

Chapter-III

Social, General and Economic Sectors (Non-Public Sector Undertakings)

Chapter III Social, General and Economic Sectors (Non-PSUs)

3.1 Introduction

3.1.1 Budget profile

There are 81 departments and 67 autonomous bodies under Government of National Capital Territory of Delhi (GNCTD). There are also 23 Non-Government Organisations which received grants-in-aid in excess of ₹ 25 lakh in 2018-19 (**Annexure 3.1**). The position of budget estimates and actuals there against of the GNCTD during the period 2014-19 is given in **Table-3.1.1**.

Table-3.1.1: Budget and expenditure of the GNCTD during 2014-19

Particulars	2014-15		2015-16		2016-17		2017-18		2018-19	
	Budget estimates	Actuals	Budget estimates	Actuals	Budget estimates	Actuals	Budget estimates	Actuals	Budget estimates	Actuals
Revenue Expenditure										
General services	6,763.15	5,983.40	7,055.66	6,427.12	7,210.04	6,590.28	7,851.52	7,195.96	8,294.23	7,605
Social services	14,800.52	13,306.11	16,193.02	14,817.83	18,431.53	16,578.89	21,231.39	19,602.11	23,902.16	21,663
Economic services	3,573.12	3,318.99	4,302.65	4,138.71	5,412.43	5,111.41	6,149.61	5,862.01	5,332.53	5,219
Grants-in-aid and contributions	900.99	900.99	958.89	958.89	1,022.44	1,021.34	1,093.94	1,093.94	2,364.98	2,365
Total (1)	26,037.78	23,509.49	28,510.22	26,342.55	32,076.44	29,301.92	36,326.46	33,754.02	39,893.89	36,852
Capital Expenditure										
Capital outlay	4,937.41	4,403.94	5,308.25	4,723.47	4,686.10	3,754.30	3,852.08	3,242.92	4,176.99	3,266
Loans and advances disbursed	2,138.06	1,679.94	2,711.35	2,684.32	2,782.84	2,552.52	2,509.03	2,247.49	2,492.76	2,402
Repayment of Public Debt	1,676.75	1,346.73	1,435.18	1,435.17	1,654.63	1,654.62	1,682.43	1,682.43	3,636.36	3,636
Contingency Fund	0	0	0	10.00	0	0	0	2.40	0	90
Public Accounts disbursements	0	0	0	0	0	0	0	0	0	0
Closing cash balance	0	1,517.07	0	3,654.94	0	2,645.35	0	2,982.52	0	4,463
Total (2)	8,752.22	8,947.68	9,454.78	12,507.90	9,123.57	10,606.79	8,043.54	10,157.76	10,306.11	13,857
Grand Total (1+2)	34,790.00	32,457.17	37,965.00	38,850.45	41,200.01	39,908.71	44,370.00	43,911.78	50,200	50,709

Source: Annual Financial Statements and Finance Accounts of the GNCTD.

3.1.2 Application of resources of the Government

The total expenditure¹ of the GNCTD increased by 43.98 *per cent* from ₹ 29,593.37 crore in 2014-15 to ₹ 42,610 crore in 2018-19. While revenue expenditure increased by 56.75 *per cent* from ₹ 23,509.49 crore in 2014-15 to ₹ 36,852 crore in 2018-19, capital expenditure increased from ₹ 4,403.94 crore in 2014-15 to ₹ 4,723.47 crore in 2015-16, decreased to ₹ 3,754.30 crore in 2016-17 and further decreased to ₹ 3,242.92 crore in 2017-18, but increased to ₹ 3,266 crore in 2018-19.

¹ excluding repayment of public debt and cash balances

As a constituent of total expenditure, revenue expenditure increased from 79.44 per cent in 2014-15 to 86.49 per cent in 2018-19, while capital expenditure decreased from 14.88 per cent to 7.66 per cent. During the period 2014-19, total expenditure increased at an annual average rate of 5.99 per cent whereas revenue receipts grew from ₹ 29,584.59 crore to ₹ 43,112 crore at an annual average rate of 10.82 per cent.

3.1.3 Persistent savings

In three grants, there were persistent savings of more than ₹ 2.50 crore during the last five years as in Table-3.1.2.

Table-3.1.2: List of grants with persistent savings during 2014-19

(₹ in crore)

Sl. No.	Grant number and name	Amount of saving				
		2014-15	2015-16	2016-17	2017-18	2018-19
Revenue (Voted)						
1.	Grant No. 3: Administration of Justice: 2014 B.1(2)(1)-Judicial Magistrate's Courts	8.05 16.85%	15.29 24.50%	8.13 13.90%	7.86 13.31%	21.87 30.64%
2.	Grant No.7: Medical and Public Health: 2211 K 1 (3)(1)-Urban Family Welfare Centre (CSS)	9.21 86.32%	8.71 87.10%	17.76 92.21%	2.50 58.28%	16.53 82.69%
Capital (Voted)						
3.	Grant No. 8: Social Welfare: 5055 DD.1(3)(1)- Introduction of Electronic Trolley Buses- Alternative mode of Transport	3.00 100%	11.00 100%	11.73 100%	12.66 42.20%	4.37 28.27%

Source: Appropriation Accounts

The savings were mainly due to (i) non-filling of vacant posts, (ii) non-receipt of anticipated bills, and (iii) non-release of funds by Government of India (GoI).

3.1.4 Grants-in-aid from Government of India

The grants-in-aid received from GoI during the years 2014-19 have been given in Table-3.1.3.

Table-3.1.3: Year-wise details of Grants-in-aid from GoI

(₹ in crore)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Non-Plan Grants	327.95	2,905.02	1,118.71	0	0
Grants for State Plan Schemes	1,467.35	486.72	550.17	0	0
Grants for Centrally Sponsored plan Schemes	552.84	866.55	1,156.28	0	0
Centrally Sponsored Schemes	--	--	--	994.72	807
Other transfer/grants to State/UT with Legislature	--	--	--	1,189.46	5,037
Total	2,348.14	4,258.29	2,825.16	2,184.18	5,844
Percentage of increase (+)/decrease (-) over the previous year	(+) 67.38	(+) 81.35	(-)33.66	(-)22.68	(+)167.56
Revenue Receipts	29,584.59	34,998.85	34,345.74	38,667.27	43,113
GIA as a percentage of Revenue Receipts	7.94	12.17	8.23	5.65	13.55

Source: Report on State Finances for the year ended 31 March 2019

Grants-in-aid from GoI showed a fluctuating trend in these five years. While it increased in 2014-15 and 2015-16, it decreased in 2016-17 and 2017-18 and again increased in 2018-19. Its percentage share to revenue receipts ranged between 5.65 and 13.55 *per cent* during the period 2014-19.

3.1.5 Certification of Financial Statements of Autonomous Bodies - Arrears in finalisation of accounts

The financial statements of the autonomous bodies are audited by the Comptroller and Auditor General of India under Sections 19(3) and 20(1) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The financial statements include the Balance Sheet, the Income and Expenditure Account and/or the Receipt and Payments Account. Separate Audit Report (SAR) for each of the autonomous bodies audited contains CAG's comments on the accounting treatment with regard to classification, conformity with the best accounting practices, accounting standards, disclosure norms, etc. Audit of accounts of 10 Autonomous Bodies in NCTD is entrusted to the CAG. The status of entrustment of audit, rendering of accounts to audit, issuance of SARs and their placement in the Legislature as on 31 March 2019 is indicated in **Annexure 3.2**.

3.1.6 Planning and conduct of audit

The audit process commences with risk assessment of various departments, autonomous bodies, schemes/projects, etc. and includes assessing the criticality/complexity of activities, level of delegated financial powers, internal controls, concerns of stakeholders and previous audit findings. Based on this risk assessment, the frequency and extent of audit are decided and an Annual Audit Plan is formulated.

After completion of audit, Inspection Reports containing audit findings are issued to the heads of the offices with the request to furnish replies within four weeks. Whenever replies are received, audit findings are either settled/or further action for compliance is advised. Important audit observations pointed out in these Inspection Reports are processed for inclusion in the Audit Reports of the Comptroller and Auditor General of India which are submitted to the Lieutenant Governor of Delhi under Section 48 of the Government of National Capital Territory of Delhi Act, 1991.

During 2018-19, compliance audit of 147 Drawing and Disbursing Officers (DDOs) of GNCTD and 15 autonomous bodies were conducted by the office of the Principal Accountant General (Audit), Delhi.

