

Corporate Governance

3.1 Introduction

Corporate Governance is a system of structuring, operating and controlling an organisation with a view to achieving long term strategic goals to satisfy the stakeholder (shareholders, employees, customers, suppliers, government and community) and complying with the legal and regulatory requirements. Corporate Governance is a way of directing and controlling companies. It is concerned with the morals, ethics, values, conduct and behaviour of the company and management. It is the system by which companies are directed and controlled by the management in the best interest of the shareholders and other stakeholders ensuring greater transparency and better and timely financial reporting. **The absence of good governance structures and lack of adherence to the governance principles increases the risk of corruption and misuse of entrusted power by the management in public sector.**

3.1.1 Corporate Governance in India

The direction of Corporate Governance initiatives in India has been dictated mainly by the Companies Act, 1956, Securities and Exchange Board of India (SEBI) and Department of Public Enterprises (DPE). While the various amendments to the Companies Act, 1956 gave the governance direction to the companies in the country as a whole, the DPE had issued guidelines on Corporate Governance for Central Public Sector Enterprises (CPSEs) providing the path for governance initiatives in the public sector.

3.1.2 DPE guidelines on Corporate Governance for CPSEs

The DPE issued guidelines on Corporate Governance in November 1992 on the inclusion of non – official directors on the Board of Directors. DPE issued further guidelines in November, 2001 providing for inclusion of independent directors on the Board of Directors.

To bring in more transparency and accountability in the functioning of CPSEs, the government in June, 2007 introduced the guidelines on Corporate Governance for CPSEs. These guidelines were voluntary in nature. These guidelines were implemented for an experimental period of one year. On the basis of the experience gained during this period, it was decided to modify and reissue the DPE guidelines in May, 2010. These guidelines have been made mandatory and are applicable to all the CPSEs.

The guidelines issued by DPE covered the areas of composition of Board of Directors, composition and functions of Board committees like Audit Committee, details on subsidiary companies, disclosures, reports and the schedules for implementation. All references to DPE guidelines in this chapter refer to the DPE guidelines issued in May, 2010 which are mandatory to all CPSEs.

3.1.3 Provisions of the Companies Act, 1956 on Corporate Governance

- The Companies Act, 1956 does not have any direct provisions regarding Corporate Governance but different provisions of the Companies Act, 1956 prescribe certain

practices that go to building a robust corporate governance structure. Some such provisions of the Companies Act, 1956 are indicated below:

- Section 217 (2AA) made applicable with effect from December, 2000 provides for Directors' Responsibility Statement as part of the Board's Report indicating that the applicable Accounting Standards have been followed in the preparation of the accounts and reporting the material departures there from, that the companies follow their accounting policies consistently and that all the accounting records are maintained as per the requirements of the Companies Act, 1956.
- Section 292A made applicable with effect from December, 2000 provides for the constitution of Audit Committee as a Committee of the Board in every public limited company having a paid up capital of not less than Rupees five crore. The terms of reference of the Audit Committee include all matters related to financial reporting process, internal control and risk management system of the company, overseeing the audit process and performing other duties and responsibilities as assigned by the Board.
- Section 299 of the Act requires every director of a company to make disclosure, at the Board meeting, of the nature of his concern or interest in a contract or arrangement (present or proposed) entered into by or on behalf of the company. The company is also required to record such transactions in the Register of Contract under section 301 of the Act.

3.1.4 SEBI guidelines on Corporate Governance

The Securities and Exchange Board of India (SEBI) through its circular dated 21 February 2000 introduced a new clause 49 in the Listing agreement. Clause 49 of the Listing Agreement was amended in October 2004 and the revised clause was made effective from 1 January 2006. Clause 49 of the listing agreement provides for the composition of the Board of Directors, the remuneration of the non – executive directors, composition and functions of the Audit Committee, role of the Board of Directors and Audit Committee of a holding company vis-à-vis the subsidiary, Disclosures and Compliance reports among other things.

