

Compliance with DPE Guidelines

5.1 Introduction

The Bureau of Public Enterprises (BPE) was set up in 1965 to provide policy and overall guidance to the Central Public Sector Enterprises (CPSEs) and act as a centralized coordinating unit facilitating continuous appraisal of the performance of CPSEs. In May 1990, BPE was conferred the status of a full-fledged Department and is now known as the Department of Public Enterprises (DPE) in the Ministry of Heavy Industries and Public Enterprises.

Role of DPE in issuing guidelines/directives to CPSEs

- The directions/ instructions are given to CPSEs through Presidential Directives as well as Guidelines issued by Administrative Ministries or DPE.
- **Presidential Directives** are issued by the Administrative Ministries to the concerned CPSEs whenever the situation so warrants and are **mandatory** in nature. For the purpose of maintaining uniformity, such Directives are to be issued in **consultation** with the DPE if these relate to single CPSE and with the **concurrence** of the DPE if these are applicable to more than one CPSE.
- **Guidelines** could be issued either by the Administrative Ministries or the DPE as the case may be and are **advisory** in nature. The Board of Directors of the CPSEs will have the discretion not to adopt these guidelines for reasons to be recorded in writing. The Board Resolution on the subject giving the reasons therein is to be forwarded both to the Administrative Ministry concerned as well as to the DPE.

5.2 Non-compliance with DPE guidelines

DPE formulates policy guidelines pertaining to CPSEs in areas like performance improvements and evaluation, financial management, personnel management, Board structures, wage settlement, training, industrial relation, vigilance, performance appraisal, etc.

A good number of instances were noticed in Audit wherein the CPSEs had not complied with guidelines issued by DPE. There were 23 Audit Paras, involving 37 CPSEs violating the DPE guidelines, printed in the earlier Audit Reports of the CAG for the years 2005-06 to 2009-10. These are summed up in the table below:

Report No. 2 of 2011-12

Sl. No.	Subject Area	Number of			₹ in crore)		No. of cases in which violation continues	₹ in crore)
		Audit Paras	CPSEs	Cases	Monetary Value	Recovery of irregular payment		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Irregular payment of ex-gratia/ rewards	12	17	20	758.31	45.23	4	484.60
2	Wage policy/ pay revision	5	9	12	117.13	Nil	3	8.54
3	Investment of surplus funds	2	2	2	7.34	Not Applicable	Nil	Nil
4	Leave encashment	3	15	15	64.83	Nil	1	1.50 [®]
5	Voluntary retirement scheme	1	1	1	0.74	Nil	Nil	Nil
Total		23		50	948.35	45.23	8 [#]	494.64

[#] Out of the 50 cases, the irregularities have since ceased in 41 cases. In 8 cases, the irregularities still continue and in one case, the information is not readily available.

[®] Amount paid before implementing the corrective action and after the period included in the audit paras is not readily available in 2 cases. Only partial information has been received in one case.

It would be seen from the table above that violation of the DPE guidelines resulted in substantial irregular payment/loss of interest on investments amounting to ₹ 948.35 crore. In fact, these irregularities were noticed as a result of test check only and there could be more such cases of irregular payments.

In 8 cases, there was no action on the reported non-compliance with DPE guidelines, which in fact, resulted in further irregular payment of ₹ 494.64 crore.

In short, considering the magnitude of the irregularities involved, DPE may issue suitable instructions to all CPSEs to ensure that CPSEs do not violate the guidelines and that timely action is taken on the reported irregular payments.

5.3 Status of 'Follow-up' on non compliance

Audit reviewed the corrective action taken by CPSEs to recover the irregular payments and issue of directives for future compliance and more importantly, the role played by the DPE in ensuring the recovery of irregular payment and remedial action by CPSEs on audit issues as discussed below:

5.3.1 Irregular payment of ex-gratia/ reward

The DPE issued guidelines* in November 1997 clarifying the entitlements of employees in respect of payment of bonus/ ex-gratia/ honorarium/ reward etc., by CPSEs. Audit observed that these guidelines were violated by 16 CPSEs and an amount of ₹ 754.45 crore was irregularly paid.

Further, DPE in its guidelines[†] dated 25 June 1999 stipulated the extent of admissible perquisites and allowances payable to employees from its distributable profits. Audit

* DPE OM No. 2(22)/ 97-DPE (WC) dated 20th November 1997

† DPE OM No. 2 (49)/ 98-DPE (WC) dated 25th June 1999

observed that these guidelines were violated by one CPSE and an amount of ₹ 3.86 crore was irregularly paid.

Audit observed that, out of these 17 CPSEs, recovery was effected by two companies to the extent of ₹ 45.23 crore and an amount of ₹ 713.08 crore was yet to be recovered. While subsequent irregular payments were stopped by 13 CPSEs, subsequent irregular payments amounting to ₹ 484.60 crore were noticed in case of four CPSEs.