3.1.7 Response of the Government to Audit Report

In previous years, Audit has reported on several significant deficiencies in implementation of various programmes/activities as well as on the quality of internal controls in selected departments, which had negative impact on the success of programmes and functioning of the departments. The focus was on

offering suitable recommendations to improve service delivery to the intended beneficiaries.

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Principal Accountant General (Audit), Delhi to the Principal Secretaries/Secretaries of the departments concerned, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report. Three paragraphs, proposed to be included in this Chapter were sent to the Principal Secretaries/Secretaries of the respective departments. As of December 2020, no reply in respect of these paras were received.

3.1.8 Recoveries at the instance of Audit

Audit findings, involving recoveries that came to notice in the course of test audit of accounts of the departments of the Government, were referred to various departmental Drawing and Disbursing Officers (DDOs) for confirmation and further necessary action under intimation to Audit.

During the year 2018-19, against recovery of ₹ 161.59 crore pointed out in 108 cases, the DDOs concerned had effected recovery of only ₹ 5.44 crore (including recovery of previous years) in 78 cases.

3.1.9 Lack of responsiveness of the Government to Audit

The Principal Accountant General (Audit), Delhi conducts periodic inspection of Government departments by test-check of transactions and verifies maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed by issue of Audit Inspection Reports (IRs). When important irregularities etc., detected during audit inspections, are not settled on the spot, these IRs are issued to the heads of offices inspected. The heads of offices and next higher authorities are required to report their compliance to the Principal Accountant General (Audit), Delhi within four weeks of receipt of IRs.

As on 31 March 2019, 9,277 audit observations contained in 2,043 IRs remained outstanding as shown in **Table-3.1.4**.

Table-3.1.4: Details of Outstanding IRs and audit observations

(₹ in crore)

Name of sector	As on March 2017			As on March 2018			As on March 2019		
	IRs	Paras	Amount	IRs	Paras	Amount	IRs	Paras	Amount
Social Sector	1,124	4,578	106.41	1,097	4,191	105.49	1,152	4,746	105.95
General Sector	641	3,499	457.15	711	3,869	509.15	752	4,042	579.91
Economic Sector (Non- PSUs)	175	614	5,437.51	162	550	5,255.70	139	489	5,404.61
	1,940	8,691	6,001.07	1,970	8,610	5,870.34	2,043	9,277	6,090.47

The large number of outstanding audit observations indicates the need for the Government to take effective action to address the issues raised by Audit to improve financial management and accountability.

3.1.10 Follow-up on Audit Reports -Non-submission of suo-motu Action Taken Notes and discussion of paragraphs in Public Accounts Committee (PAC)

To ensure accountability of the executives to the issues dealt with in various Audit Reports, the administrative departments are to issue *suo-motu* Action Taken Notes (ATNs) on all audit paragraphs and performance audits featuring in the Audit Reports irrespective of the fact whether these are taken up for discussion by the Public Accounts Committee (PAC) or not. These ATNs are to be submitted to the PAC duly vetted by the Principal Accountant General (Audit), Delhi within a period of four months from the date of presentation of Audit Reports in the Legislative Assembly of Delhi.

Out of 36 performance audits and 119 audit paragraphs featured in the civil chapters of Audit Reports from 2008-09 to 2017-18, ATNs in respect of two performance audits and 17 audit paragraphs have not been received. Four performance audits and 19 audit paragraphs have been discussed by the PAC, up to 31 March 2019.

3.1.11 Year-wise details of performance audits and audit paragraphs that appeared in Audit Report

The year-wise details of performance audits and audit paragraphs that featured in the Audit Reports for the last three years along with their money value are given in **Table-3.1.5**.

Table-3.1.5: Details of performance audits and audit paragraphs appearing in Audit Reports on General, Social and Economic Sectors (Non-PSU) for the years ended March 2016-March 2018

Reports for the Year ended March	Performance Audits		Audit Paragraphs		Replies received	
	Number	Money value (₹ in crore)	Number	Money value (₹ in crore)	Performance Audit	Audit Paragraphs
2016	5	107.93	15	365.91	4	12
2017	3	231.68	13	184.40	1	9
2018	1	136.15	10	128.14	1	2

Nine performance audits and 38 audit paragraphs were issued to the Government. However, replies in respect of only six performance audits and 23 audit paragraphs were received from the Government/departments.

For the Audit Report for the year ended March 2019, three audit paragraphs involving money value of ₹ 29.76 crore have been included in Chapter III of the Report. Replies, wherever received, have been incorporated at appropriate places.

Department of Labour

3.2 Functioning of Delhi Building and Other Construction Workers Welfare Board, Government of National Capital Territory of Delhi

3.2.1 Introduction

The Government of India (GoI) enacted the Building and Other Construction Workers' (BOCW) Act in 1996 with the aim of providing safety, health, and welfare measures for the benefit of building and other construction workers through levy/collection of cess, and also framed the Building and Other Construction Workers Welfare Cess Rules (Cess Rules) in 1998. The provisions of the Act are applicable to 'every establishment² which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction works'. Further, the Act provides that every building worker in the age group of 18 to 60 years who was not a member of any welfare fund established under any law and had completed a period of ninety days of service during the preceding twelve months as a construction worker in the State could be registered as a beneficiary.

In pursuance of the provisions of the Cess Act, Government of NCT of Delhi notified (January 2002) the Delhi Building and Other Construction Workers Rules, 2002 (DBOCW Rules) after a delay of five and a half years from the enactment of the BOCW Act and issued notification (10 January 2002) for collection of labour cess at the rate of one *per cent* of the cost of construction incurred by employers. The Delhi Building and Other Construction Workers Welfare Board (Board) was constituted (September 2002) for implementation of various welfare schemes. The functions of the Board, *inter alia*, include providing various facilities to beneficiaries such as assistance in case of accident; pension payment to those who have completed the age of sixty years; loans and advances for construction of house; Group Insurance Scheme; financial assistance for the education of children; medical expenses for treatment of major ailments; maternity benefits; and other welfare measures and facilities as prescribed.

² Establishment means any establishment belonging to, or under the control of, the Government, anybody, corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor but does not include an individual who employs such workers in any building or construction work in relation to his own residence, the total cost of such construction not being more than ₹ 10 lakh.

Subsequently, based on a petition filed regarding non-effective implementation of the provisions of the BOCW Act, Hon'ble Supreme Court directed (18 January 2010) all State Governments to extend the benefits of the Act to unorganised section of building workers in a meaningful manner. It *inter alia* stipulated the following:

- Welfare Boards have to be constituted by each State with adequate full time staff within three months. The Board should meet at least once in two months or as specified in the rules, to discharge their statutory functions.
- Awareness should be built up, about the registration of building workers and about the benefits available under the Act. There should be effective use of media, AIR and Doordarshan, for awareness programmes regarding the Act, the benefits available there under and procedures for availing the benefits.
- Each state government shall appoint Registering Officers and set up centres in each district to receive and register the applications and issue receipts for the applications.
- Registered trade unions, Legal Service Authorities and NGOs are to be encouraged to assist the workers to submit applications for registration and for seeking benefits.
- All contracts with Governments shall require registration of workers under the Act and extension of benefits to such workers under the Act.
- The Member Secretary of the Welfare Boards and the Labour Secretary shall be responsible for due implementation of the provisions of the Act. The Labour Ministry of each state shall carry out special drives to implement the provisions of the Act.

All Boards shall submit comprehensive reports as required under the Act and Rules to the respective Government.

3.2.2 Organisational set up

The Board is chaired by the Labour Minister as ex-officio Chairman. The Commissioner of Labour Department is the Chief Inspector for inspection of building and other construction works whereas Secretary, Board is the Chief Executive Officer. At district level, Deputy Labour Commissioners and Labour officers were designated as Registering Officers for registration of construction workers as well as for establishments engaging these workers (up to November 2018) respectively. In December 2018, the Board appointed Deputy Secretaries as registering officers for the purpose of registration of construction workers. The officers of Labour Department i.e. Labour officers/Inspecting officers and Deputy Labour Commissioner were notified (July 2005) by the Lieutenant Governor as Cess Collectors and Assessing Officers respectively.

3.2.3 Audit Framework

An audit of the Board for the years 2016-19 was conducted during the period April-December 2019 to ascertain whether assessment, levy and collection of cess was done efficiently, welfare measures were planned and implemented effectively, and monitoring mechanisms for cess collection and implementation of welfare schemes were in place.

For the purpose of audit, records of the Headquarters and three out of nine district³ offices of the Board were examined. These districts were selected on the basis of higher amount of cess collected and number of workers registered during the period covered by audit.