Clause 49 of the listing agreement provides for the composition of the Board of Directors, the remuneration of the non – executive directors, composition and functions of the Audit Committee, role of the Board of Directors and Audit Committee, Disclosures and Compliance reports.

3.1.5 Audit review on compliance of the Corporate Governance provisions

- As on 31 March 2011, there were 466 CPSEs under the audit jurisdiction of the Comptroller and Auditor General of India. These included 329 government companies, 131 deemed government companies and six statutory corporations. Majority of these CPSEs, including Maharatnas, Navratnas and Miniratnas are earning profit and have improved their financial performance over the years. In the context of the policy of the government to grant more autonomy to the CPSEs, Corporate Governance has become even more important. Under the recently introduced Maharatna Scheme, CPSEs are expected to expand international operations and become global giants, for which effective Corporate Governance is imperative.

- Audit reviewed the CPSEs belonging to 'Energy sector' to review their adherence with the Corporate Governance requirement. The 'Energy sector' was considered to include the Atomic, Coal, Mining, Petroleum and Power sub-sectors.

Audit reviewed 71 companies in the Energy sector.

As such, the review covered 71 companies (excluding 13 deemed government companies) in the Energy sector. The period of one year ending March 2011 was covered in the review. A list of these companies is given in the appendix XIII. The audit findings of the review are discussed in the following paragraphs.

3.2 Board of Directors

3.2.1 Government Nominee Directors

The DPE guidelines stipulate that Government Directors should not exceed one-sixth of the actual strength of the Board of Directors and it is preferable to have only one representative on the Board. However, in no case, they should exceed two. In the following companies, Government Directors were more than two in number:

S. No.	Name of the CPSE
1	Indian Rare Earths Limited
2	J & K Mineral Development Corporation Limited
3	NHDC Limited
4	North Eastern Electric Power Corporation Limited
5	THDC India Limited
6	Uranium Corporation of India Limited

3.2.2 Independent Directors

The Board is the most significant instrument of Corporate Governance. The presence of independent representatives on the Board, capable of challenging the decisions of the management, is widely considered as a means of protecting the interests of stakeholders. **In terms of Clause 49 (I) (A) (ii) of listing agreement and the DPE guidelines, where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise independent directors and in case he is an executive director, at least half of the Board should comprise independent directors.**

The composition of the Board of Directors of the reviewed companies revealed that 18 companies did not have the required number of independent directors and in 29 companies there were no independent directors on their Board:

CPSEs – less than required number of independent directors	
Bharat Coking Coal Limited	Indian Oil Corporation Limited
Bharat Petroleum Corporation Limited	Mangalore Refinery and Petrochemicals Limited
Chennai Petroleum Corporation Limited	NHDC Limited

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Eastern Coalfields Limited	North Eastern Electric Power Corporation Limited
Electronics Corporation of India Limited	Numaligarh Refinery Limited
GAIL (India) Limited	Oil and Natural Gas Corporation Limited
GAIL Gas Limited	Oil India Limited
Hindustan Copper Limited	Satluj Jal Vidyut Nigam Limited
Hindustan Petroleum Corporation Limited	Uranium Corporation of India Limited

CPSEs – no independent directors	
Bharat PetroResources Limited	MJSJ Coal Limited
Bharatiya Nabhiya Vidyut Nigam Limited	MNH Shakti Limited
Bharatiya Rail Bijlee Company Limited	Nabinagar Power Generating Company Private Limited
Bhopal Dhule Transmission Company Limited	NTPC Electric Supply Company Limited
Chhattisgarh Surguja Power Limited	NTPC Hydro Limited
Coastal Karnataka Power Limited	NTPC Vidyut Vyapar Nigam Limited
Coastal Maharashtra Mega Power Limited	ONGC Videsh Limited
Coastal Tamilnadu Power Limited	Orissa Integrated Power Limited
CREDA-HPCL Biofuel Limited	PFC Consulting Limited
Ghogarpalli Integrated Power Company Limited	REC Power Distribution Company Limited
IndianOil –CREDA Biofuels Limited	REC Transmission Projects Company Limited
Jabalpur Transmission Company Limited	Rural Electrification Corporation* Limited
Kanti Bijlee Utpadan Nigam Limited	Sakhigopal Integrated Power Company Limited
Loktak Downstream Hydro Electric Corporation Limited	Tatiya Andhra Mega Power Limited
Meja Urja Nigam Private Limited	

