

**Part-II**

**Chapter III**

**Performance Audit relating to  
Statutory Corporation**



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### Performance Audit relating to Statutory Corporation

#### Gujarat Industrial Development Corporation

#### 3 Functioning of Gujarat Industrial Development Corporation

##### Executive Summary

##### Introduction

Gujarat Industrial Development Corporation (Corporation) was incorporated on 4 August 1962 under Section 3 of the Gujarat Industrial Development Act, 1962 for assisting in the orderly establishment and organisation of industries in the State. Its main functions in respect of industrial estates include acquisition of land, establishment, development, management, allotment of plots/ sheds and recovery of various service charges from the allottees. As on 31 March 2018, the Corporation had 202 estates, of which 189 were functional. The Corporation had total assets of ₹ 15,654.98 crore and excess of income over expenditure of ₹ 161.71 crore as on March 2018.

##### Audit Findings

##### Immediate impact of Audit

During Audit, observations with monetary value of ₹ 526.46 crore including recovery of ₹ 448.75 crore were pointed out. Against this, the Corporation recovered ₹ 19.61 crore. Besides, the Corporation took corrective actions on certain observations.

##### Planning, land acquisition and development of estates

Audit observed that the Corporation achieved most of the objectives envisaged in the State Industrial policy 2009 and 2015 except developing the estates in 'developing *talukas*' of the State.

No major lapses in the land acquisition procedures adopted and pricing were noticed. However, instances of deviations like acquisition of land in coastal regulatory zone area, delay in follow up of refunds for surrendered land and delayed acquisition of land parcels resulting in exchange of developed plots against undeveloped land were noticed.

Audit noticed instances of unfruitful expenditure in construction of multi-level sheds in an unsaturated estate and delay in surrender of unutilised grants to Government of Gujarat.

### **Fixation of allotment price and payments for Land Reference Cases**

During 2013-18, the Corporation fixed the initial allotment price (AP) in 15 estates. Audit observed two instances of non-adherence to the policy/guidelines of GoG for fixing AP and one case of non-adhering to the existing methodology for fixation of AP. This resulted in consequential loss of ₹ 38.27 crore to the Corporation.

The Corporation failed to verify the payments made to land owners with respect to the legal provisions resulting in overpayments of ₹ 5 crore and short payment of ₹ 4.84 crore. Further, there was delayed/ non-recovery of additional compensation paid by the Corporation under Land reference Cases from allottees amounting to ₹ 261.53 crore.

### **Adherence to allotment policies, procedures, rules and regulations**

No major deviations were observed with respect to the system laid down for selection of the applicants and allotment.

In two instances of allotment of additional area, the Corporation did not initiate prompt action for recovery of the additional allotment price of ₹ 147.27 crore.

Due to multiplicity of circulars issued by the Corporation for granting permissions and recovery of fees based on it, there were instances of incorrect application/ interpretation of the circulars by field offices. This resulted in short recovery/ non-recovery of ₹ 13.10 crore.

### **Monitoring of utilisation of allotted plots in estate**

Inadequate system for monitoring of allotted plots in the estates resulted in delayed/ unauthorised construction. It also led to unauthorised/ non-utilisation of allotted plots.

Audit noticed that the utilisation of allotted plots was not monitored periodically by the Corporation. Due to this, it failed to raise demand for non-utilisation (NU) penalty. Absence of periodical review also led to unauthorised construction on the allotted plots without submission of layout plan. In two instances noticed in test-check, there was non-recovery of NU penalty of ₹ 26.21 crore due to absence of periodical review system. Joint visits in three test-checked estates revealed unauthorised utilisation of industrial plots for commercial activities.

## **Introduction**

**3.1** Gujarat Industrial Development Corporation (Corporation) was incorporated on 4 August 1962 under Section 3 of the Gujarat Industrial Development Act, 1962 for assisting in the orderly establishment and organisation of industries in the State. The main functions of the Corporation are acquisition of land, establishment and development of industrial estates

and its management, allotment of plots/ sheds for industrial/ commercial/ residential purposes, recovery of allotment price of plots/ sheds and service charges from the allottees. The Corporation has 202 estates<sup>1</sup> of which 189 are functional estates (133 saturated<sup>2</sup> estates and 56 unsaturated estates) and remaining 13 estates under planning/ development stages as on 31 March 2018. Of 189 estates, 34 estates were in North Gujarat, 39 estates in South Gujarat, 45 estates in Central Gujarat and 71 estates in Western Gujarat.

