CHAPTER II

Performance Audit relating to Government Companies

Mackintosh Burn Limited, Westinghouse Saxby Farmer Limited and Britannia Engineering Limited

2. Management of works

Executive Summary

Introduction

Mackintosh Burn Limited (MBL), Westinghouse Saxby Farmer Limited (WSFL) and Britannia Engineering Limited (BEL) are three Public Sector Undertakings (PSUs) under the Public Works Department (PWD), Government of West Bengal (GoWB). These three PSUs plan, manage and execute construction works across the state, predominantly in the public sector. In February 2017, GoWB decided to amalgamate BEL with WSFL to improve operational efficiency and ensure optimal utilisation of manpower/ assets.

Lack of due diligence in preparing estimates and framing terms and conditions of contracts

In their role as contractors, these PSUs secure contracts by participation in tenders floated by various Government departments/ clients. However, bids were not based on realistic estimates. PSUs violated the guiding principles in framing contracts by not, *inter alia,* incorporating defect liability period and specifying machinery to be utilised by sub-contractors.

Deficiencies in execution of works

Delays in execution of works resulted in cost overrun, imposition of liquidated damages and termination of works. Quality of work was also not ensured by the PSUs in the construction of works. The appointment of sub-contractors/ suppliers suffered from deficiencies. Mandatory e-tendering was not followed by WSFL and MBL for 16 agency works. MBL had executed works valuing ₹ 26.88 crore without prior approval of clients.

Poor Financial Management

PSUs had not prepared bills for works executed by them as a contractor, in violation of extant provisions. The reason for not raising the bills was that the clients prepared the bills subject to their availability of funds.

During 2012-13 to 2016 17, MBL and WSFL had not billed agency fees valuing ₹ 5.35 crore and ₹ 17.56 crore respectively. The three PSUs had also undercharged agency fees by ₹ 4.38 crore.

The three PSUs had kept agency fees below the admissible margins notified (June 2012) by GoWB.

Lack of monitoring of works and inadequate internal controls

The work programme submitted by the PSUs omitted information regarding deployment of men, machineries and material. None of the site offices maintained registers as required. MBL, WSFL and BEL had not deployed adequate staff at site offices for supervision as per the norm fixed by GoWB.

2.1 Introduction

MBL, incorporated in April 1913, became a Government Company in December 2010. WSFL, incorporated in May 1923, became a Government Company in 1969 and BEL was a Government Company since its establishment in April 1986. These three PSUs, under the Public Works Department (PWD), Government of West Bengal (GoWB), conduct planning, management and execution of construction works across the state, predominantly in the public sector. MBL, since incorporation, was undertaking construction of buildings, bridges, flyovers, roads and highways, drainage *etc*. WSFL[26] and BEL[27] took up civil works since 1975 and 2006 respectively. In February 2017, GoWB decided[28] to amalgamate BEL with WSFL to improve operational efficiency and ensure optimal utilisation of manpower/ assets. Thereafter, GoWB filed (September 2017) application with the National Company Law Tribunal for amalgamation of both PSUs. Further developments were awaited (November 2017).

2.2 Organisation structure

The managements of these three PSUs were vested in their Boards of Directors (BoDs), each headed by a Chairman. The Managing Directors (MD) were the Chief Executives. As of March 2017, the Boards of MBL, WSFL and BEL consisted of eight, five and six members respectively, nominated by GoWB.

These three PSUs followed two business models for execution of works -

(i) Role as contractor: Securing contracts by participation in tenders floated by various government departments/ non–government clients and their execution.

26 Apart from civil works, WSFL also manufactured railway brakes and railway signalling equipment.

27 BEL manufactured road rollers and tea -processing machineries.

28 Finance Department, GoWB order no 1093-F(Y) dated 21 February 2017.

(ii) Role as a nominated agency of GoWB for execution of Government works: Non-engineering Departments of GoWB could nominate[29] these PSUs as agencies to (a) prepare estimates/ drawings/ designs, (b) invite tenders for selection of contractors, (c) evaluate of bids, (d) award contracts, (e) monitor and supervise the works, (f) issue completion certificates, *etc*. and (g) undertake overall execution. For these activities, the PSUs would earn an agency commission[30].

In August 2016, GoWB had omitted both WSFL and BEL from the list of nominated agencies. PWD stated (November 2017) that the reasons for omission of WSFL and BEL from the list of nominated agency works were not known to them.

2.3 Audit Objectives

The Performance Audit was conducted to ascertain whether these three PSUs had:

- Exercised due diligence, followed guidelines and processes in preparing and finalising contracts for various construction works/ projects;
- Properly planned and executed works, both departmentally and through sub-contracts, in conformity with the prevailing norms/ guidelines with regard to efficiency and economy;
- Effectively enforced financial management to ensure timely collection of dues, and;
- Monitored the implementation of works and had in place adequate and effective internal controls.

2.4 Scope and methodology of audit

The Performance Audit was conducted between March and July 2017. Its scope covered management of works executed by these three PSUs. Audit methodology involved test check of records of 150[31] out of 745[32] works executed during 2012-13 to 2016-17 available at the Head Offices of these PSUs. Stratified random sampling based on the value of works was used as a tool for the selection of works for audit.

An Entry Conference was held on 7 March 2017. Audit objectives, audit criteria, scope and methodology of the Performance Audit were discussed with the managements of the PSUs and PWD. The Exit Conference was held on 5 December 2017 wherein the findings and audit conclusions were discussed. In the exit conference, the Department accepted all recommendations made in the PA report. Replies of the Department and managements of the PSUs have been suitably incorporated in the report.

[29] Notification No. 5400(Y) dated 25 June 2012 of the Budget Branch, Deptt. of Finance, GoWB.

[30] The commission varied between two and 8.5 *per cent* of the estimated cost.

[31] MBL : 67 (₹ 1,923.69 crore), WSFL : 28 (₹ 547.65 crore) and BEL : 55 (₹ 136.11 crore).

[32] MBL : 396 (₹ 3,629.80 crore), WSFL : 237 (₹ 1,153.72 crore) and BEL : 112 (₹ 339.15 crore).

2.5 Audit criteria

The audit criteria had been derived from:

- CPWD Works Manuals[33] and PWD Code, GoWB;
- Applicable PWD Schedule of Rates (PWD-SORs) and Government orders;
- Agreements and Tender Documents;
- Board minutes and agenda papers of PSUs;
- Other relevant rules and regulations.