3.2.3 Non-executive Directors on the Board

Clause 49 (I) (A) (i) of listing agreement and para 3.1 and 3.2 of DPE guidelines stipulate that the Board of Directors of the company shall have an optimum combination of executive and non-executive directors/functional and non – functional directors with not less than fifty per cent of the Board of Directors comprising non-executive directors. In the following companies, the non – executive directors constituted less than fifty per cent of the total Board strength.

* Tenure ended in December 2010/January 2011; reappointed 10 June 2011.

Sl. No.	Name of the CPSE
1	Bharat Coking Coal Limited
2	Eastern Coalfields Limited
3	Electronics Corporation of India Limited
4	Hindustan Copper Limited
5	Hindustan Petroleum Corporation Limited
6	MNH Shakti Limited
7	National Aluminum Company Limited
8	North Eastern Electric Power Corporation Limited
9	Northern Coalfields Limited
10	Rural Electrification Corporation Limited
11	South Eastern Coalfields Limited

3.2.4 Information on activities and affairs of the company

DPE guidelines and clause 49 of the listing agreement have prescribed the minimum information about the activities and affairs of the company that should be furnished to the Board. Such information includes annual operating plans, budgets, quarterly results, minutes of audit committee meetings, information on recruitment and remuneration of senior level officers just below Board level, details of joint venture, foreign exchange etc. In respect of the following companies, the required information was not furnished to the Board.

Name of the CPSE	Minimum information not furnished
Nuclear Power Corporation of India Limited	Quarterly details of foreign exchange exposure and the steps taken by management to limit the risks of adverse exchange rate movement.
Bharatiya Rail Bijlee Company Limited	Quarterly results of the Company and its operating divisions or business segments.
Coal India Limited	Information on recruitment and remuneration of senior officers just below the Board level including appointment or removal of Chief Financial Officer and Company Secretary.
Western Coalfields limited	Information on recruitment and remuneration of senior officers just below the Board level including appointment or removal of Chief Financial Officer and Company Secretary.
South Eastern Coalfields Limited	Minutes of meetings of Audit Committee and other committees of the Board.

3.2.5 Circulation of Board Agenda papers

Board Agenda papers are to be circulated sufficiently in advance in order to ensure that Board members have adequate time to attain thorough knowledge over the issues to be deliberated in the meeting. A 15 days notice in this regard is considered adequate. In respect of the 18 CPSEs the agenda papers were not circulated well in advance (Appendix XIV).

3.2.6 Risk Management

Enterprise risk management helps management in managing the risk and avoiding damage to the entity's reputation and associated consequences. Considering the significance of risk management in the scheme of corporate management strategies, its oversight should be one of the main responsibilities of the Board/Management. DPE Guidelines emphasize that the Board should ensure the integration and alignment of the risk management system with the corporate and operational objectives and also that risk management is undertaken as a part of normal business practice and not as a separate task at set times. In respect of the following companies, risk policy was yet to be evolved.

Risk policy was yet to be evolved in six companies

Sl. No.	Name of the CPSE
1	Bharat PetroResources Limited
2	Bharatiya Rail Bijlee Company Limited
3	Coal India Limited
4	CREDA- HPCL Biofuel Limited
5	Kanti Bijlee Utpadan Nigam Limited
6	NMDC Limited

3.2.7 Filling the posts of directors – functional, non-functional, independent

Timely filling up of vacancies in the posts of Directors ensures the availability of required skill and expertise in the management of the company. Any delay in filling of vacancies may hamper the effectiveness of the decision making process. In respect of the following companies, there was delay of six months or more in filling the posts of directors-functional, non-functional, independent etc.

