

CHAPTER-2

**2.1 PERFORMANCE AUDIT ON BIHAR
STATE BUILDING CONSTRUCTION
CORPORATION LIMITED**

**2.2 AUDIT ON DEVELOPMENT OF
EDUCATIONAL INFRASTRUCTURE
BY BIHAR STATE EDUCATIONAL
INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED**

CHAPTER-2

Performance Audits relating to Government companies

2.1 Performance Audit on Bihar State Building Construction Corporation Limited

Introduction

2.1.1 Bihar State Building Construction Corporation Limited (Company) (erstwhile Bihar Health Project Development Corporation Limited) with its head office at Patna, is under the administrative control of the Building Construction Department (BCD), Government of Bihar (GoB). The management of the Company is vested in a Board of Directors comprising nine Directors, including the Managing Director (MD). The MD is the Chief Executive Officer of the Company, and is assisted by Chief General Manager and five General Managers. The Company has nine Project Implementation Units (PIUs) located at Patna, Gaya, Munger, Bhagalpur, Darbhanga, Saharsa, Purnea, Muzaffarpur and Saran, headed by Deputy General Managers.

During the Performance Audit, five out of nine PIUs of the Company were test checked. These five PIUs executed 699 works (62 *per cent* of 1,119 works executed by the nine PIUs) valued at ₹ 1,309.05 crore (75 *per cent* of ₹ 1,754.78 crore in respect of the nine PIUs) during the period covered in audit.

There are total 20 audit observations, and most of them are of a nature that may reflect similar errors/omissions in other works being implemented by the Company, but not covered in the test audit. The Company therefore, may like to internally examine all the other works being executed by them with a view to ensuring that they are being carried out as per requirement and rules.

The Company executed construction works entrusted by 27 user departments/ PSUs/ agencies of GoB, whom the Company charges centage¹. The works are executed by sub-contractors appointed by the Company through competitive bidding. During 2012-17, the Company undertook only works assigned by various GoB entities, including BCD who also execute similar works themselves.

The profits of the Company increased from ₹ 3.24 crore in 2012-13 to ₹ 14.59 crore in 2013-14, ₹ 41.23 crore in 2014-15 and thereafter, it declined to ₹ 26.61 crore in 2016-17 due to reduction in rate of centage by the GoB.

Audit Scope and Methodology

2.1.2 This is the first Performance Audit (conducted during April 2017 to July 2017) of the Company and it covers activities relating to construction of various types of buildings and other structures during the period 2012-13 to 2016-17.

¹ Till January 2016, centage was fixed at the rate of 10 *per cent* of project cost. However, the rate of centage was revised (23 January 2016) as follows:

- (A) For project cost upto ₹ 10 crore = seven *per cent*
- (B) For project cost more than ₹ 10 crore and up to ₹ 100 crore = (A) + five *per cent* on amount exceeding ₹ 10 crore.
- (C) For project cost more than ₹ 100 crore = (B) + one *per cent* on amount exceeding ₹ 100 crore.

Audit examined five² out of nine Project Implementation Units (PIUs) which had incurred 75 per cent (₹1,309.05 crore) of the total expenditure of all PIUs. The sample for audit was based on Random Sampling Method without replacement.

Audit methodology included examination of Company records, issue of Audit observations/queries, joint physical verification of incomplete/ delayed projects, and Entry and Exit Conferences with Management/BCD views.

Audit Objectives

2.1.3 The Performance Audit of the Company was carried out to assess whether all vital activities of the Company viz., financial management, project management, human resource management, monitoring and supervision and internal oversight mechanism, etc., were discharged with regard to economy, efficiency and effectiveness and to assess its impact on the activities of the user departments of the Bihar Government and the people at large.

Audit Criteria

2.1.4 Audit criteria were sourced from the following:

- Memorandum and Articles of Association of the Company;
- Directives/ Sanctions of the administrative/user departments;
- Detailed Project Reports (DPR)/ Requests for Proposal (RFP);
- Standard Bidding Document/Agreements for execution of the projects;
- Schedule of Rates of Building Construction Department, GoB;
- Central Vigilance Commission (CVC) guidelines; and
- Bihar Financial Rules, 2005, applicable Acts and Rules.

Acknowledgement

Audit acknowledges the cooperation and assistance extended by the Company and its officials during conduct of the Performance Audit.

Audit Findings

The Audit findings are discussed in the succeeding paragraphs:

Human Resource (HR) Management

2.1.5 The status of human resources of the Company is depicted in table 2.1.1.

² Project Implementation Unit at Darbhanga, Gaya, Munger, Muzaffarpur and Purnea.

Table No. 2.1.1: Manpower Position of the Company

Name of Post	March 2014			March 2017		
	Sanctioned strength	Actual deployment	Shortage	Sanctioned strength*	Actual deployment	Shortage
MD	1	Additional charge	-	1	Additional charge	-
CGM and GMs	6	4	2	8	7	1
DGMs	18	12	6	23	10	13
AGMs	71	14	57	90	20	70
JEs	103	10	93	107	29	78
Other staff	141	37	104	199	65	134
Total	340	78	262	428	132	296

*Sanctioned Strength was revised in October 2014 from 340 to 428

There was no regular appointment to (except once) the post of Managing Director since the inception of the Company, and the post was held as additional charge (by Principal Secretary/Secretary/Additional Secretary, BCD). Consequently, there was no effective monitoring of the functioning of the Company at the department level, and also resulted in failure in effective management of the day to day affairs of the Company. There was also conflict of interest, since the same authorities responsible for ensuring external monitoring on governance were responsible for the performance of the Company. This is evident from the nature of replies furnished by the BCD to the audit observations, where the replies (except where corrective action taken as mentioned in impact of audit below) are more by way of justification of the irregular actions of the Company, rather than assurance that corrective action in terms of the financial and other rules would be enforced.

To address the shortages in the cadres of Assistant General Manager (AGM) and Junior Engineer (JE), the Company initiated 21 recruitment processes between 2012-13 and 2016-17. However, against the targeted recruitment of 300 personnel, only 140 personnel were recruited till March 2017. Audit examination of the recruitment process revealed that delay in finalisation of the vacancies and cancellation of the recruitment process led to this failure. Further, the Company did not advertise the consolidated vacancies for appointment of manpower; rather, it resorted to advertising posts in piecemeal manner ranging from advertising one to 40 posts through 14 separate advertisements during 2014-15 to 2016-17 as against existing vacancies of 262 as on March 2014. It is thus evident that the Company was not serious in filling up the vacancies.

As of March 2017, as against sanctioned strength of 47 AGM (Civil), only 17 were available. In case of JEs (Civil), against 101 sanctioned strength, only 27 were available. Consequently, at any time, JEs handled between one to 21 works. Uneven distribution/non-rationalisation of work load resulted in ineffective internal control and monitoring system.

Accepting the audit observations, the BCD stated (November 2017) that the issues of filling up the vacancies would be taken up. The BCD did not reply on the issue of continued holding of the position of Managing Director as

additional charge. The BCD further informed that the Company is also using third party supervision from reputed institutions such as National Institute of Technology/Indian Institute of Technology, Patna and other empanelled quality assurance consultants. In this connection, Audit observes that the entire hierarchical structure of the company belongs to a period when works were executed departmentally. The Company does not execute any work itself and its task is essentially of contract management, for which the present sanctioned strength and deployment is ineffective.

Recommendation

1. **The Company should appoint full time Managing Director, at the earliest.**
2. **Considering that the Company itself feels that third party supervisors and quality consultants are performing effectively, the Company should review its present HR structure to analyse whether it meets the Company's role, to abolish unnecessary posts, and to devise and operate a leaner and more effective organisation.**

Financial Management

Financial Position and Working Results

2.1.6 The financial position and working results of the Company during 2012-13 to 2016-17 are given in table 2.1.2.

Table No.2.1.2: Financial Position and Working Results

<i>(Amount: ₹ in crore)</i>					
Financial Position					
Sources of Funds:					
Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
Share capital	5.00	5.00	5.00	5.00	5.00
Reserves and Surplus	(0.03)	8.90	33.59	38.84	57.39
Advance received from GoB and other Institutions	244.54	631.58	1,234.81	1,962.70	2,652.27
Current Liabilities and Provisions	5.59	35.70	75.44	95.13	111.55
Total	255.10	681.18	1,348.84	2,101.67	2,826.21
Application of Funds:					
Net Block	0.26	4.68	4.43	4.54	4.37
Capital Work In Progress	-	-	2.19	23.70	18.34
Cash and Cash equivalents	205.70	371.33	430.61	735.13	909.31
Other Current Assets	49.14	305.17	911.61	1338.30	1894.19
Total	255.10	681.18	1,348.84	2,101.67	2,826.21

Working Results					
Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
Revenue from operations/ centage	4.41	28.76	58.18	27.34	39.26
Interest from Bank (Fixed Deposit)	29.95	12.51	14.32	11.48	18.21
Total	34.36	41.27	72.50	38.82	57.47
Expenditure					
Finance Cost	29.90	12.37	13.38	11.18	16.16
Admn. and Other Expenses	1.22	14.31	17.89	19.29	14.70
Total	31.12	26.68	31.27	30.47	30.86
Profit/(Loss)before Taxes	3.24	14.59	41.23	8.35	26.61
Less: Prior period adjustments and Taxes	1.10	5.16	14.46	2.84	7.98
Net Profit/(Loss) after Taxes	2.14	9.43	26.77	5.51	18.63
Return on Investment (in per cent)	65.19	106.50	106.82	18.94	71.71
Return on Equity (in per cent)	42.86	67.84	69.41	12.57	29.86
Return on Capital Employed (in per cent)	65.19	106.50	106.82	18.94	71.71

- Reserves and Surplus grew from (-) ₹ 0.03 crore in 2012-13 to ₹ 57.39 crore in 2016-17 as the Company continued to earn profits. However, the Company irregularly included ₹ 47.52 crore as centage charges during 2013-17 without approval from two user departments³ resulting in overstated profits, since there is no assurance that payment will be received. The Company accepted the facts during the exit conference (November 2017), but stated that FCPD has now agreed to pay the centage; however Health department has not agreed. Consequently, the Reserves and Surplus need to be reduced by ₹ 12.56 crore.
- During the period October 2013 to March 2017, Deputy General Managers (DGMs) of the concerned PIUs completed and handed over 730 works to 23 user departments involving an expenditure of ₹ 923.58 crore. However, the Company continued to show these 730 works as Work in Progress in the accounts due to delay in finalisation of final bills.

