

## CHAPTER - IV

### SECTION 'A' - PERFORMANCE REVIEW

#### URBAN DEVELOPMENT DEPARTMENT

#### 4.1 Road and drain works in Bruhat Bangalore Mahanagara Palike

##### Executive Summary

The Bruhat Bangalore Mahanagara Palike discharges obligatory and discretionary functions by providing civic services and infrastructure facilities to the citizens of Bangalore as per the provisions of Karnataka Municipal Corporations Act, 1976. The Performance Review on road and drain works in Bruhat Bangalore Mahanagara Palike revealed, *inter alia*, that the planning process was undertaken without any proper need-assessment or taking into account the road history. There was no sanctity in the approval of programme of works due to execution of large number of works over and above the budgeted works. There were irregularities in accounting of deposits, mis-utilisation of deposits and irregular discounting of bills, *etc.* Operational controls were not in place and the tendering process was vitiated, tenders were manipulated, estimates were tampered with and funds were siphoned off. Works were executed to benefit the contractors resulting in doubtful, wasteful, irregular and avoidable works. Monitoring and internal control mechanism were absent at all levels.

##### 4.1.1 Introduction

The Bangalore Mahanagara Palike was renamed as Bruhat Bangalore Mahanagara Palike (BBMP) during 2007 by extending its jurisdiction to cover 110 adjoining urbanised areas. The BBMP comprised 198 wards functioning under the jurisdictional control of eight zonal offices<sup>52</sup>.

The elections for BBMP were held in March 2010 and the Council was formed in April 2010. The Council was not in existence during the period 2006-10 and, in its absence, the Administrator appointed by the State Government discharged its obligatory and discretionary functions. Construction, improvement and maintenance of road and drain are obligatory functions of BBMP.

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<sup>52</sup> Bangalore East, Bangalore South, Bangalore West, Bommanahalli, Byatarayanapura, Dasarahalli, Mahadevapura and Rajarajeshwarinagar (RR Nagar)

#### 4.1.2 Organisational structure

The organisational structure of BBMP is detailed below:

Authorities/Body	Responsibilities
Elected Body –The Mayor, The Deputy Mayor and the Corporators of wards assisted by Standing Committees/The Administrator	Approval of Budget and Programme of Works (POW)
The Additional Chief Secretary to Government of Karnataka, Urban Development Department (UDD)	Responsible for overall administration of BBMP
The Commissioner assisted by the Special Commissioner	Preparation of Budget and POW, approval of estimates and tenders beyond ₹50 lakh. Responsible for monitoring and execution of works
The Chief Accounts Officer (CAO) assisted by the Assistant Controller of Finance (ACF)	Ensures availability of funds, scrutiny and assignment of work codes
The Joint/Additional Commissioners of zones assisted by Chief Engineers (CE), Superintending Engineers (SE), Executive Engineers (EE) and Assistant Executive Engineers (AEE)	Approval of estimates and tenders up to ₹50 lakh. Responsible for monitoring and execution of public works in zones of BBMP

#### 4.1.3 Scope of Audit and methodology

The Performance Review on road and drain works in BBMP for the years 2008-09 to 2010-11 was conducted covering seven divisions of three zones of BBMP<sup>53</sup> with an expenditure of ₹642 crore (19 per cent) out of ₹3,448 crore. The zones and divisions were selected by adopting simple random sampling method. Audit test-checked (May–November 2011) 597 road and drain works such as formation of new roads, water-bound macadam roads, asphaltting, cement concrete roads, maintenance of roads, road side drains and tertiary storm water drains, costing ₹255.05 crore. The audit objectives and methodology of Audit were discussed with the Special Commissioner, BBMP during an Entry Conference held in May 2011. The draft review was forwarded (November 2011) to the Additional Chief Secretary to Government of Karnataka, UDD. The Exit Conference was held in March 2012 with the Secretary, UDD.

#### 4.1.4 Audit objectives

The Audit objectives for the performance review on road and drain works in BBMP were to ascertain whether:

- the planning was in conformity with the requirements;
- the tendering process was adequate and conformed to the provisions;
- the works were properly authorised and were executed efficiently and economically; and
- quality control and monitoring mechanism at all levels were in place.

<sup>53</sup> Bangalore East (Pulakeshinagar, Sarvagnanagar and Shanthinagar), Dasarahalli (Dasarahalli and Hegganahalli) and RR Nagar (Kengeri and RR Nagar)

#### 4.1.5 Audit criteria

The source of audit criteria in evaluating the performance of the road and drain works were:

- Karnataka Municipal Corporations (KMC) Act, Karnataka Municipalities (KM) Act, Karnataka Transparency in Public Procurement (KTPP) Act, and rules thereunder;
- Karnataka Public Works Accounts (KPWA) Code, Karnataka Public Works Departmental (KPWD) Code and Karnataka Financial Code (KFC);
- State Government orders, notifications, circulars and instructions issued from time to time;
- POW sanctions, approvals, proceedings; and
- Indian Road Congress (IRC) guidelines.

#### Audit findings

The Audit findings are discussed in the succeeding paragraphs.

#### 4.1.6 Planning process

##### 4.1.6.1 Non-availability of data base

**The planning process was defective without the availability of database or road history**

The KPWD code provides for maintenance of a register in the prescribed form with the basic information on assets created and owned. It was seen that no such register was maintained in BBMP. As such, the details especially with regard to the number of existing roads and drains, their condition, the kind of improvement and maintenance required were neither available with the CEs nor in any of the zonal offices. The road history register was also not maintained by the EEs of the divisions test-checked. In the absence of database, there was evidently no proper system of planning, prioritising and approval of works in BBMP. As a result, while executing the road works, the CEs/EEs of BBMP could not ensure that the actual requirements of construction/improvement/widening, *etc.* were met.

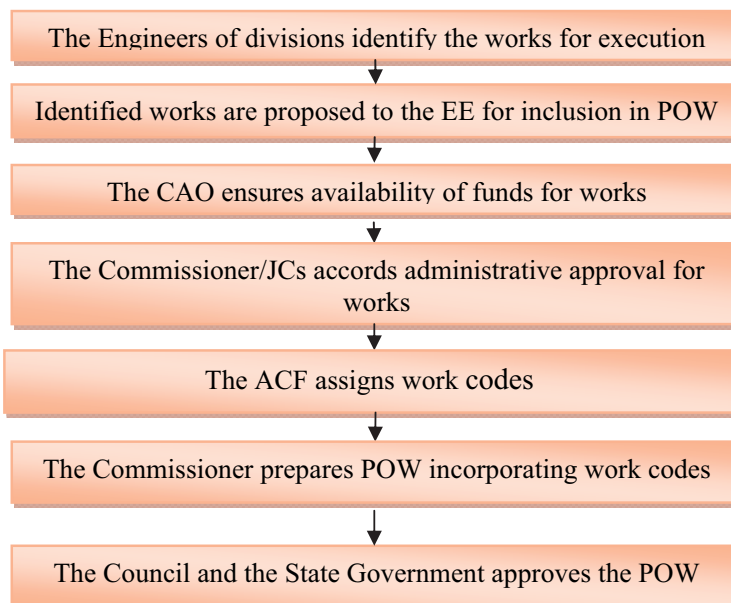
The State Government stated (May 2012) that though the practice of recording inventory of roads was in vogue since 1976, the road history was not updated. It was also stated that all the concerned Engineers are being addressed to maintain road information system.

##### 4.1.6.2 Non-preparation of need-based POW

Ideally, the POW has to be prepared on the basis of the requirements of different zones/wards. However, it was seen in Audit that after the budget was approved by the State Government providing equal lumpsum grants for each ward, the Joint Commissioners (JCs) of the zones prepared POW for each ward. Evidently, the POW was prepared on the basis of funds allocated and not on the needs of each ward. This defeated the very purpose of planning as the requirements of each ward would vary.

#### 4.1.6.3 Assignment of work codes

The flow chart for assignment of work codes is as shown below:



No tender was to be processed and no work bill paid by the divisions without the work code. Audit found deviations from these controls as detailed below:

**Discrepancies in assignment of work codes and approval of works outside the POW were noticed**

- (a) In 28 cases, the ACF had assigned work codes without indicating all the details of the works proposed in the work code forms.
- (b) In seven cases, work codes were assigned in blank forms without any details.
- (c) In 14 cases, work codes were assigned even though work code forms were without the signature of the ACF and
- (d) During 2009-10, 780 works costing ₹222.62 crore were included in POW without work codes.

Possibility of payments for fictitious works due to deviations from the prescribed control mechanism in assignment of work codes could not be ruled out.

A Study Report (January 2011) by the Chief Auditor, BBMP on assignment of work codes also revealed the following irregularities:

- Work codes were assigned without the approval of the Commissioner;
- Work codes were assigned to works other than the proposed works;
- A single work code was assigned to more than one work. Conversely, more than one work code was assigned to a single work;
- Nomenclature of work was changed to suit the work code assigned;
- Work codes were assigned to a large number of works estimated to cost more than the actual budget; and
- Work codes were assigned for works for which the Commissioner had sought clarifications.

The State Government replied (May 2012) that the matter is under investigation by Criminal Investigation Department (CID).

#### 4.1.6.4 Assignment of work codes over and above the POW

(a) Except in the case of an emergency, no work is to be taken up for execution other than the works approved in POW. In contravention of the provision, the Commissioner approved a large number of works without proper justification for assigning work codes including the works proposed by the elected representatives of the Legislative Assembly. The details of approved works as per POW *vis-à-vis* the works-assigned work codes are as shown in **Table 4.1** below:

**Table 4.1: Details of works approved in POW *vis-à-vis* works-assigned work codes**

Year	Number of works approved for which work codes were assigned		Percentage of excess
	As per POW	Actual	
2008-09	3,018	10,123	235
2009-10	5,818	15,516	167
2010-11	NA	19,346	-

Source: Figures as furnished by BBMP

NA: Not available

The Administrator had also pointed out (March 2010) that work codes were assigned much beyond the approved works in POW and the budget allocation. Evidently, the approval of huge number of works by the Commissioner was irregular and led to large scale irregularities in execution of works as discussed in succeeding paragraphs:

(b) In all test-checked cases, the works approved in addition to the POW were estimated at less than ₹50 lakh to avoid two cover system of tendering<sup>54</sup> and e-procurement<sup>55</sup>.

#### (c) Sanction of large number of works

The Administrator had instructed (March 2010) prioritising of other works such as garbage collection, hospitals and schools works, *etc.* By then, the Commissioner had sanctioned a large number of works over and above the POW to the extent of ₹1,910 crore. The CAO sought (March 2010) *post-facto* approval of the Administrator for which approval has not been accorded (January 2012). In spite of the Administrator's instructions, the Commissioner sanctioned additional works amounting to ₹36.84 crore without the approval of the Administrator during the fag end of March 2010.

The Administrator had also stated (December 2009) that though he requisitioned information on the financial position during the monthly meetings, the CAO did not apprise him and failed in his assigned duties. Evidently, the Commissioner and the CAO kept the Administrator in the dark about the financial position of BBMP.

<sup>54</sup> A procedure under which tenderers are required to submit two separate sealed covers simultaneously, the first cover containing Earnest Money Deposit and details of capability to undertake tender. The second cover contains the price quotation which will be opened only if the technical capability is fulfilled.

<sup>55</sup> Procurement of goods and services through on-line procurement portal set up and managed by the State Government

The State Government stated (May 2012) that prior to 2010-11, a large number of additional works were included over and above the approved works in the budget on the basis of the recommendation of the elected representatives. However, the fact remains that additional works were sanctioned without the approval of the Administrator, in violation of rules.