Sl. No.	Name of the CPSE	Name of the post	No of months
1	Central Coalfields Limited	Director (Personnel)	6
2	Chennai Petroleum Corporation Limited	Director	10
3	Eastern Coalfields Limited	Director (Finance)	10
4	Electronics Corporation of India Limited	Director (Technical)	13
5	Hindustan Copper Limited	Director (Finance) Independent Director	15 12
6	Indian Oil Corporation Limited	Chairman & Managing Director	12
7	J & K Mineral Development Corporation Limited	Director	9
8	National Aluminium Company Limited	Independent Director	7

9	Northern Coalfields Limited	3 Independent Directors/ Non official Director	7
10	Nuclear Power Corporation of India Limited	Director (Projects)	22
11	Oil and Natural Gas Corporation Limited	Director (HR)	10
12	Oil India Limited	Director (Operations)	9
13	Satluj Jal Vidyut Nigam Limited	Director (Finance) Chairman & Managing Director	13 7
14	South Eastern Coalfields Limited	Chairman & Managing Director	10
15	Uranium Corporation of India Limited	Director	7
16	Western Coalfields Limited	3 Independent Directors	6

3.3 Audit Committee

3.3.1 Clause 49 (II) (A) of listing agreement and Chapter 4 of DPE guidelines stipulate that there shall be an Audit Committee with a minimum of three directors as members of which two-third shall be Independent Directors. **In respect of the following companies, there was no Audit Committee in violation of the DPE guidelines.**

Audit Committee should have minimum of three directors as members of which two third shall be independent directors

Sl. No.	Name of the CPSE
1	Bharat Gold Mines Limited
2	IndianOil-CREDA Biofuels Limited
3	Meja Urja Nigam Private Limited
4	MJSJ Coal Limited
5	MNH Shakti Limited
6	Nabinagar Power Generating Company Private Limited

3.3.2 Composition of Audit Committee

In respect of the 19 companies, two-third of the members of the Audit Committee were not Independent Directors as required.

CPSEs – with insufficient independent directors	
Bharat Coking Coal Limited	Loktak Downstream Hydro Electric Corporation Limited
Bharat PetroResources Limited	Mangalore Refinery and Petrochemicals Limited
Bharatiya Rail Bijlee Company Limited	NHDC Limited
Eastern Coalfields Limited	NTPC Hydro Limited
Electronics Corporation of India Limited	NTPC Vidyut Vyapar Nigam Limited
FCI Aravali Gypsum and Minerals India Limited	Numaligarh Refinery Limited
Hindustan Copper Limited	ONGC Videsh Limited
GAIL Gas Limited	Rural Electrification Corporation Limited
CREDA-HPCL Biofuel Limited	Uranium Corporation of India Limited
Kanti Bijlee Utpadan Nigam Limited	

3.3.3 Chairman of the Audit Committee

As per the listing agreement and DPE guidelines, the Chairman of the Audit Committee shall be an independent director. In the 12 companies, the Chairman of the Audit committee was not an independent director.

CPSEs – Chairman of the Audit Committee was not an independent director	
Bharat Coking Coal Limited	Kanti Bijlee Utpadan Nigam Limited
Bharat PetroResources Limited	Loktak Downstream Hydro Electric Corporation Limited
Bharatiya Nabhikiya Vidyut Nigam Limited	NTPC Hydro Limited
Bharatiya Rail Bijlee Company Limited	NTPC Vidyut Vyapar Nigam Limited
CREDA-HPCL Biofuel Limited	ONGC Videsh Limited
Eastern Coalfields Limited	Rural Electrification Corporation Limited

3.3.4 Clause 49 II (A)(iv) of Listing Agreement requires that the Chairman of the Audit Committee should be present at Annual General Meeting (AGM) to answer shareholder queries. However, the Chairman of the Audit Committee of the 16 CPSEs did not attend the AGM held during 2010-11 (Appendix XV).

