



सत्यमेव जयते

Report of the Comptroller and Auditor General of India

on

**Compliance to statutory requirements in engagement
of contract labour by Indian Railways**

For the year ended March 2017



Union Government (Railways)

Report No. 19 of 2018

**Report of the
Comptroller and Auditor General of India**

on

Compliance to statutory requirements in engagement
of contract labour by Indian Railways

for the year ended March 2017

Laid in Lok Sabha/Rajya Sabha on _____

Union Government (Railways)

Report No.19 of 2018

Preface

This Report has been prepared for submission to the President of India under Article 151 of Constitution of India.

The Report contains results of audit of the Ministry of Railways of the Union Government, on the matter of 'Compliance to statutory requirements in engagement of contract labour by Indian Railways'.

The instances mentioned in this Report are those which came to the notice in the course of test audit for the period April 2014 to March 2017 as well as those which came to the notice in earlier years, but could not be reported in the previous Audit Reports.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

Contents

<i>Particulars</i>	<i>Paragraph</i>	<i>Pages</i>
<i>Abbreviations</i>		<i>i</i>
<i>Executive Summary</i>		<i>iii to xi</i>
<i>Chapter 1 – Introduction</i>		
Basic concepts regarding statutory provisions in respect of contract labour	1.1	1
Organisational Set-up	1.2	2
Audit Objectives	1.3	3
Audit Criteria	1.4	3
Audit scope, methodology and sample	1.5	3
Acknowledgement	1.6	5
<i>Chapter 2 – Compliance of Contract Labour (Regulation & Abolition) Act, 1970, Contract Labour (Regulation & Abolition) Central Rules, 1971, Minimum Wages Act, 1948 and Minimum Wages Rules, 1950</i>		
Registration of the Principal Employer under the Act	2.1	8
Obtaining license by the contractor	2.2	9
Amenities to Workers	2.3	11
Payment of Wages to the Workers	2.4	13
Maintenance and preservation of prescribed Registers and records	2.5	15
Compliance of MWA, 1948 and MWR, 1950	2.6	17
Check and monitoring by Labour Commissioner	2.7	21
<i>Chapter 3 – Compliance of Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 and Employees’ Provident Fund Scheme, 1952</i>		
Registration of contractor with the EPFO	3.1	23
Provisions of Pradhanmantri Rojgar Protsahan Yojana	3.2	26
Check and monitoring by EPFO	3.3	27
<i>Chapter 4 – Compliance of Employees’ State Insurance Act, 1948 and Employees’ State Insurance (General) Regulations, 1950</i>		
Registration of the employer (contractor) with ESIC	4.1	28
Payment and deduction from employee and contribution by the employer under ESIA, 1948	4.2	29

<i>Particulars</i>	<i>Paragraph</i>	<i>Pages</i>
Liability of the Principal Employer to pay contribution under ESIA, 1948	4.3	30
Check and monitoring by ESIC	4.4	30
<i>Chapter 5 – Impact of non-compliance of statutory provisions</i>		
Impact of short payment/non-payment/short contribution/non-contribution to contract labour in contracts reviewed in Audit	5.1	32
Impact of non-compliance to statutory provisions by the Principal Employers and Contractors	5.2	33
<i>Chapter 6 – Case study of good practices in respect of compliance to labour laws</i>		
List of activities to be undertaken to comply with laid down statutory provisions	6.1	36
Case study of good practices in respect of compliance to labour laws in Delhi Metro Rail Corporation Limited (DMRC)	6.2	39
Ensuring compliance to statutory provisions relating to labour laws	6.3	44
<i>Chapter 7 – Conclusion and Recommendations</i>		
Conclusion	7.1	45
Recommendations	7.2	46
<i>Appendix I to VI</i>		49-57
<i>Annexures 2.1 to 2.10, 3.1 to 3.3, 4.1 to 4.2 and 5.1 to 5.2</i>		58-74

Abbreviations

Abbreviation	Full form
<i>CLRA, 1970</i>	Contract Labour (Regulation & Abolition) Act, 1970
<i>CLC</i>	Chief Labour Commissioner
<i>CLRR, 1971</i>	Contract Labour (Regulation & Abolition) Central Rules, 1971
<i>CLW</i>	Chittaranjan Locomotive Works
<i>CR</i>	Central Railway
<i>DLW</i>	Diesel Locomotive Works
<i>ER</i>	Eastern Railway
<i>EPF and MPA, 1952</i>	Employees' Provident Fund and Miscellaneous Provisions Act, 1952
<i>EPFO</i>	Employees' Provident Fund Organisation
<i>EPFS, 1952</i>	Employees' Provident Fund Scheme, 1952
<i>ESI (G) R, 1950</i>	Employees' State Insurance (General) Regulations, 1950
<i>ESIA, 1948</i>	Employees' State Insurance Act, 1948
<i>ESIC</i>	Employees' State Insurance Corporation
<i>ESIR, 1950</i>	Employees' State Insurance Rules, 1950
<i>IR</i>	Indian Railways
<i>MWA, 1948</i>	Minimum Wages Act, 1948
<i>MWR, 1950</i>	Minimum Wages Rules, 1950
<i>NCR</i>	North Central Railway
<i>NR</i>	Northern Railway
<i>NWR</i>	North Western Railway
<i>PU</i>	Primary Unit
<i>RPU</i>	Railway Production Unit
<i>SWR</i>	South Western Railway

Executive Summary

Parliament has enacted multiple legislations to protect exploitation of contract labour. These provisions regulate the employment of contract labour in certain establishments and provide for its abolition in certain circumstances. The provisions aim to provide the basic rights, prevent exploitation and ensure better working conditions for the contract labour.

Indian Railways executes a wide range of works for creation, repair and maintenance of its various assets including stations, coaches, wagons, locomotives, tracks, etc. These works are executed through its own workers or through outsourcing them to external agencies. Various departments of Indian Railways viz. Mechanical, Commercial, Operating, Electrical, Civil Engineering, Signal & Telecommunication, Railway Protection Force, Medical, etc. have the responsibility to execute these works. The external agencies work for the Railways and engage workmen for execution of these contracts. A large number of these workmen are classifiable under the term '*Contract Labour*'. The statutory provisions of the legislations for protection of contract labour cast obligations both on Indian Railways as 'Principal Employer' as well as the external agencies referred commonly as 'Contractors'. Principal legislations for protection of contract labour and to provide better working conditions and benefits to them include Contract Labour (Regulation and Abolition) Act (CLRA), 1970, Minimum Wages Act (MWA), 1948, Employees' Provident Fund and Miscellaneous Provisions Act (EPF and MPA), 1952 and Employees' State Insurance Act (ESIA), 1948.

All personnel engaged under contracts with contractors by the Indian Railways are necessarily covered by the provisions of the Acts and Rules (legislative provisions), but do not necessarily cast obligation of Principal Employer on Indian Railways. Contract labour is the manpower engaged by somebody else to produce a given result to the Principal Employer, where this manpower has no direct relationship of employer-employee with the Principal Employer. When the jobs and services are outsourced and are carried out in some other premises not being premises under control and management of the Principal Employer, CLRA, 1970 will not apply. All other outsourced jobs and services, which are carried out in the premises of the Principal Employer will be covered under CLRA, 1970.

There is no mandatory requirement that only where the contractor obtains a license under the Act that workmen employed through the contractor will be contract labour. That workmen employed even by a contractor not holding a valid license would be contract labour. Provisions of CLRA, 1970 apply to establishments and to the contractors, wherein twenty or more workmen are

employed or were employed by them even for one day during the preceding twelve months as contract labour.

The present review was taken up with the objective to assess whether the Railway Administration and its contractors complied with the statutory laws and rules applicable for protection of rights of contract labour and that the Railway Administration has a mechanism in place to monitor the compliance of statutory laws and rules applicable for contract labours.

Audit covered a period of three years from 2014-15 to 2016-17. In addition to examination of contracts and their related records, a feedback was obtained from 928 contract labour in 266 contracts through a structured questionnaire during joint inspection along with the officials of railway in case of ongoing contracts. The information collected included details such as, name of the contract labour, name and address of the contractor for whom they are working and since when, details of Employees Provident Fund (EPF) and Employees' State Insurance (ESI) codes of the contractors, whether they are aware about their entitlements, whether they are getting paid in cash or through bank, amount being paid, hours for which they work, payments made for weekly rest days, bonus paid, outstanding dues, if any etc.

Important Audit Findings

Compliance to the provisions of CLRA, 1970 and CLRR, 1971

As per the provisions of the CLRA, 1970 and CLRR, 1971, the Principal Employers has to get itself registered with the Organisation of Chief Labour Commissioner (CLC) and submit returns as prescribed within a time frame to CLC. The contractors are also required to be registered with the CLC and submit returns within the prescribed time frame. They are also required to renew license before the expiry of the same. They are required to provide basic amenities to the contract labour such as rest rooms, drinking water, urinal, first aid box, etc. The payments are required to be made to the contract labour following prescribed guidelines and the same should be made through bank/cheque. Records as prescribed under the Act are required to be maintained by the Principal Employer as well as contractor and the same are to be preserved for the period specified.

Audit reviewed 463 contracts over nine zonal formations and noticed that

- In 140 contracts, Railway Administration was registered with the Organisation of Chief Labour Commissioner. **Para 2.1**
- Only in 17 contracts, Principal Employer (Railways) had submitted returns to the CLC regarding dates of commencement and completion of the contracts

within the prescribed period. In respect of 278 contracts, records were not made available to Audit. **Para 2.1.1**

- Railways as Principal Employer submitted Annual Returns to the Organisation of Chief Labour Commissioner in 12 contracts only. **Para 2.1.2**
- In 172 contracts, licences were not obtained by the contractors from the CLC and in 207 contracts, records were not made available to Audit. In 34 contracts, the contractors obtained requisite license before commencement of work and in 50 contracts, licenses were obtained after commencement of works after a delay of up to 750 days. Of these 84 contracts,
 - Only in 37 contracts, the licenses were found displayed prominently by the contractors at the respective work sites.
 - In 14 contracts the deployments of contract labour was more than the numbers specified in the license obtained from Labour department. The excess ranged up to 200 contract labour in these contracts.
 - In 14 contracts, licenses were not renewed by the contractors after expiry of its validity.

Para 2.2, 2.2.1, 2.2.2, 2.2.3

- In only one contract, the contractor submitted prescribed returns to the Labour Commissioners' office. In 285 contracts, the contractors had not submitted any returns to the Labour Commissioners' office. In the balance contracts, information was not made available to Audit.

Para 2.2.4

- As regards amenities to be provided to the Workers by the contractors, while amenities such as drinking water, urinals etc. were provided to the contract labour, records were not made available to Audit in a number of cases. Audit could not derive assurance regarding provision of rest rooms in 15 *per cent* contracts and provision of drinking water and urinals in 21 *per cent* contracts. Similarly, assurance about availability of first aid box with medicines and other related components could be derived by Audit in only 37 *per cent* of the contracts reviewed.

Para 2.3.1, 2.3.2 and 2.3.3

- In all 463 contracts, notices regarding payment of wages were not sent by the contractors to the Principal Employers/nominee of the Principal Employer. No directions had been issued by Railways to the Principal Employers or their nominees for ensuring payments to contract labour and recovering the same from the contractors in case of non-payment/short payment. Railway

Administration had not nominated any authorised representative to be present at the time of disbursement of wages in all 463 contracts. Despite Railway Board's instructions to ensure payment of wages to the contract labours through Bank/Cheque, the same was ensured only in respect of 82 contracts. In 212 contracts, information regarding means of payment was not made available to Audit.

Para 2.4

- In respect of 313 contracts, no records/registers were maintained by the Principal Employer (Railways) as required under the Acts and Rules. In respect of 120 contracts, records//registers as required for compliance of above Acts and Rules were not made available to Audit. Contractors maintained Attendance Registers in respect of 164 contracts, Wage Registers in respect of 122 contracts and Wages slips only in 18 contracts. Records were also not preserved as per the stipulated time periods in a large number of completed contracts.

Para 2.5

Compliance to the provisions of MWA, 1948 and MWR, 1950

Minimum wages to contract labour are required to be paid by the contractors as per the provisions of MWA, 1948. Railway Board also circulates the rates notified by the Ministry of Labour and Employment to all field units from time to time.

Audit reviewed 463 contracts over nine zonal formations and noticed that

- Minimum wages were paid in compliance to the provision of MWA, 1948 in respect of 105 contracts only. Payment of minimum wages to contract labour was not ensured in respect of 129 contracts. Audit assessed a sum of ₹ 9.23 crore as short payment to 3310 contract labour over the contract period towards payment of minimum wages. Records were not made available in respect of 229 contracts.
- Para 2.6.1**
- In 120 contracts, wages for rest days were paid by the contractors and in 62 contracts, wages were not paid by the contractors as per the laid down provisions. ₹ 5.41 crore of short payment of minimum wages to 2745 contract labour was assessed by Audit for contract period. Relevant records were not made available to audit in 239 contracts.
- Para 2.6.2**
- In respect of 49 contracts, contractors neither provided any rest to the workers nor paid rest day wages due and payable at double rate of the minimum wages, as required under the rule. In 268 contracts, records were not made available to audit.
- Para 2.6.3**
- In 49 contracts, the contractors did not provide any rest day to the workers even after continuous working beyond 10 days. In 215 contracts, records were not made available to audit. In 30 contracts, the contractors did not pay any amount to the contract labour deployed between 9 and 12 hours a day. Audit

assessed an amount of ₹ 1.74 crore short paid to 830 contract labour during the contract period. **Para 2.6.4**

- During the period of audit, no evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the Labour Commissioner to check the compliance of the provisions of CLRA, 1970 and MWA, 1948. Under the new Inspection Policy of the Ministry of Labour and Employment, CLC would inspect a unit only if they are registered with the CLC and they are selected for inspection as per their laid down criteria or any complaint/grievance has been received regarding them. The registration of Principal Employer as well as the contractor is thus of paramount importance in order to ensure their monitoring by the Organisation of Labour Commissioner. **Para 2.7**

Compliance to the provisions of EPF & MPA, 1952 and EPFS, 1952

The Act and the Rules formulated therein are aimed to provide the employees in specified establishments, benefits of provident fund, pension and deposit link and incentives. The responsibility to ensure compliance to the provisions of EPF & MPA, 1952 and EPFS, 1952 rests with EPF Organisation. The employee contributes 12 *per cent* of the wages towards Employee Provident Fund contribution. The employer also contributes 12 *per cent*, which includes 3.67 *per cent* to EPF and 8.33 *per cent* towards Employees' Pension Scheme. Under the Act, the Principal Employer is required to ensure that the contractors are registered with EPFO, the contract labour employed by him have been allotted PF Account number and that the contribution towards PF is deducted from the contract labour and the same along with contribution from the employers is deposited with EPFO.

Audit reviewed 463 contracts over nine zonal formations and noticed that

- Railway Administration had verified the registration of contractor with the EPFO before award of the contracts only in 20 contracts. In 431 contracts, records were not made available. **Para 3.1.1**
- Only in 46 contracts, PF Registration was found to be taken by the contractors. In 321 contracts, information was not found on record. **Para 3.1.2**
- In only 61 contracts, PF Account Numbers of contract labour were available. In 258 contracts, relevant records were not made available to Audit. **Para 3.1.3**
- In 125 contracts, the EPF deductions from 3678 employees were found not deducted/ short deducted by ₹ 2.07 crore. In 306 contracts, the records were not made available to audit. In 128 contracts, the employers' contribution of ₹ 2.54 crore was found not deducted/ short deducted in respect of 3731

employees. In 306 contracts, the records were not made available to audit.

Para 3.1.4

- No evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the EPFO to check the compliance to laid down rules and provisions towards fulfilment of statutory obligations under the above mentioned Acts and Rules. Under the new Inspection Policy of the Ministry of Labour and Employment, EPFO would inspect a unit only if they are registered with them and they are selected for inspection as per their laid down criteria or any complaint/grievance has been received regarding them. Thus, by assuring themselves of the applicability of the Act and Rules on the contractors and ensuring his registration with the EPFO would be the basic necessary requirement which the Principal Employer (Railways) has to ensure, in order to follow the provisions of the Act and Rules.

Para 3.3

Compliance of ESIA, 1948 and ESI(G)R, 1950

The ESIA, 1948 was enacted to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Act and the rules are applicable on the establishments where 10 (20 in some States/Union territories) or more persons are employed on any day of the preceding 12 months. The employers (contractors) are required to apply and obtain an employer code from ESIC, get ESI Account Number allotted to the Contract labour and ensure that the contribution towards ESI is deducted from the contract labour and the same along with contribution from the employers is deposited with ESIC. The Principal Employer is liable to pay contribution in respect of all his employees including contract labour engaged through a contractor and is responsible to deduct the ESI dues from the bills of the contractor, if short/non-deduction/contribution noticed.

Audit reviewed 463 contracts over nine zonal formations and noticed that

- In 116 contracts, contractors were not registered with concerned Regional offices of ESIC, and had not been allotted Employer's code numbers. Records were not made available for 235 contracts. **Para 4.1.1**
- In 148 contracts, ESI Account numbers were not obtained and in 266 contracts, relevant records were not made available to audit. **Para 4.1.2**
- In 92 contracts, ESI deduction by ₹ 0.24 crore from 1888 contract labour was not deducted/ short deducted. In 302 contracts, relevant records were not made available to audit. In 98 contracts, the employers' contribution was found not deducted/ short deducted by ₹ 0.78 crore in respect of 2278

employees. In 335 contracts, the records were not made available to audit.