Audit findings

3.2.4 Absence of planning and budgeting for implementation of the Act

A long-term perspective plan outlining the year-wise developmental activities to be undertaken would go a long way in effectively carrying out the objectives of any organisation. Audit, however, observed that the Board had not prepared any long term perspective or annual plan for carrying out welfare activities and to provide social security, health benefits etc. to construction workers.

Section 25 of the BOCW Act stipulates that the Board shall prepare a budget for each financial year, showing estimated receipts and expenditure of the Board and forward it to the State Government and Central Government. However, it was observed that the Board had never prepared a budget since its inception in 2002, in contravention of the provision of the Act.

3.2.5 Collection of Cess

The Building and Other Construction Workers Welfare Cess Act, 1996 provides for levy and collection of cess at the rate of one *per cent* on the cost of construction incurred by the employer with a view to augmenting the resources of the Board constituted under the BOCW Act. Every construction worker shall be eligible for registration under the Board as a beneficiary by paying a registration fees of ₹ 5 and a subscription of ₹ 20 for a year. As per records of the Board Headquarters, the Board collected ₹ 581.08 crore as cess during the years 2016-19, out of which an amount of ₹ 324.29 crore pertained to the selected districts.

³ South, South West and North West districts

The details of cess/subscription/registration fees collected and interest earned as of March 2019 are given in **Table-3.2.1**.

Table-3.2.1: Actual receipt of cess, beneficiaries' contribution and interest earned

Year	Receipts			
	Cess Collected	Beneficiaries' contribution	Interest earned	Total
Upto 3/2016	1,608.67	1.72	606.70	2,217.09
2016-17	185.65	0.42	168.34	354.41
2017-18	199.20	0.42	151.08	350.70
2018-19	196.23	0.08	155.13	351.44
Total	2,189.75	2.64	1,081.25	3,273.64

(₹ in crore)

Source: Information provided by the Board

Scrutiny of records of selected districts relating to collection of cess revealed the following:

3.2.5.1 Non-maintenance of District Master Register by the Cess Collectors

As per orders (August 2005) of Secretary (Labour), Cess Collectors are required to collect details of all building plans from local authorities duly approved since January 2002. Besides, as per the above order, the cess collectors were to collect the list of all construction works being maintained by the local Station Head Officers. Further, the Secretary had also instructed that a District Master Register (DMR) be maintained by the Cess Collectors wherein information like name and address of employer, number and date of sanction of building plan by local authority, address of construction site, date of receipt of return, date of assessment order, amount demanded and details of cess cheques collected etc. were required to be filled in.

Audit observed that Cess Collectors of the selected districts neither maintained the District Master Registers nor were aware about the number of building plans approved by local authorities. Audit noted that 4,682 building plans were approved by South and North Municipal Corporation of Delhi (MCD) during the years 2016-19. In the absence of the requisite records, the correctness and genuineness of cess collected and that actually deposited could not be verified/ascertained in audit.

The Government replied (September 2020) that cess collectors have been instructed to maintain registers and all the district in charges have also been directed to ensure proper maintenance of records.

3.2.5.2 Difference in figures of cess amount as per records of Cess Collectors, districts and Board Headquarters

After deducting cess from the contractors' bills, Government Departments and private entities pass on the same to the notified Cess Collectors (Labour Officer and Inspector) of the Labour Department through cheques. After receipt of the cheques, Cess Collectors hand these over to the Board staff posted at the district offices, who in turn deposit the cheques in the bank. The figures of cess collected as per Cess Collectors, selected districts and the Board Headquarters for the period 2016-19 are as given in **Table-3.2.2**.

Table-3.2.2: Cess collected as per records of Cess Collectors, District Offices and Board

(₹ in crore)

Year	Cess as per records of Cess Collectors			Cess amount as per district records			Difference between cess collectors and district offices			Cess amount as per Board			Difference between districts and Board		
	2	3	4	5	6	7	8(5-2)	9(6-3)	10(7-4)	11	12	13	14 (11-5)	15(12-6)	16(13-7)
1	SW	S	NW	SW	S	NW	SW	S	NW	SW	S	NW	SW	S	NW
2016-17	NA ⁴	NA	28.22	25.66	45.87	28.22	NA	NA	NIL	25.78	46.11	28.14	0.12	0.24	0.08
2017-18	NA	NA	30.93	28.36	50.81	30.93	NA	NA	NIL	29.02	57.65	29.61	0.66	6.84	1.32
2018-19	13.30	NA	34.24	16.77	43.98	34.24	3.47	NA	NIL	26.72	48.53	32.73	9.95	4.55	1.51
Total	13.30	NA	93.39	70.79	140.66	93.39	3.47	NA	NIL	81.52	152.29	90.48	10.73	11.63	2.91

Source: Information provided by the Department

As seen from the table, there were differences in the figures of cess collected provided by Cess collectors, district offices and the Board itself. For the year 2018-19, there was a difference of ₹ 3.47 crore between the cess figures of cess collectors and district offices. Further, there were differences of ₹ 10.73 crore, ₹ 11.63 crore and ₹ 2.91 crore between the figures of districts (South-West, South and North-West) and the Board during 2016-17, 2017-18 and 2018-19 respectively. Audit noted that the differences were not reconciled and therefore, the correctness of the figures could not be verified in audit.

Further, data related to cess was not available with the cess collectors in South-West and South districts for the years 2016-17 and 2017-18 as indicated in the table. Also, no records related to cess were available in the South district for the year 2018-19.

The CAG had also, from time to time, raised the issue of non-maintenance of proper books of accounts and other relevant records by the Board, non-preparation of statement of receipts and payments, non-deposit of cess, non-preparation of bank reconciliation statement, not obtaining closing balance certificate from the bank and non-maintenance of cash book by the Board in the Separate Audit Reports issued till 2016-17. It was also highlighted that the cheque and remittance registers maintained for cess and membership fee collected at various zones were not signed/checked by a responsible officer/competent authority in token of authenticity.

⁴ Not available

The Government, while accepting the facts, stated (September 2020) that all the district officers have been advised/briefed to reconcile cess figures of the respective districts in coordination with the Board.

3.2.5.3 Non-deposit of cess deducted by the MCsD

As per circular (July 2006) of MCD, at the time of sanction of building plan, one *per cent* of estimated cost was required to be collected as cess for further remittance to the Welfare Board.

While approving the plans, they collect the amount of cess due on the basis of estimated cost of construction. The cess collected was to be remitted to the Board by the MCsD after deducting cost of collection. During the years 2016-19, South and North MCsD approved building plans of 994 and 3688 private establishments respectively, against which cess amounting to ₹ 83.29 crore and ₹ 39.42 crore was collected. However, there was nothing in the records of district offices or the Board (Headquarters) to indicate whether the cess collected was deposited with the Board by MCsD. Further, the Board had never taken up the matter with the local bodies in respect of cess deducted and deposited by them.

In its reply (September 2020), the Government stated that the issue of non-deposit of cess has been taken up at various levels by the Labour Department Officer including Head of Department with the various municipal bodies.

3.2.5.4 Assessment of Cess

As per Section 4 of the Cess Act, every employer⁵ who is carrying out any building or other construction work is required to furnish a return to the Assessing Officer containing *inter alia* information on estimated cost of construction and details of advance payment made, to enable assessment of the amount of cess payable. During the years 2016-19, the Assessing Officers in South, South West and North West districts assessed the cess payable in 15, 51 and 20 cases respectively. Scrutiny of the assessment files revealed the following deficiencies in assessment of cess.

- **Details of cost of construction not available**

As per Rule 3 of the Building and Other Construction Workers' Welfare Cess Rules, for the purpose of levy of cess, cost of construction shall include all expenditure incurred by an employer in connection with the building or other construction work, except cost of land and any compensation paid under the Workmen's Compensation Act, 1923.

⁵ As per Section 2 (i) of the BOCW Act, employer in relation to an establishment means the owner thereof.

It was observed from scrutiny of records of South West and South districts that complete details of cost of construction such as borrowing cost, land development charges, costs of design and technical assistance and complete details of work in progress etc. were not furnished by the assesseees in any of the 66 cases assessed nor were they sought by the Assessing Officers. In the absence of details, the Assessing Officer would not be in a position to accurately assess the cess payable and the possibility of under assessment could not be ruled out.

- **Non-availability of records relating to assessment of cess**

Rules 6 and 7 of the Cess Rules stipulate that every employer shall, within thirty days of commencement of his work, furnish to the Assessing Officer information in Form-I containing data relating to estimated cost of construction, details of payment of cess deposited etc. for ensuring that the cess due has been worked out correctly.

