
CHAPTER-III

COMPLIANCE AUDIT
(URBAN LOCAL BODIES)

- 3.1 Construction, Improvement and Maintenance of roads in Municipal Corporation of Greater Mumbai**
- 3.2 Development of unauthorized layouts regularized under Gunthewari Act, 2001**
- 3.3 Idle Expenditure on Project**
- 3.4 Short-levy of Development Charges**
- 3.5 Non-levy of Development Charges in the Jurisdiction of Village Panchayats**
- 3.6 Idling of vehicles for collection of Solid Waste**
- 3.7 Avoidable payment of price escalation**
- 3.8 Non-recovery of Capitalised Value**
- 3.9 Loss of Revenue**
- 3.10 Irregular Allotment of Works without Inviting Tender for construction of Sports Complex**

- 3.11 Poor implementation of State Lake Conservation Plan**
- 3.12 Irregular issue of Development Rights Certificates (DRCs) resulting in Unfair Benefit of at least ₹ 20.80 crore to Land Owners**
- 3.13 Failure of Nanded and Waghala City Municipal Corporation to Include the Instructions of GoM in the Agreement for Escort Fees led to Loss of ₹ 1.27 Crore**
- 3.14 Irregular Retention of Service Tax by Nagpur Municipal Corporation resulted in Penal Interest Liability of ₹ 4.68 crore**
- 3.15 Avoidable Payment of ₹ 6.60 crore towards Loan Interest**
- 3.16 Improper Planning of Work of Augmentation to Parbhani Water Supply Scheme resulted in Blocking up of ₹ 131.28 crore**
- 3.17 Unfruitful Expenditure of ₹ 79.74 crore on Underground Sewerage Scheme**

CHAPTER III

COMPLIANCE AUDIT

URBAN DEVELOPMENT DEPARTMENT

3.1 Construction, Improvement and Maintenance of roads in Municipal Corporation of Greater Mumbai

3.1.1 Introduction

The Mumbai Municipal Corporation Act, 1888 (MMC Act) stipulates the responsibility of the Municipal Corporation of Greater Mumbai (MCGM) for construction and maintenance of public roads in motorable condition within municipal limit excluding highways and freeways, roads under jurisdiction of the Mumbai Metropolitan Regional Development Authority (MMRDA), the Maharashtra Housing and Area Development Authority (MHADA), the Public Works Department (PWD) and the Mumbai Port Trust (MBPT). The MCGM is maintaining 1,941 kilometers (km) of roads in the Municipal area of 437.71 square km. This includes 506 km in the City area, 928 km in the Western Suburbs and 507 km in the Eastern Suburbs. All the roads with a width of 30 feet or less are classified as minor roads and are maintained by the 24 Ward offices. Roads with a width of more than 30 feet are constructed, improved and maintained by Deputy Chief Engineers of the respective Divisions¹.

As of March 2011, MCGM had a total of 505 km of Cement Concrete (CC) road and 1,436 km of asphalt road. During 2011-17, the MCGM had improved 185 km of CC Roads and 504 km of Asphalt roads at a total cost of ₹ 3,372 crore and ₹ 2,364 crore respectively. As of March 2017, the length of CC and Asphalt roads in MCGM area was 690 km and 1,251 km respectively.

The MCGM functions under the administrative control of the Principal Secretary, Urban Development Department-II (UDD-II), Government of Maharashtra (GoM). The Municipal Commissioner is the administrative head of MCGM who is assisted by Additional Municipal Commissioner (Eastern Suburbs). The Chief Engineer (CE), Roads and Traffic (R&T) Department is responsible for the planning, construction, improvement and maintenance of the roads in the jurisdiction of MCGM who is assisted by four Dy. CEs² and Assistant Commissioners at Ward level.

The Audit with a view to assess the planning for construction, improvement and maintenance of roads and its economy, efficiency and effectiveness was conducted between April and July 2017. The Audit covered the ongoing and completed works both capital and maintenance category executed by the Road & Traffic Department during the period 2011-16. Audit selected 188 of 731 contracts of capital and maintenance works executed by three Divisions and six Ward Offices³ under both the categories⁴. All such works (18) where MCGM had instituted Departmental Inquiry were excluded from audit

¹ City Division, Western Suburbs Division and Eastern Suburbs Division

² Dy. Chief Engineers-City, Western Suburbs, Eastern Suburbs and Planning

³ D, G-North, K-West, P-South, M-East and S Wards

⁴ Capital works-47 and maintenance works-141

scrutiny. In total 29 contracts of capital works and 141 contracts of maintenance works were examined in audit in which expenditure involved was ₹ 967 crore. The physical and financial data was updated till 2016-17. Further, the records maintained by Chief Engineer and Planning Division of the Road & Traffic Department were also examined.

3.1.2 Methodology for planning and execution of road works in MCGM

MCGM selects works for construction and improvement considering site inspection reports of Engineering Section, recommendations of public representatives, public demand, past history *etc.* and prepares an annual budget for the selected road works. During the period covered by audit, the empanelled consultants had prepared design and estimates of the roads and the same were peer reviewed by another consultant. After administrative approval of competent authority⁵, tenders are floated and eligible contractors are selected for construction of CC and Asphalt roads. As per General condition of contract, the Asphalt and Ready Mix Concrete (RMC) plants, registered with MCGM, are required to be fitted with Supervisory Control and Data Acquisition (SCADA)⁶ system. Vehicles used for transportation of material are fitted with Vehicle Tracking System (VTS)⁷. The compaction of various layers is done with road rollers fitted with Intelligent Compaction System (ICS) to monitor the temperature, compaction strength, *etc.* of the works executed.

During execution, the Project Monitoring Consultant (PMC) appointed by MCGM supervised the works and departmental engineers were required to carry out fixed percentage checks⁸ at various levels. Assistant Engineers (Vigilance) are required to inspect all the project works executed by the three Divisional offices and 25 *per cent* of petty works executed at Ward level.

The bills certified by both the PMC and Engineer-in-Charge along with no objection certificate (NOC) from Vigilance Department are sent to the Accounts department for payment, through the Systems Applications Products Enterprise Resource Planning (SAP-ERP).

Audit Findings

3.1.3 Planning

3.1.3.1 Ineffective Functioning of Planning Cell in Road Department

The Standing Technical Advisory Committee (STAC) while observing that the MCGM's Sub-Engineers and Assistant Engineers engaged in preparation of planning, design and estimates had neither the resource nor the expertise to carry out the task properly, had recommended (December 2004) for

⁵ Dy. Chief Engineer (up to ₹ 25 lakh), Chief Engineer (Above ₹ 25 lakh & up to ₹100 lakh) and Director (ES&P) (Above ₹ 100 lakh)

⁶ The system captures data regarding quantity of various components in the Asphalt/concrete mixes and generates challan showing the details such as time, quantity and the name of the work for which the concrete/ Asphalt mixes is transported

⁷ to monitor the movement of vehicle and time and place of loading and unloading

⁸ Sub-Engineer-100 *per cent*, Assistant Engineer-50 *per cent*, Executive Engineer-20 *per cent* and Dy. Chief Engineer-10 *per cent*

formation of a special Planning Cell. The Cell would maintain the basic data history sheets of all roads in MCGM, outsource the services of field surveys and investigations to qualified consultants and based on such data, prepare design of the roads and estimates of planned major works. The STAC had suggested for preparation of Geographic Information System (GIS)⁹ database of the entire road network of MCGM through competent Consultant and complete information of all roads¹⁰. This GIS database when integrated with GPS would help in the development of an efficient Monitoring Management System.

It was observed that though the Planning Cell was approved for formation in July 2006, it was formed belatedly only in November 2012. In the absence of requisite staff, instead of preparing data bases for all the roads, designs and estimates of road works, they finalized tenders for appointment of consultant for preparation of designs and estimates, appointment of contractors for repair of pothole works, compliance of road remarks, renewal/registrations of RMC plants, Asphalt plants *etc.* The duties assigned to the Planning Cell were thus not in line with the recommendations of STAC and purpose of formation of a dedicated cell for planning remained unfulfilled. The MCGM continued to rely heavily on consultants for preparing designs and estimates of road works.

Further, the Road and Traffic Department did not appoint consultants for preparation of GIS based database. It was seen that preliminary inventory of the roads which was prepared at design and estimates stage of road works was not forwarded by the Divisional offices to the Planning Cell, for consolidation and future use, though the consultants had been paid for preparation of the inventory of the roads.

MCGM accepted (October 2017) the audit observations and stated that GIS mapping through software would be implemented shortly. The reply was silent on the points of function of the Planning Cell.

3.1.3.2 Plan for Construction and Improvement of Roads

MCGM prepares annual plan for construction or improvement of the roads. Selected works are included in the budget proposal for allocation of fund. During 2011-16, the Road & Traffic Department had finalized 105 tenders¹¹ for major works of construction and improvement of both CC and Asphalt roads.

- The Road & Traffic Department of MCGM had prepared (2014) a Master Plan for construction and improvement of Roads in MCGM during the period 2013-16. The objectives of preparation of Master Plan were, year-

⁹ GIS database would include dimensions, details of road crust, type of sub grade soil, details of bituminous layers, utilities under the roads, locations of the manholes, culverts, bridges, road over bridges *etc.*

¹⁰ such as dimensions, California Bearing Ratio (CBR), details of road crust, type of sub grade soil, details of bituminous layers, utilities under the roads, locations of the manholes, culverts, bridges, road over bridges *etc.*

¹¹ Concrete Cement Roads- City-8, ES-9, WS-18 and Asphalt Roads City- 24, ES-21, WS-25

wise identification/prioritization of roads to be taken up for improvement/construction and better financial planning.

The criteria for selection of roads in Master Plan was (i) Roads which were not under Defect Liability Period (DLP)¹² and were in bad condition; (ii) Roads carrying heavy traffic loads; (iii) Roads which connect areas/zones with good potential for development; and (iv) Peak traffic loads. Audit noticed that though the criteria was stated to be applied for selection of works in the Master Plan, the break-up of number of roads selected based on the criteria and the basis of year-wise prioritization of works included in the Master Plan was not available with the MCGM.

As per the Master Plan, about 3,358 number of roads of total length of 1,246.26 km¹³ (3,141.07 km of lane length) was planned to be taken up during the period 2013-16. The achievements/shortfalls of the plan are detailed in **Table 3.1.1**.

Table 3.1.1: Physical Target/achievement for construction and improvement in the Master Plan.

Division	Target					Achievement (up to March 2017)		
	Asphalt Road		C. C. Road		Total Length (km)	Asphalt Road	C. C. Road	Total Length (km)
	No.	Length (km)	No.	Length (km)		Length (km)	Length (km)	
City	788	185.72	133	66.29	252.01	117.03	35.75	152.78
Western Division	1205	385.90	371	300.02	685.92	133.42	72.47	205.89
Eastern Division	796	272.31	65	36.02	308.33	147.32	20.83	168.15
Total	2789	843.93	569	402.33	1246.26	397.77	129.05	526.82

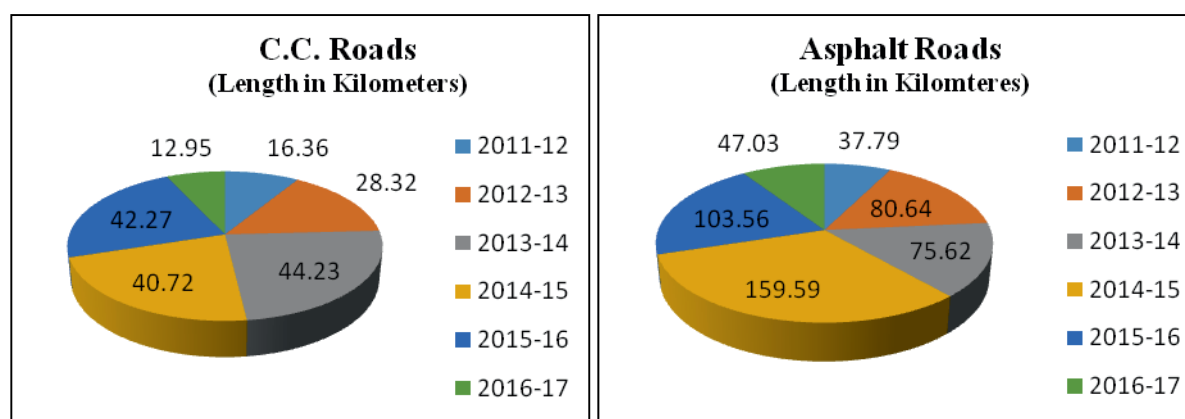
Source: Master Plan for the year 2013-16

- Information relating to the extent of implementation of the Master Plan was not available with the office of the CE (Road & Traffic). The achievement in respect of Asphalt and CC roads against targets of 843.93 km and 402.33 km was 397.77 km and 129.05 km respectively. It was observed that despite having huge unspent budget of ₹ 1,387 crore during 2013-16 for construction/ improvement of roads, the Department could not complete nearly 58 *per cent* of the works prioritized in the Master Plan. The Department did not furnish the reasons for shortfall in achievement.
- The Road & Traffic Department had no details of road works proposed in the annual budget as well year-wise physical targets in terms of length to be completed of Asphalt and CC roads. The Administrative Reports for the years 2011-17 also do not reflect the target of roads planned to be constructed under both the categories. As of March 2011, MCGM had a

¹² DLP for Cement Concrete Roads and Asphalt Roads are five years and three years respectively

¹³ 2,789 number of Asphalt/paver block Roads of total length of 843.93km and 569 number of CC roads of total length of 402.33 km

total of 1,436 km of asphalt road and 505 km of CC road and as mentioned earlier, during 2011-17, MCGM had constructed and improved 185 km CC Roads and 504 km Asphalt Roads for the Corporation area. The details of division-wise roads constructed and improved during 2011-17 are given below in Pie Chart.



It can be seen that during the period 2011-17, MCGM had converted only 13 per cent¹⁴ of the asphalt roads to CC roads *i.e.* at a meagre rate of 1.86 per cent per annum conversion rate. However, information on annual targets fixed and extent of achievement in respect of works executed was not available with the MCGM.

3.1.3.3 Improper Design and Estimation of Sub-layer of Roads

STAC had recommended (December 2004) to refer various Indian Road Congress (IRC) codes¹⁵ for preparation of designs and estimates, construction and quality control. For structural evaluation of flexible pavements IRC: 81-1997 has to be followed. Moreover, if traffic intensity is below five million standard axles (msa), IRC 37:2001 provides that bituminous concrete layer (wearing coat) of 25 mm would suffice to achieve the required strength. MCGM had been appointing Consultants for design and estimates of all road works. As per terms of contract, the Consultant was required to conduct Benkelman Beam Deflection (BBD) test¹⁶ as per IRC 81-1997, soil test, traffic volume count *etc.* for the existing road.

