

## Chapter 4

### 4. Audit of Transactions

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

#### Uttar Haryana Bijli Vitran Nigam Limited and Dakshin Haryana Bijli Vitran Nigam Limited (DISCOMs)

##### 4.1 Extra expenditure

**The company incurred extra expenditure of ₹ 4.33 crore by reinviting tender instead of considering the tender already floated, the prices of which were lower as compared to the updated price of last purchase made.**

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) invited (May 2009) tenders for awarding annual rate contract for the year 2009-10 for procurement of tentative quantity of 11,200 KM (including 5,200 KM of DHBVNL) ACSR Rabbit Conductor (Conductor). Stores Purchase Committee (SPC) and Directors on evaluation of the offers received, recommended (July 2009) for negotiation of rates with three lowest technical and commercially eligible firms. The tenderers were invited (4 August 2009) for negotiations by Special High Powered Purchase Committee (SHPPC).

The rates offered\* were lower as compared to updated rate of ₹ 20,521.79 per KM of last purchase order dated 24 May 2007. The rates received were ₹ 19,298 (L<sub>1</sub>), ₹ 20,206 (L<sub>2</sub>) and ₹ 20,790 (L<sub>3</sub>) per KM. During negotiations, all the firms revised<sup>1</sup> their rates and quantities. But the SHPPC, still felt (4 August 2009) that the revised rates quoted by the firms were on higher side and decided that a fresh short term tender be invited as the requirement of conductors was urgent. Accordingly, fresh short term tenders were invited and opened in August 2009. The lowest three offers received ranged between ₹ 20,800 and ₹ 22,051 per KM. The SHPPC observed (24 August 2009) that the rates received/ negotiated against earlier tender enquiry (May 2009) were reasonable and lower than the rates of fresh tender (August 2009) and decided to place orders on M/s Nu Line Indus Pvt Ltd., Parwanoo (firm) for supply of 11,200 KM conductors. @ ₹ 19,295 per KM for 3,000 KM and @ ₹ 19,298 per KM for 8,200 KM (24 August 2009).

\* M/s Nu Line Indus Pvt Ltd., Parwanoo (L<sub>1</sub>) ₹ 19,298 per KM for 11,200 KM.  
M/s Durable Conductors, Solan (L<sub>2</sub>) ₹ 20,206 per KM for 5,600 KM.  
M/s Anamika Conductors Pvt Ltd., Jaipur (L<sub>3</sub>) ₹ 20,790 per KM for 11,200 KM.  
<sup>1</sup> M/s Nu Line Indus Pvt Ltd., Parwanoo ₹ 19,295 per KM for 3,000 KM.  
M/s Durable Conductors, Solan ₹ 20,080 per KM for 2000 KM.  
M/s Anamika Conductors Pvt Ltd., Jaipur ₹ 20,200 per KM for 11,200 KM.

The firm, however, expressed inability to supply the material at old rate citing steep hike in the raw material prices and offered (August 2009) to supply 3,000 KM conductor at the rate of ₹ 20,100 per KM on Free on Rail destination basis. The Company cancelled (November 2009) the LOIs, forfeited the earnest money of ₹ 2.50 lakh and decided to invite fresh tenders. In tenders invited (November 2009) and opened (December 2009), M/s Nu Line Indus Private Limited, Parwanoo emerged L<sub>1</sub> @ ₹ 22,750 per KM for supply of 6,000 KM and M/s. Durable Conductors, Solan, L<sub>2</sub>, quoted ₹ 23,680 per KM for 5,600 KM. The SHPPC decided (March 2010) to place supply order at the rate of ₹ 22,750 and ₹ 23,670 per km for 6,000 KM and 5,200 KM conductor on L<sub>1</sub> and L<sub>2</sub> firms respectively for a cumulative value of ₹ 25.96 crore.

We observed (August 2011) that the SHPPC injudiciously decided (4 August 2009) to decline the negotiated rates on the plea that the rates were on higher side and invited fresh tenders in view of the fact that the negotiated rates of August 2009 were lower as compared to updated rate of ₹ 20,521.79 per KM and there was urgent requirement of conductor as the stock position was nil. The rates of metal, i.e., aluminium (major component in ACSR conductor) published by IEEMA monthly too had shown an upward trend during the period from May and July 2009. The Company had no other option but to place the order on the same firms (which offered lesser rates in the tender invited in May 2009) at the rates received in the third tender enquiry. By these actions, the DISCOMs incurred an extra expenditure of ₹ 4.33 crore<sup>2</sup>.