Para 4.2

- Railway administration had not taken any action towards recovery of the amount from the contractor's bills and to deposit the same to the ESIC. No internal control system exists for identification and follow up action in such cases of non-deduction/short deduction in any contract. **Para 4.3**

- No evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the ESIC to check the compliance to laid down rules and provisions towards fulfilment of statutory obligations under the above mentioned Acts and Rules. Under the new Inspection Policy of the Ministry of Labour and Employment, ESIC would inspect a unit only if they are registered with them and they are selected for inspection as per their laid down criteria or any complaint/grievance has been received regarding them. Thus, by assuring themselves of the applicability of the Act and Rules on the contractors and ensuring his registration with the ESIC would be the basic necessary requirement which the Principal Employer (Railways) has to ensure, in order to follow the provisions of the Act and Rules. This is more so as under the provisions of this Act, the Principal Employer is liable to pay contribution in respect of all his employees including contract labour engaged through a contractor.

Para 4.5

Impact of non-compliance of statutory provisions

- Out of 463 contracts in selected Railway formations valuing ₹ 873.40 crore, in case of 151 contracts valuing ₹ 224.30 crore, requisite records were not made available to audit. Of the balance 312 contracts valuing ₹ 649.10 crore involving 8998 contract labour, in 210 contracts valuing ₹ 408.20 crore, there was an adverse impact of ₹ 26.14 crore on 6366 contract labour. This worked out to 4.02 *per cent* of the value of 312 contracts. During 2016-17, Indian Railways made contractual payments of approximately ₹ 35098 crore. Based on the results of audit in 312 contracts and the adverse impact on contract labour at 4.02 *per cent* of total contractual payments, the estimated adverse impact on contractual payments in Indian Railways would thus be 4.02 *per cent* of ₹ 35098 crore, i.e. ₹ 1410.94 crore.

Para 5.2

- Audit also reviewed the systems and controls in place in a non-railway organisation, Delhi Metro Rail Corporation Limited and observed that by preparation of proper estimates, award of contract only to eligible contractors, comprehensive terms and conditions of contracts, ensuring

checks while making payment and monitoring the compliances through dedicated Labour Welfare Teams, a system can be put in place for monitoring and compliance to statutory provisions. Significant changes have also been introduced by the Government of India to facilitate easy compliance of statutory provision by the PEs as well as the contractors, which should facilitate better compliance by Indian Railways.

Para 6.2

Recommendations

- 1. The Principal Employers in Indian Railways have certain obligations towards contract labour in terms of provisions of the CLRA, 1970; EPF & MPA, 1952 and ESIA, 1948. IR vide Railway Board's letter no. E/LL/70AT/CNR/1-3 dated 15.10.1971 specified the category of Principal Employer as Divisional officers in Divisions, Senior Mechanical Engineer, Deputy Chief Mechanical Engineer or Works Manager in respect of Workshops, Controller of Stores in respect of Stores depot, Executive Engineer in respect of Construction and Heads of Departments in respect of contracts directly controlled by the Headquarters in respect of contracts. They should fulfill the requirement of the Acts and the Rules governing contract labour as representative of Indian Railways under their administrative control.**
- 2. The following controls may be established for compliance to statutory provisions relating to contract labour:**
 - a. Preparation of estimates for labour component may be done duly taking into account the minimum wages fixed by Central/State Government from time to time plus additional amount of contribution required to be made by the contractors towards Employees' Provident Fund (EPF), Employee State Insurance Corporation (ESIC) and any other related cost.**
 - b. A comprehensive list of conditions towards ensuring compliance to statutory provisions relating to labour laws may be included in the tender documents/General Conditions of Contracts/Special Conditions of Contract, including penalties for non-compliance. The tender documents should include terms and conditions relating to timely payments of wages due, amenities for labour, safety of labour, etc.**
 - c. Contracts may be awarded to contractors/agencies who have been registered with the Labour Department, EPFO and ESIC etc.**
 - d. Principal Employers for the various Departments of the organisation may be identified and nominated. A comprehensive list of responsibilities for Principal Employers may be issued as a checklist for the Principal Employers.**

Chapter 1

Introduction

Parliament has enacted multiple legislations to protect exploitation of contract labour. These provisions regulate the employment of contract labour in certain establishments and provide for its abolition in certain circumstances. The provisions aim to provide the basic rights, prevent exploitation and ensure better working conditions for the contract labour.

Indian Railways executes a wide range of works for creation, repair and maintenance of its various assets including stations, coaches, wagons, locomotives, tracks, etc. These works are executed through its own workers or through outsourcing them to external agencies. Various departments of Indian Railways viz. Mechanical, Commercial, Operating, Electrical, Civil Engineering, Signal & Telecommunication, Medical, etc. have the responsibility to execute these works. The external agencies work for the Railways and engage workmen for execution of these contracts. A large number of these workmen are classifiable under the term '*Contract Labour*'. The statutory provisions of the legislations for protection of contract labour cast obligations both on Indian Railways as 'Principal Employer' as well as the external agencies referred commonly as 'Contractors'. One of the principal legislations for protection of contract labour is Contract Labour (Regulation and Abolition) Act (CLRA), 1970.

All personnel engaged under contracts with contractors by the Indian Railways are necessarily covered by the provisions of the Acts and Rules (legislative provisions), but do not necessarily cast obligation of Principal Employer on Indian Railways. The basic concepts with respect to statutory provisions of contract labour based on provisions of legislations, rules and various judicial pronouncements are discussed in the following paragraphs.

1.1 Basic concepts regarding statutory provisions in respect of contract labour

1.1.1 What constitutes '*contract labour*'

Contract labour is a term which is applied to manpower engaged by somebody else to produce a given result to the Principal Employer, where this manpower has no direct relationship of employer-employee with the Principal Employer. This includes supply of manpower to Principal Employer by a contractor, where the contractor is not involved in the specified activity. Thus, contract labour system is not restricted to outsourcing only. '*Contract labour*' reflects manpower whereas '*outsourcing*' reflects the job or the activity.

When the jobs and services are outsourced and are carried out in some other premises not being premises under control and management of the Principal Employer, CLRA, 1970 will not apply. All other outsourced jobs and services, which

are carried out in the premises of the Principal Employer will be covered under CLRA, 1970.

1.1.2 Principal Employer should not have a say in the selection of contract labour

Once the job/services/activities are allocated to a contractor under a proper agreement, Principal Employer should not have a say in selection of contract workmen. If the Principal Employer is selecting the contract labour, appointing them under the name of contractor, it is sufficient to establish the relationship wherein the Principal Employer will be the employer of the so called contract labour.

1.1.3 Liability of Principal Employer in the contracts of sub-contracting

Liability of the Principal Employer, where the work has been sub-contracted by the contractor is same as in the contracts of contractor, because as per the provisions of the CLRA, 1970, sub-contractor is covered in the definition of the contractor. The Principal Employer does not change as a consequence of sub-contracting.

1.1.4 The essential ingredients of the contract labour are that

- the employment may be by or through a contractor¹.
- he must be a 'Workman'².
- he must be employed, in or in connection with, the work of the establishment. It follows that any person who is in some manner or other connected with the work of the establishment would be a contract labour.
- he is hired where he is employed, in or in connection with, the work of the establishment.
- the employment may be with or without the knowledge of the Principal Employer.
- There is no mandatory requirement that only where the contractor obtains a license under the Act that workmen employed through the contractor will be contract labour. That workmen employed even by a contractor not holding a valid license would be contract labour.
- Provisions of CLRA, 1970 apply to establishments and to the contractors, wherein twenty or more workmen are employed or were employed by them even for one day during the preceding twelve months as contract labour.

1.2 Organisational Set up

Railway Board is the apex body of the Indian Railways and reports to the Minister of Railways. Railway Board is headed by Chairman Railway Board and has

¹ Section 2 (1) (c) of the CLRA, 1970

² As defined in Section 2 (a) (i) of the CLRA, 1970

Members in-charge of Traction, Rolling Stock, Traffic, Staff and Engineering and a Financial Commissioner (Railways). The Board is responsible for laying down policies on all matters regarding operation and maintenance of train services, acquisition, construction and maintenance of assets and monitoring/ implementation of policies and instructions across Zonal Railways. The functional Directorates under each Member assist and aid in decision making and monitoring of railway operations. At the field level, there are 17 Zonal Railways. Department-wise hierarchy of officials in the Zonal Railways is given in **Appendix I**.

1.3 Audit Objectives

The present review was taken up with the objective to assess whether the Railway Administration and its contractors complied with the statutory laws and rules applicable for protection of rights of contract labour and that the Railway Administration has a mechanism in place to monitor the compliance of statutory laws and rules applicable for contract labours.

1.4 Audit Criteria

The engagement of contract labour is governed by provisions of several statutes and rules made thereunder. The provisions of these Acts and Rules have been used as the Audit Criteria for this study. These include

- The Contract Labour (Regulation & Abolition) Act (CLRA), 1970 and Contract Labour (Regulation & Abolition) Central Rules (CLRR), 1971
- Minimum Wages Act (MWA), 1948 and Minimum Wages Rules (MWR), 1950
- Employees' Provident Fund and Miscellaneous Provisions Act (EPF and MPA), 1952 and Employees' Provident Fund Scheme (EPFS), 1952
- Employees' State Insurance Act (ESIA), 1948 and Employees' State Insurance (General) Regulations [ESI(G)R], 1950

In addition, Railway Board's orders and instructions issued in this regard from time to time have also been used as Audit Criteria. Further, Clause 54 and 55 of the General Condition of Contracts of the Indian Railways have also been used as Audit Criteria.

1.5 Audit scope, methodology and sample

Audit covered a period of three years from 2014-15 to 2016-17. Audit examination included review of various contracts and their related records available at Zonal Railway Headquarters as well as field locations. A feedback was obtained through a structured questionnaire (**Appendix II**) from selected contract labour, which was taken during joint inspection in case of ongoing contracts, along with the officials of railway. Through the feedback form, Audit collected information about name of the contract labour, name and address of the contractor for whom they are working and since when, details of Employees Provident Fund (EPF) and

Employees' State Insurance (ESI) codes of the contractors, whether they are aware about their entitlements, whether they are getting paid in cash or through bank, amount being paid, hours for which they work, payments made for weekly rest days, bonus paid, outstanding dues, if any etc.

Audit was conducted over nine railway formations including six Zonal Railways, viz. Northern Railway (NR), North Central Railway (NCR), North Western Railway (NWR), Central Railway (CR), Eastern Railway (ER) and South Western Railway (SWR), two Production Units (Chittaranjan Locomotive Works at Chittaranjan and Diesel Locomotive Works at Varanasi) and Metro Railway, Kolkata. Two contracts per department were selected across various departments so as to test check the system being followed in different departments. These departments included Mechanical, Engineering, Operating, Commercial, Administration, Accounts, Personnel, Medical, Safety, security, S&T department etc. A total of 463³ contracts out of 4430 contracts were reviewed in Audit in these selected nine railway formations. Of these 108 contracts had been completed as on 31 March 2017 and remaining contracts were in progress.

Joint inspections with Railway officials, at the workplace in respect of the selected ongoing contracts were conducted by the Audit Teams. Feedback from 928 contract labour in 266 contracts (10 *per cent* of labour engaged in individual works) were also included in the study.

The role of the Organisation of Chief Labour Commissioner, Employee Provident Fund Organisation and Employee State Insurance Corporation was also discussed in meetings with their officials by Audit. The New Inspections Schemes introduced by these organisation in 2014 were also discussed. Audit also reviewed the system and controls in place in a non-railway organisation viz. Delhi Metro Rail Corporation Limited (DMRC), as a case study for best practices which facilitate compliance to labour laws.

There was scope limitation due to non-production of records by the Principal Employers and contractors. 108 of the selected contracts were completed as on 31 March 2017 and most of these records were not preserved by the contractors and Principal Employers as required. Many of the records are required to be maintained by the contractors, copy of which should be available with the Principal Employers, if they verify the same from time to time. Non-maintenance/partial maintenance of documents by the contractors, indicates that provisions in relation to contract labour are not being followed properly. In such cases, audit could not get access to information and the same has been reflected in the report as records not provided to Audit. The instances where non-

³ CR – 105, ER – 75, NCR – 105, NR – 75, NWR – 34, SWR – 46, Metro/Kolkata – 11, DLW – 6 and CLW – 6, valuing ₹ 873 crore

compliance noticed were on the basis of partial information available on records or as informed by the Railways.

The audit findings were discussed in the Exit Conferences with the respective officials in all the selected railway formations. Audit findings and recommendations were discussed at the Railway Board level on 24 January 2018. The responses have been suitably incorporated in the Audit Report.

Audit findings in the report are based on observations of selected nine railway formations. Similar deficiencies may be prevalent in other railway formations and units as well. These are required to be addressed by Indian Railways, across all their units.

1.6 Acknowledgement

Audit acknowledges the cooperation given by the railway administration during the conduct of the audit.

Chapter 2

Compliance of Contract Labour (Regulation & Abolition) Act, 1970, Contract Labour (Regulation & Abolition) Central Rules, 1971, Minimum Wages Act, 1948 and Minimum Wages Rules, 1950

The Contract Labour (Regulation and Abolition) Act, 1970 was enacted to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith. The Act applies

- (a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;
- (b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen, provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

The Act shall not apply to establishments in which work only of an intermittent⁴ or casual nature is performed.

The Contract Labour (Regulation and Abolition) Rules, (CLRR), 1971 was framed by Central Government in exercise of the powers conferred by Section 35 of the CLRA, 1970 for carrying out the purposes of this Act. Such rules may provide for various matters, some of which are enumerated below:

- The manner in which establishments may be registered under Section 7, the levy of a fee therefor and the form of certificate of registration;
- The form of application of the grant or renewal of a license under Section 13 and the particulars it may contain;
- The manner in which an investigation is to be made in respect of an application for the grant of a license and the matters to be taken into account in granting or refusing a license;
- The form of a license which may be granted or renewed under Section 12 and the conditions subject to which the license may be granted or renewed, the fees to be levied for the grant or renewal of a license and the deposit of any sum as security for the performance of such conditions;
- The circumstances under which licenses may be varied or amended under Section 14;

⁴ The work performed in an establishment shall not be deemed to be of an intermittent nature-- (i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or (ii) if it is of a seasonal character and is performed for more than sixty days in a year.

- The time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the Principal Employer;
- The number and types of canteens, rest-rooms, latrines and urinals that should be provided and maintained;
- The type of equipment that should be provided in the first-aid boxes;
- The period within which wages payable to contract labour should be paid by the contractor under sub-section (1) of Section 21;
- The form of registers and records to be maintained by Principal Employers and contractors;
- The submission of returns, forms in which, and the authorities to which, such returns may be submitted;
- The collection of any information or statistics in relation to contract labour; and
- Any other matter which has to be, or may be, prescribed under this Act.

The Chief Labour Commissioner and its sub-ordinate formations have been entrusted with the responsibility of ensuring compliance to the provisions of CLRA, 1970 and CLRR, 1971. Railway Board have issued instructions to its field formations from time to time. In their letter⁵, Railway Board issued directions to all General Managers in Indian Railways to consult their respective Personnel Department before contracting out activities so that there is no violation of CLRA, 1970 and CLRR, 1971. The instructions stated that Principal Employers should get their establishment registered under the Act and Rules, contractors must obtain licenses from the organisation of Labour Commissioner, Principal Employers should ensure compliance to obligations relating to provision of prescribed amenities, payment of wages to workers, maintenance of prescribed registers and records and submission of returns to Licensing Officers.

Audit reviewed the compliance of statutory provisions regarding registration and obtaining license by the Principal Employer and contractors, deriving assurance about the applicability of the relevant provisions of the Act by the designated⁶ Principal Employers, submission of returns by them to the respective Offices of Labour Commissioner, display of notices at work place, amenities provided to the contract labour, manner of payment to contract labour and maintenance and

⁵ Letter no. E(LL) 2005 AT CNR/16 dated 29.8.2006

⁶ Railway Board's letter no. E/LL/70AT/CNR/1-3 dated 15.10.1971 specified the category of Principal Employer as Divisional officers in Divisions, Senior Mechanical Engineer, Deputy Chief Mechanical Engineer or Works Manager in respect of Workshops, Controller of Stores in respect of Stores depot, Executive Engineer in respect of Construction and Heads of Departments in respect of contracts directly controlled by the Headquarters in respect of contracts.

preservation of prescribed registers and reports. Audit findings on the extent of compliance to the above mentioned provisions are discussed below:

2.1 Registration of the Principal Employer under the Act

As per provisions⁷ of CLRA, 1970, every Principal Employer of an establishment to which this Act applies (establishment where the number of workmen engaged directly as well as through all contractors on any one day in last twelve months exceeded 20) shall, make an application to the registering officer (Organisation of Chief Labour Commissioner) in the prescribed manner for registration of the establishment.

Audit observed that out of 463 contracts reviewed, Railway Administration was registered in 140 contracts and in balance 323 contracts Railway Administration was not registered.

Thus, there was no mechanism in place in the Railways to ensure that the respective designated Principal Employers who award contracts for getting the work/activities done in their premises, would necessarily register themselves with the Office of the Labour Commissioners.

Annexure 2.1

2.1.1 Intimation about commencement of work to Labour Commissioner by the Principal Employer

Every Principal Employer shall, within fifteen days of the commencement or completion of each contract work under each contractor, submit a return to the Inspector (under concerned Labour Commissioner) appointed under Section 28 of the Act intimating the actual dates of the commencement and completion, of the contracts in the prescribed format⁸ (Appendix III).

Out of 463 contracts reviewed in audit,

- In respect of 17⁹ contracts, Principal Employer submitted returns intimating commencement of works,
- In respect of 168¹⁰ contracts, Principal Employers did not submit returns towards commencement and/or completion of contracts; and
- In respect of the remaining 278 contracts, records relating thereto were not made available to Audit.