Audit noticed that the Consultant¹⁷ had prepared (July 2014) design and estimates of 24 minor roads¹⁸ and proposed changes in sub layers of Granular Sub Base (GSB) and Wet Mix Macadam (WMM) without conducting BBD test required for determination of strength of the existing road crust. The Consultant had proposed design of the road as if construction of new road instead of designs for improvement of the existing road which was approved by the Road & Traffic Department. Further, in respect of these 24 works, though the traffic intensity was below five msa, the Consultant had

¹⁴ 185 km/1,436 km x 100

¹⁵ IRC: SP:19-2001, IRC:37-2001, IRC:58-2002 and IRC:81-1997

¹⁶ As per IRC 81:1997, Benkelman Beam Deflection (BBD) test, is required to be carried out to evaluate the strengthening requirement/determination of thickness of various sub-layers of the existing road

¹⁷ M/s Project Consulting India (P) Ltd

¹⁸ C and F/South wards in City division

recommended for providing the wearing coat in bituminous concrete of 40 mm as against the recommended thickness of 25 mm, which was not in keeping with the recommendations of IRC code. This resulted in extra expenditure of ₹ 2.72 crore in sub-base and ₹ 50.54 lakh in wearing course in 24 road works seen in audit (**Appendix 3.1**).

The Dy. Chief Engineer, Roads (City Division) stated (November 2017) that due to deeper excavation of the road to lay various utilities, existing foundation course of roads gets disturbed hence new GSB and WMM layers were provided. Further, traffic density of light vehicles was high and Mumbai receives high rainfall hence thicker bituminous layer was provided.

The reply was not in accordance with facts that BBD test, as prescribed in IRC code, was not conducted on the existing pavements before suggesting for new GSB and WMM layers. Besides, the Consultant had not mentioned the need for new layer of GSB and WMM in these stretches. Further, IRC proposed to use better quality of bitumen in high rainfall and not provide for increasing the thickness of the bituminous layer. Thus, the excess expenditure as pointed above was not entirely justifiable.

Incidentally, after 2015-16, due to various complaints/ enquiries MCGM itself decided not to excavate the existing roads but to resurface the roads by milling the top layer.

3.1.4 Financial Management

The year-wise details of budget and expenditure on construction and improvement of Asphalt and CC roads and expenditure on repair and maintenance of roads of MCGM during 2011-16 is given in **Table 3.1.2** below.

Table 3.1.2: Details of Budget and Expenditure during 2011-16

(₹ in crore)

Year	2011-12		2012-13		2013-14		2014-15		2015-16		2016-17		Total	
Account head	Budget	Exp.	Budget	Exp.	Budget	Exp.	Budget	Exp.	Budget	Exp.	Budget	Exp.	Budget	Exp.
Capital Works														
Road works (CC and Asphalt)	502.50	198.28	1096.83	737.39	1013.19	668.68	2288.61	2033.49	2416.8	1629.43	2818.65	468.12	10136.58	5735.39
Percentage		39		67		66		89		67		17		57
Maintenance Works														
Maintenance Works by Contractors	NA	96.28	68.00	51.21	81.00	79.52	75.00	52.93	56	19.44	57.70	25.98	337.70	325.28
Maintenance Works by Department at Ward level (Asphalt Plant at Worli)	NA	63.30	10.70	6.65	9.33	6.83	12.68	12.20	17.13	10.27	16.67	11.49	66.51	53.77
Total	NA	159.58	78.7	57.86	90.33	86.35	87.68	65.13	73.13	29.71	74.37	37.47	404.21	379.05
Percentage				74		96		74		41		50		94
Source: Information furnished by MCGM and Annual Budget of MCGM														

It could be seen from the above table that the total expenditure on capital works during the period 2011-12 to 2016-17 was ₹ 5,735.39 crore. During the said period, the average percentage of expenditure for capital works as against revised budget estimates was at 57 per cent with lowest percentage of expenditure incurred being 17 per cent (2016-17) and the highest percentage of expenditure was at 89 per cent (2014-15). The decrease in capital expenditure in 2016-17 was mainly due to the payments to contractors being held up, due to several pending departmental enquiries on road works of the MCGM.

As regards Maintenance Works, the percentage of expenditure ranged from 41 per cent to 96 per cent whereas the total expenditure increased from ₹ 78.70 crore (2011-12) to ₹ 90.33 crore (2012-13), it gradually decreased to ₹ 29.71 crore (2015-16) and again increased to ₹ 37.47 crore (2016-17). The decrease in total expenditure during 2014-16 was mainly due to reduction in expenditure on pothole repairs.

With reference to the expenditure incurred during the period 2011-17 and the kms of CC Roads and Asphalt Roads improved (Capital works),

the cost per km¹⁹ was in the range of ₹ 4.25 crore to ₹ 18.77 crore for CC Roads and ₹ 3.41 crore to ₹ 8.38 crore for Asphalt Roads.

3.1.5 Award of Contracts

3.1.5.1 Award of Works to Contractors in package system other than Lowest Eligible Bidders

As per Central Vigilance Commission (CVC) guidelines, the works were to be awarded to L1 bidder only. MCGM also had issued instructions (December 2012), reiterating the same and that L2 bidder was to be considered for awarding work only in case L1 fails to comply with the tender conditions. In such cases, work was to be awarded to L2 if the bidder is willing to carry out the work at the rates quoted by L1 bidder. Audit observed that the works of construction and improvement of roads and pothole works were awarded to contractors other than the lowest eligible bidders as discussed below.

- STAC had recommended calling for tenders by clubbing various road works into a package²⁰. Accordingly, MCGM had called for e-tenders (June 2011 and September 2011) in respect of 33 packages for works of construction and improvement of roads for the period 2011-13. In respect of nine packages, there was a common limitation clause that only one package of works would be awarded to one contractor (June 2011) and in respect of remaining cases maximum two packages of works could be awarded to a single contractor (December 2011). As per tender conditions, bid capacity of the contractor was required to be calculated using a formula $(A \times N \times 1.5 - B)$ ²¹ comprising of average annual turnover for past three years, period of completion and cost of works in hand.

MCGM awarded (July 2011 and May 2012) only one or two packages to one bidder, as per applicable tender condition, though the same bidder was also lowest in other tenders and had sufficient bid capacity. Non-award of work to the lowest bidders, not only violated the CVC guidelines but also resulted in acceptance of tenders where the estimates were higher by ₹ 8.67 crore for MCGM in nine tenders awarded (**Appendix 3.2**). Two illustrative cases are detailed below.

- (I) In respect of work package W-254 (Estimated cost ₹ 53.77 crore) M/s R K Madhani was the lowest bidder (August 2011) at 23.50 *per cent* below the estimated cost *i.e.* ₹ 41.13 crore and having available bid capacity of ₹ 44.82 crore. However, M/s K R Construction, the second lowest bidder was awarded (September 2011) the work for ₹ 43.77 crore (at 18.60 *per cent* below the estimated cost) which was more by ₹ 2.64 crore (₹ 43.77 crore - ₹ 41.13 crore).

¹⁹ Total expenditure during 2011-17 ÷ Total length in kms of CC and Asphalt roads constructed/improved during 2011-17

²⁰ In one package more than one road works are included and a separate work code is assigned for the process of tender and contract

²¹ $[A \times N \times 1.5 - B]$ where A = Average annual turnover of past three years, N = Period of completion of work tendered for and B = Cost of work in hand (during the period over which tendered work is to be done)

- (II) In respect of work package C-242 (Estimated cost ₹ 57.40 crore), the 1st and 2nd lowest bidders did not have sufficient bid capacity. However, the MCGM awarded (September 2011) contract to the highest bidder M/s Bitcon Infrastructure Developers Pvt. Ltd for ₹ 49.80 crore (at 13.24 per cent below the estimated cost). This was higher than the bid of ₹ 47.13 crore offered by the third lowest bidder.

MCGM continued to follow the above tendering procedures during the period 2013-16 also for finalization of tenders.

- MCGM decided to use cold mix technology²² for repair of potholes from 2012-13 onwards and shortlisted four suppliers²³.

Municipal Commissioner decided (February 2012) to allot works to L2 bidder in addition to L1 bidder for the period 2012-14 with the approval of the Standing Committee (June 2012). The objective was to ensure that there was no exploitation by empanelled technologies and better and costlier technology also had a chance to succeed in getting work order and there would be competition among different manufacturers/ suppliers. It was decided that each of the seven Zones would be divided into two parts and each part of the Zone be allotted to one contractor *i.e.* L1 for one part and L2 for the other part of the Zone. Further, there was nothing on record to ascertain whether L2 bidders of pothole works were not ready to carry out the work at the rates of L1 bidder in terms of the MCGM policy. The decision of the MCGM to award works to L2 bidders resulted in excess expenditure of ₹ 2.05 crore in five works executed during 2012-14 as detailed in **Appendix 3.3** and was in violation of the policy of MCGM and CVC guidelines.

The Dy. CE, Roads (City Division) stated (November 2017 and December 2017) that as per existing practice, one work was awarded to one contractor for which no separate approval was required and the fact was apprised to the Standing Committee. Further, regarding pothole works, L2 bidders were awarded the work to have uniform division of work in all Zones and to complete the works expeditiously by forming Joint Ventures (JVs) with cold mix suppliers.

The reply itself indicated that debarring of eligible contractors on the basis of awarding one work to one contractor was against the spirit of competitive bid process. Further, MCGM had shortlisted the cold mix suppliers after evaluating trial works. Hence the MCGM's objective of having competition among the shortlisted suppliers and avoiding exploitation by them by awarding the work to L2 bidders was not convincing and in violation of CVC guidelines.

3.1.5.2 Award of Contract without Inviting Tenders

As per Section 72(1) of the MMC Act, it was mandatory to invite tenders through public advertisements for any work costing above ₹ three lakh. The General Administration Department, GoM had issued instructions

²² Cold mix can be applied during monsoon and less time is required for setting

²³ M/s Hindustan Colas Ltd., M/s Shaunak Infrastructure, M/s Wonder Technologies, M/s Sumer Infrastructure

(August 2010), to initiate the tendering process through e-tendering mode for all the contracts exceeding value of ₹ 50 lakh which was revised to ₹ 10 lakh (January 2013) and further ₹ three lakh (November 2014). MCGM directives (February 2002/November 2008) prohibited awarding of additional works to a contractor by varying the original contract which were totally different from the original works and that only unforeseen and unavoidable additional works related to original works could be carried out. As per Section 72(3) MMC Act, the Standing Committee may authorize MCGM to enter into a contract without inviting tender with reasons recorded thereof.

Audit observed allotment of works without inviting tenders in certain cases as discussed below.

A- WORKS

Ten contracts for construction and improvement of 182 roads worth ₹ 385.55 crore were awarded during 2011-16 on e-tendering basis. Subsequently, 29 additional works (16 per cent), not included in the original scope of work, amounting to ₹ 99.30 crore (26 per cent) were assigned to the existing contractors without inviting tenders with the approval of Additional Municipal Commissioner either on the grounds of urgency or no proper justification was on record, as detailed in **Appendix 3.4** of which three cases are illustrated in **Table 3.1.3** below.

Table 3.1.3: Illustrative cases where additional works were allotted without inviting tender

Sl. No.	Work Code/ Scope of original work/ contract amount	No. of additional works/amount	Description of Additional work	Reasons as furnished by MCGM
1	C-241/ Concretization of three roads/ ₹ 32.30 crore	Five works/ ₹ 49.43 crore	<ul style="list-style-type: none"> ▪ Beautification of Worli Promenade ▪ Concretization and widening at three stretches ▪ Dumping of debris at Kanjurmarg landfill site 	<ul style="list-style-type: none"> ▪ Work was undertaken before the completion of Worli-Bandra Sea link ▪ To meet the traffic load before opening of Worli-Bandra Sea link ▪ Urgency of dumping the debris
2	AE-42/ Improvement of 111 roads/ ₹237.05 crore	Four works/ ₹ 13.81 crore	<ul style="list-style-type: none"> ▪ Fixing retro reflector road studs ▪ Repair of parapet wall at Worli ▪ Widening of road at one stretch of A. B. Marg ▪ Improvement of carriageway of Pedar road 	<ul style="list-style-type: none"> ▪ Work was to be completed before monsoon ▪ To complete the displaced sunk stretches ▪ Strategic importance ▪ Urgent and emergent nature of work of widening of VVIP route ▪ Deteriorated condition of the road
3	E-195/ Concreting and Improvement of four roads/ ₹ 20.40 crore	Five works/ ₹ 10.39 crore	<ul style="list-style-type: none"> ▪ Improvement of Marwah Road, NaharAmrit Shakti Road, four lanes in "N" Ward, work of compound wall at Lathia Rubber Road 	<ul style="list-style-type: none"> ▪ Surface of the roads eroded due to non-effective drainage system ▪ Roads were in bad condition. Work was undertaken on the request of local councillor ▪ To save the setback area from encroachment

Source : Execution files

These additional works pertained to works of new roads and other related works in the same Zone which were neither incidental nor ancillary to the original works, and had neither cropped up during execution of the original works. It was pertinent to note that in three contracts, 16 of these 29 works ranged between 50 and 153 *per cent* of the cost of original work. Therefore, awarding of additional works outside the scope of the original works without proper justification, was not only in violation of MMC Act/and directives of MCGM, but also unfair benefit to the contractors. Further, it was observed that of the 10 contracts, Departmental Inquiries against MCGM officials had brought out deficiencies in execution of works of six²⁴ such contractors.

B- CONSULTANCIES

- The STAC had recommended that a panel of pre-qualified quality auditors should be prepared for effective supervision and quality assurance of the road works executed by the MCGM. The MCGM appointed (October 2011) a PMC²⁵ for the period from October 2012 to January 2014 without inviting tender at 0.85 *per cent* of the total cost of work executed by the contractor. During this period, MCGM had paid ₹ 1.24 crore to the PMC. However, the reasons for appointing the PMC without tendering was not on record.
- As per tender condition, the third party auditors should not be entrusted other consultancies of MCGM roads. For the period from February 2014 onwards, MCGM appointed (January 2014) two consultants *viz.*, M/s SGS India Pvt. Ltd. and M/s Indian Register of Shipping. Audit observed that M/s Indian Register of Shipping was subsequently also appointed (June 2014) in the panel of Peer Review Consultant which was in violation of the tender condition of not giving other consultancies to third party auditors.

3.1.6 Execution of Works

As per Conditions of the Contract, during execution of road works, the contractor was required to excavate the existing road as per the design and transport the surplus excavated material to the designated place of dumping. The excavated portion of the road is filled with Granular Sub Base²⁶ and Wet Mix Macadam²⁷ *etc.* layers. Thereafter, Asphalt mix or RMC is laid which is procured from plants registered with MCGM. It is the responsibility of the Engineer-in-Charge and the PMC to certify the correctness of the thickness of the compacted layer.

3.1.6.1 Avoidable Expenditure on Transportation of Excavated Material

As per condition of contract, the contractor had to dump the surplus excavated material to any designated dumping ground²⁸ or to any other approved

²⁴ (i) M/s Supreme & Mahavir (JV) (ii) M/s Mahavir Roads and Infrastructures (iii) M/s R. K. Madani and Co. (iv) M/s Mahavir Roads and Infra Pvt. Ltd. (v) M/s Shah & Parikh and (vi) M/s RPS Infraprojects

²⁵ M/s SGS India Pvt. Ltd.

