57 crore from allottees.

¹⁴ Khasra/Girdawari is a document containing name of owner/ cultivator, type of land, cultivated and non cultivated, source of irrigation, name of crop etc.

¹⁵ Comprised of three members from Company and one from Revenue Department.

¹⁶ Comprised of two members from Horticulture Department, three from Company and one from Revenue Department.

¹⁷ 46.22 acres at Bahadurgarh and 65.78 acres at Bawal.

¹⁸ The project is being executed by the Company to provide high speed link to northern Haryana with its southern districts.

Similarly, the Company paid (December 2016) enhancement of ₹ 76.37 crore on total land at IMT Bawal. Of this, ₹ 5.18 crore pertained to 65.78 acres land transferred to Forest Department which had not been charged to the KMP Expressway (March 2017). Thus, ₹ 9.57 crore has been recovered in excess from the allottees and ₹ 14.75 crore (₹ 9.57 crore + ₹ 5.18 crore) had not been added to the cost of KMP Expressway.

The Management while accepting the facts stated that necessary steps are being taken to load the cost on KMP project.

The Company thus incurred extra expenditure of ₹ 883.37 crore due to delay in filing the appeal, non-compliance of LA Act, acquisition of land at higher rate which was released earlier/ left out inadvertently and over valuation of shadow/ fruit trees. The Company also incurred unfruitful expenditure of ₹ 45.38 crore in acquisition of land in pockets.

2.8 Development and Management of Industrial areas

2.8.1 Development of industrial areas

After acquisition of land, the Company prepares a detailed layout plan for its development and executes development works *viz.* providing roads for access to site, water supply system and drainage system *etc.* The Company has neither prepared its Works Manual nor adopted the Haryana PWD Code for award and execution of its works in economical and transparent manner. However, it prepares its cost estimates on the basis of Haryana Schedule of Rates (HSR). During 2012-17, the Company incurred expenditure of ₹ 2,070.77 crore (October 2016) on infrastructure activities. The Company awarded 132 works valuing ₹ 1,615.77 crore during 2012-17, out of these, 76 works valuing ₹ 1,224.49 crore pertaining to the six selected units were examined. The Company does not also prepare any time schedule for development of a particular Industrial Estate after acquisition of land.

In this regard, Audit noticed as under:

i) Lack of uniformity and transparency in award of work

Out of 76 works valuing ₹ 1,224.49 crore examined in audit, 14 works valuing ₹ 1,024.89 crore were awarded on turnkey/ lumpsum basis and remaining 62 works amounting to ₹ 199.60 crore were awarded on Single Percentage Basis above or below the detailed notice inviting tender (DNIT) cost.

We observed that the Company received single bids for 17 works and decided to go for re-tendering for two works only. Remaining 15 works valuing ₹ 23.40 crore were awarded on single tender basis without specifying any special circumstances. It was also observed that out of these 15 works, eight works valuing ₹ 19.02 crore were awarded to M/s Shiv Construction Company, Jind.

During exit conference it was stated that the Company broadly follows PWD code however, the same would be adopted in future and the works awarded on

single tender were of urgent nature. The reply was not acceptable as no such justification was found on record to substantiate the management plea of urgency. Moreover, there remains inherent risk of cartelization and lack of discovery of competitive rates when award of work is done on single tender basis.

ii) Extra expenditure due to delay in finalization of estimates

Estate Office, Kundli submitted (June 2007) proposal for construction of 5,105 metre boundary wall in Industrial Estate Kundli at an estimated cost of ` 69.84 lakh to the Head Office at Panchkula. The Head Office raised various observations regarding layout plan *etc.* during September 2007 to September 2012 and revised (22 July 2013) the estimate to ` 1.81 crore. The work was awarded (January 2014) at ` 1.97 crore.

We observed that the Company took about six years in finalization of the estimates which led to cost escalation of ` 90.38 lakh.