Funds received and their utilisation

2.1.7 All works undertaken by the Company are deposit works, where funds are collected in advance from clients. Details of funds received and utilised are given in table 2.1.3.

³ Health Department, GoB and Food & Consumer Protection Department (FCPD), GoB.

Table No.2.1.3: Statement of funds received for deposit works and their utilization

(₹in crore)					
Year	Funds received	Total funds available	Funds utilised	Percentage of funds utilisation	Funds surrendered
2012-13	1.80	286.72 ⁴	46.48	16.21	151.66
2013-14	465.21	553.79	300.50	54.26	30.26
2014-15	657.77	880.80	637.49	72.38	0.00
2015-16	718.57	961.88	445.81	46.35	0.44
2016-17	684.20	1,199.83	577.58	48.14	2.80
Total	2,527.55		2,007.86	71.39 (Overall utilisation)	185.16

- The reasons for low utilisation of funds are delays in commencement as well as slow progress of work as discussed in paragraphs No. 2.1.13, 2.1.21, 2.1.23 and 2.1.24 below.
- During 2012-13 to 2016-17, the Company surrendered ₹ 185.16 crore to the respective departments, out of which ₹ 181.11 crore (₹ 151.66 crore in 2012-13 and ₹ 29.45 crore during 2013-14) pertained to Health Department, GoB which was given for construction of additional Primary Health Centres (PHCs) and upgradation of PHCs to Community Health Centres (CHCs). The funds were surrendered, as these works could not be executed by the Company due to various reasons, viz., non-finalisation of Memorandum and Articles of Association of Bihar State Health Project Development Corporation Limited (erstwhile name of the Company) formed in March 2008, non-appointment of Managing Director of the Company for more than two years, non-availability of land in case of 286 works, etc. Further, out of the remaining ₹ 3.24 crore surrendered in 2015-17, ₹ 2.60 crore pertained to A N Sinha Institute of Social Studies which was given for construction of staff residential quarters, but subsequently cancelled by the concerned user agency; and ₹ 44.37 lakh related to Bihar Rajya Sunni Waqf Board for construction of marriage hall, which was returned on the demand of the concerned user agency.

⁴ Including opening balance of ₹ 284.92 crore as on 01 April 2012.

Other irregularities

Non-claiming of interest on deposit works

Due to diversion of its own funds on project works, the Company lost the opportunity to earn interest income of ₹ 4.55 crore

2.1.8 Deviating from its policy of executing deposit works, where funds are received upfront, the Company utilised its own funds of ₹ 55.44 crore (July 2014 to June 2016) in 15 projects without receipt of funds from user departments. Out of this, ₹ 32.66 crore was lying unadjusted till March 2017. Since, the funds of the Company are kept in interest bearing accounts and interest earned thereon is the income of the Company, diversion of the same on project works resulted in loss of opportunity to earn interest income of ₹ 4.55 crore (₹ 4.20 crore on security deposit with the Company and ₹ 35 lakh⁵ on centage income) to the Company.

In their reply (November 2017) to the audit observation, the BCD accepted the facts, but offered no clarification on the issue of reimbursement of interest loss to the Company.

Loss of interest due to non-availing of auto sweep facility

The Company lost the opportunity to earn interest income of ₹ 1.56 crore by not availing of auto sweep facility in savings account

2.1.9 It was observed that each of the nine PIUs of the Company operate separate savings bank accounts, with minimum monthly balances ranging from ₹ 0.33 crore to ₹ 23.45 crore during 2012-13 to 2016-17. Had the Company opted for auto sweep facility (to dynamically transfer surplus funds to fixed deposits), it would have earned additional interest income of ₹ 1.56 crore.

Accepting the facts, the BCD stated (November 2017) that option of auto sweep has now been provided in the Company's existing savings accounts.

Recommendation

The Company should exercise due diligence in management of its funds.

Internal Oversight Mechanism

Quality Controls

2.1.10 The Company has an internal quality control laboratory in each PIU to carry out various tests⁶ during construction process. Quality assurance is also given by National Institute of Technology/Indian Institute of Technology, different engineering colleges of Bihar, empanelled third party laboratory, registered reputed laboratory, etc., as and when asked for by the Company. In case of projects worth more than ₹ two crore, a separate laboratory is to be established at the construction site by the Contractor as per the terms of Standard Bidding Document (SBD)⁷. In this connection, Audit observed the following:

- None of the 11 specialised posts (lab technician, lab assistant, etc.,) were filled up, due to which, all the tests were carried out by the Junior

⁵ Calculated at the rate of seven *per cent* prevalent during the period.

⁶ Sieve analysis, test of moisture content, compressive strength of concrete, compaction test, etc.

⁷ The document consists of various guidelines and terms and conditions for finalization of tenders; and serves the purpose of standard form of agreement with contractors for execution of works.

Engineers of the PIUs who were also responsible for execution of the work, resulting in conflict of interest.

The BCD, in its reply, stated (November 2017) that recruitment of Lab Technicians/Lab Assistants is under process. The reply is not convincing as recruitment process for vacancies advertised in July 2016 has not yet been finalised (March 2018).

- Standard clauses in the Company's work orders stipulate that reinforcement steel rods of only specific manufacturers (TATA, SAIL or Vizag Steel) were to be used. It was observed, however, that the Company had no provision to test steel either by themselves or by third party agencies. It was further observed, in 355 test checked works in five PIUs, that though 33,700 MT of reinforcement steel worth ₹ 190.84 crore was used, the concerned Company officials failed to obtain related vouchers of purchase from the contractors. As a result, the quality of reinforcement steel used in the works could not be vouchsafed in Audit.

Replying to the audit observation, the BCD stated (November 2017) that Company supervisory officials regularly check the logo of the manufacturer which is embossed on the steel and placing of reinforcement before concrete casting as per approved construction drawing. Also, there was no prescribed system in the Company to obtain purchase voucher of the reinforcement steel rods from the contractor.

The reply is not acceptable. There is no record that the Company officials verified and certified the logo embossed on the items used in the works. Further, the Company has not put in place a system wherein it obtains copies of the purchase vouchers to ensure that the steel of appropriate quality has been obtained and used in the construction.

Recommendation

The Company should take measures to ensure that the work of lab testing is effectively performed and should ensure that vouchers are invariably obtained to verify that the steel being utilised in the construction process is from specified reputed manufacturers.

Internal Audit

2.1.11 Since the Company did not have its own Internal Audit Wing, they instead appointed Chartered Accountant (CA) firms to do the work. Audit observed however, that the CAs were also responsible for compilation of accounts, reconciliation of bank accounts, etc., which constitutes conflict of interest. It was further observed that the Internal Audit Reports did not include detailed technical audit and propriety of expenditure to ensure adequacy of Internal Controls and to enforce internal check on financial transactions. Further, no mechanism prevailed in the Company to review and pursue compliance to Internal Audit observations. Hence, the Internal Audit System was ineffective. The BCD accepted (November 2017) the audit observation.

Vigilance wing

The Company did not have a Vigilance Wing or a regular Chief Vigilance Officer (CVO) to carry out independent checks for various functions.

Recommendation

An independent Internal Audit Wing and Vigilance Wing with regular CVO should be established at the earliest for timely detection of deficiencies and remedial action.

Project Management

2.1.12 The Company executed various projects during 2012-13 to 2016-17 as indicated in the table 2.1.4.

Table No.2.1.4: Details of works undertaken by the Company

<i>(In Numbers)</i>							
Type of Building	Total works	Project cost (₹in crore)	Cases test checked	Cases of delay in planning	Delay in executing agreements	Delay in completion (out of total)	Delay in handing over
Construction of godowns	538	1,045.86	342	222	178	326	90
Upgradation of PHCs to CHCs	192	656.87	119	5	85	86	46
Other structures	389	1,669.26	238	134	80	83	67
Total	1,119	3,371.99	699	361	343	495	203

Status of major projects is given in **Annexure 2.1.1**. The deficiencies noticed by audit in various phases of execution of projects by the Company are discussed below:

Planning

Observations on irregularities in the planning process are discussed below:

Delay in planning process

2.1.13 As per Government order (November 2013), the planning process, including soil investigation, preparation of estimates, according technical sanction, finalisation of tenders, etc., should be completed within 90 days from the date of administrative approval by the user department.

Audit scrutiny of records of 699 works in five selected PIUs revealed that 361 works had delays ranging from one to 21 months in commencement of the work beyond 90 days of administrative approval. In 39 of these cases, the delay was between six months and one year, and in 68 cases, the delay was more than one year. The reasons for delay included non-setting up of timelines for various stages of planning process, which resulted in procedural delays in preparation of estimates by DGMs of the concerned PIUs, delay in according technical sanctions by the Chief General Manager (CGM) of the Company, delay in inviting tenders by CGM and cancellation of tender, resulting in re-tendering.

In their reply (November 2017) to the audit observation, the BCD stated that the user departments delayed in according approval to site plans/architectural

designs, etc., and due to re-tendering and problems at construction sites. The reply is not acceptable as the delays are primarily attributable to the Company for the reasons given above.

Recommendation

The Company should ensure adherence to the timelines for various planning activities.

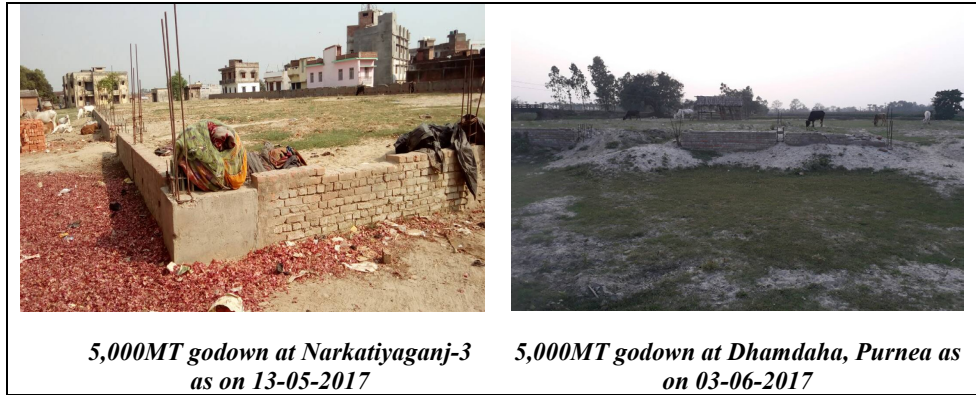
Execution of work without Administrative Approval

2.1.14 The Bihar Financial Rules and Bihar Public Works Department (BPWD) Code, stipulate that administrative approval of the competent authority shall precede execution of any project.