²⁶ Granular Sub Base is unbound material usually crushed stone used to form a path base

²⁷ Wet Mix Macadam consists of clean crushed graded aggregates premixed with other granular material and water and rolled to a dense mass on Granular Sub Base

²⁸ Gorai, Deonar, Mulund, Kanjurmarg and Navi Mumbai SEZ Pvt. Ltd, Kalamboli

dumping ground as directed by the Engineer-in-charge. The contractors were required to submit the challans of disposal of excavated material as an acknowledgement of the material dumped at the particular site. Further, if the surplus material is transported at night (between 8 pm and 6 am), the rate of payment was to be reduced by 10 *per cent* by the Accounts Department. Audit noticed certain discrepancies, irregularities in transportation and payment to contractors with regard to excavated material as detailed in **Table 3.1.4.**

Table 3.1.4: Excess payment to contractors on account of transportation of surplus excavated material (₹in crore)

Sl. No	Work Code ²⁹ / Period	Avoidable Expenditure	Tender Condition	Audit Findings
1	E-208/ 2011-13	4.35	No payment was admissible if surplus excavated material is dumped within Municipal limit.	Solid Waste Management (SWM) Department of MCGM had intimated (between November 2009 and December 2012) the Road Department regarding requirement of Construction and Demolition (C&D) material at Deonar (within Municipal limit). The Road department had not co-ordinated with SWM Department and so the excavated material was not dumped at Deonar. The contractor was instead, allowed to dump the surplus material of 1,66,005 cum at Virar during the same period which was outside the municipal limits, resulting in avoidable expenditure of ₹ 4.35 crore.
2	E-201/ 2009-12	1.89	-do-	Due to lack of coordination between the Road and SWM Department, surplus excavated material was not dumped at Deonar. Instead, the contractor was allowed to transport the material (8,86,865 cum.) to Mahape, Navi Mumbai which was outside the municipal limits resulting in avoidable expenditure of ₹ 1.89 crore.
3	E -207/ 2009-12	0.24	-do-	Payment made to the contractor for surplus excavated material (44,750 cum) transported to Deonar which was within the municipal limit and hence no payment was admissible.
4	E-208, E-201, W-255, W-263, AW-81/ 2012-15	0.89	Payment to be reduced by 10 <i>per cent</i> for night transportation	Excavated material (58,63,867 cum.) was transported during night time. However, the rate of payment was not reduced by 10 <i>per cent</i> as the same was not communicated by Engineering Department to Accounts Department.
Total		7.37		
Source: Records related to execution of works				

Due to absence of co-ordination amongst various Departments of MCGM, they had to incur avoidable excess expenditure of ₹ 7.37 crore in eight cases. In all these cases, the bills proposed by the contractor were certified by the

²⁹ E-208: Construction and Improvement of various roads in Eastern Suburbs Zone V
E-201: Concretisation and Improvement of major roads in „T’ Ward
E-207: Concretisation of various roads in M-West Ward
W-255: Widening, Improvement and Construction of CC roads in Western Suburbs
W-263: Concretisation of various roads in „H’ and „K’ Wards
AW-81: Improvement of various minor roads (Asphalt/Paver blocks) in „K’ Ward

concerned Engineers and payments were approved by the Accounts Department.

The Dy. Chief Engineer, Roads (Western Suburbs) stated (September 2017) that in respect of work code W-255, though excavation was carried out during night, the excavated material was removed during day time.

Reply of the department was not convincing as the contractors were allowed to dump the surplus material outside the Municipal limit because as the Municipal designated grounds was not available at day time for which MCGM had to pay the transportation charges. Replies in respect of other cases were not furnished.

3.1.6.2 Transportation of Material in Passenger Vehicles

As per tender conditions, all materials including excavated material were required to be transported by dumpers to its designated locations.

During scrutiny of details of vehicles used for transportation of material such as GSB, WMM in respect of five contracts³⁰ in two Divisions (Eastern Suburb and Western Suburb), Audit noticed that in case of five works 2,430.64 cum GSB and 1,692.95 cum WMM was brought to site of road works (January 2012 and March 2014) by using seven motor cycles, four cars, one bus and one three wheeler passenger vehicle amongst other vehicles. Since transportation of material was to be done using dumpers, use of motor cycles, cars, and other passenger vehicles was in violation of tender conditions besides being not physically feasible. The payment of ₹ 40.20 lakh made towards the execution of GSB and WMM sub-layers thus appeared to be irregular (**Appendix 3.5**).

Further, in case of work E-208, surplus excavated material of 676.88 cum was transported by using three motor cycles which was not physically possible. The execution of the item of excavation was doubtful and it also indicated that there was no pit for filling the items of WMM and GSB layer. In all the cases, these quantity of works were certified by the PMC.

The possibility of fraud cannot be ruled out in the payment of ₹ 52.61 lakh due to non-execution of GSB, WMM sub-layers and transportation of materials in passenger vehicles.

The Dy. CE (Roads), Western Suburb stated (October 2017) that the vehicle numbers on challans were written inadvertently and that the error had occurred in specifying the series in the said registration number of vehicles.

The reply was not in consonance with facts as 16 passenger vehicles were used on two to 58 occasions during the period from January 2012 to March 2014, and hence it could not be case of inadvertent error of specifying vehicle series.

3.1.6.3 Barricading of Road Works

In all the road works, providing of barricades is one of the items in the estimates of the cost of the works and accordingly contractors are paid for this item. In the MCGM Unified Schedule of Rates (USoR) 2013, rates per

³⁰ AW-67, AW-68, AW-75, W-263 and W-264

running meter for providing barricades³¹ of two dimensions such as 1,840 mm and 2,000 mm for unlimited period were ₹ 641 and ₹ 490 per rmt respectively whereas barricading for time limit of up to 10 days having same dimensions, were ₹ 96 and ₹ 74 respectively. The rates of barricading for 10 days was thus economical in respect of the Asphalt and Paver Block roads requiring barricading for shorter period. The life of these barricades was 1,000 days as per the USoR. Considering the local traffic in Mumbai, barricade on various chainages for indefinite period and the period of barricading was not predictable as stated by MCGM.

Audit observed that in the eight³² test-checked cases of asphalt and paver block roads, the barricades were provided for short periods ranging from seven to 19 days. However, the shorter period rate was never used and all works were paid at indefinite period rate which was a higher rate. MCGM needs to review the limit of ten days and extend the shorter duration rate suitably in USoR, say up to 60 days.

Further, in four³³ other cases where road works were completed in chainages, MCGM had paid for the entire barricade material without verifying whether the material had been reused by the contractor from the completed stretches to the works in progress stretch. For reused material, the contractor was entitled only for the labour component of the item. The MCGM Engineers need to ascertain the possibility of reuse of the barricade material, before passing the payments for the road works.

3.1.6.4 Delay in utilisation of Dense Bituminous Macadam in Pothole Works

The Dense Bituminous Macadam (DBM) required for filling the potholes is transported from the Worli Plant of the MCGM to the designated Depot in every Ward. From the depot, DBM is brought to the work site and compaction is done manually. At Asphalt mix plant, the mixing is generally performed at site with the aggregate at about 300°F (roughly 150°C). Paving and compaction must be performed while the DBM is sufficiently hot (100°C as per MORTH³⁴ specifications) and completed before the temperature falls below the minimum rolling temperatures. If the DBM is not up to the required temperature, the binding quality of DBM reduces which affects its durability.

Audit noticed in selected Wards that maximum quantity of DBM so received from the Asphalt Plant, Worli was used belatedly ranging from two to 47 days. During 2011-16, for regular maintenance of roads in case of two depots test-checked (P-South and K-West Ward) about 1,043.34 Metric Ton (MT) of DBM was brought from the Plant, of which 209.45 MT (20 *per cent*) was used on the same day and the balance 833.89 MT (80 *per cent*) was utilized after two to 47 days. It was seen that the Ward offices requisitioned the DBM from

³¹ During the course of execution of road works, the excavated stretch of the road is barricaded with water/sand fillable polyethylene plastic barricades. While preparing estimates, the item of providing and fixing barricading, type of barricading, *etc.* is included in the Bill of Quantity (BoQ)

³² Work codes AE-45, AE-47, AW-79, AW-81, Unstar tender of D ward (two cases), S ward and G/North Ward

³³ Work codes E-208, E-209, W-263, W-264

³⁴ Ministry of Road Transport and Highways

the Asphalt plant on routine basis without any assessment of its requirement. MCGM did not have any facility to maintain required temperature of DBM, facility for re-heating the DBM before its use was also not available in any of the Wards. In the absence of re-heating facility prior to the use of DBM, it was not clear how the hardened DBM mass laid without affecting the quality of the works.

3.1.7 Miscellaneous observations

▪ Non-recovery of Labour Welfare Cess

According to GR (26 October 2009) of Industries, Energy and Labour Department, Labour Welfare Cess at one *per cent* was required to be recovered from contractors executing civil works with retrospective effect *i.e.* from 01 January 2008.

Audit observed that MCGM had issued a circular to that effect belatedly in June 2012 *i.e.* after lapse of more than two years. Scrutiny of Running Account bills of selected works prepared by Road & Traffic Department revealed that in five contracts³⁵ executed during 2009-13, Labour Welfare Cess @ one *per cent* amounting to ₹ 92.45 lakh was not recovered from the bills paid to the contractor.

The Dy. CE, Roads (City Division) accepted (November 2017) the audit observation and stated that recovery in respect of two works under its jurisdiction (C-242 and C-243) had been proposed.

▪ Non-execution of Lease Agreement and Non-recovery of Rent

During execution of road works of widening of road and bridge over nalla at Love Grove Pumping Station (Work Code C-241), Chief Engineer (SO) had permitted (08 December 2009) a contractor for erecting casting yard on 1,364 sqm of land in Love Grove Complex of G-South Ward. As per the conditions, a Lease Agreement was to be signed and the contractor was to pay ₹ one lakh as deposit and rent @ ₹ 300 per square meter per month.

Audit noticed that the contractor had used the allotted land for 48 months (from January 2010 to December 2013) without executing any lease agreement and payment of deposit money. Subsequently, the Road Department had adjusted (June 2014) ₹ one crore from the deposit lying with MCGM in respect of other works, and the balance ₹ 96.42 lakh was yet to be recovered from the contractor (September 2017).

▪ Unfair Benefit of Service Tax to Companies

As per provisions of Service Tax Act, 1994, Government and local authorities were liable to pay service tax for providing support service which included 'renting of immovable property'. MCGM recovers Access Charges from the utility service providing companies for laying optical fibre cables and pipes and the said services fall under 'renting of immovable property'.

Audit noticed that MCGM had recovered (between April 2013 and February 2016) access charges of ₹ 53.37 crore from the utility Companies. However,

³⁵ E-201-₹ 29.34 crore; E-207-₹ 20.26 crore; C-242-₹ 13.56 crore; C-243- ₹ 25.86 crore; and N.G. Projects in D-Ward-₹ 3.43 crore

service tax of ₹ 6.95 crore was not levied and collected from these companies. After receiving notices from the Service Tax Department (February 2016), MCGM paid the tax demanded from its own funds, recovered only ₹ 2.12 crore from the companies and the balance ₹ 4.83 crore was yet to be recovered (December 2017) from the utility companies.

MCGM stated (March 2017) that the Ward offices were instructed to recover the service tax from the utility companies.

3.1.8 Internal Control and Internal audit

Internal control mechanism is one of the important tools in any organization for bringing transparency in planning and execution of works. Deficiencies in quality control and monitoring are discussed in the succeeding paragraphs.

3.1.8.1 Improper Utilisation of Live Work Application System

MCGM had assigned (January 2014) the work of developing a web-based Live Work application system³⁶ that provided accurate location for monitoring road development works to a developer³⁷. As per scope of work each data collected in real time through various automation techniques should be associated to the particular work as a reference for further monitoring and control including billing and passing bills. MCGM paid (October 2015 and June 2016) an amount of ₹ 42 lakh for implementation of Live Work application to the company.

Audit noticed that in Live Work application system, 200 to 500 data per road and approximately 20 crore records in total were captured. However, the data captured in this system was never utilised for quality control by the Department. The quantity of material brought to site and recorded in the system was also not co-related with the quantity recorded in the Measurement Book and RA bills before approving payments as seen from the 29 test-checked works during audit. Thus the objective of Live Work application system for monitoring and control of road works was not attained.

3.1.8.2 Absence of Monitoring

The Quality Assurance Manual for road works prescribed various tests such as specific gravity, water content, flash point and viscosity *etc.* to ensure the quality of bitumen. Condition of contracts also stipulated that contractors were required to send at least one sample of bitumen mix per day to be sent to Municipal Material Testing Laboratory (MTL) at Worli. MCGM had issued guidelines (August 2000 and October 2015) regarding the duties and responsibility of the various Engineering staff by exercising prescribed checks³⁸ so that quality of the road works was delivered as per the expected

³⁶ This system collected live data from asphalt mix or RMC plant through SCADA system. It also tracks vehicles from asphalt/RMC plants including identification of location for loading and unloading. This system also provided material compaction data and temperature with the help of Intelligent Compaction System. An Engineer and higher authority could get all aforesaid details of works from single dashboard view to keep an effective control over the execution of work

³⁷ M/s Probit Soft Pvt. Ltd

³⁸ Sub-Engineer-100 per cent, Assistant Engineer-50 per cent, Executive Engineer-20 per cent and Dy. Chief Engineer-10 per cent

standards. Further, as per Manual-2 (Chapter-3) of Information Handbook of Road & Traffic Department, the powers and duties of Chief Engineer (Roads & Traffic) includes overall supervision on the various works at planning stage and at construction stage.

Audit noticed that at the MTL, test regarding grade of Bitumen as well as bitumen mix were conducted. However, the test reports of bitumen grade were not available in the records of any of the works test checked in audit. As MCGM was paying for higher grade of bitumen, absence of monitoring of quality of bitumen may result in use of inferior quality of material since audit could not ascertain the quality of grade utilised in the work.

Further, neither the Divisional offices nor the Ward offices had maintained any register to record the percentage checks exercised by the Engineering staff at different cadre. The Chief Engineer (Road & Traffic) had not prescribed any returns for subordinate offices for monitoring the physical and financial progress of works. As such, no centralized data was available at Chief Engineer's office regarding the road inventory and history sheets of all roads in MCGM. In the absence of maintaining proper records/returns, Audit could not ascertain the veracity of prescribed checks carried out by the supervisory officers and progress of works monitored by Chief Engineer's office.

The Assistant Engineer, MTL stated (August 2017) that the MTL was equipped to test the grade of pure Bitumen but the grade of Bitumen would not be conformed after testing the bitumen extracted from bitumen mix.

