

CHAPTER-3
COMPLIANCE AUDIT OBSERVATIONS

CHAPTER-3 Compliance Audit Observations

Important audit findings emerging from test check of transactions of State Government companies are included in this Chapter.

Government companies

Bihar State Food and Civil Supplies Corporation Limited

3.1 Suspected collusion of Company officials to unduly favour supplier

Company officials irregularly awarded contracts valued at ₹ 128.45 crore and ₹ 157.36 crore to supplier, accepted the consignments without prescribed quality checks, short collected ₹ 10.72 crore as security deposits from the supplier, irregularly released ₹ 15.75 crore against supply of inferior quality of gunny bags despite clear orders to withhold payment, awarded contract for the second year to the same supplier despite being aware that the goods supplied in the first year were under investigation for poor quality, and disobeyed orders to blacklist the supplier.

Bihar State Food and Civil Supplies Corporation Limited (Company) invited (November 2014) tenders for supply of 60,000 gunny bag bales¹ for KMS 2014-15² in Bihar. The tender documents contained the following conditions:

- ❖ At the time of submission of bid, all bidders were required to submit to the Company gunny bag samples, duly tested by Bureau of Indian Standards (BIS)/ National Accreditation Board for Testing and Calibration Laboratories (NABL).
- ❖ The successful bidder was required to deposit security deposit at three *per cent* of the total value of the quantity ordered.
- ❖ The Company was required to verify the quality and quantity of the gunny bags at the unloading points through its Quality Control staff.

The contract was awarded (January 2015) to M/s Winsome International Limited, Samastipur (supplier) at ₹ 21,408.34 per bale for 60,000 bales (total value: ₹ 128.45 crore). Audit scrutiny (June 2016) of records revealed the following:

- Though the supplier did not furnish duly tested gunny bag samples at the time of bidding (as required under the tender guidelines), the five member Tender Evaluation Committee³ failed to insist on this.
- Against the requirement for security deposit of ₹ 3.85⁴ crore, the Finance Wing, comprising the Deputy General Manager (Finance) and the Manager (Finance), accepted, in its place, without authority and for

¹ 1 bale contains 500 bags.

² Kharif Marketing Season (25 November 2014 to 30 September 2015).

³ Consisting of Managing Director, Chief of Finance, Officer on Special Duty, Manager Procurement (FCI) and Financial Advisor.

⁴ Three *per cent* of ₹ 128.45 crore.

reasons not on record, deposit of only ₹ 50 lakh, thus extending an undue benefit of ₹ 3.35 crore to the supplier.

- No Quality Control staff were deputed to verify the quality and quantity of gunny bags at the unloading points, as required under the tender guidelines.
- The Jute Commissioner⁵, suspected (July 2015) that the supplier was supplying gunny bags much beyond its production capacity, and carried out an inspection (September 2015), where it was found that many of the gunny bags supplied to the Company did not meet specifications and/ or were of inferior quality/ underweight. As per BIS standards, even if one bag is found to be less than prescribed minimum weight, the entire lot was to be rejected. Further inspection could not be carried out, as the inspection team was prevented (19 September 2015) by Company officials from carrying out further quality check.

Based on the preliminary findings, the Jute Commissioner advised (September 2015) the Company and the Secretary, Food and Consumer Protection Department (F&CPD), Government of Bihar (GoB) to withhold all payments for gunny bags till conclusion of the joint inspection⁶. However, the Finance Wing⁷ of the Company, without any justification on record, released (September 2015 to November 2015) payment of ₹ 15.75 crore to the supplier. The joint inspection (October 2015) confirmed that the gunny bags were of inferior quality.