The Company executed seven works without getting administrative approval. As a result ₹ 1.28 crore was blocked since April 2016

Audit observed however, that, violating the above provisions, the Managing Director, without obtaining administrative approval from the user department (FCPD) or Board of Directors approval, and reportedly on verbal instructions of the user department, ordered (January 2015) construction of seven pre-fabricated godowns⁸. After incurring expenditure of ₹ 1.28 crore⁹, the work was stopped in March/ April 2016 due to non-availability of funds. The status of two stalled works are depicted in the photographs below:

Photograph No 2.1.1



In their reply (November 2017), the BCD stated that the user department had since (October 2017) accorded administrative approval. The fact remains, however, that the action of the Managing Director in ordering construction without approval of the competent authority resulted in cessation of work for more than one and half years, after incurring ₹ 1.28 crore.

Recommendation

The Company should commence execution of works only after getting administrative approval of the user departments.

⁸ Construction of 5,000 MT capacity godowns at Narkatiyaganj-3, Dhamdaha, Vaisi, Purnea and 1,000 MT godowns at Jandaha, Arariya and Kurhni.

⁹ ₹ 0.27 crore on pre-execution activities and ₹ 1.01 crore on construction of two godowns of 5,000 MT capacity godowns at Narkatiyaganj-3 and Dhamdaha.

Avoidable expenditure and unnecessary payment to consultant of Kishanganj Krishi Mahavidyalaya project

2.1.15 The agreement (May 2013) for preparation of design/ estimate/ detailed project report (DPR), for the work of construction of Dr. Abdul Kalam Krishi Mahavidyalaya, Kishanganj, in PIU Purnea, provided for consultancy fee at 1.12 *per cent* of the estimated cost of ₹ 501.57 crore. Audit scrutiny of records revealed the following:

- In terms of extant orders (June 2011) on preparation of Bills of Quantity (BoQ), the Company is required to adopt the Schedule of Rates (SoRs) of the Building Construction Department; and only if such rates are not available for any item, the SoRs of the Central Public Works Department (CPWD) are to be adopted. It was however, observed that, though the BCD SoRs provided for lower rates of labour and materials, which were locally available, the consultant (DDF Consultants Pvt. Ltd.) proposed the SoRs of the CPWD, Delhi. This escalated the cost of these items from ₹ 500.18 crore to ₹ 501.57 crore. Without exercising due diligence, Company officials¹⁰ accepted the higher rates, leading to the user department incurring unnecessary additional expenditure of ₹ 1.11 crore¹¹ as payment to contractors plus centage. In reply, the BCD stated (November 2017) that the matter has been referred to the consultant.
- In terms of the agreement, in case of any repeat use of design in the project, the consultant was entitled to receive only 35 *per cent* of the rate for consultancy fee. The work of construction of staff quarters required repeat use of four type of blocks (Type – I, II, III and IV). It was noticed that the Company made full payment at original rates for all the four block types (including repeat blocks), resulting in excess payment of ₹ 49.10 lakh¹² to the consultant. In reply (November 2017), the BCD accepted the facts.

Unnecessary payment of Central Excise Duty

2.1.16 As per Central Excise notification (August 1995), goods intended to be supplied to projects financed by international organizations are exempt from levy of Central Excise.

The Company undertook (May 2016) construction of buildings and other infrastructural facilities for 101 Buniyad Kendras, which was sanctioned by the Social Welfare Department, GoB with World Bank assistance. The materials procured or used in the works of the Company were eligible for Central Excise duty exemption. Audit observed that the consultant¹³ had wrongly included Central Excise in the estimation of rates of cement and steel

The Company failed to avail Excise duty exemption on materials, resulting in inflation of project/work cost by ₹ 5.25 crore

¹⁰ CGM, GM (North), DGM Purnea, AGM and concerned JE.

¹¹ 120 *per cent* of ₹ 0.84 crore (additional expenditure incurred till May 2017) plus centage at 10 *per cent*.

¹² Total fee payable = ₹ 27.75 crore (estimated cost including service tax of one building of each block) x 1.12 *per cent* (for main block) + ₹ 27.75 crore x 1.12 *per cent* x 3 x 0.35 (for repeat blocks) x 81 *per cent* payment released (upto eight running bill) i.e. ₹ 51.61 lakh. Payment made till March 2017 was ₹ 100.71 lakh. Thus excess payment was ₹ 49.10 lakh.

¹³ Arkitechno consultants (India) Private limited.

used in these works. Company officials¹⁴ failed to detect the error resulting in unnecessary payment of ₹ 5.25 crore¹⁵.

In their reply (November 2017) to Audit, the BCD accepted the facts, but stated that since the projects were of low value and were being executed by small contractors who purchased materials from local vendors, it was not possible to avail excise duty exemption. The reply is not acceptable, since it was the responsibility of Government and the Company to devise a mechanism to avail of the Central Excise exemption, which it failed to do, resulting in unnecessary burdening of the State exchequer by ₹ 5.25 crore.

Recommendation

The Company may consider establishing a dedicated cell within the Technical Wing for scrutiny of estimates prepared by consultants.

Tendering

2.1.17 As per GoB Order (March 2008), all works valued at more than two crore rupees should be executed as per the SBD. Significant audit observations on irregularities relating to tendering are discussed below:

Award of work on nomination

2.1.18 The Bihar Financial Rules (BFR) stipulates that, all works and services having estimated value of above ₹ 10 lakh should be awarded by inviting tenders. Further, CVC orders¹⁶ (July 2007) *inter-alia*, provide for awarding Governmental contracts only through public auction/ public tender in order to ensure transparency in Government contracts and to weed out corrupt/ irregular practices.

The Company had awarded 88 works¹⁷ relating to five PIUs valued at ₹ 278.51 crore to various contractors between January 2013 to April 2015. Audit observed that, in violation of the orders contained in the BFR and CVC guidelines, the Company¹⁸ thereafter awarded (November 2014 to December 2016) additional works¹⁹ worth ₹ 19.48 crore to same contractors who had executed the original works, without inviting tenders, despite the fact that the cost of such additional works, in each of the cases was more than ₹ 10 lakh.

In their reply (November 2017) to Audit, the BCD accepted the facts, but stated that these additional works were extra items permitted under the BPWD Code, and that these works were already included in the original estimates, though not included in the original agreement. The reply is not acceptable as the Company failed to incorporate the additional works in the BoQ while tendering, despite it being part of the original estimates. Further, the BPWD code does not consider items that are not part of the original work as extra

The Company, in violation of BFR and CVC guidelines, awarded additional works worth ₹ 19.48 crore on nomination basis

¹⁴ CGM, GM (North and south), DGM, AGM and JE concerned.

¹⁵ Central Excise duty at 12.50 *per cent* on Steel and ₹ 50 per bag on cement (₹ 4.91 crore) plus centage of ₹ 35.74 lakh thereon.

¹⁶ Based on judgment of Supreme Court of India arising out of SLP (Civil) number 10,174 of 2006.

¹⁷ Construction of godowns, upgradation of PHCs to CHCs, construction of residential high schools, etc.

¹⁸ On the basis of proposals of DGMs of the concerned PIUs and approval by the CGM.

¹⁹ Construction of boundary wall, approach road, etc.

items and the work cannot be awarded without inviting tenders in terms of the BFR and CVC guidelines.

Recommendation

The Company should invite open tenders for all works valued above ₹ 10 lakh as per BFR.

Violation of rules in award of work of pre-fabricated godowns

Award of 60 godowns by-passing capacity requirements of contractor

2.1.19 BCD had stipulated (May 2009) that bidders should submit experience certificate by Officers not below the rank of retired Executive Engineer or Registered Valuer of nationalised bank/nationalised insurance company/income tax., that the bidder had executed similar works of any private organisation of specified amounts.

It was observed that, in violation of the above directions, Company officials²⁰ awarded (August 2014 to December 2015) five contracts for construction of 60 pre-fabricated godowns (1,39,500 MT) at a cost of ₹ 125.66 crore to one bidder²¹ on the basis of an ineligible experience certificate issued by the project manager of a private company.

As on June 2017, out of these 60 godowns, 53 godowns were not completed even after lapse of period of seven to 15 months from the scheduled date of completion due to delay in obtaining No Objection Certificate (NOC) by the officials (DGM, AGM and JE) of the concerned PIUs as well as slow progress of work by the contractor.

In their reply (November 2017) to the audit observation, the BCD admitted the facts, but gave the excuse that verification of documents could not be done due to the heavy work load (more than 800 works of different departments). The excuse is not acceptable.

Award of contract for nine godowns without ensuring contractor's capacity

2.1.20 The SBD stipulates that the value of all ongoing works of a contractor are to be deducted while considering his bid capacity²² for a fresh project. Audit observed, however, that in the award (January 2015) of work of construction of nine pre-fabricated godowns at a cost of ₹ 34.41 crore to a contractor²³, Company officials²⁴, did not reduce the value of ongoing works of ₹ 31.22 crore. Consequently, the ineligible contractor was awarded the contract. Evidently because the contractor was unable to undertake the works under the new contract in addition to his earlier awarded works, the contractor

²⁰ Bid Evaluation Committee comprising MD, CGM, GM (North), GM (Finance) and DGM Muzaffarpur.

²¹ M/s Shiv Shankar Singh Contract Private Limited.

²² Bid capacity = Maximum annual turnover in any one of last five year x Number of years in which the proposed work is to be completed x 3 – Existing commitments (ongoing work).

²³ M/s B. S. Promoters.

²⁴ Technical Evaluation Committee (comprising comprising MD, CGM, GM (South), DGM (Finance) and DGM, Purnea).

failed to complete any of the nine godowns (as on December 2017) delaying the works by 24 months beyond the scheduled date of completion (December 2015).

In their reply (November 2017) to Audit, the BCD stated that the construction of five godowns had not commenced due to non-availability of land. The explanation only compounds the fault of the Company. In terms of rule 109 of BPWD Code, the Company should not even have invited tenders without ensuring availability of land.

Recommendation

Tenders should be finalised on the basis of terms and conditions of the SBD and directions of the Government.

Delays due to finalisation of tender without No Objection Certificate

2.1.21 The BPWD Code stipulates that the site of every building is required to be settled by obtaining No Objection Certificate (NOC) from the local administration in time before finalising detailed designs and estimates of work.