#### 4.1.7 Financial Management

##### 4.1.7.1 Budgeting

As per the provisions of KMC Act, the Commissioner shall, on or before the 15<sup>th</sup> day of January each year, prepare and submit to the Standing Committee a budget containing a detailed estimate of income and expenditure of the BBMP for the ensuing financial year. It is obligatory on the part of BBMP to pass the budget three weeks before the commencement of the financial year and submit a copy to the State Government for approval. It was, however, seen that the CAO of BBMP did not prepare the budget and present it to the Council for approval in time in any of the years during the period under review. Details of submission and approval of budget by the Council/Administrator are as shown in **Table 4.2** below:

**Table 4.2: Details of submission and approval of BBMP budget**

Year	Date of presentation to the Finance Committee	Date of Approval by the Council/Administrator	Delay in number of days (from 10 <sup>th</sup> of March)	Date of approval by the State Government
2008-09	28.3.2008	28.03.2008	18	15.05.2008
2009-10	31.3.2009	31.03.2009	21	02.04.2009
2010-11	12.8.2010	09.09.2010	183	08.10.2010

Source: As furnished by BBMP

As can be seen, the budgets for the years 2008-10 were submitted to the Finance Committee and approved by the Administrator on the same day. For the year 2010-11, the CAO failed to submit the budget on the due date and the same was approved by the council only in September 2010. Evidently, the discussion on the budget was inadequate and the entire budgeting exercise was not taken seriously either by the BBMP or the State Government.

##### 4.1.7.2 Allocation of fund and expenditure

The BBMP receives funds for execution of developmental works from various sources such as State Government grants, Government of India grants, own funds, loans from various agencies, etc. The CAO is responsible for release of funds for developmental works of the zonal divisions of BBMP. The details of budget provision and the expenditure incurred during 2008-11 in BBMP towards zonal works are as shown in **Table 4.3** below:

**Table 4.3: Budget provision and expenditure for zonal works**

(₹ in crore)

Year	Budget Provision	Expenditure	Excess (+)/ Savings (-)	Total revenue	Percentage of Expenditure to Total revenue
2008-09	636.41	870.94	(+)234.53	891.13	97.73
2009-10	876.84	1,277.37	(+)400.53	877.86	145.51
2010-11	3,222.31	1,299.61	(-)1,922.70	1,070.64	121.39

Source: As furnished by BBMP and budget documents

Financial management was skewed due to failure in budgetary control.

It was observed that in 2008-09 and 2009-10, the expenditure on works exceeded the budget provision by 37 and 46 *per cent*, respectively. Even though the expenditure on works increased substantially, there was no corresponding increase in own revenue by way of tax and non-tax revenue during 2009-11. This was due to sanction of a large number of works by the Commissioner other than the approved POW, when the Council was not in existence.

#### **4.1.7.3 Irregular operation of Hundi system**

In order to facilitate the settlement of pending contractors' bills due to execution of a large number of works without budget provision, the Commissioner entered into a tripartite agreement with banks for operating "Hundi system", wherein the contractors could discount their bills directly from the banks. This system was provided to benefit the contractors by early settlement of their claims without awaiting the availability of funds with the BBMP. The Commissioner, however, did not obtain prior permission from the State Government for operating the Hundi system.

The facility to discharge the bank liability was provided to BBMP for a period up to 180 days and, in case of default, interest was payable at 10.5 *per cent* per annum. As of March 2011, BBMP had approved bills of the contractors to the extent of ₹2,613 crore for discounting under Hundi system and bills to the tune of ₹1,863.57 crore were pending. However, due to improper planning and execution of a large number of works, the BBMP failed to discharge its liability to banks within the stipulated time, resulting in avoidable payment (September 2011) of interest of ₹21.33 crore to the banks.

The State Government replied (May 2012) that due to protests from the contractors for payment of their dues, the Commissioner had ordered for payments through Hundi system. However, the reply is not acceptable as no permission was obtained from the State Government for operating the Hundi system, as required under section 154 of KMC Act, 1976.

#### **4.1.7.4 Non-monitoring of Bank Guarantees**

Financial Code provisions stipulate that Bank Guarantees (BG) should be obtained from the contractors as a valid security towards performance of contracts for a period of one year from the date of completion of work. These BGs were required to be cross-verified with the Bank to ascertain their genuineness. They had to be renewed on expiry and encashed in case of any default in performance of the contracts. However, it was seen that only in Sarvagnanagar division, a BG register to watch the receipt, renewal or encashment of the BGs was maintained.

The State Government replied (May 2012) that strict instructions have been issued to the concerned to maintain the BG register in the prescribed format.

#### **4.1.7.5 Improper maintenance of cash book**

Codal provisions stipulate that all monetary transactions should be entered in the cash book as soon as they occur and the cash book should be closed daily. The Divisions should also reconcile the cash book balance with the balance appearing in the bank pass sheet. The Bank Reconciliation Statement (BRS) had to be submitted with monthly accounts to the CAO on the eighth of the

following month. However, it was observed that in the test-checked divisions, the receipts or the remittances from/to the Bank on the day of transaction were not entered or closed daily in the cash books maintained during 2008-11. Receipts against cash received were also not issued. Submission of BRS by all divisions test-checked was in arrears as of March 2011. Improper maintenance of cash book coupled with non-reconciliation may result in non-detection of fraud, excess payments, non-remittances, etc.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

#### **4.1.7.6 Non-submission of monthly accounts**

Codal provisions prescribe that the monthly accounts, with all vouchers and transfer entry orders in support of cash payments and other charges, be submitted by the Divisional Officer to the CAO on the eighth of the month following that to which it relates. Even though the CAO had impressed upon (March 2010) the divisions to submit monthly accounts on time, it was seen that none of the EE/AS of the test-checked divisions had submitted the monthly accounts for the period 2008-11 to the CAO as of January 2012 and as such, the progressive expenditure of BBMP could not be monitored.

The State Government replied (May 2012) that monthly accounts would be submitted regularly to the CAO in future by the Divisional Officers.

#### **4.1.8 Preparation of estimates**

A preliminary report and a rough estimate of the cost of work proposed to be taken up should be prepared by the engineers of the divisions for obtaining the administrative approval for the work. Thereafter, a detailed estimate supported by complete details such as schedule of all items, quantities, rate, cost, drawings, specifications, rate analysis, measurement details, etc. needs to be prepared for each work for obtaining technical sanction of the competent authority. Technical sanction ensures that the proposal is structurally sound and the estimate is economical.

**4.1.8.1 (a)** Audit observed that the preliminary reports and the rough estimates were not prepared by AEE/Assistant Engineer (AE) in any of the test-checked cases.

**(b)** In test-checked divisions of Dasarahalli, Sarvagnanagar and Shanthinagar, the Members of the Legislative Assembly had requested the Commissioner on several occasions to take up road works at a specified amount indicated against each work. Even before estimates were prepared, tenders were called for by the EE for the amounts indicated by the representatives. Evidently, the control mechanism for preparation of estimates such as survey, condition of the road, items of works required, etc., was ignored by the divisions. It was also evident that the estimates were prepared to match the amount indicated in the Notice Inviting Tenders (NITs).

The Government replied (May 2012) that before calling for tenders, estimates were prepared as per site conditions and no tenders were called for without preparation of estimates. The reply is not tenable since instances of preparation of estimates after inviting tenders were observed by Audit.

**Estimates were tampered to suit execution of works favourable to contractors**



(c) Road history provides the details of pavements constructed earlier and maintenance carried out thereafter. As per the codal provisions, it is mandatory that all estimates should contain a report based on the road history and indicate the justification for a particular work to be taken up for execution. However, it was seen in Audit in all the works approved by the EE/SE/CE that there were no reports accompanying the estimates for selecting the work in preference to others and also no road history for adopting a particular design, *etc.* Audit observed that the proposals initiated and works executed by the test-checked divisions, except in Sarvagnanagar division, were without any need-analysis or justification for such works.

The State Government replied (May 2012) that in future, separate reports would be enclosed to the estimates.

(d) Ideally, the estimates relating to road works should contain the details of the place of the proposed work, name of the street or number, *etc.* It was seen in Audit in test-checked divisions that estimates costing ₹47.92 crore did not contain any such details for identification of works. The JCs and the CEs who accorded administrative approvals and technical sanctions, respectively, also did not question such vague preparation of estimates by the EEs. It was also observed in 114 cases that the details of measurements and drawings were not made a part of the detailed estimates, resulting in arbitrary adoption of quantities in the estimates. In absence of the details, Audit could not assess whether the works proposed were need-based.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that action had been taken to avoid such mistakes and a check-list had been issued to incorporate vital details which were necessary for an estimate.

(e) According to IRC guidelines, in order to arrive at the thickness of pavement layers, Benkelman Beam Deflection (BBD) technique and traffic studies have to be conducted and report to be drawn before the estimates are prepared. The details of the existing condition of the road, age of the road, CBR<sup>56</sup> value, status of the base/sub-base, longitudinal and cross-sections along with location map, *etc.*, were to be recorded/enclosed with the estimate or report accompanying the estimate. However, it was seen in Audit that in all test-checked road works, except in a few cases of Hegganahalli division, the BBD tests and traffic studies were not conducted. The CBR value, longitudinal/cross-sections along with location maps have not been obtained before construction of the road in any of the test-checked cases in spite of the guidelines and instructions from the Commissioner (March 2008 and July 2009) to carry out the required tests before embarking on construction of new roads or strengthening of existing roads. Further, photographs showing the condition of the roads before the commencement of work were not available on record in most of the cases test-checked. The CEs who approved these estimates also failed to ensure compliance with these requirements before according technical sanction. Strangely, the Commissioner also approved these works disregarding his own instructions. In the absence of these studies and tests, Audit could not verify the correctness of the estimates.

It was seen in Audit that in six cases of Hegganahalli division where BBD

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<sup>56</sup> California Bearing Ratio

tests were conducted, the results of the tests were received (June-July 2009) after the tenders for the same were invited during February 2009. There were no letters issued by the division to conduct such tests and no payments have been made towards these tests by the division. When the works were already tendered, there was no point in conducting the BBD tests. Evidently, these tests were conducted only to match the estimates prepared and not vice-versa.

The State Government replied (May 2012) that strict guidelines would be issued and check conducted before approval.

(f) The Commissioner had instructed (November 2009) that all drain works should include a mouth-covering gate so that this would enable unhindered flow of waste water. However, it was seen in Audit in Kengeri division that mouth-covering gates were not provided in 14 works costing ₹1.88 crore which were approved after the instructions. As a result, most of the road works necessitated desilting of drains as discussed in *paragraph 4.1.10.2 (iv)*.

#### **4.1.8.2 Irregular recasting of estimates**

As per the codal provisions, the estimates have to be prepared taking into account the current Schedule of Rates (SR) available. After the receipt of tenders, the rates quoted by the contractors have to be recast with reference to the current SR and, thereafter, tender premium or discount should be worked out. A test-check of files relating to 14 works revealed that the estimates were approved by the CEs during June-July 2009 adopting the SR of 2008-09 when the SR of 2009-10 had already come into force (June 2009). It was seen in Audit that the divisions did not recast the rates as per the current SR of 2009-10. As a result, the cost of 14 estimates which should have been ₹6.07 crore at the current SR was estimated at ₹6.91 crore. After tendering, these works were entrusted to the contractors for a total amount of ₹7.55 crore (17 to 34 per cent over the amounts put to tender). Evidently, the CEs did not check the estimates submitted by the divisions and approved the estimates/tenders without recasting these to the current SR, resulting in irregular approval which was beyond the powers of JC and also the Commissioner<sup>57</sup>. This resulted in award of contracts at very high rates *vis-à-vis* the estimates.