The sources of funds of the Corporation consist of reserves and surplus, Government subsidy, capital receipts from sale of plots/ sheds and the other revenue receipts/ fees collected from allottees. The major expenditure was on estate related land acquisition, development works and upgradation/ maintenance works. The Corporation had no loans or capital from Government of Gujarat. The Corporation earned profits continuously and has substantial reserves and surplus.

As on March 2018, the Corporation had total assets of ₹ 15,654.98 crore which included the capital expenditure for creation of estates of ₹ 10,990.96 crore. As on that date, the Corporation had reserves and surplus of ₹ 2,268.42 crore and receipts on capital account of ₹ 9,149.66 crore. The Corporation had excess of income over expenditure of ₹ 161.71 crore for the year 2017-18. The financial position and financial performance of the Corporation for the last five years are given in **Annexure 8**.

### Organisational Set-up

**3.2** The management of the Corporation is vested in the Board of Directors headed by the Chairman. Vice Chairman *cum* Managing Director (VC&MD) is the Chief Executive Officer of the Corporation. The VC&MD is assisted by one Joint Managing Director, two Executive Directors (ED), one Chief Engineer (CE) and Departmental heads at the Corporation's head office. As on 31 March 2018, the Corporation had six Divisional Manager (DM) offices and 14 Regional Manager (RM) offices for dealing with administrative matters on allotment of plots, management of estates and recovery of dues. For civil works relating to development of estates and its maintenance, the Corporation has five Circle and nine Division offices each headed by a Superintending Engineer (SE) and Executive Engineer (EE) respectively. The DM at the field level reports to ED at the Head Office level. Similarly, the SE reports to CE at the Head Office. The details are given in flow chart shown at **Annexure 9**.

### Audit Objectives

**3.3** The performance review of the activities of the Corporation was conducted to ascertain whether:

<sup>1</sup> **Source:** Website of the Corporation ([www.gidc.gujarat.gov.in/](http://www.gidc.gujarat.gov.in/))

<sup>2</sup> A saturated estate is a developed estate with more than 90 *per cent* of allotment of plots. An estate which is not a saturated estate is termed as unsaturated estate.

- Industrial development planned was in line with the State Industrial policy; Land acquisition was done as per laid down procedures and estates were developed in economic and effective manner;
- The allotment price fixed for estates led to cost recovery and was based on consistent methodology; and payments for additional land compensation was as per provisions of relevant laws;
- Allotment of plots/ sheds was made as per the prevailing policies, rules, regulations and procedures; and
- Effective monitoring mechanism and internal control system was in place for management of estates.

### Scope of Audit and Sampling

**3.4** The Performance Audit (PA) was conducted during December 2017 to June 2018 covering the activities of the Corporation during 2013-14 to 2017-18 in respect of creation and development of industrial estates; allotment of plots/ sheds and monitoring mechanism in these estates. Records of the Head Office (HO), four<sup>3</sup> out of 14 highest revenue-earning offices of Regional Managers (RM) and five<sup>4</sup> out of nine Division Offices incurring highest expenditure of the Corporation were test-checked in audit.

A performance audit on the functioning of the Corporation was included in the Report of the Comptroller and Auditor General of India for the year ended March 2010 (Commercial), Government of Gujarat (GoG). The Committee on Public Undertakings (COPU) discussed (September to December 2014) the PA and made (March 2015) two recommendations *vide* COPU's 3<sup>rd</sup> Report of 13<sup>th</sup> Assembly. The action taken by the Corporation on the recommendations were also discussed (January 2017) and settled (March 2017) by COPU.

### Audit Criteria

**3.5** Audit criteria were drawn from the following sources:

- Gujarat Industrial Development Act, 1962, State Industrial policy, and the directions issued by Government of Gujarat (GoG);
- Agenda notes and resolutions of meetings of Board of Directors, Corporate Plans/ Policies for setting up of new industrial estates and expansion of existing estates; Minutes of the Screening Committee meetings;
- Procedures prescribed for acquisition of land and payment of compensation to land owners; Terms and conditions of the contract entered for execution of infrastructure works in the estates;
- Rules/ Policies framed for fixation of allotment price and maintenance charges, levy of penalty and recovery of outstanding dues; Guidelines/

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<sup>3</sup> Ahmedabad, Ankleshwar, Vadodara and Vapi.

<sup>4</sup> Ahmedabad, Bharuch, Dahej, Vadodara and Vapi.

