CHAPTERF-II
AUDIT OF TRANSACTIONS (CIVIL)

Fraud/misappropriation/embezzlement/losses

MINORITIES AND OTHER BACKWARD CLASSES DEPARTMENT

2.1 Loss to the Government

Irregularities in tender processing by ignoring the lowest bidder, non-maintenance of transparency and lack of strict economy led to a loss of ₹ 14.80 lakh.

As per Rule 21 of the General Financial Rules, 2005, every officer should enforce financial order and strict economy and exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of expenditure of his own money. To eliminate arbitrariness in procurement process, clause (xiv) of Rule 160 of the Rules *ibid* stipulates that contract shall ordinarily be awarded to the lowest bidder whose bid has been found to be responsive and who is eligible as per bidding documents.

Test-check of the records (January 2011) of Minorities and Other Backward Classes Department revealed that the Work Advisory Board of the Department approved (June 2009) an expenditure of ₹ 1.87 crore for purchase of 585 Irrigation Pumps on a tentative basis. Accordingly, the Directorate called (October 2009) for a limited tender from five suppliers, calling only for rate quotation for supply of 5 H.P Diesel Engine Irrigation Pump set. However, no specifications in terms of type, quantity *etc*. of pumps were mentioned in the tender notice. As per Rule 150 of the Rules *ibid*, procurement of goods of value of ₹ 25 lakh and above should be made through open tender and not through limited tender as was done by the Directorate. No reasons for deviating from this procedure were available on record. Further, such notice also needed to be advertised *inter alia* on the website of the organisation, which was not also done.

Out of the four suppliers who responded to the tender, the rate quoted by M/s Rajesh Associates for "Usha" brand pumps was the lowest one (L–1) at ₹ 30,617 per pump sets while that of M/s United Machinery Corporation for "Satyajeet" brand was the second lowest (L–2) at ₹ 33,250 per pump sets. However, instead of considering L–1, the Directorate decided (February 2010) to place supply order for 562 pumps to L–2 on the ground that L–1 had not mentioned the name of the model under the Usha brand in his quote. The Department stated (August 2011) that L–1 was contacted over phone for clarification. However, no response was obtained. However, no documentary evidence was shown to Audit to substantiate such claims. Therefore, in the absence of appropriate documentation in the file, it could not be ascertained as to why L–1 was not considered.

As per the NIT, there was no such requirement of quoting the model of the brand, the ground on which the Department preferred L–2 over L–1. As such, the decision to place orders on L–2 was taken on flimsy ground and without following the established codal procedure. The selection process also indicates that the exercise was devoid of strict vigilance and economy. M/s United Machinery Corporation supplied (March 2010) all 562 pumps and total amount of ₹ 1.87 crore was paid (March 2010) to the firm.

Thus, there were many irregularities in the tendering processing, *viz.* opting for a limited in place of open tender, not placing the tender on the Department's website, and preferring L–2 over L–1 without any justification. These irregularities in the tender process led to extra expenditure amounting to ₹ 14.80 lakh {(₹ 33,250–₹ 30617)x562} and consequent loss to the Government to that extent.

The matter was referred to Government (July 2011), the reply has not been received (March 2012).

Violation of contractual obligations, undue benefit to contractors, unavoidable/ unfruitful expenditure etc.

IRRIGATION AND FLOOD CONTROL DEPARTMENT

2.2 Loss to the Government

Due to erroneous calculation of rate for piling 8280 RM of 50 cm diameter bore pile on higher side, the Government suffered loss of ₹ 2.69 crore.

Test-check of records (January 2011) of the Flood Control and Drainage Division No. I (FCD-1) revealed that the Department awarded (June to October 2009) 23 numbers of work orders for protection from erosion of banks of the Iril River (from 0 km to 30 km) valued at ₹ 4.73 crore to 13 contractors. As per the work order, the work was awarded at eight *per cent* the above the schedule rates and was to be completed within 4 to 10 months. The works were based on Manipur Schedule of Rates (MSR), 2008 and included six items of work, including piling of 50 cm diameter RCC bore-piles of M–20 grade. Altogether 552 piles were to be bored, each for a depth of 15 meter (nearly 50 feet deep for each pile), *i.e.* altogether 8280 Running Meter (RM) of piling. As on March 2010, 90 to 99 *per cent* of the work had been completed. Further progress of work has not been intimated (February 2012) though called for.

