

CHAPTER IX : MINISTRY OF HUMAN RESOURCE DEVELOPMENT

National Institute of Technology, Meghalaya

9.1 Avoidable Extra Liability

The Institute incurred avoidable extra liability of ₹ 12.67 crore due to inept handling of contract for project management consultancy services.

National Institute of Technology, Meghalaya (NIT) issued (March 2013) tender for award of Project Management Consultancy (PMC) Service for Development of Permanent Campus of NIT at Sohra (Phase-I). The estimated cost of the development of campus was ₹ 438.52 crore and PMC bidders were to submit their financial bids in terms of percentage of the estimated cost. In response nine firms submitted their bids. A Consultancy Evaluation Committee (CEC) was formed for the selection of PMC which fixed a cut off score of 50 for technical qualification based on listed criteria in tender document (April 2013). The following three bidders qualified.

Sl. No.	Name of bidders	Technical Scores
1.	M/s. RITES Ltd, Gurgaon,	84
2.	M/s. Tata Consulting Engineers Ltd, Kolkata	69
3.	M/s. Archtech Consultant Private Ltd (ACPL)	63

The CEC also decided to finalise the selection after opening of the financial bids and discussion with the technically qualified bidders. The CEC in its second meeting held on 6th May 2013 decided to assign 70 *per cent* weights to technical scores and 30 *per cent* to financial scores.

The Committee, during discussion with M/s ACPL, found that the bidder did not come on having carried out independent PMC works without involving any other sister concerns. Hence, the CEC felt that all the documents submitted by the bidder need to be verified. However, in the same meeting, the financial bids of the short-listed bidder were opened.

Based on the technical & financial evaluation scores, the final scores were as follows, with M/s APCL with score of 74.1 as L-1 bidder:

Sl. No.	Name of the bidders	Technical bid Score (T)	Financial bid rate (in % of the Cost of the works)	Financial bid Score (F)	Final score $S=0.7T+0.3F$
1.	M/s. RITES Ltd, Gurgaon,	84	6.40	23.44	65.83
2.	M/s. Tata Consulting Engineers Ltd, Kolkata	69	1.91	78.53	71.86
3.	M/s. Archtech Consultant Private Ltd (ACPL)	63	1.50	100	74.10

However, the Building & Works Committee (B&WC) in its emergency meeting held on 18th May 2013 observed that four of the certificates submitted by M/s. APCL in respect of 'PMC Service for Large Building Executed' did not have any mention of PMC services but were shown as 'Construction works' only. It further noted that in respect of experience of Assam University work, there was no mention of project management consultancy done by the firm. In view of the bidder not having adequate experience of true PMC service of an Academic campus, the Committee reduced the Technical Score of the firm from 63 to 49 and technically disqualified it. Consequently, the B&WC resolved that the remaining two firms qualify for the work as per their final scored recomputed as follows.

Sl. No.	Name of the bidders	Financial bid rate	Technical bid score (T)	Financial bid score (F)	Final Score $S=0.7T+0.3F$
1.	M/s RITES Ltd, Gurgaon,	6.40	84	29.84	67.75
2.	M/s Tata Consulting Engineers Ltd, Kolkata	1.91	69	100.00	78.30

On the basis of highest score of 78.3, the B&WC recommended to award the PMC Service contract to Tata Consulting Engineers Ltd, Kolkata. However, the Board of Governors (BoG) noted (June 2013) that the L1 bidder was found to be not technically qualified after opening of the price bid. It, therefore, asked the B&WC to have another look at its recommendation. B&WC decided (18th July 2013) to cancel the tender and call for fresh tender. Accordingly, a fresh tender was floated on 30th July 2013 and only four firms¹ participated out of which two firms² were found to be technically qualified. The Selection Committee, recommended award of contract to M/s RITES Limited at their quoted rate of 4.8 *per cent* of the project cost (₹ 21.05 crore at estimated project cost of ₹ 438.52 crore). The BoG decided (23rd November, 2013) to award the contract to M/s. RITES Limited.