The Management stated that the cost of estimate increased due to provision of RCC beam and columns which was not considered earlier. The reply is not acceptable as the extra expenditure has been worked out in audit on the changed specifications and the rate at which it would have been executed at the time of initial planning.

iii) Delay in completion of development works

Scrutiny of records relating to award and execution of the above 76 works revealed that 50 works valuing ` 293.68 crore were completed by 31 March 2017 and the remaining 26 works valuing ` 930.81 crore were in progress as on 31 March 2017. Of the completed works, 36 works valuing ` 266.69 crore were completed with delays ranging from seven to 831 days. Six works were delayed by the Company as there was delay in approvals, revision of drawings *etc.* In 20 works, delay was on the part of the contractor and 10 works were delayed due to unavoidable circumstances *viz.* agitations from the farmers *etc.*

Of the 26 nos. of works, which are in progress, we observed that scheduled completion date in respect of 15 works, on which expenditure of ` 393.35 crore was incurred, had already passed and the delay ranged between 35 and 1032 days (up to March 2017), thereby leading to blockade of funds.

The Management assured to streamline the system.

iv) Liquidated damages not levied on contractors

As per terms and conditions of contracts, if the contractors fail to complete the work within the stipulated time, liquidated damages were to be levied at the rates provided in the work orders. Further, if the contractor desires an extension of time on the grounds of unavoidable hindrance or any other ground, they have to apply within 30 days of the date of the hindrance.

Audit observed that in 24 works¹⁹ valuing ₹ 216.82 crore, where the delay was attributable to contractors and against the leviable liquidated damages of ₹ 19.34 crore, the Company levied liquidated damages of ₹ 5.86 crore only, leaving a shortfall of ₹ 13.48 crore as per **Appendix 3**. In 16 cases, time extension was granted without/ short levy of penalty where the contractor specified the reasons of general nature, *i.e.* shortage of labour, material *etc.* The contractors made request for time extension after a lapse of 37 to 615 days from the schedule date of completion, instead of applying within the mandatory 30 days of the date of the hindrance. No documentary evidence *viz.* hindrance register showing nature of hindrance, items of work affected *etc.* was maintained by the Company. In the remaining eight works, the Company neither granted time extension nor levied requisite liquidated damages.

During exit conference it was stated that time extension cases are examined by the committee and accordingly time extension and levy of penalty is decided. Further, it was assured that hindrance register would be maintained in future. The fact however remains that there was non/ short recovery of liquidated damages.

2.8.2 Management of Industrial areas

After development of industrial area, the saleable industrial plots are carved out for allotment/ sale. The allotment price of the plots is determined on the basis of land cost (including interest), development cost, interest capitalized and other overheads of the Company. The same is revised every year with the approval of the State Government on the basis of holding cost, enhancements in land cost and the market rates in the adjoining areas.

To regulate its Estate Management activities, the Company has prepared the Estate Management Procedure (EMP) under the Industrial Policy which prescribes the terms and conditions for allotment, transfer and resumption of plots and related procedures to be followed by the allottees. During the period under review, the EMP-2011 and EMP-2015 were framed by the Company. The High Level Plot Allotment Committee²⁰ allots the plots to the applicants as per the prevailing EMP. The Company had however, not fixed any time frame for inviting applications for allotment of plots and for processing of applications received.

Scrutiny of records revealed the following points:

i) Status of allotment and surrender of plots

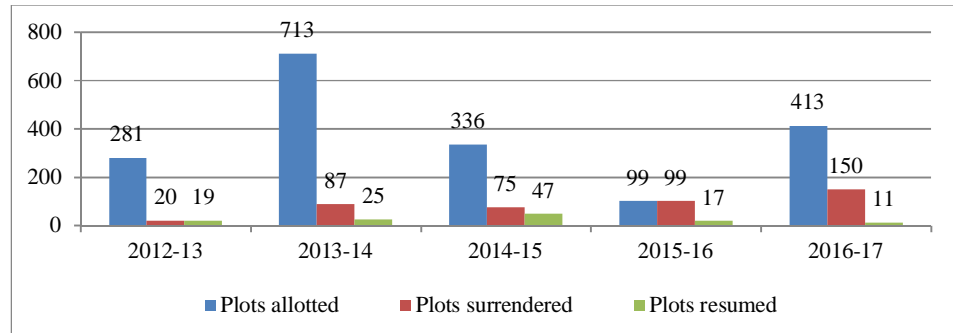
The chart below shows number of plots allotted, surrendered and resumed

¹⁹ Comprising 20 completed works and four works in progress as discussed in para 2.8.1(iii).