In the following cases, Audit noticed instances of finalization of tenders before obtaining NOC resulting in blocking of funds during the period of delay:

- Out of 75 pre-fabricated godowns in five test checked PIUs, tenders of 45 godowns valued at ₹ 122.16 crore, were finalised without obtaining NOC, which were finally received one to 18 months²⁵ after the finalisation of tender.
- In another instance, construction of eight godowns at a cost of ₹ 22.12 crore could not be started even after delay of nine to 26 months of award of tender (January 2015 to September 2016) due to non-obtaining of NOCs from the local administration.

The BCD accepted (November 2017) the audit observation.

Recommendation

The Company should ensure obtaining NOC on the land before inviting tenders for execution.

Project Execution

Non-fixation of time line by the user departments for execution of various works

2.1.22 The Company executes works on the basis of administrative approval accorded by the user departments defining the overall cost limit of the projects. The Company is entitled for centage for its works. Thus, apart from cost limits, the timeline should also be defined so that the accountability of the Company may be ensured.

²⁵ One to six months: 25; more than six and upto 12 months: 14; more than 12 and upto 18 months: 6.

The Company finalized the tenders for construction of 45 godowns without availability of land resulting in delay in commencement of work

Audit noticed that administrative approval of ₹ 1,045.86 crore for construction of 538 godowns and ₹ 656.87 crore for upgradation of 201 PHCs to CHCs were granted by user departments without any timeline for completion of the project. As a result, the accountability of the Company in executing the project was not ensured by the user departments.

Recommendation

The Government/ user departments should fix timelines for execution of each project while according administrative approval.

Delay in execution of agreement after award of contract

2.1.23 As per Government order (November 2013), Executive Engineers of the divisions should execute agreements with the concerned contractors within seven days of finalisation of tender by the competent authority.

Scrutiny of records revealed delays of one to 21 months in the execution of agreements after finalisation of tenders in 343 of the 699 agreements (49 per cent of the cases) entered into by five test checked PIUs between October 2012 and March 2017, as indicated in table 2.1.5.

Table No. 2.1.5: Detail showing delay in agreements					
<i>(in numbers)</i>					
Sl. No.	Range of delay (in months)	Upgradation of PHC to CHC	Construction of godowns	Other works ²⁶	Main reason for delay
1	One to six	82	139	75	Delay by contractors and hindrances in identified land
2	Seven to 12	3	16	4	Hindrances in identified land
3	More than 12	-	23	1	Non-availability of land
Total		85	178	80	

Audit observed that removal of hindrances in identified land was to be ensured by coordinating with local administration and NOC of land was to be obtained from the authorities before inviting tenders by the concerned Project PIUs. However, the same was not done by the DGMs of the concerned PIUs which resulted in delay in agreements.

Thus, due to delay in entering into agreements, dates of commencement as well as due dates of completion of all these works were delayed and the intended benefit of the work could not be achieved in time. Further, inviting and finalising tenders without ensuring availability of hindrance free site was also a violation of rule 109 of BPWD Code.

BCD accepted (November 2017) the audit observation.

²⁶ Construction of airport runway, colleges, hostels, beautification of sites/parks, court buildings, etc.

Recommendation

The Company should ensure availability of hindrance free site before commencing works.

Delay in completion of work as per agreement timeline

2.1.24 The Company executes works assigned by various user departments/PSUs/entities. Thus, for achieving efficient and effective results, the buildings should be completed in time so that the same may be utilised and put to use. The scheduled date of completion is also defined in the agreements entered into with the contractors. During 2012-17, the Company executed 1,119 works.

Audit observed that:

- 861 works were completed (as on March 2017), out of which 332²⁷ (38.56 *per cent*) were completed with a delay of one to 33 months from scheduled date of completion stated in agreements. Out of these 332 works, 94 (28.31 *per cent*) were completed with a delay of one or more years. The main reasons for delay were slow progress of work by the contractors, local hindrances, delay in finalisation of drawings, water logging in rainy seasons, non-liasoning with the land authority/local administration, delay in obtaining NOC from the user department by the officials²⁸ of the concerned PIUs, etc.
- 258 works were in progress (as on March 2017), out of which 163 works²⁹ (63.18 *per cent*) were delayed by one to 36 months from scheduled date of completion due to aforementioned reasons.

The delay in completion of above works by one to 36 months led to:

- delay in utilisation of 326 godowns (215 completed and 111 incomplete) with storage capacity of 6,82,950 MT resulting in payment of avoidable rent of ₹ 9.72 crore³⁰ on hired godowns in 2014-17 by the user Bihar State Food and Civil Supplies Corporation Limited (BSFCSCCL), a PSU under the administrative control of FCPD, GoB.
- delay in completion of 86 CHCs (75 completed and 11 incomplete), delayed the intended objective of providing improved healthcare facilities by one to 36 months.
- delay in completion of 83 other works (42 completed and 41 incomplete) which resulted in delay/ denial of achievement of intended benefits of these works.

²⁷ 215 godowns, 75 CHCs and 42 other works (Stadia, DCLR court, ADR building, Animal Hospital, Airport lounges, Laboratory, Development of historical places, etc.)

²⁸ DGMs, AGMs and JEs.

²⁹ 111 godowns, 11 CHCs and 41 others.

³⁰ Calculated on the basis of average rate of rent of ₹ 14.02 and ₹ 15.85 *per MT per month* for the year 2014-15 and 2015-16 for the capacity of godowns created during respective years respectively. Calculation for the year 2016-17 made on the basis of actual godowns hired (being less than capacity created) by the user and rates for 2015-16 were considered for calculation as no final/provisional rates for 2016-17 were available with the Company.

Photographs of two incomplete 5,000 MT pre-fabricated godowns at Gaighat, Muzaffarpur (construction commenced in September 2015 and scheduled to be completed in June 2016) are as under:

Photograph No 2.1.2



Photographs as on 06-05-2017

The BCD, in its reply, stated (November 2017) that due to various reasons viz. delay in providing of NOC, change in identified land, local hindrances, fault of contractors, etc., the construction works were not completed on schedule and measures were being taken to resolve various implementation issues.

Recommendation

The Company should strengthen monitoring and supervision of performance of contractors and ensure completion of all delayed projects on priority by removing hindrances if any.

Delayed/non-utilisation of infrastructure due to delay/non-handing over the completed projects to the users departments

2.1.25 For timely utilisation of projects, it is necessary that the projects/works are handed over to the concerned departments immediately after completion.

In test check of records of five PIUs, it was noticed that out of 375 handed over works, 161 works³¹ having cumulative expenditure of ₹ 257.90 crore were handed over to the user departments with delays of one to 30 months after completion.

42 works involving an expenditure of ₹ 72.74 crore were not handed over, with delays ranging from three to 37 months

Further, 42 completed works³² costing ₹ 72.74 crore, had not been handed over (May 2017) despite lapse of three to 37 months. The main reason for delay was lack of initiative in handing over and taking over of completed works by the Company officials³³ and the user departments respectively. This led to:

³¹ 84 godowns of FCPD, GoB, 40 works of upgradation of PHCs into CHCs of Health Department, GoB, nine Animal Hospitals of Animal and Fisheries Resources Department, GoB, seven 50 bedded Remand Homes of Social Welfare Department, GoB and 21 other works.

³² Six godowns of FCPD, GoB, six works of upgradation of PHCs into CHCs of Health Department, GoB, six Animal Hospitals of Animal and Fisheries Resources Department, GoB, six Press Clubs of Information and Public Relations Department, GoB and 18 other works.

³³ DGMs of the concerned PIUs.

- delayed /non-utilisation of 90 godowns³⁴ with storage capacity of 1,14,500 MT resulting in payment of avoidable rent of ₹ 76.95 lakh³⁵ on hired godowns in 2014-17 by BSFCSCL.
- delayed/ non-utilisation of 46 CHCs³⁶, delayed the benefit of improved healthcare facilities by one to 22 months.
- delayed utilisation of two completed residential schools and denial of benefits of other completed structures by one to 37 months.

The BCD, in its reply, stated (November 2017) that proposals for handing over were sent timely to the concerned authority, who delayed in taking over. Also, necessary action on this issue has been taken at appropriate level and communications have been issued to concerned departments. However, the fact remains that the above buildings were either not utilised or utilised with delays.

Recommendation

The Company and the user departments should ensure timely handing over and taking over of completed works for prompt utilisation of the created infrastructure.

Excess payment to contractor in construction of Krishi Mahavidyalaya at Kishanganj

2.1.26 As per clause 12.2 of the agreement entered into (December 2013) for construction of Krishi Mahavidyalaya at Kishanganj (estimated cost: ₹ 593.10 crore), the rate of substituted items³⁷ shall be determined on the basis of market rate.

The Company made an excess payment of ₹ 3.39 crore to the contractor due to non-compliance of the provisions of the agreement regarding determining the rates of substituted items

Audit noticed that during execution of work, the contractor executed 51,119.29 cubic meters (CuM) of work stipulated to be done by substituting clay brick with fly ash bricks till May 2017. However, instead of deriving the local market rate of the brick work with fly ash bricks as per Bihar SoRs, the Company made payments to the contractors on the basis of Delhi SoRs, which were higher than the Bihar SoRs. This resulted in excess payment of ₹ 3.39 crore to the contractor, by the concerned Company officials³⁸ responsible for scrutiny and approvals of the payments.

Replying to the Audit observation, the BCD stated (November 2017) that the rate of fly ash bricks items of work were not available in Bihar SoRs 2013. The reply is incorrect and misleading, as rates of all these items are available in the Bihar SoRs and should have been adopted instead of the Delhi SoRs.

Recommendation

The Company should ensure adoption of appropriate rate for labour and material as per Bihar SoRs.

³⁴ 84 handed over and six not handed over.

³⁵ Calculated on the basis of average rate of rent of ₹ 14.02 and ₹ 15.85 per MT per month for the year 2014-15 and 2015-16 respectively.

³⁶ 40 handed over and 6 not handed over.

³⁷ Items included in the BoQ as a replacement of some items.

³⁸ DGM, AGM and JE of PIU Purnea.

Excess payment towards carriage of stone

The Company made an excess payment of ₹ 5.37 crore on carriage of stone

2.1.27 Audit scrutiny of two agreements executed by PIUs Purnea and Munger³⁹, revealed that the concerned Company officials responsible for scrutiny and approval of payments⁴⁰ irregularly paid the contractors at the rates applicable for the longer distance mentioned in the agreements (for sourcing stone aggregates required for the works) rather than the actual distance (as evident from the M&N forms⁴¹ submitted by the contractors). This resulted in excess payment of ₹ 5.37 crore on carriage of stone aggregates as indicated in table 2.1.6.