It was also seen in Audit in two cases<sup>58</sup> in RR Nagar division that the EE of the division revised the rates of bituminous items to those prevailing at a later date (01 October 2009) and not on the date of opening of tenders (05 September 2009). This resulted in excess payment of ₹12.68 lakh, besides undue favour to the contractors.

#### **4.1.8.3 Non-indication of lead-off<sup>59</sup> in the estimates**

In all the drain works, which were part of the road works, the lead-off of water or sewage to the primary/secondary drains was to be appended to the

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<sup>57</sup> Approval of tenders up to eight per cent/8-15 per cent were within the powers of JC/Commissioner, respectively

<sup>58</sup> (1) Asphaltting of roads from Sharada School to Lavakusha Nagar, Gaddebayalu via Gnanabharathi School, (2) Metalling and asphaltting of roads from Rajiv Gandhi Circle to Rajiv Gandhi Public School and cross roads

<sup>59</sup> Lead off refers to the flow of drain/storm water from the tertiary drains to the primary/secondary drains

estimates. The AE/AEE was also to certify that the tertiary drains, where lead off was proposed, were functioning properly. However, it was seen that such certificates were neither appended to the estimates nor was the required lead off to the secondary or primary drains shown by way of a map. In the absence of a proper lead off and certificate from AE/AEE, Audit could not assess whether the construction of drains served the desired purpose.

The State Government replied (May 2012) that instructions would be issued in this regard to all the CEs.

#### **4.1.8.4 Irregular adoption of lead charges**

(a) Whenever lead charges are provided in the estimates, it is mandatory that the nearest place of Hot Mix Plant (HMP) and Ready Mix Concrete (RMC) plant is indicated, the distance to the work spot is mentioned and rate analysis worked out. Lead charges for distances beyond one kilometre (km) can be paid separately but should not be made without a lead map. It was seen in Audit in Dasarahalli zone that in 107 estimates for concrete and asphaltting road works, leads of 10 kms to 15 kms were provided and an expenditure of ₹1.33 crore was incurred without indicating the place of the HMP and RMC and also without enclosing lead maps to the estimates. As a result, the reasonability of expenditure on lead charges could not be assessed by Audit.

(b) Further, in the SR of the year 2008-09 onwards, the lead charges for disposal of debris, excavated items, etc., for a distance up to 15 kms are to be included in the estimates. However, it was seen in Audit that in 236 cases of test-checked divisions, payment of ₹2.41 crore was made during 2008-10 towards lead charges up to 15 kms, without indicating the places of dumping yard and the necessary lead maps. As a result, Audit could not ensure the veracity of payments made towards lead charges.

The State Government replied (May 2012) that for asphaltting works and for disposal of excavated stuff, lead charges of 10 to 15 kms has been paid as there was no HMP and notified dumping yard within 15 kms lead. The reply is not tenable as the estimate should necessarily indicate the nearest place of HMP and dumping yard, besides enclosing the lead map.

#### **4.1.8.5 Inadequate scrutiny of estimates**

As per codal provisions, trial pits should invariably be dug at the site of work and nature of soil such as ordinary soil, hard soil, hard rock, soft rock, etc., ascertained before preparing the estimates for work. It was seen in Audit that such an exercise was not done in any of the cases and no certificates were available on record. In the absence of such tests, the CE, while approving the estimates, should have adopted excavation only in ordinary soil. The total expenditure on excavation of soils other than ordinary soil worked out to ₹1.57 crore in 62 cases. The measurements recorded also indicated excavation for soft rock, hard rock or hard soil and payments were made accordingly. In the absence of trial pits as per the codal provisions, it is not clear as to how the estimates were prepared and the authenticity of the recorded measurements accepted.

The State Government replied (May 2012) that CID has taken the records for enquiry and reply would be furnished on receipt of records.

#### **4.1.8.6 Preparation of vague estimates**

Out of 10 test-checked pothole filling works, in eight cases involving an expenditure of ₹49.10 lakh taken up by Dasarahalli, Pulakeshinagar, Sarvagnanagar and Shanthinagar divisions, it was seen in Audit that there were no pre-measurements in any of the cases. Further, a scrutiny of estimates revealed that in all the cases the place/cross/name of the roads and number of potholes have not been indicated. Only a mention of the ward was given which was insufficient to arrive at the exact quantum of pothole filling to be undertaken. Evidently, the estimates were prepared and works were executed on *ad hoc* basis.

The State Government replied (May 2012) that a check list has been issued to incorporate all vital details which were necessary for an estimate.

#### **4.1.9 Tendering process**

Audit observed the following discrepancies/irregularities in tendering process:

##### **4.1.9.1 Non-maintenance of tender form register**

**Tendering system was vitiated due to irregularities in the tendering process**

All the divisions of BBMP were required to maintain a register for sale of tender forms indicating the total number of forms sold to the contractors, amount received, *etc.* It was seen in Audit that none of the divisions had maintained the register nor issued receipts for having sold tender forms. Hence, Audit could not ascertain the total number of tender forms sold and the amount realised and remitted to the bank account. It was seen in Audit that a sum of ₹0.86 lakh received towards sale of tender forms in Dasarahalli division was not traced to the bank pass sheets.

The State Government replied (May 2012) that the tender form registers were being maintained now. As regards RR Nagar division, it was stated that the records were seized by CID and replies would be furnished on receipt of the records.

##### **4.1.9.2 Tenders without sanction**

(a) KPWD codal provisions stipulate that no tender shall be invited before obtaining administrative approval and technical sanction. Contrary to the provision, tenders in 163 test-checked cases (27 per cent) were invited by EEs of the test-checked divisions before obtaining technical sanction and administrative approval from competent authorities. Evidently, tenders were invited without ensuring availability of funds and technical scrutiny.

The State Government replied (May 2012) that in a few cases tenders were invited before according administrative approval and technical sanctions.

(b) It was seen in Audit that the technical sanctions for the estimates in seven works in three divisions<sup>60</sup> during 2009-10 were approved after opening of tenders.

##### **4.1.9.3 Incomplete NITs**

The KTPP Act stipulates that the NIT should necessarily include the name of the work, estimated cost put to tender, period of completion, time and date of

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<sup>60</sup> Hegganahalli, Sarvagnanagar and Shanthinagar

receipt and opening of tenders and other relevant conditions. However, it was seen in Audit that this information was not available in 15 NITs issued during 2008-10 in the test-checked divisions. The NITs contained only the total number of works being tendered without even indicating the nature of works.

The State Government replied (May 2012) that necessary instructions would be issued to all the CEs to check and avoid these lapses in future.

#### **4.1.9.4 Non-publication of NITs**

All NITs of the divisions are to be forwarded to the Public Relations Officer (PRO) for publication in two widely circulated newspapers. Audit observed that in respect of 63 cases, the NITs were published in a single newspaper.

It was seen in Audit that one NIT comprising 29 works costing ₹9.86 crore pertaining to Hegganahalli division was neither published in newspapers nor forwarded to the PRO for publication. The PRO stated (October 2011) that no NITs pertaining to the division were published by him for works tendered during 2008-09. Hence, Audit could not assess the veracity of the tenders received for these works in the division.

The State Government replied (May 2012) that instructions in KTPP Act would be strictly adhered to.

#### **4.1.9.5 Restricted participation in tenders**

(a) The State Government amended (September 2003) the procedure for sale of tender documents as per KTPP Act and provided for issue of tender documents throughout the period of tender till the notified date of closure for issue of tender forms. However, it was seen in Audit in test-checked divisions that tender forms for works ranging from ₹20 lakh to ₹49.99 lakh were made available for sale for a short duration and not till the last date of receipt of sealed tenders. This not only contravened the provisions of the KTPP Act but also restricted the participation of tenderers.

The State Government accepted (May 2012) that there were lapses during manual tendering process and the procedure of issuing tender forms for the entire period was being followed now.

(b) The KTPP Act prescribes that the Tender Inviting Authority should allow a minimum time of thirty days between the date of publication of NIT and the last date for submission of tenders where the value of the tender is below ₹ two crore. In a majority of the cases, the amount put to tender was less than ₹50 lakh and the test-checked divisions invited short term item-rate tenders and the time allowed for submission of tender forms in these cases ranged from 7 to 25 days. This limited the participation of tenderers, ultimately leading to non-receipt of competitive bids.

The State Government stated (May 2012) that as there were only seven months left in the financial year, short term tenders were called for. The reply is not tenable as seven months were sufficient for inviting tenders as per the procedure prescribed in the KTPP Act and completion of work before monsoon.

#### **4.1.9.6 Non-availability of contractors' details**

(a) The Accounts Superintendent (AS) of the division should necessarily

ensure that the tender forms are issued only to those contractors who satisfy the eligibility criteria as per the terms and conditions of NITs published. However, in the test-checked divisions, the AS failed to even keep a record of the persons who requested for tender forms and there were no copies of contractors' certificates. In the absence of this, Audit could not ascertain whether the works were entrusted only to eligible contractors.

The State Government replied (May 2012) that necessary instructions would be issued to concerned EEs in this regard.

**(b)** The AS of the division was responsible for maintaining of a tender-opening register meant for watching tenders received, the rates quoted by tenderers, Earnest Money Deposit (EMD) amount and its date, eligibility of contractor, *etc.* The maintenance of the register was to be watched by the EE of the division. However, it was seen in Audit that the tender-opening registers were not maintained in five test-checked divisions<sup>61</sup> indicating the failure of the EE/AS to properly scrutinise and monitor the tender procedure.

#### **4.1.9.7 Vitiating tender sanctity**

**(a)** In order to give equal opportunity to all the bidders and to maintain the sanctity of the tendering system, any change in the tender terms and conditions, specifications and tender-opening date, *etc.* is to be notified to all the tenderers well in advance. It was seen in Audit that the tenders were postponed in test-checked cases, even up to 11 times, quoting technical reasons. It was seen in Audit that the postponements were due to delay in preparation of estimates and technical approvals before inviting tenders, as discussed in **paragraph 4.1.9.2 (a)**.

**(b)** The postponement of the last date of receipt of tenders was not published by the EEs of the test-checked divisions in any of the newspapers for the information of the tenderers except Kengeri division. In Kengeri division, the postponement in five cases was published in newspapers after the original last date for receipt of tenders. Failure to publish the postponement of tenders in the newspapers or delayed publication restricted competitiveness and vitiated the tender sanctity.

The State Government replied (May 2012) that instructions would be issued once again to the concerned to take necessary action.

#### **4.1.9.8 Subversion of the spirit of competition**

As per the guidelines issued (December 2002) by the State Government, fresh tenders are to be invited when less than three tenders are received for a work. However, it was seen in Audit of 206 tendered test-checked (35 *per cent*) works that only two contractors participated for each work and the works were awarded and not rejected. Thus, possibility of bid rotation between the two contractors, subverting the spirit of competition, could not be ruled out.

The State Government replied (May 2012) that in future tenders would be rejected when there were less than three bidders.

It was also seen in Audit that in nine cases of test-checked zones, single tenders were accepted for works costing ₹2.27 crore, which evidently pointed

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<sup>61</sup> Dasarahalli, Hegganahalli, Pulakeshinagar, Sarvagnanagar and Shanthinagar

to favours extended to selected contractors.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

#### **4.1.9.9 Non-ensuring of contractors' eligibility**

The State Government's instructions (October 2008), read with NIT, specified certain conditions for participation in the tender above ₹50 lakh, such as satisfactory completion of at least one work to the extent of 50 *per cent* of the tendered cost for works costing up to ₹ one crore; the contractor owning at least 50 *per cent* of the equipment required for the work, *etc.* Scrutiny of 18 technical evaluations for works costing ₹50 lakh to ₹2.72 crore revealed that in 16 cases the details of execution of works to the extent prescribed were not obtained and in 14 cases the details of equipment owned by the contractors were not insisted upon. It was evident from the above cases that the tender evaluation was not done as prescribed and works were entrusted to agencies without ensuring the eligibility criteria for executing such works.