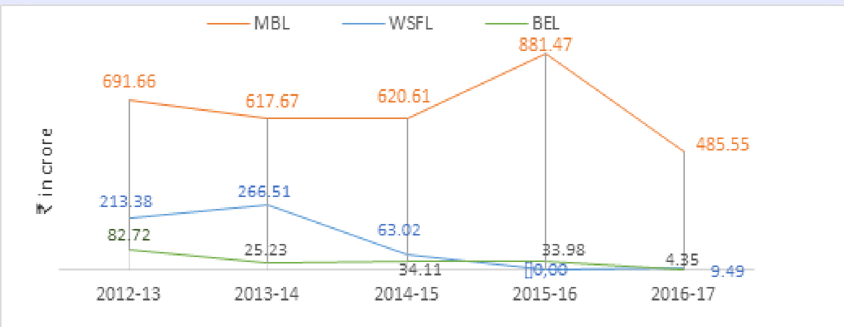
2.6 Acknowledgement

Audit acknowledges the co-operation of MBL, WSFL and BEL in providing the necessary records and information in connection with the conduct of this Performance Audit.

2.7 Operational performance

During 2012-13 to 2016-17, the three PSUs had secured orders for 413 works[34] (value: ₹ 4,029.75 crore) as **contractors** and orders for 332 works[35] (value: ₹ 1,092.92 crore) as **nominated agencies**. **Figures 2.1** and **2.2** show the year-wise value of orders secured as contractor and nominated agency by each PSU in the past five years (2012 17). Both the figures show the decline in activities of the PSUs.

Figure 2.1: Year-wise value of orders secured as Contractor



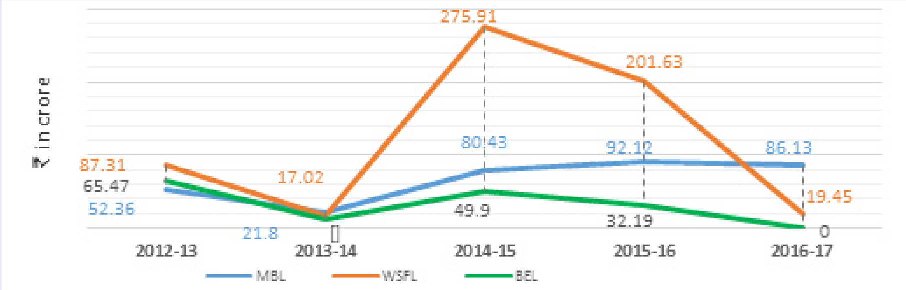
- **MBL** - Steep dip of 45 *per cent* (2016-17) over 2015-16 in fresh work orders. Secured (2012-17) 19 works (value : ₹ 271.20 crore) from private entities *i.e.* only 6.66 *per cent* of total order value.
- **WSFL** - Steep decline in 2014-15 of 76.35 *per cent* over 2013-14 in orders received. No orders in 2015-16 while orders managed in 2016-17 only ₹ 9.49 crore.
- **BEL** - Orders obtained reduced by 94.74 *per cent* over 2012-13 to 2016-17.

[33] CPWD Works Manual of December 2011 and July 2014.

[34] MBL : 273 works (value : ₹ 3,296.96 crore),
WSFL : 94 works (value : ₹ 552.40 crore) and
BEL : 46 works (value : ₹ 180.39 crore).

[35] MBL : 123 works (value : ₹ 332.84 crore),
WSFL : 143 works (value : ₹ 601.32 crore) and
BEL : 66 works (value : ₹ 158.76 crore).

Figure 2.2: Year-wise value of orders secured as nominated agencies



- **MBL** - Value of agency works largely consistent, except in 2013-14 where it dipped by 59 *per cent* over 2012-13. Overall increase in securing agency works since 2014-15.
- **WSFL** - Increased in 2014-15 and 2015-16 but meagre in 2013-14 and 2016-17.
- **BEL** - Overall decline since 2014-15.

Audit scrutiny indicated:

1. WSFL and BEL were mostly dependent on GoWB's work orders. This showed their inability to compete with other players to secure private sector contracts.

2. The decline in orders for agency works in respect of WSFL and BEL in 2016-17 was a consequence of their omission (August 2016) from the list of GoWB nominated agencies. This has the potential of affecting the economic viability of project divisions of WSFL and BEL, unless a plan was put in place by the Government/ Management to bolster their order books.

The Government stated (November 2017) that as there were significant amount of agency works in WSFL's and BEL's hands, they did not attempt to secure works as contractors. As a result, their works as contractor had declined since 2014-15. Besides, they did not venture in private sector works as it is always safe to undertake Government jobs.

However, the reply is not acceptable as total dependency on Government works is not desirable. This is evident from the present situation arising from their omission as nominated agencies. Since August 2016, they neither had any contract works nor agency works in hand.

Audit Findings

Out of 150[36] test checked works, it was seen that only 10 were completed[37], instead of the 79 works scheduled to be completed by March 2017. While nine works earned a profit of ₹ 14.66 crore, one sustained loss of ₹ 0.96 crore. In respect of the 140 incomplete[38] works, their final profit or loss was not ascertainable. The audit findings are discussed in the succeeding paragraphs.

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36 As contractors: 76, nominated agencies: 74.

37 MBL- four works with profit of ₹ 7.60 crore and one with loss of ₹ 0.96 crore, BEL two works-₹ 0.70 crore and WSFL – three works - ₹ 6.36 crore.

38 This includes both works that had been delayed and not yet beyond scheduled completion.

2.8 Lack of due diligence in preparing estimates and framing terms and conditions of contracts

In their role as contractors, the PSUs secure contracts by participation in tenders floated by various Government departments/ clients. These works were executed either departmentally or through sub-contractors. Where they were appointed as nominated agencies, the PSUs were required to select contractors for execution of works based on estimates/ contracts prepared by the PSUs.

The shortcomings in preparation of estimates and deficiencies in the contracts observed by audit were as follows:

2.8.1 Submission of bids for tenders with unrealistic estimates

The PSUs were required to submit bids against tenders floated by government departments/ private agencies to secure orders. For this purpose, PWD guidelines reiterated[39] (November 2014) that estimates were to be prepared based on (i) current market rates (ii) place and nature of work (iii) extent of competition (iv) risk involved *etc*. Audit observation showed the following:

(i) Analysis of the 150 selected works showed that 64 works had been quoted "below" the amounts put to tender, 50 "at par" and only 36 "above". None of the PSUs provided the details/records of the process followed for arriving at the price to be quoted. Hence, in absence of any record, audit could not conclude whether the PWD guidelines had been followed for assessing the estimates and preparation of quotations.

(ii) Further, these PSUs had not maintained any database showing particulars of all the tenders in which they had participated. As such, they were unable to (i) benchmark the estimates for similar works against the successful bids and (ii) prepare realistic bids to make the entire process of tendering a speculative exercise.