Table No. 2.1.6: Details of excess payment on carriage of stone							
Name of Work	Quantity used in CuM	Distance in BoQ (KM)	Rate/ CuM of payment in BoQ (₹)	Actual distance (KM)	Rate/ CuM as per actual distance (₹)	Difference in rate/ CuM (₹)	Excess payment (₹ in crore)
(1)	(2)	(3)	(4)	(5)	(6)	(7)=(4)-(6)	(8)
Agriculture College, Kishanganj	35,621.50	207	2,451.15	103	1,291.51	1,159.64	4.96 ⁴²
Pre-fabricated godown, Munger	1,743.20	264	3,309.63	170	2,185.84	1,123.79	0.20
	1,023.24			90	1,229.17	2,080.46	0.21
Total							5.37

Accepting the audit observation, the BCD stated (November 2017) that the overpayment would be adjusted from subsequent running account bills of the work.

Recommendation

The Company should assess shortest possible distance for payment of carriage charges in the estimate itself to avoid extra payment.

Irregular payment on carriage

2.1.28 Contractors who execute projects for the Company are required, under the agreements, to source raw materials such as stone chips and coarse sand from the quarries specified by the Company, for which they would be reimbursed the carriage costs. This is verifiable from the M & N forms submitted by the contractors.

Payment of carriage of ₹ 50.43 crore was made irregularly without verifying the actual distance from where the materials were brought

Audit scrutiny of records in 358 cases revealed that the contractors did not submit M&N forms to the Company for transportation of 1,55,090 CuM of stone chips and 1,26,654 CuM of coarse sand. Despite this, the concerned Company officials⁴³ processed and approved payment of ₹ 50.43 crore (₹ 31.46 crore on stone chips and ₹ 18.97 crore on coarse sand) as carriage to the contractor without ensuring submission of Form M and N.

³⁹ Construction of Agriculture College, Kishanganj and pre-fabricated godown of 5,000 MT at Munger district, respectively.

⁴⁰ DGM, AGM, JE and Accountant of the concerned PIUs.

⁴¹ Form M is affidavit of the contractor for lifting of minor-minerals from authorised quarry/seller and form N contains details of minor minerals issued by the authorised quarry/seller.

⁴² Excess payment calculated at contract value (20 per cent above BoQ).

⁴³ DGM, AGM, JE and the Accountant of the concerned PIUs.

Accepting the audit observation, the BCD stated (November 2017) that all PIUs have been instructed to pay the bills of contractors only after verification of M & N forms.

Post-facto grant of time extension and refund of liquidated damage in violation of the agreements

2.1.29 Standard clauses in the agreements executed by the Company stipulate that Contractors are required to seek extension of time within 14 days of occurrence of any hindrance while executing any project. Scrutiny of records of five test checked PIUs revealed that in 46 out of 177 delayed works, the contractors had sought time extensions from one to 26 months after completion of the concerned projects, the approval of which, in violation of the standard clauses, resulted in irregular release of ₹ 3.48 crore of liquidated damages retained by the Company for delay in execution.

Replying to the audit observation, the BCD stated (November 2017) that the agreements permitted fair and reasonable time extension by the Engineer -in-Charge even without the contractor applying for extension of time. Since the projects have already been completed and handed over to the concerned department, the retained amounts of liquidated damages were released.

The reply of the BCD is unacceptable. The clause relating to *suo motu* approval of extension is applicable only when the delays are not attributable to the contractor. In all these cases commented upon in audit, however, the delays were attributable primarily to the contractor. Consequently, the approval of extension after the specified period and the consequent release of liquidated damages of ₹ 3.48 crore was unwarranted, and resulted in undue benefit to the contractors.

Recommendation

The Company should ensure that time extensions are only granted when warranted under the agreement.

Irregular payment of variations without approval of competent authority

2.1.30 The Bihar PWD code stipulates that variations (during execution as compared to estimates) of more than 20 *per cent* in BoQ items should be approved by the user department. Audit observed, however, that, in two works⁴⁴ by the concerned DGMs, though the variation ranged between 25 *per cent* and as much as 91 times the estimated cost, the variations were not referred to the user department, and instead, excess payment of ₹ 63.10 crore (as of May 2017) was made to the contractor.

Replying to the audit observation, the BCD stated (November 2017) that the variations were recommended by the consultant and will now be approved by the competent authority. The reply is not acceptable. The recommendations of the consultant are not binding on the Company and are required to be examined for approval by the competent authority before incurring the additional payment of ₹ 63.10 crore, which did not happen in this case.

⁴⁴ Construction of godowns (Gaya and Darbhanga) and construction of Dr. Kalam Krishi Mahavidyalaya (Kishanganj).

Recommendation

The Company, in case of variation in works, should invariably obtain approval of the user department before releasing payments.

Impact of Audit

Action taken by the Company on the basis of audit findings

- The Company has agreed to claim interest from user departments in cases of utilisation of Company funds in Project works due to delay in release of funds by user departments. This will act as a deterrent against delay by user departments in release of funds.
- The Company has adopted BCD, GoB guidelines for fixing timelines for various pre-execution activities.
- The Company has also resolved (November 2017) to invite tenders only after availability of hindrance free land.
- The Company instructed all the PIUs to pay the bills of the contractors only after verification of M & N form and also agreed to recover the excess payment pointed out by audit.

Conclusion

- The absence of a whole time Managing Director impacted the performance of the Company.
- On-site monitoring mechanism in the Company was deficient. Quality control systems were deficient due to absence of lab technicians.
- Financial management was deficient as the Company did not claim interest from user departments for utilising its own funds in project works. Moreover, failure of the Company to prudently invest its bank balances resulted in loss of interest of ₹ 6.11 crore.
- Planning process was deficient due to non-setting up of timelines for pre-execution activities, deficiencies in preparation of DPR, estimates, etc. These resulted in delays in commencement of work, inflated estimates, etc. Tendering process was not transparent as instances of extension of undue benefit to the bidders, commencement of work without ensuring availability of land and irregular award of works were observed.
- Execution of projects was not satisfactory, since instances of time overrun of up to two or more years, delays in agreement, irregular payments, avoidable expenditure / excess payments along with non-compliance of rules were observed. Further, instances of irregular extensions of time to contractors were also noticed. Abnormal delays in handing over of the completed works resulted in the works not being utilized.

2.2 Audit on development of Educational Infrastructure by Bihar State Educational Infrastructure Development Corporation Limited

Introduction

2.2.1 Bihar State Educational Infrastructure Development Corporation Limited (Company) was incorporated in July 2010 as a wholly owned Government Company under the administrative control of the Education Department, Government of Bihar (GoB). The Company is engaged in construction and maintenance of all types of educational infrastructure in Bihar on behalf of the departments of Education and Minority Welfare. The Company executes all projects through private contractors, and charges centage¹ for its services.

The Audit by way of test check, covered 15 out of 60 (25 *per cent*) projects implemented during the audit period. These 15 projects executed 3,534 works (70 *per cent* of the 5,082 works executed by the 60 projects). Audit test checked 1,413 works (40 *per cent* of 3,534 works) in these 15 projects valued at ₹ 1,061.72 crore (29 *per cent* of ₹ 3617.06 crore incurred on the 60 projects).

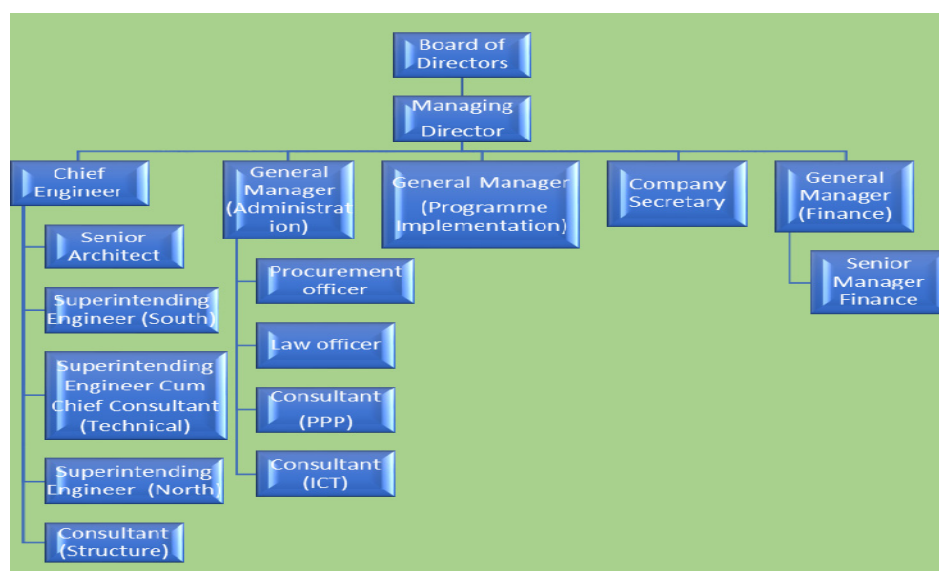
There are total 12 audit observations, and most of them are of a nature that may reflect similar errors/omissions in other works being implemented by the Company, but not covered in the test audit. The Company therefore may like to internally examine all the other works being executed by them with a view to ensuring that they are being carried out as per requirement and rules.

The Company is managed by a Board of Directors comprising the Managing Director and nine other Directors. The Development Commissioner, GoB is the *ex-officio* Chairman of the Board. The Managing Director is the Chief Executive Officer of the Company and is responsible for implementation of the objectives of the Company and day-to-day conduct of business.

The Company's functioning is divided into three wings, i.e., Technical, Administrative and Finance. The organisational chart of the Company is given below:

¹ Till January 2016, Centage was fixed at the rate of nine *per cent* of project cost. However, the rate of centage was revised (23 January 2016) as follows:

- (A) For project cost upto ₹ 10 crore = seven *per cent*
- (B) For project cost more than ₹ 10 crore and up to ₹ 100 crore = (A) + five *per cent* on amount exceeding ₹ 10 crore.
- (C) For project cost more than ₹ 100 crore = (B) + one *per cent* on amount exceeding ₹ 100 crore.



The audit of the Company was carried out to evaluate and assess whether the infrastructural projects were executed economically, efficiently and effectively by the Company with due regard to proper planning and canons of financial propriety. The performance of the Company was evaluated with reference to the provisions of Bihar Public Works Department (BPWD) code, Standard Bidding Documents (SBD) and the applicable laws.

Audit Scope and Methodology

2.2.2 Audit used Stratified Random Sampling Method without replacement², and examined records of 15³ out of 60 projects/schemes executed by the Company during 2012-17 at an expenditure of ₹ 2,654.30 crore (i.e., 73.38 per cent of the total expenditure of ₹ 3,617.06 crore).