The State Government replied (May 2012) that action would be initiated against the officers concerned for such lapses.

#### **4.1.9.10 Rigging of tenders**

In two cover tendering system applicable to works above ₹50 lakh, the financial bid is to be opened only in respect of those contractors who qualify after technical evaluation. However, in five test-checked cases in RR Nagar division for works costing ₹ one crore each, even though the technical bid evaluation statements were blank, financial bids were opened and contracts were awarded during 2009-10. In these cases, while there were only two bids as per the technical evaluation statements, there were three financial bids for financial evaluation. Evidently, the tenders were rigged to suit the selection of the contractor.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

#### **4.1.9.11 Irregularities in EMD**

KPWD codal provision stipulates that no tenders for the execution of work of any description should be received by the EE unless accompanied by the prescribed percentage of EMD. The EE, AS and the Accounts Clerk were responsible for watching the requirements, for accounting and refund of EMD after completion of work. Scrutiny of collection, accounting and refund of EMD revealed the following irregularities:

- Against the EMD of two *per cent* of the estimated cost of work (for works costing ₹ twenty lakh to ₹ one crore) to be obtained from the contractors as per the State Government instructions (October 2008), it was observed that only one *per cent* of the estimated cost was obtained as EMD in the test-checked divisions, thereby extending undue benefits to the contractors.
- In RR Nagar division, an amount of ₹35.57 lakh received by way of Demand Drafts (DD)/bankers cheque during 2008-11 towards EMD was neither taken to cash book nor remitted to bank account. No receipts were issued to the contractors. Even though the entries for having received the

amount were made in the EMD register, the DD numbers mentioned there-against pertained to the EMDs furnished for tendered works of earlier years. Copies of the DDs were not made available to Audit for verification.

- In 34 test-checked cases of four divisions<sup>62</sup>, the dates of DDs were after the last dates of opening of tenders. Evidently, the tenders were finalised and works were entrusted without following the provisions.
- The amounts received towards the EMD are to be repaid only on completion of the defect liability period and on request made by the contractors. Based on the instructions (December 2008) of the Commissioner, the EEs of five divisions<sup>63</sup> transferred ₹10.59 crore to main account of BBMP. Drawal of deposit amount for discharging other liabilities of BBMP is fraught with the risk of non-repayment of deposits when sought by the contractors.

Due to the above stated irregularities, the tenders received were not substantially responsive<sup>64</sup> and were to be rejected. Despite the above irregularities, the tenders were processed and contracts were also awarded.

The State Government replied (May 2012) that strict instructions would be issued to the divisions to adhere to the procedure.

#### **4.1.9.12 Avoidance of e-procurement**

**(a)** In a meeting on e-procurement (April 2008), the CE of the Public Works Department stated that a saving of 8.85 *per cent* was achieved on the estimated amount through e-procurement system as the Department obtained competitive bids and the process was transparent and fair. The State Government also issued an order (April 2009) that all works costing ₹50 lakh and above (revised to ₹10 lakh and above during December 2009) should be tendered only through the e-procurement system for better competitive bids. However, in the test-checked divisions of BBMP, 75 *per cent* of the works were split during 2009-10 into packages of less than ₹50 lakh/₹10 lakh to avoid e-procurement.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that instructions had been issued to the concerned to adhere to the prescribed codal procedure and follow the KTPP Act.

**(b)** The tender for asphaltting of 35 bad roads of Lingarajapuram and KSFC layout costing ₹81 lakh was invited during February 2009. However, the estimate was approved by the CE in January 2010. Later, the EE of Sarvagnanagar division prepared another estimate for asphaltting of 28 roads costing less than ₹50 lakh, deleting seven road works, which was also approved (January 2010) by the CE without indicating any reasons. Tenders were evaluated on the basis of original NIT issued during February 2009. Surprisingly, the EMD was obtained (January 2010) for the revised estimated amount. This clearly indicated that the CE/SE/EE tailored the estimate to avoid e-procurement and restrict competition and the revision of estimates was also within the knowledge of the tenderers.

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<sup>62</sup> Dasarahalli, Hegganahalli, RR Nagar and Sarvagnanagar

<sup>63</sup> Dasarahalli, Hegganahalli, Pulakeshinagar, Sarvagnanagar and Shanthinagar

<sup>64</sup> Tenders considered unfit for further processing due to violations of tender conditions



(c) The instructions of the State Government for maintenance and repair works stipulated that works of emergency nature only shall be entrusted on piece-work system and not more than two works shall be entrusted to the same agency at a time. It was observed that in Shanthinagar division, the EE irregularly split (February-March 2011) the desilting/pothole filling works costing ₹45 lakh to 25 works of less than ₹ two lakh each in order to avoid obtaining sanction from the CE and also inviting tenders. All these works were entrusted on piece-work basis to a single contractor within a span of 20 days, evidently favouring the contractor.

#### **4.1.9.13 Routine price negotiations**

The provisions of KTPP Act discouraged conducting negotiations even with the lowest tenderer in a routine manner as it defeated the very purpose and ethics of competitive tendering. This was to reduce the possibility of tenderers jacking up the prices in the original tender and reducing the prices marginally during negotiation. The first choice for the tender inviting authority was to reject the tenders and invite fresh tenders. Audit found that instead of rejecting the tenders, the EEs of the test-checked divisions invariably negotiated with the lowest tenderers who had quoted higher rates, even up to 229 *per cent* of the estimated rates. After negotiations, the contractors reduced their quoted rates to bring them within the powers of JC/Commissioner. With such a method, the possibility of BBMP paying more than the real cost of the work could not be ruled out.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that negotiations were conducted only when the tenderer had quoted abnormal rates and for urgent/emergency works. The reply is not tenable as conducting negotiations even with the lowest tenderer in a routine manner is in contravention of the KTPP Act.

#### **4.1.9.14 Non-collection of performance security**

(a) According to the amendment (October 2008) to the standard tender document, the successful tenderer shall deliver to the employer a performance security for an amount equivalent to five *per cent* of the contract price plus additional security for unbalanced tenders<sup>65</sup> within 20 days of the receipt of the letter of acceptance. It was observed that none of the test-checked divisions had collected the performance security for the works tendered during the period of review.

(b) In Kengeri division, the EE issued (2008-10) work orders stating that performance security would be deducted from the final bills, which was in contravention of the tender clause.

(c) In Hegganahalli division, the JC waived (2009-10) collection of performance security on the basis of request of the contractor. The JC did not have powers to override the orders of the State Government. The possibility of recovery in the event of any defective work noticed after the completion of work and settlement of bills of the contractors is, therefore, remote.

<sup>65</sup> Rates quoted for items below the estimated rates by the tenderers

#### **4.1.9.15 Irregular entrustment of work**

As per the KTPP Act, no work costing more than ₹one lakh should be entrusted directly without calling for tenders. The State Government exempted (September 2007) the clause from KTPP Act for direct entrustment of work for construction of drains/culverts and lead off on emergency during August 2007 to February 2008. However, the EE of Shanthinagar division proposed the works only during February 2008 at Ejipura as an emergency measure so as to avoid flooding in the rainy season. The division then split the work and entrusted the work directly to four contractors at a cost of ₹1.20 crore during March 2008. Scrutiny of files revealed that the EE of the division had prepared estimates for road works instead of drains/culverts and also misled the State Government in seeking exemption as emergency works.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that there was slight deviation in the work which was got approved by CE (E) and JC (East). The reply is not tenable as the State Government had permitted direct entrustment of emergency works relating to construction of drains/culverts only and not for road works.

#### **4.1.9.16 Manipulation of agreements**

The work orders for the commencement of the works have to be issued only after an agreement is entered into by the contractor with the division. However, in a test-check of records in Dasarahalli, Hegganahalli and RR Nagar divisions, it was observed in 12 cases that the work orders were issued before entering into agreements with the contractors. This was evident from the dates of purchase of stamp papers by the contractor, which were much later than the date on which the agreements were entered into. Action of the EEs of the divisions was, therefore, highly irregular.

The State Government accepted (May 2012) that it was a case of gross violation of procedure and lapses on the part of the officers who executed the agreement. It was also stated that action would be initiated against the erring officers.

### **4.1.10 Execution of works**

#### **4.1.10.1 Irregular execution of works**

##### **(i) Execution of works in places other than the approved ones**

The estimates are to be prepared on the basis of a survey indicating the requirements of work and the place of execution. Under no circumstances can the place of work be changed unless approved by the competent authority after complete justification.

It was seen in audit that in 35 cases in Bangalore East and Dasarahalli zones roads including drain works costing ₹21.65 crore, were executed in places other than the places indicated in the approved estimates without the approval of the competent authorities. The AEE and EE who were responsible for proper execution also check-measured the works without taking into consideration the places proposed in the estimates. The AS, who was to audit the bills before payment with reference to the estimates, Schedule 'B'<sup>66</sup>,

**Works were not executed as per the prescribed norms leading to substandard, wasteful, irregular works, etc.**

<sup>66</sup> Comprising items of works, quantity to be executed and rate finally approved

agreements, etc., also failed to notice the changes in execution. This is a major failure in control mechanism and points to gross negligence in their duties by various officers. Also, the possibility of misappropriation of the funds without execution of works could not be ruled out.

The State Government replied (May 2012) that execution of works at the stipulated and specified places would be ensured.

***(ii) Works approved and executed differed***

The assigned work codes are approved by the Commissioner based on the works proposed. The CEs of the zones are responsible for approval of the estimates and accordingly monitor execution of the works. It was seen in Audit of the records in RR Nagar and Dasarahalli zones that seven works pertaining to construction, desilting of drains and removal of debris costing ₹2.63 crore were changed to road works after the issue of work codes and approval by the Commissioner. Payments were also made accordingly. There was no relation to the work proposed and the components of work estimated and executed. Evidently, the JCs and CEs of the zones did not ensure that the works proposed and executed were the same for which the work codes were assigned and approved by the Commissioner. Thus, there was no sanctity in assignment of work codes, and the failure of control mechanism and negligence of duties is again highlighted.

The State Government replied (May 2012) that action would be taken against the erring officers. In respect of RR Nagar division it was stated that CID had taken the records for enquiry and reply would be furnished on receipt of records.

***(iii) Completion of work even before finalisation of tenders***

As per the codal provisions, no work should be commenced before finalisation of tenders and issue of work orders. However, quality reports furnished by the third party consultants revealed that seven road including drain works costing ₹2.95 crore in RR Nagar division were completed even before finalisation of tenders. In 10 cases in five divisions<sup>67</sup>, the works were commenced/completed even before the issue of work order. Further, the check measurements of these works in the Measurement Books (MBs) did not indicate the dates of execution. As a result, the tendering process was not only vitiated but also the completion of works even before finalisation of tender points to possibility of frauds.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

***(iv) Execution of works by a contractor other than the one entrusted***

As per the tender conditions, no sub-letting of works is permissible after the award of works. It was seen in Audit of RR Nagar division that four works costing ₹1.98 crore were entrusted (October-December 2009) to three agencies for execution. Subsequently, the executing agencies were changed, based on the request of the first agencies pleading inability to execute the work. The EE, instead of cancelling the contracts by forfeiting the EMDs and inviting

<sup>67</sup> Dasarahalli, Pulakeshinagar, RR Nagar, Sarvagnanagar and Shanthinagar

fresh tenders, resorted to entrusting the works to other agencies as desired by the first agencies. Entrustment of work to contractors bypassing all procedural requirements not only pointed to the whimsical approach of the EE/CE but also nepotism and collusion in award of works.