The Additional Chief Secretary, Power Department, Government of Haryana informed during exit conference (September 2012) that the matter would be looked into and such re-tendering avoided in future. But the fact remains that the DISCOMs incurred extra expenditure of ₹ 4.33 crore by reinviting tenders instead of considering e-tenders already floated, the prices of which were lower as compared to the updated price of last purchase made.

#### 4.2 Extra expenditure on purchase of transformer oil

**Decision of High Powered Purchase Committee to retender the purchase of transformer oil on injudicious grounds resulted in extra expenditure of ₹ 59.48 lakh to DISCOMs.**

Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL) invited tenders (May 2010) for procurement of 3900 Kilolitre (KL) of transformer oil on variable price basis. Of the five firms participating in the tender, three firms<sup>•</sup> fulfilled the eligibility criteria and their price bids were opened (July 2010). The rates of transformer oil of these firms ranged between ₹ 54,947.93 and ₹ 59,115.01 per KL. The Stores Purchase Committee (SPC) observed (July 2010) that the price

<sup>2</sup> UHBVNL 3,364.336 KM x ₹ 22,750 + 2,661.086 x ₹ 23,670 minus 6,025.422 KM x ₹ 19,298 + EMD ₹ 2,50,000.  
DHBVNL 2,751.362 KM x ₹ 22,750 + 2,461.675 x ₹ 23,670 minus 5,213.037 KM x ₹ 19,298.

• 2,260 KL for UHBVNL and 1,640 KL for DHBVNL.  
♦ M/s. Raj Petro Specialities (P) Ltd., Mumbai (L1).  
M/s. Apar Industries Ltd., Mumbai (L2).  
M/s. Savita Oil Technologies Limited, Mumbai (L3).

quoted by two tenderers was less than that of updated price (₹ 57,246.10) of last Purchase Order (PO) dated 23 July 2009. DHBVNL placed the purchase proposal before Special High Powered Purchase Committee (SHPPC) headed by the State Finance Minister. The SHPPC observed (October 2010) that response to the tender was quite limited and the same firms had been participating in the tender for the last three-four years and that rates were comparatively higher than last purchase rates and decided to purchase only 1200 KL transformer oil to take care of the urgent requirements for the next four months and reinvite tenders for the balance quantity. The SHPPC also ordered the DHBVNL to contact Public Sector Undertakings (PSUs) and other reputed private manufacturers/ suppliers for participating in the tenders. The SHPPC negotiated and decided (October 2010) to place the order on M/s. Savita Oil Technologies Limited, Mumbai (L3) for 1200 KL oil at the rate of ₹ 53,000 per KL on variable price basis. The POs were issued in November/ December 2010.

Subsequently, DHBVNL invited (November 2010) tenders for the balance quantity of 2700 KL. Five firms participated in the bids, of which three firms who had fulfilled eligibility criteria against the previous tender of May 2010, again qualified for opening (February 2011) of the price bids. The lowest rate at this time was ₹ 63,565.95 per KL which was higher as compared to the updated price (₹ 61,315.13 per KL) of the purchase orders of November/ December 2010. The SHPPC decided (April 2011) to purchase 2700 KL of transformer oil at the negotiated rate of ₹ 63,500 per KL on variable price basis. The POs were issued (May/ June 2011) by both the DISCOMs<sup>γ</sup>.

We observed (August 2011) that the decision of SHPPC to invite fresh tenders for purchase of balance quantity of 2700 KL was not judicious, as DHBVNL had invited open tenders, wherein all firms were free to participate. Further, the observations of SHPPC that the rates received were higher, was not correct as rates of L1 (₹ 54,947.93 per KL) and L2 (₹ 55,648.09 per KL) were lower as compared to updated price (₹ 57,346.08 per KL) of last PO. Further, there were no wide variations in rates of oil in comparison to rates at which electricity utilities in the neighbouring States of Punjab and Rajasthan had purchased the transformer oil during the same period. The SHPPC had also not taken cognizance of the fact that a Central PSU viz., Bharat Petroleum Corporation Limited had also participated in the tender, but failed to meet the eligibility criteria. Hence, conclusion drawn by SHPPC that the participation was limited was not judicious.

The Additional Chief Secretary, Power Department, Government of Haryana informed during exit conference (September 2012) that the matter would be looked into and such re-tendering avoided in future. But the fact remains that the injudicious decision of SHPPC of inviting fresh tenders resulted in extra burden of ₹ 59.48 lakh<sup>♦</sup> on the DISCOMs.