²⁰ Comprising Principal Secretary, Industries Department, Director Industries and MD of the Company.

during the period 2012-17:

Chart 2.2: Number of plots allotted, surrendered and resumed



Number of plots allotted decreased from 713 in 2013-14 to 99 in 2015-16 and it increased to 413 in 2016-17. The decrease in allotment during 2015-16 was mainly due to change in the Estate Management Procedure (EMP) in October 2015 when the Company decided to reject/ return 1851 pending applications received at various estate offices. The number of plots surrendered increased from 20 in 2012-13 to 150 in 2016-17 mainly due to economic slowdown and liberalization in EMP-2015. The Company had not maintained any data bank at its Head Office for regular monitoring of overall progress of the plots lying unsold at the beginning of the year, carved out during the year, allotted, surrendered and resumed in various estates. As on 31 March 2017, 1843 plots measuring 43.71 lakh sqm having a sale value of ₹ 4,437.88 crore were lying unsold.

The Management stated that the Company could not make allotment due to revision of EMP during 2015-16 and surrender of plots increased due to heavy enhancements in cost of plots, overall economic slowdown *etc.* during 2016-17. However, the fact remains that the allotment of plots has decreased over the years which adversely impacts the industrialization in the State.

ii) Non-levy of extension fee

The Company allotted (30 August 2005) a plot²¹ of 37800 sqm at Phase-1, Bawal to M/s Sunfest Infratech & Power Private Limited, Bawal. As per agreement, the allottee was required to implement the project with an investment of ₹ 40 crore by 29 August 2009 and construction of minimum 15 *per cent* of Permissible Covered Area (PCA). The allottee could invest only ₹ 21.70 crore and constructed 14.79 *per cent* of PCA by 29 August 2009 as such occupation certificate was not issued to allottee. In December 2011, the allottee switched over to EMP-2011, which provided construction of minimum 25 *per cent* of PCA and allowing extension of three years without payment of extension fee provided the allottee had obtained occupation certificate. Though occupation certificate was not issued, the Company without charging any extension fee extended (July 2012) the time limit up to December 2013

²¹ Plot no. 3,4,15 & 16 at Sector 6, Growth Centre Bawal.

and further extended (August 2014) up to August 2016 without levying extension fee. The allottee did not undertake any construction after 29 August 2009 and invested ₹ 24.53 crore only (June 2013). There is no change in the status as of March 2017.

Audit observed that the allottee could neither construct minimum 25 per cent of PCA nor invest ₹ 40 crore till date (March 2017). Therefore, extension fee of ₹ 5.22 crore (including interest of ₹ 1.60 crore) from August 2009 to March 2017 should have been charged and recovered by the Estate Manager.

The Management stated that the allottee had implemented the project after construction of 15 per cent of PCA within three years as required originally and after switching over (December 2011) to EMP-2011 further extension of three years was available. The reply is not tenable as extension of three years without levy of fee in EMP-2011 was applicable only if the allottee had obtained occupation certificate whereas in this case occupation certificate was not issued. Further, after switching over to EMP-2011, the condition of 15 per cent of PCA was revised to 25 per cent.

iii) Irregularity in surrender of plots

The Board of Directors (BoDs) decided (29 August 2013) that if an allottee could not implement the project due to adverse economic scenario and surrenders the plot within six months *i.e.* by 28 February 2014; the Company would refund entire principal amount without deducting penalty of 10 per cent leviable as per EMP. Further, the cases already decided in the past where surrender request had been considered were not to be reopened.

Audit observed in test check of records that the Company was selective in waiving penalty and suffered loss of ₹ 1.47 crore due to irregularity in surrender of plots:

a) M/s Crew B.O.S. Products Limited, Manesar requested (10 June 2013) for surrender of plot²² as it could not implement the project. The Company accepted (17 July 2013) the request and levied applicable penalty of ₹ 0.81 crore. The Company however, reopened (January 2014) the surrender case and did not deduct the requisite penalty of ₹ 0.81 crore in view of the *ibid* decision of BoDs.