⁷ Section 7 of CLRA, 1970

⁸Form VIB as per Rule 81 (3) of the CLRR, 1971

⁹ NCR (2), CR (6), ER (1), NR (6), SWR (1), RPU/Metro (1)

¹⁰ CR (97), ER (8), NR (1), NWR (30), SWR (23), DLW (3), CLW(6)

Thus, Principal Employer gave the intimation to the organisation of Labour Commissioner about commencement of contract in only four per cent (17 of 463) contracts reviewed in Audit.

2.1.2 Submission of Annual Returns by the Principal Employer to Labour Commissioner

Rules¹¹ require that every Principal Employer of a registered establishment shall send annually a return in duplicate so as to reach the Registering Officer concerned not later than the 15 February following the end of the year to which it relates. This information in annual return in Form XXV (**Appendix IV**) relates to the details of contractors engaged by the Principal Employer as well as information about engagement of contract labour directly as well as through contractors for purpose of determining status of coverage of Principal Employer under CLRA as well as obtaining information about the contractors who are to be regulated and monitored by the organisation of Labour Commissioner.

Out of 463 contracts reviewed in audit,

- Northern and Central Railway as Principal Employer submitted these returns involving information of 12 (six each) of these contracts,
- In 380 contracts, Railway Administration as Principal Employer had not submitted returns; and
- In balance 71 contracts, the information/records were not made available to Audit.

As such, in only three per cent (12 out of 463) of the contracts reviewed in Audit, the Principal Employers had submitted returns to the offices of the Labour Commissioners giving intimation about the details of contractors engaged by them.

Annexure 2.1

2.2 Obtaining license by the contractor

As per provisions¹², no contractor, to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a license issued in that behalf by the licensing officer¹³.

Out of 463 contracts reviewed in audit,

- In 34 contracts, the contractors obtained requisite license before commencement of work from the respective licensing officers of the concerned Regional Office of the Labour Commissioner.

¹¹ Rule 81 (3) and 82 (2) of CLRR 1971, Form XXV

¹² Section 12 of CLRA, 1970 read with Rule 21 of CLRR, 1971

¹³Licensing Officer is an officer of the concerned Regional Office of the Labour Commissioner

- In 50 contracts, licenses were obtained after commencement of works. In these contracts, the delay in obtaining the licenses ranged up to 750 days.
- In 172 contracts, licenses were not obtained; and
- In 207 contracts, records were not made available to Audit.

Thus, only 18 per cent contracts (i.e. 84¹⁴ out of 463 contracts) were executed/under execution, where license from the licensing officer were obtained by the contractors as per the provision of CLRA, 1970.

Annexure 2.2

2.2.1 Display of license at work site

Rules¹⁵ provide that a copy of the license shall be displayed prominently at the premises where the contract work is being carried on. Out of 84 contracts where contract licenses were obtained,

- Only in 37 contracts, the licenses were found displayed prominently at the respective work sites.
- In respect of 47¹⁶ contracts, licenses were not found displayed at work site.

Thus, license details were found displayed in only eight per cent (37 out of 463) of the contracts.

2.2.2 Number of contract labour employed

Rules¹⁷ also provide that the number of workmen employed as contract labour in the establishment shall not, on any day, exceed the maximum number specified in the license.

Out of 84 contracts where contract license were obtained, in 14¹⁸ contracts the deployments of workmen was more than the numbers specified in the license obtained from Labour department. The excess ranged up to 200 workmen in these contracts. Compliance to terms and conditions of contract license in terms of workmen employed against the number prescribed was found in only 15 per cent (70 out of 463) contracts.

2.2.3 Renewal of License

Rules¹⁹ further state that every license granted under Rule 25 or renewed under Rule 29 of CLRR, 1971 shall remain in force for 12 months from the date it is granted or renewed.

¹⁴ NCR (13), CR (29), ER (9), NR (13), NWR (12), SWR (5), RPU/Metro (1), CLW (2)

¹⁵ Rule 25 (2)(ix) of the CLRR, 1971

¹⁶ NCR (11), CR (16), ER (2), NR (3), NWR (11), SWR (3), RPU/Metro (1)

¹⁷ Rule 25(2)(ii) of the CLRR, 1971

¹⁸ NCR (7), CR (4), ER (0), NR (1), NWR (1), SWR (0), RPU/Metro (0), CLW (1)

¹⁹ Rule 27 of CLRR, 1971

Out of 84 contracts where contract license were obtained, in 70 contracts, renewal was not required as the validity of the licenses had not expired. However, in 14²⁰ contracts, licenses were not renewed by the contractors after expiry of its validity.

2.2.4 Returns to be submitted by the contractor to Labour Commissioner

Rules²¹ require that every contractor shall send half yearly return in Form XXIV (**Appendix V**) in duplicate to the Office of the Labour Commissioner, so as to reach the licensing officer concerned not later than 30 days from the close of the half year. The information in this return mainly included the name and address of contractor, establishment and Principal Employer along with duration of the contract, number of days during the half year, maximum number of contract labours employed on any day during the half year showing separately men, women and children. The return further requires submission of information with respect to the daily hours of work including weekly holiday, number of man-days worked, amount of wages paid, amount of deduction from wages along with status about the facilities of canteen, Rest Room, Drinking water, Creches and First Aid.

Out of 463 contracts reviewed in audit,

- The contractor submitted returns only in one contract,
- In 285 contracts, the contractors had not submitted any returns to the Labour Commissioners' office; and
- In balance 177 contracts the information/records were not made available.

Thus, in none of the cases except one, where records were made available to Audit for review, the contractors had submitted returns to the respective offices of the Labour Commissioner. As a result, information regarding the number of contract labour employed by the contractor, the number of days for which they have been employed and other details are not being communicated to the Office of Labour Commissioners.

Annexure 2.1

2.3 Amenities to Workers

2.3.1 Provision of Rest Rooms

As per the provisions²² of CLRA, 1970, in every place wherein contract labour is required to halt at night in connection with the work of an establishment, to which this Act applies, a rest room shall be provided and maintained by the contractor

²⁰ NCR (2), CR (6), ER (2), NR (4)

²¹ Rule 82 (1) of CLRR, 1971 (This return has been discontinued w.e.f March 2017)

²² Section 17 of CLRA, 1970

for the use of the contract labour in such number and such other suitable alternative accommodation within such time as may be prescribed. The rest rooms or the alternative accommodation to be provided shall be sufficiently lighted and ventilated and be maintained in clean and comfortable condition.

Out of 463 contracts reviewed in audit,

- In 14 contracts of Central Railway rest rooms were provided,
- In 7 contracts of Central Railway rest rooms were not provided,
- In 371 contracts, the requirement of rest room has not been noticed particularly due to deployment of contract labour on eight hours shift basis; and
- In balance 71 contracts, records were not available to audit.

Audit could not derive assurance about provision of rest rooms in 15 per cent (71 out of 463) contracts reviewed.

Annexure 2.1

2.3.2 Provisions of drinking water and urinals

Provisions should also be there for facilities for drinking water, urinals etc. at convenient places either by the contractor or the Principal Employer²³. Out of 463 contracts reviewed in audit,

- In 31 contracts, the facilities of drinking water, urinals, etc. were provided by the contractors,
- In 332 contracts, the above requirements were met from the facilities provided by the Railways to its employees, as their deployment were within the premises of Railways;
- In remaining 100 contracts, the information/records were not made available to Audit.

Audit could not derive assurance about provision of drinking water and urinals in 21 per cent (100 out of 463) contracts reviewed.

Annexure 2.1

2.3.3 Provisions of First Aid Box

Rules²⁴ also provide that the first aid box in required number and list of items as mentioned therein should be made available/provided either by the contractor or Principal Employer. Out of 463 contracts reviewed in audit,

²³ Section 18 and 20 section of CLRA, 1970

²⁴ Section 19 of the CLRA, 1970 read with Rule 58 & 59 of CLRR, 1971

- In respect of 143²⁵ contracts, well equipped first aid boxes were found available at the work site,
- In 95²⁶ contracts first aid boxes were not provided; and
- In 225 contracts the availability of first aid boxes could not be ascertained.

Assurance about availability of first aid box with medicines and other related components could be derived in only 31 per cent (143 of 463) of the contracts reviewed in Audit.

2.4 Payment of Wages to the Workers

Rules²⁷ relating to responsibility for payment of wages states as under:

1. A notice showing the wage period and the place and time of disbursement of wages shall be displayed at the place of work and a copy sent by the contractor to the Principal Employer/nominee of the Principal Employer under acknowledgement.
2. A contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.
3. Every Principal Employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.
4. It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the Principal Employer.
5. In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the Principal Employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Out of 463 contracts,

- In all 463 contracts, notices regarding payment of wages sent by the contractors to the Principal Employers/nominee of the Principal Employer were not seen or found on record,
- The directive or procedure for ensuring due payment to contract labour and communication to Principal Employers or any other authority/official in case

²⁵ NCR (9), CR (65), ER (23), NR (34), NWR (4), RPU/Metro (2), DLW (6)

²⁶ NCR (20), CR (19), NR (27), NWR (29)

²⁷Section 21 of CLRA, 1970 and Rule 71 of CLRR, 1971

of short payment with consequential recoveries from contractors were not issued in respect of any of the 463 contracts reviewed in Audit,

- Railway Administration had not nominated its authorised representative to be present at the time of disbursement of wages in respect of all 463 contracts,
- In 58 contracts, payments were made in the presence of representatives of the Railways, though these were not nominated by the railways,
- In 111 contracts, payments were not made in the presence of any representative of Railways,
- In 82 contracts, the presence of representative of Railway official though not required at the time of payment, as these payments were made through bank, these were required to be verified subsequently according to the provisions of the act, which was not done by the railways; and
- In 212 contracts, records relating thereto were not made available.

Thus, provisions laid down were not complied with and Principal Employers failed to nominate its representative even for contracts where they were registered as Principal Employers.

Annexure 2.3

Railway Board (October 2015) vide its letter²⁸ directed all Zonal Railways to ensure the payment of wages to the contract labours through Bank/Cheque.

Audit observed that out of 463 contracts reviewed in audit,

- In respect of 82 contracts, payments of wages had been made through banks,
- In respect of 169 contracts, the payments of wages were made in cash; and
- In respect of 212 contracts, related records were not made available to audit.

The compliance to a simple yet important directive of Railway Board was found in only 18 per cent (82 of 463) contracts.

Annexure 2.4

Further, the contractors are required to clearly communicate the conditions of employment to contract labour for the benefit of all contract labour. As per provisions²⁹, the notices showing the rates of wages, hours of work, wage period, dates of payment of wages, names and addresses of the Inspectors having jurisdiction, and date of payment of unpaid wages, shall be displayed in English and in Hindi and in the local language understood by the majority of the contract labour in conspicuous places at the establishment and the worksite by the Principal Employer or the contractor, as the case may be. Further, the notices shall

²⁸ Railway Board letter no.E (LL) 2015/PNM/AIRF/1 dated 20.10.2015

²⁹ Section 29 (2) of CLRA 1970 read with Rule 81 (1)(i)of CLRR, 1971

be correctly maintained in a clean and legible condition³⁰. A copy of the notice is required to be sent to the Inspector and whenever any changes occur same shall be communicated to him forthwith³¹.

Out of 463 contracts reviewed in audit,

- In respect of 45 contracts, the contractor had displayed notice in compliance of above rules,
- In respect of 225 contracts, the contractor had not displayed notice in compliance of above rules,
- In respect of 94 contracts, the applicability of displaying the notice for compliance of above rules did not arise due to nature of work,
- In respect of 99 contracts, records were not made available.

Thus, intimation to communicate conditions of employment to contract labour was provided in only 10 per cent (45 out of 463) of the contracts reviewed in Audit.

Annexure 2.5

2.5 Maintenance and preservation of prescribed registers and records

a) Maintenance of records by the Principal Employers

In respect of each registered establishment, Principal Employers are required to maintain a 'Register of Contractors' in Form XII (**Appendix VI**) showing name and address of the Principal Employer, name and address of the establishment, name and address of contractor, nature of work on contract, location of contract work, period of contract and maximum number of contract labour employed by contractor³².

Out of 463 contracts reviewed in audit,

- In respect of 30 contracts of Central Railway, records/registers were maintained by Railways as required in Form XII, in compliance to the above Acts and Rules.
- In respect of 313³³ contracts, no records/registers were maintained by Railways as required in Form XII, for compliance of above Acts and Rules.
- In respect of 120 contracts, record//registers as required for compliance of above Acts and Rules were not made available to Audit by the Railways.

³⁰Rule 81(1)(ii) of CLRR, 1971

³¹Section 29(2) of CLRA, 1970 read with Rule 81(2) of CLRR, 1971

³²Section 29(1) of CLRA, 1970 read with Rule 74 of CLRR, 1971

³³NCR (86), CR (62), ER (11), NR (74), NWR (34), SWR (29), RPU/Metro (11), DLW (4), CLW(2)

b) Maintenance of records by the contractors

Every contractor is also required to maintain a number of important records. This includes Muster Roll, Register of Wages, Register of Deductions, Register of Overtime, Register of Fines, Register of Advances, Wages Slips³⁴ etc.

Audit reviewed the status of maintenance of records and registers as required by the CLRA, 1970 and CLRR, 1971, in respect of 463 contracts and observed the following:

- Attendance Registers
 - In respect of 164 contracts, the contractors maintained Attendance Registers,
 - In respect of 112 contracts, the contractors did not maintain Attendance Registers,
 - In remaining 187 contracts, records were not made available.
- Wage Registers
 - In respect of 122 contracts, the contractors maintained Wages Registers,
 - In respect of 156 contracts, contractors did not maintain Wages Registers,
 - In remaining 185 contracts, records were not made available.
- Register of deductions
 - Only in three contracts, the contractors maintained Register of deductions,
 - In respect of 262 contracts, the contractors did not maintain Register of deductions,
 - In remaining 198 contracts, records were not made available.
- Overtime Registers
 - Only in four contracts contractors maintained overtime Register.
 - In respect of 261 contracts the contractors did not maintain overtime Register.
 - In remaining 198 contracts records were not made available.
- Register of fines
 - Only in two contracts, contractors maintained Register of fines,
 - In respect of 263 contracts, contractors did not maintain Register of fines,
 - In remaining 198 contracts, records were not made available.
- Register of Advances
 - Only in two contracts, contractors maintained Register of Advances,

³⁴ Section 29 of CLRA 1970 read with Rule 78 of CLRR, 1971

- In respect of 263 contracts, the contractors did not maintain Register of Advances,
- In remaining 198 contracts, records were not made available.
- Wages slips
 - Only in 18 contracts, contractors maintained Wages slips,
 - In respect of 246 contracts, the contractors did not maintain Wages slips,
 - In remaining 199 contracts, records were not made available.

Annexure 2.6**c) Preservation of records**

As regards preservation of records maintained by Principal Employers and contractors, rules³⁵ provide that all the registers and other records shall be preserved in original for period of three calendar years from the date of last entry therein.

Out of 463 contracts reviewed, 108 contracts were found completed as on 31 March 2017. Of these 108 contracts,

- In 2 contracts of Central Railway, records were found preserved for compliance of above rules,
- In 93³⁶ contracts, records were not found preserved for compliance of above rules and
- In balance 13³⁷ contracts, no records were made available to Audit.

Maintenance of these records is vital for any entity to regulate compliance to laws and rules for protection of rights of contract labour. However, the compliance to maintenance of important documents like Wage Register and Overtime Register was seen in 122 (26 per cent) contracts and four (one per cent) contracts respectively. The wages slips were maintained in only 18 (four per cent) contracts reviewed in Audit. Non-maintenance of necessary records makes the monitoring of compliance of the statutory provisions impractical by not only the railways but also by other monitoring agencies.

2.6 Compliance to MWA, 1948 and MWR, 1950

The Minimum Wages Act, 1948 was enacted to provide for fixing minimum rates of wages in certain employments. As per the Section 3 of the MWA, 1948,

(a) The Government shall fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an

³⁵ Rule 80 (3) of CLRR, 1971

³⁶ NCR (47; only tender and contract files were preserved), CR (7), ER (12), NR (7), NWR (1), SWR (15), RPU/Metro (2), CLW (2)

³⁷ CR (2), NR (8), SWR (2), DLW (1)

employment added to either Part by notification under Section 27, provided that the appropriate Government may in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;

(b) Review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary, provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

The appropriate Government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time, the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment.

In fixing or revising minimum rates of wages under this section,

(a) different minimum rates of wages may be fixed for

- (i) different scheduled employments;
- (ii) different classes of work in the same scheduled employment;
- (iii) adults, adolescents, children and apprentices;
- (iv) different localities;

(b) minimum rates of wages may be fixed by any one or more of the following wage periods, namely, by the hour, by the day, by the month, or by such other larger wage-period as may be prescribed; and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated.

Provided that where any wage-periods have been fixed under Section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith.

The Chief Labour Commissioner (CLC) and its sub-ordinate offices are responsible for ensuring compliance to the provisions of MWA, 1948 and MWR, 1950. Railway Board have also circulated from time to time orders of the CLC in respect of revision in the rates of Minimum Wages to all their field units, directing them to ensure adherence to the provisions of the CLRA, 1970 and MWA, 1948 and arranging prescribed minimum wages to the contract labour.

Audit reviewed the compliance of statutory provisions regarding payment of minimum wages to contract labour in selected 463 contracts. The Audit findings are discussed below:

2.6.1 Payment of Minimum Wages by the Contractors

As per provisions³⁸, the employer (contractor) shall pay every employee wages at a rate not less than the minimum rate of wages fixed by notification (from the concerned jurisdictional Department of Labour Commissioner) from time to time without any deduction.