Circulars of the Corporation for allotment and transfer of plots/ sheds;

- Annual Accounts, Administrative reports, MIS Reports and instructions issued by HO of the Corporation.

### **Audit Methodology**

**3.6** An entry conference was held on 20 March 2018 with the Joint Secretary of the Industries and Mines Department of GoG, which was also attended by the VC&MD and officials of the Corporation; wherein the audit objectives, scope, methodology and criteria were explained. During the course of the audit, relevant records were examined, discussions were held with department officials, joint inspection of selected estates was conducted and audit observations were raised. An Exit Conference was held on 05 December 2018 to discuss the audit observations with the Management/ Government and their views have been considered while finalising the report.

### **Audit Findings**

#### ***Immediate impact of Audit***

**3.7** Audit reviewed the various activities of the Corporation and pointed out observations which required actions to be taken by the Corporation. During the course of Audit, observations with a monetary value of ₹ 526.46 crore including recovery of ₹ 448.75 crore were pointed out. Against this, the Corporation recovered ₹ 19.61 crore. Further, audit observations with monetary value of ₹ 230.49 crore that included recovery of ₹ 98.02 crore will be pursued by issue of Management letter. Besides, the Corporation took corrective actions on certain observations. The cases where recoveries were made or corrective actions were taken by the Corporation are discussed in **Annexure 10**.

### **Planning, Land acquisition and development of estates**

#### ***Planning vis-à-vis State Industrial Policy***

**3.8.1** Based on the feedback received from its regional offices and the demand for setting up/ expansion of industrial estates from industries/ legislators *etc.*, the Corporation conducts study/ survey in this regard. Based on the findings of the study/ survey, the Corporation also prepares proposals to set up industrial estates and seeks the approval of GoG for acquisition of land. Further, directions are given in the Industrial Policy of the State as to specific activities to be undertaken by the Corporation in certain areas. The **Table 3.1** below gives the activities envisaged for the Corporation under Industrial Policy 2009 and 2015 and its achievements against the same.

**Table 3.1: Status of compliance of Industrial Policy as on March 2018**

Issues under Industrial Policy	Present status
<b>Industrial Policy 2009 (January 2009 to December 2014)</b>	
GIDC to identify a compact block for development based on local aspirations in each of the backward regions.	GIDC had estates in only 17 <i>Talukas</i> out of 49 developing <i>Talukas</i> as on March 2018, and all these were established prior to 2009.
GIDC would identify land for setting up ancillary units/ Small and Medium Enterprises (SME) related to the Mega projects, if required.	GIDC had developed Sanand-II (2010), Halol-II (2013) and Mandal (Vithallapur) (2014) estates to facilitate Mega projects/ investors like Tata Nano, Hero Motocorp and Japanese units respectively. It developed land in and around estates where Mega projects have come up.
GIDC will acquire additional land near existing industrial estates and promote new estates.	GIDC had acquired additional land near or adjacent to the existing estates and developed (2011-14) three new estates there viz., Halol-II, Dahej (II & III) and Saykha.
Upgrading Industrial Infrastructure of the existing estates in the State including GIDC and non-GIDC Industrial estates under the Critical Infrastructure Project (CIP) scheme <sup>5</sup> .	GIDC completed 48 projects involving total expenditure of ₹ 429.72 crore (March 2018) under CIP scheme of Industrial Policy 2009.
<b>Industrial Policy 2015 (January 2015 onwards)</b>	
GIDC will simplify its rules in the allotment of plots as well as other approvals required.	GIDC launched Online system for various approvals in a phased manner from June 2016.
Assistance to GIDC for development of new/existing estates for micro and small enterprise (MSE).	GIDC has created eight MSE parks during 2015-18. It also finalised the allotment price for the same.
Assistance to be provided to GIDC for multi-level sheds in saturated estates.	GIDC has constructed Multi-level sheds and finalised the allotment price at 15 estates (March 2018).
Providing assistance to GIDC under Assistance to Industrial Infrastructure (AII) for upgrading infrastructure in GIDC estates/ parks.	Under the AII scheme, 94 projects were approved, of which GIDC completed 44 projects involving total expenditure of ₹ 76.36 crore (March 2018).

**Source:** State Industrial Policy 2009 and 2015 and information furnished by the Corporation.

Audit observed that apart from developing the estates in developing *Talukas* of the State, the Corporation achieved most of the objectives envisaged in the industrial policy 2009 and 2015.

