

Executive Summary

For faster augmentation of infrastructure resources and to assure the user of adequate service quality by inducting latest technology and improved management practices in major ports, Government of India (GOI) decided to invite private participation through Public Private Partnership (PPP) mode. GoI sanctioned (up to March 2014) 91 PPP Projects proposing a total capacity addition of 751.71 Million Metric Ton per Annum (MMTPA). A capacity of 264.69 MMTPA was achieved from 35 projects completed by March 2014, 27 projects with capacity addition of 221.94 MMTPA were under construction and 27 projects with a proposed capacity addition of 257.97 MMTPA were under pipeline/bidding process. Two projects were terminated/dropped. The PPP projects could contribute only 33 *per cent* to the total capacity of major ports as it has suffered various implementation issues. In this backdrop, a Performance Audit on “PPP Projects in Major Ports” was conducted and significant audit findings are narrated below:

Significant Audit Findings

1. Jawaharlal Nehru Port Trust (JNPT) entered into an agreement with Nhava Sheva International Container Terminal (NSICT) (July 1997) wherein royalty was fixed on per Twenty Foot Equivalent Unit (TEU) basis which progressively increased from ₹47 per TEU (1999-2000) to ₹2670 per TEU (2014-15). Due to high royalty rate, the project became progressively less remunerative to the operator and threatened the viability of the project. After 18 years of operation, JNPT now proposes to migrate from royalty to revenue sharing mode.

(Para 2.4.1)
2. While planning for PPP projects in the pre-Model Concession Agreement (MCA) period, the ports and the Ministry failed to standardize the charges to be shared by the Private partner, resulting in total revenue of ₹467.95 crore not being shared by the private partner at four ports.

(Para 2.4.2)
3. Cochin Port Trust (CoPT) extended concessions valuing ₹40.23 crore to Dubai Ports International (DPI) (concessionaire for International Container Transshipment Terminal (ICTT)) due to deviations from Request for Qualification (RFQ) terms. ICTT continued to operate at 35 *per cent* capacity since its commissioning in 2011 and the port has not reaped any additional return by extension of concession.

(Para 3.2.1)
4. PPP mode of implementation suffered delays between RFQ and signing of Concession Agreement (CA) in 35 of the 39 projects that went through the tendering process. The delays were mainly attributed to protracted time taken for finalization of tenders, time taken for obtaining security clearance of shortlisted bidders, time taken for signing of CA and litigations by bidders during tender process.

(Para 3.3)

5. There were delays/non-fulfillment of obligations on the part of Ports/Ministry in respect of appointment of Independent Engineers (IE), obtaining environmental clearance for projects and delay in handing over of project sites and back up area, which delayed the implementation of projects.

(Para 4.1.1, 4.1.2 and 4.1.3)

6. Ports/Ministry failed to provide committed draught in the access channel (Kandla, Mumbai and Vishakhapatnam Ports), which restricted berthing of larger vessels, despite this being a critical component to ensure fulfillment of CA commitments.

(Para 4.1.4 (i))

7. Concessionaires failed to fulfill Conditions Precedent (CP) within the specified period (90/120/180 days) and the delays ranged upto 455 days, leading to consequential delay in commencement of commercial operation of projects.

(Para 4.2)

8. Though guidelines for monitoring PPP projects issued by GoI envisaged setting up a PPP Performance Review Unit (PRU) headed by an officer not below the rank of Joint Secretary at the level of the Central Ministry/State Government/Statutory Entity, Ministry of Shipping (MoS) intimated (February 2015) that as an interim arrangement Joint Secretary (Ports) in addition to his normal duties, functioned as head of PPP-PRU with one PPP expert since October 2012. A full fledged PPP Cell has now been set up in the MoS.

(Para 4.3)

9. Audit compared the operational efficiency of PPP berths with that of the berths at four ports in respect of performance parameters but could not conclude regarding significant improvement in the quality of service after introduction of PPP model.

(Para 4.4)

10. Audit observed that only in five out of the 14 completed projects (out of 61 projects selected for audit), for which CAs were signed prior to MCA, the clause for appointment of independent auditor was included. In the post MCA period, out of the four completed projects (within the 61 projects selected for audit), the clause for appointment of independent auditor was included in three projects. The findings of independent auditor where appointed has revealed short recovery of revenue share in two ports

(Para 5.3.1)

11. MCA prescribes the maintenance of Escrow account by the concessionaire. However, as per the order of priority for withdrawal and appropriation of funds, payment of revenue share was considered only after concessionaire's expenses related to operation and management of project. This led to arrears of revenue share to the extent of ₹41.32 crore in respect of Berth 13 and 15 at Kandla Port Trust

(Para 5.3.3)