Out of 463 contracts reviewed in audit,

- In respect of 105 contracts only, the minimum wages were paid in compliance to the provision of MWA, 1948.
- In respect of 129 contracts, payment of minimum wages to contract labour was not ensured. Audit assessed a sum of ₹ 9.23 crore as short payment to the 3310 contract labour over the contract period towards minimum wage; and
- In respect of 229 contracts, the records relating to payment of wages were not made available to audit.

Thus, compliance to provisions for payment of minimum wages was found in 23 per cent (105 of 463) of contracts.

Annexure 2.7

2.6.2 Payment of wages for rest day (at normal rates) to employees by the contractors

Rules³⁹ also provide that employees who have worked under the same employer for a continuous period of not less than six days in a scheduled employment, in respect of which minimum rates of wages have been fixed under the Act, shall be allowed a day of rest every week which shall ordinarily be Sunday, but the employer may fix any other day of the week as the rest day for any employee or class of employees in that scheduled employment.

Out of 463 contracts reviewed in audit,

- In respect of 120 contracts, wages for rest days were paid by the contractors in compliance to the laid down rules,

³⁸ Section 12 of Minimum Wages Act, 1948

³⁹ Rule 23 (1) of the Minimum Wages Rules, 1950

- In respect of 62 contracts, wages were not paid by the contractors as per the laid down provisions and audit assessed a sum of ₹ 5.41 crore as a short payment of minimum wages to 2745 contract labour over the contract period for rest days.
- In respect of 42 contracts, payment of wages for the rest day could not be ascertained; and
- In respect of 239 contracts relevant records were not made available to audit.

Thus, compliance to provision of payment of rest day was found in 26 per cent (120 of 463) of contracts. ***Annexure 2.8***

2.6.3 Payment of wages for substitute rest day at double the rate of normal wages

Rules⁴⁰ provide that an employee shall be granted wages for rest day, and in contracts he works on the rest day and has been given a substituted rest day, he shall be paid wages for the rest day on which he worked, at the overtime rate and wages for the substituted rest day at the rate applicable to the next preceding day.

Out of 463 contracts reviewed in audit,

- In 146 contracts, payments were made at prescribed rate of wages as per rules.
- In respect of 49 contracts, contractors neither provided any rest to the workers nor paid rest day wages due and payable at double rate of the minimum wages, as required under the rule.
- In 268 contracts, relevant records were not made available to audit.

In 49 contracts, the contractors did not provide any rest on substitute day to the workers. Even for working on the rest days, wages payable double the rate of minimum wages as required under the rules were not paid. Audit assessed that a short payment of ₹ 4.41 crore was made by the contractor to 1823 contract labour over the contract period in these contracts.

Annexure 2.9

2.6.4 Adherence to prescribed hours/days of working and payment of wages thereof

As per rules⁴¹, the maximum number of working hours of the contract labour should not exceed 12 hours per day and maximum days should not be more than 10 consecutive working days.

⁴⁰ Rule 23 (4) of the Minimum Wages Rules, 1950

⁴¹ Rule 23(1) of the Minimum Wages Rules, 1950

Out of 463 contracts reviewed in audit,

- In 199⁴² contracts, the contractors provided rest day to the workers before completion of 10 continuous days of working.
- In 49⁴³ contracts, the contractors did not provide any rest day to the workers even after continuous working beyond 10 days. In respect of two contracts of NCR, the contract labour were engaged for a period of more than 12 hours in a day violating the laid down provisions⁴⁴.
- In 215 contracts, necessary records were not made available to audit.

The assurance of workers having worked continually for not more than ten days was derived by Audit in 44 per cent (205 of 463) of contracts.

Further, rules⁴⁵ state that when a worker works in an employment for more than nine hours on any day or for more than 48 hours in any week, he shall in respect of overtime work, be entitled to wages at double the ordinary rate of wages.

Out of 463 contracts reviewed in audit,

- In 30 contracts, the contractors did not pay any amount to the contract labour deployed between 9 and 12 hours a day. Audit assessed an amount of ₹ 1.74 crore short paid to 830 contract labour during the contract period.
- In 193 contracts, the contractor did not deploy the contract labour for more than nine hours; and
- In 240 contracts, the records relating thereto were not made available to audit.

Annexure 2.10

2.7 Check and monitoring by Labour Commissioner

The officials of Labour Commissioner may undertake inspection of establishments under their jurisdiction for checking of contract labour records, payment of minimum wages etc. as per laid down provisions⁴⁶. A Unified Shram Suvidha Portal has been developed (October 2014) by the Ministry of Labour & Employment, Government of India to facilitate reporting of Inspections, and submission of Returns. The Portal has been envisaged as a single point of contact between employer, employee and enforcement agencies bringing in transparency in their day-to-day interactions. For integration of data among various enforcement agencies, each inspectable unit under any Labour Law has been assigned one Labour Identification Number (LIN). The objective of Web Portal is to consolidate information of Labour Inspection and its enforcement. It will lead to transparency

⁴² NCR (37), CR (67), ER (4), NR (65), NWR (10), SWR (10), RPU/Metro (6)

⁴³ NCR (21), CR (4), NR (8), NWR (12), SWR (4)

⁴⁴ Rule 23 (2) and 24 (2) of the Minimum Wages Rules, 1950

⁴⁵ Rule 25 (1)(b) of the Minimum Wages Rules, 1950

⁴⁶ Section 22 and 28 of CLRA, 1970

and accountability in inspections. The compliances would be reportable in Single Harmonized Form which will make it simple and easy for those filing such forms. The performance will be monitored using key indicators thus making the evaluation process objective.

Review of records/documents shown to audit by the railway administrations showed no communication/letters from the respective Labour Commissioner Offices to support that they took action to fulfil the above mentioned responsibilities and functions. During the period of audit, no evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the Labour Commissioner to check the compliance to laid down rules and provisions towards fulfilment of statutory obligations under the above mentioned Acts and Rules.

In this regard, Audit observed that a New Inspection Scheme⁴⁷ has been introduced in September 2015, which aims to bring greater transparency and accountability through use of IT enables systems and mandatory authorizations, to make inspections more effective and result oriented and to minimise personal interface to remove scope of misuse and arbitrariness. The scheme has laid down guidelines for emergency and mandatory inspections. In addition, the Chief Labour Commissioner would set up a Central Analysis and Intelligence Unit (CAIU) for collecting and analysing field level data and complaints to cause need based inspections towards proper enforcement of labour laws. The CAIU inspections would be initiated on the basis of inputs from field units of CLC organisation and other Central and State Authorities, complaints/grievances received from affected parties and other stakeholders and information generated through Shram Suvidha Portal regarding instances of default and non-compliance. Units not selected in any of the above three types of inspections would fall under the category of Optional inspections, which would be inspected on basis of list generated through computer using pre-decided number tables in the prescribed ratios.

The Principal Employers of the railways as well as the contractors would thus be effectively covered for inspections/enforcement of labour laws by CLC only if they are registered with the Organisation of Labour Commissioner or any complaint/grievance has been received regarding them. The registration of Principal Employer as well as the contractor is thus of paramount importance in order to ensure their monitoring by the Organisation of Labour Commissioner.

⁴⁷ No.01(119)/2015-IT Cell, Government of India, Ministry of Labour and Employment, Office of the Chief Labour Commissioner (C), New Delhi dated 23 September 2015

Chapter 3

Compliance of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and Employees' Provident Fund Scheme, 1952

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 was enacted to provide for the institutions of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments. The Employees' Provident Funds Scheme, 1952 was framed by Central Government in exercise of the powers conferred by Section 5 of the Employees' Provident Funds Act, 1952 to benefit the employees of following establishments along with many other establishments:

- (a) as respects establishment engaged in laundry and laundry services referred to in the notification of the Government of India in the Ministry of Labour and Employment,
- (b) as respects the establishments engaged in rendering cleaning and sweeping services, specified in the notification of Government of India in the Ministry of Labour and Employment,
- (c) with respect to the establishments engaged in Railways for construction, maintenance, operation and commercial activities of Railways, excluding Indian Railways exclusively managed by Government of India whose employees are in enjoyment of the Provident Fund, Pension and other retirement benefits under the rules made by the Central Government; specified in notification of the Government of India in the Ministry of Labour and Employment, etc.

The responsibility to ensure compliance to the provisions of EPF & MPA, 1952 and EPFS, 1952 rests with EPF Organisation. The employee contributes 12 *per cent* of the wages towards Employee Provident Fund contribution. The employer also contributes 12 *per cent*, which includes 3.67 *per cent* to EPF and 8.33 *per cent* towards Employees' Pension Scheme.

Audit reviewed selected contracts to check the extent of compliance of the provisions of the EPF & MPA, 1952 and EPFS, 1952. Audit findings are discussed in the following paragraphs.

3.1 Registration of the Contractor with the EPFO

3.1.1 Responsibility of the Principal Employer to ensure registration of the contractor before award of contract

As per the directives of Employee's Provident Fund Organization⁴⁸, before awarding any contract, the Principal Employer shall ensure that the contractor is registered with EPFO. After award of the contract the contractor details should also be entered by the Principal Employer in the EPFO portal.

Out of 463 contracts reviewed in audit,

- In 20 contracts, Railway Administration verified that the registration of contractor with the EPFO existed before award of the contracts.
- In 12 contracts, Railway Administration did not ensure registration of contractor with the EPFO either before or after award of the contracts, and
- In 431 contracts, records were not made available.

Thus, Railway Administration failed to perform its role as Principal Employer and did not ensure registration of contractors before or after award of contracts. As a result, assurance regarding the rights of contract labour engaged through the contractors was compromised.

Annexure 3.1

3.1.2 Responsibility of the employer (contractor) regarding registration with EPFO

As per the requirement to comply with the provisions⁴⁹, every employer covered under this Act should get registered with EPFO. Out of 463 contracts reviewed in audit,

- Only in respect of 46 contracts, PF Registration was found to be taken by the contractors.
- In 96 contracts, PF Registration had not been taken by the contractors.
- In the remaining 321 contracts, information of PF Registration of the contractor could not be found on record.

Annexure 3.1

Thus, non-compliance to the provisions of the Act by the Principal Employer, diluted the assurance regarding compliance of the provisions by the contractors.

3.1.3 Allotment of Provident Fund Account Number to Contract Labour

Rules⁵⁰ require that the employer (contractor) shall send to the organisation of EPF Commissioner within 15 days of the close of each month, a return in Form 5 of the employees qualifying to become a member of the fund for the first time

⁴⁸ CAIU/011(332015/Headquarter/Vol.II/28445 dated 2 February 2017

⁴⁹ Section 2 (e) EPF & MPA, 1952 on whom this Act applies through Section 1(3)(a) and 1(3)(b) of EPF & MPA, 1952 and Para 36 of EPFS, 1952

⁵⁰ Para 36 (2)(a) of EPFS, 1952

during the preceding month together with the declaration in Form 2 furnished by such qualifying employees'. The Commissioner shall promptly allot a PF Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer⁵¹.

Out of 463 contracts reviewed in audit,

- In respect of only 61⁵² contracts, PF Account Numbers of contract labour were available,
- In respect of 144⁵³ contracts, no action was taken by the employer (contractor) towards application and allotment of PF Account number to the contract labour, and
- In respect of 258 contracts, relevant records were not made available to Audit.

Thus, non-allotment of PF numbers to the contract labour excluded them from availing the facility of EPF. This was attributable also to the absence of action on part of Railway administration to fulfil its obligation under the laid down provisions.

3.1.4 Responsibility of the Principal Employer towards payment of EPF deduction from the wages of contract labour and contribution by the contractors

Principal Employer is responsible to pay both the contribution payable by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor and also administrative charges⁵⁴. In respect of employees employed by or through a contractor, the contractor shall recover the contribution payable by such employee (member's contribution) and shall pay to the Principal Employer the amount of member's contribution so deducted together with an equal amount of contribution (in employer's contribution) and also administrative charges⁵⁵.

Out of 463 contracts reviewed in audit,

- In respect of 32 contracts only, EPF deductions from employees was made in compliance to the above mentioned provisions without any shortfall.
- In respect of 22 contracts, the EPF deductions from employees were found short by ₹ 0.14 crore, in case of 1290 contract labour, as assessed by Audit.

⁵¹ Para 37 of EPFS, 1952

⁵² NCR (8), CR (25), NR (10), NWR (14), SWR (4)

⁵³ NCR (63), CR (30), NR (17), NWR (10), SWR (24)

⁵⁴ Para 30 (3) of EPFS, 1952

⁵⁵ Para 30 (2) of EPFS, 1952

- In respect of 103 contracts, the EPF deductions from employees had not been done at all. Short-deduction/non-deduction of ₹ 1.92 crore in case of 2388 contract labour was assessed by Audit.
- In respect of 306 contracts, the records relating thereto were not made available to audit. Thus, in respect of these contracts, audit could not assess the amount of EPF deduction/short deduction.

Annexure 3.2

- In respect of 29 contracts only, employers' contribution towards EPF was made in compliance to the above mentioned provision without any shortfall.
- In respect of 24 contracts, the employers' contribution towards EPF were found short by ₹ 0.36 crore in case of 1525 contract labour as assessed by Audit.
- In respect of 104 contracts, EPF contribution from employers had not been done and Audit assessed a short contribution of ₹ 2.18 crore in case of 2206 contract labour.
- In respect of 306 contracts, the records relating thereto were not made available to audit and audit could not assess the amount of EPF contribution not deducted/short deducted.

Annexure 3.3

Thus, an amount of ₹ 4.60 crore was either short deducted/not deducted or contribution was not made fully/partly. This amount was neither deposited by the Principal Employer with EPFO nor recovered from the contractors. Thus, inaction by Railway administration adversely impacted the rights of contract labour.

3.2 Provisions of the Pradhanmantri Rojgar Protsahan Yojana

In order to incentivise creation of new jobs in the formal sector, Government of India have introduced the Pradhanmantri Rojgar Protsahan Yojana⁵⁶, wherein Government of India will pay 8.33 *per cent* contribution of employers to the Employee Pension Scheme (EPS) in respect of new employees having a Universal Account Number (UAN). These guidelines have been made effective from 9 August 2016. The scheme has been introduced with an aim to incentivize the employers to recruit unemployed persons and also to bring into books the informal employees.

Railways need to encourage the contractors to follow provisions of the EPF & MPA, 1952 and EPFS, 1952 and effectively avail of the incentives under the newly

⁵⁶ OM No. DGE-U-13015/1/2016-MP (G) dated 23.02.2017 of the Government of India, Ministry of Labour and Employment, Directorate General of Employment

introduced scheme to promote recruitment of unemployed persons and bring into books the informal employees.

3.3 Check and monitoring by EPFO

As per laid down provisions⁵⁷, the officials of EPF Commissioner may conduct inspections of establishments under their jurisdiction for checking of workers record of deduction/contribution and deposit of EPF amount to EPFO for compliance of the provisions of EPF and MPA, 1952. Review of records/documents produced to audit revealed that no action was initiated by the officials of EPF Commissioner relating to protection of rights of deployed contract labour. During the period of audit, no evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the EPFO to check the compliance to laid down rules and provisions towards fulfilment of statutory obligations under the above mentioned Acts and Rules.

In this regard, Audit observed that with a view to simplify business regulation, a transparent Inspection Policy⁵⁸ with system driven triggers equipped with relevant norms and criteria has been formulated in June 2014, for ensuring accountability, transparency and minimising frequent inspections. The scheme has laid down guidelines for mandatory inspections. In addition, the EPFO would set up a Central Analysis and Intelligence Unit (CAIU) for collecting and analysing field level data for a transparent and accountable labour inspection system. The cases forwarded through CAIU will be based on data and evidence and EPFO would formulate an objective methodology for selection criteria of the cases by the CAIU keeping in view its priorities and provisions of ILO C-81⁵⁹. In respect of certain specific cases, the inspection would be optional and the inspections would be generated through computer using pre-decided number tables taking into account drop in remittances/membership as compared to last quarter, as per prescribed parameters. The methodology prescribed under the Inspection Policy include employers to feed master data and periodical returns on Shram Suvidha Portal. Thus, by assuring themselves of the applicability of the Act and Rules on the contractors and ensuring his registration with the EPFO would be the basic necessary requirement which, the Principal Employer (Railways) has to ensure, in order to follow the provisions of the Act and Rules.

⁵⁷ Section 13 of EPF and MPA, 1952 read with Para 46 of EPFS, 1952

⁵⁸ No. MIS-2(4) CAIU/Web Portal/2014-15, Employees' Provident Fund Organisation, Ministry of Labour and Employment, Government of India, New Delhi dated 26 June 2014

⁵⁹ Recommendation concerning Labour Inspection of the International Labour Organisation

Chapter 4

Compliance of Employees' State Insurance Act, 1948 and Employees' State Insurance (General) Regulations, 1950

The ESIA, 1948 was enacted to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Act and the rules are applicable on the establishments where 10 (20 in some States/Union territories) or more persons are employed on any day of the preceding 12 months. The applicability of the Act and Rules are required to be ensured by Principal Employer/Contractor. Subject to the provisions of this Act, all employees in factories and establishments to which this Act applied, shall be insured in the manner provided by this Act.

4.1 Registration of the employer (contractor) with ESIC

4.1.1 Application by the Employer (contractor) for Employer Code for the first time

Rules⁶⁰ provide that, the employer in respect of an establishment to which the Act applies for the first time and to which an Employer's Code Number is not yet allotted, and the employer in respect of the establishment to which the Act previously applied but has ceased to apply for the time being, shall furnish to the appropriate Regional Office not later than 15 days after the Act becomes applicable, as the case may be, a declaration of registration in writing.