Following deficiencies were observed by Audit:

- a. Technical disqualification of M/s ACPL by B&WC after opening of the financial bids was in contravention of the GFR 175 which states that financial bids of only technically qualified bidders should be opened. Further, the CEC erred in opening the financial bids without verification of all the technical documents submitted by the bidders. CVC guidelines also require short listing of qualifying firms before opening of financial bids.
- b. Cut off score of 50 for technical qualification, fixing of 30 *per cent* for financial score and 70 *per cent* for technical Score were not prescribed in the bid document. The scores were fixed at the time of opening of technical bids by CEC which was not appropriate.
- c. The reduction of the technical score by 14 points was also incorrect as the scrutiny of bid documents & the technical evaluation results showed that M/S ACPL was eligible for three points for the PMC work executed for the Assam University/ Tripura University, which was rejected by the B&WC. By adding the three points, the technical scores of M/S ACPL would work

¹ M/s RITES Ltd, MMS Advisory Pvt.Ltd, NPCC Ltd and Engineering Projects (India) Ltd.

² M/s RITES Ltd & NPCC Ltd.

out to 52 (49+ 3) and thus qualify them for financial evaluation³. Consequently, M/s. Tata Consulting Engineers Ltd, Kolkata would have been the lowest bidder for award of contract and cancellation and re- tender could have been avoided.

Hence inept handling of tendering process and evaluation of the bids resulted in the award of PMC contract at higher rate at 4.80 *per cent* against the rate of 1.91 *per cent* quoted by M/s. Tata Consulting Engineers Ltd, Kolkata in first round with the extra financial out go of ₹ 12.67 crore to the Institute. As this was based on estimated expenditure only, this extra expenditure may increase with increase in project cost.

NIT stated (May 2014) that M/s ACPL, the lowest bidder of the initial tender was technically disqualified as they could not prove that they fulfilled the technical criteria as in many of the certificates submitted by the firm mention of PMC services was not there. They further stated that the technical score of 52 as calculated by Audit would not make the firm lowest bidder.

The reply does not answer issues regarding opening of financial bid without adequate technical evaluation and reduction of scores after opening of financial bids. The fact remains that the NIT had to incur extra cost of ₹ 12.67 crore which was avoidable.

The Matter was reported to Ministry in June 2014; their reply was awaited (February 2015).

³ As such, the final evaluation would have been as follows.

Sl. No.	Name of the bidder	Technical bid Score (T)	Financial bid Score (F)	Final Score $S=0.7T+0.3F$
1	M/s. RITES Ltd, Gurgaon,	84	23.44	65.83
2	M/s. Tata Consulting Engineers Ltd, Kolkata	69	78.53	71.86
3	M/s. Archtech Consultant Private Ltd (ACPL)	52	100	66.40

9.2 Irregular payment of Service Tax of ₹ 63.75 lakh

Indian Institute of Science Education & Research, Mohali and PEC University of Technology, Chandigarh made payment of service tax on the outsourced services, although these services were exempted from payment of such tax.

Ministry of Finance (Department of Revenue), Government of India exempted certain services provided to or by educational institutions from service tax with effect from 1 July 2012 (Notification No. 25/2012-Service Tax dated 20.06.2012). The notification clarified that exempted services *inter alia* includes any services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person. Ministry of Finance further clarified that by virtue of the entry in the negative list, it was clear that all services relating to education are exempt from service tax (circular no.172/7/2013-ST dated 19.9.2013).

Audit observed that the Indian Institute of Science Education & Research (IISER), Mohali, Punjab has outsourced the services of security, horticulture and housekeeping to an agency⁴ from 01.04.2011 onwards and had paid service tax of ₹ 48,39,831 during 01.07.2012 to 31.03.2014 for the services provided during this period.

Similarly PEC University of Technology, (PEC) Chandigarh had also outsourced the security services to the same agency in May 2011 and paid service tax amounting to ₹ 15,34,746 during the period 01.07.2012 to 31.03.2014. As both institutes are educational institutions, services provided by the contractor were exempted from payment of service tax. Thus service tax of ₹ 63.75 lakh paid by these institutions was irregular.

IISER intimated (November 2014) that institute was not aware of the Government of India exemption notification till the same was pointed out by audit and soon after knowing about the exemption notification, the payment of service tax has been stopped. Registrar IISER further intimated (November 2014) that the Service Tax authorities have been requested to refund the amount of ₹ 48,39,831.