The State Government replied (May 2012) that due action would be taken against the erring officers, if found guilty. It was also stated that CID had taken the records for enquiry.

***(v) Irregular payment of bills***

In two test-checked cases in Hegganahalli division, the AEE who check measured (March 2010 and September 2010) the works, certified that the works were satisfactorily executed and recorded the same in the MB. Accordingly, payment of ₹1.07 crore was made to the contractor. Subsequently, the AEE informed the EE (02 May 2011) to withhold further payments, as some works relating to construction of concrete road on left side of NG Halli were yet to be completed and in respect of the other work relating to construction of secondary drain and foot path, the MB was seized by Lokayukta in view of complaints by the public regarding the inferior quality of works executed. It is, therefore, evident that the AEE had made incorrect entries in the MBs, which resulted in payment of ₹1.07 crore to the contractor before completion of works.

***(vi) Execution of asphaltting works during rainy season***

As per IRC guidelines, Bituminous macadam/Bituminous concrete shall not be laid during rainy season (June-November) or when the sub-grade or base course is damp or wet. When the road work is executed in rainy season, there is every chance of water seeping into the road and the road developing cracks immediately. The Commissioner had also issued (May 2009) orders that no asphaltting works should be carried out during the rainy season. However, it was seen in Audit that 42 road works were executed at a cost of ₹16.49 crore during the rainy season in the test-checked divisions. The longevity of such asphaltting is doubtful and there is every possibility that the entire expenditure would be rendered wasteful.

The State Government replied (May 2012) that action would be initiated against the erring officers.

***(vii) Preparation of estimates after completion of road works***

The EEs of Kengeri and Hegganahalli divisions proposed two works costing ₹98.34 lakh although these works were already executed by Bommanahalli division of BBMP and Bangalore Development Authority, respectively. On being asked by the elected representative/Technical Vigilance Commission Cell (TVCC) to cancel these works, in complete disobedience of the orders the divisions took up two other works not in the POW and without the approval of the Commissioner. This showed the complete disregard by the concerned EEs for orders and rules and the chances of dishonesty and misuse of the money could not be ruled out.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that CID had taken the records for enquiry.

#### 4.1.10.2 Fraudulent execution of works

##### (i) Manipulation of estimates and payment of bills

No executive authority can change the items of approved estimates unless any deviation has been duly got approved from the competent authority after justifying such changes. It was seen in Audit of RR Nagar division that in as many as 42 estimates costing ₹19.83 crore, the first few pages of the estimates were changed retaining the last page of the estimates where the competent authority had accorded the technical sanctions and administrative approvals. The names of the works were retained in the changed papers. The items of work proposed did not have any relation to the quantities and items estimated. In the last page, the serial number of items, page numbers and quantity of items were changed to match the total amount of the original work. A few instances are detailed in **Table 4.4** below:

**Table 4.4: Details of items of work proposed and estimated**

Name of the work	Estimated cost	Audit findings
Providing asphaltting to road (balance length) joining to service road of Outer Ring Road from Dobhighat and cross roads near service roads	₹47.80 lakh	Change in number of items and not in chronological order
Construction of secondary drain at Jawaregowda nagar (Chainage 0 to 250 metres)	₹49.98 lakh	Construction of SWD items changed to construction of road works
Construction of secondary drain at Marappa layout (Chainage 250 to 500 metres)	₹49.98 lakh	Length of the drain has been reduced to 115 metres

Source: Estimates for works

Even though such major manipulations were made in the approved estimates, the CE, who was to check the Draft Tender Schedule (DTS) before inviting tenders, also failed to notice such large scale tampering and approved the DTS without cross checking the contents of the estimates.

The manipulations were also ignored by the engineers at all levels who supervised the work, recorded the check measurements and made the payments of ₹21.93 crore. The AS and the Audit Clerks who audited the bills also failed to report such tampering with the estimates.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that CID had taken the records for enquiry.

##### (ii) Fraudulent payments

**As per the tender document, all concrete items shall be protected against injury until final acceptance, and concrete items shall be kept continuously moist for a period of 28 days. It was seen in Audit of RR Nagar division that the tenders for seven Reinforced Cement Concrete (RCC) drain works were invited (June 2009) indicating the period of completion of work within 90 days including rainy season. On cross-verifying (October 2011) with the PRO of BBMP, who was responsible for publishing all the NITs in various newspapers, it was seen that such tenders were neither published in any newspapers nor was any tender notification received from the division for publication.**

Test-check of records revealed that the works were completed in all respects within six days from the date of issue of work orders (08 June 2009) and after incurring an expenditure of ₹2.23 crore. Since

RCC requires a minimum curing period of 28 days, the chances that the works completed within this short duration were fictitious and the payments shown as made to contractors were fraudulent cannot be ruled out. Audit scrutiny further revealed that the DDs towards EMD were received after the date of completion of work (15 June-19 June 2009). This indicated that tender evaluations were carried out after the completion of works. The technical sanctions were also accorded by the CE without date and the signature of AEE/EE of the division who prepared the estimates. Evidently, the entire tendering process was vitiated and the payments made were doubtful. A detailed investigation needs to be carried out.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

**(iii) Siphoning off of maintenance charges**

The EE of Sarvagnanagar division entered into six contracts (May to November 2009) for road works and maintenance of these roads for 3 to 12 months, stipulating the number of mandays to be used for the period of maintenance. However, it was seen in Audit that in these cases, the EE paid the entire maintenance amount of ₹25.19 lakh within 12 to 130 days of issue of work orders. The check measurements for the total mandays were also recorded before the completion of the proposed maintenance period. Evidently, the engineers had falsified the measurements to help the contractors in siphoning off the amounts without completion of works.

The State Government accepted (May 2012) the observation and stated that such lapses would be avoided in future.

**(iv) Execution of emergency works**

The Commissioner, in order to avoid floods in the city and combat natural calamity, had issued (August 2009) a circular permitting emergency works such as desilting of the drains, repair of roads *etc.*, to the extent of ₹ one lakh to be taken up in each ward and ordered release of ₹1.98 crore for 198 wards. The conditions stipulated that the amount was to be drawn on abstract contingent bills and non-payable detailed contingent bills were to be submitted after completion. Details of expenditure incurred during September 2009-October 2010 on desilting works are as shown in **Table 4.5** below:

**Table 4.5: Ward-wise details of works**

Name of the zone	Number of wards	Amount (₹ in crore)
Bangalore East	44	14.92
Dasarahalli	08	1.38
RR Nagar	21	3.17

Source: Payment bills for works

Audit observed the following irregularities:

- (a) Administrative approval was obtained after the works were carried out.
- (b) Under each ward, ₹ one lakh worth of work could be taken up during natural calamity. However, the zonal officers/CEs treated this as ₹ one lakh

each time, and for each work in each road of the ward and spent crore of rupees as indicated in the table above.

(c) The work involved desilting of roadside drain and filling of potholes. It was seen in Audit that there was no recording of check measurement for any of these works. The desilting of roadside drain constituted 90 *per cent* of the total claims made in each zone for which even a pre-measurement was not available.

(d) In majority of the cases test-checked, the estimates for the piece-works were not prepared at all. It is not known as to how the works were taken up without estimates.

(e) Wherever the estimates were prepared, it was in terms of number of tractors and men required for work, rather than the quantity of work as per SR rate, with the result that Audit could not assess the quantity of silt removed and check whether the relevant SR rates were adopted. The technical approvals were, therefore, highly irregular and contravened all the existing rules and orders.

(f) Works aggregating more than ₹10 lakh were split up in such a way that the total value of one desilting work did not exceed ₹ one lakh in each case and were entrusted to contractors without adhering to any procedure for selection.

(g) The item of pothole filling in the SR under the maintenance of roads including excavation, filling with metals, cleaning, bituminous concrete and levelling was at ₹297 per sqm. However, in total contravention of the rules, bills for pothole filling were paid by taking excavation, metal filling, cleaning, bituminous concrete and levelling separately instead of the item in SR. Moreover, the quantity of pothole filling was not mentioned in the bills. This was seen in 32 cases where ₹31.21 lakh was paid for pothole filling.

(h) The bills submitted by the contractors were just a replica of the estimate. Even the font size, theme font, the spacing and mistakes in the estimates were carried forward to the final bill submitted in the letter head of the contractor. No separate bills were submitted by the contractors.

(i) In contravention of the instructions, the ACF and AS of the zones drew the amount on detailed contingent bills after execution of works, indicating that these were not emergency works.

(j) The dates were not indicated in any of the work bills submitted by the contractor.

(k) VAT was not recovered from the contractors in any of the bills, thereby affording undue benefits to the contractors. Penal provisions were not invoked against the officials responsible for non-recovery, causing loss to the State Government.

It is evident that all the rules regarding drawal of funds, utilisation, *etc.*, were flouted in respect of the emergency works. The works were evidently split to avoid obtaining sanctions from higher authorities and were executed through piece-work contractors without inviting tenders, thereby foregoing the benefits of competitive rates. The works were also not subjected to quality control checks and defect liability clauses, unlike tendered contracts.

**(v) Suspected execution of desilting of drains**

The desilting of storm water drains in ST bed area was taken up by Shanthinagar division. The estimates for the work were prepared in the year 2004 and were tendered in 2008-09 for which no tenders were received. Thereafter, the work was taken up departmentally during 2008-09 by the engineers of the division. Scrutiny revealed that an amount of ₹9.78 lakh was claimed by the engineers of the division in four bills. However, it was seen in Audit that other than the bills, there were no nominal muster rolls, no measurements for desilted items, no bills for any machineries used, etc. In the absence of the supporting vouchers for the work executed, Audit could not assess the veracity of the expenditure incurred.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that the payment was made to the Head Mazdoor who in turn made payments to the labourers. However, the reply is not tenable as the works were taken up departmentally and the payments had to be made by the department directly to the labourers through nominal muster rolls, which were not found on record.

**4.1.10.3 Doubtful execution of works**

**(i) Repeated execution of a single work**

As per the codal provisions only one estimate is to be prepared for a work. A test check of estimates in RR Nagar division revealed that three estimates costing ₹1.49 crore were prepared for the 'Work of road improvements and asphalt in Papareddyalya main road 1x200 mtrs and 11<sup>th</sup> to 15<sup>th</sup> cross roads - 6x200 mtrs length - and got approved during July 2009 from the CE, RR Nagar zone. All these estimated works were executed by two contractors and payment of ₹1.58 crore was made (July 2010). Even though there were only five cross roads in all the three estimates, it was indicated as six cross roads while calculating the quantities for the components of works. It is not clear as to how the CE could approve different estimates for the same work and same specifications. It is doubtful whether the work was actually executed with the same estimates and specification. Even though the CE/EE was to visit the place and give a certificate to the effect that the works were necessary, such a certificate was not available on record. The entire approval of estimates, tendering and execution of works was, therefore, doubtful.

The State Government replied (May 2012) that action would be initiated against the erring officers.

**(ii) Non-utilisation of plastic in construction of roads**

The use of plastic in asphaltting is widely practised as plastic, when added to hot aggregate, forms a fine coat over the aggregate and such aggregate when mixed with the binder gives higher strength, higher resistance to water and better performance over a period of time. The Commissioner had ordered (December 2007) use of plastic on all road works by mixing eight *per cent* plastic and reducing an equivalent quantity of bitumen from the wearing course. It was seen that in 19 road works taken up during 2009-10 in Dasarahalli and RR Nagar zones, plastic had not been used in asphaltting, though the estimates had provided for it. In 148 other works, the estimates did not envisage use of plastic. Failure to use plastic in road works led to



non-availment of the opportunity of reducing the cost of road and also keeping the environment clean by disposing of the plastic waste.