Out of 463 contracts reviewed in audit,

- In respect of 112⁶¹ contracts, contractors were registered with concerned Regional offices of ESIC and had been allotted Employer's Code Number.
- In respect of 116⁶² contracts, contractors were not registered with concerned Regional offices of ESIC, and had not been allotted Employer's code number.
- In respect of 235 contracts, relevant records were not made available to audit.

4.1.2 Allotment of ESI Account Number to the Contract labour

Regulation⁶³ provide that, on receipt of the return from employer along with declaration of employees the appropriate offices shall promptly allot an insurance number (ESI Account Number) to each person in respect of whom declaration form has been received. Out of 463 contracts reviewed in audit,

⁶⁰ Rule 10 B of notification issued by ESIC on 17 October 1950

⁶¹ NCR (13), CR (20), ER (10), NR (33), NWR (19), SWR (11), RPU/Metro (6)

⁶² NCR (51), CR (14), NR (32), NWR (11), RPU/Metro (2), DLW (4), CLW (2)

⁶³ Regulation 15 of Employees State Insurance (General) Regulations, 1950

- In respect of 49⁶⁴ contracts, ESI Account numbers were obtained by the contractors,
- In respect of 148⁶⁵ contracts, ESI Account numbers were not obtained; and
- In respect of 266 contracts, relevant records were not made available to audit.

4.2 Payment of deduction from employee and contribution by the employer under ESIA, 1948

As per laid down provisions⁶⁶, the contribution payable under this Act in respect of an employee shall comprise of the employers' contribution @4.75 per cent of wages and the employees' contribution @ 1.75 per cent of wages and shall be paid to the Employee State Insurance Corporation (ESIC).

Out of 463 contracts reviewed in audit,

- In respect of 81 contracts, ESI deduction from 4423 contract labour and its deposit with ESIC were done by the employer which included 12 contracts where an amount of ₹ 0.02 crore was short deducted from 503 contract labour as assessed by Audit,
- In respect of 80 contracts, ESI deduction from 1385 contract labour for an assessed sum of ₹ 0.22 crore was not made at all; and
- In respect of 302 contracts, relevant records were not made available to Audit.

Annexure 4.1

- In respect of 2797 contract labour in 40 contracts, ESI contribution of employer and its deposit with ESIC were done by the employer (contractor) which included 10 contracts where the ESI contribution made by employer was short by ₹ 0.01 crore for 367 contract labour, as assessed by audit,
- In respect of 88 contracts, employers' contribution towards ESI for an assessed sum of ₹ 0.71 crore for 1911 contract labour, was not made at all, and
- In respect of 335 contracts, relevant records were not made available.

Annexure 4.2

- It was also seen that out of 257 contract labour deployed in one contract, names of 157 contract labour did not match with the names on the ESIC portal. No action was taken by the Railway Administration to get the same rectified.

⁶⁴ NCR (2), CR (5), ER (7), NR (17), NWR (11), SWR (4), RPU/Metro (3)

⁶⁵ NCR (54), CR (22), ER (2), NR (41), NWR (19), RPU/Metro (2), DLW (4), CLW (4)

⁶⁶ Section 39 (1) of ESIA, 1948

4.3 Liability of the Principal Employer to pay contribution under ESIA, 1948

As per provisions⁶⁷, the Principal Employer is liable to pay contribution in respect of all his employees including contract labour engaged through a contractor. Further, Principal Employers are also responsible to deduct the ESI dues from the bills of the contractor, if short/non-deduction/contribution is noticed. Rules⁶⁸ further state that a Principal Employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the immediate employer, either by deduction from any amount payable to him by the Principal Employer under any contract, or as a debt payable by the immediate employer.

It was observed that, out of 463 contracts reviewed in audit, an amount of ₹ 0.96 crore was not deducted/short deducted by the contractor and not deposited to ESIC. Railway administration had not taken any action towards recovery of the same from the contractor's bills and to deposit the same to the ESIC. No internal control system exists for identification and follow up action in such cases of non-deduction/short deduction in any contract.

4.4 Check and monitoring by ESIC

As per laid down provisions⁶⁹, officials of ESIC may conduct inspection of establishments under their jurisdiction for checking the correctness of records relating to deduction/contribution and deposit of ESI amount to ESIC. During the period of audit, no evidence could be found in the records of railway administration to show that inspections were carried out by the officials of the ESIC to check the compliance to laid down rules and provisions towards fulfilment of statutory obligations under the above mentioned Acts and Rules.

In this regard, Audit observed that with a view to simplify business regulation, a transparent Inspection Policy⁷⁰ have been formulated in August 2014, for bringing in transparency and accountability in labour inspections. The policy envisages objective criteria for selection of units for inspection. The policy lays down mandatory inspections for new units, units defaulter for six months, units from which closure request received and units where no inspection have been carried out in last three years. In addition, the ESIC would set up a Central Analysis and Intelligence Unit (CAIU) for collecting and analysing field level data for a transparent and accountable labour inspection system. The cases forwarded through CAIU will be based on data and evidence and ESIC would formulate an

⁶⁷ Section 40 of ESIA, 1948

⁶⁸ Section 41 of ESIA, 1948

⁶⁹ Section 44 and 45 of ESIA, 1948

⁷⁰ No. S-11/12/2/2008 – Rev-II, Employees' State Insurance Corporation, Ministry of Labour and Employment, Government of India, New Delhi dated 01 August 2014

objective methodology for selection criteria of the cases by the CAIU keeping in view its priorities and provisions of ILO C-81⁷¹. In respect of certain specific cases, the inspection would be optional and the inspections would be generated through computer using pre-decided number tables taking into account drop in contributions, covered employees etc. The methodology prescribed under the Inspection Policy include employers to feed master data and periodical returns on Shram Suvidha Portal. Thus, by assuring themselves of the applicability of the Act and Rules on the contractors and ensuring his registration with the ESIC would be the basic necessary requirement which the Principal Employer (Railways) has to ensure, in order to follow the provisions of the Act and Rules. This is more so as under the provisions of this Act, the Principal Employer is liable to pay contribution in respect of all his employees including contract labour engaged through a contractor.

⁷¹ Recommendation concerning Labour Inspection of the International Labour Organisation

Chapter 5

Impact of non-compliance of statutory provisions

5.1 Impact of short payment/non-payment/short contribution/non-contribution to contract labour in contracts reviewed in Audit

For discharge of responsibility entrusted to the Principal Employer through the provision of various statutory laws relating to protection of contract labour, the estimates of all contracts should amongst others include assessment of the labour component. The assessment of labour component of the estimate should be done keeping in view the costs involved to comply with the statutory laws. These amongst others include CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948.

Review of estimates for the contracts showed that Railway administration did not make assessment of labour required in various contracts. In contracts where cost of labour component was assessed, assessment of costs of contract labour was not done keeping in view the costs involved in meeting statutory liabilities provided under various Acts and Rules.

Audit observed that out of 463 contracts, in case of 190 contracts, the estimates included the number of labour to be engaged for execution of the contract. Out of these, in 108 contracts, the estimates included assessment of labour component separately and in 82 contracts the estimates did not include separately assessment of labour component. Out of 108 contracts where the estimates included labour component separately, in 71 contracts the assessment of labour component was found short by ₹ 12 crore⁷². The assessment for labour component was made by Audit on the basis of cost of labour as per provisions contained in CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948.

Annexure 5.1 and 5.2

Thus, where the labour component was assessed separately, Railways did not prepare the estimates keeping in view the statutory requirements under the CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948 in 71 out of 108 contracts. The risk of exploitation of contract labour as a result of short payment/non-payment of minimum wages and other statutory labour benefits was substantial.

While discussing the issue of preparation of cost estimates keeping in view the costs involved in compliance to the statutory laws and making payments accordingly, Railway Board during Exit Conference stated (January 2018) that sometimes there were constraints in ensuring the payments as per the cost estimates, as payments are done on the basis of actual amount of work done and not on the number of labour employed. Audit emphasised that the first step towards ensuring adherence to statutory provisions of the Minimum Wages Act,

⁷² ₹ 66.36 crore assessed by Audit - ₹ 54.36 crore as assessed by Railway Administration

1948 is to work out cost estimates keeping in mind all statutory obligations with respect to labour.

5.2 Impact of non-compliance to statutory provisions by the Principal Employers and Contractors

5.2.1 Out of 463 contracts in selected Railway formations valuing ₹ 873.40 crore, scope limitation was imposed in case of 151 contracts valuing ₹ 224.30 crore, as requisite records were not made available to audit. Of the balance 312 contracts valuing ₹ 649.10 crore involving 8998 contract labour, in 210 contracts valuing ₹ 408.20 crore, there was an adverse impact on 6366 contract labour. In 102 contracts valuing ₹ 240.88 crore, which involved 2632 labour, Audit did not find any adverse financial impact on the labour in relation to compliance of labour laws.

As regards the quantum of adverse impact, Audit assessed/calculated an adverse impact of ₹ 26.14 crore on 6366 contract labour in 210 contracts reviewed. This included ₹ 20.78 crore, ₹ 4.41 crore and ₹ 0.95 crore on account of non-compliance of CLRA, 1970 & MWA, 1948 (together), EPF and MPA, 1952 and ESIA, 1948 respectively. This worked out to 4.02 *per cent* of the value of 312 contracts.

5.2.2 PU 32 captures the figures of contractual payments and the expenditure booked under PU 32 represents the contractual payments under various Revenue Grants. It was noticed that during 2016-17, the total contractual payments under Revenue Grant amounted to ₹ 5806.63 crore.

Similarly, the figure for contractual payments under Capital Grants is captured under PU 3. However, these figures are not maintained at Railway Board level. The share of contractual payments to the total Capital Expenditure (excluding extra-budgetary resources) was 28.54 *per cent* in NCR, during 2016-17. Taking 28.54 *per cent* as norm, share of contractual payments in Capital expenditure (₹ 102632.65 crore during 2016-17) would work out to ₹ 29291.35 crore⁷³.

Type of Grant	Grant No.	Expenditure under PU 32 during 2016-17 (₹ in crore)
Revenue	3	53.55
Revenue	4	2160.88
Revenue	5	165.10
Revenue	6	416.00
Revenue	7	490.73
Revenue	8	816.54
Revenue	9	395.73
Revenue	10	0
Revenue	11	838.40
Revenue	12	469.70
Capital	16	29291.35

Source: Demand for Grants of Ministry of Railways

⁷³ 28.54 *per cent* of ₹ 102632.65 crore

Table 5.2 – Calculation of adverse impact on contract labour in Indian Railways	
Total Revenue Grant	₹ 5806.63 crore
28.54 <i>per cent</i> of total Capital Grant no. 16 (excluding Extra Budgetary Resources)	₹ 29291.35 crore
Total	₹ 35098 crore
4.02 <i>per cent</i> of ₹ 35098 crore i.e. ₹ 1410.94 crore	

Thus, during 2016-17, Indian Railways made contractual payments of approximately ₹ 35,098 crore. Based on the results of audit in 312 contracts adverse impact on contract labour has been worked out at 4.02 *per cent* of total contractual payments. The estimated adverse impact on contractual payments in Indian Railways would thus be 4.02 *per cent* of ₹ 35,098 crore, i.e. ₹ 1,410.94 crore. The number of contract labour affected would also be significantly high.

Chapter 6

Case study of good practices in respect of compliance to labour laws

Audit of 463 contracts in nine railway formations showed that there is large scale non-compliance to the provisions of statutory laws regarding contract labour by the Indian Railways. The non-compliance continues to exist despite various changes being brought out by the Ministry of Labour & Employment, Government of India to streamline and simplify the labour laws in the past few years.

The Unified Shram Suvidha Portal⁷⁴ developed (October 2014) by the Ministry of Labour & Employment, Government of India facilitates reporting of inspections, and submission of returns and is a single point of contact between employer, employee and enforcement agencies bringing in transparency in their day-to-day interactions and accountability in inspections. During 2016 and 2017, for ease of compliance of labour laws, the Ministry has introduced online registration on real time basis, with no cost of registration and without any manual intervention. They have further reduced the number of Registers to be maintained to five in place of 56 Registers provided in nine⁷⁵ central labour laws/rules. A single online return would be required to be submitted under the above mentioned nine Acts. There will be a common electronic return cum challan for EPFO and ESIC. Thus, it will be easier to prepare necessary records related to contract labour by the contractors and Principal Employers (PEs), submission of returns besides transparency and accountability in labour inspections by the labour department. However, the opportunity is not being used adequately by the Railways to improve their extent of compliance to labour laws. Audit analysed the efforts required to comply with the provisions of various labour laws by preparing a list of such activities and assessing the periodicity of the same as well as checking whether the same can be done online through Shram Suvidha Portal. Audit also prepared a case study of good practices which are followed in a non-railway organisation, i.e. Delhi Metro Rail Corporation Limited (DMRC) to highlight as to how a control mechanism and supervisory check can be put in place by the Principal Employers to facilitate compliance.

⁷⁴ The objective of Web Portal is to consolidate information of Labour Inspection and its enforcement, which will lead to transparency and accountability in inspections. The compliances would be reportable in Single Harmonized Form which will make it simple and easy for those filing such forms. The performance will be monitored using key indicators thus making the evaluation process objective. It promotes the use of a common Labour Identification Number (LIN) by all Implementing agencies.

⁷⁵ Payment of Wages Act, 1936, Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Maternity Benefit Act, 1961, Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, Payment of Bonus Act, 1965, Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979, Industrial Disputes Act, 1947 and Mines Act, 1952

6.1 List of activities to be undertaken to comply with laid down statutory provisions

Audit made a list of various steps/activities, which are required to be followed by the Principal Employers and contractors to comply with the statutory provisions under the four labour laws and checked the time and effort required to follow them. These are detailed below:

S. no	List of activities	Whether the same can be done through Shram Suvidha Portal?	Periodicity of the activity
Primary responsibilities of the Principal Employer			
1	Registration with the labour office under Section 7 of CLRA 1970	Yes	one time
2	Intimation about commencement/completion of work to Labour Commissioner in Form VI B (Form VIII w.e.f March 2017) as per Para 81 (3) of CLRR 1971	Yes	once for every work on each occasion
3	Submission of Annual Returns in Form XXV related to details of engagement of contractors and contract labour to Labour Commissioner as per Rule 82(2) of CLRR 1971	Yes	once annually for every work
4	Nomination of representative for witness of payment as per Section 21(2) of CLRA, 1970 and Rule 72 of CLRR, 1971	Not applicable	once for every work
5	Maintenance of records (Register of contractors in Form XII) as per Section 29(1) of CLRA, 1970 read with Rule 74 of CLRR, 1971	Not applicable	Not applicable
6	To ensure registration of the contractor with EPFO before award of contract as per CAIU/011(332015/Headquarter/Vol.II/28445 dated 2 February 2017	Not applicable	once for every work
7	Liability to pay contribution under Section 40 of ESIA, 1948	Not applicable	once for every work
Primary responsibilities of the contractor (but to be ensured by Principal Employers)			
8	Obtaining license before commencement of work from Labour office under Section 12 of CLRA, 1970 and Rule 21 of CLRR 1971	Yes	once for every work
9	To ensure that the number of Contract Labour employed should not exceed the maximum number specified in the Rule 25(2)(ii) of the CLRR, 1971	Not applicable	once for every work
10	Payment of Wages to the Contract Labour, as per Section 21 of CLRA, 1970 and Rule 71 of CLRR, 1971, a notice showing the wage period and the place and time of disbursement of wages shall be displayed at the place of work and a copy sent by the contractor to the PE under acknowledgement	Yes, details are required to be uploaded	Monthly
11	Payment of wages to Contract Labour through Bank/Cheque, as per Railway Board letter no.E (LL)2015/PNM/AIRF/1 dated 20.10.2015	Not applicable	Monthly

<i>S. no</i>	<i>List of activities</i>	<i>Whether the same can be done through Shram Suvidha Portal?</i>	<i>Periodicity of the activity</i>
12	Payment of Minimum Wages (fixed by notification from time to time) under Section 12 of Minimum Wages Act, 1948	Not applicable	Monthly
13	Payment of wages for rest day (at normal rates) to employees as per Rule 23(1) of the Minimum Wages Rules, 1950	Not applicable	Monthly
14	Payment of wages for substitute rest day at double the rate of normal wages as per Section 23(4) of Minimum Wages Rules, 1950	Not applicable	Monthly
15	Adherence to prescribed maximum hours (12 hours in a day)/days (10 consecutive working days) of working and payment of wages thereof, as per Section 24(2) of Minimum Wages Rules, 1950	Not applicable	Monthly
16	Payment of overtime for working beyond prescribed hours (more than nine hours on any day or for more than 48 hours in any week), Rule 25 (1)(b) of the Minimum Wages Rules, 1950	Not applicable	Monthly
17	Responsibility of the Principal Employer towards payment of EPF deduction (12 %) from the wages of contract labour and contribution (12% including 3.67% to EPF and 8.33 % towards Employees' Pension Scheme) by the contractors, Para 30 (3) of EPFS, 1952	Yes	in case of default by contractor
<i>Responsibilities of the contractor or Principal Employer</i>			
18	Provisions of drinking water and urinals as per Section 18 and 20 section of CLRA, 1970	Yes, details are required to be uploaded	Not applicable
19	Provisions of First Aid Box as per Section 19 of the CLRA, 1970 and Rule 58 & 59 of CLRR, 1971	Yes, details are required to be uploaded	Not applicable
<i>Responsibilities of the contractor</i>			
20	Display of License at work site	Not applicable	once for every work
21	Renewal of license under Rule 27 of CLRR, 1971	Yes	as and when due
22	Returns (Half yearly) in Form XXIV regarding address of contractor, establishment and PE along with duration of contract, maximum number of contract labour employed on any day, daily hours of works, weekly holiday, amount of wages paid etc. to be submitted to Labour Commissioner as per Rule 82 (1) of CLRR, 1971	discontinued w.e.f March 2017	discontinued w.e.f March 2017
23	Provision of Rest Rooms required to halt at night as per Section 17 of CLRA, 1970	Yes, details are required to be uploaded	Not applicable
24	Maintenance of records (Muster Roll, Register of Wages, Register of Deductions, Register of Overtime, Register of Fines, Register of Advances, Wages Slips etc.) as per Section 29 of CLRA 1970 read with Rule 78 of CLRR, 1971	Not applicable	Registers to be maintained per contract

S. no	List of activities	Whether the same can be done through Shram Suvidha Portal?	Periodicity of the activity
25	Preservation of records for three years as per Rule 80 (3) of CLRR, 1971	Not applicable	Not applicable
26	Registration with EPFO under Section 2 (e) EPF& MPA, 1952 on whom this Act applies through section 1(3)(a) and 1(3)(b) EPF & MPA, 1952 and Para 36 of EPFS, 1952	Yes	one time
27	Process for allotment of Provident Fund Account Number in Form 5 (Return) and Form 2 (Declaration) to Contract Labour as per Para 36 (2)(a) of EPFS, 1952	Yes	once per contract labour
28	Provisions of the Pradhanmantri Rojgar Protsahan Yojana as per OM No. DGE-U-13015/1/2016-MP (G) dated 23.02.2017 of the Government of India, Ministry of Labour and Employment, Directorate General of Employment	Yes	Not applicable
29	Application by the Employer (contractor) for Employer Code for the first time, Rule 10 B of notification issued by ESIC on 17 October 1950	Yes	one time
30	Allotment of ESI Account Number to the Contract labour as per Regulation 15 of Employees State Insurance (General) Regulations, 1950	Yes	once per contract labour
31	Payment of deduction (1.75 per cent) from employee and contribution (4.75 per cent) of wages by the employer under Section 39 (1) of ESIA, 1948	Yes, details are required to be uploaded	Monthly

Most of the above mentioned activities such as obtaining and renewing licenses, filing returns, sending intimation regarding commencement and completion of works and allotment of EPF and ESI account numbers can be done online through Shram Suvidha Portal, and takes very less time on part of the Principal Employers.