Audit methodology included examination of Company records, issue of Audit observations/queries, joint physical verification of incomplete/ delayed projects, etc. Management/ Education Department views were also elicited in Entry and Exit Conferences.

Acknowledgement

Audit acknowledges the cooperation and assistance extended by the Company and its officials during conduct of the Audit.

² Stratified Random Sampling refers to a method of sampling wherein the sample population is divided into various strata or groups according to some criteria and the samples are selected on a random basis without replacement to arrive at the representative sample.

³ (1) Senior Secondary School (SSS) scheme, (2) Model School (MS) scheme, (3), Upgraded Secondary School (USS) scheme, (4) Girl's Hostel (GH) scheme, (5) Higher Secondary School (HSS) scheme, (6) Chandragupta Institute of Management Project (CIMP), (7) ICT @ School scheme, (8) SSS Minority (SSSM) scheme, (9) Residential School, Tharhut, (10) Aryabhatt Knowledge University, (11) Sainik School, Nalanda, (12) Sainik School, Gopalganj, (13) Child Development Project Officer (CDPO), (14) L.N.M. College Girls Hostel, Meeting Hall and Internal Painting, and (15) Rashtriya Shiksha Abhiyaan Office.

Audit Findings

2.2.3 The Audit findings are discussed in succeeding paragraphs:

Human Resource Management

2.2.4 The position of manpower of the Company over the past four years is summarized below:

Shortage of manpower in the Company ranged from 18.52 per cent to 25.93 per cent during the period 2013-17

Particulars	Sanctioned ⁴ strength	March 2014	March 2015	March 2016	March 2017
Managing Director (MD)	1	1	1	1	1
General Manager (GM)- (Administration)	1	0	0	0	0
GM- Programme Implementation (PI)	1	1	1	1	1
GM (Finance)	1	0	1	0	0
Chief Engineer	1	0	1	1	1
Chief Consultant (Technical)	1	0	0	1	1
Superintending Engineer	2	0	2	1	1
Executive Engineer (EE) Civil	14	11	13	13	13
Assistant Engineer (AE) Civil	35	32	30	32	34
Junior Engineer (JE) Civil	160	134	140	151	146
Other Staff	80	41	44	41	35
Total	297	220	233	242	233
Shortage (in per cent)		25.93	21.55	18.52	21.55

The vacancies in the key posts of GM (Administration) and GM (Finance) resulted in poor monitoring of projects, and also led to the financial irregularities detailed throughout the report, due to absence of checks and balances.

Audit also observed an instance where the Managing Director and GM (Administration)⁵ appointed (November 2013) an Assistant Engineer who did not fulfil the prescribed eligibility criteria. Replying to the audit observation, the Education Department stated (November 2017) that necessary action would be taken in this regard.

As observed in the audit of the Bihar State Building Construction Corporation Limited, the Company should evaluate the necessity of operating so many posts in the EE, AE, JE cadres, especially since no works are executed in house, and its main task is that of contract management.

Recommendation

1. The State Government and the Company should review the need to continue with the present HR structure, in light of the fact that the Company does not execute works in house.
2. The State Government should review all irregular appointments for corrective action.

⁴ Apart from the sanctioned strength of 297, the GoB appoints one Chief Vigilance Officer of the rank of Joint Secretary or equivalent.

⁵ Duties and responsibilities of GM (Admn) were discharged by GM (P.I).

Financial Management

2.2.5 The financial position and working results of the Company for the last five years ending March 2017 are given below:

Table No. 2.2.2: Financial position and working results					
(₹ in crore)					
Financial Position					
Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
Paid up Capital	20.00	20.00	20.00	20.00	20.00
Reserves & Surplus	39.81	68.66	111.26	181.60	204.55
Non-Current Liabilities⁶	0.00	2,013.78	2,766.97	3,109.60	3,840.52
Current Liabilities & Provisions	1,235.64	58.82	154.56	299.93	360.57
Total	1,295.45	2,161.26	3,052.79	3,611.13	4,425.64
Net Fixed Assets	0.12	0.29	0.36	0.48	0.33
Long Term Loans and Advances	0.00	0.00	2.51	1.84	1.48
Other Non-Current Assets	11.67	22.30	48.91	76.12	88.01
Current Assets⁷	1,283.66	2,138.67	3,001.01	3,532.69	4,335.82
Total	1,295.45	2,161.26	3,052.79	3,611.13	4,425.64
Working results					
Total Income	12.14	40.32	90.20	102.56	59.03
Total Expenditure	6.90	11.47	17.57	32.05	36.08
Exceptional items	0.00	0.00	26.50	0.00	0.00
Profit/ (loss) before tax	5.24	28.85	46.13	70.51	22.96
Less: Prior period adjustments and Taxes	-	-	-	-	-
Net Profit/(Loss) after Taxes	5.24	28.85	46.13	70.51	22.96
Centage earned	9.72	35.35	83.34	98.95	52.50
Centage as per cent of total Income	80.06	87.67	92.39	96.48	88.94
Return on Investment (in per cent)⁸	8.76	32.54	35.14	34.98	10.22

The reduction in income and net profit in 2016-17 is mainly attributable to slow execution of the works and reduction in centage rates with effect from January 2016.

Utilisation of funds

2.2.6 Details of receipt of funds from user departments and their utilisation during 2012-13 to 2016-17 are given in the table below:

⁶ Non-current liabilities include funds from the user departments along with accrued interest, Earnest Money deposit and the Performance Bank Guarantee forfeited, if any.

⁷ Current Assets include work in progress of construction work against fund received.

⁸ ROE and ROCE were the same as ROI as there was no long term borrowing, accumulated loss and deferred revenue expenditures. Further, the profit before and after tax were the same.

Table No. 2.2.3: Receipt and utilisation of funds							
(₹ in crore)							
Year	Opening Balance	Funds received during the year	Total funds available	Funds utilized	Surrendered during the year	Closing Balance	Percentage of utilisation (%)
(1)	(2)	(3)	(4) =(2+3)	(5)	(6)	(7) =(4-5-6)	(8) =(5*100)/4
2012-13	503.87	818.62	1,322.49	117.99	6.13	1,198.37	8.92
2013-14	1,198.37	611.08	1,809.45	426.35	2.79	1,380.31	23.56
2014-15	1,380.31	682.74	2,063.05	1,009.32	9.93	1,043.80	48.92
2015-16	1,043.80	602.34	1,646.14	1,259.51	55.36	331.27	76.51
2016-17	331.27	716.06	1,047.33	802.46	5.65	239.22	76.62
Total		3,430.84		3,615.63	79.86		

The Company surrendered ₹ 79.86 crore to the administrative department (Education Department), out of which, ₹ 55.36 crore was surrendered by the Company at the instance of the department for their own utilisation in construction of toilets and renovation of schools under the Rashtriya Madhyamik Shiksha Abhiyaan (RMSA) scheme.

Other observations :

(1) The Company utilised its own funds amounting to ₹ 232.56 crore for various schemes out of which only ₹ 150.47 crore was adjusted from the user departments and the balance of ₹ 82.09 crore remained unadjusted for periods ranging from 13 to 650 days⁹ (March 2017). As a result, the Company suffered loss of interest income of ₹ 6.97 crore¹⁰.

Failure to keep surplus funds in savings accounts with auto sweep facility resulted in loss of interest income of ₹ 62.30 crore

(2) During 2012-17, the Company kept surplus project funds ranging from ₹ 293.84 crore to ₹ 866.32 crore in 60 Savings Bank Accounts without opting for auto sweep facility, resulting in loss of interest income of ₹ 62.30 crore¹¹ to project funds.

(3) The GM (Finance) cum Senior Accounts Officer of the Finance Wing of the Company, granted Mobilisation Advance of ₹ 7.02 crore in 11 cases to five agencies¹² whose requests were received after a lapse of 34 to 209 days from the date of commencement of work which was against the provisions of the SBD stipulating grant of Mobilisation Advance within 30 days of commencement of work on request made by contractor.

Delay in payment of service tax resulted in creation of undue liability of ₹ one crore

(4) The GM (Finance) cum Senior Accounts Officer failed to ensure deposit of Service Tax within the prescribed time period i.e., in the month following the month in which it became due. The Company during the period April 2015 to September 2016 collected service tax of ₹ 7.36 crore from contractors, which were deposited (November 2016) belatedly after a lapse of one to 18 months from the due date of payment. Delay in payment of service

⁹ ₹ 78.50 crore remained unadjusted for 13 to 285 days in 2015-16, and continued (with some additional expenditure) totalling to ₹ 82.09 crore for 60 to 365 days in 2016-17.

¹⁰ Worked out on the basis of interest rate of savings account linked with auto sweep facility.

¹¹ Worked out at the differential rate of (6.5-4) 2.5 per cent per annum for the period when surplus funds were available.

¹² M/s Delco Infrastructure Projects Limited, M/s Jindal Mectec Private Limited, M/s Llyod Insulations (India) Limited, M/s Anoj Enterprises and M/s Dilip Kumar Sharma.

tax has resulted in creation of an undue liability of ₹ one crore on account of interest payable for the period in case the Service Tax Department imposes penalty.

The Education Department, while accepting the audit observations, stated (November 2017) that the Company is regular in depositing service tax since December 2016.

Recommendation

The Company should exercise due diligence in management of its funds by faster execution of works, use of auto sweep facilities (instead of depositing in saving bank accounts), and paying taxes in time.

Internal Oversight Mechanism

Quality Controls

2.2.7 The internal quality control laboratory of the Company has no facility to test steel, mortar and chemical analysis of cement, even though such tests are essential to determine the quality of construction in the different projects undertaken by the Company.

Replying to the audit observation, the Education Department stated (November 2017) that steel from reputed manufacturers and cement bearing ISI mark was used in construction. The reply is not acceptable, since there is no record to show that Company officials had ensured that only materials of the prescribed specifications were used, either by physical verification, or by scrutinizing purchase invoices of materials used in construction.

Recommendation

The Company should put in place a mechanism to ensure that materials of the specified quality are used in its construction projects.

Internal Audit

2.2.8 The Company does not have an Internal Audit Wing. As evident from the findings discussed in paragraph 2.2.17 and paragraph 2.2.20, the internal oversight mechanism of the Company requires significant improvement. The administrative department also did not perform its duties in enforcing oversight of the Company, as is evident from the fact that no action was taken on the 34 monthly progress reports submitted by the Company during the period March 2014 to March 2017.

The Education Department accepted (November 2017) the audit observation.

Recommendation

An independent Internal Audit Wing should be established at the earliest for timely detection of deficiencies and ensuring remedial action.