(iii) It was further observed (July 2017) that bids were submitted without reference to the prevailing market rates, which resulted in uneconomic price bids by MBL, leading to loss of ₹ 5.11 crore as discussed in **Table 2.1**:

Table 2.1: Details of uneconomic bids and their impact

Details of work/ Name of the client	Loss	Reasons for loss
1. Tripura Raj Bhavan, Agartala/ Government of Tripura	₹ 4.38 crore (March 2017)	Against estimates of ₹ 38.29 crore, MBL quoted (January 2012) ₹ 28.01 crore (*ad hoc* discounts of 27 *per cent* allowed, without justification). Till March 2017, an expenditure of ₹ 26.13 crore (93 *per cent*) was incurred, whereas only 78 *per cent* of work was completed. This indicated that the total expenditure on completion of work, would be much higher than the quoted amount.

[39] PWD Memorandum No. 338/ SPW/ 2014 dated 18 November 2014.

Details of work/ Name of the client	Loss	Reasons for loss
Railway siding, Haldia Dock complex/ Kolkata Port Trust	₹ 72.98 lakh (June 2017)	MBL quoted ₹ 957.23 per cubic metre (cum) for sand filling[40] against prevailing rates[41] (June 2015) which were higher[42]. This resulted in the quotation being lower by ₹ 2.64 crore.

With regard to these two cases, Government stated (November 2017) that MBL had quoted very competitive rates to procure projects in the presence of various private entities in the market. This was to keep MBL's manpower engaged.

However, Audit noted that there was no document indicating that keeping the manpower engaged was a priority even if it meant that a loss was to be incurred at the bidding stage itself.

2.8.2 Violation of guiding principles in framing terms and conditions in contract documents

Rule 224 of PWD code, GoWB, states that the terms of every contract must be precise and definite with no room for ambiguity. This includes clarity on the defect liability period *i.e.* the specific period, after completion of work, within which a contractor is liable to rectify or refurbish post construction damages/ faults arising from defective workmanship.

2.8.2.1 Standard defect liability period not specified

Food and Supplies Department (FSD) appointed (between December 2012 and July 2013) BEL as agency for construction of 15 food godowns on payment of five *per cent* agency commission of the total cost, subject to satisfactory completion of defect liability period[43] to be fixed by the competent authority after completion. It was observed that neither did FSD nor BEL fix the defect liability period for reasons not on record.

As per PWD code, the standard defect liability period in construction works is six months. Except one[44], all the godowns were handed over to FSD by BEL between December 2014 and June 2015. Thus, in terms of standard defect liability period, the liability for rectification of defects by BEL after handing over would have ended in December 2015 for all 14 godowns. However, after a lapse of nine months from the end of standard defect liability period, FSD had intimated (September 2016) the defects noticed in all 15 godowns. These defects were repaired (February 2017) by BEL

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40 The work involved providing, spreading and filling the excavated area with brown sand including consolidation by sprinkling water and rolling by mechanical rollers of 1,18,000 cum.

41 For similar variety of sand (purchased for other works).

42 At rates varying between ₹ 1,059 and ₹ 1,236 per cum.

43 Period within which if defects occurred, were required to be repaired by nominated agency at their own cost.

44 Handed over in February 2016.

through their sub-contractors at ₹ 24.79 lakh. BEL repaired it due to absence of specific defect liability period defined in the contract. Audit further observed that the security deposit amounting to ₹ 3.83 crore had not yet been released to BEL. No efforts for recovery of the security deposit was found on records.

The Government stated (November 2017) that the defects were rectified by the contractor. BEL complied the request of FSD being Government Department for the interest of smooth co-ordination and future business. They had preferred claim on FSD for reimbursement of the cost. Moreover, the security deposit had not been refunded, even after expiry of two years from the date of completion.

2.8.2.2 Machinery specifications not included in agreements with sub-contractors

For smooth execution of works, the PSUs should stipulate[45] the machinery required to be deployed at the site by the sub-contractors in their tenders/ contracts. PWD stipulated[46] (February 2015) standard lists of machinery and equipment for roads, bridges and buildings works to be included in the tender documents. The sub-contractors should possess these machinery and equipment for executing the work.

Audit scrutinised agreements of 15 works[47] between the PSUs and their sub-contractors entered into after February 2015. The machinery to be utilised by the sub-contractors was not specified. The reason for this was also not on record. The Government stated (November 2017) that in future, contracts by WSFL and BEL would mention the specific machineries required for executing the work. It added (November 2017) that a clause in MBL's agreements with sub-contractors implied that the sub-contractor would deploy the machinery specified in the client's tender.

2.8.2.3 Delayed taking over of completed works by clients

Clause 2.8 of the CPWD Manual provides that reasonable advance intimation of completion of the work should be given to the client, for timely taking over of completed works. None of the agreements/ contracts entered into by the PSUs with their clients included provisions for reimbursement of charges if the clients had delayed in taking over of completed projects/ completed components. Thus, charges for security, re-finishing and re-commissioning, conservancy charges, *etc*. were borne by the PSUs or sub-contractors executing the work. Further, this unnecessarily prolonged the defect liability/ warranty period also.

Government stated (October 2017) that regular persuasions were made by site offices of BEL and WSFL for transferring the sites. However, fact remained that handing over of completed projects were belated which is stated below:

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[45] Clause 53.2 of CPWD Manual 2012.

[46] Memorandum No. 44-W(C)/1 M-24/ 15 dated 13 February 2015.

[47] Eleven sub–contractor works for MBL and four sub –contractor works for BEL.

Test check revealed that in 28 agency works of BEL and WSFL, completed between January 2015 and March 2017, 15 works had been belatedly (one year) handed over to clients. The remaining 13 were still to be handed over to the client (July 2017). Since all these works had defect liability clause, this had resulted in extension of the defect liability period. Moreover, agency commission of ₹ 69.52 lakh for these works had not been received from the clients and safety of the property had not been secured. Government accepted (November 2017) the audit observation.