5.3.2 Wage policy/ pay revision

DPE issued guidelines in June 1990[†], June 1999 and October 2003[§] fixing the ceiling for leased/self-leased accommodation provided by the CPSEs to its executives. These guidelines were violated by 5 CPSEs and an amount of ₹ 71.59 crore was irregularly paid.

Further, DPE issued pay revision guidelines on 25 June 1999, where treatment of stagnation increments was specified which stipulated that maximum of three annual stagnation increments could be granted to the employees of CPSEs on reaching the maximum of their pay scales. These guidelines were violated by 6 CPSEs and an amount of ₹ 45.09 crore was irregularly paid.

Audit further observed that out of the nine CPSEs, recovery was effected in none of the cases and the entire amount of ₹ 117.13 crore remained unrecovered. While subsequent irregular payments were stopped by six CPSEs, subsequent irregular payments amounting to ₹ 8.83 crore were noticed in the case of four CPSEs.

5.3.3 Investment of surplus funds

In December 1994, the DPE issued guidelines^{**} in consultation with the Ministry of Finance in regard to investment of surplus funds by CPSEs. These guidelines were violated by 2 CPSEs resulting in loss of interest of ₹ 7.34 crore.

Audit noticed that corrective action was taken by these CPSEs and no subsequent lapses were noticed.

5.3.4 Leave encashment

According to the instructions of DPE issued in April 1987^{††}, leave rules were to be framed by individual CPSEs with the approval of the Board of Directors, keeping in view the broad parameters of the policy guidelines laid down in this regard by the Government of India. DPE also clarified in September 2005^{††} and again in May 2006^{§§} that for the purpose of leave encashment in public enterprises, a month was to be taken as 30 days as was the practice in Central Government. However, some CPSEs adopted 26 days as a month instead of 30 days for the purpose of leave encashment.

These guidelines were violated by 15 CPSEs and an amount of ₹ 64.83 crore was irregularly paid. None of the CPSEs made recovery of the irregular payment but most of the CPSEs took corrective action. However, the CPSEs, before implementing the corrective action and after the period included in the audit paras, made irregular payments of ₹ 144.71 crore in 14 cases. One CPSE continued with the violation of the guideline and paid ₹ 1.50 crore irregularly.

[†] DPE OM No. 2 (43)/ 90-DPE (WC) dated 12th June 1990

[§] DPE OM No. 2 (38)/ 03-DPE (WC) GL-XXIV dated 29th October 2003

^{**} DPE OM No. 4/ 6/ 94 – fin dated 14 December 1994

^{††} DPE OM No. 2(27)/85-DPE (WC) dated 24 April 1987

^{††} DPE OM No. 2(2)/05-DPE(WC) dated 20 September 2005

^{§§} DPE OM No. 2(2)/85-DPE (WC) dated 2 May 2006

5.4 Oversight role of DPE

The DPE, being the nodal agency dealing with the affairs of CPSEs, is expected to monitor the adoption of its guidelines by the CPSEs' Boards and also monitor compliance with these guidelines.

Though the DPE guidelines are advisory in nature but for ensuring good corporate governance, there should be an appropriate institutional arrangement to enforce accountability of the Administrative Ministries and CPSEs to comply with these guidelines.

An Audit review of the mechanism that DPE has in place to ensure compliance to its guidelines revealed that:

- DPE did not maintain database as to which of the CPSEs' Boards adopted its guidelines;
- DPE did not have a mechanism to ensure compliance with its guidelines;
- DPE did not write to CPSEs for recovery of irregular payments pointed out by Audit.

In essence, the role of DPE in ensuring compliance with its own guidelines by CPSEs was only peripheral and not effective.

While confirming the facts and figures, DPE stated (January 2012) that it was proposing to the Cabinet Secretariat (Secretary, Performance Management) to include 'Compliance of DPE Guidelines' as mandatory objective in the annual Results Framework Document (RFD) of the Administrative Ministries under which the respective CPSEs fall.

5.5 Recent directives of Parliamentary Standing Committee on Industry

Department-related Parliamentary Standing Committee on Industry in its 216th Report, presented before Parliament on 19-4-2010, recommended that 'in order to play a meaningful and effective role in getting the policies and guidelines implemented by the CPSEs, DPE should ask for the compliance Report from the CPSEs about the implementation of the policies and guidelines formulated by it from time to time and separate paragraph thereon may be incorporated in the Annual Report of DPE'.

Accordingly, in July 2010 and June 2011, DPE requested the Administrative Ministries to furnish reports regarding compliance/ non-compliance of its guidelines by CPSEs by June of every year. DPE has plans to introduce compliance with its guidelines as one of the parameters in MoUs of 2012-13.

5.6 Recommendations

DPE should set up suitable institutional arrangement to ensure compliance with its guidelines for ensuring good corporate governance. To make it effective, this parameter should be factored in the MOU.

On non compliance issues reported in Audit, DPE/Administrative Ministries should ensure timely remedial action as also issue suitable instructions to the CPSEs.