Reply of the Department was not tenable as the details of tests to ascertain the grade of bitumen was not verifiable from the records of MCGM.

3.1.8.3 Internal Audit

As per provisions of the MMC Act, 1888, the Municipal Chief Auditor (MCA) shall audit the accounts of the Corporation and shall report to the Standing Committee any material impropriety or irregularities which he may observe in the expenditure or in the recovery of moneys due to the Corporation. Further, after the commencement of each official year, the MCA shall deliver to the Standing Committee a report upon the whole of the Municipal accounts for the previous official year.

Audit observed that as of date (December 2017), though MCA had completed Internal Audit up to 2015-16 and audit of 2016-17 was in progress, they had prepared the report on the accounts and working of the Corporation for the year 2011-12 in August 2016. As per the audit report, as of March 2012, a total 960 audit notes involving ₹ 40.07 crore pertaining to Road & Traffic Department were outstanding, of which, 14 audit notes involving ₹ 0.32 crore were settled during 2011-12 leaving balance of 946 audit notes involving ₹ 39.75 crore. The percentage, in terms of number of audit notes as well as in terms of amount, of disposal/action taken to outstanding audit notes was 1.46 *per cent* and 0.80 *per cent* respectively. Audit reports for the year 2012-13 onwards were not finalized and submitted to the Standing Committee.

Poor rate of disposal of audit notes and pending finalisation of audit reports since 2012-13 indicated weak internal audit in MCGM.

3.1.9 Conclusion

The MCGM's Roads and Traffic Department which was responsible for planning, construction, improvement and maintenance of Roads prepared an Annual Budget for construction works mainly based on criteria of age of roads/previous works done. During the period 2011-17, the Department constructed a total of 185 km of cement concrete road and 504 km of Asphalt roads, across the three divisions incurring an expenditure of ₹ 2,363.83 crore and ₹ 3,371.56 crore respectively.

The Planning Cell in the Department which became functional only in November 2012, did not do Planning work that was envisaged and only empanelled various Consultants for the works. Inventory of roads for the planned works prepared by the consultants were not consolidated for future use. The Chief Engineer's Office did not have an inventory and history sheets of the roads in MCGM and requisitions were made to the divisional offices whenever any information was required.

In awarding road works for the construction as well as maintenance works, there were instances of works being awarded to other than the lowest bidder based on a policy of awarding only one or two contracts to a single bidder, which not only violated CVC guidelines but also was not financially beneficial to the Corporation. A Project Management Consultant for monitoring the quality of execution of road works was appointed without inviting tenders.

In execution of works there was avoidable excess expenditure on transportation of excavated material mainly due to non-coordination between various departments of the MCGM, the possibility of fraud cannot be ruled out in payment for transportation of surplus excavated material on two/three wheelers and payment for unexecuted items of GSB and WMM.

Quality of pothole works executed was doubtful since pre-mix DBM procured from the plant for these works was not laid within the stipulated time as per specifications. Internal controls on ensuring quality of various works and monitoring aspects was deficient in absence of requisite percentage checks on works by the engineering staff.

3.1.10 Recommendations

- MCGM may avoid awarding of works/attaching additional works without inviting tenders. The tenders should be awarded in accordance with the prescribed rules and guidelines.
- MCGM may chalk out a plan to minimise dependency on private consultants in all stages of road works including preparation of estimates.
- MCGM may ensure that transportation of excavated material be done after verifying the requirements of other Department and also devise a mechanism to ensure the quantity and mode of transportation of excavated material be properly verified.
- MCGM ensure timely utilisation of DBM brought at site.
- MCGM may ensure the proper utilisation of data and application of 'Live Work' for better monitoring.

- MCGM may ensure the expeditious compliance of Audit notes.

3.2 Development of unauthorized layouts regularized under Gunthewari Act, 2001

3.2.1 Introduction

The practice of sub-dividing privately owned land in multiple plots/gunthas³⁹ (excluding encroachments) without obtaining necessary permissions is known as Gunthewari. In order to regularize and develop Gunthewari settlements, Government of Maharashtra (GoM) enacted the Maharashtra Gunthewari Developments (Regularization, Upgradation and Control) Act, 2001 (Act).

Municipal Corporations (MCs) and Municipal Councils of concerned urban areas are Planning Authorities (PAs) for regularization and upgradation of Gunthewari settlements under the Act. Nagpur Improvement Trust (NIT) is the PA in Nagpur which is governed by a board of trustees headed by a Chairman appointed by GoM. All other MCs and Councils are controlled and administered by the Principal Secretary, Urban Development Department-II, Mantralaya, Mumbai through Director of Municipal Administration, Worli, Mumbai.

Implementation of the Act was examined in four MCs⁴⁰ out of 27 MCs and, eight Municipal Councils⁴¹ out of 203 Municipal Councils. The audit was conducted between February 2017 and July, 2017 covering period from 30 April 2001 to 31 March 2017.

3.2.2 Identification of Gunthewari settlements

As per section 4 (1) of the Act, plot holder was to apply for regularization of Gunthewari settlement within a period of six months from 30th April 2001, the date on which the Act came into force, or such extended time, as the concerned PA may permit. Subsequently for effective implementation of the Act, it was directed (June 2002) by Chief Secretary to all the PAs to introduce a single window system for regularization and preparation of a time bound implementation plan. It was also anticipated that a survey through private architects should be carried out for identification of unauthorized constructions prior to 01.01.2001. In addition to this, benefit of the Act was to be brought to the notice of public.

It was observed that -

- None of the 12 PAs prepared a time bound implementation plan.
- Only Three⁴² out of 12 PAs carried out survey for identification of unauthorized layouts/plots.

³⁹ Guntha is a unit to measure a piece of land. One guntha equals to 33 feet x 33feet = 1089 square feet (101.2 square metre)

⁴⁰ Municipal Corporations : Aurangabad, Nagpur, Nashik and Pune

⁴¹ Municipal Councils: Beed, Jalna, Gondia, Wardha, Bhusaval, Sangamner, Ichalkaranji and Satara.

⁴² Aurangabad, Nashik and Sangamner

- Advertisements regarding regularisation of Gunthewari lay-outs were published twice by the PAs in Jalna (2001 and 2007) and Satara (2002 and 2003). Nagpur PA, organized two *Samadhan Shivirs* (August and September 2016) for regularization of unauthorized layouts and published advertisement once only in the year 2007. While Aurangabad PA advertised through newspaper, flex-boards and electronic media and conducted 72 camps in various locations of the city, eight PAs⁴³ gave publicity only once since enactment of the Act. Wardha PA did not advertise benefits of the Act.
- Single window system for granting regularisation to Gunthewari settlements was introduced by Nagpur PA only.

Thus, the directions given for identification of Gunthewari layouts were not followed uniformly across the State. No reasons for not conducting survey found on record. On receipt of applications, the unauthorized constructions were identified by PAs and cases were processed. In absence of definite implementation plan, survey and lack of adequate publicity, the implementation of the Act could not attain the desired results as discussed in succeeding paragraphs. On being pointed out, concerned PAs accepted (February and July 2017) the facts for the period covered under audit.

3.2.3 Regularisation of Gunthewari settlements

3.2.3.1 Section 4 of the Act stipulates that the application for regularisation of “Gunthewari settlements” should be accompanied with documentary proof of ownership or lawful possession of the plot, existing lay-out plan, plan of existing construction on such plot if any and an undertaking by the applicant to rectify un-compoundable infringements. A demand draft for the amount due as Compounding fees (CF⁴⁴) and Development Charges (DC⁴⁵) was also required to be submitted along with the application. Thereafter, the PA concerned, after due scrutiny of the case and ensuring submission of documents, mentioned above was required to issue a certificate of regularisation.

The Act did not provide for any time limit for PA to take action on the application for regularisation of Gunthewari settlement. As a result huge pendency of applications at the level of PAs was *noticed* which is shown in **Table 3.2.1**.

⁴³ Beed, Bhusaval, Gondia, Ichalkaranji, Nagpur, Nashik, Pune and Sangamner

⁴⁴ CF: Fees charged for regularisation of unauthorised plots and construction thereon

⁴⁵ DC: Fees charged for providing basic infrastructure facilities in layouts/ Plots

Table 3.2.1: Status of regularization as on 31.03.2017

Sr. no.	Name of PA	Applications received	Regularised	Applications rejected	Applications pending
1	Aurangabad	11195	6722	1601	2872
2	Beed	2569	2569	0	00
3	Bhusaval	426	423	0	03
4	Gondia	2494	1798	0	696
5	Ichalkaranji	5889	5388	0	501
6	Jalna	79	01	0	78
7	Nagpur	205980	104961	39756	61263
8	Nashik	3675	2341	0	1334
9	Pune	71447	60559	0	10888
10	Sangamner	2418	1487	0	931
11	Satara	181	82	0	99
12	Wardha	90	39	0	51
Total		306443	186370	41357	78716

As against receipt of 3,06,443 applications in 12 PAs, certificates of regularizations were issued to 1,86,370 plot-owners and 78,716 applications (25.69 per cent) were found pending. PAs stated that pendency was due to non-submission of required documents along with required CF and DC.

Year wise break up of pendency: The year wise break up of pendency in regularization of cases is shown below:

Table 3.2.2: year wise pendency as on 31.03.2017

Sr. No.	Name of PA	Status of pendency					Total
		From April 2001 to 2012-13	2013-14	2014-15	2015-16	2016-17	
1	Aurangabad	2872	0	0	0	0	2872
2	Beed	0	0	0	0	0	00
3	Bhusaval	03	0	0	0	0	03
4	Gondia	566	44	36	19	31	696
5	Ichalkaranji	0	0	0	116	385	501
6	Jalna	78	0	0	0	0	78
7	Nagpur	Information is awaited.					61263
8	Nashik	1327	0	0	06	01	1334
9	Pune	10888	0	0	0	0	10888
10	Sangamner	931	0	0	0	0	931
11	Satara	99	0	0	0	0	99
12	Wardha	51	0	0	0	0	51
Total		16815	44	36	141	417	78716

Thus it could be evident from the table above, that out of 12 PAs, in 10 PAs⁴⁶ there were 17,453 cases were pending for regularization, out of which 16,815 (96.34 per cent) cases were outstanding since 2001-13. The year wise breakups of outstanding application of Nagpur PA were not produced to audit.

⁴⁶ Aurangabad, Bhusaval, Gondia, Ichalkaranji, Jalna, Nashik, Pune, Sangamner, Satara and Wardha

Audit observed (June and July 2017) that Bhusaval PA received 23 applications in 2003-05 which were not indexed and were pending till-date (July 2017); whereas in Satara PA, out of 99 pending applications, 79 applications were pending since 2004.

While accepting the facts, Bhusaval and Satara PA stated (June, 2017) that proposal would be scrutinized and action would be taken as per provisions of the Act.

Further, due to the above lacuna in the Act, the amount paid towards CF and DC, by the applicant was getting held up with the concerned PA. In Nagpur, DC of ₹ 30.10 crore received from 4288 plot-owners was lying with NIT since 2001 as of July, 2017. While an amount of ₹ 1.38 lakh from 19 plot-owners was held up since June 2006 to July 2017 with the Aurangabad PA.

Nagpur PA while accepting above status stated that Regularization Letters (RLs) were pending due to non-compliance of demand notes with the condition of fulfillment of required documents by applicants.

The Aurangabad PA stated decision regarding refund of DC and CF was pending (July 2017).

3.2.3.2 Variation in levy and fixation of CF & DC

As per sub-section (3) of Section 3 of the Act, the regularization of Gunthewari settlements was subject to the prior payment of CF and DC, as may be determined by the State Government, from time to time. Further, GoM authorised (May 2001) the PAs to determine the CF and DC while prescribing an upper limit for both categories.

It was observed that:

- There were wide variations in fixing the rates for DC by the PAs. This ranged from ₹ 40 to ₹ 240 per square metre (SM) in case of Municipal Corporations (MCs) as against the upper limit of 240 per SM. Moreover, seven Municipal Councils, fixed the DCs ranging between ₹ 30 and ₹ 200 per square metre as against the upper limit of 200 per square metre. However General Body (GB) of Municipal Council, Jalna fixed the rates of DC at the rate of ₹ 400 per SM which was double the maximum limit of ₹ 200 prescribed by the GoM for Municipal Council. NIT levied DC rates of ₹ 16 per square feet for open plot and ₹ six per square feet for constructed area as per decision of GB (28 May 2001).
- Compounding Fee (CF), meant for one time regularization of unauthorized plots was not levied by the NIT. GoM clarified (May 2010) that 15 *per cent* of the CF would be utilized for administrative expenses as per Section 6 (1) of the Act and not from the DC. However, NIT retained ₹ 82.19 crore on account of administrative expenses from DC instead of CF.

The Nagpur PA stated (March 2017) that it had recovered 15 *per cent* supervision charges which should be considered towards administrative charges.

- The Nagpur PA passed a resolution (May, 2003) to recover the additional DC at the rate of ₹ 16/- per sqft from subsequent buyers in the event of

sale of already regularized plot (for which DC was already recovered) without seeking authorization from GoM. Nagpur PA collected amount to ₹ 55.91 crore in the form of additional DC from subsequent 19019 buyers in violation of the Act as there was no provision for levy of additional DC. While accepting the facts and figures it was stated (April 2017) that as per Board decision (05 May 2003), the additional DC was collected for which no approval was sought from Government.

3.2.3.3 Vesting of open space with PA and regularization of inadmissible plots

The regularization of any Gunthewari settlement was subject to certain conditions. It was observed that

- As per section 3(2)(a) of the Act, the ten *per cent* of the plots were to be vested in the PA for public utility purpose, free of cost, provided that, such plots were unsold/un-built. However, the condition was not complied with due to non-availability of unsold/un-built plots by any of the PAs except Ichalkaranji PA where 17 plots measuring 5,608.44 SM were vested in the PA.
- As per section 3(2)(b) of the Act, open marginal spaces were to be surrendered to achieve a road width of nine metres and four and half meters in MCs and Municipal Councils respectively. In Gondia PA though the Town Planner had recommended to curtail the plot area of six Gunthewari settlements for maintaining required road-width, the certificates of regularization were granted and CF and DC collected for the entire area of existing plots setting aside the decision of Town Planner.

The Gondia PA stated (March 2017) that regularizations were carried out as per revenue records and in consonance with the existing provisions of Development Control Rules.

The reply was not acceptable as the Gondia PA did not adhere to the provision of the Act.

- The Act stipulates that the plots formed and transferred prior to 1st January 2001 were eligible for regularization. However, the General Body (GB) of Beed PA decided (09 March 2006) to regularize the plots formed and transferred after 01 January 2001 to 31 December 2006 in order to extend benefits of the Act to unauthorized residents. In test check, it was found that in contravention of the Act, certificates of regularization were issued by Beed PA for four plots which were formed and transferred after 01 January 2001.

Beed PA stated (May 2017) that the plots were regularized on the basis of GB decision (March 2006).