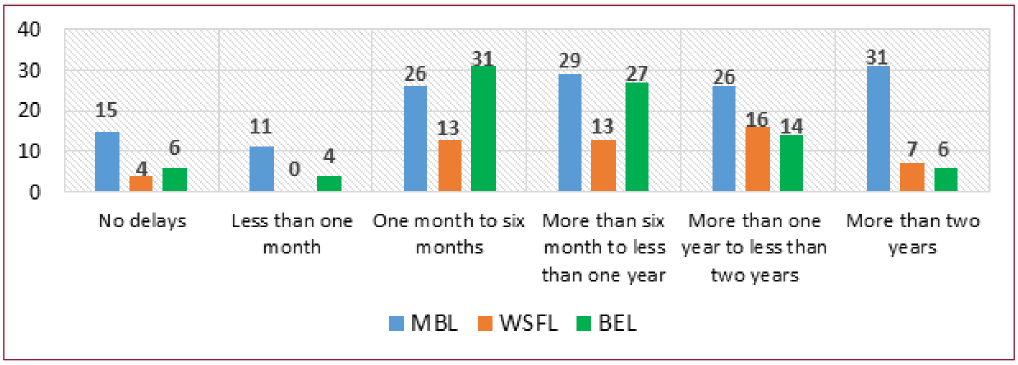
2.9 Execution of works

For the works entrusted by Government Departments to PSUs as a nominated agency, the PSUs execute the work through contractors. In such cases, the role of PSUs comprises, *inter-alia*, preparation of estimates and drawings, appointment of contractors. GoWB mandated[48] that the PSUs were to follow the West Bengal Public Works Code[49]. For departmentally executed work, MBL purchased construction materials at prevailing market price through tenders. It then engaged its own employees as well as piece rate workers (PRW)[50] for execution. With regard to execution of works by the three PSUs, audit observed the following deficiencies:

2.9.1 Delays in execution of works

The general terms and conditions of all the contracts prescribes a time schedule for completion of the works. Hence, the PSUs were required to adhere to the time specified by preparing activity based work schedules. Audit observed that while executing the works, there was no system of putting into place specific timelines while planning for completion of any project. Records for 279 works, were made available to Audit. An analysis of time taken in respect of 169 projects completed during 2012-13 to 2016-17 and 110 projects ongoing as of March 2017 is given in **Figure 2.3**:

Figure 2.3: Range of delays in completed and ongoing projects



(Source: Records of the PSUs and information furnished to Audit)

48 Notification No. 5400-(Y) dated 25 June 2012 of the Budget Branch, Finance Department, GoWB.

49 These PSUs do not have their own manual/ standard operating procedure (SOP) for execution hence, in cases where PSUs execute works as contractors, they followed the West Bengal Public Works Code.

50 Payment to workers made on output basis where materials and tools were supplied to the worker by the PSUs.

Audit observed that –

(i) The PSUs completed only 8 to 33 *per cent* of the works within schedule. The remaining works were completed after delays of 51 (MBL), 38 (WSFL) and 36 months (BEL).

(ii) As of March 2017, ₹ 62.44 crore[51] was overdue for payment against 86 works[52] of three PSUs, completed beyond their scheduled dates of completion. The delays in payments ranged from one day to over three years. Out of the total amount overdue, ₹ 43.41 crore was due for more than a year from the dates of completion of works. There were no recorded reasons for non-payment by clients. However, there was no extension of completion dates and balance confirmation from clients, which may be indicative of these amounts being withheld due to delay in completion. Government stated (November 2017) that there was no communication from the clients to suggest that the realisability of debts of WSFL and BEL was doubtful.

(iii) In addition, 28 (30 *per cent*), three (33 *per cent*) and one (11 *per cent*) ongoing works of MBL, WSFL and BEL respectively, were in progress even after two years of scheduled completion. The reasons for delay had not been furnished to Audit (November 2017).

(iv) During the scrutiny of the records made available by the PSUs in respect of 279 delayed works, it was observed that 134 works[53] (value: ₹ 911.49 crore) were behind schedule for reasons depicted in the following **Table 2.2**:

Table 2.2: Causes of delay

Particulars	No of cases	Value (₹ in crore)
1. Delay in taking over work sites, free from all encumbrances	101	648.78
2. Delay in receipt of approved design drawings	29	252.76
3. Where both of the above causes existed	4	9.95
Total	**134**	**911.49**

The Government accepted (November 2017) the audit observation.

2.9.2 Impact of delays

Completion of works in time obviates the risk of cost overruns, imposition of liquidated damages on the PSUs and cancellation of contracts by clients. Delays in completion of works resulted in losses aggregating to ₹ 11.13 crore during 2012-13 to 2016-17 as discussed given in **Table 2.3:**

51 ₹ 25.41 crore (MBL)+ ₹ 17.83 crore (WSFL)+ ₹ 19.20 crore (BEL).

52 13 (MBL)+40(WSFL)+33(BEL).

53 MBL : 12 works (₹ 198.34 crore), WSFL : 44 works (₹ 293.37 crore), BEL : 45 works (₹ 157.07 crore).

Table 2.3: Impact of delays in execution of projects

PSU/ Client	Work	Loss	Reasons for delay
(A)	**Cost over-run**		
MBL/ Various clients	Departmentally executed works - 24[54] out of 101 works.	₹ 6.56 crore	Scheduled completion dates not adhered to in these 24 works, construction materials procured at higher rates after the scheduled completion dates.
Sub-total (A)		***₹ 6.56 crore***	
(B)	**Imposition of Liquidated Damages** (The deductions of LD were accepted by the PSUs.)		
MBL/ West Bengal Housing Board (WBHB)	Construction of residential buildings at two sites at Rajarhat, New Town	₹ 2.10 crore (being five per cent of work value).	Work was completed (March 2013) with delay of two years, reasons for delays were not on record.
WSFL/ Department of Food & Supplies, GoWB (FSD)	Three food godowns	₹ 0.25 crore (being 0.25 per cent per week on agency fees).Besides, in another 17 works, WSFL was liable to pay LD amounting to ₹ 5.64 crore[55] due to delay in completion.	Completed between September 2014 and March 2016, with delays of 66 to 632 days from their scheduled dates of completion. The delays were because of late handing over of encumbrance-free sites by clients, approach roads not demarcated, belated finalisation of godown location, revision in drawings *etc*.
BEL/ Department of Food & Supplies, GoWB (FSD)	Six food godowns	₹ 0.98 crore (being 0.25 per cent per week on agency fees).	
Sub-total (B)		***₹ 3.33 crore***	
(C)	**Termination of works by clients**		
BEL/ Eastern Railway, Dakshin Dinajpur Highway Division and Tarapith Rampurhat Development Authority	Value of six works of ₹ 10 crore	Clients withheld the payable amount of ₹ 76.63 lakh.In addition, the potential margin of ₹ 47.68 lakh on the unexecuted work was also forgone. Neither the reasons for delays in execution nor efforts made for release of withheld amount were on record.	Works by three clients awarded (May 2011 - February 2016) were terminated (December 2012 to February 2017) by the clients for non-adhering to the time schedule. Till termination, the value of works executed was ₹ 3.56 crore, clients had released ₹ 2.79 crore.
Sub-total (C)		***₹ 1.24 crore***	
Total (A+B+C)		**₹ 11.13 crore**	

[54] Six completed and 18 ongoing works.

[55] Calculated by Audit on the basis of terms of contract agreements and the period of delay.

The Government noted (November 2017) the audit observation and stated (November 2017) that BEL was pursuing with FSD to refund the amount. However, the fact remains that even after expiry of two years the amount remained unrecovered.