Scrutiny of the records of selected districts revealed that Assessing Officers had not maintained any records relating to Form-I furnished by the employers. In absence of data, audit could not verify whether the construction cost and the cess due had been worked out correctly.

Audit cross-checked information available on the website of Delhi Fire Service, and noticed that 23 shopping malls/office buildings/schools/banquet halls/guest houses/health and education society etc. were constructed in North West district and 31 in South district between the period 2003 and 2018. However, neither were these establishments registered with the Board nor was cess deposited by them. In case of South West district, it was noticed from the website that nine hotels were constructed at Aerocity, Indira Gandhi International Airport, during the period 2012 and 2016, but neither were these hotels registered with the district office/Board nor was cess on construction of these deposited.

While accepting the facts, the Joint Labour Commissioner (North West) stated (December 2019) that notices were issued to all the owners/employer with the direction to appear before the assessing officers. However, it was observed that the notices were issued after being pointed out by audit.

- **Short deposit of cess**

Scrutiny of assessment records of North West district revealed that M/s Saroj Super Specialty Hospital incurred an expenditure of ₹ 6.40 crore on repair and maintenance works executed during the years 2008-15. On the basis of assessment (29 June 2016) made by the Assessing Officer, the hospital was required to deposit cess amounting to ₹ 13.35 lakh, including interest of ₹ 6.96 lakh. The hospital deposited advance cess of ₹ 3.07 lakh (November 2015/January 2016). However, it was noticed that the remaining

cess amounting to ₹ 10.28 lakh (Cess- ₹ 3.32 lakh and interest of ₹ 6.96 lakh) was not deposited as of March 2020.

The Government replied (September 2020) that the hospital had filed an appeal against the assessment order in July 2016 with the Board instead of Labour Commissioner who is the appellate authority and was advised to file the appeal with the appellate authority. However, the reply does not mention the outcome of the appeal.

- **Under assessment of cess**

As per order (January 2006) of Secretary (Labour), for the purpose of calculation of cost of construction in case of shopping malls/star hotels, an amount of ₹ 20,000 per square meter was required to be considered as cost of construction whereas in case of hospitals, the cost to be considered was ₹ 18,000 per square meter. The cost of other development works such as sewerage, external roads, approach roads, landscaping and cost of boundary wall should be taken separately. In case total cost indicated by the owner is higher than the cost calculated by the Assessing Officer, then higher cost should be considered for calculation of cess. For residential buildings, minimum rate of ₹ 6,000 per square meter, ₹ 6,200 per square meter and ₹ 8,000 per square meter were required to be considered for up to 4 storeys, beyond 4 storeys and basement respectively.

In the case of M/s Seven Seas Hospitality Private Limited, construction work was completed (March 2016) covering an area of 36,307.97 square meters, including basement area of 15,216.31 square meters. The assessee declared the cost of construction as ₹ 66.61 crore, which was higher than the cost of construction of ₹ 54.36 crore calculated by the Assessing Officer. Accordingly, the cess was calculated on the cost declared by the assessee. It was noticed that for 21,091.66 square meters, the cost of construction was calculated by the Assessing Officer @ ₹ 20,000 per square meter, whereas for basement having area of 15,216.31 square meters, the cost was calculated at the rate of ₹ 8,000 per square meter (rate for residential building) instead of ₹ 20,000 per square meter. In addition, the cost of boundary walls and other development charges amounting to ₹ 2.85 crore were not included in the cost of construction by the Assessing Officer. Thus, instead of actual cost of construction of ₹ 75.47 crore, assessment was made on ₹ 66.61 crore, resulting in under assessment of cost of construction by ₹ 8.86 crore involving cess of ₹ 8.86 lakh⁶.

⁶ One per cent of (₹ 75.47 crore- ₹ 66.61 crore)

The Government replied (September 2020) that the cost of construction declared by the management was higher than the cost assessed by the Assessing Authority and the assessment of cess was carried out on the basis of administrative order issued in 2006. The reply is not acceptable as the Assessing Authority had not assessed the cost on the basis of administrative orders of January 2006.

3.2.5.5 Non-realisation of cess due to dishonoured cheques

In district offices, cess is collected by the Cess Collectors (Labour Officers and Inspecting Officers) from employers, contractors, State Government, Public Sector Undertakings, Municipalities, etc. through account payee cheques. These cheques are then handed over to the Board staff posted at district offices for deposit into bank account.

Scrutiny of records of the selected districts revealed that nine cheques involving ₹ 16 lakh received and deposited by South district and 13 cheques of ₹ 26 lakh by South-West district during the period June 2016 to April 2019 were dishonored on account of insufficient balance in the account/outdated instruments/without mentioning specific reasons and were lying with the district offices. The Board/Cess Collectors did not take any action to recover these amounts. Thus, cess amounting to ₹ 42 lakh was not realised from the defaulters as of December 2019, resulting in loss of cess due to lack of monitoring by the Board.

This issue was also raised in the Report of the Comptroller and Auditor General of India for the year ended March 2014, pointing out that 28 cheques amounting to ₹ 54 lakh received during the year 2012-13 were dishonored and returned to South West district/Cess Collector, but no action was initiated as of January 2020.

The Government replied (September 2020) that the issue was discussed in various meetings and directions have been issued to District officers in this regard. However, documentary evidence in respect of the above reply was not furnished to audit.

3.2.6 Welfare measures

3.2.6.1 Identification and registration of construction workers

As per Rule 266 of Delhi BOCW Rules, 2002, for availing the benefits of various social security and welfare measures, a construction worker needs to be registered with the Board. To be registered, the workers need to be between the ages of 18 and 60 and to have been engaged in any building or other construction work for not less than 90 days during the preceding twelve months. The workers need to renew their registration every year. Further, as per Rule 266 (3) of DBOCWW, a certificate from the employer or contractor that the applicant is a construction worker should be produced along with the

application for registration. In case such a certificate is not available, a certificate issued by the registered construction workers unions or a certificate issued by Assistant Labour Commissioner of the concerned area or by the Executive Officer of the Panchayat may also be considered.

Audit observed that the Board had not conducted any survey or devised any system to identify all construction workers in Delhi. As against the Board's estimate of 10 lakh (January 2019) construction workers in Delhi, only 17,339 (1.73 per cent) were registered as of March 2019 as given in **Table-3.2.3**.

Table-3.2.3: Number of construction workers registered with the Board

Sl. No.	Year	Number of registered workers at the beginning of the year	Number of workers (Out of Col.3) who renewed registration during the year	No. of new workers registered during the year	Total number of registered workers at the end of the year (Live members ⁷)
1	2	3	4	5	6 (4+5)
1	2016-17	1,52,289	34,266	1,11,352	1,45,618
2	2017-18	1,45,618	69,388	67,823	1,37,211
3	2018-19	1,37,211	11,930	5,409	17,339

Source: Information provided by the Board

As seen from the above table, the number of registered workers showed a declining trend over the years. Registration of workers was very low in the year 2018-19, declining from 67,823 in 2017-18 to 5,409.

Low registration of construction workers with the Welfare Board also hampered efforts in providing ex-gratia payments to the workers whose livelihoods were affected during the Covid-19 pandemic. As against the estimated 10 lakh construction workers, the Board disbursed two installments of ex-gratia relief payment of ₹ 5,000 to 37,127 registered workers as on 24 March 2020 and 39,600 registered workers as on 12 May 2020.

The Board, in its reply, admitted that it had not identified the estimated construction workers in Delhi.

(a) Shortcomings noticed in the registration process

- Out of 1,44,325 construction workers registered with the South West district as of March 2019, application forms of 1,43,904 construction workers registered up to November 2018 were not available with the district. In the absence of application forms, eligibility of the construction workers registered in the district office could not be verified in audit.
- Rule 266 (8) stipulates that the Secretary or other officer authorised by him shall issue to every beneficiary an identity card⁸ with a photo of the

⁷ Both new and old members whose registration have been renewed

beneficiary and maintain a register of identity cards in the prescribed form. Audit noted that South-West district had not maintained the identity card register of 1,43,904 workers registered up to November 2018, whereas out of 1,19,082 workers registered with North West district during the period April 2016 to March 2019, 45,545 identity cards were issued to various registered construction workers unions instead of construction workers, rendering the genuineness of the identity of workers doubtful.

- In order to speed up the processing of registration and renewal of registration of construction workers working at different construction sites and to prevent registration of bogus construction workers, Lieutenant Governor notified (April 2018) Assistant Engineer (Civil/Electrical) of NDMC, PWD, CPWD, DJB, MCD, DDA etc. as Registering Officer for registration of construction workers working in their projects. However, none of these Registering Officers registered any construction worker working in any of their projects as of January 2020.