⁴ M/s Terrier Utility Services Pvt. Ltd, Chandigarh

PEC intimated (July 2014) that after getting clarification from legal retainer of the institute, the payment of service tax was stopped to contractor for the services provided from January 2014 onwards.

The replies of institutes are not acceptable as ignorance of law is no excuse for irregular payments. Further contention of IISER that service tax authorities have been requested to refund amount, is not in order as institute is not entitled to refund by Service Tax department. The contractor who has deposited the service tax is entitled to refund.

The matter was reported to the Ministry (March 2015); their reply was awaited.

University of Delhi

Satyawati College

9.3 Overpayment of interest to GPF/CPF subscribers

Satyawati College, University of Delhi, paid (2008-09 to 2010-11) higher rate of interest than rate specified by Central Government to its GPF/CPF subscribers which resulted in overpayment of interest of ₹ 83.30 lakh.

The University of Delhi issued (August 2002) instructions to all colleges of the university that interest allowed on General Provident Fund (GPF)/Contributory Provident Fund (CPF) contributions of employees should not be in excess of that notified by the Central Government. Further, the Ministry of Human Resource Development, after consulting the Ministry of Finance, instructed (February 2004) all autonomous organisations under its jurisdiction, that interest of GPF/CPF should not be paid at a rate higher than that notified by the Government; however, a lesser rate can be paid depending on the financial position of the organisation. Thus, UGC was required to ensure that the Trust colleges funded by it complied with these instructions.

Audit observed that the Satyawati College, New Delhi under University of Delhi was paying interest at higher rate than the rate fixed by the Government, to GPF/CPF subscribers. The details of prescribed rate of interest and interest paid by college to the GPF/CPF subscribers during the period 2008-09 to 2010-11 are given below.

(₹ In lakh)

Sl. No.	Year	Rate of Interest (ROI) per cent	ROI allowed by the college per cent	Amount of interest as payable	Amount of interest actually paid by the College	Amount of excess interest credited to GPF/CPF subscriber
1.	2008-09	8.00	10.25	70.27	90.03	19.76
2.	2009-10	8.00	10.90	93.31	127.13	33.82
3.	2010-11	8.00	10.04	116.58	146.30	29.72
Total						83.30

Thus, the college made excess payment of interest aggregating to ₹ 83.30 lakh to its GPF/CPF subscribers during 2008-11.

On this being pointed out to the college it was stated (January 2015) that prior to 2011-12 the college had never received any advice or objection on the distribution of actual interest earned to the subscribers. The college further stated that the interest earned on CPF/GPF was income of the employees and was, therefore, legitimately credited to the subscribers account and there was no question of any loss to University of Delhi.

The reply of the college is not tenable as it resulted in non-compliance with the extant instructions of the Ministry of Human Resource Development/University of Delhi.

The matter was reported to the Ministry (January 2015); their reply was awaited as of March 2015.

National Council of Educational Research and Training

9.4 Non-availment of rebate on water charges

National Council of Educational Research and Training failed to avail eligible rebate of 10 per cent on the water bills from Delhi Jal Board (DJB), despite having seven functioning rain water harvesting systems. This resulted in avoidable payment of ₹ 54.71 lakh on water bills raised by DJB during the period January 2010 to February 2014.

Delhi Jal Board (DJB) in its notification (December 2009) for water tariffs in Delhi, effective from January 2010, specified that Government Institutions would be eligible for a 10 *per cent* rebate on the total amount of water bills. This was subject to the condition that the Institutions provide certificates of adopting measures of water harvesting. In terms of this notification, National Council of Educational Research and Training (NCERT) falls under the classification of Government Institutions. NCERT had three water connections and seven functional rain water harvesting systems in different locations within its premises as certified by Central Public Works Department (CPWD). Thus, NCERT was eligible for availing 10 *per cent* discount on its monthly water bills.

Audit, however, observed (April 2013 and March 2014) that the NCERT did not avail this concession. The unclaimed rebate on this account during the period January 2010 to February 2014 was ₹ 54.71 lakh **(Annex-XX)**.