2.9.3 Quality of work not ensured

Clause 53.2 of CPWD Manual requires the testing of construction materials. All required tests conducted should be recorded in test report register. A copy of the same should be submitted with each alternate running account bill and final bill. Non-submission may result in withholding of payments. Hence, the PSUs were required to submit test reports for works executed by them or through sub-contractors to their clients. The Government intimated (November 2017) that, for works executed as contractors, WSFL and BEL had conducted routine tests, if the clients desired. Besides, copies of the reports were maintained with the sub-contractors.

Audit observed from examination of running account bills, correspondence files and other related records that –

- In respect of 74 works selected, where the PSUs functioned as nominated agencies, none of the contractors had submitted testing reports/ test report registers with the bills. This indicated lack of monitoring by PSUs in respect of quality of work executed by contractors. Government (November 2017) noted the same for compliance in future.

The defects observed in the construction of 36 works executed by PSUs is depicted in **Table 2.4:**

Table 2.4: Defects observed in the construction of works executed by PSUs

PSU	Client	Work	Observation	Remarks
MBL	PWD[56]	Widening and strengthening of Jibanti- Sherpur road	Defects observed (June 2016 to November 2016) by PWD was damaged bituminous surface in the nature of pot holes, craters and undulations.	The defects were observed within six months of the completion.
MBL	North Bengal University (NBU)	Construction of second campus at Jalpaiguri	NBU complained (May 2016) about several cracks which were noticed in internal and external walls of the building.	The defects were observed within three months of the completion.
MBL	FSD	Five godowns	Client observed (September 2016) defects, *viz*. damaged floors, wall cracks, leakage of rain water, defective drainage, damaged approach roads, electrical problems etc.	The defects were observed within nine to 21 months of the completion.
WSFL	FSD	14 godowns		
BEL	FSD	15 godowns		

56 Superintending Engineer of State Highway Circle No. III, Berhampore, Murshidabad.

The three PSUs had not provided the information about costs involved in rectification.

In case of widening and strengthening of Jibanti- Sherpur road, Government stated (November 2017) that the damage was due to plying of overloaded vehicles and opening the road to traffic in phases, as and when completed. However, damages within the defect liability period supports the fact that quality of work needed close monitoring.

In case of construction of second campus at Jalpaiguri, Government attributed (November 2017) the defects to technology used for the first time in the region, not being according to Indian Standard code. It further stated that such defects were rectified by MBL and additional cost of rectification was approved by the client Department. However, management could not furnish acceptance of claim for additional cost of rectification.

In case of food godowns, Government stated (November 2017) that the FSD took over the works long after their completion. The reply is not tenable as late taking over cannot be a reason for defects. It reflects that the quality of construction was not monitored resulting in defects.

2.9.4 Non-adoption of e-tendering

2.9.4.1 Selection of sub-contractors

GoWB had directed[57] (February 2014) that all entities under its' administrative control including PSUs float e-tenders for works/ purchases exceeding ₹ five lakh. Moreover, MBL's delegation of financial powers (April 2005) specified that procurements above ₹ 10 lakh were to be made through open tenders in each case.

Audit test checked the selection process of sub-contractors for works tendered by MBL, with value exceeding ₹ one crore for the period 2014-15 to 2016-17[58]. It was seen that in none of the cases pertaining to this period, e-tendering process was followed for sub-contracting the works. In 13 cases out of 137 sub-contracted cases valuing ₹ 33.17 crore, the sub-contractors were selected based on single bids. Hence, competitiveness of the bid could not be ensured.

Further, GoWB had mandated[59] (June 2012) e-tendering process to be followed for tenders exceeding ₹ 50 lakh in value for agency works. That limit was reduced to ₹ five lakh in February 2014[60]. Audit observed that two[61] PSUs entrusted with works as nominated agencies had during 2012-13 to 2016-17, engaged contractors in 16 works valued at ₹ 34.57 crore without inviting e-tenders.

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57 Memorandum No. 1160-F(Y) dated 28 February 2014.

58 Data regarding 2012-13 to 2013-14 was not available.

59 Notification No. 5400-(Y) dated 25 June 2012 of the Budget Branch, Finance Department, GoWB.

60 Memorandum No. 1160-F(Y) dated 28 February 2014.

61 MBL and WSFL.

2.9.4.2 Non-revision of panel of sub-contractors

GoWB observed[62] (February 2014) that organisations opting for limited tender were not periodically updating their lists of contractors. Further, MBL's delegation of authority and policy/ procedure (April 2005) required periodical review of its' panel of sub-contractors. Audit observed that MBL had not reviewed and modified its panel of sub-contractors during 2012-17. Further, Audit noticed that out of 2,639 enlisted sub-contractors, MBL had placed orders only on 548 sub-contractors (20.77 *per cent*) during 2012-13 to 2016-17. In the absence of records, Audit could not examine whether the remaining sub-contractors were in existence. It was also seen that WSFL and BEL had not framed any policy for empanelment of sub-contractors. However, the sub-contractors were empanelled annually on payment of fees.

Government stated (November 2017) that MBL had considered the profiles of the enlisted sub-contractors and the requirements of works to select a particular sub-contractor for a specific work. However, the facts remain that it had not reviewed its sub-contractors profile periodically as required in terms of its own policy which would have ensured a wider base of contractors to choose from.

2.9.4.3 Procurement of goods

For procurement of goods also, Audit observed that the MBL had not adopted e-tendering. Eighty orders (out of 173 orders[63]) valued at ₹ 18.27 crore, (exceeding ₹ 10 lakh) issued by MBL during July 2014 to March 2017, were through single quotations *i.e.* 46.24 *per cent*. Purchases of material on the basis of single quotation and from hand-picked suppliers was highly irregular. There was no assurance that the prices were competitive or reasonable. MBL stated (November 2017) that in some instances, if specified by the client, procurement had been made from a particular vendor. Also materials were procured from the nearest approved sources through local vendors to reduce other local hazards. However, Audit observed that the fact of client specification was not mentioned in any purchase indent. Further, management did not specify the purchase proposals where the client specifically stated any vendor preference. Justification of awarding orders to local vendors to avoid local hazards does not hold good. Moreover, this increased the chances of higher rates and supply of inferior quality of materials, as discussed in **Paragraph 2.9.5**.

2.9.5 Economy in material procurement

Out of the three PSUs, only MBL purchased construction materials for executing works departmentally. During 2012-13 to 2015-16, the cost incurred on purchase of material in MBL was 41.74 *per cent* of the cost of construction. Under the purchase policy framed (April 2005) by MBL, it maintained a list of empanelled suppliers of materials like cement, steel, bricks *etc*. Based on indents from work sites, MBL invited limited tenders from these empanelled suppliers and selected the lowest bidder, from a minimum of three bids.