Reply itself indicated violation of Act as the Act provides regularization of plots formed and transferred prior to January 2001 only.

Thus, the PAs adopted different approaches for regularization of Gunthewari settlements by way of collecting CF and DC. The compliance to the conditions associated with regularization was found weak. Most importantly, there was no deterrence for controlling the abetment of unauthorized developments.

3.2.4 Up-gradation/development of regularized Gunthewari settlements

3.2.4.1 Disproportionate development works

Section 6(2) of the Act envisages that on-site development of the layout shall be undertaken in proportion to the amount of compensation received by the PA.

Section 6(3) provides that common or indivisible infrastructure or services or amenities or facilities shall be provided by the PA only after such minimum proportion of number of plots in the layout as may be determined by the State Government from time to time.

It was observed that the GoM did not specify the minimum proportion of number of plots in a particular settlement for developing common infrastructure/facilities. As a result, the activities undertaken for providing on-site infrastructure were found disproportionate, as elaborated below:

- In Nagpur, even after receiving ₹ 45.97 crore as DC for 393 lay-outs, no work was undertaken for providing on-site infrastructure as of March 2017.

The Nagpur PAs stated (April 2017) that the work of providing on-site infrastructure was in pipeline and on receipt of DC; the same would be carried out.

The reply was not convincing as there was DC ₹ 225.67 crore in the hands of Nagpur PA.

- In Aurangabad, ₹ 10.40 lakh were received as DC for 19 layouts; but no facilities were provided by the MC as of June 2017.

It is pertinent to mention here that the Aurangabad PA had incurred disproportionate expenditure ranging between 17 *per cent* and 818 *per cent* in 28 layouts as compared to compensation received.

The Aurangabad PA accepted (June 2017) the facts and stated due to insufficient receipt of compensation amenities could not be provided proportionately against the works taken up for execution.

- Nagpur PA had passed the resolution (December 2015) to carry out development works costing ₹ 100 crore for providing basic amenities in unauthorised layouts and also those layouts which were not regularized and developed under the Gunthewari Act as instructed by public representatives without collecting DC and CF beforehand as envisaged in the Act. Accordingly, the GoM approved (February and May 2016) the proposal subject to condition that expenditure would be met out from Nagpur PA funds only and would recover the DC in future from these layouts. Thus, PA had provided ₹ 100 crore from their own resources instead of fund collected in the form of DC and CF from applicants beforehand as envisaged in the Act.

Nagpur PA while accepting the facts stated that funds were spent in non-sanctioned layouts/ unauthorised layout as instructed by public representatives.

The reply was not convincing as imparting undue benefits to the unauthorized residents in Gunthewari in the name of development was direct infringement of provisions of the Act and denying PA from revenue generation in the form of CF and DC.

3.2.4.2 Diversion of compensation fee (CF)

As per section 6(1) of the Act, the CF received by the respective PA on account of regularisation of plots was to be kept in a separate head of account lay-out wise and was to be utilised for providing on-site infrastructure, other than electricity supply, in the lay-out.

It was observed that

- Eleven PAs had not maintained separate head of account for the CF collected on account of regularisation under the Act. Layout wise account of DC was maintained by NIT as no CF was collected separately.
- In Ichalkaranji PA, an amount of ₹ 5.85 crore was collected as compensation during 2002-17. Out of this, ₹ 2.77 crore was utilized for on-site development works while ₹ 49.06 lakh was lying in the account, as of June 2017. Remaining ₹ 2.59 crore was diverted to Municipal funds from time to time and was stated that it was used for provision of civic amenities. However, layout-wise expenditure details were not found on record.
- An amount of ₹ 40.77 lakh was collected, on account of regularisation, in Municipal Council, Bhusaval. Out of this, ₹ 35.74 lakh was diverted to Municipal funds on the pretext that development activities were already carried out in the regularised lay-outs. However, the details of works and corresponding expenditure were not found on record.
- In Nagpur, an expenditure of ₹ 79.68 lakh was incurred from the compensation, for providing off-site infrastructure viz., electrification works, transportation of bitumen from oil refinery, supply and installation of UPS, Batteries for Nagpur PA head office.
- In Aurangabad PA and Sangamner PA ₹ 10.96 lakh and ₹ 38.17 lakh, respectively were spent on electric supply items.
- Gondia PA spent ₹ 93.29 lakh towards administrative charges as against the collection of ₹ 90.01 lakh towards CF and ₹ 4.51 crore towards DC for regularisation. However, the Act stipulated 15 per cent i.e. ₹13.50 lakh was admissible from collected CF to be retained for administrative charges resulted into ₹ 79.79 lakh (₹ 93.29 lakh– ₹ 13.50 lakh) excess expenditure.

On being pointed out, the concerned PAs accepted the facts.

3.2.4.3 Irregularities in development works at Nagpur

- A water supply project⁴⁷ for Gunthewari lay-outs was taken up (February 2009) by NIT under Jawaharlal Nehru National Urban Mission

⁴⁷ The project cost of ₹218.06 crore was to be shared by GoI, GoM and NIT in the ratio of 50:20:30

(JNNURM). It was to cover 1657 lay-outs with an estimated length of 860 kms of pipelines and was to be completed by December 2014.

- It was observed that as of March 2017, 721.39 kms of pipelines network was laid down capturing 970 layout at an expenditure of ₹ 132.06 crore. The remaining work was lying incomplete as the layouts were not regularized under the Act as before preparation of the estimate, the identification considering the feasibility of layouts likely to be regularized was not taken into account. The fact was indicative of deficient survey and planning as DPR was prepared as early as in February 2009 even after completion of date of project *i.e.* 31 December 2014, project was still continued.
- The Nagpur PA stated (April 2017) that the works could not be completed due to non-development zone layouts/plots covered in the detailed project report.
- In violation to the conditions of sanction, NIT appointed consultant (August 2009) for supervising the work of providing, lowering and laying of pipelines distribution networks in 46 clusters. Consultancy fee along with price escalation amounting to ₹ 1.96 crore was paid in this regard which could have been avoided as NIT is armed with well-qualified engineers and supporting technical staff, as mentioned in the Detailed Project Report (DPR) of the above work. The reason for not utilizing departmental services as stated by Nagpur PA was due to not having capacity to supervise such type of complicated project.
- Work of laying pipeline network in 86 layouts was awarded (February 2014) to a contractor for ₹ 8.11 crore. Audit observed that the work could be executed only in 32 layouts as remaining 54 layouts had not been regularised. In lieu of the above curtailment, NIT, without going for competitive bidding, awarded similar nature of work in other 46 layouts to the same contractor to same bid in lieu of 54 layouts which were not regularized. This indicated flawed survey due to non- consideration of feasibility of layouts likely to be regularized while deciding the scope of the work. Conferring of different work without bidding was in contravention of financial rules.

The Nagpur PA stated (March 2017) that due to exigencies of work and pressure of local leaders, works in 46 layouts were taken up and retendering would have caused price escalation.

The reply was not convincing as the Nagpur PA should have gone for fresh tendering as additional work awarded to same contractor outside the ambit of tender conditions.

The composite work of erection of pipelines along with construction of sump and storage reservoirs, for three elevated storage reservoirs and two sumps covering 61 layouts, was awarded (January 2012) to a contractor at ₹ 5.83 crore. Though, the work was stipulated to be completed by January 2013, it was lying incomplete as of March 2017 after incurring an expenditure of ₹ 4.60 crore. Extensions were granted six times during January, 2013 to June, 2016 to contractor for completing the work by NIT. Contractor stopped (February 2016) the work. The Nagpur PA stated

(March 2017) that the issue was under finalization with the Chairman. Final progress was awaited (July 2017).

Thus, compensation collected on account of regularisation of Gunthewari layouts, which was meant to provide on-site infrastructure was either diverted to Municipal funds or was spent on inadmissible items. Moreover, many instances of irregularities were noticed in the development works carried by NIT in the Gunthewari layouts.

3.2.5 Monitoring and control mechanism

Demolition of unauthorized construction

To control of Gunthewari development, section 7 of the Act provides that in case no application for regularization is received within a specified period, the PA may issue a notice to the unauthorized plot owners or construction carried out on those plots. Accordingly, the plot owner within a period of one month should apply for regularization. In case applicant did not approach for regularization within a period of one month or the application is rejected by the PA, the said unauthorized construction would be demolished. GoM (July 2003) had issued instructions to continue the process of regularisation after 31 March 2003.

Test check of records of 12 PAs for the period 2012-17 revealed that none of the PAs identified number of cases for demolition of unauthorized construction and served notices for imposing fines/penalties against the incumbents and proceed to demolish the unauthorized constructions carried out. No data of FIR lodged with the police or matter pending in the court of law found on record.

Thus, instead of fixing time limit for acceptance and regularization of unauthorized plots, the GoM relaxed the provision of the Act thereby the process of regularization was still continued and control of Gunthewari development was also defeated.

Submission of periodical reports and returns

Section 22 of the Act provides that every PA shall furnish to the GoM reports, returns and other information as the GoM may require from time to time. Audit found that none of the 12 PAs had submitted returns to GoM.

3.2.6 Conclusion

The implementation of Maharashtra Gunthewari Developments (Regularization, Up-gradation and Control) Act was not found uniform across the State. Directions were given by the State Government for identification of unauthorized layouts viz., PAs to introduce a single window system for regularization and come together for preparation of a time bound implementation plan for deciding on the action plan, adequate publicity and carrying out a survey were not followed by all the PAs. Different approaches for regularisation of Gunthewari settlements, by way of collecting CF and DC, were adopted by the PAs. The compliance to the conditions associated with regularisation was also found weak. The compensation collected on account of regularisation of Gunthewari layouts, which was meant to provide on-site infrastructure was either diverted to Municipal funds or was spent in a

disproportionate manner or on inadmissible items. No action for demolition of the unauthorised layouts had been taken by any of the PAs, as stipulated in the Act.

PUNE MUNICIPAL CORPORATION

3.3 Idle Expenditure on Project

Pune Municipal Corporation issued work order for construction of Railway under Bridge at Handewadi, Pune without acquiring private land for the project which resulted in idling of expenditure of ₹ 4.96 crore on tendering activities for more than three years, besides increase in the cost of land for the project.

The Commissioner, Pune Municipal Corporation (PMC) had issued (March 2011) guidelines for bringing transparency in tender procedure which reiterated that work should not be commenced without acquisition of the required land.

Pune Municipal Corporation (PMC) decided (March 2013) to construct a Railway underbridge at Handewadi, Pune in lieu of railway crossing gate on Pune-Miraj Section of Central Railway to solve traffic congestion near Railway crossing. Tenders were invited (March 2013) and the work was awarded (June 2013) to the lowest bidder for ₹ 37.09 crore with stipulated completion period as December 2015. However, it was seen in audit that out of land admeasuring 13,392 sq metre, required for the project, about 9,248 sq meter was in possession of PMC and 4,144 sq metre was required to be acquired from private land owners.

Scrutiny of records of Chief Engineer (Projects), PMC revealed (May 2016) that the work order was issued without acquiring about 31 *per cent* of the land required for the project, in contravention of codal provisions, on the grounds that 69 *per cent* land was in physical possession of PMC and the remaining land would be acquired in reasonable time.

PMC initiated the procedure for land acquisition in September 2010 and Joint measurements were completed with SLAO in January 2012. The SLAO had demanded 50 *per cent* (₹ 12.27 crore) of land acquisition amount in July 2012 and the balance 50 *per cent* (₹ 12.26 crore) in September 2013. However, the PMC remitted the first instalment in September 2013 and the balance in July 2014, thereby delaying the payments by 10 to 15 months.

Subsequently, the new legislation on Land Acquisition, Rehabilitation and Resettlement Act, 2013 was enacted by the Government of India in September 2013. Owing to the revision in the Act *w.e.f.* January 2014, the SLAO (July 2014) refunded the second instalment of ₹ 12.26 crore stating that they had demanded the full payment in September 2013 and due to revision in the Act, rules for carrying out the provision of the new Act were yet to be made by the State Government, pending which land acquisition process cannot be completed.

However, in the meanwhile, PMC commenced the work processes and appointed Project Consultant for pre-tender and post-tender activities and for liaisoning with Railway Authorities for the approval of drawings and designs

and incurred an expenditure of ₹ 4.96 crore⁴⁸ till September 2014. It then again forwarded (May 2016) the proposal as per the new Land Acquisition Act, 2013 to SLAO. However, the land was yet to be acquired (February 2018).

Thus failure of PMC to ensure that land was substantially available for the project before starting the tendering activities resulted in idling of investment of ₹ 4.96 crore for more than three years.

The Chief Engineer (Projects), PMC stated (November 2017) that it was not practically possible to acquire full land prior to the commencement of work. Since 69 per cent of land was in physical possession of the PMC and the process of land acquisition was commenced by SLAO, the tenders were invited in the interest of early completion and in good faith of acquisition of land in time. The delay in land acquisition was due to revision in the Act which was unexpected and beyond the control of the Corporation.

The reply was not tenable since the work order should not have been awarded without acquiring the required land. This resulted in not only idling of expenditure of ₹ 4.97 crore for three years, but also increase in land cost from ₹ 24.53 crore to ₹ 33.75 crore⁴⁹ due to increased compensation payable as per the new Land Acquisition Act. The fact remains that till date (February 2018), the notification for land acquisition has not been issued by the SLAO for commencing the process.

The matter was referred to the Government in October 2017; their reply was awaited (February 2018)

VASAI VIRAR CITY MUNICIPAL CORPORATION, KALYAN-DOMBIVLI MUNICIPAL CORPORATION, KHOPOLI MUNICIPAL COUNCIL AND SANGAMNER MUNICIPAL COUNCIL

3.4 Short-levy of Development Charges

Three Municipal Corporation/Councils did not levy and collect development charges at the revised applicable rates and in one Municipal Corporation there was a short levy of the charges, resulting in short-levy of ₹ 8.43 crore affecting their revenues adversely.

As per Section 124 (A) of the Maharashtra Regional and Town Planning (Amendment) Act, 1992, all Municipalities shall levy and collect development charges at the specified rates within the area of their jurisdiction. The charges are collected and retained by the Urban Local Bodies and are an important source of revenue for them. The development charges were to be levied within the range of rates⁵⁰ as prescribed in the Act based on per square metre of the area. Consequent on introduction of Maharashtra Regional and Town Planning (Amendment) Act, 2010, the Urban Development Department, Government of Maharashtra revised (27 December 2010) the rates of development charges

⁴⁸ ₹ 2.81 crore to contractor; ₹ 0.52 crore to Project Consultant; and ₹ 1.63 crore to Railway authorities

⁴⁹ As on September 2017 as stated by SLAO

⁵⁰ Minimum and maximum rates were prescribed within which development charges were to be levied- Section 124 (B) (2) read with Second Schedule to the Act

from per square metre basis to fixed percentage basis on the stamp duty ready reckoner rates. The revised rates were effective from 01 March 2011⁵¹.