Project Management

2.2.9 Planning

Instances of deficient planning in preparation of estimates as observed in Audit are discussed below:

Finalisation of tender without obtaining clear title to work site

2.2.10 The BPWD Code stipulates that the site of every building is required to be settled by obtaining No Objection Certificate (NOC) from the local administration in time before finalising detailed designs and estimates of work.

240 works involving sanctioned cost of ₹ 249.68 crore could not be started due to non-availability of encumbrance free land

Examination of records revealed that the Company officials¹³ failed to ensure the availability of dispute free land by way of undertaking site inspections, site surveys and NOC prior to tendering. As a result, 240 works pertaining to seven schemes¹⁴ involving sanctioned cost of ₹ 249.68 crore, could not be started for periods ranging from 16 to 73 months (November 2017) due to non-availability of encumbrance free land, and the funds earmarked for these works were diverted to other works.

The Education Department accepted (November 2017) the audit observations.

Recommendation

The Education Department and the Company should ensure that designs and work estimates are finalised only after obtaining NOC from the local administration.

Model School Scheme

Denial of quality education to talented rural students in 368 schools due to non-provisioning of furniture in the estimates and other reasons

2.2.11 The Education Department, GoB had proposed (March 2012) construction of 368 Model schools in educationally backward blocks of Bihar, with an aim to provide quality education to talented rural children, under RMSA.

Audit observed that Company officials¹⁵ at the time of framing estimates failed to include cost estimates for furniture and other essential amenities (viz. open theatres, basketball/ volley ball courts) and finalized tenders (October 2012 to September 2014) for construction of 353 out of 368 Model schools. The Company could not float tenders for the remaining 15 Model schools due to non-availability of dispute free land.

Out of 353 schools, the Company completed construction of 297¹⁶ Model schools at a cost of ₹ 555.69 crore (December 2015). The work of the remaining 56 schools could not be commenced due to non-availability of land. However, none of the 297 completed schools could be used due to non-availability of furniture and other essential amenities.

Audit further observed that the Education Department as well as the Bihar Madhyamik Shiksha Parishad (BMSP)¹⁷ failed to notice the deficiency of non-

¹³ MD, GM (Administration) and Chief Engineer (Technical).

¹⁴ USS, SSS, SSSM, CDPO, MS, HSS and GH scheme.

¹⁵ MD and Chief Engineer (Technical).

¹⁶ 216 completed Model Schools and 81 Model schools that were decided (December 2015) to be wound up on completion up to G + 1 stage.

¹⁷ BMSP, a society registered under Society Registration Act (XXI) 1860 and functioning under the Education Department, is the nodal agency for execution of Model school project of RMSA.

inclusion of furniture and other amenities in the estimate prepared by the Company. The Company initiated the proposal to secure funds from the State Government for furniture and other amenities for 297 completed model schools only in September 2016, and the funds were not released by the State Government till date (December 2017).

As a result, the intended benefit of imparting quality education under the Model School Scheme could not be provided due to non-construction of 15 schools, non-completion of 56 schools due to non-availability of dispute free land and non-provision of furniture and other essential amenities in 297 completed schools.

The Education Department, while accepting the audit observation, stated (November 2017) that a fresh tender was invited (May 2017) for procurement of furniture. However, the reply was silent over the issue of deficient preparation of estimates.

Recommendation

The Company may consider establishing a dedicated cell within the Technical Wing for scrutiny of estimates.

Non-availing of Central Excise Duty exemption of ₹ 10.04 crore

2.2.12 In terms of Central Excise Department notification (August 1995), steel and cement used in projects financed by international organizations, including the World Bank, are exempt from levy of Central Excise duty.

Non-availing of Central Excise Duty exemption resulted in avoidable expenditure of ₹ 10.04 crore

Audit observed that while approving the Bill of Quantities (BoQs) and estimates for four¹⁸ World Bank assisted projects, the Chief Engineer (Technical) failed to account for the Central Excise duty exemption, resulting in avoidable expenditure of ₹ 10.04 crore as on November 2017.

The Education Department accepted (November 2017) the audit observation.

Recommendation

The State Government may issue orders reiterating the exemption orders of the Central Excise Department.

Project Execution

Execution of Projects

2.2.13 The Company, during 2012-17, undertook 60 projects/schemes including 5,082 works at a sanctioned cost of ₹ 6,196.61 crore and as of March 2017, an expenditure of ₹ 3,617.06 crore (58.37 per cent) was incurred. The financial status of the projects/ schemes is detailed in **Annexure-2.2.1**.

Audit noticed various deficiencies in execution of these projects as detailed below:

¹⁸ District Institute of Education and Training, Primary Teachers Education College, Block Institute of Teachers Education and College of Teacher Education.

Submission of certificates after completion of selection of the contractor

2.2.14 The SBD, *inter alia*, requires bidders to submit experience certificates regarding electrification/sanitary works, either carried on by themselves or by their sub-contractors, at the time of submission of bids.

Lack of transparency in tendering process of the Company resulted in irregular award of work to the contractor

Audit observed that in respect of Sainik School, Nalanda, one bidder¹⁹ did not submit the required electrification/sanitary works experience certificates at the time of submission of bid. However, the Technical Committee²⁰ of the Company did not disqualify the bid during technical evaluation and the bid was declared technically qualified. On financial evaluation, the bidder emerged L1 and was awarded (September 2011) the work at the agreement cost of ₹ 30.64 crore. The required certificates were obtained subsequent to opening of the financial bids, which was against the canons of transparency in tender procedure.

The Education Department, while accepting the audit observation, stated (November 2017) that though the requirement of submitting of electrification/sanitary works experience certificate was mentioned in SBD, the same was not provisioned in the Technical evaluation template for e-tendering. And the Technical Committee too limited itself to the examination of documents submitted based on its template. However, efforts would be made to enlarge the template as per SBD.

The reply of the department vindicates the audit observation.

Inconsistent approach to evaluation of bids

2.2.15 The SBD stipulates that bidders who meet the minimum qualification criteria will be qualified only if their Assessed Available Bid Capacity (bid capacity)²¹ is more than the total bid value. Further, the Bihar Finance (Amendment) Rules (BFR), 2005, stipulates that the Technical Committee shall record the reasons for acceptance or rejection of the technical bids.

Audit observed that the Technical Committee²² disqualified the bid of one bidder M/s Satyanarayan Singh, Jharkhand in four works relating to nine schools (estimated cost: ₹ 24.94 crore²³) on the ground of insufficient bid capacity despite the bid capacity (₹ 37 crore) being 400 *per cent* more than the individual estimated cost of each of the four works. Besides, no explanation for disqualification on the basis of insufficient bid capacity of the said bidder was recorded by the Technical Committee as per the requirement of BFR.

It was further observed that the Technical Committee of the Company had considered the same bid capacity of ₹ 37 crore as individually sufficient for Technical Qualification of the bidder in three other works comprising eight

¹⁹ M/s Dayanand Prasad Sinha & Co.

²⁰ Chief Consultant (Technical), Chief Consultant (Architect), Chief Consultant (Finance & Accounts), Executive Engineer (Headquarters) and Consultant (Technical).

²¹ Bid capacity = Maximum annual turnover in any one of last five years x Number of years in which the proposed work is to be completed x 3 – Existing commitments (ongoing work).

²² Chief Consultant (Technical), Superintending Engineer (Headquarters), Executive Engineer (Headquarters), Senior Architect and Senior Accounts Officer.

²³ MS 133- ₹ 5.40 crore, MS 135- ₹ 5.36 crore, MS 166- ₹ 8.42 crore and MS 169- ₹ 5.76 crore.

schools at an aggregate estimated cost of ₹ 22.32 crore²⁴. This reflected inconsistency in evaluation of bids and lack of transparency in award of works by the Company.

The Education Department accepted (November 2017) the audit observation.

Recommendation

The State Government is required to ensure that the Company complies with the SBD provisions to infuse transparency in technical evaluation of bids.

Award of contract on the basis of forged documents

Lack of due diligence resulted in selection of a contractor with fictitious bid capacity, leading to extension of undue benefit to the contractor and unfruitful expenditure of ₹ 36.82 crore

2.2.16 The Company invited tenders (18 February 2014) for construction of 887 schools in 387 groups. One bidder (M/s Birendra Kumar Singh, Katihar) submitted certified accounts (20 April 2014) and a certificate of turnover (20 April 2014) issued by a Chartered Accountant (CA) firm (Sanjay Kumar Jha and Associates), where turnover of ₹ 49.89 crore was claimed for 2013-14²⁵. Based on this, the Technical Committee²⁶ assessed the bid capacity of the bidder at ₹ 188.30 crore and the Company awarded (July 2014) him contracts for 67 schools (to cater to 18,760 students in various districts of Bihar) valued at ₹ 77.42 crore, which were scheduled for completion between December 2015 and March 2016.

Audit cross-verified the Income Tax Return filed by the bidder for 2013-14 and certified by the same CA firm, which gave a different figure of ₹ 1.44 crore. It was further observed that the bidder had reported the same turnover (₹ 1.44 crore) in his return for the same period (2013-14) filed with the Commercial Taxes Department, Bihar. Thus, the ineligible bidder was awarded the contracts on the basis of fraudulent certification.

It was further observed that after securing the contract, the ineligible bidder failed to complete (as on December 2017) construction of any of the 67 schools, despite incurring expenditure of ₹ 36.82 crore.

The Education Department stated (November 2017) that the increase in bid capacity was due to increase in turnover in one year which was achievable.

The reply of the department is not acceptable. The Company failed to detect the fictitious credentials of the bidder supported by fraudulent certificate of CA. The audit observation is supported by the fact that the contractor failed to complete construction of even one of the 67 schools awarded to him.

²⁴ MS 16- ₹ 5.68 crore, MS 35- ₹ 8.45 crore and MS 108- ₹ 8.19 crore.

²⁵ Being the maximum annual turnover in any one of last five years considered for assessing bid capacity.

²⁶ Chief Engineer, Superintending Engineer (Headquarter), Executive Engineer (Headquarter) and Senior Accounts Officer.

Recommendation

The State Government may frame measures to cross verify all submissions by bidders and to blacklist and criminally prosecute bidders and their associates who furnish fraudulent documents.

Failure of the Company to renew Performance Bank Guarantees

2.2.17 The SBD stipulates that the contractor shall submit an irrevocable Performance Bank Guarantee (PBG) of two *per cent* of the tendered amount, which shall initially be valid for up to 28 days beyond the defect liability period²⁷. The PBG is to be forfeited in case the contract is rescinded.