NCERT stated (March 2014) that it had taken up the matter with DJB for availing the required concession. It subsequently reported (January 2015) that a team of DJB had visited NCERT in January 2014 and found its water harvesting system to be working well. It was also assured by DJB to allow rebate on its water bills. NCERT reiterated the position in February 2015.

The matter was reported to the Ministry (January 2015); their reply was awaited as of February 2015.

Indian Institute of Technology

9.5 Non recovery of Labour Welfare Cess

Failure of the Indian Institute of Technology Bombay to deduct labour welfare cess from the construction bills and not depositing of collected amount with the Board, resulted in non-compliance with provisions of the Act and made it liable to pay interest and penalties.

Government of India promulgated 'The Building and Other Construction Workers' Welfare Cess Act 1996', (the Act) which provide for levy and collection of cess on cost of construction. Under the Act, the

Government of Maharashtra issued (21st April, 2008) instructions for recovery of one *per cent* cess on the total value of construction (excluding land cost) with effect from 1st January 2008.

As per Rule 4(3) made under the Act where the levy of cess pertains to building and other construction work of a Government or of a Public Sector Undertaking, such Government or the Public Sector Undertaking shall deduct or cause to deduct the cess payable at the notified rates from the bills paid for such works. Further as per Rule 5(3) the amount so collected shall be transferred to the Building and Other Construction Workers' Welfare Board (the Board), within 30 days of its collection. The Act also provides for liability of interest at the rate of two *per cent* for every month's delay from the date on which the payment was due along with penalty equivalent to the cess amount.

It was observed that Indian Institute of Technology, Bombay (Institute) had taken up 336 construction works since 1st January 2008 on which cess amounting to ₹ 202.75 lakh was recoverable upto 31st March 2014. The Institute did not deduct cess amounting to ₹ 80.21 lakh on 263 construction works and in remaining 73 cases although cess of ₹ 122.54 lakh was deducted by the Institute, the same was not deposited with the Board. The failure to follow the provisions of the Act, made it liable to pay the unrecovered amount of cess along with interest at the rate of two *per cent* on delayed payments and penalty equivalent to the cess amount.

The Institute replied (March 2014) that it had started deducting cess from contractors' bills only from 2012. It further stated that amount will be remitted to concerned office as and when the decision will be taken by its Managing Committee.

Thus, failure of the Institute to deduct labour welfare cess and deposit it with the Board, resulted in non-compliance with provisions of the Act, made it liable to pay uncollected amount of ₹ 80.21 lakh along with interest and penalty, undue benefits to the contractors and defeating cause of welfare of construction workers.

The matter was reported to the Ministry (February 2015); their reply was awaited.

Visva Bharati

9.6 Undue benefit to a publisher

The selection process for the publisher of 'Rabindra Chitravali' was flawed; Visva Bharati subsequently altered the payment terms to extend undue benefit of ₹ 3.18 crore to the publisher. Apart from violating the norms of financial propriety Visva Bharati's actions frustrated their stated aim of making available Tagore's art works to all 'on a reasonable scale'.

Pratikshan, a Kolkata based publisher, approached (March 2009) Visva Bharati (VB) with a proposal for publishing 'Rabindra Chitravali' i.e. paintings of Rabindranath Tagore in collaboration with VB on the occasion of Tagore's 150th birth anniversary. *Pratikshan* offered 500 sets of Chitravali besides a royalty of ₹ 30.00 lakh and submitted (May 2009) a detailed cost break-up for publication of 8000 sets of books in four volumes at a cost of ₹ 6.35 crore. *Pratikshan* also offered a discount of 50 *per cent* on the published price to the prospective buyers of the book, in case VB provided subsidy amounting to ₹ 3.18 crore i.e. fifty *per cent* of the cost of the project through Ministry of Culture (MoC).

The Registrar, VB and *Pratikshan* signed a Memorandum of Understanding (MoU) on 07 December 2009 which was subsequently approved by the Finance Committee (FC) on 31 January 2010. The MoU *inter alia* stated that: a) VB would provide fifty *per cent* of the total cost of the publication; and b) *Pratikshan* would pass on the benefit to the buyers of Chitravali by way of allowing fifty *per cent* discount on the published price.