62 Memorandum No. 1177-F(Y) dated 28 February 2014.

63 Records of which were made available to Audit.

The following points emerged after audit scrutiny:

(a) MBL's purchase policy stated that the list of suppliers maintained by Purchase Department of MBL should be reviewed by an internal committee and registration of new suppliers should be invited through press tenders, preferably once in a year. It was observed that this was not done by MBL during 2012-13 to 2016-17.

(b) The PWD-SOR, 2013 classified the costs of building works in West Bengal into six zones. According to PWD-SOR, the maximum variation in rates observed across the zones was within 40 *per cent*[64]. It was observed that MBL did not fix zone-wise norms for procurement of materials which would have provided an opportunity to compare actual purchase prices with the PWD SOR rates prevailing in that zone. Audit compared the rates of three items *viz*. sand, bricks and grit/ stone chips which were procured across West Bengal on the same day. It was observed that in 202 instances during 2012-13 to 2016-17, variations in procurement rates were 41 to 1,727 *per cent i.e.* more than 40 *per cent*. This indicated that MBL had not procured materials at competitive rates. The value of these variations resulted in extra expenditure of ₹ 1.93 crore on procurement of these materials by MBL.

(c) In 143 instances on the same date, MBL had placed purchase orders for procurement of the same construction materials like grits/ stone chips, brick and sand at different rates for work sites in the same/ adjacent locations. The variation in rates or the materials purchased on same date and same location ranged between 1 to 270 *per cent*. Consequently, during 2012-13 to 2016-17, MBL had incurred extra expenditure of ₹ 0.53 crore on their procurement.

Government stated (November 2017) that in some instances, if specified by the clients, MBL had procured materials from a particular vendor. Also materials were procured from the nearest approved sources through local vendors to reduce other local hazards. It was observed that vendor preference made by the client was not available in records and thus, was unverifiable. Also the fact remains that awarding orders to local vendors to avoid local hazards led to procurement of commonly available building materials at an additional cost of ₹ 2.46 crore as pointed out by Audit which imposed an additional financial burden on MBL. Further, the same was not brought into the notice of the Government.

2.9.6 Variations in executed quantity

According to Section 24, read with Clause 12 of the General Conditions of Contract, of the CPWD Works Manual 2014, the contractor should send to the client once in every three months, an up to date account giving complete details of all claims for additional payments. This should also contain list of all the additional works ordered by the client. The contractor shall be deemed to have waived his right to claim the amount, if this was not complied. Instances of extra works and additional items of work undertaken by MBL without prior approval of clients and their impact are stated in **Table 2.5**:

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64 Based on variance in rates for Composite Brick work as per SOR 2013 of Building Works.

Table 2.5: Additional work undertaken without approval and its impact

Additional works undertaken	Impact
1. Six additional works beyond the scope of the original work were taken up by MBL (February 2011 to October 2014) and completed at a cost of ₹ 26.05 crore. The work was still under progress (June 2017).	Additional works were executed due to changes in design, without the prior approval of DVC for reasons not on record. Post-facto approval for these additional works from DVC was sought but not yet received. This resulted in non-recovery of ₹ 26.05 crore for 30 to 75 months. Hence, MBL incurred an additional interest[65] of ₹ 13.72 crore on cash credit.
2. MBL executed (June 2009 to May 2011) extra works at a cost of ₹ 83 lakh.	Two agreements (June 2009 and December 2011) with a client, Bilawal Housing Co-operative Society Limited (BHCSL), provided that any additional items of work should be carried out after settlement of rates with BHSCL. BHSCL declined (June 2011) to pay for this item of work as work was executed without their prior approval, leading to loss of the entire amount. The reasons for not obtaining prior approval were not on record.

In the first case, the Government stated (November 2017) that as it is a turnkey project, there were some misconceptions regarding the scope of the work which resulted in variations in quantity and cost of execution. However, the fact remains that MBL had itself identified these works as additional works and did not seek approval from the client before execution. The Government / Management did not offer their comments on the second case.

2.10 Financial Management

The main sources of finance of the PSUs were advances/ payments received from clients and cash credit facility extended by the banks. Prudent financial management would ensure optimal realisation of dues and utilisation of funds.

The impact of absence of financial planning were as follows-

2.10.1 Raising of bills as Contractor

As per clause 8 of the General Rules and Direction for Guidance of Contractors[66] of PWD, for works executed as contractor, PSUs shall submit bills each month before the client for all works executed in the previous month. However, if the PSUs did not submit the bill within the aforesaid time, the Engineer-in-charge on the part of client will measure the work and prepare the bill. Audit noticed that the PSUs had not prepared bills for works executed by them as contractor, as the clients prepared running account (RA) bills. Consequently, raising of RA bills was not commensurate with the physical

[65] Interest charged by Allahabad Bank on MBL ranging from 10.20 to 16.75 *per cent* from April 2012 to December 2015 (average cash credit rate – 13.23 *per cent*).

[66] Rule 221 of PWD Code, GoWB.

progress of works. The Government noted (November 2017) the audit observation in respect of WSF and BEL. Government stated (November 2017) that as per GoWB norms, MBL as the contractor would submit a statement of work done. The client was to draw the corresponding RA bills in the Measurement Books. Government's reply was not correct as the General Rules and Direction for Guidance of Contractors of PWD specifies that it was the responsibility of the contractors to raise bills.

The three PSUs could furnish status reports for 86[67] out of 139 ongoing works as of March 2017. From the status reports, it was observed that the stage of completion ranged between five to 99 *per cent* of the work value. Accordingly, the amount to be billed as on March 2017 stood at ₹ 886.20 crore, against which the PSUs had billed ₹ 752.05 crore. The value of bills not raised against these works by the three PSUs was ₹ 134.15 crore.

As PSUs depend on borrowed capital for meeting their working capital requirements, belated raising of bills led to payment of additional interest on cash credit. In absence of periodic progress reports, the periods for which this amount had not been billed could not be quantified in audit.

The Government stated (November 2017) that in respect of WSFL and BEL, RA bills were prepared by the clients' subject to availability of fund in the Departments. However, timely raising of bills is an integral part of credit management and the PSUs should adhere to the rules in raising bills as per PWD norms.

2.10.2 Advance for agency works

GoWB notified[68] (February/ June 2013) the procedure for drawing of advances and disbursement of funds to PSUs by non-works departments against agency works executed by the PSUs. Release of advances by the departments to PSUs was against the funds requisitioned by the PSUs, based on different stages of execution of works[69]. The PSUs did not keep the details of date wise requisitions of funds placed by them to monitor that such requisitions were made on time as-well-as keeping parity with the work progress. The reasons were not on record. From the work status report of agency works furnished by WSFL and BEL, it was seen that for 70 works[70] the amount of funds receivable was ₹ 180.97 crore, according to payment procedure approved by the Government upto March 2017. However, the actual funds received by the PSUs from the departments were ₹ 149.28 crore. Since timely receipt of funds from departments is essential for execution of work, short receipt of funds amounting to ₹ 31.69 crore hindered the progress of agency jobs.