The rate payable for piling of bore-pile of 50 cm diameter was not prescribed in the MSR. However, the Schedule prescribed a rate of ₹ 2049.40 per RM for piling a pile of 55 cm diameter. As such, the rate of piling 50 cm diameter pile could have been worked proportionately on the basis of 55 cm diameter pile as the justified rate vis-à-vis the MSR. The Department, however, arrived at rate of ₹ 4825.38 per RM including carriage charge[1] for piling of 50 cm diameter pile, instead of adopting an admissible rate of ₹ 1814.31[2] per RM including carriage charge. Accordingly, after allowing eight *per cent* above scheduled rates, the rate for piling was awarded at ₹ 5211.41 per RM instead of ₹ 1959.45 per RM. No justification for adoption of this higher rate of the piling work was recorded in the departmental records. During discussion, the Department stated (January 2011) that the rates awarded to the contractor would be reviewed and if found higher, appropriate recovery would be made. However, as of February 2012, no recovery has been intimated to audit.

Thus, due to erroneous calculation of rate of piling 8280 RM of 50 cm diameter piles on a higher side, the contractors were extended undue benefit of ₹ 2.69[3] crore, resulting in loss to the Government.

The matter was referred (June 2011) to the Government, the reply has not been received (February 2012).

PUBLIC HEALTH ENGINEERING DEPARTMENT

2.3 Undue benefit to the contractor

Award of works at higher rates ignoring the prevailing schedule of rates resulted in undue financial benefit of ₹ 26 lakh to the contractor.

According to Para 4.31 of Central Public Works Department (CPWD) Manual Vol-II, estimates of work should be prepared on the basis of the rates prevailing in each station. Further, Para 20.10.10 of the Manual *ibid* provides that where high rates tenders are accepted, the authority accepting such tenders should satisfy themselves about their reasonableness taking into consideration the schedule rate plus increase in cost index and should be in a position to justify the rates at which work is awarded.

Test-check (November/December 2010) of records of the Public Health Engineering Division, Thoubal revealed that the Government accorded (July 2008) administrative approval for the work "Improvement of Salungpham Water Supply Scheme" (SH-Expansion and Deepening of the presettling tanks). The work was awarded (August 2008) to M/s I.B. Construction,

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[1] Carriage charge is ₹ 120.59 per meter

[2] As per MSR, cost of piles are proportionate to volume.

Volume of a pile = π x $(d/2)^2$ x h {where π = 3.14; d = diameter and h = length/depth}

Ratio of volumes of 50 cm diameter bore pile to 55 cm diameter pile of 1 RM i.e 100 cm

= {3.14 x (50x50)/4 x 100 }:{3.14 x (55 x 55)/4 x 100}

= 1: 1.21

Thus, proportionately, rate for 1 RM of 50 cm diameter pile = {Rate 1 RM of 55 cm diameter pile ÷4} *plus* ₹ 120.59 as carriage charge

={₹ 2049.40 ÷1.21} *plus* ₹ 120.59

= ₹ 1814.31

[3] {₹5211.41 (i.e ₹ 4825.38 *plus* 8 *per cent*, as per Agreement) *minus* ₹ 1959.45 (i.e ₹ 1814.31 *plus* 8 *per cent*)} multiplied by 8280 RM =₹ 2.69 crore

Imphal at ₹ 1.39 crore which was 34 *per cent* above the estimated cost of ₹ 1.04 crore. The estimates of the work were framed on MSR-2006.

However, at the time of award of the work, MSR-2006 had already been revised (March 2008) to MSR 2008. Had the estimate been framed based on the new MSR, the estimated cost of the work would have been ₹ 1.07 crore only. During this intervening period of five months (March to August 2008) the rise in cost index was 5.84 *per cent*. After allowing this rise in cost index, the justified value of the work would have been ₹ 1.13 crore[4]. Instead the work was awarded at ₹ 1.39 crore, resulting in undue financial benefit of ₹ 26 lakh (₹ 1.39 crore–₹ 1.13 crore) to the contractor.

The Government stated (September 2011) that the MSR 2008 was not readily available at the time of the tender. The reply is not acceptable because the latest MSR 2008 was effective from 27 March 2008 and was not taken into consideration while awarding the work.

2.4 Undue financial benefit to the contractor

Exemption of interest on mobilization advance paid to a firm engaged in a Sewerage Project led to undue benefit of ₹ 52.15 lakh.