**(iii) Execution of works contrary to guidelines**

As per the pavement design stipulated in IRC guidelines, the sub-base of gravel/murram has to be the foundation on which the base course such as Water-bound Macadam (WBM) or Wet Mix Macadam (WMM) has to be laid. Test-check of records of EE, Kengeri division revealed that while executing the work of asphaltting Global Village road from Mylasandra main road costing ₹25.76 lakh, granular sub-base has been laid over the WMM. This was also check-measured and recorded in MB. Evidently, the works executed were contrary to the provisions of IRC guidelines and the entire expenditure remained doubtful.

The State Government stated (May 2012) that action would be initiated against the erring officers.

**(iv) Excess payment for thermoplastic painting**

Thermoplastic painting lines are used to have better visibility and long service life over ordinary paints. In two test-checked cases in Dasarahalli division, it was seen in Audit that the length of road estimated did not correlate to the length of thermoplastic painting provided as detailed in **Table 4.6** below:

**Table 4.6: Details of thermoplastic painting**

Name of the work	Road length (in metres)	Length of thermoplastic painting provided (in metres)	Difference in length (in metres)	Excess payment (₹ in lakh)
Improvement of roads at Krishnanagar in Shettyhalli	2,223 (741 mtrs of three lines)	43,755	41,532	29.73
Improvements and asphaltting to cross roads at MHR layout	628 (Single line)	6,085	5,457	5.89

Source: Payment bills

Estimates and payments to the extent of ₹35.62 lakh made by the EE of the division towards thermoplastic painting in excess of the actual road length was, therefore, doubtful.

The State Government replied (May 2012) that provision for thermoplastic painting was made in a separate estimate. The reply is not acceptable as these estimates included the component of thermoplastic painting in excess of the actual road length.

**4.1.10.4 Wasteful execution of works**

(i) In nine cases (2008-10) of Dasarahalli and RR Nagar divisions, gravel sub-base was provided after scarifying the existing asphalted road instead of providing only a tack coat and a wearing course. Providing gravel sub-base on the existing asphalted road would not give the binding effect and would wear out easily, thereby rendering the expenditure of ₹3.38 crore wasteful.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

**(ii)** The WBM course was to be constructed in two compacted layers of 75 mm of grade II and III metal as per IRC norms. However, in 25 cases (2008-10) in Dasarahalli and RR Nagar zones, laying each layer of WBM up to 200 mm thickness of grade II and III metal each was noticed resulting in extra expenditure of ₹1.02 crore. Further, laying of only one layer of metal was also noticed in 11 cases. As a result, the work executed was evidently of substandard quality and prone to premature damage.

**(iii) Negligence in execution**

The pavement thickness of the road depends on the present condition of the road. If it is an earthen road, proper sub-base, base, binder course and wearing course has to be provided. It was noticed in audit that the estimates for two road works in Kengeri division were prepared (2009-10) considering the roads as earthen roads. Scrutiny of photographs provided along with the estimates indicated that roads were WBM roads. However, the estimates included provisions for sub-base, base, binder course and wearing course which were also executed. As the existing roads were WBM roads, Audit is of the view that the provision of WBM again in the estimates was unnecessary and resulted in wasteful expenditure of ₹15.97 lakh.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that CID had taken the records for enquiry and replies would be furnished after receipt of records from CID.

**(iv) Injudicious execution of cable ducts**

In a meeting held during June 2007 under the chairmanship of the Hon'ble Chief Minister, it was decided to construct cable ducts under all important roads. The design for such cable ducts was also finalised wherein HDPE pipes of different dimensions had to be laid alongside the roads to avoid frequent digging of roads. In Kengeri division, two works for construction of cable ducts were executed during 2009-10 incurring an expenditure of ₹56.63 lakh. It was noticed in audit that instead of HDPE pipes, the division constructed cement concrete cable ducts below the drain. Further, the ducts were partially constructed for a length of 972 metres and did not serve the purpose, leading to wasteful expenditure of ₹56.63 lakh.

**4.1.10.5 Excess/extra expenditure on works**

**Arbitrary execution of works**

**(i)** WBM/WMM or any other equivalent granular construction could be provided as a base course as per IRC norms. It was, however, noticed that in nine cases of Dasarahalli and RR Nagar divisions, provision for both the base course of WBM and WMM were made instead of providing either of them, leading to extra expenditure of ₹36 lakh.

**(ii)** As per IRC specifications, a maximum permissible layer of 200 mm of WMM could be provided with suitable type of compacting equipment. Audit observed in 39 cases in Dasarahalli and RR Nagar zones that provision of WMM was made up to 600 mm during 2008-10, thereby resulting in extra expenditure to the extent of ₹1.06 crore. Evidence of usage of proper compacting equipment even up to the permissible depth could also not be furnished to Audit.

Irregular preparation and approval of estimates and execution of works without adhering to specifications, testified the complete disregard of guidelines by the concerned BBMP officials.

The State Government replied (May 2012) that due action would be initiated against the officers who had violated the IRC specifications. It was also stated that the records were taken by CID for enquiry.

***(iii) Non-revision of estimates***

As per the directions (October 2009) of the Commissioner, the estimates were to be re-checked technically by the TVCC of the BBMP after their approval by the CE of the zone. All estimates had to be pre-audited by TVCC before commencement. Audit observed that the EEs of the divisions did not get majority of the works pre-audited.

Wherever pre-audit was undertaken, the TVCC recommended different specifications for road works and reduced the quantities for some items and deleted some items. However, it was noticed that the changes proposed by TVCC in respect of 11 works in Dasarahalli and RR Nagar zones were not incorporated by the EEs in the modified estimates and got approved by the CEs in respect of works costing ₹8.87 crore (2009-10). As a result, the execution of the original components of works was irregular.

The State Government replied (May 2012) that estimates would be prepared and got approved after getting the test results from the quality control authorities. It was also stated that further instructions had been issued to all the CEs to get the technical pre-audit report from the TVCC.

***(iv) Non-deduction of shrinkage***

The State Government had stipulated (March 1966) that in the case of earthen embankments, all measurements/payments should be made subject to deduction of shrinkage in the quantity of embankment actually constructed at the rate of 10 *per cent*. However, in 36 cases of earthen embankments in Dasarahalli and RR Nagar zones, the quantities towards shrinkages were not deducted before allowing payment to the contractors. Non-deduction of shrinkages from the quantity resulted in overpayment of ₹12.29 lakh.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that CID had taken the records for enquiry and replies would be furnished after verifying connected records.

***(v) Excess provision for wearing course***

As per IRC specifications, Semi Dense Bituminous Concrete (SDBC) shall be used as a wearing course of 25 mm thickness and laid as per the specifications and conforming to the lines, grades and cross sections. In eight road works in four test-checked divisions<sup>68</sup>, it was noticed in audit that while calculating the quantity and making payment, the thickness of SDBC provided was up to 40 mm which was irregular. The failure of the divisions to check the calculations resulted in extra payment of ₹51.39 lakh to the contractors.

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<sup>68</sup> Dasarahalli, Hegganahalli, Kengeri and Shanthinagar

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that CID had taken the records for enquiry and replies would be furnished after verifying connected records.

#### **4.1.10.6 Undue benefits to contractors**

##### **(i) Irregular adoption of price adjustment**

**Irregular adoption of price adjustment resulted in additional expenditure of ₹ 18 lakh**

As per the State Government orders issued during November 2008, price adjustment clause was applicable to work contracts whose estimated cost put to tender was ₹50 lakh and above, and the period of completion was more than 12 months. Further, as per the instructions of the State Government (June 2009), while recasting the rates of cement and bitumen for the purpose of price escalation, the permissible tender premium allowable to contractors should not exceed five *per cent*.

Audit observed that price adjustment was provided for works for which the period of execution was less than six months and tender premium was also allowed in excess of five *per cent*, thereby unduly benefitting the contractors. As a result, there was additional expenditure of ₹18 lakh in 11 cases in Dasarahalli and RR Nagar zones.

The State Government replied (May 2012) that CID had taken the records for enquiry and reply would be furnished on receipt of records.

##### **(ii) Arbitrary award of works**

The EE, Hegganahalli division had proposed (March–May 2008) to construct roads along with utility cable ducts in two works<sup>69</sup> at an estimated cost of ₹97 lakh which was approved by the CE. The work included construction of RCC cable duct along the sides of the road for laying cable. Even though only a single tender was received, instead of rejecting the tender, the EE entrusted the works to the single tenderer. After commencement of work, the entire cement work relating to the cable duct was deleted from the estimates by the EE even though he was not authorised to do so. There were no inspection notes by the SE, CE or the Commissioner indicating the reasons for deletion of this item of work. As a result, there were savings of ₹28.57 lakh for duct works and the EE entrusted additional asphaltting works which were taken up at different places without the approval of the competent authority. The arbitrary decision of EE in awarding asphaltting of road works resulted in undue favour to the contractor.

The State Government replied (May 2012) that depending on the site condition RCC cable ducts were deleted and the asphaltting of road works were carried out. The reply is not acceptable as item of work relating to the cable duct was deleted without approval of the CE.

#### **4.1.10.7 Splitting up of works**

As per the codal provisions, no work shall be split up just to bring its sanction within the powers delegated to an officer and the sanction is to be accorded only by the officer competent to accord sanction for the work as a whole. The JC and the CEs of the zones have been delegated powers to sanction works

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<sup>69</sup> construction of cement concrete roads on the left side of Nelagedaranahalli and construction of secondary drain and foot path in ward No. 41

costing upto ₹50 lakh, beyond which these are to be approved by higher authorities<sup>70</sup>. A test check of the records relating to 11 works executed during 2008-10 in three selected zones showed that approval of the higher authorities had not been obtained, though the cost of these works ranged from ₹1.36 crore to ₹13.23 crore. These works had been split up into 340 individual works to bring these within the sanctioning powers of the JC/CE concerned. This was irregular and fraught with the risk of accepting differential rates for the same type of works and consequent additional financial burden on BBMP.

The State Government replied (May 2012) that instructions had been issued to the concerned to adhere to the codal provisions and follow the KTPP Act.

#### **4.1.10.8 Irregular engagement of tractors and labourers**

Seven estimates sanctioned by the CE, Bangalore East during 2009-10 envisaged maintenance of various works by hiring tractors, JCBs and labourers. The works were got executed through tender contractors at a cost of ₹0.84 crore. A scrutiny of records showed the following irregularities:

- In four cases, the administrative approval and technical sanction had been obtained after tendering.
- In three cases, draft tender schedule had not been approved before tendering.
- In three cases, tenders were opened before obtaining the technical approval.
- No pre-measurements were recorded for the removal of silt in the wards.
- In all these cases, the Measurement Books did not indicate the place of work, quantity of silt removed and the mode of disposal of the excavated silt.

In view of these irregularities, the works executed were not susceptible of verification and possibility of fraudulent payments could not be ruled out.

The State Government replied (May 2012) that in future, tender procedures would be followed. It was also stated that CID had taken the records for enquiry and reply would be furnished on receipt of records.

#### **4.1.10.9 Avoidable expenditure due to non-utilisation of excavated earth**

Specification of the Ministry of Road Transport and Highways stipulates that earth is to be obtained from approved sources, with preference given to available earth. The contractors are required to segregate the soil based on suitability. Earth is to be brought from other areas only if the available material is found unsuitable and not conforming to standards after undertaking Quality Control (QC) tests. No reports were furnished to Audit evidencing the use of the available earth in any of the works executed during 2008-10 in test-checked divisions. Instead, a quantity of 0.40 lakh cubic metres earth was

<sup>70</sup> Commissioner (upto ₹ three crore), Works Committee (₹ three to ₹ four crore), Council (₹ four to ₹ five crore) and State Government (above ₹ five crore)

obtained from borrow areas by incurring an expenditure of ₹1.22 crore in 36 works which could have been avoided.