67 Seventy works for MBL, nine works for WSFL and seven works for BEL.

68 Nos. 1240 –F(Y) dated 18 February 2013 modified by 4470-F(Y) dated 05 June 2013.

69 On signing of agreement – 10 *per cent*, start of construction – further 40 *per cent*, 50 *per cent* completion – further 25 *per cent* and on full completion – further 20 *per cent*.

70 WSFL : 44 works and BEL : 26 works.

The Government assured (November 2017) that timely placement of requisition would be ensure for funds corresponding to physical progress and according to the Government notification.

2.10.3 Agency fees not claimed by PSUs

In terms of GoWB's notification[71] (June 2012), every nominated agency was responsible for selection/ appointment of contractors, monitoring of the works, vetting of bills, compliance of statutory norms, release of payments *etc*. In order to carry out the work, the agency was entitled to get agency fees, which was a percentage of the value of works entrusted by the client. As of March 2017, the following issues were observed:

- During 2012-13 to 2016-17, MBL had completed 38 agency works, yet it had not billed agency fees valued at ₹ 5.35 crore.

- During 2012-13 to 2016-17, WSFL had completed 71 agency works, it had not yet billed agency fees valued at ₹17.56 crore for 63 works.

Government stated (November 2017) that WSFL would take steps for necessary compliance by way of (i) timely recording the completion and handing over date and (ii) intimation to its Accounts Department. Government did not reply (November 2017) with regard to MBL.

2.10.4 Under-recovery of Agency fees

GoWB notified[72] (June 2012) that the nominated agencies were entitled to agency fees of 5.50 *per cent* of the value of works with two *per cent* was for tendering and three and half *per cent* for monitoring and supervision.

Audit observed that during 2012-13 to 2016-17:

- **MBL** had completed seven agency works wherein it had kept margins at 4.75 *per cent i.e. below* the admissible 5.50 *per cent*, resulting in under charging of agency fees of ₹ 27.43 lakh. Government stated (November 2017) that MBL had to accept lower rates on the request of client in few specific cases. However, the fact remains that both the PSU and its clients had deviated from the criteria fixed by the Government.

- **WSFL** had completed 42 works wherein it had kept margins of three to five *per cent* which was lower than the admissible 5.50 *per cent*. This resulted in under charging of agency fees of ₹ 3.02 crore.

- **BEL** had executed 71 works where margins were 3.50 to five *per cent* that was lower than the allowable 5.50 *per cent*. This resulted in under charging of agency fees of ₹ 1.09 crore.

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71 No. 5400-F(Y) dated 25 June 2012.

72 Notification No. 5400-(Y) dated 25 June 2012 of the Budget branch, Finance Department, GoWB.

The Government stated (November 2017) that the Departments had fixed the commission at lower rates for WSFL and BEL. The Government also stated that in future, both PSUs would bring the applicable rates to the notice of the Departments.

- An instance observed in audit where WSFL failed to claim its entitled agency fees is discussed below:

WSFL was nominated (February 2015) as agency by North Bengal Development Department (NBDD) for execution of works of 'repairing and strengthening of Fulbari by pass road' in Darjeeling District. The work was to be completed within 18 months at an administrative sanction of ₹ 52.56 crore. WSFL was entitled to agency fees at the rate of 5.50 *per cent* on the executed value of work *i.e* ₹ 2.89 crore[73]. This agency fee and executed value of work was to be within the sanctioned amount. It was observed that while floating the tender (April 2015) WSFL did not mention that it would charge the entitled agency fee of 5.50 *per cent* of the tendered value (₹ 2.89 crore). Since the difference between the sanctioned amount (₹ 52.56 crore) and the tendered amount (₹ 50.98 crore) was only ₹ 1.58 crore, WSFL could not recover its entitled agency fee of ₹ 2.89 crore and thus received an agency fee of only ₹ 1.58 crore *i.e.* it fell short by ₹ 1.31 crore. Thus, WSFL had forgone ₹ 1.31 crore from its entitled agency commission. The Government stated (November 2017) that to avoid recurrence of such incidence, appropriate clauses had been included in tender documents.

2.10.5 Statutory dues

Some of the statutory dues payable by the PSUs included service tax, income tax, labour welfare cess *etc*. Audit observed (July 2017) that during 2012-13 to 2015-16, North Bengal Development Department (NBDD) appointed **WSFL** as agent for execution of nine works on payment of agency fees.

In order to carry out these works, NBDD was required to provide funds to WSFL for onward payment to contractors. While making payments to the contractor, WSFL was required to make statutory deductions at source towards sales tax (three *per cent*), income tax[74] (two *per cent*) and Labour Welfare Cess (one *per cent*) from the gross bill adding up to six *per cent*. Similarly, NBDD was required to deduct[75] only the income tax at source from the agency fees payable to WSFL.

Audit observed that while disbursing the funds to WSFL for making onward payment to the contractors, NBDD had made statutory deductions at six *per cent* of the gross bill instead of ten *per cent* of the agency fee only. This resulted in excess deduction of statutory dues amounting to ₹ 4.24 crore as detailed in **Table 2.6**:

73 (₹ 52.56 crore × 5.50 *per cent*).

74 Under section 194C of Income Tax Act 1961.

75 As per section 194J of Income Tax Act 1961, (10 *per cent* of the agency fee).

Table 2.6: Excess deduction of statutory dues **(₹ in crore)**

	Tax deducted by NBBD	Tax to be deducted	Excess deductions
1. Sales Tax	2.12	Nil	2.12
2. Income Tax	1.91	0.50	1.41
3. Labour Welfare Cess	0.71	Nil	0.71
Total	**4.74**	**0.50**	**4.24**

It was also noticed that WSFL had already deducted and deposited the same statutory dues while making payments to these contractors. This resulted in statutory dues being deducted twice against the same job. NBDD stopped (October 2016) excess deduction with concurrence from Finance Department, GoWB. WSFL had not yet received refund of the excess sales tax and income tax from the respective authorities till date (June 2017). Moreover, there was no provision for refund of cess. Government noted (November 2017) the observation of Audit.