- Despite being aware of the Company's previous issues with the quality of the gunny bags of the supplier, the Chief of Procurement of the Company awarded (12 November 2015) the contract valued at ₹ 157.36 crore (for supply of 60,000 bales at ₹ 26,226.15 per bale) for KMS 2015-16 to the same supplier.
- Subsequently, the Ministry of Consumer Affairs, Food and Public Distribution, GoI (Ministry) advised (24 November 2015) the Secretary, F&CPD, GoB to blacklist the supplier. However, the Technical Evaluation Committee of the Company ignored the advice of GoI and on the basis of an affidavit from the supplier that he had not been blacklisted by any government agency (which the Technical Evaluation Committee was aware to be untrue) recommended (January 2016) the supplier for KMS 2015-16. The Managing Director (who was also aware of the blacklisting of the firm) approved the contract.
- Further, the Company retained ₹ 50 lakh of KMS 2014-15 as security deposit from the supplier for the KMS 2015-16 contract, instead of the required ₹ 7.87 crore⁸. The supplier failed to supply the required bales, as a result of which the Company was forced to purchase 10,268 bales from Directorate General of Supplies and Disposals. However, the Company did not take any action against the supplier.

⁵ Jute Commissioner (JC) under the Ministry of Textiles, Government of India (GoI) has been accorded regulatory powers on jute goods, in terms of the Jute and Jute Textiles Control Order, 2000 and Ministry of Textiles Order, dated 28 October 2005.

⁶ By the officials of the Jute Commissioner, Food Corporation of India and the Company.

⁷ DGM (Finance) and Manager (Finance).

⁸ Rate revised to five *per cent* of total value of contract for KMS 2015-16.

Thus, due to suspected collusion of senior Company officials with the supplier, and failure of the F&CPD to ensure compliance to the orders of the Jute Commissioner and the Ministry, the Company (i) irregularly awarded the contracts for supply of 1,20,000 bales of gunny bags valued at ₹ 128.45 crore and ₹ 157.36 crore for KMS 2014-15 and 2015-16 respectively; (ii) irregularly accepted ₹ 50 lakh as security deposit for KMS 2014-15 and 2015-16 instead of ₹ 3.85 crore and ₹ 7.87 crore respectively; (iii) failed to ensure prescribed quality checks at unloading points; (iv) released ₹ 15.75 crore to the supplier in direct defiance of the Jute Commissioner's orders to withhold payments; (v) awarded the contract for ₹ 157.36 crore to the same supplier for the second year despite being aware of pending quality issues with the supplier under the first year's contract; and (vi) disobeyed the orders of GoI to blacklist the supplier and permitted him to continue with the second year's contract.

The Company in reply to the audit observations stated (December 2017) that the security deposit amount was limited to the actual quantity (5,000 bales) of gunny bags ordered in the first instalment, balance payment was released for KMS 2014-15 since the final orders on quality were pending, and the supplier was not blacklisted as it has not violated any terms and conditions of the agreement.

The replies of the Company are not acceptable, since they are not supported by the facts on record.

The matter was reported (June 2017) to the Government, and reply is awaited (March 2018).

Recommendation

GoB may consider launching a criminal investigation on the suspected collusion of Company officials in the contracts for supply of gunny bags valued at ₹ 285.81 crore.

Bihar Medical Services and Infrastructure Corporation Limited

3.2 Unnecessary loss of interest on bank deposits

Failure of the Company to monitor its bank deposits resulted in loss of ₹ 5.43 crore.

Bihar Medical Services and Infrastructure Corporation Limited (Company), received (February 2014) ₹ 118 crore from State Health Society, Health Department, GoB for conversion of Primary Health Centres (PHCs) into Community Health Centres (CHCs), which was deposited in a separate savings account (at interest of four *per cent* per annum) opened (February 2014) with ICICI Bank. Thereafter, at the request of the Company, the Bank transferred the balances from the savings account and created (19 May 2014) a fixed deposit of ₹ 118.74 crore (at nine *per cent* interest per annum).

Audit observed (March 2017) that, without any instructions from the Company, the Bank liquidated the fixed deposit (27 June 2014) and transferred the amount of ₹ 119.66 crore to the savings account. Thereafter, again without any instructions from the Company, the Bank transferred ₹ 120.64 crore from the savings account, and created (1 July 2014) a fixed

deposit, which once again, was liquidated (29 September 2014) without authority, and transferred to the savings account. The funds remained parked in the savings account till July 2015. During August 2015, ₹ 80 crore was transferred to flexi-accounts with auto sweep facility and the remaining amount of ₹ 44.12 crore remained in the savings account without auto sweep facility till March 2016, after which, the funds were utilised.