### **Land Acquisition for Industrial Estates**

**3.8.2** The Corporation acquires both Government and private land for development of estates. Consequent upon approval of GoG for setting up an industrial estate, the Corporation either acquires private land under the Land Acquisition Act, 1894 (old Act) or through outright purchase. The Government land is transferred by the Revenue Department of GoG.

Government of India (GoI) enacted (September 2013) the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (new Land Act) which regulated the land acquisition from 01 January 2014. GoG amended the new Land Act notified as the Gujarat Amendment Act with effect from 12 August 2016. It also notified the Rules there under in October 2017. In view of the above, the Corporation

<sup>5</sup> GoG scheme wherein assistance was provided to the Corporation for upgradation of infrastructure.



decided (December 2013) to suspend the land acquisition process under the old Act. This led to reduced land acquisition from 2014-15 onwards.

As on 31 March 2018, the Corporation had acquired 42,524 ha land. Out of this, only 2,012 ha (4.73 per cent) was acquired during last five years between 2013-14 and 2017-18. From the total acquired land, the Corporation had developed 29,729 ha till 31 March 2018, of which 8,060 ha (27.11 per cent) was developed during the last five years mainly on account of development of industrial estates at Dahej, Sanand-II and Halol-II.

Since the price determination for acquisition of private land under the old Act and for transfer of government land was done by GoG, no major lapses in the procedures adopted and pricing were noticed. However, instances of deviations relating to acquisition of unsuitable land, delay in follow up for refunds and delayed acquisition were noticed which are discussed below:

#### ***Acquisition of land in coastal regulatory zone area***

**3.8.2.1** The Corporation took advance possession of government land of 3,426.86 ha (September 2008) at Khambhat-Daheda (Anand District) to set up an industrial estate. The Corporation noticed (March 2010) that the land acquired was within the Coastal Regulation Zone (CRZ) limits<sup>6</sup> and therefore setting up of industries was not permitted there. The Corporation surrendered (June 2012) this land to GoG and decided not to create the estate. Though no payment for the land was made, the Corporation had incurred ₹ 20.57 lakh towards joint measurement and security expenses of ₹ 19.35 lakh (October 2008 to April 2012) for the land. Audit observed that the Corporation did not verify the location of the land with respect to CRZ limits while identifying or while taking possession of the land. Even GoG handed over CRZ land for setting up an industrial estate. The land acquired for setting up an industrial estate in CRZ limits led to its subsequent surrender (June 2012) and wasteful expenditure of ₹ 39.92 lakh.

The Government stated (January 2019) that the Corporation had initially planned to develop chemical estate in 2008 but later on decided (2009) to develop engineering estate. The reply is not convincing as neither the chemical estate nor the engineering estate could be developed in the CRZ area. Thus, the fact remains that the Corporation did not verify that the land was included in CRZ limits and therefore it would not be in a position to set up any industrial estate on that land.

#### ***Non-refund of interim payment made to GoG for land***

**3.8.2.2** The Corporation took (March 2008) possession of government land of 260 ha at village Hansalpur (Ahmedabad) by making an interim payment (February 2010) of ₹ 2.26 crore. In view of GoG's decision to allot

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<sup>6</sup> Notification of February 1991 declared coastal stretches of 500 metres from the high tide line as the coastal regulatory zone where setting up of industries was prohibited.

this land to Allottee 'M', the land was handed back (December 2011) to Revenue Department. The Corporation requested (December 2011 to February 2013) the Collector, Ahmedabad to return the interim payment. The Corporation followed up the matter only from April 2018. Audit observed that the Corporation is yet to receive the refund of ₹ 2.26 crore (January 2019). Audit also observed that the Corporation had paid ₹ 89.87 crore to Revenue Department for obtaining government land during April 2014 to December 2017 but had not adjusted the interim payment. The interim payment of ₹ 2.26 crore remained blocked up since February 2010.

The Government (Industries & Mines Department) stated (January 2019) that payment made for acquiring land of specific village could not be adjusted/transferred against land of other village without prior approval of the Revenue Department. It was also stated that the Corporation started pursuing the matter since April 2018. The reply does not justify the reasons for not pursuing the refund/ adjustment from Revenue Department since March 2013 till April 2018.