3.2.6.2 Implementation of welfare schemes by the Board

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, confer various benefits to the construction workers, like fixing hours for normal working days, weekly paid rest day, wages for overtime, basic welfare amenities at site, temporary living accommodation near site, safety and health measure. Besides, the Act also stipulates various social security and welfare schemes for the benefit of building and other construction workers. Section 22 of BOCW Act, 1996 stipulates 10 functions of the Board namely (i) providing immediate assistance to a beneficiary in case of accidents (ii) payment of pension to the beneficiaries who have completed the age of sixty years (iii) sanctions of loans and advances to a beneficiary for construction of a house (iv) payment in connection with premia for Group Insurance Scheme of the beneficiaries (v) financial assistance for the education of children of the beneficiary (vi) payment to meet medical expenses for treatment of major ailments of a beneficiary/dependents (vii) maternity benefit to female beneficiaries (viii) make provision and improvement of such other welfare measures and facilities (ix) grant loan or subsidy to local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment and (x) payment of grant-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard

⁸ Identity card serves as a documentary proof that the worker had been engaged in construction work for more than 90 days to be eligible for registration and availing benefits under the Act.

specified by the Board for the benefit of the building workers and the members of their family.

For this purpose, the Delhi BOCW Rules notified in 2002 prescribed 10 welfare schemes viz. i) Maternity benefit (ii) Advance for purchase or construction of house (iii) Disability Pension and ex-gratia payment (iv) Loan for purchase of work related tools (v) Payment of death benefit and Funeral Assistance (vi) Medical assistance to beneficiaries (vii) Financial assistance for education of children (viii) Financial assistance for Marriage (ix) Pension scheme and (x) Family Pension.

Subsequently, Delhi Government notified additional welfare schemes viz (i) Grant for purchase of work-related tools [2012] (ii) Imparting vocational training to registered construction workers and setting up of Construction Academy for construction workers [2012] (iii) providing items of utility [2012] and (iv) Financial Assistance for miscarriage [2016].

Audit noted that in three schemes specified in the BOCW Act, 1996 viz. (i) payment in connection with premia for Group Insurance Scheme of the beneficiaries, (ii) grant, loan or subsidy to local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment and (iii) payment of grant-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, the Labour Department, GNCTD had not taken any action for implementation of the schemes.

(a) Inadequate implementation of welfare schemes by the Board

The basic purpose of collecting cess was to finance various social security and welfare measures for construction workers. However, it was observed that only a small part of the cess collected was spent on welfare schemes and the cess collected has been accumulating over the years. During the period 2002-19, the Board received an amount of ₹ 3,273.64 crore as cess, interest earned on the cess and registration fee against which it had incurred expenditure of only ₹ 182.88 crore on welfare schemes. Hence, only 5.59 *per cent* of the cess collected was spent on providing benefits to the workers. During 2016-19, the cess collected was ₹ 1,056.55 crore and the expenditure on welfare schemes was ₹ 121.47 crore (11.50 *per cent*). Cess and fee collected along with interest had accumulated to ₹ 2,709.46 crore as of March 2019. It was also observed that 3,919 claims of various welfare schemes were lying pending (July 2019) with the district offices for payment, but no efforts were made by the Board/district offices to clear the pending claims. The issue of idling of cess fund was also pointed out in the Report of Comptroller and Auditor General of India for the year ended March 2015 but no corrective measures were initiated in this regard.

(b) Non-adherence of the directives of the Supreme Court

As per the Supreme Court's directive (18 January 2010), the States were required to effectively use media, All India Radio and Doordarshan, for creating awareness about the registration of building workers, benefits available under the BOCW Act and procedures for availing the benefits.

Audit noted that no such activities for creating awareness of the benefits of the scheme was carried out by the Board during the period 2016-19. Besides there was nothing in the records of the Board in respect of camps organised or any pamphlets etc. ever distributed to enhance the awareness of the workers about the schemes being implemented.

Audit noted that only a few beneficiaries were availing the benefits of welfare schemes due to non-publicity of schemes run by the Board amongst the workers. Moreover, the Board did not make any effort to trace the workers who failed to renew their registration.

Thus, the Board could not discharge its functions of providing social security and welfare measures to construction workers effectively.

(c) Funding status of welfare schemes of the Board

A beneficiary registered under the Act is required to submit a claim application in the prescribed format for availing benefits under the schemes. The Board, after sanctioning the claim, disburses the financial assistance by cheque/RTGS.

Audit observed that there was no expenditure on six out of the 15 welfare schemes during 2016-19 (**Annexure 3.3**). Out of these, three schemes viz (i) Grants for purchase of work-related tools, (ii) imparting vocational training to registered construction workers and setting up of Construction Academy and (iii) providing of items of utility were meant for improvement of productivity of the workers. Non-incurrence of expenditure on these schemes deprived the workers of the opportunity of improving their skills/productivity which in turn could have increased the earnings of construction workers. During this period, the Board disbursed ₹ 121.47 crore on the nine remaining schemes, out of which ₹ 104.74 crore was disbursed as financial assistance for education to school children of registered construction workers through the Directorate of Education and also to children of MCD schools directly. However, no data relating to construction workers whose children were provided financial assistance was available with the Board.

Audit examined records of the three selected districts relating to payments made under four schemes i.e. Death benefits, Maternity benefits, Pension scheme and Marriage assistance as expenditure under other schemes was meagre. Expenditure during this period on these four schemes by the Board as a whole and by the selected districts is given in **Table-3.2.4**.

Table-3.2.4: Details of expenditure on four welfare schemes

(₹ in crore)

Welfare scheme	Amount disbursed by the Board as a whole		Amount disbursed by selected districts	
	No. of workers	Amount disbursed	No. of workers	Amount disbursed
Death benefits	671	5.88	391	3.35
Pension scheme	209	2.31	128	0.72
Maternity benefits	1508	3.52	936	2.07
Marriage assistance	1092	4.98	612	2.79
Total	3480	16.69	2067	8.93

Source: Information provided by the Board

Audit scrutinised 2,067 claims passed and paid under these four schemes during the 2016-19 in the selected districts and the irregularities observed are discussed in the succeeding paragraphs.

(i) Implementation of Scheme for death benefits

As per Rule 266 of Delhi BOCW Rules, 2002, for availing the benefits of various social security and welfare measures, a construction worker needs to be registered with the Board. To be registered, the workers need to be between the ages of 18 and 60 and to have been engaged in any building or other construction work for not less than 90 days during the preceding twelve months. The workers need to renew their registration every year. Further, as per Rule 266 (3) of DBOCWW, a certificate from the employer or contractor that the applicant is a construction worker should be produced along with the application for registration. In case such a certificate is not available, a certificate issued by the registered construction workers unions or a certificate issued by Assistant Labour Commissioner of the concerned area or by the Executive Officer of the Panchayat may also be considered. Rule 266 (8) stipulates that the Secretary or other officer authorised by him shall issue to every beneficiary an identity card with a photo of the beneficiary. The identity card serves as a documentary proof that the worker had been engaged in construction work for more than 90 days to be eligible for registration and availing benefits under the Act.

Rule 278 of the DBOCW Rules, 2002 stipulates that that Board may sanction an amount of ₹ one lakh to the nominees/dependents of a member towards death benefit, in case of death of a member. If the death is due to an accident during the course of employment, the nominee/dependents of the member may be sanctioned ₹ two lakh towards death benefit.

Audit observed that:

- In 54 cases where death benefits of ₹ 46.94 lakh were disbursed, it was found that the workers were issued identity cards even before they had applied for registration.
- Out of these, in seven cases in which payments of ₹ 6.60 lakh were made, the date of application for registration was after the date of death

of the construction worker, although the application bore the signature of the deceased worker and also contained the certificate of employment issued by the construction workers union. Further, in one of these cases, the age proof of the construction worker was attested by the Notary Public 225 days after the date of his death.

Issue of identity cards before submission of registration applications, discrepancies between the date of registration and date of certificate issued by the Unions etc. indicates serious weaknesses in the internal controls of the Board and the possibility of ineligible claimants availing benefits under the scheme cannot be ruled out.

(ii) Implementation of pension benefits

Rule 272 of the DBOCW Rules, 2002 stipulates that a member of the fund who has been working as a building worker for not less than one year after the commencement of the rules shall on completion of sixty years of age be eligible for pension⁹. Further, pensioners are required to produce a life certificate once a year.