Audit observed that the Company rescinded six works valued at ₹ 9.08 crore due to slow progress of work. However, due to lapses of the Company officials²⁸ to ensure their timely renewal, the PBGs valued at ₹ 59.68 lakh could not be encashed. It was further observed that in 36 works, PBGs valued at ₹ 2.91 crore, the same Company officials failed to renew PBGs prior to the expiry of the validity period, despite non-completion of these works (March 2017). Non-extension of expired PBGs seriously diluted the financial safeguards available to the Company in case of default on the part of the contractor.

The Education Department, while accepting the audit observation, stated (November 2017) that efforts are being made for continuous monitoring of the PBGs in future.

Recommendation

The Company should introduce a mechanism to ensure timely renewal of PBGs.

Failure to rescind contracts and constructions on non-encumbrance free sites resulted in unfruitful expenditure of ₹ 3.10 crore

2.2.18 The SBD provides for rescinding the contract if a contractor persistently neglects/defaults to comply with the terms and conditions of the contract.

Audit observed that though progress of work in six²⁹ works relating to 21 schools (agreement cost ₹ 9.08 crore) was slow, the Company (Chief Engineer) took four years to rescind the contracts, after incurring an expenditure of ₹ 2.77 crore. Besides, two works³⁰ consisting of two schools were abandoned midway after incurring ₹ 33.08 lakh, due to constructions on non-encumbrance free sites.

²⁷ Period (36 months after handing over of the project) during which the contractor is liable to rectify any defects in work which arises after completion of work.

²⁸ GM (Finance) cum Senior Accounts Officer (Finance Wing).

²⁹ USS-6, USS-7, USS-8, USS-40, USS-43 and USS-45.

³⁰ Case SSS-261: The school was being constructed on raiyati land (right to hold land for the purpose of cultivation), and consequently construction was stayed by Court orders (August 2015); Case SSS-199: Construction was stopped midway (December 2014) as the DM ordered shifting of the location.

Slow execution and construction on non-encumbrance free land resulted in unfruitful expenditure of ₹ 3.10 crore

As a result of abandoning of eight works relating to 23 schools, the intended benefits of improved educational infrastructures could not be achieved for over five years even after incurring an expenditure of ₹ 3.10 crore. As such, the entire expenditure of ₹ 3.10 crore so incurred on these eight works became unfruitful.

Photographs of abandoned works



Upgraded Secondary School, Devchanda, Middle School, Andharvan, Madhubani Piro (USS-6, photo dated 11-07-17) (SSS-199, photo dated 20-07-17)

The Education Department accepted (November 2017) the audit observation.

Recommendation

The Company should ensure that the sites are encumbrance free before commencing works and should take timely action against errant contractors.

Inaccurate adoption of Schedule of Rates without due consideration to individual components of pile work resulted in extension of undue benefit to the contractor of ₹ 3.72 crore

2.2.19 The BPWD Code stipulates that estimates/BoQ for works should be prepared on the basis of the Bihar Schedule of Rates (SoRs). Where rates for specific items are not available in the Bihar SoR, the rates may be adopted from the Central Public Works Department (CPWD) SoR applicable to the concerned zone.

Failure of the Company to consider individual components of pile work of 500 mm dia already available in BCD SoR, 2011 resulted in avoidable excess payment of ₹ 3.72 crore to the contractor

During scrutiny of records relating to the work relating to Chandragupta Institute of Management, Patna, it was noted that the Technical wing³¹ of the Company adopted the CPWD Delhi SoR rate for the pile work³² of 500 mm diameter (dia), on the ground that the composite rate³³ for this work was not available in the Bihar SoR 2011. Audit however observed that the contention of the Technical wing was incorrect, as the Bihar SoR contained rates for every individual component of the pile work of 500 mm dia, and these were on the lower side. As a result, the BoQ cost of 500 mm dia work was taken as ₹ 3,075.81/Running meter (Rmt) instead of ₹ 2,165.65/Rmt as per Bihar SoR. This resulted in avoidable excess payment of ₹ 3.72 crore³⁴ to the contractor on the executed work of 39,240 Rmt.

The Education Department reply (November 2017) did not address the audit observation.

³¹ Consultant (M/s DDF Consultant Pvt Ltd) and Chief Consultant (Technical).

³² Pile work is a foundation work done beneath the ground to strengthen base and load bearing capacity of the building.

³³ Composite rate which is inclusive of every individual component rate of items.

³⁴ ₹ 3.72 crore = 39,240 * (3,075.81-2,165.65) * 1.043 (being the agreement cost 4.30 per cent above BoQ).

Recommendation

The Company should ensure adoption of appropriate rate for labour and material as per Bihar SoR.

Non-compliance with Codal Provisions/ Agreement

2.2.20 The following violations of codal provisions were observed:

(1) The BPWD Code stipulates that items of work not included in the BoQ shall be termed as extra items, for which supplementary agreements are to be entered into. Audit, however, observed that in respect of 28 groups of works, without executing a supplementary agreement, the variation committee³⁵ of the Company irregularly allowed variations and paid ₹ 4.25 crore for non-BoQ items.

In their reply (November 2017) the Education Department stated that the provisions of BPWD code were not adhered to in small projects and small modifications in line with existing ground situation was brought about, and approval was given on the recommendation of the variation committee.

The reply was not tenable since the provision of BPWD code is applicable for small projects, also.

(2) The SBD provisions stipulate that contractors should apply for time extension along with request for rescheduling the milestones, within 14 days of occurrence of delay. Audit noted that, in 31 works, the contractors applied for time extension after periods ranging from one to 40 months of the scheduled date of completion of works. Audit observed that, in all these cases, and in violation of the above provisions, the Chief Engineer (Technical) irregularly granted time extension. Consequently, the Company released ₹ 1.68 crore to the contractors that had earlier been withheld towards liquidated damages.

The Education Department reply (November 2017) did not address the issue why the contractors could not apply on time and why and on what authority Chief Engineer (Technical) violated the SBD requirements and belatedly approved extension of time and consequently released withheld liquidated damages.

Recommendation

The Company should ensure compliance to codal provisions and applicable laws.

Deficiency in implementation of ICT @ Schools scheme in 832 schools

2.2.21 Information and Communication Technology in Schools (ICT @ School) is a Centrally Sponsored scheme of the Rashtriya Madhyamik Shiksha Abhiyaan, which, *inter alia*, stipulated ensuring dependable power supply in schools, internet connectivity, teachers' training and development of E-Content³⁶ on various subjects. BMSP of the department accorded (June

³⁵ Chief Engineer, Executive Engineer (Headquarters), Executive Engineer (of the concerned work/ division) and Assistant Engineer.

³⁶ It encompasses e-texts and digital learning resources like digital textbooks, workbooks, articles, videos or multimedia which facilitates greater interactivity, customizability and opportunities of social collaboration for students and faculty.

2011) the implementation work of ICT @ School scheme in 1,000 schools to the Company, for supply and maintenance of Information Technology (IT) infrastructure³⁷. The Company entered (June 2012 and July 2012) into agreements with three vendors³⁸, selected through tendering process for implementation of ICT@ Schools scheme in 832 schools spread over five zones at a cost of ₹ 116.07 crore for a period of five years before taking over from them. The work in 168 schools was not started due to paucity of funds. Deviations in almost all the services rendered by the vendors under the scheme were noted as discussed below:

- (1) The Company (MD and GM-PI) did not appoint a third party agency for conducting acceptance test of supply and installation of hardware, software and accessories by the contractors, as required under the terms and conditions of agreements entered into with the vendors in respect of 832 schools. Conducting the said acceptance test was essential to ensure the verification of the availability of all the defined services. Further, no time-limit for conducting such acceptance test was defined in the agreement rendering the agreements more deficient.
- (2) Theft of ICT materials (July 2012 to June 2016) costing ₹ 1.50 crore was observed in 68 schools, which were replaced after considerable delay of 5 to 49 months by the contractor during February 2015 to July 2017. The thefts impacted the very process of impartation of ICT education in these schools and the students of these schools were deprived of ICT education during this period.
- (3) The Company appointed (March 2017) a third party agency for evaluation of the scheme after a delay of more than four years. Further, no time limit was defined in the agreement, rendering the agreement deficient.
- (4) The Company provided for induction training of 40 hours with a refresher training program of four days in each succeeding year, as against the required 80 hours followed by refresher course of 40 hours in each succeeding year. Further, training to only 5,769 teachers was provided (December 2015 to January 2016), against the required training to 8,320³⁹ teachers.
- (5) No provision of E-Content to enhance the comprehension level of students on various subjects was made in the agreements with the vendors. This was mainly attributable to the negligence of the Company.

Further, the Company (MD and GM-PI) failed to incorporate specific timelines as well as penal clauses in the agreement for deliverables⁴⁰, due to which the contractors inordinately delayed execution of agreement,

³⁷ Establishment of computer lab, hardware including desktops, PC-sharing kit, networking equipment, operating system and application software, furniture, teachers' training, development of e-content, etc.

³⁸ M/s CompuCom Software Limited (Zone 2 & Zone 4), M/s IL & FS Education & Technology Services Limited (Zone 1 and Zone 5) and M/s Pearson Education Services Private Limited (Zone 6).

³⁹ Worked out on the basis of training to be imparted to at least 10 teachers in each school.

⁴⁰ Completion of teachers' training, supply of hardware and software, development and installation of E-content, etc.

replacement of theft materials, teachers' training, etc. As a result, the benefits of the scheme were not effectively achieved.

The Education Department, accepted the audit observations and stated (November 2017) that the same has been noted for future compliance.

Conclusion

- **Financial Management of the Company suffers from deficiencies, viz., non-adoption of auto-sweep facility for idle funds, delay in payment of statutory duty leading to penalty, failure in timely renewal of performance bank guarantees, irregular grant of mobilization advance, etc.**
- **Internal Oversight Mechanism is weak as there is no Internal Audit Wing in the Company. Top and Middle management also failed to exercise due diligence as evident from the deficiencies noticed in various functions of the Company.**
- **Project Management at every stage viz., planning, execution and monitoring is deficient in view of non-inclusion of furniture component in estimate for construction of model schools, selection of ineligible bidders, delay in completion in various projects, non-availing of Central Excise Duty exemption, non-adoption of proper SoR, etc.**
- **The Education Department, besides being the administrative department, under whose general supervision the Company operates, was responsible for implementation of various Central and State Government schemes through the Company. The failure of the Model School Scheme in the State is a clear indication that the department failed in its external oversight role leading to denial of improved educational benefits to large numbers of students.**