<sup>γ</sup> UHBVNL: PO No. 6607 dated 2 June 2011 for supply of 1,560 KL.

DHBVNL: PO No. 766 dated 10 May 2011 for supply of 1,140 KL.

<sup>♦</sup> UHBVNL: 1,560.02 KL x ₹ 2,184.87= ₹ 34.08 lakh and DHBVNL: 1,162.535 KL x ₹ 2,184.87= ₹ 25.40 lakh.

**Uttar Haryana Bijli Vitran Nigam Limited**

**4.3 Loss due to improper pursuance of the arbitration case**

**The company suffered a loss of ₹ 36.75 lakh due to improper pursuance of arbitration case in respect of distribution transformers damaged during warranty period.**

The Company placed (August 2000) purchase order (PO) on MECCA Power (P) Limited, Sardulgarh (firm) for supply of 980 distribution transformers (DTs) of 100 KVA for a total cost of ₹ 5.70 crore. The DTs supplied were having a warranty period of 60 months from the date of receipt of material or 66 months from the date of dispatch whichever was earlier. The firm was also required to submit a Bank Guarantee (BG) of value of 10 *per cent* of the contract price to remain valid for the warranty period. The DTs were supplied from February 2001 to December 2002. After installation of these DTs, damages were reported to the firm by the sub-divisional offices of the Company, as and when they occurred. However, there was no response from the firm to repair damaged DTs and the numbers continued to pile up and went up to 226 by January 2006. Since the firm failed to repair the damaged DTs, the Company served the firm a recovery notice of ₹ 1.53 crore. The firm instead requested (February 2006) for joint inspection to make the inventory of the short/ broken items citing that its liability was to repair the DTs and not to make up for the shortages/ broken parts. The request for joint inspection was declined by the Company on the ground that it was not covered in the contract and encashed (March 2006) the BG of ₹ 57.02 lakh. The firm requested (April 2006) the Company for appointment of an Arbitrator to resolve the dispute. At the time of going into Arbitration, 218 damaged DTs were lying in the stores and 18 DTs had been lifted by the firm but not yet returned.

The Arbitrator in its award (November 2008) directed the Company to refund the BG amount of ₹ 57.02 lakh and also levied ₹ 40.71 lakh towards interest and compensation for loss of reputation, litigation expenses and cost of arbitration. The Arbitrator held that during physical inspection of the DTs (August 2008) the shortages as alleged by the firm were not established. The Arbitrator further adjudged that the Company failed to produce documents supporting its contention of intimation to the firm about damage to DTs during warranty period and also lifting of 18 DTs by the firm for repair but not yet returned. The Company's challenge (February 2009) to the award, in the Court of law, was also dismissed (March 2010). The Company released (15 October 2010) ₹ 97.73 lakh<sup>@</sup> to the firm.

We observed (November 2011) that the Company did not produce record before the Arbitrator proving that intimation of damaged DTs was sent on time and as a result the Arbitrator held that it could not be concluded that the DTs were damaged during warranty period. This resulted in extra expenditure

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<sup>@</sup> Amount of bank guarantee - ₹ 57.02 lakh, compensation for loss of reputation and business - ₹ 1.00 lakh, litigation expenses - ₹ 0.50 lakh, cost of arbitration - ₹ 1.54 lakh and interest on bank guarantee - ₹ 37.67 lakh.



of ₹ 24.56 lakh\* incurred on their repair. The Company also failed to produce any documentary evidence in support of lifting of 18 DTs<sup>•</sup> by the firm for repair but not yet returned before Arbitrator, resulting in loss of ₹ 12.19 lakh<sup>#</sup> in spite of the fact that it was having documents regarding lifting of these DTs.

The Additional Chief Secretary, Power Department, Government of Haryana during exit conference (September 2012) informed that despite best efforts made by the Company, the decision was given in the favour of the firm and the Company had no other choice but to suffer the loss. The Government contention was not convincing as it was the responsibility of the Company to maintain and produce before the Arbitrator various intimation letters regarding damaged DTs sent to the firm and the gate pass issued by the Company for lifting of 18 DTs by the firms' representative. This improper pursuance of the arbitration case ultimately resulted in loss of ₹ 36.75 lakh.