Audit further observed (March 2017) that the conduct of the Bank in keeping the balance in fixed deposit or savings accounts remained unnoticed by the General Manager (Finance & Accounts) of the Company.

Due to the above, the Company lost interest of ₹ 5.43⁹ crore during the period May 2014 to March 2016.

The Company accepted the audit observation and informed (September 2017) that the matter is being pursued with the Bank.

The matter was reported (June 2017) to the Government, and reply is awaited (March 2018).

Bihar State Text Book Publishing Corporation Limited

3.3 Unnecessary payment of fine and consultant fee

The Company unnecessarily renewed the services of a consultant for three years paying ₹ 1.08 crore, even though the consultant had already given its report, which the Company failed to act on, rendering infructuous the entire expenditure of ₹ 1.44 crore over the four years. Failure to act on the recommendations of the Consultant also resulted in avoidable payment of penalty of ₹ 50.27 crore.

Bihar State Text Book Publishing Corporation Limited (Company) publishes and distributes free textbooks for students of Class 1 to 8 in the State of Bihar under Sarva Shiksha Abhiyan (SSA). To mitigate the problem of delays in supply of textbooks and consequent imposition of penalty by the Bihar Shiksha Pariyojna Parishad (BSPP), the Company appointed (February 2012) Chandragupta Institute of Management, Patna (CIMP) as consultant to study the text book supply chain and suggest methods to improve the supply chain management, at an agreed fee of ₹ 36 lakh for the year 2012-13.

Audit observed that though the consultant submitted its study report (October 2012), the Company failed to take any action on the recommendations, and the problems continued to persist.

It was further observed that despite the above, the Company¹⁰ continued to award the same work to the same consultant for the years 2014-15, 2015-16 and 2016-17 (in February 2014, December 2014 and November 2015 respectively) on the same terms and conditions and fee. The recommendations of the consultant were similar in each of the subsequent studies. Again, no

⁹ ₹ 4.04 crore during the period May 2014 to May 2015 and ₹ 1.39 crore during June 2015 to March 2016.

¹⁰ Decision taken by Manager (Works), Financial Advisor, Officer on Special Duty and the Managing Director.

concrete action was taken by the Company, rendering infructuous the expenditure of ₹ 1.44 crore to the consultant, of which, payment of ₹ 1.08 crore, for three years, was unnecessary. The delays in printing and supply of text books continued to persist, due to which the Company paid penalty of ₹ 50.27 crore¹¹ to BSPP.

The matter was reported (May 2017) to the Government and the Company; their replies are awaited (March 2018).

Bihar Rajya Pul Nirman Nigam Limited, Bihar State Beverages Corporation Limited, Bihar State Road Development Corporation Limited, Bihar Urban Infrastructure Development Corporation Limited, Bihar State Educational Infrastructure Development Corporation Limited and Bihar State Text Book Publishing Corporation Limited

3.4 Avoidable expenditure on gifts

The companies incurred an avoidable expenditure of ₹ 2.06 crore on gift items contravening the canons of financial propriety.

Scrutiny of records revealed (November 2016 to June 2017) that six Government companies purchased gift items valued at ₹ 2.06 crore during 2014 to 2016 as per Board of Directors resolution, and distributed the same to Members of Legislative Assembly/Council (MLAs/MLCs), press reporters, senior officers and other dignitaries during 2014 to 2016 as detailed below:

Sl. No.	Name of Company	Year	Item	Quantity	Amount (₹ in lakh)	Total (₹ in lakh)
1.	Bihar Rajya Pul Nirman Nigam Limited	2014	Wrist Watch	450	16.63	51.60
		2015	Mobile	350	34.97	
2.	Bihar State Beverages Corporation Limited	2015	Briefcase	400	10.00	10.00
3.	Bihar State Road Development Corporation Limited	2016	Mobile	400	34.00	34.00
4.	Bihar Urban Infrastructure Development Corporation Limited	2014	Mobile	338	15.44	56.44
		2015	Briefcase	363	15.00	
		2016	Briefcase	400	26.00	
5.	Bihar State Educational Infrastructure Development Corporation Limited	2014	Camera	175	18.60	36.31
		2015	Wrist Watch	175	17.71	
6.	Bihar State Textbook Publishing Corporation Limited	2015	Wrist Watch	175	17.71	17.71
Total						206.06

The Management of one Company, viz., Bihar State Beverages Corporation Limited replied (March 2017) that the expenditure on gift items was incurred

¹¹ ₹ 28.32 crore and ₹ 21.95 crore during 2014-15 and 2015-16 respectively.

by the Company on the direction of the department¹² and was duly approved by the Board of Directors.