The management stated that the BoDs decision was in force at the time of refund. The reply is not acceptable as the Company reopened the case in violation of the *ibid* BoDs decision.

b) M/s Atlas Steel Tube Industries, Bawal requested (23 July 2013) for surrender of partial plot²³ measuring 14535 sqm but his request was not approved within stipulated period of 30 days. The allottee again requested (13 September 2013) for partial surrender. The Company approved (11 August 2014) the case under *ibid* BoDs decision and could not levy the applicable penalty of ₹ 43.60 lakh.

²² Plot no. 446-1 at Sector 8, IMT Manesar.

²³ Plot no.1, Sector 5 at IMT Bawal.

c) The Company resumed (16 November 2011) a plot²⁴ of M/s Excell Infotech Services Private Limited, Kundli for non-payment of dues and non implementation of the project and levied (March 2012) the penalty of ₹ 22.28 lakh. As the allottee was keen to implement the project, the Company re-allotted (12 June 2012) the plot subject to the condition that the project would be implemented within two years. The allottee however surrendered (December 2013) the plot in view of the *ibid* BoDs decision without any deductions. Since this was a conditional re-allotment, the surrender request of allottee should not have been considered by the Company without levy of penalty.

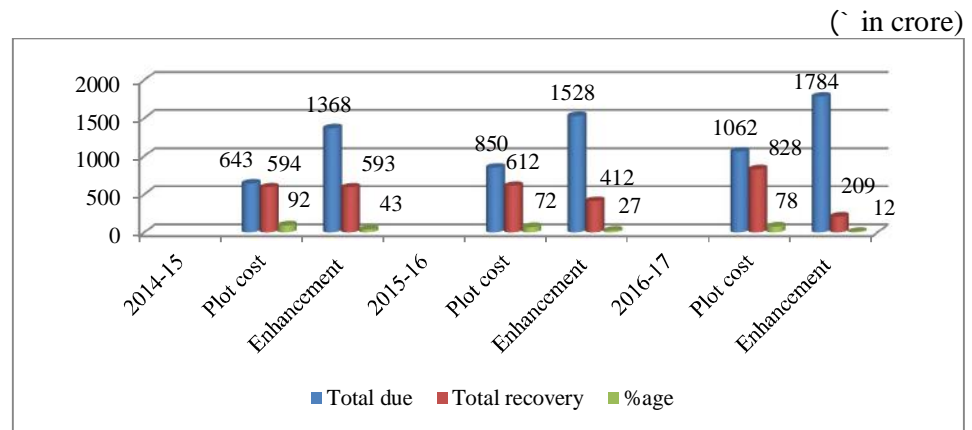
The Management stated that the Company has reallocated these plots at higher rate and suffered no loss. The reply is not acceptable as the Company in any case was to sell the plots after surrender and it needs to fix responsibility of the concerned Estate Managers.

iv) Outstanding recoveries from allottees

As per the Estate Management Procedure (EMP) of the Company, the possession of the plots is offered to the allottees after payment of 25 per cent of the cost of plot and balance 75 per cent is payable in eight equal half yearly instalments along with applicable interest. The plot is liable for resumption in case of non-payment of dues and violation of other terms and conditions of allotment by the allottees.

We observed that the Company had not devised any system to regularly monitor the recovery from the allottees. The year wise breakup of overdue amount recoverable from allottees had also not been maintained. The position of recoverable amount on account of plot cost, enhancement cost and actual recoveries made thereagainst during 2014-17 is as under:

Chart 2.3: Recoverable amount of plot cost, enhancement cost and actual recoveries made



Source: Data provided by the Company

²⁴ Plot No.114, Sector 56, Industrial Estate, Kundli.

Due to poor recovery performance of the Company, the overdue amount from allottees increased from ₹ 1,144.56 crore as on 31 March 2015 to ₹ 1,871.04 crore as on 31 March 2017.

Audit scrutiny at selected units revealed the following:

- The Company was not regular in pursuing the recoveries from the allottees and issue of show cause notices to the defaulting allottees for resumption of plots in case of non-payment of their dues.
- At IMT Faridabad, 22 allottees (**Appendix 4**) who were allotted plots during June 2013 to April 2014 had deposited 25 per cent of plot cost and no further amount was received despite lapse of more than three years. As on 31 March 2017, ₹ 32.89 crore was outstanding from these allottees. The Company did not initiate any action for resumption of plots for non-payment of their dues as per the provisions of EMP.