#### 4.4 Avoidable liability due to violation of statutory provision

**The Company failed to deduct tax at source on the interest paid on security deposit of the consumers resulting in liability on account of penalty of ₹ 26.28 lakh and penal interest of ₹ 6.86 lakh as per the provision of the Income Tax Act, 1961.**

Haryana Electricity Regulatory Commission (HERC) notified (26 July 2005) that consumers, shall at all times, maintain with the Company an amount equivalent to consumption charges of four months/ two months<sup>§</sup> as Consumption Security towards the electricity supplied/ to be supplied to them to protect against any default in payment during the period the agreement for supply of energy is in force. The Company is to pay interest on such consumption security deposited by the consumer at the saving bank rate of interest notified by the State Bank of India or such higher rate as the HERC may fix from time to time. The interest thus accruing to the consumer was to be adjusted in energy bills of April or May months of every year.

Section 194 A of the Income Tax Act, 1961, enjoins on every payee, liability for deduction of tax at source @ 10 per cent (individual) and 20 per cent (Companies) on interest exceeding ₹ 5,000 each. On the occasion of failure to deduct tax at source, the payee is liable for penalty equivalent to a sum equal to the amount of tax deductible at source. In addition, interest at the rate of one per cent per month is also payable on the defaulted tax payment.

We observed in audit of Panipat and Yamunanagar circles during June 2011 and March 2012 that these offices had failed to comply with the provision of the Act, *ibid*, and failed to deduct tax at source of ₹ 26.28 lakh on ₹ 1.31 crore of interest credited during 2008-11 to its consumers. Though the Company had issued (February 2011) instructions for deducting tax at source, even then these offices failed to comply with the provisions of Income Tax Act, 1961.

\* 218 DTs x ₹11,268 (average cost of repair).

• 2 DTs in June 2005 and 16 DTs in March 2006.

# 18 DTs x ₹ 67,735 (average cost of DT).

§ Four months, where bi-monthly billing is in vogue and two months, where monthly billing cycle is in vogue.

This attracted levy of penalty of ₹ 26.28 lakh and further penal interest of ₹ 6.86 lakh (up to March 2012).

The Additional Chief Secretary, Power Department, Government of Haryana informed during exit conference (September 2012) that necessary recoveries would be effected from the consumers in the subsequent bills. The reply was not convincing as the Company cannot recover the penalty and penal interest from consumers, which accrued due to the lapse on the part of concerned officials of the Company.

#### **Dakshin Haryana Bijli Vitran Nigam Limited**

#### **4.5 Release of connection in wrong category**

#### **Applying incorrect tariff category resulted in a revenue loss of ₹ 52.68 lakh**

The Company applies non-domestic supply (NDS) tariff to all non-residential premises e.g. business houses, cinemas, clubs, public offices, hotels etc. and bulk supply (BS) tariff is applicable to Military Engineering Services and other military establishments, Railways (other than traction), Central PWD, Hospitals, Schools, Colleges, colonies including departmental colonies and multi-storey buildings etc. The tariff under NDS category is higher<sup>•</sup> as compared to BS category.

Unitech Business Park Ltd (Consumer) applied (June 2003) for electricity connection with connected load of 2700 KW for Unitech Trade Centre, Sector 43, Gurgaon. The Chief Engineer (CE) being the competent authority to sanction connected loads above 2000 KW accorded his sanction (June 2003) to the proposal. The service connection order was subsequently released in December 2006.

We observed (May 2011) that since the premises/ building of the consumer is being used for commercial purposes, the consumer should have been classified under NDS category. However, the Company sanctioned the load under BS category. This release of connection in wrong tariff category led to short recovery of revenue by ₹ 52.68 lakh during the period from January 2007 to March 2012.

During exit conference (September 2012), the Additional Chief Secretary, Power Department, Government of Haryana stated that the connection was given under Bulk NDS category and not under BS category. The reply was not tenable as the NDS-BS category includes Military Engineering Services and other military establishments, railways (other than traction), Central PWD, hospitals, schools, colleges, educational institutions and other institutions and other similar establishments which are of governmental and service nature

- For NDS connection @ ₹ 4.19 per unit up to September 2010 and thereafter @ ₹ 4.60 per unit.  
For BS connection @ ₹ 4.09 per unit up to September 2010 and thereafter @ ₹ 4.30 per unit.

and does not include premises to be used for commercial purpose. The premises/ building of consumer was being used for commercial purposes, as such, the connection should have been released under NDS category which is applicable to all non-residential premises. The Company consequently suffered a revenue loss of ₹ 52.68 lakh.