Activities such as intimation about commencement and completion of work to the Labour Commissioner, nomination of a representative for witnessing payments by the contractor, ensuring registration of the contractor with the EPF and ESIC etc. are to be ensured by the Principal Employers once for every work, which does not take significant time and can be ensured through standard instructions on the same. Verifying that every contract labour has been allotted an EPF and ESIC number is also an activity Principal Employers can do once for each contract labour through Shram Suvidha Portal. This can be done through verification of details submitted by the contractor, before his bill for payment is being processed.

Responsibilities of the contractor include obtaining relevant licenses, renew them as and when due, obtaining EPF and ESI numbers for contract labour working for him, display of license at the work site, ensuring payments, deductions and contributions as per the laid down provisions, provision of amenities for contract labour and maintenance and preservation of records. While obtaining licenses and allotment of EPF and ESI numbers to contract labour can be done online, ensuring

payments, deductions and contributions as per the laid down provisions can be done by providing for them in the estimates of labour cost and making payment accordingly.

As regards provision of amenities for contract labour, wherever the Principal Employers (Railways) have facilities for their own staff, these can be used by the contract labour as well. Where such facilities for Principal Employers own staff are not available, the contractors have to provide the same, for which cost can be factored in the estimates prepared by the contractors.

Principal Employers are required to maintain only one Register of Contractors, for which the efforts required are minimal. Maintenance of records by the contractors could be insisted upon by the Principal Employers, by ensuring that these are checked and verified from time to time while processing payments to the contractors.

As Railways do not have any mechanism in place to ensure compliance to these provisions consistently across the organisation, audit selected a non-railway organisation as a case study of good practices which facilitates better compliance to labour laws by putting in place a practical and feasible mechanism as discussed below.

6.2 Case study of good practices in respect of compliance of labour laws in Delhi Metro Rail Corporation Limited (DMRC)

Audit reviewed the systems and controls in place in DMRC, which have been put in place to comply and monitor the contract labour laws/acts. The mechanism has the following features:

1. Preparation of estimates

The estimates for labour component (mainly for Operations & Maintenance contracts) for a tender are prepared taking into account the minimum wages fixed by Central/State Government from time to time plus additional amount of contribution required to be made by the contractors towards Employees' Provident Fund (EPF), Employee State Insurance Corporation (ESIC) and an extra five *per cent* for miscellaneous expenses on account of providing uniforms, rest rooms, drinking water, first-aid facilities etc. supposed to be made by the contractors. The tender documents also clearly state that contractors who quote with nil or negative profit percentage would not be selected.

2. Preparation of tender documents

The tender documents include 'General Conditions of Contract' (GCC), 'Special Conditions of Contract' (SCC) and 'Employers requirement'. All the three

documents in detail, include clauses regarding compliance of provisions of statutory laws.

The GCC include the following:

- a. **Compliance with statutes, regulations and laws** – The contractor shall follow and indemnify employer against all penalties and liabilities of every kind of breach of any such enactment law regulation etc.
- b. **Safety of works** – The contractor shall take full responsibility for ensuring safety standards with respect to Safety, Health and Environment (SHE) manual and price of the contract to be inclusive of all necessary costs to meet the prescribed safety standards. In case the contractor fails in the above, the Principal Employer may provide the necessary arrangements and recover the cost from the contractors.
- c. **Rates of wages and conditions of labour** – The contractor shall make himself aware of all labour regulations and their impact of cost and build up the same in the contract price. He will fully comply with statutory requirements and also pay rate of wages and observe conditions of labour no less favorable than those established for the trade or the industry where the work is carried out. In case of default, the Principal Employer may make payment of such claim on behalf of the contractor and recover the same from the contractor.
- d. **Labour laws** – The contractor shall fully comply with all laws and statutory regulations pertaining to engagement, payment and upkeep of labour. The contractor shall have a labour welfare organisation which shall be responsible for labour welfare and compliance with prevalent labour laws statute and guidelines. The contractor has to ensure to open bank account for each worker employed by him and his sub-contractors and payment to workers released through bank accounts.
- e. **Facilities for staff and labour** – The contractor shall provide and maintain at his own expense all necessary accommodation and welfare facilities as per prevailing labour and welfare laws for his and his sub-contractors staff and labour.
- f. **Health and safety** – Precaution shall be taken by the contractor to ensure the health and safety of his staff and labour.
- g. **Claim on account of violation of labour laws** – Contractor shall be solely accountable for violation of any labour law by it, its sub-contractors and will pay any such claim/damage to the authorities concerned. If he fails to do so, the employer shall be entitled to recover the same from the contractor.

The SCC include the following:

- a. **Labour laws and DMRC Labour Welfare Fund** - The contractor must ensure compliance to all labour laws including obtaining labour license and

registration of workers with Building and Other Construction Workers Board. The contractor shall submit to the Engineer or to his office a return showing the number of labour employed in different categories by him in the entire work.

- b. **Contractors care of works** - It shall be the responsibility of the contractor to adopt all the safety measures and deploy manpower that is adequately trained in safety.
- c. **Insurance** - All the contractor's employees drawing monthly salary up to ₹ 21,000 shall have to be covered under ESI. The contractor shall take insurance policy for those employees not covered under ESI.
- d. **Termination of the contract** - During the course of contract, if the contractor fails to perform works/services as mentioned in the scope of work, duly following the statutory requirements, to the entire satisfaction of DMRC, DMRC shall be entitled to part terminate the contract/limit the scope of work under the contract duly issuing seven days' notice to the contractors in writing.
- e. **Penalties** - Penalty has also been prescribed for delay in payment of dues to any workmen at the rate of ₹ 100 per day per workman, making payment in the absence of PEs representative (for each violated date) at the rate of ₹ 10,000 and non-compliance of any other provision of labour laws pointed out by Employer or their representative at the rate of ₹ 5000 for each non-compliance informed in writing under the contract.

The Employer's Requirements include the following:

- a. **Mandatory documents for release of payment** – For Operations & Maintenance contracts these include salary statement for the bill period months with bank statement/bank transfer details to corroborate the payment, copies of bill period month's contract specific EPF Challan, Electronic Challan-cum-Return (ECR) and ESI challan. The contractor shall ensure that the due and timely payment of wages to all his manpower is being made. For works contracts, the contractor certifies compliance, which is also signed by the PEs representative, before the payment is made.
- b. **Compliances** – For Operations & Maintenance contracts these include
 - i. In the event of default or failing payment by the contractor, the employer shall make such payment to the labour authorities and sums so paid shall be recoverable from the contractor.
 - ii. Salary/payment to the contracted employees shall be made by 7th of every month by the contractor.

- iii. Contractor shall display notices showing the rate of wages, hours of work, wage period, date of payment, name and address of the Inspectors having jurisdiction and the date of payment of unpaid wages in English and Hindi.
- iv. Contractor shall maintain the Statutory Registers viz. Registers of persons employed, Wage Register and Register of Overtime, Deduction Register for damage or loss, Muster Roll Register.
- v. Contractor shall strictly follow the statutory labour laws and ensure
 - Submission of return to the inspector within fifteen days of the commencement or completion of each contract work
 - Allow a day of rest every week
 - Pay minimum wages to his workmen through bank transfer
 - Deposit PF contribution in respect of all employees up to wage ceiling limit of ₹ 15000. PF shall be computed on minimum wages and splitting of wages will not be allowed.
 - Comply to the provisions of ESI Act, 1948 and facilitate benefits under this Act to its workmen.
 - Pay overtime at the rate of double the ordinary rate of wages when a worker works for more than nine hours on any day or for more than forty-eight hours in any week
 - Disburse wages in presence of authorized representative of the Principal Employer
 - Issue wage slips at least one day prior to the disbursement of wages to worker
 - All payment of wages to be made on a working day at the work premises and during working time and on a date notified in advance and in case the work is completed before the expiry of the wage period, final payment shall be made within 48 hours of the last working day.

3. Award of contracts

The contracts are awarded only to the agencies/contractors that/who are registered with the Organisation of Labour Commissioner, EPF and ESIC.

4. Monitoring by Principal Employers

All the Principal Employers nominate a dedicated staff (Executive) to monitor the compliance/enforcement of labour laws at all the sites of Project and Operations and Maintenance Wing. These nominated executives monitor disbursement of wages, EPF and ESI compliances and all physical compliances under CLRA 1970 and Building and Other Construction Workers Act, 1996.

a) Dedicated Labour Welfare Team - A Labour Welfare Team consisting of one Deputy Head of Department, one Assistant Manager, one Section Officer and three Inspectors is working under Chief General Manager (Human Resources). The

responsibility of the team is principally enforcement of Labour laws compliances in the organisation. Though no specific periodicity for inspection has been fixed, the area of inspections is specified for each Inspector who shall monitor labour law compliances by the contractors in their areas. The Labour Welfare Inspectors of DMRC, representative of PE and contractors' labour officers jointly inspect the sites. The Labour Welfare Inspectors submit their Inspection Reports to Principal Employers mentioning the deficiency and penalty, if any, to be imposed against the Contractors for non-compliance of rules. Also, before finalizing the payment of Contractor Final Bills, 'No Objection Certificates' is also taken from this cell.

b) Checklist - Checklist for Labour Welfare Inspectors and Principal Employers' staff are provided for ensuring compliance of Contract Labour Acts/Laws while making payment to the contractor/s.

The checklist for Labour Welfare Inspectors includes the following:

- Labour license taken for
- Registration under BOCW Act has been taken for
- Total number of workers covered under insurance policy
- Number of workers whose EPF is being deducted
- Number of workers whose ESI is being deducted
- Compliance of minimum wages
- Payment of wages through cash/bank transfer
- Have notice board regarding wage rates, inspectors etc. displayed and sent to the Labour department
- Have occupational health centers at sites
- First – Aid, Doctors/first aiders, ambulance etc. are available at site
- Tie-up with two Super Specialty Hospitals
- Canteen, if canteen is 200 meters away from work-site whether tea & light refreshment are provided at site
- Drinking water, latrines and urinals, bathing and washing facilities, rest room are available
- Labour Accommodation, condition of Accommodation
- Working hours, weekly rest, overtime payment, wage slip in Form XIX of CLRA
- Register of fine, advances under CLRA
- Payment of last month made etc.

The following are checked before passing bills of the contractors:

- Insurance policies along with premium receipt as per Letter of Acceptance/Notice Inviting Tender/GCC
- If insurance policy is not available or lapsed, whether recovery proposed or not
- Standard certificates for compliance of minimum wages
- Standard certificates for compliance of EPF/ESIC or EPF/exemption certificate
- EPF/ESIC challan
- Other labour compliance certificates duly verified by Dy. HOD and above etc.

Thus, by preparation of proper estimates, award of contract only to eligible contractors, comprehensive terms and conditions of contracts, ensuring checks while making payment and monitoring the compliances through dedicated Labour Welfare Teams, a system can be put in place for monitoring and compliance to statutory provisions. During 2017-18, total cost of work done in DMRC was ₹ 8940 crore and an amount of ₹ 3.22 crore was spent on manpower deputed for ensuring compliance of labour laws, which was only 0.036 *per cent* of the total cost of work done by the contractors during the year.

6.3 Ensuring compliance to statutory provisions relating to labour laws by the railways

Further, the following issues have not been addressed adequately in the existing system of the railways:

- Award of contracts should be done to only those contractors who have been registered with the Organisation of Labour Commissioner, EPFO and ESIC. The present eligibility conditions for contractors in the railways does not ensure the same.
- A large number of checks to be exercised by the Principal Employers such as ensuring payment of wages as due and within the prescribed time, can be ensured through preparing estimates to cover the correct cost of labour keeping in view various conditions prescribed in the MWA and checking the same while processing payments to the contractor. Similar checks can be exercised for deduction and contributions of EPF and ESIC as well. In Railways, preparation of estimates is not done keeping in view the requirements as per the statutory provisions. Further, a mechanism to verify the compliance to statutory provisions during payment does not exist.
- The primary as well as supervisory responsibilities of Principal Employers could be clearly delineated in the form of a checklist and adherence to the same can be ensured. Though the Railways issued instructions long back for nomination of Principal Employers for all the departments, the same are not being followed. The responsibilities of Principal Employers have not been delineated so far. The General Conditions of Contract in the railways only states that the contractor should follow the statutory laws such as CLRA, 1970 and MWA, 1950, but do not bring out the role of Principal Employers to exercise oversight and control to ensure adherence to these provisions by the contractors. Clear-cut instructions are not in place detailing duties and responsibilities of Principal Employers, his designated nominee and paying authorities.

Thus, from drafting the conditions of contract, preparation of estimates to processing payments of the contractors, PEs can put a mechanism in place to ensure compliance of labour laws and safeguard rights of contract labour.

Chapter 7

Conclusion and Recommendations

7.1 Conclusion

As the Principal Employer, Railway Administrations were to discharge certain obligations for ensuring compliance of statutory provisions contained in the CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948. Audit noticed instances of inadequate compliance as well as non-compliance to such statutory provisions, which led to short payment/non-payment of minimum wages, non-payment of weekly rest, non-deduction/contribution of EPF and ES. I.

The provisions regarding registration of the Principal Employer with the Labour Commissioner, intimation of commencement of work and submission of annual returns to the concerned Labour Commissioner by the Indian Railways as Principal Employer, was not followed. The contractors had also not obtained licenses from the organisation of Labour Commissioner for the engagement of contract labour in the contracts in a large number of cases. Prescribed facilities (rest room, drinking water, urinals, first aid box etc.) were also not being provided to all contract labour in selected contracts, which was in violation of prescribed provisions, denying the rights of contract labour. Payments to contract labour in the contracts test checked in Audit were not made through banks in all the cases. Railways did not furnish requisite records/information in respect of a significant number of selected cases. In this scenario, there is a likelihood that records are not being maintained, which indicates that railways are not fully conscious about their obligations in respect of provisions to be followed in relation to contract labour.

Deficiencies in maintenance of requisite and prescribed records was seen in a large number of cases. Audit noticed compliance to maintenance of critical documents of Wage Register and Overtime Register in 121 (26 *per cent*) contracts and four (one *per cent*) contracts respectively. The issue of wages slips was seen in only 18 (four *per cent*) contracts. In many cases, records were not being preserved for the time prescribed, which restricted the access to various monitoring agencies including Labour Commissioner. With the introduction of new Inspection Policy by various monitoring agencies viz. Chief Labour Commissioner, EPFO and ESIC, a unit may not be inspected unless it is a part of the database they maintain, wherein the Principal Employer/Employer has been given a unique identification number or if a complaint has been received in respect of that unit. Thus, failure of a Principal Employer/Employer to get itself registered with these organisations restricts the monitoring and check by the concerned authorities. It is also not possible for any independent organisation to access records and derive assurance regarding compliance of laws for contract labour by the contractors.

In the estimates, where the labour component was assessed, Railways did not prepare them keeping in view the statutory requirements under the CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948. There were instances where the contractors also did not ensure payment of minimum wages to contract labour and did not pay contribution/deduct employee's contribution of EPF and/or ESI as required. Though it is the responsibility of the Principal Employers to deduct the ESI dues from the bills of the contractor, if short/non-deduction/contribution is noticed and make payment to the contract labour, the same was not found to be done in the cases reviewed by Audit. The amount was also not recovered from the contractors in these cases. Audit observed that there were no specific instructions issued by the Railways to their Principal Employers to follow the above provision strictly.