3.3.5 The terms of reference of the Audit Committee should be in writing and should clearly articulate the role and the specific responsibilities the Audit Committee has to perform. The terms of reference should be communicated to the members of Audit Committee. In respect of the eight companies the terms of reference were not communicated to the members of Audit Committee (Appendix XVI).

- 3.3.6** There should be a system of periodical review of the terms of reference of Audit Committee to ensure that work of the committee is aligned with the business needs. In respect of seven companies there was no system to review the terms of reference of Audit Committee (Appendix XVII).
- 3.3.7** It is a good practice to issue appointment letters to the members of Audit Committee which clearly sets out their appointment and purpose, commitment required, remuneration, appraisal, support and training that they will receive, expected conduct, duration of appointment and how often it may be renewed and termination conditions. **The good practice of issue of appointment letters to the members of Audit Committee had been observed in the following companies.**

Sl. No.	Name of the CPSE
1	Bharatiya Nabhikiya Vidyut Nigam Limited
2	Central Coalfields Limited
3	Central Mine Planning and Design Institute Limited
4	Chennai Petroleum Corporation Limited
5	Mangalore Refinery and Petrochemicals Limited
6	Neyveli Lignite Corporation Limited
7	South Eastern Coalfields Limited

- 3.3.8** An annual calendar of meetings for the Audit Committee has to be prepared to ensure that all the duties in the charter are fulfilled. **The system of preparation of annual calendar for the audit committee had been observed in the 12 CPSEs (Appendix XVIII).**

3.3.9 Meetings of Audit committee

Clause 49 II (B) of Listing Agreement and Chapter 4 of DPE guidelines (para 4.4) require that the Audit Committee should meet at least four times in a year and not more than four months shall elapse between two meetings. During review, it was noticed that in respect of eight companies, there were less than four meetings in the year 2010-11.

CPSEs – less than required number of meetings of Audit Committee	
Bharatiya Rail Bijlee Company Limited	NTPC Hydro Limited
Central Mine Planning and Design Institute Limited	NTPC Vidyut Vyapar Nigam Limited
Electronics Corporation of India Limited	South Eastern Coalfields Limited
Kanti Bijlee Utpadan Nigam Limited	Western Coalfields Limited

- 3.3.10** Audit noticed that in eight companies, the gap between two audit committee meetings exceeded four months (Appendix XIX).
- 3.3.11** Clause 49 of the listing agreement and the DPE guidelines contemplate that the Audit Committee may invite such of the executives, as it considers appropriate (and particularly the head of the finance function) to be present at the meetings of the Committee. The Audit

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Committee may also meet without the presence of any executives of the company. The Finance Director, Head of Internal Audit and a representative of the Statutory Auditor may be specifically invited to be present as invitees for the meetings of the Audit Committee as may be decided by the Chairman of the Audit Committee.

In respect of 13 companies, the Finance Director/Head of internal Audit/representative of Statutory Auditor though invited, were not present in the Audit Committee meetings.

- 3.3.12** One of the recommendations of **Blue Ribbon Committee**[†] was that the Audit Committee should meet the Statutory Auditors of the Company once in a year without the presence of the Finance Officers/Management of the Company. **This good practice was being followed by 16 companies:**

CPSEs – implemented the recommendations of the Blue Ribbon Committee	
Bharat Coking Coal Limited	Indian Oil Corporation Limited
Bharat PetroResources Limited	Kanti Bijilee Utpadan Nigam Limited
Bharatiya Nabhikiya Vidyut Nigam Limited	North Eastern Electric Power Corporation
Bharatiya Rail Bijlee Company Limited	NTPC Hydro Limited
Central Mine Planning and Design Institute Limited	NTPC Vidyut Vyapar Nigam Limited
Coal India Limited	Oil and Natural Gas Corporation Limited
FCI Aravali Gypsum and Minerals India Limited	Oil India Limited
GAIL Gas Limited	Rural Electrification Corporation Limited