#### 4.6 Non recovery

**The Company did not recover ₹ 20.75 lakh paid to ineligible officials who were granted ACP scales in contravention of Haryana Civil Services, Assured Career Promotion Rules, 1998.**

The power distribution utility has been extending identical pay scales to its employees as are extended by the State Government to its own employees. The Company has not been delegated powers to extend any benefit in the form of any pay and allowances over and above those admissible to State Government employees without the consent of the Finance Department. The utility in line with these orders extended the benefits of an 'assured career promotion scheme' announced by the Government for its employees.

We observed (December 2010) that the Company, in contravention of aforesaid rules, issued (May 2007) orders granting benefit of ACP scales even to those Divisional/ Revenue Accountants and Section Officers who were unable to pass the prescribed departmental examination by treating their promotion as first entry into the Company. The Government of Haryana, Finance Department, on noticing the aberration, advised (March 2010) Power Department, to direct the Company for withdrawing the order of May 2007 and for fixing the responsibility of the officers concerned for the financial impropriety.

The Company although withdrew (October 2010) its order of May 2007 but did not effect recovery of ₹ 20.75 lakh paid to ineligible officials who were granted ACP scales in contravention of the said rules. The Company stated (February 2012) that no individual was responsible for financial impropriety and the decision to grant scales was taken by the Board of Directors (BOD) and position had already been intimated (October 2010) to the Finance Department. The contention, thus, states that the Company failed to effect recovery of the overpaid amount to the ineligible officials though the Company had withdrawn its order of May 2007.

The Additional Chief Secretary, Power Department, Government of Haryana stated during exit conference (September 2012) that as per the judicial decision, recoveries in such cases could not be made. However, the fact remains that the wrong decision of the BOD led to grant of ACP scales to ineligible employees, which resulted in excess payment.

#### **Haryana Tourism Corporation Limited**

#### **4.7 Imprudent management of surplus funds**

**The Company lost the opportunity to earn interest of ₹ 27 lakh from April 2009 to November 2010 due to imprudent management of surplus funds.**

The Government issued (June 1997) guidelines on investment of surplus deposits/ funds by State Public Sector Enterprises. They stipulated that investment were to be made only in debt securities/ fixed deposits *etc.* providing safety by adopting a transparent procedure. Before making investments, the availability of surplus funds was to be estimated taking into account the cash flow, working capital requirements *etc.* and the period of investment chosen accordingly.

We observed (February 2011) that surplus funds beyond the immediate needs were lying in the current accounts of the Company. The surplus amounts ranged from ₹ two crore to ₹ 20.86 crore during April 2009 and November 2010. The Company could have invested its surplus funds in fixed deposits or any other appropriate financial instruments by taking decision at that time. Had the Company invested even ₹ two crore in fixed deposit from April 2009 to November 2010, it would have earned interest income of ₹ 27\* lakh.

The Management accepted (February 2012) and informed in the exit conference (November 2012) that corrective measures have been taken and all the bank accounts have been opened with auto sweep facility.

#### **Haryana State Roads and Bridges Development Corporation Limited**

#### **4.8 Loss of revenue**

**The Company suffered loss of revenue of ₹ 48.39 lakh due to delay in finalisation of tender.**

The Company engaged on construction works on deposit basis has been assigned the job of toll collection on toll points notified by State Government. The Company invited (31 March 2010) bids for collection of toll on Shamli- Panipat road (T-13) for one year commencing immediately after conclusion of the then existing contract on 30 June 2010. Financial bids were opened (14 June 2010) after the State Government's approval (3 June 2010). The Company issued (16 June 2010) the Letter of Acceptance (LOA) to the highest bidder (contractor) for the year at ₹ 6.68 crore p.a. i.e. ₹ 55.67 lakh per month and granted Letter of Authorization (LA) for collection of toll at notified rates from 2 July 2010 to 30 June 2011 (364 days). The contractor requested (January 2011) the Company for extension of contract up to

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\* Calculated at the rate of 8.10 per cent per annum from April 2009 to November 2010 (20 months).

30 September 2011 as per its procedure since the period of contract mentioned in the detailed notice inviting tender, was one year and the contract was awarded to him for 364 days only. The Company acceded to the request and extended contract up to 30 September 2011 on same terms and conditions. This extension lead to delay in commencement of subsequent contract and it began from 1 October 2011 to 30 September 2012 which was awarded to another contractor at ₹ 8.62 crore i.e. ₹ 71.80 lakh per month.

We observed (December 2011) that the Company delayed in opening of the financial bids after receipt of approval of State Government. Similarly, the LOA was issued on 16 June 2010 but the LA was granted after 15 days on 1 July 2010. The delay in opening the bid and consequent grant of the LA, led to the contract getting commenced from 2 July 2010 and contract period reduced to 364 days instead of full one year. Later on, the contract period had to be extended up to 30 September 2011 on the demand of the bidder. Thus, due to delay in finalisation of the tender, the Company suffered a loss of revenue of ₹ 48.39 lakh\*.