Thus, the risk of exploitation of contract labour as a result of short payment/non-payment of minimum wages and other statutory labour benefits was very high. Audit assessed such non-payments/short payments of ₹ 26.14 crore in 312 contracts reviewed.

During Exit Conference, Railway Board stated (January 2018) that they agreed with audit observations on the subject. They stated that the responsibility to ensure adherence to statutory provisions lies with the contractors as well as the Principal Employer (i.e. the Railways) and they have issued orders and instructions on the subject to all Zonal Railway Offices. They emphasised that the role of Railway Board is mainly to issue instructions to the Zonal Railways and follow up. They agreed that the role of the organisations such as Labour Commissioner, EPF and ESIC is very important and crucial to exercise an oversight on adherence to statutory provisions by contractors and Principal Employers. Ministry of Railways further stated that all Audit recommendations are acceptable to them and they would take action to issue instructions to all Zonal Railways on those lines.

Audit also reviewed the systems and controls in place in a non-railway organisation, Delhi Metro Rail Corporation Limited and observed that by preparation of proper estimates, award of contract only to eligible contractors, comprehensive terms and conditions of contracts, ensuring checks while making payment and monitoring the compliances through dedicated Labour Welfare Teams, a system can be put in place for monitoring and compliance to statutory provisions. Significant changes have also been introduced by the Government of India to facilitate easy compliance of statutory provision by the Principal Employers as well as the contractors, which should facilitate better compliance by Indian Railways.

7.2 Recommendations

- 1. The Principal Employers in Indian Railways have certain obligations towards contract labour in terms of provisions of the CLRA, 1970; EPF & MPA, 1952 and ESIA, 1948. IR vide Railway Board's letter no. E/LL/70AT/CNR/1-3 dated***

15.10.1971 specified the category of Principal Employer as Divisional officers in Divisions, Senior Mechanical Engineer, Deputy Chief Mechanical Engineer or Works Manager in respect of Workshops, Controller of Stores in respect of Stores depot, Executive Engineer in respect of Construction and Heads of Departments in respect of contracts directly controlled by the Headquarters in respect of contracts. They should fulfill the requirement of the Acts and the Rules governing contract labour as representative of Indian Railways under their administrative control.

2. *The following controls may be established for compliance to statutory provisions relating to contract labour:*
 - a. *Preparation of estimates for labour component may be done duly taking into account the minimum wages fixed by Central/State Government from time to time plus additional amount of contribution required to be made by the contractors towards Employees' Provident Fund (EPF), Employee State Insurance Corporation (ESIC) and any other related cost.*
 - b. *A comprehensive list of conditions towards ensuring compliance to statutory provisions relating to labour laws may be included in the tender documents/General Conditions of Contracts/Special Conditions of Contract, including penalties for non-compliance. The tender documents should include terms and conditions relating to timely payments of wages due, amenities for labour, safety of labour, etc.*
 - c. *Contracts may be awarded to contractors/agencies who have been registered with the Labour Department, EPFO and ESIC etc.*
 - d. *Principal Employers for the various Departments of the organisation may be identified and nominated. A comprehensive list of responsibilities for Principal Employers may be issued as a checklist for the Principal Employers.*
 - e. *A mechanism may be put in place for effective monitoring by Principal Employers such as forming a dedicated cell/team, which will be entrusted with the overall responsibility for enforcement of Labour laws compliances in the organisation. These teams should be given powers to inspect work sites and records for checking compliance and also give a go-ahead before payments are made to the contractors. Detailed checklists for such inspections should also be issued.*
 - f. *A mandatory list of documents may be prescribed for submission by the contractor, without which the contractors' bills should not be processed. A comprehensive checklist may also be prescribed for checking of compliances before passing of contractors' bills.*
3. *For the contracts which are already in progress, Railway Administrations of all Zonal Railways may consider directing the Principal Employers in various contracts to examine the number of contract labour under their jurisdiction in*

preceding 12 months for all the contractors, determine if they are required to register themselves with the prescribed authorities under the Acts and get themselves registered with the prescribed authorities, where required.

- 4. In works, where the applicability of the CLRA, 1970 on the contractor is established, the contractor may be directed to apply for license from the Labour Commissioner. If he fails to do so, Labour Commissioner may be informed, so as to take necessary punitive action against the contractor.*
- 5. Joint Procedure Orders should be issued by Zonal Railways, clearly indicating obligations of Principal Employers, functions of the designated nominee of Principal Employer, functions of paying authorities and the functions relating to filing of relevant returns with the prescribed authorities.*
- 6. In all ongoing contracts, the short payments, short deduction and short contribution may be identified, verified and amounts short-paid/not paid may be paid to the concerned contract labour by the Railway administration as per the provisions of Acts. The amounts so paid should be recovered from the contractors, where applicable.*
- 7. Railways may encourage the contractors to follow provisions of the EPF & MPA, 1952 and EPFS, 1952 and effectively avail of the incentives under the newly introduced Pradhanmantri Rojgar Protsahan Yojana to promote recruitment of unemployed persons and bring into books the informal employees.*
- 8. Railways may consider putting in place an effective control mechanism through Internal Audit and/or inter-disciplinary teams to monitor compliance of statutory requirements. Measures may also be taken for creating awareness amongst various levels of railway officers on the issue.*

New Delhi

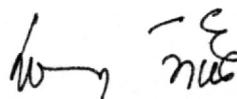
Dated: 30 July 2018



(Nand Kishore)

Deputy Comptroller and Auditor General

Countersigned



(Rajiv Mehrishi)

New Delhi

Dated: 30 July 2018

Comptroller and Auditor General of India

Appendix I				
Organisational set up in various Railway departments				
Department	Head of the Department	Officials at Zonal Headquarters	Officials in Division/ Workshop/ other field units	Functions in relation to execution of various contracts
Commercial	Principal Chief Commercial Manager	Chief Commercial Managers of different disciplines namely Freight, Passengers, Claims, etc. and Deputy Chief Commercial Managers	Senior Divisional Commercial Managers assisted by Divisional Commercial Managers, Assistant Commercial Managers, Commercial Inspectors, Station Managers (Commercial aspects)	Mechanized Cleaning contracts of stations; contracts for advertisements, leasing and licensing of commercial plots, stalls/ vendors, parcel van, SLR coaches and special trains, rag picking etc.
Operating	Principal Chief Operations Manager	Chief Freight Transportation Manager, Chief Passenger Transportation Manager, Deputy Chief Operations Manager	Senior Divisional Operations Manager assisted by Divisional Operations Managers, Assistant Divisional Operations Managers	Loading/unloading of line boxes of Guards in trains, Hiring of vehicles
Finance	Principal Financial Adviser	Financial Advisor and Chief Accounts Officer, (FA&CAO), Deputy FA&CAO assisted by Senior Assistant Finance Managers, Assistant Finance Managers	Senior Divisional Finance Managers assisted by Divisional Finance Managers, Assistant Divisional Finance Managers	Hiring of vehicles.
Civil Engineering Open line	Principal Chief Engineer	Chief Engineers, Deputy Chief Engineers	Senior Divisional Engineers, assisted by Assistant Divisional Engineers and Section Engineers	Maintenance of railway assets such as tracks, bridges, buildings, water works, etc. through execution of contracts. Apart from this, Civil Engineering (Open Line) also constructs civil assets like quarters, office buildings, upgradation of railway stations, laying of water pipe lines etc.

Appendix I				
Organisational set up in various Railway departments				
Department	Head of the Department	Officials at Zonal Headquarters	Officials in Division/ Workshop/ other field units	Functions in relation to execution of various contracts
Mechanical	Principal Chief Mechanical Engineer	Chief Motive Power Engineer, Deputy Chief Mechanical Engineers assisted by Assistant Mechanical Engineers	In Workshops - Chief Workshop Manager, Chief Workshop Engineer, and Deputy Chief Mechanical Engineers assisted by Assistant Mechanical Engineers. In Divisions- Senior Divisional Mechanical Engineers assisted by Divisional Mechanical Engineers, Assistant Divisional Mechanical Engineers In Sheds – Senior Divisional Mechanical Engineers assisted by Divisional Mechanical Engineers, Assistant Mechanical Engineers	Maintenance of rolling stock in workshops and execution of contracts for the same. Contracts for washing of linen, cleaning of coaches in sheds and running trains; Contracts for disposal of mechanical scrap (auction sale). Contracts for on board housekeeping and contracts under Clean train station scheme
Electrical	Chief Electrical Engineer	Chief Electrical Distribution Engineer, Chief Electrical Loco Engineer, Chief Electrical Traction Engineer, Deputy Chief Electrical Engineers	In Divisions- Senior Divisional Electrical Engineers of different disciplines namely traction, general, operations assisted by Divisional Electrical Engineers, Assistant Electrical Engineers In Sheds- Senior Divisional Electrical Engineer/ Rolling Stock assisted by Divisional Electrical Engineers, Assistant Electrical Engineers	Maintenance of all electrical assets including electric locos and execution of contracts for the same, Removal and disposal of Garbage, Maintenance and preparation of meals in kitchen in Running Rooms.
Signal and Telecommunication (S&T)	Principal Chief S&T Engineer	Chief S&T Engineer assisted by Deputy Chief S&T Engineer.	Senior Divisional S&T Engineer assisted by Divisional S&T Engineers, Assistant S&T Engineers	Maintenance of all S&T assets and execution of contracts for the same, Hiring of vehicles etc.
Construction	Chief Administrative Officer	Chief Engineers of all disciplines, Deputy Chief Engineers	Deputy Chief Engineers, Executive Engineers, Assistant Engineers,	Construction of new railway assets and execution of

Appendix I				
Organisational set up in various Railway departments				
Department	Head of the Department	Officials at Zonal Headquarters	Officials in Division/ Workshop/ other field units	Functions in relation to execution of various contracts
			Section Engineers and Junior Engineers	contracts for the same
Stores	Principal Chief Materials Manager	Chief Materials Manager, Deputy Chief Materials Manager assisted by Senior Materials Manager and Assistant Materials Manager.	In Divisions - Senior Divisional Materials Manager In Stores Depot - Deputy Chief Materials Manager assisted by Assistant Materials Manager,	Procurement of stores for users of different departments through tenders and contracts, Contracts for disposal of scrap of all departments, Removal and disposal of Garbage, Transportation of materials, Hiring of vehicles, etc.
Personnel	Principal Chief Personnel Officer	Chief Personnel Officer, Deputy Chief Personnel Officer assisted by Senior Personnel Officer and Assistant Personnel Officer	Senior Divisional Personnel Officer assisted by Divisional Personnel Officer and Assistant Divisional Personnel Officer	Staff matters, Canteens, Hiring of vehicles, Hiring of secretarial staff.
Safety	Chief Safety Officer	Deputy Chief Safety Officer	Senior Deputy Safety Officer	Ensuring safety of railway assets, Hiring of vehicles etc.
Security	Chief Security Commissioner	Additional Chief Security Commissioner	Senior Divisional Security Commissioner, Assistant Divisional Security Commissioner	Security, Hiring of vehicles etc.
Medical	Principal Chief Medical Director	Medical Director, Medical Officers, Assistant Medical Officers	Chief Medical Superintendent, Divisional Medical Officers, Assistant Divisional Medical Officers, Health Inspectors	Providing Medical facilities to railway staff. Cleaning and sanitisation Contracts for Railway Hospitals, colonies. Hiring of ambulance etc.
Information Technology (IT)	Chief Manager, Information Technology	Senior Electronic Data Processing (EDP) Manager	Senior Divisional EDP Manager, EDM Manager	Maintenance Contract of assets of IT Centre

Appendix II
संविदा मजदूर के लिए प्रतिक्रिया (फीडबैक) प्रारूप

कार्य का नाम:	
1	संविदा मजदूर का नाम
2	पिता का नाम
3	पता
4	मोबाइल संख्या
5	आपका कर्मचारी भविष्य निधि खाता संख्या क्या है?
6	आपका कर्मचारी राज्य बीमा संख्या क्या है ?
7	ठेकेदार/एजेंसी जिसके द्वारा आप कार्य कर रहे हैं उसका नाम एवं पता
8	कर्मचारी भविष्य निधि के लिए ठेकेदार का कोड क्या है?
9	कर्मचारी राज्य बीमा के लिए ठेकेदार का कोड क्या है ?
10	आप कब से वर्तमान ठेकेदार के अंतर्गत कार्य कर रहे हैं?
11	संविदा मजदूर के रूप में आपको क्या-क्या भुगतान या सुविधा मिलना चाहिए?
12	वर्तमान में आपको क्या-क्या भुगतान या सुविधा मिल रही है?
13	आपको यह भुगतान नकद में है या बैंक के माध्यम से मिलता है?
14	क्या आपके नकद भुगतान के समय कोई रेलवे कर्मचारी/अधिकारी उपलब्ध होता है?
15	वर्तमान में आपको कितना वास्तविक मजदूरी मिल रही है?
16	आपके द्वारा प्रतिदिन कितने घंटे कार्य किये जाते हैं?
17	आपके द्वारा सप्ताह में कितने दिन कार्य किया जाता है?
18	सप्ताह के किस दिन आपका साप्ताहिक अवकाश होता है?
19	साप्ताहिक अवकाश के दिन कार्य करने पर आपको कितनी मजदूरी प्रदान की जाती है?
20	आपको मिलने वाले बोनस की राशि कितनी है?
21	क्या आपकी कोई मजदूरी बकाया है, यदि हाँ तो वह किस समय के लिए बकाया है?

संविदा मजदूर का हस्ताक्षर

निरीक्षण करने वाले कर्मचारी/अधिकारी का नाम एवं हस्ताक्षर

Appendix III
FORM VI-B
[See Rule 81 (3)]
Contract Labour (R&A) Central Rules - 1971
Notice of Commencement/Completion of Contract Work

1. Name of the Principal Employer and Address.....
2. Number and date of Certificate of Registration.....
3. I/We hereby intimate that the contract work (name of work) given to (name and address of the contractor) having Licence No dated.....has been commenced/completed with effect from (date)/on (date).

Signature of Principal Employer

To
The Inspector
.....
.....

Appendix IV

Contract Labour (Regulation & Abolition) Central Rules

FORM XXV

See Rule 82(2)

Annual Return of Principal Employer to be sent to the Registering Officer

Year ending 31st December, _____

1. Full name and address of the Principal Employer. _____

2. Name of Establishment: _____
(a) District _____
(b) Postal Address _____

(c) Nature of operation/industry/work carried on _____
3. Full name of the Manager or person responsible for supervision and control of the establishment. _____

4. Number of contractors who worked in the establishment during the year (Give details in Annexure). _____

5. Nature of work/operations on which contract labour was employed. _____
6. Total number of days during the year on which contract labour was employed. _____
7. Total number of man-days worked by contract labour during the year. _____
8. Maximum number of workmen employed directly on any day during the year. _____
9. Total number of days during the year on which direct labour was employed. _____
10. Total number of man-days worked by directly-employed workmen. _____
11. Change, if any, in the management of the establishment, its location, or any other particulars furnished to the Registering Officer in the application for Registration indicating also the dates. _____

Principal Employer

Place _____

Date _____

Annexure to Form XXV

Name and Address of the Contractor	Period of contract		Nature of work	Maximum number of workers employed by each contractor	No. of days worked	No. of man-days worked
	From	To				
1	2		3	4	5	6

Appendix V
FORM XXIV
[See Rule 82(1)]
Return to be sent by the Contractor to the Licensing Officer

- Half-Year-Ending.....
1. Name and address of the Contractor ..
 2. Name and address of the establishment
 3. Name and address of the Principal employer
 4. Duration of Contract: Fromto.....
 5. No. of days during half year on which-
 - (a) the establishment of the Principal employer had worked
 - (b) the contractor's establishment had worked.. ..
 6. Maximum number of contract labour employed on any day during the half year:

<i>Men</i>	<i>Women</i>	<i>Children</i>	<i>Total</i>
 7. (i) Daily hours of work and spread over-
 - (ii) (a) whether weekly holiday observed and on what day-
 - (b) If so, whether it was paid for-
 - (iii) No. of man-hours of overtime worked
 8. Number of man-days worked by-

<i>Men</i>	<i>Women</i>	<i>Children</i>	<i>Total</i>
 9. Amount of wages paid-

<i>Men</i>	<i>Women</i>	<i>Children</i>	<i>Total</i>
 10. Amount of deduction from wages, if any-

<i>Men</i>	<i>Women</i>	<i>Children</i>	<i>Total</i>
 11. Whether the following have been provided-

(i) Canteen	..	..	..
(ii) Rest-Room	..	..	..
(iii) Drinking water	..	..	..
(iv) Creches	..	..	..
(v) First-Aid	..	..	..