Para 32.5 of CPWD Works Manual 2010 lays down that in respect of certain specialized and capital intensive works with estimated cost put to tender of ₹ 2 crore and above, provision of mobilization advance may be kept in the tender documents. Further, the Manual provides that Chief Engineers should use their discretion in deciding whether any particular work shall be considered as specialized or capital intensive one. The Manual also provides that the Mobilization Advance (MA) limited to 10 *per cent* of the tendered amount at simple interest of 10 *per cent* per annum can be sanctioned to the contractor on specific request as per the terms of the Contract.

The Department (May 2010) awarded the work of 'Providing and laying of HDPE pipes for sewer lines using trenchless technology' for Sewerage Project (Phase I) of Imphal city to M/s Skipper Ltd. Kolkata at ₹ 14.89 crore allowing six months' time for completion. The Tender Committee decided (April 2010) to give an interest free advance of 30 *per cent* of the tendered amount as against the maximum permissible limit of 10 *per cent* at simple interest of 10 *per cent* per annum. Accordingly, the contractor was paid (December 2010) a MA of ₹ 4.47 crore without mentioning any clause of interest in contravention of the above Manual provisions.

As of February 2012, the interest accrued on MA was ₹ 52.15 lakh[5], was payable by the firm as per extant Manual provisions but was not levied by the Department. Thus, exemption of interest on the MA led to undue benefit of ₹ 52.15 lakh to the firm as of February 2012. Further, the MA entitled to the

[4] ₹ 1.07 crore plus 5.84 *per cent* thereof.
[5] Simple interest on ₹ 4.47 crore at the rate of 10 *per cent* for 14 months (January2011 to February 2012)

firm was ₹ 1.49 crore as per manual provisions. Against this, MA of ₹ 4.47 crore was given to the firm which was ₹ 2.98 crore[6] more than the entitled.

In its reply the Department stated (August 2011) that the advance was meant for procurement of HDPE[7] pipes and advance payment was mandatory. The reply is not acceptable as payment was made without charging any interest in violation of the provisions of the Manual *ibid* and was more than the prescribed limit of 10 *per cent* of tendered amount.

POWER DEPARTMENT

2.5 Recovery of interest and security deposit at the instance of Audit

Non-recovery of interest of ₹ 49 lakh for the advance paid to the firm and non-deduction of security deposit of ₹ 94.05 lakh led to violation of terms of Agreement.

Test-check (December 2007) of records of the Transmission Construction Division–II, Power Department revealed that the Department awarded (December 2007 and September 2008) the following two power transmission works:

a) Construction of 33 KV Double Circuit Sub-transmission Line from Leimakhong to Iroisemba" at a cost of ₹ 8.98 crore; and

b) Construction of 132 single circuit transmission line from Yurembam to Yaingangpokpi" at a cost of ₹ 21.55 crore.

Both the works were awarded to M/s Shyama Power (I) Pvt. Limited, Gurgaon on turnkey basis consisting of supply of material and construction works for the transmission lines. Two Agreements were signed (September 2008 and January 2008) between the parties stipulating the terms and conditions of the contract. As per terms of the Agreements, the firm could be paid advance on the following conditions:

a) 25 *per cent* of the value of work with 12 *per cent* interest per annum; and

b) Bank Guarantee (BG) from Nationalised bank equivalent to 5 *per cent* of the total value[8] of the work order or 5 *per cent* of each bill shall be deducted as a security deposit.

Accordingly, the Department paid (March and June 2008) an advance of ₹ 2.25 crore in two instalments. Against this advance, an amount of ₹ 1.22

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[6] ₹ 4.47 crore – 10 per cent of ₹ 14.89 crore = ₹ 2.98 crore
[7] High Density Polyethylene
[8] excluding Local Sales Taxes and Service Tax

crore had been recovered in seven instalments between March 2009 and March 2010 from the running account bills of the contractor. However, recovery of interest on advance which should have been effected alongwith recovery of the advance was not so done. Further, the Department neither collected any BG from the firm nor deducted 5 *per cent* of the amount of the bills paid to it, though an amount of ₹ 18.81 crore had been paid as of December 2010.

Thus, non-recovery of interest amounting to ₹ 49 lakh **(Appendix-2.1)** and security deposit of ₹ 94.05 lakh[9] not only violated the terms of the contract but was also fraught with the risk of loss to the Government.