The Company stated (April 2012) that the financial bids could not be opened as the High Court had directed (18 May 2010) to decide the representation of one of the bidders which was ultimately decided on 25 May 2010. Thereafter, the financial bids were opened on 16 June 2010 after giving notice to all bidders. The LOA was also issued on the same date. The contractor submitted performance security on 28 June 2010, which after verification from bank on 30 June 2010, the LA was issued to the contractor on 1 July 2010.

During exit conference (November 2012) the Additional Chief Secretary, PWD (B&R) department, Government of Haryana and MD of the Company stated that after the decision of the Court on the representation, there was no delay in issuing LOA. Reply was not convincing as the Company was well aware of the consequences of even one day's delay in issuing LOA and action of the company in granting three months' extension for delay in commencement of the contract by one day resulted in loss of revenue of ₹ 48.39 lakh.

#### 4.9 Loss of revenue

**The Company suffered loss of revenue of ₹ 78 lakh due to delayed issue of letter of allotment.**

The Company invited (2 July 2010) online tenders for collection of toll tax on Firozepur-Jhirka-Biwan Road for a period of one year. The last date for submission of bids was 27 July 2010 with validity of 90 days from the bid closing date i.e. up to 24 October 2010. The earnest money was to be deposited by the bidders by 5 August 2010.

Tender Allotment Committee (TAC) during its meeting held on 3 November 2010, after evaluation of bids, decided to accept the bid of highest bidder M/s R.K. Construction Company (Contractor) Meerut of ₹ 5.09 crore *per annum*.

- \* Difference of ₹ 71.80 lakh and ₹ 55.67 lakh i.e. ₹ 16.13 lakh x 3 months.



The Company issued Letter of Acceptance (LOA) to the contractor on 3 November 2010 and asked it to deposit security for due performance of contract agreement to be executed by 24 November 2010. The Contractor, however, did not accept (5 November 2010) LOA reasoning that the validity of bid had already expired (24 October 2010) and requested for refund of earnest money. The Contractor filed a petition (16 November 2010) in the Punjab and Haryana High Court for quashing LOA. The Court awarded (8 April 2011) and gave an option to the Contractor to operate the tender from 1 May 2011 to 31 March 2012 on the same terms and conditions as contained in tender of 2 July 2010. Both the parties agreeing with the same, the Company awarded the contract for toll collection from May 2011 to March 2012. In the meantime toll collection was done departmentally from 25 October 2010 to 30 April 2011.

We observed (December 2011) that Clause 9 of the Tender and Clause 7 of Section 2 of Instructions to the bidders stipulated that validity of the bid was up to 24 October 2010 *i.e.* 90 days from the bid closing date (27 July 2010), the Company considered the validity of bid up to 3 November 2010 *i.e.* 90 days from the date of deposit of earnest money citing ambiguity in reckoning of 90 days from the bid closing date or date of deposit of earnest money. However, the Company did not issue LOA to the contractor in time, which resulted in unnecessary litigation and suffered loss of revenue of ₹ 78 lakh\* by not being able to collect the toll through contractor and instead doing departmentally.

During exit conference (November 2012) the Additional Chief Secretary, PWD (B&R) department, Government of Haryana and MD of the Company stated that, in practice, period of 90 days was reckoned from the date of submission of earnest money in the interest of the organisation. Reply was not convincing since the parties were bound by the conditions of the bid documents and as the Court had given an option to the contractor to operate the tender with mutual consent, the decision was in favour of the contractor and not only in favour of the Company.

#### **4.10 Irregular expenditure**

**The Company repaired two roads at ₹ 28.90 crore without receipt of funds.**

The Company was incorporated with the main objectives constructing and, repairing roads and bridges or any other structural work. It carries out deposit works on behalf of Public Works Department (Building and Roads) PWD (B&R) Haryana for upgradation/ repair of PWD roads. Carrying out these activities by the Company requires independent organisation and managerial system complying with various provisions of the Statutes and adherence to the

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\* Difference in offer of the contractor (₹ 5.09 crore x 157 days/365 days= ₹ 2.19 crore) and departmental collection (₹ 1.41 crore) relating to the period from 25 November 2010 to 30 April 2011 (157 days).

following matters.:

- The provisions of Haryana PWD Code (applicable to Company) require that the funds should be realised before any liability is incurred on account of deposit work. The work should also have the technical and administrative sanction from the concerned authorities;
- As per the accepted accounting principles and sound financial practices, the Company is required to keep the separate account of the funds received against each project; and
- The Company should have independent management system separate from the departmental functioning of the State Government to ensure autonomy in its operations.