(If the answer is 'yes' state briefly standards provided)

Place

Date

Signature of Contractor

Appendix VI

Contract Labour (Regulation & Abolition) Central Rules

FORM XII

See Rule 74

Register of Contractors

1. Name and address of the Principal Employer _____

2. Name and address of the establishment _____

S. no	Name and address of contractor	Nature of work on contract	Location of contract work	Period of contract		Maximum No. of workmen employed by contractor
				From	To	

Annexure 2.1 (Paras 2.1, 2.1.2, 2.2.4, 2.3.1, 2.3.2)																
Number of contracts showing compliance/non-compliance to the provisions of CLRA, 1970 and CLRR, 1971 regarding registration of Principal Employers (PEs), submission of required returns to Labour office and provisions of amenities at workplace by the contractors																
Zonal Railway	Total no. of contracts test checked	PEs registered with the labour department		PEs submitted returns to the labour department			Contractors submitted returns to the labour department			Provision of rest rooms				Provision of basic amenities i.e. drinking water, urinals etc.		
		Yes	No	Yes	No	Records not made available to Audit	Yes	No	Records not made available to Audit	Yes	Rest rooms not required (as there were eight hour shifts)	Records not made available to Audit	Not provided	Met by the contractors	Met by Railways	Records not made available to Audit
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Refer to		Para 2.1		Para 2.1.2			Para 2.2.4			Para 2.3.1				Para 2.3.2		
NCR	105	2	103	0	105	0	0	105	0	0	105	0	0	0	105	0
CR	105	105	0	6	97	2	1	25	79	14	82	2	7	31	59	15
ER	75	8	67	0	75	0	0	NAV	75	0	75	0	0	0	11	64
NR	75	3	72	6	69	0	0	75	0	0	75	0	0	0	60	15
NWR	34	0	34	0	34	0	0	34	0	0	34	0	0	0	34	0
SWR	46	15	31	0	NAV	46	0	46	0	0	0	46	0	0	45	1
RPU/Metro	11	7	4	0	NAV	11	0	NAV	11	0	0	11	0	0	10	1
DLW	6	0	6	0	NAV	6	0	NAV	6	0	0	6	0	0	6	0
CLW	6	0	6	0	NAV	6	0	NAV	6	0	0	6	0	0	2	4
Total	463	140	323	12	380	71	1	285	177	14	371	71	7	31	332	100

Annexure 2.2 (Para 2.2)							
Zonal Railway	Statement showing position of contracts having requisite License of labour office before commencement of contract						
	Number of contracts where the contractor obtained license before commencement of contract	Number of contracts where the contractor obtained license after commencement of contract	Number of contracts where license was not obtained by the contractor	Number of contracts where records were not made available to Audit	Total	Range of delay in obtaining license (in days) after commencement of contract	
						Minimum	Maximum
NCR	4	9	37	55	105	42	312
CR	13	16	13	63	105	2	240
ER	1	8	9	57	75	56	260
NR	11	2	58	4	75	NAV	NAV
NWR	1	11	21	1	34	23	175
SWR	2	3	24	17	46	63	750
RPU/Metro	0	1	6	4	11	210	210
DLW	0	0	4	2	6	NAV	NAV
CLW	2	0	0	4	6	NAV	NAV
Total	34	50	172	207	463	2	750

Zonal Railway	Annexure 2.3 (Para 2.4)									
	Details of payments made to the the workmen in selected contracts									
	Number of contracts where payment made in presence of Railway representatives	Number of contracts where payment was not made in the presence of Railway representatives	Number of contracts where clause not applicable because of bank payment	Number of contracts where records not made available to Audit	Total	Notices regarding payment of wages sent by contractor to PE not available on record	Directive / procedure for ensuring due payment to workmen and communication to PE in case of short payment with consequential recoveries from contractor not found	Nomination of authorised representative to be present at the time of disbursement of wages not seen		
NCR	10	23	12	60	105	105	105	105		105
CR	16	24	29	36	105	105	105	105		105
ER	4	10	5	56	75	75	75	75		75
NR	17	35	15	8	75	75	75	75		75
NWR	2	6	13	13	34	34	34	34		34
SWR	5	5	6	30	46	46	46	46		46
RPU/Metro	1	0	2	8	11	11	11	11		11
DLW	2	3	0	1	6	6	6	6		6
CLW	1	5	0	0	6	6	6	6		6
Total	58	111	82	212	463	463	463	463		463

Annexure 2.4 (Para 2.4)					
Zonal Railway	Details of payment of wages to labour				Total
	Number of contracts where payment of wages made through Bank	Number of contracts where payment of wages made in Cash	Number of contracts where payment of wages records were not made available	Total	
NCR	12	33	60	105	
CR	29	40	36	105	
ER	5	14	56	75	
NR	15	52	8	75	
NWR	13	8	13	34	
SWR	6	10	30	46	
RPU/Metro	2	1	8	11	
DLW	0	5	1	6	
CLW	0	6	0	6	
Total	82	169	212	463	

Annexure 2.5 (Para 2.4)						
Zonal Railway	Details of notice display by the contractor					
	Number of contracts where notices were displayed	Number of contracts where notices were not displayed	Number of contracts where display of notice not applicable	Number of contracts where records were not made available to Audit	Total	
NCR	1	92	2	10	105	
CR	1	44	53	7	105	
ER	11	6	0	58	75	
NR	25	34	16	0	75	
NWR	1	32	0	1	34	
SWR	4	3	23	16	46	
RPU/Metro	0	10	0	1	11	
DLW	0	4	0	2	6	
CLW	2	0	0	4	6	
Total	45	225	94	99	463	

Annexure 2.6 (Para 2.5)

Statement showing Position of maintenance of Attendance/ wages registers by Contractor

Zonal Railway	No. of contracts where muster roll/ attendance register were maintained		No. of contracts where wages register were maintained		No. of contracts where register of deduction were maintained		No. of contracts where register of overtime were maintained		No. of contracts where register of Fine were maintained		No. of contracts where register of Advances were maintained		No. of contracts where Wage slip were maintained				
	Yes	No	Yes	Not available	Yes	No	Yes	Not available	Yes	No	Yes	No	Yes	No			
NCR	23	21	14	61	1	43	0	61	0	44	0	44	0	61	2	42	61
CR	54	51	38	0	2	103	4	0	2	103	0	103	2	0	15	90	0
ER	1	16	0	58	0	17	0	58	0	17	0	17	0	58	0	17	58
NR	46	13	30	16	0	59	0	16	0	59	0	59	0	16	0	59	16
NWR	24	10	22	0	0	34	0	0	0	34	0	34	0	0	0	34	0
SWR	11	0	11	0	0	5	41	0	0	5	41	0	5	41	1	4	41
RPU/Metr	5	0	5	6	0	0	11	0	0	0	11	0	0	11	0	0	11
DLW	0	0	0	6	0	0	6	0	0	0	6	0	0	6	0	0	6
CLW	0	1	2	3	0	1	5	0	0	1	5	0	1	5	0	0	6
Total	164	112	122	185	3	262	198	261	2	263	198	2	263	198	18	246	199

Annexure 2.7 (Para 2.6.1)						
Compliance to Minimum Wages Act, 1948 by the contractors						
Zonal Railway	Number of contracts where minimum wages paid	Number of contracts where Minimum wages not paid i.e. short paid	Number of labour deployed in contract mentioned in coloumn 3	Total amount of short payment w.r.t minimum wages as assessed by Audit (₹ in crore)	Number of contracts where records relating to payment of minimum wages were not available	Total number of contracts
1	2	3	4	5	6	7
NCR	19	38	448	1.93	48	105
CR	39	27	603	2.2	39	105
ER	2	3	68	0.14	70	75
NR	25	39	1025	1.01	11	75
NWR	5	16	1087	3.93	13	34
SWR	9	5	55	0.022	32	46
RPU/Metro	4	1	24	0.0003	6	11
DLW	0	0	0	0	6	6
CLW	2	0	0	0	4	6
Total	105	129	3310	9.2323	229	463

Annexure 2.8 (Para 2.6.2)							
Details of short payment of weekly rest to labour by the contractors							
Zonal Railway	Number of contracts where short payment of weekly rest noticed	Number of labour deployed in contracts mentioned in Column 2	Total amount of short payment assessed by audit (₹ In crore)	Number of contracts where payment of weekly rest observed	Number of contracts where short payment towards weekly rest remained unascertain	Number of contracts where records not made available to Audit	Total contracts
1	2	3	4	5	6	7	8
NCR	17	738	2.15	28	1	59	105
CR	17	506	1.35	22	18	48	105
ER	0	0	0	4	1	70	75
NR	1	7	0.0004	52	20	2	75
NWR	19	1296	1.89	2	0	13	34
SWR	4	147	0.025	9	2	31	46
RPU/Metro	4	51	0.0007	1	0	6	11
DLW	0	0	0	0	0	6	6
CLW	0	0	0	2	0	4	6
Total	62	2745	5.4161	120	42	239	463

Annexure 2.9 (Para 2.6.3)							
Details of payment of overtime for working on rest day (i.e. double payment for working on rest day)							
Zonal Railway	Number of contracts where neither rest day provided nor double payment for working on rest day made by contractor	Number of labour deployed in contracts mentioned in Column 2	Total amount of short payment for rest day as assessed by Audit (₹ In crore)	Number of contracts where rest day provided	Number of contracts where records relating to working on rest day were not made available to Audit	Total contracts	
1	2	3	4	5	6	7	
NCR	21	425	0.54	37	47	105	
CR	4	121	0.03	14	87	105	
ER	0	0	0	4	71	75	
NR	8	312	0.1	65	2	75	
NWR	12	928	3.73	10	12	34	
SWR	4	37	0.009	10	32	46	
RPU/Metro	0	0	0	6	5	11	
DLW	0	0	0	0	6	6	
CLW	0	0	0	0	6	6	
Total	49	1823	4.409	146	268	463	

Annexure 2.10 (Para 2.6.4)						
Details of short payment to contract labour for working more than nine hours in a day						
Zonal Railway	Number of contracts where overtime for working more than 9 hours on any day@ double the normal rate was not provided	Number of labour deployed in contracts mentioned in Column 2	Total amount of short payment for extra deployed hour as assessed by audit (₹ in crore)	Number of contracts where overtime for working of more than 9 hours on any day@ double the normal rate was not applicable	Number of contracts where overtime for working of more than 9 hours on any day@ double the normal rate, record was not made available to Audit	Total
1	2	3	4	5	6	7
NCR	17	31	0.18	37	51	105
CR	7	662	0.71	43	55	105
ER	0	0	0	1	74	75
NR	6	137	0.85	69	0	75
NWR	0	0	0	8	26	34
SWR	0	0	0	27	19	46
RPU/Metro	0	0	0	6	5	11
DLW	0	0	0	0	6	6
CLW	0	0	0	2	4	6
Total	30	830	1.74	193	240	463

Zonal Railway	Number of contracts where PF Codes were Taken by the contractors	Assurance by Principal Employer						Total	Responsibility of Contractors			Total
		Number of contracts where Railway Administration assured themselves about EPF contractors before awarding the contract	Whether assured EPF number before or after awarding the contract by Railway Administration	Number of contracts where records regarding availability of PF code not made available to Audit	Number of contracts where PF Code taken	Number of contracts where PF Codes were not found on record	Number of contracts where records regarding availability of PF code not made available to Audit					
1	2	3	4	5	6	7	8	9	10	11	12	
NCR	8	0	8	97	105	9	96	0	105	0	10	
CR	0	0	0	105	105	17	0	88	105	0	105	
ER	0	0	0	75	75	0	0	75	75	0	75	
NR	0	0	0	75	75	0	0	75	75	0	75	
NWR	20	20	0	14	34	20	0	14	34	0	34	
SWR	0	0	0	46	46	0	0	46	46	0	46	
RPU/Metr	4	0	4	7	11	0	0	11	11	0	11	
DLW	0	0	0	6	6	0	0	6	6	0	6	
CLW	0	0	0	6	6	0	0	6	6	0	6	
Total	32	20	12	431	463	46	96	321	463	96	463	

Annexure 3.2 (Para 3.1.4)									
Statement showing Deduction/Non deduction/short deduction of Employees Provident Fund									
Zonal Railway	Contracts where PF deduction made as per Rules	Contracts where short PF deduction made	No. of labour deployed in the contracts mentioned in col. 3	Amount short deducted (Rs in crore)	Contracts where no PF deduction made	No. of labour deployed in the contracts mentioned in col. 6	Amount assessed by audit as non deduction of PF (Rs in crore)	Contracts where records not made available	Total of contracts
1	2	3	4	5	6	7	8	9	10
NCR	6	2	28	0.006	69	1133	1.79	28	105
CR	21	0	0	0	3	181	0.05	81	105
ER	0	1	73	0.08	0	0	0	74	75
NR	4	2	76	0.005	21	776	0.04	48	75
NWR	1	13	951	0.05	10	298	0.04	10	34
SWR	0	4	162	0.003	0	0	0	42	46
RPU/Metro	0	0	0	0	0	0	0	11	11
DLW	0	0	0	0	0	0	0	6	6
CLW	0	0	0	0	0	0	0	6	6
Total	32	22	1290	0.144	103	2388	1.92	306	463

Annexure 3.3 (Para 3.1.4)									
Details of contribution/short contribution/non contribution to Employees Provident Fund									
Zonal Railway	Number of contracts where PF contribution was made as per the provision of EPFS 1952	Number of contracts where PF contribution was short	Number of labour deployed in contracts mentioned in Coloumn 3	Amount of PF contributed short as assessed by audit (₹ in crore)	Number of contracts where no PF contribution was made	Number of labour deployed in contracts mentioned in Coloumn 6	Amount of PF not contributed as assessed by audit (₹ in crore)	Number of contracts where records were not made available to Audit	Total of contracts
1	2	3	4	5	6	7	8	9	10
NCR	3	3	113	0.115	70	1074	2.02	29	105
CR	21	0	0	0	3	181	0.05	81	105
ER	0	1	73	0.09	0	0	0	74	75
NR	5	2	76	0.02	21	653	0.07	47	75
NWR*	0	14	1101	0.13	10	298	0.04	10	34
SWR	0	4	162	0.004	0	0	0	42	46
RPU/Metro	0	0	0	0	0	0	0	11	11
DLW	0	0	0	0	0	0	0	6	6
CLW	0	0	0	0	0	0	0	6	6
Total	29	24	1525	0.36	104	2206	2.18	306	463

Annexure 4.1 (Para 4.2)									
Details of deduction of contribution to ESI from employee									
Zonal Railways	Number of contracts where ESI deduction from the employee were made and deposited with ESIC	Number of contracts where there was a short deduction of ESI contribution from the employees (from the contracts in col. 2)	Number of labour contracts mentioned in column 3	Amount of ESI contribution short-deducted as assessed by Audit (₹ in crore)	Number of contracts where no deduction of ESI contribution was made from the employees	Number of labour contracts mentioned in column 6	Amount of ESI contribution not deducted as assessed by Audit (₹ in crore)	Number of contracts for which no records were made available to Audit	Total
1	2	3	4	5	6	7	8	9	10
NCR	14	3	96	0.016	64	978	0.166	27	105
CR	14	1	179	0.0001	7	46	0.046	84	105
ER	5	0	0	0	0	0	0	70	75
NR	24	1	13	0.0002	6	175	0.003	45	75
NWR	14	1	34	0.0002	2	171	0.0018	18	34
SWR	6	6	181	0.00063	1	15	0.0003	39	46
RPU/Metr	4	0	0	0	0	0	0	7	11
DLW	0	0	0	0	0	0	0	6	6
CLW	0	0	0	0	0	0	0	6	6
Total	81	12	503	0.02	80	1385	0.22	302	463

Statement showing the position of Contracts where contribution of employer to ESI made									
Zonal Railway	Number of contracts where employer's contribution were made	Number of contracts where employer's contribution was made short (from the contracts in col 2)	Number of labour deployed in the contracts mentioned in col 3	Amount of ESI contribution short contributed by employers as assessed by Audit (₹ in crore)	Number of contracts where employer's contribution were not made at all	Number of labour deployed in the contracts mentioned in Column 6	Amount of ESI contribution not contributed by employers as assessed by Audit (₹ in crore)	Number of contracts for which no records were made available to Audit	Total
1	2	3	4	5	6	7	8	9	10
NCR	1	1	4	0.0003386	76	1162	0.56	28	105
CR	14	2	148	0.0036	7	327	0.13	84	105
ER	5	0	0	0	0	0	0	70	75
NR	5	0	0	0	0	0	0	70	75
NWR	9	1	34	0.0006087	4	407	0.016	21	34
SWR	6	6	181	0.0017064	1	15	0.001	39	46
RPU/Metro	0	0	0	0	0	0	0	11	11
DLW	0	0	0	0	0	0	0	6	6
CLW	0	0	0	0	0	0	0	6	6
Total	40	10	367	0.01	88	1911	0.71	335	463

Annexure 5.1 (Para 5.1)					
Zonal Railway	Number of contracts test checked	Contracts where number of labour to be engaged were estimated			
		Number of contracts where no. of labour to be engaged estimated	Number of contracts where the number of labour to be engaged not estimated	Number of contracts where records not made available to Audit	
1	2	3	4	5	
NCR	105	26	21	58	
CR	105	21	83	1	
ER	75	42	0	33	
NR	75	62	13	0	
NWR	34	14	17	3	
SWR	46	17	0	29	
RPU/Metr	11	4	6	1	
DLW	6	4	0	2	
CLW	6	0	0	6	
Total	463	190	140	133	

Statement showing estimation of labour and material separately							
Zonal Railway	Number of contracts where records relating to number of labour to be engaged considered in estimate not made available to Audit	Number of contracts where number of labour to be engaged considered in estimates made available to Audit	Number of contracts where estimates separately included labour and material with other components out of 190	Contracts where estimate of labour and material with other components found short			
				No. of contracts	Value assessed by Audit (₹ in crore)	Value estimated by Railways (₹ in crore)	Short estimate (₹ in crore)
1	3	4	5	6	7	8	9
NCR	58	26	17	15	11.53	8.14	3.39
CR	1	21	11	7	4.57	4.28	0.29
ER	33	42	0	0	0	0	0
NR	0	62	48	25	25.09	20.35	4.74
NWR	3	14	14	13	13.46	10.51	2.95
SWR	29	17	15	8	10.99	10.43	0.56
RPU/Metr	1	4	3	3	0.72	0.65	0.07
DLW	2	4	0	0	0	0	0
CLW	6	0	0	0	0	0	0
Total	133	190	108	71	66.36	54.36	12

© COMPTROLLER AND
AUDITOR GENERAL OF INDIA
www.cag.gov.in