Scrutiny of the records of one⁵² Municipal Corporation and two⁵³ Municipal Councils (August 2016 to March 2017) revealed that though the rates of development charges had been revised (27 December 2010), the ULBs continued to levy and collect development charges at the pre-revised rates based on per square metre, on plans approved even after the revision. This resulted in short-levy of development charges of ₹ 7.11 crore⁵⁴ in 395 cases of these three Corporation/Councils during the period 2012-16.

Further, though Kalyan-Dombivli Municipal Corporation, though adopted the revised rate of two *per cent* for residential purpose, it levied and recovered erroneously ₹ 13.02 lakh instead of ₹ 46.44 lakh in one case during 2014-15, which resulted in short-levy of development charges amounting to ₹ 33.42 lakh.

Vasai-Virar City Municipal Corporation (February 2017) and Khopoli Municipal Council (September 2016) did not furnish any specific reason for not applying revised rates and Sangamner Municipal Council stated (July 2017) that the action to levy the development charges at the revised rates was initiated from February 2017 onwards. The Assistant Director, Town Planning, Kalyan-Dombivli Municipal Corporation admitted (March 2017) that the short levy was due to a calculation mistake and that the developer had been asked to pay the balance amount.

Thus, failure to implement the revised rates from the effective date of the Notification/erroneous calculation *etc.* by the four Corporations/Councils resulted in short-levy of ₹ 7.44 crore on account of the development charges.

The matter was referred to the State Government in July 2017; their reply was awaited (February 2018).

URBAN DEVELOPMENT DEPARTMENT

3.5 Non-levy of Development Charges in the Jurisdiction of Village Panchayats

The Town Planning Department officials did not levy and collect development charges of ₹ 35.79 lakh in four districts, for development of land and/or building, in violation of Government notifications.

The Urban Development Department, Government of Maharashtra (GoM) amended (December 2014), the Maharashtra Regional Town Planning (MRTP) Act, 1966 to be known as Maharashtra Village Panchayats and the Maharashtra Regional and Town Planning (Amendment) Act, 2014, whereby

⁵¹ Vide notification dated 23 March 2011

⁵² Vasai-Virar City Municipal Corporation

⁵³ Khopoli Municipal Council and Sangamner Municipal Council

⁵⁴ Vasai Virar City Municipal Corporation - ₹ 4.22 crore in 48 cases during 2013-16 (information for the period 2011-13 not furnished); Khopoli Municipal Council - ₹ 2.54 crore in 193 cases during 2014-16 (information for the period 2011-14 not furnished); and Sangamner Municipal Council - ₹ 0.34 crore in 154 cases during 2014-16 (information for the period 2011-14 not furnished)

a new section 124K-1 was inserted, for levy of development charges in the jurisdiction of Village Panchayats⁵⁵ for use or change of use of any land or building or development of any land or building, for which permission is required under the MRTP Act. The rates⁵⁶ were prescribed in Second Schedule under Section 124 B of the MRTP Act. The Town Planning department scrutinises proposals of construction of houses/buildings by verifying building plan, required documents and maps, and recommend to the District Collector for issuing Commencement Certificate subject to the fulfilment of certain conditions including the recovery of applicable Development charges. The applicant has to deposit the Development charges in the office of the Revenue Authority. The provisions of the new section were notified by GoM for implementation on 22 April 2015.

Scrutiny of records (March 2017) of Assistant Director of Town Planning, Kolhapur, Satara, Nashik and Town Planner, Ratnagiri revealed that these offices did not levy and recover the development charges, in violation of the April 2015 notification in respect of 33 test-checked cases⁵⁷ finalised during the period between April 2015 and December 2015 for development of land and/or construction of building in the jurisdiction of village panchayats. The non-levy of development charges amounted to ₹ 39.86 lakh.

Town Planner, Ratnagiri stated (March 2017) that the notification was received late hence development charges could not be levied, however, appropriate action would be taken regarding recovery of development charges. The Assistant Directors, Town Planning-Satara and Kolhapur stated (March 2017) that the concerned revenue authorities would be informed to recover the development charges. The Assistant Director, Town Planning Nashik recovered (July-October 2017) ₹ 4.07 lakh in one case and action for recovery in remaining three cases was in progress.

Thus, failure to levy development charges resulted in non-recovery of ₹ 35.79 lakh in 32 cases (**Appendix 3.6**) in four districts (20 cases in Ratnagiri, three cases in Nashik, three cases in Satara and six cases in Kolhapur).

Further details of action taken were awaited (February 2018).

The matter was referred to the State Government in October 2017; their reply was awaited (February 2018).

⁵⁵ Earlier the development charge was applicable in Municipalities only

⁵⁶ For development of land: 0.5 *per cent* of the rates of developed land mentioned in the Stamp Duty Ready Reckoner
For construction: Two *per cent* of the rates of developed land mentioned in the Stamp Duty Ready Reckoner

⁵⁷ Ratnagiri: 20 cases ₹ 22.62 lakh; Nashik: Four cases ₹ 8.96 lakh; Satara: Three cases ₹ 7.10 lakh; and Kolhapur: 6 cases ₹ 1.18 lakh

VASAI-VIRAR CITY MUNICIPAL CORPORATION

3.6 Idling of vehicles for collection of Solid Waste

The Corporation delayed the registration and handing over of purchased vehicles to the contractors appointed for Solid Waste Management which resulted in not only idling of vehicles for 08 to 37 months but also consequential non reduction in expenditure of ₹ 1.68 crore of the Corporation on collection of solid waste.

Government of India (GoI) sanctioned a project “Integrated Solid Waste Management Project for Vasai-Virar City Municipal Corporation (VVCMC)” at an estimated cost of ₹ 31.72 crore under Urban Infrastructure Development Scheme for Satellite Towns (UIDSST). The project components included Collection and storage of segregated waste, transportation of waste in covered vehicles, minimising multiple handling through synchronized bins and transportation system, sanitary land fill *etc.* The Central Share was 80 *per cent* and the State and VVCMC share was 10 *per cent* each under the Scheme. The VVCMC with approvals of Standing Committee (July/December 2012) decided to purchase 50 tippers under the Scheme and rent these at ₹ 15,000 per month per vehicle to contractors for collection of garbage/solid waste. These solid waste management contractors has already been, appointed by VVCMC for day-to-day collection and transportation of garbage in the jurisdiction of VVCMC.

Scrutiny of records of the Deputy Commissioner, Public Works Department, VVCMC revealed that (March 2017) the VVCMC purchased 50 tippers at the rate of ₹ 5.35 lakh per tipper (including the work of fabrication) between July 2013 and August 2013 for which ₹ 2.67 crore were paid by the Corporation (October 2013). On receipt of these vehicles, the VVCMC was required to register them with the Regional Transport Office (RTO) and hand over the same to the contractors for collection of garbage.

The tippers were registered during the period May 2014 to March 2017 after a delay of 10 to 44 months while two tippers were yet to be registered since the documents were misplaced by the RTOs. This resulted in idling of the vehicles and delay in handing over of vehicles to the solid waste management contractors ranging from 8 to 37 months⁵⁸ from the date of receipt⁵⁹ of the tippers. As the vehicles could not be handed over to the contractors during the period from July 2013 to September 2016, the VVCMC lost the opportunity to reduce their expenditure incurred on contracts for collection and transportation of garbage. Thus delay of VVCMC in timely registration of vehicles led to the delay in handing over the vehicles to contractors and consequent non-reduction in its expenditure by ₹ 1.68 crore.

The Additional Commissioner, VVCMC accepted (August 2017) that the registration of 46 out of 50 tippers was not made by RTO on ground that the certificate of „No Entry Tax due’ was not submitted since the fabrication was done outside Maharashtra (in Haryana), and this delayed the registration of the

⁵⁸ The vehicles were handed over to the contractors between June 2014 and September 2016

⁵⁹ Received in July-August 2013

vehicles. However, regular correspondence was done with the supplier and VAT authorities after which the registration was done and vehicles were handed over to contractors.

Reply of VVCMC was not convincing as it did not take up the issue with appropriate authorities in time and approached the Entry Tax Authorities, Bhayandar only in December 2014 who clarified within a week's time that the "No Entry Tax Due Certificate" was not required. Had this been done earlier, the vehicles would have been registered in time and the GoI grants would have been utilised for the purpose they were granted. The matter was referred to the Government in September 2017; their reply was awaited (February 2018).

3.7 Avoidable payment of price escalation

The Vasai-Virar City Municipal Corporation did not provide the drawings and clear site to the contractor in time resulting in extension of the contract and avoidable payment of price escalation of ₹ 3.26 crore.

The General Body of the Vasai-Virar City Municipal Corporation accorded (July 2011) administrative approval for the works of construction of roads, drains and bridges in industrial area of Sativali, Valiv, Gokhivare, Gauripada and Navghar under its jurisdiction. The General Body approved the clubbing of all works and a single tender having estimated cost of ₹ 39.10 crore was floated in November 2011. The work was awarded (March 2012) to a contractor at the rate of 4.95 *per cent* above the estimated cost with stipulated period for completion as one year. The works were completed in November 2014 and the contractor was paid ₹ 56.37 crore as final payment. This was inclusive of price escalation of ₹ 7.25 crore out of total price escalation of ₹ 9.73 crore worked out by the Corporation. Final price escalation bill of ₹ 2.48 crore was pending for payment (October 2017).

Scrutiny of the relevant records of the City Engineer, Public Works Department, Vasai-Virar City Municipal Corporation revealed (February 2017) that the contractor had to be granted extensions for completion of work since the Corporation could not hand over the working drawings to the contractor and because of other delays due to non-shifting of electric poles and utilities on the roads and other encroachments *etc.* These delays on part of the Corporation led to the grant of extensions to the contractor with consequent price escalation of ₹ 9.73 crore. Had the work been completed within the stipulated period, the admissible price escalation would have been ₹ 6.47 crore instead of ₹ 9.73 crore, thereby ₹ 3.26 crore of excess payment/ liability could have been avoided.

The Corporation admitted (February 2017) that the extensions were due to delays in removing encroachments. Further, it was stated (November 2017) that the encroachments and electric utilities had to be removed after the work was started and the final drawings were given as per the levels in the stretches after the encroachments were removed.

The matter was referred to the Government in September 2017; their reply was awaited (February 2018).

MUNICIPAL CORPORATION OF GREATER MUMBAI

3.8 Non-recovery of Capitalised Value

Failure of MCGM to pursue the cases of redevelopment of municipal tenanted properties resulted in non-recovery of Capitalised value of ₹ 8.55 crore.

As per the provisions of Development Control Regulations (DCR), 1991, Municipal Corporation of Greater Mumbai (MCGM) undertakes redevelopment of municipal tenanted properties constructed prior to 1940 under DCR 33(7). MCGM gets revenue from these redevelopment scheme properties in the form of capitalised value computed on the surplus area to be disposed off to the developer after deducting the area required for rehabilitating the tenants. Ten *per cent* of the CV was to be recovered by MCGM before granting commencement certificate (CC) to the developer for rehab building⁶⁰ or entering tripartite agreement⁶¹ whichever was earlier. The remaining 90 *per cent* amount was to be recovered by MCGM at the time of issue of occupation certificate to the building which was to be sold in open market by developer. The period for completion of project shall be two years from the date of issue of CC to the developer. An interest at the rate of 15 *per cent* was to be levied for the delay in payment of CV by the developer.

Scrutiny of the relevant records of Estate Department, MCGM revealed (October 2015) that in all the three cases of redevelopment of Municipal Tenanted properties, the projects were not completed within the stipulated period and therefore, the capitalized value of properties was not recovered even after a delay of four to six years as per details given below in **Table 3.8.1**.

⁶⁰ A building constructed by the developer for rehabilitating the tenants free of cost

⁶¹ An agreement entered into among the three parties involved in the redevelopment proposal *viz.*, co-operative housing society, developer and MCGM

Table 3.8.1 - Details showing non recovery of Capitalised Value

(₹ in crore)

Sl. No	Name of the tenanted municipal property	Date of issue of Commencement Certificate	Stipulated period for completion of project	CV levied	CV recovered (January 2017)	CV not recovered (January 2017)	Delay in years (excluding extension given)
1.	C.S. No. 74 of Suparibaug Scheme No. 31	21 May 2003	20 May 2005	10.13	7.02	3.11	11
2.	Cama Chawl, C.S. No. 1590 (Part) and 1591(Pt) of Byculla Division - Abrar CHS Ltd	28 May 2008	27 May 2010	7.02	1.88	5.14	7
3.	Khalifa Chawl, C.S. No. 1930 (Part) of Byculla Division- Gulmohar CHS Ltd	27 March 2008	26 March 2010	0.44	0.14	0.30	7
	Total			17.59	9.04	8.55	

Source: Correspondence files of concerned cases

MCGM issued show cause notices belatedly in January 2012 that is after the stipulated period was completed. Thereafter, the developers made part payments in March 2013 (Cama Chawl- ₹ one crore) and September 2013 (Khalifa Chawl- ₹ 10 lakh) only in two cases.

Since the agreement provides for payment of remaining 90 *per cent* of the amount only at the time of issuing Occupation certificate without giving any consideration to the stipulated period, MCGM, did not pursue the cases even though the stipulated period of completion was over and seven to 11 years had elapsed. Thus CV of ₹ 8.55 crore remained to be recovered till date (January 2017) due to faulty clause in the agreement which was causing loss of revenue to MCGM and hardship to the tenants who are residing in the old buildings with consequent unfair benefit to the developer.

MCGM stated (January 2017) that action was under progress for recovery along with interest.

The matter was referred to the State Government in March 2017; their reply was awaited (February 2018).

MIRA BHAYANDAR MUNICIPAL CORPORATION

3.9 Loss of Revenue

Loss of revenue of ₹ 2.60 crore due to non-payment of dues by agencies appointed by the Corporation for recovery of market fees from Hawking zones.

Mira-Bhayandar Municipal Corporation (Corporation) held (February 2014) public *e*-Auction to appoint contractors/agencies for recovery of license fee/market fee from the designated hawking zones in its jurisdiction for the period from March 2014 to March 2015. The work was allotted (March 2014)

to the three highest bidders for their respective zones at a total offered price of ₹ 4.68⁶² crore. The scope of work included collection of market fee/license fee from hawking zones by the agency as per rates fixed by the Corporation and making regular payment of instalments of the agreed amount to the Corporation during this period.

As per Clause 14 of the Agreement executed between the Corporation and the agencies, the auction price was to be paid in 10 equal instalments between the 1st and 7th of each month. Further, if the agency failed to pay the first instalment within 15 days from the date of issue of work order, the Corporation reserved full right to cancel the contract and the agency would have to bear the financial loss, if any, caused to the Corporation as a result of re-auctioning. Clause 16 of the Agreement provided that, if the agency failed to pay the instalments in time, interest at the rate of eight *per cent* on the sum due would be recoverable and in the event of the agency defaulting for two consecutive months, the amount due would be recovered from the security deposit (SD) paid by the agency. Accordingly, the three agencies *viz.*, M/s Ekveera Agency, M/s Simran Enterprises and Mr. Abdul Rehman H. Khan were required to pay ₹ 23.34 lakh, ₹ 22.62 lakh and ₹ 0.88 lakh respectively in 10 equal monthly instalments.