### ***Exchange of undeveloped land with developed plots***

**3.8.2.3** The Corporation planned (July 2012) to acquire 113.51 ha of private land and 8.35 ha of Government land at Vitthalapur village for development of Mandal-1 (Vitthalapur) industrial estate. The Corporation entered (till 31 December 2013) into consent agreement at a price of ₹ 500 *per* sqm with land owners of 103.23 ha of private land and acquired 85.42 ha of land under the old Act. In view of enactment of new Land Acquisition Act, 2013, the Corporation resolved (July 2014) that remaining 17.81 ha of land should be purchased directly from land owners at a price of ₹ 500 *per* sqm. However, the Corporation did not acquire any parcel of this land till March 2018 for which no reasons were on record.

In the meantime, the Corporation allotted (August 2015) 1.82 lakh sqm area to an allottee 'T' in the estate. This included private land at survey no.10 (4,654 sqm) and 18 (10,469 sqm) which were still pending to be acquired by the Corporation from the land owners though the consent agreement with them was entered in 2013. To resolve the issue, the Corporation decided (August 2015) to obtain these land parcels by giving its owners an equal area of land at some other location in the same estate. Before the exchange of land parcels took place, the land owners sold (March/July 2016) these parcels of land to other parties (new land owners). Subsequently, the new land owners offered the Corporation (September 2016) land of survey no.10 and 18 in exchange for developed plots with permission to carry out industrial/commercial activities on those plots. The Corporation accepted (February 2017) the offer and took possession of land.

Audit observed that the original land owners sold (2016) the land to the new land owners at ₹ 30 lakh (₹ 645 *per* sqm) and ₹ 25 lakh (₹ 239 *per* sqm). Thus, the Corporation failed to take timely action from 2014 to 2016 to acquire the

land parcels at the pre-decided consent price. Further, the allotment of these land parcels prior to its purchase by the Corporation compelled it to exchange the undeveloped land with developed plots. Further, the new land owners paid only ₹ 55 lakh (to the original land owners) against which they received developed plots worth ₹ 8.05 crore<sup>7</sup> (based on commercial pricing of ₹ 5,220 *per sqm*) giving an undue benefit to the new land owners.

The Government stated (January 2019) that as land was allotted to the allottee 'T', it was essential for the Corporation to take the land on the terms and conditions asked by the new land owners. The reply does not explain the efforts made by the Corporation to purchase the land from the original land owners between July 2014 and March/ July 2016 and its allotment to allottee 'T' in August 2015 without acquisition.

### ***Development of Industrial Estates***

**3.8.3** The Corporation undertakes infrastructure development works like roads, power supply, water supply, drainage, *etc.*, in its new estates and upgradation of infrastructure in the existing estates. The award of the work and monitoring of its execution was done by the Division office concerned.

Audit randomly selected 76 works (out of 167 works with contract value of above ₹ one crore during 2013-18) for test-check to review the development and upgradation of estates. No major deficiencies were noticed in 67 test-checked works. Minor deficiencies relating to contract management like, short-recovery of testing charges, non-renewal of Bank guarantees, extra expenditure due to non-invitation of tenders, *etc.* were noticed in eight works, which were communicated to the Corporation for corrective action at their end. The deficiencies noticed in respect of other one work is discussed below:

### ***Unfruitful expenditure in construction of Multi-level sheds***

**3.8.3.1** The estates of the Corporation are categorised into saturated (more than 90 *per cent* plots have been allotted in the estate) and unsaturated estates. GoG launched (March 2015) a scheme for developing multi-level sheds (MLS) in saturated estates for Micro & Small Enterprises (MSEs). Though, the scheme stipulated creation of MLS in only saturated estates, the Corporation developed MLS in 12 saturated as well as three unsaturated estates<sup>8</sup>. Audit reviewed implementation of scheme for development of MLS at Sanand-II, an unsaturated estate as the same was under the RM office, which were test-checked by Audit.

Sanand-II industrial area comprises of Sanand II estate, Sanand Women park and Sanand MSE park with total allottable area of 113.47 lakh sqm out of which 64.38 lakh sqm was unallotted (May 2018). The Corporation constructed (May 2017) an MLS having 28 sheds at this unsaturated estate at a

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<sup>7</sup> 15,123 sqm × AP of ₹ 2,660 *per sqm* × 2 (for commercial use).

<sup>8</sup> Sanand-II, Dungra and Diyodar.

total cost of ₹ 6.17 crore. The Corporation invited online applications thrice from May 2017 to January 2018 for allotment of these 28 sheds. However, as on June 2018, none of them were allotted. This led to idle investment of ₹ 6.17 crore.