We observed (January 2011) that the PWD (B&R) allotted the work of repair of two roads, i.e. Sahalwas Amboli-Bithala-Dhakla SH-22 including Jatwara approach road and Chhuchhalawas-Achej-Poharipur-Malikpur-Satipur road in Jhajjar district, to the Company on deposit work basis. The work was awarded (August 2009) to the lowest bidder M/s Gawar Construction Limited, Hisar for ₹ 28.90 crore. Since the PWD (B&R) did not deposit the funds for this work, the Company got the work completed by diverting funds from other works (Head 5054 NCR). The amount spent by the Company on this work had not been reimbursed by PWD (B&R) so far (July 2012). In this regard, the following irregularities were noticed:

- The Company undertook the aforesaid deposit work costing ₹ 28.90 crore and incurred liability without receipt of funds in violation of the Haryana PWD code.
- The administrative and technical sanction of the work was also not obtained before start of the work.
- Due to non maintenance of separate accounts for each project the works which suffered due to diversion of funds of ₹ 28.90 crore for the captioned two works, could not be identified.
- Since the Engineer in Chief of PWD (B&R) also acts as the Managing Director of the Company, it led to erosion of the autonomy of the Company and the Company had to carry out the work without advance receipt of funds and in violation of the codal requirements.

During exit conference (November 2012) the Additional Chief Secretary, PWD (B&R) department, Government of Haryana and MD of the Company, while agreeing to the points raised in the para stated that administrative approval in this case had been received and necessary funds spent on this work had been demanded from the State Government.

Thus, the Company incurred an expenditure of ₹ 28.90 crore in an irregular manner without advance receipt of funds.

**Haryana Agro Industries Corporation Limited**

**4.11 Loss of interest**

**Loss of interest of ₹ 1.57 crore due to non submission of differential claims.**

The Company is engaged in procurement of food grains in the State on behalf of Food Corporation of India (FCI) at Minimum Support Price (MSP)<sup>γ</sup> as per guidelines issued by the Government of India/ FCI from time to time. Bajra procured by the Company is stored in godowns at various places and is sold at the instance of FCI, through open tenders. It delivers Bajra to the purchasers after collecting payments from them. The Government of India/ FCI fix a Provisional Economic Cost (PEC) which comprise of MSP plus incidental charges incurred by the Company viz. market fees, *dami*, *mandi* labour charges, storage charges, interest charges and cost of gunny bags *etc.* for reimbursement to the Company. If the realisation from disposal of Bajra is less than the PEC, the Company claims the differential amount from FCI.

The Company procured 89,646 MT Bajra during Kharif Marketing Season (KMS) 2008-09 at PEC rate of ₹ 987.29 per quintal. The Company disposed off 88,490<sup>\*</sup> MT Bajra pertaining to KMS 2008-09 during 2008-09 to 2010-11 at different rates but lower than PEC. As per procedure the differential claims of these sale transactions were required to be lodged immediately with FCI for payment. We observed (January 2011) that differential claims amounting to ₹ 5.09 crore for 35,527 MT of Bajra in respect of Hisar and ₹ 1.57 crore for 17,824 MT of Bajra in respect of Jind districts had not been lodged by the Company with FCI. The position had not changed even by August 2012.

During exit conference (3 September 2012), Financial Commissioner and Principal Secretary, Agriculture Department, Government of Haryana agreed to the facts and assured for immediate action.

Thus, failure of the Company to get the *Katlas* signed before delivery of the stock and consequently not being able to lodge the differential claims immediately, the Company suffered a loss of interest of ₹ 1.57<sup>•</sup> crore on this blocked capital (up to August 2012).

We recommend the Company to devise procedures to avoid recurrence of such delays which harm its financial interests.

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<sup>γ</sup> MSP is price at which government is ready to purchase the crop from the farmers directly if crop price goes lower than MSP.

<sup>\*</sup> The difference in total procured quantity and sale is on account of *driage*.

<sup>•</sup> Worked out at the lowest cash credit rate of 10.30 *per cent* after allowing margin of one month after the sale of Bajra.