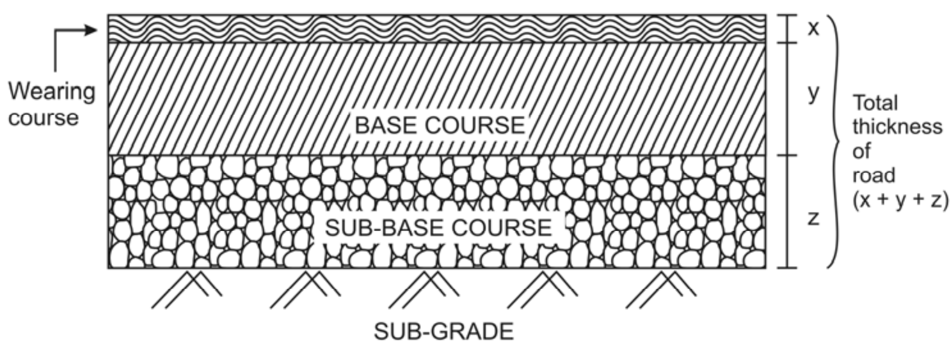
While admitting the observation, the Department stated (February 2012) that interest (₹ 49 lakh) and security deposit (₹ 94.05 lakh) had been recovered (October 2011) from the firm as pointed out by Audit.

PUBLC WORKS DEPARTMENT

2.6 Avoidable Expenditure

Base course for improvement of three inter-village roads was laid for a thickness of 22.5 cm against required thickness of 15 cm as per IRC norms, resulting in avoidable expenditure of ₹ 17.77 lakh.

As per Indian Road Congress (IRC) Norms (20 of 2002), pavement layer of a road consists of three layers *viz*. sub-base course, base course and surfacing/wearing course laid in successive layers over sub-grade surface of a road, as shown in the diagram below:



As per specifications *ibid*, the thickness of pavement of road is designed on the basis of the projected number of commercial vehicles per day (CVPD) and its growth rate and the bearing strength of the sub-grade in terms of California Bearing Ratio (CBR).

IRC specifications *ibid* also provide that for rural roads with bearing strength of sub-grade ranging from CBR of six to 20 *per cent*, CVPD up to 450, and sub-base course of 3 to 26 cm thick, the maximum thickness of base course to be laid over the sub-base course is 15 cm.

[9] 5 *per cent* of Rs. 18.81 crore = ₹ 94.05 lakh.

Test-check (January 2011) of records of the Sadar Hills Division revealed that the Department awarded (March 2010) construction of three inter-village roads[10] for ₹ 1.43 crore to two local contractors. The requisite data of CVPD, vehicular growth rate and CBR test were not found on record, indicating that the roads thickness was designed without such vital inputs. Further scrutiny of records revealed that the thickness of the sub-base layer laid was 15 cm (22.5 cm thick over selected stretches). The thickness of subsequent layer of base course should have been 15 cm as per the provisions of the IRC. However, a base course layer of 22.5 cm[11] thickness was actually laid. Thus, base course of 7.5 cm (22.5–15) thickness was laid in excess of specifications as provided under IRC norms.

This resulted in excess laying of 1051.88 cum of base course layer over three village roads. The rate for laying the base course ranged from ₹ 1615 per cum to ₹ 1783 per cum. Thus, extra expenditure incurred for laying excess quantity of base course works out to ₹ 17.77 lakh[12], which was avoidable.

The Department stated (August 2011) that as per IRC (37 of 1984) norms, CBR was assumed as 7.5 *per cent* and CVPD in the range of 150-450 vehicles per day. Based on this data, the prescribed road thickness was 32.5 cm.

If the road thickness of 32.5 cm would have been adopted as stated by the Department, the thickness of base layer should not have exceeded 17.5 cm/10 cm[13]. Further, the IRC (37 of 1984) norms prescribe assumption of vehicular growth of 7.5 *per cent* and not for California Bearing Ratio (CBR) as contended by the Department. Thus, the reply of the Department is not acceptable.

Others/regularities issues etc.

PUBLC WORKS DEPARTMENT

2.7 Recovery at the instance of Audit

Due to adoption of higher lead in framing of estimates in a road work, excess payment of ₹ 8.26 lakh was made to the contractors

Test-check of the records (January 2011) of Churachandpur Division, Public Works Department revealed that in the wake of indefinite economic blockage at some portions on National Highway No. 39, the State Government sought an alternative route for transportation purposes. Accordingly, the Guite Road of 112 km was to be improved for transportation of essential commodities into the State and administrative approval was accorded (June 2010) for ₹ 3.07

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[10] Improvement of road from Leikop to K.Sajal via Tuijang, P.Kothah -7 km, Improvement of road from NH-39 (Tumnoupokpi) to Trang Lok, and Improvement of IT road to J.Songtum.