#### **4.1.11 Quality control and monitoring mechanism**

##### **Quality control**

**Quality control mechanism was not effective**

##### **4.1.11.1 Third party inspection**

As per Government Order (February 2005), Third Party Inspection (TPI) was made mandatory and the BBMP issued orders that all works should be inspected by a third party before payment was made to the contractors and the expenditure on this account would be charged to the cost of works.

However, it was noticed in 117 cases in test-checked divisions that the TPI was not conducted at all and payments were made on the basis of one or two reports on the quality of sand and metal aggregates. Further, it was noticed that in almost all the cases, the TPI reports were obtained by the contractors. Though the samples were to be obtained and given to the third party by the concerned engineers of the BBMP, the TPI reports indicated that the sample was given by the contractors and not by the executing agency. The charges for the inspection were to be paid by the BBMP but in none of the cases did the BBMP make any payment to the third party consultants.

In two cases in Dasarahalli and Kengeri division, the items in the estimates and the items inspected as per TPI reports did not match, indicating that the third party was conducting inspections without even ensuring that the correct items were inspected.

From the above, it is evident that TPI was undertaken only for the purpose of getting the bills passed and did not serve the purpose of getting the quality ensured by BBMP before payment.

##### **4.1.11.2 Absence of quality control**

The QC wing of the BBMP had addressed (March 2009) letters to all the EEs that advance information has to be given in writing whenever cement concrete and asphalt of roads was being carried out. This was to ensure that works were executed as per the approved estimates and also to collect samples for testing it in its laboratory. Audit observed in the test-checked divisions that none of the EEs/AEEs/AEs of the executing agencies had informed the QC wing about the work execution, or the date and place of casting cement concrete/asphalt. As a result, there was no quality control on cement concrete/asphalt utilised in road works.

The State Government replied (May 2012) that suitable action would be initiated against the erring officers.

##### **4.1.11.3 Bitumen, cement and steel not tested for quality**

As per the codal provisions, quality of bitumen, cement and steel should be certified either by an independent agency or the manufacturer's certificate for the quality of materials supplied should be obtained. Reference of these test certificates should be kept in the files to facilitate checking by any independent authority. Independent testing of bitumen, cement and steel

should also be done at regular intervals to ensure proper quality. The above procedure was not adapted in a majority of the cases and Audit could not assess whether the materials supplied and used were of standard quality.

The State Government replied (May 2012) that test results of works and materials were mandatory and only after ascertaining the quality, bills of the works are considered for payment.

#### **4.1.12 Monitoring and internal control mechanism**

**Monitoring and internal control mechanism was absent at all levels**

**4.1.12.1** The monitoring and internal control mechanism were weak as discussed below:

Approval of a large number of works over and above the approved works of POW indicated lack of controls in planning.

The controls prescribed for payment of work bills on the basis of assignment of work codes for each work were bypassed by the ACF leading to payments made for doubtful works.

Necessary control registers were not maintained to regulate the tendering process. The sanctity of tendering process was given a go-by due to non-adherence of the prescribed procedure for tendering by the CEs/EEs.

The AEs/AEEs/EEs prepared the estimates vitiating the codal provisions and the CEs, who were to monitor the estimates, sanctioned them without due care, thereby providing undue benefits to the contractors.

The Commissioner who was to monitor the execution of all works in BBMP did not discharge his duties efficiently which was evident from the large number of avoidable and wasteful expenditure, doubtful works, *etc.*

Governmental supervision of the control mechanisms also failed largely.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that it was proposed to constitute a Committee for reevaluating the necessity of works other than POW at different levels. Further, the State Government stated that an independent agency would be engaged to evaluate the performance of divisions/zones to ensure that large investment on work did not go futile.

#### **4.1.12.2 Pre-Audit**

In a circular issued in October 2009, the Commissioner had opined that the works executed were of bad quality and large numbers of complaints were received. In order to curb this and provide quality works, the Commissioner had ordered that all the estimates would have to be pre-audited by the TVCC and the works should commence only after the pre-audit. However, it was seen that a majority of the estimates were not made available to the TVCC for pre-audit. As a result, there were large scale inflated estimates which have been commented upon in the foregoing paragraphs.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that action would be initiated against the officers who had violated the instructions of the Commissioner.

#### **4.1.12.3 Internal Audit**

The objective of Internal Audit Wing (IAW) is to have a deterrent and reforming effect in the direction of prevention of mistakes and to play a corrective role by pointing out mistakes and ensure remedies without loss of time. However, there was no provision in the KMC Act for internal audit in BBMP.

#### **4.1.13 Conclusion**

The performance review on road and drain works in BBMP showed that the planning process was defective without the availability of data base and road history. Approval of large number of works in addition to the POW was intended to benefit the contractors as evidenced by irregularities in assignment of work codes. Operational controls were not exercised by the executives leading to award of contracts after vitiating the tender process and manipulating tenders, tampering of estimates to favour tenderers, execution of doubtful, wasteful, irregular, and avoidable works. While the procedures of quality control and pre-audit were not followed, monitoring and internal control mechanism were absent at all levels.

#### **4.1.14 Recommendations**

- Data base and road history need to be maintained to prioritise works for execution.
- Accountability needs to be fixed on the authorities responsible for vitiating the tendering system.
- Pre-audit should strictly be enforced to curtail manipulations in estimates and execution.
- Accountability mechanism needs to be strengthened to avoid issue of work orders before entering into agreements with the contractors.
- Recovery should be effected from officials responsible for faulty works execution.
- Monitoring at all levels needs to be strengthened.
- An Internal Audit Wing needs to be established in BBMP.

The Special Commissioner (Planning & Finance), BBMP stated (June 2012) that these recommendations would be implemented.



## SECTION 'B' – THEMATIC AUDIT

### 4.2 Non-tax revenue management in the City Corporations and City Municipal Councils

#### 4.2.1 Introduction

The City Corporations (CCs) and the City Municipal Councils (CMCs), as institutions of urban area local self-government play an important role in local economic development. In accordance with the powers conferred upon by Karnataka Municipalities Act, 1964 (KM Act), Karnataka Municipal Corporations Act, 1976 (KMC Act) and notifications issued there under, the Urban Local Bodies (ULBs) are empowered to collect the following Non-Tax Revenue (NTR):

- Rental income from municipal buildings, lease of lands, rent from civic amenities, *etc.*,
- Fees for certificates and extracts, regulation fees, building licence fees, trade licence fee, development charges, user charges for water supply, *etc.*, and
- Sale of forms, publications, stores and scrap and hire charges for vehicles and equipment, *etc.*

Rental income, water charges and trade licence fees are collected on the basis of demands raised by the ULBs. The demand, collection and arrears of revenue are watched through registers maintained for this purpose. Other NTRs are levied and collected as and when the event occurs.

#### 4.2.2 Organisational structure

The organisational structure with reference to revenue collections in the CCs/CMCs is as given below:

Authority	Responsibilities
The Additional Chief Secretary to Government of Karnataka	Overall supervision of revenue collection in ULBs of the State
The Director of Municipal Administration (DMA)	Administer the collection and management of revenue in ULBs
The Commissioner/ Municipal Commissioner (MC)	Supervise the collection of all revenues due to their respective ULBs under the Acts
Revenue Officers	Responsible for levy and collection of revenue
Revenue Inspectors	Determine the tax and NTR leviable based on survey conducted and prepare the demand notices, maintain demand registers to watch revenue collection
Bill Collectors	Responsible for serving demand notices and door-to-door revenue collection

### 4.2.3 Scope of audit and methodology

The theme-based audit on “Non-tax revenue management in the CCs/CMCs” was conducted (April - August 2011) by test-check of records of the DMA, two CCs<sup>71</sup> and 11 CMCs<sup>72</sup> based on simple random sampling method.

### 4.2.4 Financial performance

4.2.4.1 The details of tax and NTR receipts in the ULBs of the State and test-checked CCs/CMCs during 2007-10 were as shown in **Table 4.7** below:

**Table 4.7: Details of tax and NTR in CCs and CMCs**

(₹ in crore)

Year	Revenue in ULBs <sup>73</sup> of State		Revenue in test-checked CCs		Revenue in test-checked CMCs		Percentage of NTR to total revenue		
	Tax	NTR	Tax	NTR	Tax	NTR	ULBs	Test-checked CCs	Test-checked CMCs
2007-08	129.52	124.44	15.94	25.65	13.77	17.16	49	62	55
2008-09	146.09	160.35	16.22	41.78	19.47	27.60	52	72	59
2009-10	192.40	162.88	34.83	36.22	23.05	24.04	46	51	51
<b>Total</b>	<b>468.01</b>	<b>447.67</b>	<b>66.99</b>	<b>103.65</b>	<b>56.29</b>	<b>68.80</b>	<b>49</b>	<b>61</b>	<b>55</b>

Source: Statements of tax and NTR as furnished by DMA.

Figures for the year 2010-11 not furnished by DMA.

It was observed that while there was an increase in NTR receipts in the ULBs of the State during the years 2007-2008 to 2009-2010, there was decline in NTR in test-checked CMCs and CCs during 2009-10 when compared to the previous year. This was due to the failure in collection of outstanding dues, short collection of licence fee, *etc.*, as detailed in subsequent paragraphs.

4.2.4.2 Major components of NTR receipts such as rental income, fees and user charges and receipts by way of sale of forms, stores, *etc.*, for the test-checked ULBs for the period 2007-10 are detailed in **Table 4.8** below:

**Table 4.8: Statement showing break-up of major NTR receipts in test-checked ULBs**

(₹ in crore)

ULBs	Total NTR	Rental income	Fee and user charges	Sale and hire charges
11 CMCs	68.80	14.65 (21)	50.14 (73)	4.01 (6)
2 CCs	103.65	9.30 (9)	92.48 (89)	1.87 (2)

Source: As furnished by test-checked ULBs

Note : Figures in brackets indicate percentage

### 4.2.5 Non-maintenance of Demand, Collection and Balance Register

Karnataka Municipal Accounting and Budgeting (KMAB) Rules, 2006 prescribe that every CMC should maintain a special Demand, Collection and Balance (DCB) register to record all rental receipts from municipal properties like land, shops, shopping complexes, *etc.*, and another DCB register in

<sup>71</sup> CCs- Davanagere and Mangalore

<sup>72</sup> CMCs- Bhadravathi, Bidar, Chikkaballapur, Gadag-Betagera, Kolar, Mandya, Ranebennur, Shimoga, Sirsi, Udupi and Yadgir

<sup>73</sup> Seven CCs and 37 CMCs. Seven CMCs (Bagalkot, Chintamani, Hassan, Kollegal, Raichur, Sagar and Shahabad) out of 44 CMCs did not furnish the details.

respect of trade licence fees. While CMC, Chikkaballapur did not maintain a DCB register in respect of trade licence fee, CMC, Kolar had not maintained DCB registers at all. However, though the CMC has been maintaining information in computer systems since 2008, it had not ascertained the arrears for periods prior to introduction of computerised system. In the absence of DCB registers, the correctness of rent/fee collected and remitted could not be assessed in audit. Evidently, without these registers, the monitoring of the revenue collection would be inadequate or absent in these CMCs.