During exit conference it was assured that necessary steps would be taken to strengthen the system of recoveries.

Thus there was overall decrease in the allotment of plots mainly due to economic slowdown, liberalization and frequent changes in EMP.

2.9 Internal Control

Internal control is a business practice, policy or procedure established within an organization to ensure reliability and integrity of financial information and promote efficient and effective operations. The following deficiencies were noticed in the internal control systems:

- The Company has not evolved any system to reconcile the payments deposited with the Land Acquisition Collectors (LACs) and ensure that undisbursed amount lying with LACs is deposited in Court. We observed that ₹ 15.05 crore was lying un-disbursed with LACs in Manesar and Rohtak for the period ranging from 11 to 51 months. Further the Company paid (26 October 2015) interest of ₹ 0.62 crore to a land holder at Industrial Estate, Rai, Sonapat due to non-compliance of the provisions of LA Act.
- The Company has not maintained a consolidated position of land encroachments for monitoring from Head Office. As on 31 March 2017, 183.74 acres land valuing ₹ 45.52 crore was under encroachment in the selected units. Besides, ten industrial plots²⁵ of 7.5 acres at Udyog Vihar, Gurugram were also under encroachment leading to non-realization of ₹ 142.76 crore (March 2017).
- The e-governance project for computerization of the activities of the Company and generation of Management Information System (MIS)

²⁵ Four acre land at Plot No. 109, 110 & 111, three acre land at Plot No. 366, 367, 368 and 0.5 acre land at Plot No. 50A, 334, 335 & 336.

reports schedule to be completed by March 2013 has not yet been completed despite lapse of more than four years. During exit conference the Management stated that the system is under stabilization and MIS reports are under testing.

- The Company has not evolved any system for conducting physical survey and revenue audit of its allottees to monitor the implementation of projects and updated amount recoverable from them. As such, the Company was not aware of the amount recoverable from the allottees along with interest thereon and its accuracy. The Management stated that initially the system for monitoring was not there but now the same has been started besides assuring to improve/ strengthen the monitoring system.

Conclusion

The Company has not prepared any perspective plan for acquisition and development of land and continued to acquire land by resorting to bank borrowings without assessing market conditions. As such 7542.76 acres land valuing ` 4,488.86 crore acquired between January 2006 and April 2013 has not yet been taken up for development. The Company incurred an extra expenditure of ` 883.36 crore on acquisition of lands due to delay in filling of appeals in court, non-compliance of LA Act, overvaluation of shadow/ fruit trees *etc.* 1843 plots measuring 43.71 lakh sqm having a sale value of ` 4,437.88 crore were lying unsold. The Company has neither prepared its Works Manual nor adopted Haryana PWD Code which resulted in lack of transparency and uniformity in award of works. There were delays in completion of works and non/ short recovery of liquidated damages for the delay on the part of contractor. The percentage of recovery of plot cost and enhancement cost has decreased from 92 and 43 in 2014-15 to 78 and 12 in 2016-17 respectively. There were deficiencies in the internal control system of the Company due to non-reconciliation of payments made to Land Acquisition Collectors, non-maintenance of consolidated records of land encroachments and non-implementation of e-governance project for generation of MIS reports.

Recommendations

Based on the audit findings, it is recommended that;

- The Company needs to prepare time bound plans for acquisition and development of land keeping in view the market demand in line with the industrial policy. The Company needs to make strenuous efforts to sell unsold plots.
- The Company must comply with the provisions of the LA Act for acquisition of lands in order to avoid extra expenditure.

- The Company should adopt proper work rules to ensure efficiency and transparency in award of works. It also needs to implement provisions of works orders strictly during execution of works.
- The Company needs to put in more efforts for recovery of its dues from allottees to improve its financial position.
- The Company should strengthen its internal control system *viz.* reconciliations with Land Acquisition Collectors, monitor land under encroachments and conduct revenue audit of allottees *etc.*

The matter was referred to the Government (July 2017); their replies were awaited (November 2017).