## General

### 4.12 Follow up action on Audit Reports

#### *Replies outstanding*

**4.12.1** The Report of the Comptroller and Auditor General of India represents the culmination of the process of scrutiny starting with initial inspection of accounts and records maintained in various offices and departments of the Government. It is, therefore, necessary that they elicit appropriate and timely response from the executive. The Finance Department, Government of Haryana issued (July 1996) instructions to all Administrative Departments to submit replies to paragraphs/ reviews included in the Audit Reports of the Comptroller and Auditor General of India within a period of three months of their presentation to the Legislature, in the prescribed format without waiting for any questionnaires.

Though the Audit Reports for the years 2009-10 and 2010-11 were presented to the State Legislature in March 2011 and February 2012 respectively, three departments, which were commented upon, did not submit replies to 14 out of 27 paragraphs/ reviews, as on 31 March 2012, as indicated below:

Year of the Audit Report (Commercial)	Number of reviews/ paragraphs appeared in the Audit Report		Number of reviews/ paragraphs for which replies were not received	
	Reviews	Paragraphs	Reviews	Paragraphs
2009-10	2	14	1	08
2010-11	2	9	2	03
<b>Total</b>	<b>4</b>	<b>23</b>	<b>3</b>	<b>11</b>

Department-wise analysis is given in *Appendix 12*. The replies awaited were mainly from Power Department. The Government did not respond to even reviews highlighting important issues like system failures, mismanagement and deficiencies in execution of various schemes.

#### *Outstanding action taken notes on Reports of Committee on Public Undertakings (COPU)*

**4.12.2** Replies to nine paragraphs pertaining to four Reports of the COPU presented to the State Legislature between March 2007 and March 2012 had not been received (March 2012) as indicated below:

Year of the COPU Report	Total number of Reports involved	No. of paras in COPU Report	No. of paragraphs where replies not received
2006-07	1	47	2 (Para no. 10 & 44)
2008-09	1	14	1 (Para No. 14)
2010-11	1	10	1 (Para No. 8)
2011-12	1	08	5 (Para No. 1 to 3, 5 and 8)
<b>Total</b>	<b>4</b>	<b>79</b>	<b>9</b>

These reports of COPU contained recommendations in respect of paragraphs pertaining to five<sup>@</sup> departments, which appeared in the Reports of the Comptroller and Auditor General of India for the years 1999-2000 to 2007-08.

### ***Outstanding recommendations of COPU***

**4.12.3** 24 Reports of the Committee containing 156 recommendations pertaining to Audit Reports from 1976-77 to 2007-08 as given in **Appendix 13** have not been implemented as on 31 March 2012. Due to non implementation of these recommendations by the Departments, the improvements sought by COPU could not be achieved.

### ***Response to Inspection Reports, Draft Paragraphs and Performance Audits***

**4.12.4** Our observations noticed during audit and not settled on the spot are communicated to the respective heads of the PSUs and concerned departments of the State Government through Inspection Reports (IRs). The heads of PSUs are required to furnish replies to the IRs through respective heads of Departments within a period of six weeks. Review of IRs issued up to March 2012 revealed that 410 paragraphs relating to 100 IRs pertaining to 11 departments remained outstanding as on 30 September 2012. Department-wise break up of IRs and audit observations outstanding as on 30 September 2012 is given in **Appendix 14**.

The Government in its reply (June 2012) stated that it has been taking follow up action vigorously. They stated that detailed instructions were issued in March and April 2007 and every year various detailed instructions/ reminders are issued to all departments and PSUs from time to time. The reply of the Government is not convincing as many PSUs are not timely submitting ATNs to outstanding audit observations.

Similarly, draft paragraphs and reports on performance audit on the working of PSUs are forwarded to the Secretary of the Administrative Departments concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. However, one draft paragraph (Industry Department) and one performance audit report pertaining to Industry

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<sup>@</sup> Power, Industries, PWD (B&R), Tourism and Forest



Department forwarded during July 2012 and September 2012 respectively had not been replied to so far (December 2012).

It is recommended that the Government may ensure that: (a) procedure exists for action against the officials who fail to send replies to inspection reports/ draft paragraphs/ reviews and ATNs to the recommendations of COPU as per the prescribed time schedule; (b) action to recover loss/ outstanding advances/ overpayments is taken within the prescribed period; and (c) the system of responding to audit observations is revamped.



**Chandigarh**

**Dated:**

**(Onkar Nath)**  
**Principal Accountant General (Audit),**  
**Haryana**

**Countersigned**



**New Delhi**

**Dated:**

**(Vinod Rai)**  
**Comptroller and Auditor General of India**