Audit observed that:

- In seven cases involving release of pension amounting to ₹ 9.91 lakh, the workers to whom pension was released were registered after completion of 60 years of age as per additional documents available in the records which showed a different date of birth from those mentioned in the affidavit submitted by the applicants.
- In four cases, pension amounting to ₹ 2.67 lakh was released to construction workers before completion of 60 years of age.
- In seven cases in which pension amounting to ₹ 8.61 lakh was released, the workers were registered on the basis of certificates issued by Vice Principal/Programme Coordinator of Schools, which were invalid, since the DBOCW Rules requires certificate from the employer or contractor or a registered construction workers union, or Assistant Labour Commissioner of the concerned area or Executive Officer of the Panchayat.

In respect of 11 cases, the Board replied that date of birth was verified on the basis of affidavits submitted by these workers which is a valid document under the Rules. The reply does not address the issue of difference in date of birth appearing in other documents submitted by the workers. In the remaining seven cases, it was stated that the registration was done on the basis of verification report by Inspecting Officer/DCD and recommendation of

⁹ ₹ 150 per month upto 9.2.2012, ₹ 1,000 per month upto 3.3.2016 and ₹ 3,000 per month from 4.3.2016 onwards with increase of ₹ 10 every year, ₹ 10 every year and ₹ 300 every year respectively.

Assistant Labour Commissioner (ALC)/Labour Officer. The contention of the Board is not correct since, as per Rule 266(2) of DBOCW Rules, registration can be granted only on the basis of certificate of employment issued by the contractor or registered construction workers union or by the ALC and not on the basis of verification by other officers and recommendation by ALC.

Thus, implementation of welfare schemes was deficient as the benefits under schemes of delivery/maternity benefits, pension etc. were extended to ineligible persons.

3.2.7 Non-provision of creches

Section 35 of BOCW Act, 1996, requires provision of creches in every place where more than 50 female building workers are ordinarily employed, along with suitable room or rooms for the use of children under the age of six years of such female workers.

Audit however noted that no directive/orders were issued by the Board in this regard.

3.2.8 Non-implementation of provisions of the Act relating to safety and health measures for construction workers

Sections 38 to 41 of the BOCW Act provide various safety and health provisions for the safety of construction workers viz., formation of safety committees, appointment of safety officer, measures to be taken for the safety and health of building workers in the course of their employment, equipment and appliances necessary to be provided for ensuring safety, health and protection during the employment, precautionary measures in connection with the demolition of buildings, adequate and suitable lighting at every workplace, safe transport of workers to or from any workplace, policy relating to steps to be taken to ensure the safety and health of the workers etc.

Section 42 of BOCW Act stipulates that the State Government may, by notification, appoint a Gazetted Officer of the Government to be the Chief Inspector of Inspection of Building and Other Construction for effectively carrying out the provisions of the Act. Further, the Government may appoint officers as inspectors for the purpose of the Act who shall work under the control and supervision of the Chief Inspector to perform his duties. Accordingly, Labour Commissioner and Inspectors were appointed as Chief Inspector and Inspectors for BOCW Act.

Audit noted that the work of enforcement of safety and health provisions for construction workers was entrusted (November 2010) to the Directorate of Industrial Safety and Health (DISH), Labour Department, Government of National Capital Territory of Delhi. It was further noted that due to non-sharing of data relating to registered establishments, construction sites etc. with the DISH, the safety and health measures for construction workers were not ensured by the Board/Labour Department.

Deputy Director (DISH) in its reply (August 2019) stated that no information regarding registration details such as number of sites, registration number, address, number of workers registered was provided by the JLC/DLC concerned for enforcement of the safety and health provisions under BOCW Act.

The Government, in its reply (September 2020), stated that in Delhi, *suo-moto* inspections of the establishments are not carried out as a policy matter and whenever there is complaint in writing, appropriate action as per law is taken. The reply is not acceptable as neither the DISH nor the Board ensured the implementation of the safety and health provisions for construction workers as provided in the Act.

3.2.9 Registration of establishments

3.2.9.1 Identification and registration of establishments engaged in construction work

Sections 6 and 7 of the BOCW Act stipulates that every employer undertaking construction by engaging construction workers shall make an application to the registering officer of the district for registration of the establishment within 60 days from the commencement of the work.

Audit observed instances where the Board was aware of establishments engaged in construction activities but did not take any action to get them registered as required under the Act. Moreover, the reasons for inaction on the part of the Board/district offices was not on record. These are discussed in the succeeding paragraphs.

- Although cess was deposited by various Government Departments such as Public Works Department, Delhi Development Authority, Delhi Jal Board, Municipal Corporation of Delhi etc. in respect of construction work carried out by them, no efforts were made to register the establishment of the contractors who were the actual employers of the construction workers.

Audit noted that the data relating to actual number of establishments associated with construction activities in the State was not available with the Board/district offices. This indicates that no mechanism was constituted by the Board to identify unregistered establishments.

Secretary (Board) in his reply (May 2019) admitted that no survey was conducted by the Board/State Government in this regard. The reply is indicative of the fact that the Board and Labour Officers did not take adequate action for proper registration of the workers.

- In South and South West districts, cess amounting to ₹ 13.23 crore and ₹16.82 crore respectively was deposited by 368 and 698 private establishments during the period April 2016 to March 2019. However,

none of the establishments was found registered with the Board. In addition, out of 51 establishments where assessment of cess was made by the Assessing Officer (South West), 48 establishments were not found registered with the Board.

- South and North MCD had approved 4682 building plans in respect of construction works executed by private parties in selected districts. However, none of the establishments were found registered with the district offices.

Thus, due to lack of coordination with MCDs and other agencies who were designated to deduct and deposit cess with the Board, 5796 private establishments remained unregistered, in contravention of the provisions of the Act. Audit noted that there was no monitoring mechanism for ensuring registration of the private establishment whose building plans were approved by the local authorities and were engaged in building and other construction works.

The Government, in its reply, stated that after start of online registration in 2018, approximately 400 establishments were registered online. The reply is not acceptable as the establishments who deposited the cess with the Board were not found registered with the Board.

3.2.9.2 Delay in issue of certificates

Rule 24 (i) of the DBOCW Rules stipulates that the Registering officer, after receiving application, shall register the establishment and issue a certificate of registration to the applicant within fifteen days of receipt of the application.

Scrutiny of records revealed that 64 and 61 establishments engaged in construction activities were registered in South West and North West districts respectively during 2016-19, whereas 56 establishments were registered in South district during the years 2016-18 (data for 2018-19 was not furnished). Out of these 181 cases, there were delays ranging between 15 and 390 days in issuance of registration certificates in 70 (38 *per cent*) cases.

While accepting the audit findings, it was stated (August 2019) by Assistant Labour Commissioner (South West) that the delay occurred due to non-clearance of queries and server problems.

3.2.9.3 Non-furnishing of information relating to commencement of work resulting in non-levy of penalty

Section 48 of BOCW Act stipulates that if an employer fails to give notice of commencement of the building or other construction work, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ₹ 2,000, or with both.

Scrutiny of records of South West district revealed that out of 64 establishments registered with the Board, in nine cases no notice of commencement of work was submitted by the employers during the years 2016-19. Further, none of 698 (South West) and 368 (South) private establishments that deposited cess during the period submitted notice regarding commencement of work. In addition, out of 51 assessments made by the assessing officer of South West district, none of the employers furnished notice for commencement of work. In addition, none of the 4,682 establishments where the approval of building plans had been given by the MCsD had furnished the information relating to commencement of work. This indicates that neither the Registering Officer nor the Assessing Officer raised the said issue at the time of registration of establishment/assessment.

Thus, the Registering Officer/Assessing Officer failed to levy penalty of ₹ 1.16 crore¹⁰, despite provision in the Act.

3.2.9.4 Non-furnishing of prescribed return by the employer

Rule 242 of the DBOCW Rules stipulates that every employer of a registered establishment shall send annually a return relating to the establishment in the prescribed format to the Registering Officer of their jurisdiction not later than the fifteenth of February following the end of each calendar year. In the format, information like name and address of establishment, name and address of the employer, nature of building work, number of building workers employed during the year, accidents which took place, if any, etc. were required to be furnished.

Test-check of records revealed that Registering Officers of South, South West and North West districts registered 56, 64 and 61 establishments during the years 2016-2019 respectively.

It was, however, noticed that neither the registered establishments furnished the prescribed return, nor was it asked for by the Registering Officers. In the absence of the returns, it could not be ensured by the Board that the construction workers working in these establishments were registered with the Board and availing the benefit of welfare schemes being run by the Board.