2.11 Lack of monitoring of works and inadequate internal controls

The CPWD Manual, 2014 provides for monitoring of works, *inter-alia,* through construction schedules, progress charts, financial statements, photographs of works, site inspection *etc*. It was observed that these PSUs did not have any system in place for monitoring the progress and execution of works. Monitoring was restricted to conducting meetings with client for resolving hindrances, which cropped up during execution. Further, the PSUs had no separate Internal Audit Wing of their own. The system of internal audit was carried out by firms of Chartered Accountants/ Cost Accountants which did not analyse the performance of construction activities, covering aspects like engagement of sub-contractors, monitoring of projects, time and cost over-run, cost control/ economy *etc.* The Government stated (November 2017) that the scope of Internal Audit would be revised.

2.11.1 Deficiencies in internal controls

As per contract agreement/ work order, the PSUs should prepare programme of construction giving deployment of machineries and materials at different stages of work and timings for all activities, before undertaking the work, under intimation to its client. Further, as per Rule 366 of PWD code, GoWB, the site offices of PSUs should also prepare periodic progress reports for submission to client/ head office.

Deficiencies in internal controls are listed in the **Figure 2.4**:

Figure 2.4: PSU-wise deficiencies in internal controls

MBL

- As a contractor, had prepared monthly progress reports for only 23 *per cent* ongoing works (March 2017).
- No monthly progress reports prepared for agency works.
- Work programme omitted information regarding deployment of men, machineries and material.
- Project monitoring committee not constituted, Board rarely discussed implementation of works at its Meetings, no directions on follow-up issued.
- None of the site offices (four works) maintained required registers which resulted in formal extension of implementation period sparingly sought for by the PSUs as they could not be supported by chronological noting of cessation of work/ reasons thereof, impact included cost overrun and liquidated damages.
- MIS lacked date of commencement/ completion, valid time extensions, status of bill drawn/ realized, withheld/ retention amount, defect liability period, etc.
- Reconciliation of stocks with consumption norms not undertaken; works completion certificates (including handing over taking over records)/ running account bills not maintained; and capacity/ performance of empaneled contractors not evaluated.

WSFL

- Monthly progress reports for ongoing projects not prepared.
- Work programme omitted information regarding deployment of men, machineries and material.
- Monitoring committee for civil engineering projects, met six times in three months and held no meetings thereafter (March 2017).
- No registers maintained at site offices.
- Formal extension of implementation schedule beyond the stipulated time not available, impact included cost overrun.
- No Information Technology cell.
- Reconciliation of stocks with consumption norms not undertaken; works completion certificates (including handing over taking over records)/ running account bills not maintained; and capacity/ performance of empaneled contractors not evaluated.

BEL

- Monthly progress reports for ongoing projects not prepared.
- Work programme omitted information regarding deployment of men, machineries and material.
- Monitoring committee to oversee progress constituted in August 2012, met only twice as no periodicity prescribed.
- No registers maintained at site offices. Formal extension of implementation schedule beyond the stipulated time not available, as such, impacts included liquidated damages and termination of projects.
- No Information Technology cell.
- Reconciliation of stocks with consumption norms not undertaken; works completion certificates (including handing over taking over records)/ running account bills not maintained; and capacity/ performance of empaneled contractors not evaluated.

Government stated (November 2017) that usually MBL received monthly progress reports from project sites at regular intervals with exception of some sites. Further, WSFL and BEL would consider preparation of monthly progress reports.

2.11.2 Deployment of manpower

The Government notification for appointment of PSUs as nominated agencies for supervision and monitoring of works provided for the deployment of one graduate engineer along with two diploma engineers for each work. Management of MBL stated (November 2016) that at least one Engineer was deployed at all sites; WSFL and BEL did not fix any criteria for posting of engineers at site. During 2012-17, the ratio of jobs to manpower for MBL was 1.49. In the same period, the corresponding ratios for BEL and WSFL were 2.24 and 3.96 respectively.

Thus, MBL, WSFL and BEL had not deployed adequate staff at site offices for supervision as per the norm fixed by GoWB. Government stated (November 2017) that MBL manoeuvred its work force in such a manner that two or more projects located within near vicinity are entrusted to a particular engineer so as to optimise their utilisation. However the reply itself is contradictory to the Government order. Further, the following points emerged –

- BEL's site office at Malda had one person managing 27 works valuing ₹ 57.55 crore spread over entire North Bengal covering eight districts. The distance from work sites to site office in 27 cases ranged between 38 km to 285 km.
- Similarly, WSFL's site office at Bankura had one person managing 75 projects valuing ₹ 232.86 crore spread over entire South Bengal. The distance from work sites to site office in 75 cases ranged between 45 Km to 275 Km.

Government noted (November 2017) the audit observation and also stated that after restructuring work, needful action would be taken with regard to WSFL and BEL.

2.11.3 Inspection at site offices

Clause 5.2 of CPWD manual prescribes inspection of work at various stages by different levels of officers. The officers conducting inspection, should make recordings of inspection notes in the inspection register before passing the bill of the contractor. It was observed that there was no system of recording of inspections at site offices and the findings were not documented. As a result, adequacy and effectiveness of inspection by the PSUs could not be evaluated.

Government stated (November 2017) that inspections were conducted by the PSUs at regular intervals. However, there was no system of notings. In this regard it may be stated that recordings of Inspection notes should be maintained for follow-up measures.

2.12 Conclusion

The Performance Audit on management of works by three PSUs-MBL, BEL and WSFL noted that due diligence was not observed in preparing estimates and finalising contracts for various construction works/ projects. Deficiencies were noticed in making realistic estimation of tender price.

The PSUs violated guiding principles in framing terms and conditions in contract documents, *viz.* absence of provisions for defect liability period, ensuring deployment of adequate men and machinery and takeover of completed works by clients.

With regard to execution of works, Audit found that the works were not completed within schedule, which resulted in time overrun in most works. This had imposed additional financial burden on the PSUs by way of cost overrun, imposition of liquidated damages and termination of works by clients which were mostly avoidable. Moreover, quality of works executed was not ensured. Besides, contractors and sub-contractors were selected through limited tenders without ensuring wide publicity and the e-tendering process was not followed. As a result, additional expenditure was incurred on material procurement and extra expenditure incurred on executing additional works without prior approval.

Financial management did not ensure maximisation of revenue as bills were belatedly raised, advances were not recovered in time and agency fees were not claimed by the PSUs.

Deficiencies in monitoring of works, preparation of reports and deployment of manpower at work sites were observed. Internal controls were inadequate due to absence of internal audit and non-preparation of documents/ reports to ensure better management control over the performance of the PSUs.

Recommendations:

It is recommended that the PSUs may -

- *Maintain a database of their bids with rates.*
- *Prepare a checklist of terms and conditions that should invariably be included in each contract.*
- *Ensure that the tenders are given wide publicity.*
- *Update and revise periodically the database of material suppliers and sub-contractors.*
- *Obtain prior approval before undertaking additional works.*
- *Update their lists of on-going works and monitor payments to be received as per laid down timelines and actually received against these works.*