#### 4.2.6 Arrears of non-tax revenue

**Failure to recover municipal demand resulted in arrears of revenue of ₹28.69 crore**

KMAB Rules stipulate that every municipal demand shall be recovered as expeditiously as possible. It was, however, observed that there were arrears (as of March 2010) of ₹28.69 crore in collection of major components of NTR such as fee/renewal fee for trade licences, rent from municipal properties and user charges for water supply in the test-checked ULBs, as detailed in Table 4.9 below:

**Table 4.9: Collection and arrears of major components of NTR in test-checked ULBs during the year 2009-10**

(₹ in lakh)

CC/CMC	Trade licence			Rent			Water charges		
	Demand <sup>†</sup>	Collection	Arrears	Demand <sup>†</sup>	Collection	Arrears	Demand <sup>†</sup>	Collection	Arrears
CC, Davanagere	57.09	8.03	49.06	106.73	94.73	12.00	324.73	280.38	44.35
CC, Mangalore	101.21	77.11	24.10	223.49	151.19	72.30	3,457.00	2,216.00	1,241.00
CMC, Bhadravathi	1.65	1.35	0.30	16.63	13.48	3.15	172.35	82.89	89.46
CMC, Bidar	NF	NF	NF	76.86	18.07	58.79	146.66	33.20	113.46
CMC, Chikkaballapur	DCB not maintained			NF	NF	18.47	191.52	22.44	169.08
CMC, Gadag-Betagera	22.81	3.58	19.23	26.80	21.62	5.18	228.07	117.84	110.23
CMC, Kolar	DCB not maintained			33.88	12.35	21.53	125.36	45.90	79.46
CMC, Mandya	NF	NF	4.78	33.30	7.30	26.00	Details available with Karnataka Urban Water Supply and Sewerage Board as water supply is maintained by the Board.		
CMC, Ranebennur	17.04	1.65	15.39	116.60	105.73	10.87	232.77	76.41	156.36
CMC, Shimoga	NF	NF	NF	52.96	28.25	24.71	NF	NF	192.08
CMC, Sirsi	2.04	1.98	0.06	NF	NF	9.10	69.20	30.48	38.72
CMC, Udupi	37.87	6.13	31.74	104.33	90.32	14.01	462.36	311.14	151.22
CMC, Yadgir	NF	NF	NF	NF	NF	2.01	72.37	12.00	60.37
<b>Total</b>			<b>144.66</b>			<b>278.12</b>			<b>2,445.79</b>

Source: As furnished by CCs/CMCs

NF: Not furnished

<sup>†</sup> Demand includes arrears up to 2008-09

The arrears of trade licence fee was mainly on account of non-renewal of trade licences of business establishments by the licensing authorities due to shortage of manpower. The huge arrears in rental revenue and water charges indicate that adequate action was not initiated for recovery of dues.

#### 4.2.7 Licence fee collection

**Non-conducting of survey of business establishments for issue of trade licences resulted in loss of ₹1.12 crore**

##### 4.2.7.1 Loss of trade licence fee

As per the provisions of KM Act and KMC Act, all business establishments which intend to trade in municipal areas should obtain trade licences from the concerned CMC/CC. KMAB Rules stipulates that it shall be the duty of the Municipality to enumerate all persons or things that are liable for payment of revenue and maintain their accounts for demand, collection and balances due.

It was, however, observed that nine<sup>74</sup> test-checked CMCs/CC neither initiated any action nor conducted a comprehensive survey to identify traders and bring them under trade licence net during the period 2007-10. As a result, these CMCs/CC failed to even ascertain the number of business establishments which have been functioning without trade licences.

In Davanagere CC, where a survey was conducted during 2010-11, it was observed that against 12,920 business establishments, trade licences have been issued to only 2,547 business establishments and the remaining 10,373 establishments had been functioning without trade licences.

Scrutiny also revealed that 1,722 business establishments in CMC, Kolar and 10,993 establishments in CMC, Shimoga had not obtained trade licences from respective CMCs.

Thus, the failure of CMCs/CC in identifying business establishments and issuing trade licences to them resulted in loss of revenue of ₹1.12 crore calculated at the minimum<sup>75</sup> of trade licence fee chargeable. Categories of business establishments were not made available to Audit in order to arrive at the actual loss of revenue.

#### ***4.2.7.2 Loss of building licence fee***

As per the survey conducted (2009-10) at CMCs, Shimoga and Bhadravathi, there were 27,385 un-assessed properties/buildings which were constructed without obtaining building licences from the Municipalities. Failure of the MCs in enumerating and demanding licence fees from these properties resulted in loss of revenue. The DMA replied (December 2011) that action would be taken to recover the amount from the owners of the properties/buildings.

#### ***4.2.7.3 Short collection of building licence fee of ₹15.63 lakh***

The provisions of KM Act stipulate that any person intending to construct a building should obtain permission from the MC of CMC by paying building licence fee at the rates approved by the concerned Council. The MC is also empowered to inspect any building during construction to ascertain whether it is in accordance with the plans or specifications which have been approved and, in case of any deviation, he may issue show cause notice or make a provisional order to demolish the work done or so much of it as, in his opinion, has been unlawfully executed.

It was observed in CMC, Shimoga that a builder<sup>76</sup> had applied for a building licence from the Municipality during March 2007 for constructing a hotel building<sup>77</sup> by declaring the area proposed for construction as 4,615.40 square metres (sq.mtrs). Accordingly, the Municipality issued building licence after collecting the licence fee of ₹1.88 lakh. Subsequently, the applicant submitted a revised building plan of the hotel and applied for (March 2010) a fresh building licence by declaring the built up area as 5,515.63 sq.mtrs.

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<sup>74</sup>CC-Mangalore, CMCs- Bhadravathi, Bidar, Gadag-Betagere, Mandya, Ranebennur, Sirsi, Udupi and Yadgir

<sup>75</sup> CC-Davanagere @ ₹500; CMC-Kolar @ ₹300; and CMC-Shimoga @ ₹500

<sup>76</sup> Akarsh Properties, Bangalore

<sup>77</sup> Hotel Central Royal Orchid

Based on the revised building plan, the CMC, Shimoga issued revised building licence during May 2010 by collecting the balance licence fee of ₹16.41 lakh as per the revised rates approved by the Council during September 2008.

However, on verification of the property tax return filed by the builder for the year 2010-11, it was observed that the construction was not in accordance with the plans or particulars on which the permission was granted; instead the area constructed was declared as 10,451.87 sq.mtrs.

The difference in area of building constructed, as declared in the property tax return and as per the building licence issued by the Municipality, was 4,936.24 sq.mtrs. The loss of revenue due to short collection of licence fee worked out to ₹15.63 lakh.

Failure of the MC of CMC, Shimoga to inspect the construction of hotel building and issue show cause notice for deviation resulted in unauthorised construction, besides short collection of licence fee.

The DMA replied (December 2011) that the matter has been referred to Town Planning Department, Government of Karnataka, for advice.

#### **4.2.8 Potential loss of revenue**

##### ***4.2.8.1 Non-renewal of lease agreements***

Provisions of KM and KMC Acts prohibit CMCs/CCs to grant lease of immovable properties free of cost or for an upset price. However, it was observed in CC, Davanagere that though the lease period in respect of 768 municipal shops had expired during March 2005 to October 2007, the Commissioner neither executed fresh agreements nor revised the existing rents. Similarly, fresh agreements were not executed for 201 shops in CMC, Kolar for which lease periods had expired by the year 2001. Thus, failure of CMC/CC to renew lease agreements and revise lease rents resulted in loss of potential revenue.

##### ***4.2.8.2 Unauthorised construction***

The provisions of KMC Act prohibit unauthorised occupation of municipal land and empower the Commissioner to remove such encroachments after issuing notices. On a scrutiny of records of CC, Davanagere, it was observed that there were 3,760 unauthorised houses which were constructed by encroachment of municipal land during the period 1980-2008.

The Commissioner, CC, Davanagere informed the Deputy Commissioner (DC) about the encroachment only during February 2009. In turn, the DC requested (June 2009) the DMA to regularise these unauthorised constructions after collecting ₹20 per sq. feet as development charges but the DMA did not initiate action to regularise and collect development charges (September 2011). The potential loss of revenue was estimated at ₹5.91 crore by the Commissioner.

Thus, the delay on the part of the Commissioner, CC, Davanagere in noticing the encroachments and failure of DMA to initiate action for regularisation resulted in potential revenue loss of ₹5.91 crore. The DMA replied (December 2011) that the matter had been referred to the State Government for orders.

#### 4.2.8.3 Non-letting out of slaughter house

As per the provisions of KM Act, the CMC is authorised to let out any slaughter house to generate revenue. However, it was observed that the slaughter house at Santhemaiddan in CMC Bhadravathi, though constructed during May 2009 under Integrated Development of Small and Medium Town Scheme incurring an expenditure of ₹26.65 lakh, was not let out till date (September 2011) resulting in loss of rental income.

The DMA replied (December 2011) that there was no demand for the slaughter house and necessary action would be initiated to auction it. Evidently, the MC had constructed the slaughter house without assessing the requirement.

#### 4.2.9 Irregular collection of Khatha transfer/issue fee

As per DMA order (January 2006), Khatha transfer/issue fee at the rate of 1.5 *per cent* and two *per cent* of the stamp duty has to be collected by the CMC and CC respectively, from the applicant applying for Khatha transfer/issue certificate. It was, however, observed in 103 test-checked<sup>78</sup> cases that excess fee amounting to ₹3.26 lakh was collected during 2008-10 from the beneficiaries.

On the contrary, short collection of ₹0.13 lakh towards Khatha transfer/issue fee was also observed in 30 test-checked cases in CC, Mangalore.

The DMA assured (December 2011) that suitable action would be taken to collect the fee as per the order issued.

#### 4.2.10 Shortage of human resources for revenue collection

Audit noticed shortage of staff deployed for collection of revenue in test-checked CMCs/CC as detailed in **Table 4.10** below:

**Table 4.10: Shortage of staff for revenue collection in test-checked ULBs**

ULBs	Sanctioned	Working	Vacant	Percentage of shortfall
CC, Mangalore	48	19	29	60
CMC, Bhadravathi	9	5	4	44
CMC, Davanagere	27	19	8	30
CMC, Chikkaballapur	7	3	4	57
CMC, Mandya	9	7	2	22

Source: Staff position statements as furnished by CC/CMCs

It could be seen from the table above that shortfall in staff varied between 22 and 60 *per cent* and hence the shortfall in collection of revenue was attributable to a significant extent to non-filling up of vacancies. The DMA replied (December 2011) that action was being taken to fill up the vacant posts.

#### 4.2.11 Conclusion

The system for assessment and collection of NTR in the CCs and CMCs was deficient. No survey was conducted to assess the existing business establishments and collect trade licence fee. Trade licences were not renewed leading to arrears in collection of fee. There were also arrears in collection of

<sup>78</sup> 52 cases in CMC-Shimoga, 13 cases in CMC-Sirsi and 38 cases in CC-Davanagere

rent and water charges. There was significant shortage of manpower for revenue collection in test-checked CC and CMCs which further compounded the problem of insufficient collection of NTR.

#### **4.2.12 Recommendations**

- There is an urgent need to conduct a survey of existing business establishments in ULBs and to evolve a mechanism for enumeration from time to time in order to improve trade licence fee collection.
- A suitable methodology for periodical renewal of lease agreements of leased municipal properties and revision of rental income needs to be adopted.
- Immediate steps to fill up vacancies need to be taken to ensure timely collection of municipal revenue and use of information and communication technology to reduce dependence on manpower.

**BANGALORE**  
The

**(D.J. BHADRA)**  
**Principal Accountant General**  
**(General and Social Sector Audit)**

**COUNTERSIGNED**

**NEW DELHI**  
The

**(VINOD RAI)**  
**Comptroller and Auditor General of India**