Assistant Labour Commissioner (South West) admitted (August 2019) that these returns were not being received due to lack of awareness. The fact remains that the prescribed returns were not furnished by the registered establishments.

¹⁰ (698+368+51+9+4682) x ₹ 2,000

3.2.9.5 Non-inspection of employer records

Section 15 of the BOCW Act states that every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken, and the same may be inspected without any prior notice by the Secretary of the Board or any other Officer duly authorized by Board. Further, Section 43 of the Act empowers the Inspector of Labour Department to inspect the premises of any establishment where construction work is being carried out. Such inspection would have helped in identifying any unregistered employers and beneficiaries.

Scrutiny in audit revealed that the Board/Assistant Labour Commissioners of the selected districts neither fixed any target for inspections nor maintained any data of inspections carried out by the Inspectors of the Labour Department. Consequently, there is every possibility that the workers engaged in construction works remained unregistered with the Board.

3.2.10 Other issues

3.2.10.1 Administrative expenditure in excess of the limits prescribed under the Act

Section 24(3) of the BOCW Act, 1996 provides that administrative expenses of the Board, in any financial year, should not exceed five *per cent* of the total expenditure incurred during that year. However, the administrative expenditure during 2016-17 and 2018-19 was 14.42 *per cent* and 12.20 *per cent* of the total expenditure respectively as detailed in **Table-3.2.5**. It can be seen from Table 3.2.5 that the percentage increase in the administrative expenses *vis-à-vis* total expenditure during the years 2016-17 and 2018-19 was due to less expenditure incurred on the welfare schemes.

Table-3.2.5: Details of expenditure

(₹ in crore)				
Year	Expenditure on schemes	Administrative expenses	Total expenditure	Administrative expenditure as a percentage of total expenditure
2016-17	17.93	3.02	20.95	14.42
2017-18	72.89	3.59	76.48	4.69
2018-19	30.65	4.26	34.91	12.20

Source: Information provided by the Board

3.2.10.2 Non-preparation of cash book in district offices

Test check of records revealed that South, South West and North West districts were not maintaining cash books prior to January 2017, July 2016 and December 2016 respectively. There were 86,305 (up to November 2016) and 50,720 (up to December 2016) workers registered in North West and South districts respectively who would have paid a registration fee of

₹ 34.26 lakh¹¹ (approximately). However, in absence of cash books, Audit could not verify whether the amount so collected from the construction workers was actually deposited in Government account.

South West district was not aware of the total number of workers registered in the district before July 2016.

3.2.10.3 Receipt books not traceable

At the time of registration, district offices issue cash receipt (TR-5) for registration fees and annual charges paid by the construction workers. Audit noted that out of 33,000 TR-5 forms issued by the Board headquarters to South West district, records of only 600 were available with the district office. The records of the remaining 29,400 TR-5 forms/receipts issued and the total amount collected against these receipts was not available. Under such circumstances, the possibility of misappropriation of amount collected could not be ruled out.

3.2.10.4 Cash received not deposited in Board's Account

Scrutiny of the cash book of South West district for the year 2016-17 revealed that out of ₹ 7.63 lakh received on account of registration and renewal fees from the construction workers, an amount ₹ 7.16 lakh was deposited in the Board's account. The remaining amount of ₹ 0.47 lakh was not deposited as of January 2020. The amount short deposited was also not shown in the cash book. This indicated that there was no effective system or checks to ensure that money received was deposited in the Board's account.

3.2.10.5 Loss of interest

The Board operates 12 bank accounts for depositing cess and subscription fees from various establishments and construction workers.

Scrutiny of records revealed that the Board invited (May 2014) quotations from 47 banks for investment of funds ranging between ₹ 100 crore and ₹ 1,100 crore. Different rates of interest were offered by 34 banks and on the basis of highest rate of interest quoted by banks, amounts of ₹ 100 crore, ₹ 500 crore, ₹ 258.50 crore and ₹ 258.50 crore were invested with State Bank of Patiala, Vijaya Bank, Canara Bank and Central Bank of India respectively at rates of interest of 9.25 *per cent*, 9.15 *per cent*, 9.10 *per cent* and 9.10 *per cent* respectively.

Although Andhra Bank quoted a rate of interest of 9.15 *per cent* for investment of funds for ₹ 200 crore and above, the Board invested ₹ 517 crore at a lower rate of interest, i.e. 9.10 *per cent*, resulting in loss of interest of ₹ 0.50 crore as of March 2019.

¹¹ No. of workers registered-137025 x ₹ 25

3.2.11 Monitoring and Internal control mechanism

An effective internal control system provides a reasonable assurance on the overall quality of management processes and shows the extent of monitoring of operations carried out by an organisation. The internal control and monitoring mechanism was weak as discussed in the succeeding paragraphs.

3.2.11.1 Shortfall in conducting meetings of the Board

The Board was entrusted with the responsibilities of administration of the welfare fund, submission of annual budget and reports to Government for sanction and approval, proper maintenance and audit of accounts, collection of contribution to the fund, sanction of benefits and proper and timely recovery of any amount due to the Board. Rule 253 of DBOCW Rules provides that the Board shall ordinarily meet once in two months to monitor the activities. Further, the Supreme Court also directed (December 2014) that the Board should meet at least once in two months to discharge its statutory duties.

It was noticed that as against the prescribed 18 meetings, only seven were conducted during the period covered by audit. Further, against the required number of 81 meetings to be conducted (from September 2002 to March 2016 i.e., since the constitution of the Board), only 27 meetings were conducted. Despite Hon'ble Supreme Court's direction, there was shortfall of 54 (33 *per cent*) in number of Board meetings, which indicates lack of proper supervision over the pursuance of mandated objectives of the Board by its functionaries.

3.2.11.2 Non-constitution of committees

- Section 4 (1) of the Act provides that the State Government shall constitute a committee viz, State Advisory Committee (SAC), to advise the State Government on such matters arising out of the administration of the Act and that the SAC had to conduct meetings¹² at least once in six months.

Audit observed that the SAC¹³ was constituted twice¹⁴ after notification of DBOCW Rules. As per conditions of notification of the formation of SAC, the term of the Committee was three years from the date of notification. As such, the Committee formed in 2002 was in existence till 2005 and thereafter SAC was again re-constituted in June 2019, i.e. after 14 years from the date of completion of term of the initial SAC. Neither SAC held any meeting during its tenure. This was against the prescribed norm of holding a meeting once every six months.

¹² Under the provision of DBOCW Rule 20(1).

¹³ Minister of Labour, GNCTD is the Chairman, 2 elected members of Legislative Assembly, Labour Commissioner and Director/Deputy Director Industrial Safety and Health are ex-officio members, one Central Government nominee, 4 employers and 4 employees representative, one State-level association of architects and one from accident insurance institution are the members of SAC.

¹⁴ (i) October 2002 and (ii) June 2019

- Further, Section 5 (1) of the Act stipulates that the Government may constitute one or more expert committees consisting of persons specially qualified in building and other construction works for advising the Government for making rules under the Act.

Audit noted that no such expert committees were constituted by the Government. In the absence of such committees, the schemes could not be implemented efficiently to provide due benefits to the workers.

In absence of the aforesaid committees, the Government did not have adequate mechanisms to ensure proper implementation of the Act and also the welfare of the building and other construction workers.

3.2.11.3 Non-preparation and submission of reports

Section 26 of the BOCW Act stipulates that the Board shall prepare an annual report, giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government and the Central Government. Further, as provided in Section 27, the Board should maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as prescribed.

Section 27 of the BOCW Act stipulates that the Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor General of India (CAG). The CAG audits the accounts of the Board under Section 19(2) of the CAG DPC Act read with Section 27(3) of the BOCW Act, 1996 and prepares a Separate Audit Report which is placed in the State Legislature.

The annual accounts of the Board were prepared and audited only up to the year 2016-17, while the annual accounts for the financial years from 2017-18 and 2018-19 were not prepared (December 2019). Besides none of the SARs issued to the Board has been laid before the Assembly. Consequent to non-preparation of accounts, the annual reports were also not prepared and submitted to the Government. As a result, the Government was not in a position to properly oversee the functioning/performance of the Board and its financial status.

3.2.12 Absence of Internal Audit

Internal Audit acts as an effective tool in exercising check on expenditure. Internal control systems help in exercising checks on various activities. Thus these are important mechanisms for ensuring the smooth working of an organisation. Audit scrutiny revealed that the Board had not established an internal audit and internal control wing in order to ensure effective control in exercising checks on various activities, including finances, and monitoring the

activities of designated officers for the purpose of collection of cess and implementation of welfare schemes.