Scrutiny of relevant records of the Assessor and Collector, Property Tax Department, Mira-Bhayandar Municipal Corporation revealed (December 2015) that the work orders were issued (04/05 March 2014) and as per conditions of the contract, the first instalment was due on 19/20 March 2014. The two agencies defaulted on payment of the very first instalment of the dues (M/s Simran Enterprises and Mr. Abdul Rehman H. Khan) while M/s Ekveera Agency paid only ₹ 10 lakh against the monthly instalment of ₹ 23.34 lakh. The agencies continued to default on payment of subsequent instalments, whereas they continued to collect market fees/license fees from the hawkers till the expiry of the contract period. Further, the cheques issued between March 2015 and May 2015 by these agencies towards the payment of balance market fees/license fees were also dishonoured.

Though the Corporation recovered ₹ 2.08 crore from agencies (including forfeiture of security deposit), they issued notices to the agencies only in February/March 2015 *i.e.* towards the end of the contract, for the payment of balance sum of ₹ 2.60 crore and for blacklisting them.

Thus failure of the Corporation to monitor the recovery of the market fee/license fee effectively according to their terms of the Agreement resulted in loss of revenue of ₹ 2.60 crore to the Corporation.

The Corporation stated (February/October 2017) that the agencies were blacklisted and suit had been filed in the Court of law against them for failure in making payment of market fee/license fee to the Corporation.

The reply did not point out the reasons for not taking timely action for cancellation of the contracts and re-auctioning of the same when the agencies

⁶² Offered price of ₹ 2.33 crore by M/s. Ekveera Agency for Bhayandar (E), ₹ 2.26 crore by M/s. Simran Enterprises for Bhayandar (W) and ₹ 0.09 crore by Mr. Abdul Rehman H. Khan for the area from Murdha to Uttan

defaulted in paying the very first instalment, as a result of which while the agencies continued collecting the charges from the public, they defaulted in remitting the same to the Corporation, thereby causing a loss.

The matter was referred to the Government in June 2017; their reply was awaited (February 2018).

3.10 Irregular Allotment of Works without Inviting Tender for construction of Sports Complex

Mira-Bhayandar Municipal Corporation awarded three works for the construction of a Sports Complex to the same agency without inviting tenders, in violation of prescribed tendering procedures.

Section 2(1), Chapter V of Maharashtra Municipal Corporation Act 1949, (MMC Act) specifies that, before entering into contract for any work or supply costing above two lakh rupees, it is mandatory to invite tenders through public advertisements in the local newspapers seven days in advance. Further, General Administration Department, Government of Maharashtra issued instructions (November 2014) to all Departments/Bodies, to initiate the tendering process through e-tendering mode for all contracts exceeding value ₹ Three lakh.

Mira-Bhayandar Municipal Corporation (Corporation) had decided (April 2011) to construct a Sports Complex at Bhayandar (East) in phases. Tenders were invited (April 2012) for Phase I of the project and the work order was issued (May 2012) to the lowest bidder⁶³ at 21.74 per cent above the estimated cost (₹ five crore)⁶⁴ of the work and to be completed by November 2013. The construction of the sports complex was completed in four phases between January 2014 and May 2015 at a total cost of ₹ 14.83 crore⁶⁵.

Scrutiny of records of the City Engineer, Public Works Department, Mira-Bhayandar Municipal Corporation revealed (November 2015) that bids were invited only for Phase I (April 2012) while the works of remaining three phases costing ₹ 8.51 crore⁶⁶ (DSR 2011-12) were also awarded to the same agency (21 August 2014) without inviting tenders, with the approval of the Standing Committee. This was in violation of tendering procedures. Since the contractor had quoted the offer for Phase I works at 21.74 per cent above the estimated cost, the Corporation was very well aware that they had to pay this additional per cent above DSR rates in respect of those common items of Phase III and IV works⁶⁷ also, which had already been included in the original tender of Phase I works. The Corporation had to incur an additional cost of ₹ 42.93 lakh⁶⁸ towards this component.

⁶³ M/s. Shayona Corporation

⁶⁴ At District Schedule Rates (DSR) 2011-12 of Thane Public Works Circle

⁶⁵ Phase I-₹ 6.08 crore; Phase II-₹ 2.50 crore; Phase III-₹ 5.25 crore; and Phase IV-₹ one crore

⁶⁶ Award cost- Phase II-₹ 2.50 crore; Phase III-₹ 5.01 crore; and Phase IV-₹ one crore

⁶⁷ Phase II work did not contain items included in original tender of Phase I

⁶⁸ Phase III - ₹ 26.99 lakh and Phase IV - ₹ 15.94 lakh

The Corporation stated (September 2017) that the works were executed in phases as funds were received in phases, and in order to achieve integration of works, they were allotted to the same agency.

The reply was not tenable as to receive competitive bids for all the four works, tenders should have been invited for each phase in terms of provisions/instructions, in case they had decided to complete the work in phases.

Thus, allotment of three works of ₹ 8.51 crore to the same contractor without inviting tenders was not only in violation of prescribed procedures but the Corporation also lost the benefit of competitive bidding in execution of these works.

The matter was referred to the Government in August 2017; their reply was awaited (February 2018).

URBAN DEVELOPMENT DEPARTMENT

3.11 Poor implementation of State Lake Conservation Plan

The objectives of the State Lake Conservation Plan remained largely unachieved even after 10 years of launch of the scheme despite availability of funds due to poor implementation and monitoring of the scheme resulted in blocking funds of ₹ 27.23 crore.

The Government of Maharashtra (GoM), Environment Department had initiated (2006-07) State Lake Conservation Plan (a State Scheme) with a view to conserve and beautify various lakes across the State. The total project cost was to be shared in the prescribed ratio⁶⁹ between GoM and the respective Local Body (LB). Under this Plan, a Project Implementation Committee was to be formed in respective LB for preparation of DPR, inviting and finalization of tenders *etc.* The GoM releases the grants to the LBs after the approval of the project by the Steering Committee and concerned LBs are required to complete works envisaged in the Plan within the stipulated period of 24 months.

Audit scrutiny further revealed that during the period from 2006-07 to 2015-16, though funds of ₹ 115.08 crore were sanctioned for 40 Lake projects in the State, only ₹ 46.34 crore were released to the concerned LBs. Out of the 40 lakes, works in respect of only three lakes⁷⁰ were completed, works in respect of 26 lakes were in progress while the works of five lakes⁷¹ were cancelled after incurring expenditure of ₹ 4.66 crore on these works owing to reasons such as inability of implementing authority to execute the project. These local bodies were directed (August 2015 to August 2016) to refund the unutilized amount along with interest to the GoM. However, an amount of

⁶⁹ Sharing ratio between GoM and local body : For „A’ category Municipal Councils and Municipal Corporations - 70:30; for „B’ category Municipal Councils - 80:20; and for „C’ category Municipal Councils and rural area - 90:10

⁷⁰ (i) Yamai Lake, Pandharpur; (ii) Shrimant Jaisingrao Lake, Kagal; and (iii) Sonegaon Lake, Nagpur

⁷¹ (i) Dadergaon lake, Dhule; (ii) Peer lake, Nandurbar; (iii) Moti lake, Sawantwadi; (iv) Ganesh lake, Miraj; and (v) AaitwadiKhurd, Walwa, Dist. Sangli

₹ 2.54 crore was yet to be recovered from two local bodies⁷² as of December 2017. The works of remaining six projects were yet to start as the revised proposal was awaited. The status of all the 40 works is detailed in **Appendix 3.7**.

Out of the 26 works⁷³ which were in progress, ₹ 27.23 crore was incurred on 20 works as on December 2017. Audit observed that out of these 20 works, in respect of eight, five, eight and four works, the components of retaining structure, desilting catchment area treatment and storm water management respectively were still incomplete (December 2017). Though a Steering Committee was in place to monitor and review physical progress of works their monitoring was also ineffective. As these works had lingered for a period ranging from one to nine years from the sanctioned period ranging from 2006-07 to 2014-15, the expenditure of ₹ 27.23 crore had remained blocked during that period.

The Environment Department stated (December 2017) that Local Bodies were responsible for completing the project in stipulated time by effective utilization of released funds and that concrete steps would be taken by the Steering Committee in this regard.

Thus, even though the scheme was introduced in the year 2006-07 and funds were made available, the objectives of Lake Conservation Plan remained largely unachieved. The undue delay /inability of local bodies to execute the project resulted in non-completion/cancellation of works thereby defeating the objectives of environment protection from pollution, maintaining of ecosystems, beautification of lakes, afforestation in catchment areas *etc.*

NANDED WAGHALA CITY MUNICIPAL CORPORATION

3.12 Irregular issue of Development Rights Certificates (DRCs) resulting in Unfair Benefit of at least ₹ 20.80 crore to Land Owners

The NWCMC had irregularly applied the modified guidelines (January 2016) for issue of DRCs to the ineligible cases which resulted in unfair benefit to the land owners to the tune of ₹ 20.80 crore.

Urban Development Department (UDD), Government of Maharashtra (GoM) notified (August 2012) the Development Control Regulations, 2010 (DCRs) for Nanded-Waghala City Municipal Corporation, Nanded (NWCMC) with effect from 01 September 2012.

The DCRs provided that in certain circumstances, the development potential of a plot of land may be separated from the land itself and made available to the owner of the land in the form of 'Transferable Development Rights (TDR)'. TDR was compensation in the form of Floor Space Index (FSI) which was issued to the owner in a certificate known as Development Right Certificate (DRC). This entitled the owner to use the FSI credit for himself or transfer it to any other person. The DCRs further provided that where a plot of land was reserved in Development Plan for any public purpose under

⁷² Nandurbar (Peer lake) and Sangli-Miraj-Kupwad (Ganesh Talav)

⁷³ Six works were sanctioned during 2015-16

Maharashtra Regional Town Planning Act 1966, the owner of the land was eligible for TDR in the form of DRCs, equivalent to the gross area of the reserved plot to be surrendered.

In January 2016, the UDD modified the provisions relating to grant of TDR by Municipal Corporations whereby the entitlement of TDR was increased to two times the area of surrendered land in non-congested areas and three times in congested areas. The enhanced entitlement of TDR was not applicable to cases where lawful possession of land by mutual agreement or contract had already been taken by Municipal Corporations.

Scrutiny of records (June 2016) of Town Planning Department of NWCMC revealed that land admeasuring 32,000 Sq. Mtr of Mouza Wazirabad were reserved for Garden, Cremation ground and Roads *etc.* as per Development Plan 2010 of NWCMC. Accordingly, NWCMC executed agreements for acquisition of 32,000 Sq. Mtr. of land with the land owners between October and November 2014. The possession of the land was also taken by NWCMC between October and November 2014 on the basis of registered transfer deeds.

The Municipal Commissioner, NWCMC, Nanded had approved DRCs on 20 June 2015 equivalent to the gross area of 32,000 Sq. Mtr. of land surrendered. However, the approved DRCs were not issued to the land owner son the basis of application made (July 2015) by the owners for postponement of issue of DRCs till the modified regulation of DCR were issued by UDD.

The DRCs valuing twice the land surrendered were issued by NWCMC in April 2016 to the owners in contravention of DRC regulations, as the possession of land had already been taken in the above cases. Thus owners of the land got undue benefit amounting to ₹ 20.80 crore (**Appendix 3.8**).

NWCMC stated (November 2016) that concerned parties had applied in July 2015 to hold the process of issuing TDRs in anticipation of new guidelines to be issued by GoM. Hence DRCs were issued in (April 2016) as per notification dated 28 January 2016.

The reply itself indicated that the modified provisions were irregularly applied which resulted in unfair benefit to the land owners.

The matter was referred to the Government in April 2017; Reply awaited.

3.13 Failure of Nanded and Waghala City Municipal Corporation to Include the Instructions of GoM in the Agreement for Escort Fees led to Loss of ₹ 1.27 Crore

The NWCMC did not include the condition of opening of Escrow account in nationalised bank in the agreement executed with the Agent for Escort fees, imperative for safeguarding the revenue of Municipal Corporation led to loss of revenue of ₹ 1.27 Crore to the Corporation.

Urban Development Department, Government of Maharashtra (GoM) had laid down (April 2011) the procedure for appointment of Agent for collection of

Escort Fees⁷⁴ by the Municipal Corporations (MC). The procedure stipulated that in order to safeguard the interests of the MC, an Escrow⁷⁵ Account should be opened in the joint name of MC and Agent in the nationalized bank. The amount of the Escort fees collected by the Agent should be deposited in this Escrow Account. Following this, the fees payable to MC was to be remitted, on priority, to the MC's account; thereafter the Agent would become eligible to draw the amount from this Escrow Account. Delay in remittance of amount, by the Agent in Escrow Account, would attract imposition of fine and in the event of violation of the aforesaid condition twice, contract should be terminated. The procedure further stipulated that if the instalment receivable was not remitted by Agent, his Bank Guarantee (BG) had to be invoked and fresh BG needed to be furnished by Agent within 15 days.

The Commissioner, Nanded and Waghala City Municipal Corporation (NWCMC), Nanded executed an agreement (March 2012) with M/s. Pallavi Construction, Parbhani (Agent) for offered price of ₹ 7.05 crore towards Escort Fees for the period from April 2012 to March 2013. As per the agreement, the total amount of ₹ 7.05 crore was to be paid by the Agent to NWCMC in 24 instalments (one instalment every 15 days). Thus, Agent was required to pay ₹ 29.37 lakh every fortnight in advance. Further the Agent had to furnish security deposit of ₹ 70.50 lakh in the form of BG.

Scrutiny of the records (June 2016) revealed that the Municipal Commissioner, NWCMC, at the time of inviting the offer for appointment of Agent for Escort fees collection had included the condition of opening of Escrow account in nationalised bank and also the condition that in case the instalment receivable was not remitted by Agent, his BG would be invoked and fresh BG would be furnished by Agent within 15 days. However, it was observed that the aforesaid conditions, which were imperative for safeguarding the revenue of MC were not included in the agreement executed with the Agent. Further, the Agent was allowed to pay the instalments of Escort Fees through cheques drawn in favour of NWCMC instead of depositing the amount in the Escrow Account.

It was further observed that the Agent defaulted in making payment to NWCMC from the first instalment itself (April, 2012) and at times made part payments. This practice continued till the end of agreement (March 2013) and as against the total amount of ₹ 7.05 crore, an amount of ₹ five crore was remitted to MC, leaving an amount of ₹ 2.05 crore as accumulated arrears recoverable from Agent. The MC invoked the BG of ₹ 70.50 lakh and an amount of ₹ seven lakh towards Earnest Money Deposit (EMD) in April 2013 but the balance amount of ₹ 1.27 crore remained to be recovered.