3.3.13 Adequacy of internal audit function

The Audit Committee should review the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure, coverage and frequency of internal audit. **In nine companies, the audit committee had not reviewed the internal audit functions:**

CPSEs Audit Committee had not reviewed the internal audit function	
Bharatiya Rail Bijlee Company Limited	NTPC Vidyut Vyapar Nigam Limited
CREDA-HPCL Biofuel Limited	Nuclear Power Corporation of India Limited
Hindustan Copper Limited	Uranium Corporation of India Limited
Kanti Bijlee Utpadan Nigam Limited	Western Coalfields Limited
Loktak Downstream Hydro Electric Corporation Limited	

[†] A committee formed in 1998 in the United States which published a report on improving the effectiveness of Corporate Audit Committees.

3.3.14 It is also the responsibility of the Audit committee to hold discussion with internal auditors on any significant findings and follow up there on. It was observed that, in the following companies, **the audit committee had not conducted discussion with internal auditors.**

Sl. No.	Name of the CPSE
1	Bharat Coking Coal Limited
2	Coal India Limited
3	Eastern Coalfields Limited
4	Mahanadi Coalfields Limited
5	Western Coalfields Limited

3.3.15 Whistle Blower Mechanism

Clause 49 II (D) 12 of the Listing Agreement and Para 4.2.12 of DPE guidelines require the Audit Committee to review the functioning of the 'Whistle Blower Mechanism' in case the same exists in the company. The Listing Agreement contemplates that the company may establish a mechanism for employees to report to the management concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy. This mechanism could also provide for adequate safeguards against victimisation of employees who avail of the mechanism and also provide them direct access to the Chairman of the Audit Committee in exceptional cases. Once established, the existence of the mechanism may be appropriately communicated within the organization. **In the following companies whistle blower mechanism was not observed:**

Whistle Blower Mechanism was not observed in 11 companies

Sl. No.	Name of the CPSE
1.	Central Mine Planning and Design Institute Limited
2.	Coal India Limited
3.	GAIL Gas Limited
4.	Hindustan Copper Limited
5.	CREDA-HPCL Biofuel Limited
6.	Loktak Downstream Hydro Electric Corporation Limited
7.	NHPC Limited
8.	NMDC Limited
9.	North Eastern Electric Power Corporation Limited
10.	Power Finance Corporation Limited
11.	Uranium Corporation of India Limited

3.3.16 In 12 companies, though whistle blower mechanism exists, the Audit committee had not reviewed it.

CPSE – Whistle Blower Mechanism not reviewed	
Bharat Coking Coal Limited	NTPC Hydro Limited
Bharatiya Rail Bijlee Company Limited	NTPC Vidyut Vyapar Nigam Limited
Kanti Bijlee Utpadan Nigam Limited	ONGC Videsh Limited
Mahanadi Coalfields Limited	Satluj Jal Vidyut Nigam Limited
NHDC Limited	South Eastern Coalfields Limited
Northern Coalfields Limited	Western Coalfields Limited

3.3.17 As a corollary to the responsibility of Audit Committee to ensure protection to the whistle blowers, as discussed in the earlier paragraphs, **there should also be a system of review of the anti-fraud and anti – corruption policies and procedures by the Audit Committee to ensure that they were in place and operating effectively. In the following companies, no anti – fraud and anti- corruption policies were observed.**

Sl. No.	Name of the CPSE
1	GAIL (India) Limited
2	FCI Aravali Gypsum and Minerals India Limited
3	Eastern Coalfields Limited
4	Northern Coalfields Limited
5	Oil and Natural Gas Corporation Limited
6	Satluj Jal Vidyut Nigam Limited

3.3.18 In 12 companies, there was no system of review of the anti-fraud and anti – corruption policies and procedures by the Audit Committee.