3.2.13 Conclusion

The Board was established with a view to providing safety, health, and welfare measures for the benefit of building and other construction workers in Delhi and levy and collection of cess was a means to this end. It was observed that the Board has been collecting cess and accumulating the same without providing any commensurate benefit to construction workers. It did not prepare any perspective plan or any annual plans for fulfilling its mandated responsibilities. Although the Board was required to prepare a budget for each financial year showing estimated receipts and expenditure of the Board and forward it to the Government, it had never prepared one since its inception in 2002, in contravention of the provision of the BOCW Act.

During the years 2002-19, the Board received an amount of ₹ 3,273.64 crore as cess, interest earned on cess and registration fee but it spent only ₹ 182.88 crore on welfare schemes for the benefit of workers which constituted a mere 5.59 *per cent* of the total collections. The administrative expenditure was in excess of the limit of five *per cent* of total expenditure, as prescribed in the Act, as it was 14.42 *per cent* in 2016-17 and 12.20 *per cent* in 2018-19. There was no expenditure on six out of the 15 welfare schemes during 2016-19.

Out of the 10 lakh construction workers in Delhi as estimated by DBOCW Board, only 17,339 (1.73 *per cent*) were registered with the Board as of March 2019 leaving the remaining workers (98 *per cent*) out of the ambit of welfare schemes implemented by the Board. Audit also found irregularities in disbursement of financial assistance under welfare schemes such as release of assistance to ineligible beneficiaries, payment without submission of proper documents or payment on the basis of invalid documents etc. due to inadequate scrutiny of claims and other documents submitted by the beneficiaries.

Deficiencies were noticed in assessment and collection of cess also. There was no mechanism in the district offices to ensure that the assessee included complete details of cost of construction in their cess returns, and where details were available, there were short levy of cess in some cases.

The annual accounts of the Board were prepared and audited only up to the year 2016-17. There were differences in the figures of cess collected provided by Cess collectors, district offices and the Board itself. The differences were not reconciled and therefore the correctness of the figures could not be verified in audit. There was also short realisation of cess due to dishonour of cheques by the banks for which no action was taken by the Board.

Thus, the Board was not able to effectively safeguard and promote safety, health and welfare of construction workers in Delhi as envisaged in the Act. The Government, therefore, needs to review the functioning of the Board and take corrective measures to ensure safety, health and social security of all construction workers in Delhi as laid down in the Act.

3.2.14 Recommendations

The Board needs to:

- devise a system to identify and register all the building and other construction workers.
- collect and maintain a complete list of establishments engaged in construction work.
- collect complete data of all building plans approved by local authorities and maintain District Master Registers as well as obtain information relating to estimated cost of construction, details of payment of cess etc. and ensure that the cess due has been worked out correctly.
- create awareness amongst the construction workers about benefits available to them under the Act.

Directorate of Training and Technical Education

3.3 Additional payment of ₹ 1.55 crore on fixed electricity charges due to excess sanctioned load

Failure of DTU to assess the sanctioned load in consonance with actual requirement resulted in excess expenditure of ₹ 1.55 crore during the period from July 2018 to March 2020 on account of fixed charges.

Delhi Electricity Supply Code and Performance Standards (3rd Amendment) Regulations, 2016 (Regulations) stipulates that the licensee shall review the sanctioned load of the consumer by taking the highest of average of Maximum Demand Readings recorded as per billing cycle covering any four consecutive calendar months in the previous financial year. In case of domestic category consumers having sanctioned load of more than 5 KW, the licensee was required to seek the consent of the consumer for load reduction where found required through a separate notice. Further, para 21 of the Delhi Electricity Supply Code and Performance Standards Regulation 2007 states that the consumer can apply for load reduction after one year from original energisation for connection up to 100 KW and two years from original energisation for connection above 100 KW along with the reasons for load reduction.

Delhi Technological University (DTU) has a domestic electricity connection of the licensee - Tata Power Delhi Distribution Limited (TPDDL) - with a sanctioned load of 4256 KW. The bills raised by TPDDL has a fixed component based on the sanctioned load and variable component on the basis of actual electricity consumption. Sanctioned load in excess of requirement entails excess expenditure due to increased fixed charges.

Audit scrutiny (April 2019) of the records of DTU revealed that the actual demand of electric power (maximum load) ranged between 756 - 1866 KW, 679 - 1962 KW and 714 - 2042 KW during the years 2015-16, 2016-17 and 2017-18 respectively. In spite of the actual requirement remaining much below the sanctioned load of 4256 KW, DTU did not take any action to approach the licensee to reduce the sanctioned load so as to avoid payment of fixed charges on excess sanctioned load. TPDDL informed (May 2018) DTU for reduction in the sanctioned load from the billing period beginning from July 2018 as the maximum demand during the year 2017-18 required a sanctioned load of only 1709 KW against the existing 4256 KW. However, despite receiving notice from TPDDL, DTU did not take any action to give consent for the same and continued to pay electricity charges based on the sanctioned load of 4256 KW. DTU thereby incurred an avoidable expenditure of ₹ 1.55 crore on this account during the period from July 2018 to March 2020.

On being pointed out, DTU stated (April 2019) that it was a research and innovation university and conducts various researches, which require ascertained availability of electricity all the time. It was, therefore, necessary that a sanctioned load be available to the university to cater to any unforeseen requirements.

The reason for not reducing the sanctioned load is not convincing as the actual requirement of the University was consistently lower than the sanctioned load during the past several years, both before and after the notice was received in May 2018 and there was no such uncertainty in requirements during these years. Further, the Regulations also provide for increasing the sanctioned load on the basis of actual consumption, whenever the need arises. Moreover, the sanctioned load was 149.03 *per cent* more than the maximum demand reading during 2017-18. Thus, the sanctioned load was not in sync with the actual electricity consumption and was to be reviewed to economise the expenses on account of fixed electricity charges. Failure of DTU to take action for revision of the sanctioned load based on actual requirement resulted in avoidable expenditure of ₹ 1.55 crore during the period from July 2018 to March 2020. If the sanctioned load is not revised based on actual consumption, this will lead to cumulative excess expenses in future also.

3.4 Irregular payment of extra Transport Allowance amounting to ₹ 1.03 crore

Grant of Transport Allowance (TA) at enhanced rates to the employees without the prior concurrence of the Finance Department of GNCTD resulted in irregular payment of extra TA amounting to ₹ 1.03 crore.

In terms of para 19(a) of Finance Department, Government of National Capital Territory of Delhi's (GNCTD) order dated 18 July 2011, the terms and conditions of service i.e. pay scales, allowances, etc., of employees of autonomous bodies/grantee institutions shall not be higher than those applicable to similar categories of the employees in the Government.

Indraprastha Institute of Information Technology, Delhi (IIITD) has been paying Transport Allowance (TA) to its employees living in the campus at rates prescribed for Government employees. Employees are also paid dearness allowance on the transport allowance. However, the Board of Governors of IIITD approved (August 2013) grant of TA at double the existing rates to the employees staying outside the campus for which the approval of Finance Department, GNCTD was not taken. As a result, 92 employees of IIITD who live outside the campus had been paid TA at double the rates with effect from August 2013 resulting in irregular expenditure of ₹ 103.45 lakh on extra transport allowance till May 2019 which was in contravention of the Government orders dated 18 July 2011.

IIIT, Delhi in its replies (April 2018 and July 2019) stated that the Institute is completely autonomous and its Board is empowered by its Act to independently determine the terms and conditions of different cadres of employees. It was further stated that keeping in view that the cost of transportation in Delhi being very high and has gone up substantially in recent years for those who live off campus and have to bear this extra burden, hence additional transport allowance has been allowed to them by its Board.

The reply of IIITD is not acceptable as, in terms of order dated 18 July 2011 of GNCTD, all autonomous bodies/grantee institutions were to observe all the economy instructions issued by GNCTD from time to time, in *toto*, to ensure financial discipline and expenditure management and concurrence of Finance Department was required for any relaxation to these instructions. Further, employees are also paid dearness allowance on transport allowance to compensate increase in transportation cost.

Thus, grant of Transport Allowance at double rates without prior concurrence of the Finance Department of GNCTD resulted in irregular payment of extra TA amounting to ₹ 1.03 crore.

New Delhi
Dated: 24 May 2021



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Countersigned

New Delhi
Dated: 27 May 2021



(GIRISH CHANDRA MURMU)

Comptroller and Auditor General of India