The reply of the Management is not acceptable as the expenditure violated the canons of financial propriety, and was not in furtherance of the objectives of the Company.

The matter was reported to the Companies (May 2017 and September 2017) and Government (May 2017 and September 2017), and replies are awaited (March 2018).

Bihar State Tourism Development Corporation Limited and Bihar Police Building Construction Corporation Limited

3.5 Avoidable payment of interest

BSTDCL and BPBCCL unnecessarily paid penal interest of ₹ 1.07 crore to Income Tax authorities due to failure to correctly estimate current income for the financial year.

The Income Tax Act, 1961 requires assesseees to pay advance tax on estimated current income for the financial year in four advance instalments, at the prescribed rates, failing which, penal interest is payable at the rate of one *per cent* per month of delay.

Scrutiny of records (February and May 2017) of Bihar State Tourism Development Corporation Limited (BSTDCL) and Bihar Police Building Construction Corporation Limited (BPBCCL) revealed that the Finance Wings¹³ of both the companies failed to remit advance tax in full, as required under the Income Tax Act. Against total tax liability of ₹ 98 lakh, ₹ 1.84 crore, ₹ 1.77 crore and ₹ 1.69 crore for Assessment Years (AY) 2013-14, 2014-15, 2015-16 and 2016-17, BSTDCL paid advance tax of ₹ 58 lakh, ₹ 1.16 crore, ₹ 1.13 crore and ₹ 1.20 crore respectively. Similarly, against total tax liability of ₹ 1.98 crore, ₹ 1.79 crore and ₹ 5.61 crore for AY 2014-15, 2015-16 and 2016-17, BPBCCL paid advance tax of ₹ 90.97 lakh, ₹ 80.44 lakh and ₹ 1.80 crore respectively. Consequently, both the companies unnecessarily paid penal interest of ₹ 1.07¹⁴ crore.

The matter was reported (June 2017 / October 2017) to the Companies and Government, and replies are awaited (March 2018).

¹² Prohibition, Excise & Registration Department, Government of Bihar.

¹³ Headed by Deputy General Manager (Finance and Accounts) of BSTDCL and Chief Accounts Officer of BPBCCL.

¹⁴ BSTDCL - ₹ 38.58 lakh and BPBCCL - ₹ 68.01 lakh.

Bihar State Power (Holding) Company Limited

3.6 Avoidable expenditure

Undue benefit of ₹ 61.70 crore to supplier due to inappropriate action of Company officials in revision of Power Purchase Agreement.

A Power Purchase Agreement (PPA) for procurement of 260 Mega Watt (MW) power was executed (November 2011) between erstwhile Bihar State Electricity Board [(Now Bihar State Power (Holding) Company Ltd. (BSPHCL)] and M/s GMR Kamalanga Energy Ltd., Bangalore (GMR) with 9 November 2015 as the Scheduled Delivery Date (SDD) of power supply. The agreement also provided for revision of the SDD with mutual consent of both parties.

Scrutiny of records of North Bihar Power Distribution Company Limited (NBPDC) (February 2017) revealed that GMR made a revised offer (October 2013) to supply power from 1 April 2014 or even earlier. Thereafter (December 2013), in addition to reiterating their willingness to advance the SDD, GMR made a more favourable proposal to supply power at a tariff equal to monthly average of price at which Indian Energy Exchange (IEX) sold power in the Eastern Region (Orissa State only) during the relevant month or quoted tariff in accordance with the provisions of PPA, whichever was lower, for the period from revised SDD to the original SDD.

Audit scrutiny further revealed that, even though they were aware of the more advantageous second offer of December 2013, the Company officials¹⁵ referred only to the earlier offer of October 2013 when petitioning (April 2014) the Bihar Electricity Regulatory Commission (BERC) for permission to revise the PPA, which BERC approved (July 2014). The PPA was revised in September 2014.