CPSE – no system of review of anti-fraud and anti-corruption policies	
Bharat Coking Coal Limited	Coal India Limited
Bharat Petroleum Corporation Limited	GAIL Gas Limited
Bharat PetroResources Limited	Hindustan Copper Limited
Bharatiya Rail Bijlee Company Limited	Kanti Bijlee Utpadan Nigam Limited
Central Coalfields Limited	South Eastern Coalfields Limited
Central Mine Planning and Design Institute Limited	Western Coalfields Limited

3.3.19 Review of Financial condition

As per Clause 49 (II) (E) and para 4.5 of the DPE guidelines, the Audit committee has to mandatorily review certain information reflecting the financial condition of the company. It was observed that in the following companies, the Audit committee had not carried out the review, which may seriously jeopardize their effective functioning:

Brief subject on non-review by Audit committee	Name of the CPSE
Management discussion and analysis of financial condition and results of operations.	Bharat Coking Coal Limited
	Bharatiya Rail Bijlee Company Limited
	THDC India Limited
Related party transactions	Bharatiya Rail Bijlee Company Limited
	Northern Coalfields Limited
	Mahanadi Coalfields limited
	Bharat Coking Coal Limited
	NTPC Hydro Limited
	Kanti Bijlee Utpadan Nigam Limited
Management letters / letters of internal control weaknesses issued by the statutory auditors	Northern Coalfields Limited
	Bharat Coking Coal Limited
	Bharatiya Rail Bijlee Company Limited
	NTPC Hydro Limited
	Kanti Bijlee Utpadan Nigam Limited
Internal Audit Reports relating to Internal Control weaknesses	Bharatiya Rail Bijlee Company Limited
	NTPC Hydro Limited
	Kanti Bijlee Utpadan Nigam Limited
The appointment and removal of the Chief Internal Auditor shall be placed before the Audit Committee;	Northern Coalfields Limited
	Mahanadi Coalfields Limited
	Bharatiya Rail Bijlee Company Limited
	NTPC Hydro Limited
	Western Coalfields Limited
	Power Finance Corporation Limited
	Kanti Bijlee Utpadan Nigam Limited
	Engineers India Limited
	North Eastern Electric Power Corporation Limited

3.3.20 Discussion with Statutory Auditors

Clause 49 (II) (D) and para 4.2.10 of DPE guidelines provide that Audit Committee should hold discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern. In respect of 15 companies, the audit committees did not hold any such discussion:

CPSEs – discussion with the statutory auditors not held	
Bharat Coking Coal Limited	NMDC Limited
Bharatiya Rail Bijlee Company Limited	North Eastern Electric Power Corporation Limited
Eastern Coalfields Limited	NTPC Hydro Limited
Gail (India) Limited	NTPC Vidyut Vyapar Nigam Limited
Hindustan Copper Limited	THDC India Limited
Kanti Bijlee Utpadan Nigam Limited	Uranium Corporation of India Limited
Loktak Downstream Hydro Electric Corporation Limited	Western Coalfields Limited
NHPC Limited	

3.3.21 Progress of Expansion Projects

One of the prime responsibilities of the audit is the oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible. The Audit Committee needs to have first hand knowledge of the ongoing projects in the company to carry out its functions effectively. In view of this, the Audit Committee has to make a periodical review on progress of expansion projects, joint ventures, Special Purpose Vehicles and bring to the notice of the Management, deficiencies, if any. In respect of 21 companies, the Audit Committees did not carry out any such exercise (Appendix XX).

3.3.22 Training to Audit Committee members

Corporate environment is dynamic and changes are inevitable and training becomes a necessity in the ever changing business world. Hence there should be a system of providing training to Audit Committee members. In 20 companies neither had a system of training nor had the Audit Committee recommended the training requirements to the Board (Appendix XXI).

3.3.23 Preparation of Annual Report on the working of Audit Committee

During review it was noticed that there was no system of preparing of annual reports on the working of Audit Committee in 31 companies (Appendix XXII).