In violation of norms of financial propriety and provisions of General Financial Rules, VB did not identify possible bidders and invite quotations before signing the MoU. The Registrar, five days after signing the MoU, constituted (12 December 2009) a Technical Committee who, in turn, recommended the selection of *Pratikshan* on the same day. Though the committee's notings stated two other firms were also considered, no evidence of bids having been invited was available on record. Subsequently, VB decided (19 January 2010) to invite pre-qualification bids for publishing Chitravali, but this was shelved without

assigning any reason. On 31 January 2010, the FC approved the selection of *Pratikshan* on the basis of a presentation made by one of the member of the Technical Committee. The FC noted that the MoC would be sanctioning ₹ 5.00 crore.

Subsequently, in February 2010 the Registrar signed another MoU with *Pratikshan* for the publication of Chitravali. In the new MoU, the cost sharing ratio of fifty *per cent* as envisaged in the first MoU dated 7 December 2009 as well as in the offer of *Pratikshan* was omitted and was replaced with the stipulation: "...VB has agreed to pass on to the publisher any financial assistance that it may receive on account of Rabindra Chitravali..." There was no documentation to suggest that the changes in the financial terms were approved by FC. Thus, it is clear that the financial terms were altered to extend financial benefit to *Pratikshan* higher than the assistance of ₹ 3.18 crore sought by them.

After signing the MoU, VB requested (February 2010) MoC for quick disbursement of ₹ 5.00 crore though the total assistance sought by the publisher was only ₹ 3.18 crore. The MoC, in turn, sought for the cost break-up of items. Records revealed that although *Pratikshan* placed an immediate demand of ₹ 3.14 crore, VB replied to the Ministry that the total project cost was ₹ 6.35 crore and requested (15 March 2010) for immediate release of ₹ 3.34 crore and subsequent release of ₹ 1.66 crore after utilisation of ₹ 3.34 crore. VB further added that *Pratikshan* had to arrange for another ₹ 1.35 crore even after an assistance of ₹ 5.00 crore.

MoC released ₹ 4.76 crore during 2009-10 and 2011-12 in three installments which was passed on to *Pratikshan*. The sanction letters of the grant issued by the MoC stipulated that VB would bear 25 *per cent* of the total cost. *Pratikshan* was apprised about the same by a member of the Technical committee. Thereupon *Pratikshan* demanded an additional ₹ 1.59 crore i.e. 25 *per cent* of ₹ 6.35 core. VB, being unable to pay the sum, requested (April 2012) Ministry of Human Resource Development (MHRD), for one time special grant of ₹ 1.59 crore. MHRD released the amount in July 2012. The additional amount over and above mentioned ₹ 4.76 crore was paid to *Pratikshan* in February 2013. Thus, a total sum of ₹ 6.35 crore was paid to the Publisher for publishing Chitravali.

As per records available with VB, only 6000 sets and not 8000 sets as agreed upon were printed as of August 2014. VB received 493 sets and royalty of ₹ 30.00 lakh. Audit found that the *Pratikshan* was reimbursed 100 *per cent* of project cost of ₹ 6.35 crore as against their proposal for fifty *per cent* financial assistance. Thus the publisher received the selling rights for 5507 sets of Chitravali valuing ₹ 11.01 crore without any expense on their part. Audit found that the Chitravali having the printed price of ₹ 20000.00 per set was sold through different e-commerce sites at a discount of 20-33 *per cent* only contrary to fifty *per cent* discount envisaged in the MoU.

Thus, the selection process for the publisher of Rabindra Chitravali was totally flawed; it did not verify the reasonability of cost structure submitted by publisher; subsequently altered the payment terms and entered into revised MoU to extend undue financial benefit of ₹ 3.18 crore to the publisher. Apart from violating the norms of financial propriety VB's actions frustrated their stated aim of making Tagore's art works available to all 'on a reasonable scale'.

The matter was reported to Visva Bharti and the Ministry of Human Resource Development in October 2014. Visva Bharti confirmed facts and figures contained in the audit observation. Reply of the Ministry was awaited (February 2015).