It was observed that during September 2014 (date of effect of revised PPA) and November 2015 (original SDD), IEX prices were lesser than the regular tariff fixed in the PPA. Therefore, as a result of the omission referred to above, the Company incurred excess expenditure and resultant loss of ₹ 61.70 crore during this period, which was ultimately passed on to the consumers through tariff.

The matter was reported (July 2017) to the Company and Government, and replies are awaited (March 2018).

Recommendation

The GoB and the Company may initiate action for fixing responsibility on officials for undue benefit to supplier.

¹⁵ CMD of BSPHCL, Managing Directors of NBPDC and South Bihar Power Distribution Company Limited, and Electrical Executive Engineer (Inter-state) of Bihar State Power Transmission Corporation Limited.

North Bihar Power Distribution Company Limited

3.7 Undue benefit to consumers

Loss of ₹ 5.24 crore due to wrong application of tariff rates.

Tariff Orders¹⁶ of the Bihar Electricity Regulatory Commission (BERC) categorise Irrigation and Agriculture Service (IAS) tariffs into IAS-I on supply of electrical energy for agricultural purposes including private tube wells, and IAS-II, which is a higher tariff for consumers of State tube wells and irrigation pumps / State irrigation pumps.

Scrutiny of records (December 2016 onwards) of Electric Supply Division, Chhapra (West) under the North Bihar Power Distribution Company Ltd. (NBPDC) revealed that 26 State tube well consumers were wrongly billed¹⁷ under IAS-I tariff category from June 2014 to February 2017. Consequently, the Company charged only ₹ 58.58 lakh instead of ₹ 6.18 crore and sustained a loss of revenue of ₹ 5.60 crore.

Replying to the audit observation, NBPDC stated (July 2017 and October 2017) that they had since rectified the error and the amount of ₹ 5.60 crore charged to the respective consumers in their electricity bills, against which ₹ 36.44 lakh had been recovered from three consumers.

In this connection, Audit observes that out of the balance of ₹ 5.24 crore, the chances of recovery of ₹ 1.31 crore appears remote in view of Rule 10.18 of the Bihar Electricity Supply Code, 2007 which states that no recovery shall be made from the consumers after a period of two years unless such sum has been shown continuously recoverable as arrears of charges for the electricity supplied.

The matter was reported (June 2017) to the Government, and reply is awaited (March 2018).

North Bihar Power Distribution Company Limited and South Bihar Power Distribution Company Limited

3.8 Compounding charges not deposited

The Distribution companies failed to remit to Government ₹ 2.04 crore collected as compounding charges.

In terms of the Bihar Electricity Supply Code, 2007 read with Section 152 of the Electricity Act, 2003, the State Government or any officer authorized by it in this behalf, may collect compounding charges¹⁸ which is required to be promptly remitted to State Government account in terms of the General Financial Rules.

¹⁶ BERC Tariff Order 2014-15, 2015-16 and 2016-17.

¹⁷ By Junior Engineer and Revenue Officer/ Assistant Engineer (Revenue).

¹⁸ Collected from consumers or persons in lieu of instituting or continuing any proceeding against them in any criminal court for committing or suspected to be committing an offence of theft of electricity.

Scrutiny of records (March 2017) of North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL) revealed that these companies failed to deposit to Government account compounding charges amounting to ₹ 4.99 crore¹⁹ collected during 2010-2017.

Accepting the audit contention, the Energy Department attributed (October 2017) the failure to remit the compounding charges to lack of information about the Treasury Receipt head. The reply is not tenable since there is no record of this, and seven years is sufficiently long for the companies to have secured this information if they wished to.

Till date (March 2018), NBPDC has remitted (April 2017 to February 2018) ₹ 2.95 crore to Government account. However, no information of remittance was received from SBPDCL.



(NILOTPAL GOSWAMI)

Patna

The 22 June 2018

Principal Accountant General (Audit), Bihar

Countersigned



(RAJIV MEHRISHI)

New Delhi

The 02 July 2018

Comptroller and Auditor General of India

¹⁹ NBPDC: ₹ 2.97 crore and SBPDCL : ₹ 2.02 crore.

