

CHAPTER III: MINISTRY OF POWER

NHPC Limited

3.1 Undue benefit to the contractor

NHPC did not levy penalty of ₹11.61 crore on the contractor for monthly generation of solar power lower than the minimum guaranteed generation.

NHPC awarded (14 June 2017) an Engineering, Procurement and Construction (EPC) contract for 50 MW (25 x 2 units) Solar Power PV Grid Connected Project in Tamil Nadu to L&T Limited (Contractor) at a price of ₹287.48 crore with a completion period of nine months from the date of award of contract.

Terms of the contract stipulated that the Performance Guarantee Test shall be conducted for a period of one year after 30 days from the date of successful commissioning of the plant(s). The Contractor agreed for a Minimum Guaranteed Generation (MGG) of 105.96 MUs¹ of power during Performance Guarantee test period. In case the plant is not able to achieve the calculated 'Base Generation'² during the Performance Guarantee Test period at interconnection point, the sum of the monthly shortfall during one year Performance Guarantee test shall be considered annual shortfall on which the penalty would be levied and the contractor would compensate employer penalty at the rate of ₹49 per unit of the shortfall in generation.

Both the units of 25 MW each of the solar plant were commissioned in February 2018 and March 2018 respectively.

Audit observed that the actual Performance Guarantee test was conducted from 15 December 2018 to 14 December 2019 and the power generation in five months³ was lower by 2.37 MUs, compared to the minimum guaranteed generation for the respective months as guaranteed by the Contractor, against which penalty of ₹11.61 crore⁴ was to be levied on the Contractor as per the terms of the contract. However, NHPC did not levy any penalty on the contractor for the monthly shortfall in generation, which resulted in undue benefit to the contractor of ₹11.61 crore.

NHPC/ Ministry of Power replied (April 2020/ April 2021) that as per the final report of Performance Guarantee test conducting agency i.e., National Institute of Wind Energy, the Performance Guarantee test was completed with 0.64 per cent higher than minimum guaranteed generation and as such no penalty is imposed or proposed to be imposed by NHPC.

¹ Calculated based on specified radiation and quoted power generation there-against, for each month

² Base generation for the month is computed by correcting the quoted month wise generation by the bidder in the technical data formats with a factor taking into account the actual average global solar radiation measured by the calibrated pyranometer for the month

³ December 2018, January, April, November and December 2019

⁴ Monthly shortfalls in generation x penalty per unit (2.37 MUs x ₹49 per unit)

The reply may be viewed against the fact that in compliance of the contract condition, the Contractor submitted month wise minimum guaranteed generation in the bid. Accordingly, penalty should have been imposed on monthly shortfall of power generation. Thus, non-levy of penalty of ₹11.61 crore for generation of power lower than the minimum guaranteed generation has resulted in undue benefit to the Contractor.

Recommendation No. 6

Penalty of ₹11.61 crore for generation of power lower than the minimum guaranteed generation may be levied and recovered from the Contractor.