On this being pointed out, the Commissioner, NWCMC accepted (June 2016) that the condition of opening an escrow account was not included in the agreement and further stated that the BG of ₹ 70.50 lakh and ₹ seven lakh

⁷⁴ Escort fees: It is a kind of transit fees which is levied for carrying the goods under escort from entrance naka to exit naka of Municipal area limit without actually being consumed or sold within the Municipal area limit

⁷⁵ Escrow Account: A type of bank account in which an accountholder makes monthly or other periodic deposits, and authorizes the bank to withdraw funds to pay for certain fixed obligations such as taxes, rent, insurance premium, etc.

towards EMD had been invoked and a suit in Civil Court for recovery of balance amount against the Agent had been filed.

Thus, the lapse of the Commissioner, NWCMC in applying the prescribed safeguards had left NWCMC with no other option but to approach the Civil Court for realisation of balance amount of ₹ 1.27 crore.

The matter was brought to the notice of UDD (April 2017); Reply was awaited.

NAGPUR MUNICIPAL CORPORATION

3.14 Irregular Retention of Service Tax by Nagpur Municipal Corporation resulted in Penal Interest Liability of ₹ 4.68 crore

Irregular retention of Service Tax for more than three years and failure of Commissioner, Nagpur Municipal Corporation(NMC) to deposit the same in the Account of Government of India , created interest liability of ₹ 4.68 crore on NMC.

Section 73 A of the Finance Act1994 (Act),of the Government of India (GoI) regarding Service Tax (ST) provides that ST collected from any person was to be deposited with the GoI forthwith by the 5th of the following month. Further, the GoI, Finance Department notified (July 2014, effective from October 2014)that interest would be levied at the rate of 18 *per cent* for the first six months,24 *per cent* for period beyond six months to one year and 30 *per cent* for more than one year, in case of delayed payment of ST.

Scrutiny of records (September 2016) of Nagpur Municipal Corporation (NMC), revealed that NMC granted permission to M/s Reliance Jio Infocomm Limited (RJIL), Mumbai between March and November 2014 to lay optical fibre cables in various locations of Nagpur city. Accordingly, RJIL made payment of ₹ 74.45 crore to NMC, between November 2014 and December 2014, towards supervision and rent charges. Out of ₹ 74.45 crore, ST of ₹ 8.16 crore (at the rate of 12.36 *per cent*) was levied on ₹ 66.04 crore which was deposited in NMC (Municipal Fund) account in November and December 2014. Instead of crediting the amount of ST in GoI account, by the 5th of the following month, NMC retained the amount of ST, as of February 2017.

Thus, irregular retention of ST for more than three years and failure of Commissioner, NMC to deposit the same in the GoI Account, created interest liability of ₹ 4.68 crore (**Appendix 3.9**) which was increasing with the passage of time.

On this being pointed out, the Chief Accounts and Finance Officer (CAFO), NMC stated that a Chartered Accountants' (CA) firm has been appointed for assessment of Service Tax payable by NMC for the period between 2010 and 2016.

The reply of NMC was not acceptable in view of the statutory requirements.

The matter was brought to the notice (April 2017) of UDD; Reply was awaited.

AURANGABAD MUNICIPAL CORPORATION

3.15 Avoidable interest payment of ₹ 6.60 crore towards Loan Interest
--

Premature drawal of loan amount of ₹ 94.50 crore by Aurangabad Municipal Corporation (AMC) without any event of its payment to the concessionaire for “Parallel Water Supply Scheme” led to an avoidable payment of interest of ₹ 6.60 crore.
--

Aurangabad Municipal Corporation (AMC) proposed (2005-06) to take up scheme of augmentation of city water supply termed as “Parallel Water Supply Scheme” at a cost of ₹ 359.67 crore under the Centrally Sponsored Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT). The Government of India (GoI) sanctioned (June 2009) the scheme at a cost of ₹ 359.67 crore. However, the cost of the scheme escalated to ₹ 638.18 crore due to time interval between its proposal and sanction by GoI. In order to meet the gap of ₹ 278.71 crore, AMC decided to execute the scheme on Public Private Partnership (PPP) basis. The scope of the work included:

- 1 Construction of a new parallel water pipeline from Jayakwadi dam to major balancing reservoir at Nakshtrawadi and rehabilitation of the existing distribution pipeline;
- 2 Operation and maintenance of the water supply scheme and providing meters for water connections, improving billing and collection system for water charges for a period of twenty years from appointed date.

The AMC initiated (September 2009) a competitive bidding process with the condition that AMC had to make quarterly payment of Annual Operation Support Grant (AOSG) to the concessionaire throughout the concession period of twenty years. Accordingly, a Concession Agreement was entered into (September 2011) with SPML Infra. Pvt. Ltd. (concessionaire) at an AOSG of ₹ 63 crore per annum.

Scrutiny of the records (May 2016) revealed that the concessionaire was required to attain financial closure⁷⁶ within a period of six months from the date of concession agreement *i.e.* March 2012. As per the stipulated conditions of the agreement, a Water Payment Reserve Account (WPRA) was required to be opened within 15 days from the appointed date *i.e.* date from which contract comes into full force and an amount equal to 1.5 times of the AOSG *i.e.* ₹ 94.50 crore was to be deposited in WPRA. But, as the concessionaire could not achieve the financial closure in time, multiple extensions⁷⁷ were granted till August 2013. The concessionaire failed to attain financial closure,

⁷⁶ Financial closure is defined as a stage when all the conditions of a financing agreement are fulfilled. Financial closure is attained when all the tie ups with banks/financial institutions for funds are made and all the conditions precedent to initial drawing of debt is satisfied

In a Public Private Partnership (PPP) project, financial closure indicates the commencement of the Concession Period. The date on which financial closure is achieved is the appointed date which is deemed to be the date of commencement of concession period

⁷⁷ Up to 30 June 2012 and up to 31 August 2013

which attracted the termination clause of the concession agreement. Nevertheless, Commissioner, AMC continued the agreement and in March 2013, based on a letter of commitment from the concessionaire, withdrew loan amount of ₹ 94.50 crore from the bank.

The concessionaire could achieve the financial closure only by 30 August 2014, therefore 01 September 2014 was fixed as appointed date of contract.

Due to delay of seventeen months in fixation of appointment date, the amount prematurely drawn could not be utilized as AOSG for payment to the concessionaire. The amount of ₹ 94.50 crore was kept (May 2013) in the fixed deposit earning interest at seven *per cent* per annum up to 2 November 2013 and reinvested at 9.06 *per cent* from 6 November 2013 to 30 July 2014; whereas, AMC had to pay interest at 12.50 *per cent* for the loan of ₹ 94.50 crore availed from the bank. AMC paid ₹ 16.15 crore as interest to the bank between 19 March 2013 and 30 July 2014 (499 days) as against the interest of ₹ 9.55 crore earned on the fixed deposit. Thus, premature drawal of ₹ 94.50 crore led to an avoidable payment of interest of ₹ 6.60 crore (₹ 16.15 crore – ₹ 9.55 crore) as detailed below:

Table 3.15.1 – Avoidable payment of interest towards Loan

(₹ in crore)

Interest paid on loan				Interest earned on investment			
Amount of loan (₹ in crore)	Number of days (19 March 2013 to 30 July 2014)	Rate of interest in percentage	Amount of interest paid (₹ in crore)	Amount invested (₹ in crore)	Number of days	Rate of interest in percentage	Amount of interest earned (₹ in crore)
94.50	499	12.50	16.15	94.50 (3-5-2013 to 2-11-2013)	184	7.00	3.33
				94.50 (6-11-2013 to 30-7-2014)	267	9.00	6.22
Total			16.15	Total			9.55

Source: Records furnished by Auditee

In reply, AMC, Aurangabad stated that commencement of project was delayed due to non-fulfillment of condition of financial closure by the concessionaire.

The reply was not acceptable as the Commissioner, AMC had granted extensions periodically from April 2012 to August 2013 to the concessionaire for attaining financial closure. As such, AMC was well aware of the delay in attaining financial closure by concessionaire. In spite of this, the loan was obtained contrary to the principles of financial prudence which led to an avoidable payment of interest of ₹ 6.60 crore.

The matter was referred to the Government (May 2017); Reply awaited.

PARBHANI CITY MUNICIPAL CORPORATION
3.16 Improper Planning of Work of augmentation to Parbhani Water Supply Scheme resulted in Blocking up of ₹ 131.28 crore

Due to delay in acquisition of land for construction of WTP, the entire expenditure of ₹ 131.28 crore incurred on Head works and Water Treatment Plant WTP remained blocked for a period of more than five years.

Para 251 of Maharashtra Public Works Manual (MPW), 1984 stipulates that no work should be commenced on land which has not been duly made over by the responsible civil officer.

Parbhani City Municipal Corporation (PCMC) took up the work of augmentation to Parbhani Water Supply Scheme to cater to the water demand of the city at an estimated cost of ₹ 140.34 crore under Centrally Sponsored Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT)⁷⁸. As per the Detailed Project Report (DPR), water was to be lifted from Yeldari Dam 55 kms away from Parbhani City. The work was divided into two parts viz., Head work for intake channel, intake well, connecting main, jack well and pump house and Construction of Water Treatment Plant (WTP).

Scrutiny of the records of PCMC (March 2015) revealed that the project was approved (May 2007) by the State Level Sanctioning Committee. It was also reiterated in a meeting (May 2009), chaired by Dy. Director, Directorate of Municipal Council Administration, that land required for work should be in the possession of the Local Body for smooth execution and timely completion of the project. Further, PCMC had certified in the DPR that required land was in its possession.

Work order for Head works was issued (August 2009) at a cost of ₹ 108.31 crore stipulated to be completed by February 2011; while work order for WTP was issued (January 2012) at a cost of ₹ 100.29 crore stipulated to be completed by December 2015. However, as of April 2017, Head works were stated to be 95 per cent completed whereas construction of WTP showed physical progress of only 46 per cent after incurring expenditure of ₹ 100.29 crore and ₹ 30.99 crore respectively.

The delay in construction of WTP was attributed to non-availability of land for WTP.

It was observed that proposal to acquire the identified land was sent to Collector, Parbhani in July 2012, six months after placing the work order for the same. Further, as the identified land for WTP was not allotted to PCMC, it finally purchased (December 2016) the land at a different site, at a cost of ₹ 3.98 crore, five years after the issue of work order. Thus, due to delay in acquisition of land for construction of WTP, the entire expenditure of ₹ 131.28 crore incurred on Head works and WTP remained blocked.

⁷⁸ The funding pattern under UIDSSMT is 80 per cent contribution from Centre, 10 per cent from State and 10 per cent from the Local Body

On this being pointed out, the PCMC stated that initially the Government land was demanded (July 2012) from the Collector. However, the same was not allotted, hence private land was acquired (December 2016) and the work of construction of WTP was in progress.

The reply was not tenable as it was certified in the DPR that the land for WTP was in the possession of PCMC; moreover, PCMC initiated the process for acquiring land six months after placing the work order, in violation of the Government guidelines. This delayed the execution of Parbhani Water Supply Scheme besides depriving the people from its benefits.

Matter was brought to the notice of Government (May 2017); Reply was awaited.

CHANDRAPUR MUNICIPAL CORPORATION

3.17 Unfruitful Expenditure of ₹ 79.74 crore on Underground Sewerage Scheme

Due to individual households not getting connected to city drainage system, the infrastructure created on Underground Sewerage Scheme at an expenditure of ₹ 79.74 crore remained unutilized.

Chandrapur Municipal Corporation (CMC) decided (2006) to undertake Underground Sewerage Scheme (Scheme) for corporation area at a project cost of ₹ 72.02 crore⁷⁹ under the Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) as a part of Jawaharlal Nehru Urban Renewal Mission (JNNURM). The project consisted of two⁸⁰ components viz., laying of sewerage pipelines for 176 kms and installation of two Sewerage Treatment Plants (STPs) with the objective to improve the overall environment of the city. Accordingly, the Detailed Project Report (DPR) of the scheme was approved (September 2007) by State Level Committee and technical sanction was accorded by Maharashtra Jeevan Pradhikaran. The work of laying sewerage pipelines and installation and commissioning of two STPs was awarded in August 2009 with stipulated period of completion of 24 months.

Scrutiny of records (December 2015) revealed that extensions were given from time to time, the latest being September 2016. However, as per the information gathered by audit, CMC completed the work of drainage system of 141 kms (March 2017) out of the targeted 176 kms and incurred expenditure of ₹ 31.55 crore as of May 2017. Sewerage lines of 35 kms were excluded while execution due to failure to get permissions from Railways, Forest & Archaeology departments for laying pipes on land in the possession of these departments. Further, the work of connecting the sewerage discharge of households was not taken up as it was not included in DPR and the work of

⁷⁹ The project cost of ₹ 72.02 crore was to be shared between Government of India, State Government and CMC to the tune of ₹ 57.60 crore, ₹ 7.18 crore and ₹ 7.23 crore respectively

⁸⁰ (i) Layout of sewerage lines of RCC pipes for drainage approximate length of 176 kms and (ii) Installation and commissioning of 25 MLD and 45 MLD cyclic activated sludge process type sewerage treatment plant

installation of STPs was stated to be completed in May 2013 at a cost of ₹ 48.19 crore.

Audit observed that due to individual households not getting connected to city drainage system, the infrastructure created at an expenditure of ₹ 79.74 crore as of May 2017 remained unutilized. As a result, the objective of preventing ground water pollution and improving the environment of the city was not met even after spending ₹ 79.74 crore and lapse of more than eight years since the issue of work order. It was pertinent to mention that, as the untreated sewerage continued to be released in the rivers, the Maharashtra Pollution Control Board (MPCB) issued stringent warnings (January 2014 and July 2016) to the CMC.

The Commissioner, CMC stated (June 2017) that the scheme in the first phase intended to cover 50 *per cent* of the areas and a proposal to cover the remaining areas and laying of household connection was under process. A tender for preparation of DPR for household connection was placed before Standing Committee for approval in May 2017. Further, it was stated that the treatment of the water flowing from nallas through which 80 *per cent* of sewerage of the city flows in the Zarpal and Erai rivers was being treated through two STPs and discharged in the rivers.

The reply was not acceptable as the objective of the project was to put in place an underground sewerage disposal system. Use of STPs for treating water flowing from nallas was not an intended outcome and appeared more of an afterthought. Moreover, the contention that the sewerage water of the nearby nallas of the STPs was being treated does not hold good. Household connections were not envisaged in the initial DPR and have now been taken up in May 2017, eight years after award of work for STPs and sewerage network. Thus, the objective of the project to prevent ground water pollution through underground sewerage system and prevention of pollution of rivers by release of treated sewerage could not be achieved. Due to ill planning and improper execution, the entire infrastructure created at an expenditure of ₹ 79.74 crore on sewerage management remained unutilized for the intended purposes.

The matter was referred to the Government; Reply awaited.



(SANGITA CHOURE)

Principal Accountant General (Audit)-I,
Maharashtra, Mumbai

Mumbai,

The 28 June 2018