[11] Three layers of 7.5 cm each was laid as base course

[12] 365.63 cum @ ₹ 1615 + 348.75 cum @ ₹ 1679 + 337.50 @ ₹ 1783

[13] 32.5 cm *minus* 15cm / 32.5 cm *minus* 22.50 cm, at selected streches.

crore for the improvement of road works. The works *inter alia* included clearance of land slips and strengthening of pavements, which were estimated (June 2010) to cost ₹ 2.91 crore.

The works relating to clearance of land slips and strengthening of pavements were awarded (July 2010) to three local contractors at the estimated cost of ₹ 2.91 crore and were allowed twelve months period for completion of works. The works were completed within three months by the contractors at a cost of ₹ 3.08 crore, against which an amount of ₹ 2.95 crore had been paid (October 2010) to the contractors.

The above works required road material to be brought from Thongjaorok quarry, with a lead of 122 km (stone boulders - 6,912.64 cum) and 120 km (sand shingles – 8,830.21 cum) from the work-site, as evident from the lead chart for transporting the road material. However, while framing the estimates, the Department considered a longer lead of 127 km (stone boulders) and 125 km (sand shingles) from the work-site, thus arriving at a higher rate of carriage charges of ₹ 2228.37[14] per cum and ₹ 1518.25* per cum respectively. However, the correct rate for these two items of works should have been ₹ 2181.62* per cum and ₹ 1461.35* per cum respectively as per correct application of lead. Thus, incorrect application of lead in the estimates led to excess payment of ₹ 8.26 lakh[15] to the contractors.

While admitting the observation, the Department stated (January 2011) that the error in application of lead had occurred due to failure in checking the estimates. The amount has since been recovered (June 2011) in three instalments and credited to the Government Accounts.

2.8 General

2.8.1 Follow up on Audit Reports

As per the recommendations made by the High Powered Committee (HPC), *suo moto* explanatory notes on corrective/remedial measures taken on all paragraphs included in Audit Reports are required to be submitted by the Departments duly vetted by the Accountant General to PAC/COPU within three months[16] from the date of placing of Audit Reports in the Legislature.

However, as of January 2012 *suo moto* explanatory notes pertaining to 284 paragraphs/reviews for the Audit reports for the years 1999-2010 were not received within the stipulated period of three months either from the Departments or through the Manipur Legislative Assembly Secretariat.

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[14] & * Carriage charges is inclusive of cost of materials and VAT of 5.6 *per cent* thereon.

[15] (₹ 2228.37 – ₹ 2181.62) x 6,912.64 cum (stone boulders) *plus* (₹ 1518.25 - ₹ 1461.35) x 8,830.21 cum (sand shingles) = ₹ 8.26 lakh.

[16] *Suo-moto* replies to be furnished within three months; in case Audit paragraphs are not selected by the PAC/COPU during this period.

2.8.2 Action taken on recommendation of Public Accounts Committee

The Administrative Departments were required to take suitable action on the recommendations made in the Report of the PAC presented to State Legislature. Following the circulation of the Reports of the PAC, heads of Departments were to prepare comments on action taken or proposed to be taken on the recommendations of the PAC and submit the same to the Assembly Secretariat.

Seven hundred and sixty nine (769) recommendations of the PAC, made in its eleventh to thirty fifth Report were pending settlement as of January 2012 due to non-receipt of Action Taken Notes/Reports.

2.8.3 Response to audit observations and compliance thereof

The Accountant General (Audit) arranges to conduct periodical inspection of Government Departments to test-check the transactions and verify the maintenance of significant accounting and other records according to prescribed rules and procedures. When important irregularities detected during the inspection are not settled on the spot, Inspection Reports (IRs) are issued to the Heads of the concerned offices with a copy to the next higher authority.

As of March 2011, 1182 IRs issued in 2003-04 were outstanding for settlement. Even the initial replies, which were required to be received from the Heads of Offices within six weeks from the date of issue, were not received from many Departments as on February 2012. Non-furnishing of replies and inaction against the defaulting officers involves risks of serious financial irregularities and possible loss to the Government.

It is recommended that the Government may review the matter and ensure that an effective system exists for (a) taking action against defaulting officials, who had not sent replies to IRs/Paragraphs as per the prescribed time schedule, (b) taking action to recover loss/outstanding advances/overpayments in a time bound manner, and (c) revamping the system to ensure prompt and timely response to audit observations.