3.3.24 System of regular reports to the Board

Audit committee oversees the work of statutory Auditors, Internal Audit and hence are in a position to advise the Board in its strategic decisions from the view of finance, compliance to laws, regulations etc. Regular reporting by the audit committee to the Board will help the Board identify the deficiencies and take immediate corrective action. Hence there should be a system of regular reporting to the Board in the form of reports. In the following companies the Audit Committee did not send regular reports to the Board for review.

Sl. No.	Name of the CPSE
1	Bharat Coking Coal Limited
2	Bharatiya Rail Bijlee Company Limited
3	Electronics Corporation of India Limited
4	FCI Aravali Gypsum and Minerals India Limited
5	NTPC Vidyut Vyapar Nigam Limited
6	Rural Electrification Corporation Limited
7	Western Coalfields Limited

3.4 Code of Conduct for all Board Members

Clause I (D) of the listing agreement and Para 3.4 of DPE guidelines stipulate that the Board shall lay down a code of conduct for all Board members and senior management of the company. The code of conduct shall be circulated and also posted on the website of the company. All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by its Chief Executive. In 16 companies, model code of business conduct and ethics was not circulated:

CPSEs – model code of business conduct and ethics not circulated	
Bharat Coking Coal Limited	Meja Urja Nigam Private Limited
Bharatiya Rail Bijlee Company Limited	MJSJ Coal Limited
CREDA-HPCL Biofuel Limited	Nabinagar Power Generating Company Private Limited
FCI Aravali Gypsum and Minerals India Limited	Northern Coalfields Limited
GAIL Gas Limited	NTPC Electric Supply Company Limited
Indian Rare Earths Limited	NTPC Hydro Limited
Kanti Bijlee Utpadan Nigam Limited	NTPC Vidyut Vyapar Nigam Limited
Loktak Downstream Hydro Electric Corporation Limited	Power System Operation Corporation Limited

3.5 Secretarial Audit

During review the system of secretarial audit[‡] was not noticed in 17 companies:

CPSEs – system of secretarial audit not noticed	
Bharatiya Rail Bijlee Company Limited	Mahanadi Coalfields Limited
Central Mine Planning and Design Institute Limited	MNH Shakti Limited
Coal India Limited	Northern Coalfields Limited
Hindustan Copper Limited	NTPC Hydro Limited
Indian Rare Earths Limited	Nuclear Power Corporation of India Limited

[‡] *Concept of Secretarial Audit has been gaining momentum over the recent past. By subjecting to secretarial audit, the Board of Directors would be able to be rest assured regarding compliance of various provisions affecting corporate entities and thus justify their bonafide intentions of not being a party, directly or indirectly, to any technical error, commission or omission, violation or contravention, breaches and non-compliance. This will also enable the directors to take measures to mitigate the consequences of any offenses they might have committed unknowingly.*

IndianOil-CREDA Biofuels Limited	Numaligarh Refinery Limited
J & K Mineral Development Corporation Limited	Satluj Jal Vidyut Nigam Limited
Kanti Bijlee Utpadan Nigam Limited	THDC India Limited
Loktak Downstream Hydro Electric Corporation Limited	

In NHPC Limited, it was observed that, the secretarial audit report did not form part of Board's report.

Conclusion

DPE guidelines on corporate governance though mandatory are not being complied with by some of the CPSEs. Adequate representation of independent directors on the Boards, functioning of and reporting by the Audit Committees, whistle blower mechanism etc. were not found in conformity with guidelines of DPE.

3.6 Recommendations

The following recommendations are made to improve the quality of corporate governance in CPSEs:

- GOI may ensure induction of the requisite number of independent directors on the Board of CPSEs;
- Members of Audit Committee may be given training to enable them to keep themselves abreast with the developments relating to operational and financial issues specific to the company and industry;
- The annual report may highlight the improvements that took place in the financial reporting, internal control system, internal audit system and overall performance of the company as a sequel to the functioning of the Audit committees and
- Compliance of DPE guidelines may be monitored by the Administrative Ministries of the CPSEs.