The Government stated (January 2019) that the Corporation had constructed MLS considering future development in Sanand area. The reply is not convincing as there is no justification for constructing MLS in unsaturated estate where the Corporation had unallotted inventory of plots with lower allotment price<sup>9</sup>. Under these circumstances, the construction of MLS in unsaturated Sanand-II estate was not justified.

### ***Unutilised grant of CIP scheme not surrendered to Government***

**3.8.3.2** The Corporation received (2005-2015) funds under Critical Infrastructure Project (CIP) scheme of GoG for upgradation of infrastructure in the existing estates. The Corporation received total grant of ₹ 706.33 crore under CIP scheme for 184 projects, on which it earned interest of ₹ 129.77 crore till March 2018. The Corporation had incurred expenditure of ₹ 682.41 crore (March 2018) and completed all the 184 projects.

Finance Department, GoG's Resolution dated 22 December 2015 stipulated that accrued income on grants including interest and any balance of the grant which may not be required further for execution of project may be credited to government account. Since all the projects approved under CIP scheme were completed and CIP scheme was replaced with another scheme, the above unspent balance of ₹ 153.69 crore<sup>10</sup> should have been surrendered to GoG. However, this was not done till date (January 2019). The Government/Corporation did not give reasons for not surrendering the unutilised grants.

Audit also observed that Corporation received funds under CIP Scheme based on estimated cost. Subsequently, the works were awarded and executed at much lower cost. Therefore, the difference remained with the Corporation which kept on accumulating over the years.

### **Fixation of allotment price and Payments for Land Reference Cases**

**3.9** On creation of a new estate, the Corporation finalises the allotment price (AP) to be recovered from the allottees of the estate. Further, the additional land compensation to be paid to land owners based on Court awards on Land Reference Cases<sup>11</sup> (LRCs) are also recovered from the allottees.

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<sup>9</sup> AP for plots was ₹ 3,010 *per* sqm (MSE and Women park) and ₹ 3,780 *per* sqm (Sanand-II plots) whereas the minimum AP for the multi-level sheds was ₹ 18,270 *per* sqm.

<sup>10</sup> ₹ 836.10 crore *less* ₹ 682.41 crore.

<sup>11</sup> Land owners whose land is acquired without their consent can file land reference case (LRC) with reference court for additional compensation.

### ***Fixation of Allotment Price***

**3.9.1** All costs pertaining to an industrial estate *viz.*, land cost and development cost (including overheads, interest and other charges) and tentative liability of LRCs are considered by the Corporation in working out the cost of an industrial estate. This cost is divided by the allottable area of the estate to arrive at its initial Allotment Price (AP). The Corporation levies other charges like transfer fees, non-utilisation penalty, sub-division fees, *etc.* on a percentage basis on the prevailing AP. The AP is revised annually and subsequently, this revised AP is applicable for allotment of plots and for collection of AP linked charges. On finalisation of LRC, differential amount is recovered/ refunded from/ to allottees. If the Government provides subsidy for creation of estates, such benefit is passed on to the allottee.

During 2013-18, the Corporation had fixed initial AP in 15 estates<sup>12</sup>. Audit observed two instances of non-adherence to the policy/ guidelines of GoG for fixing the AP. It also observed one case of not adhering to the existing methodology in vogue for fixation of AP. This resulted in fixing lower AP and consequential loss to the Corporation. The audit observations are discussed below.

#### ***Excess burden due to not claiming development cost under CIP scheme***

**3.9.1.1** As mentioned in the previous paragraph, development cost is a component while fixing the initial AP. Therefore, while arriving at the AP for Sanand Women Park, the Corporation decided (17 July 2015) that the development cost of ₹ eight crore for the estate would be met through GoG grants under the CIP Scheme for reducing the AP. The Corporation submitted (29 July 2015) the project to State Level Empowered Committee (SLEC) with total cost of ₹ 45.18 crore (excluding development cost of ₹ eight crore). It was agreed by the SLEC that 50 *per cent* of the cost (₹ 22.59 crore) was to be borne by GoG as subsidy. Upon approval from the SLEC, the Corporation fixed (03 October 2015) the AP at ₹ 2,100 *per sqm* after considering 50 *per cent* subsidy.

Audit observed that the Corporation did not claim the development cost of ₹ eight crore under CIP scheme. In fact, the CIP Scheme was discontinued (19 January 2015) by GoG even before the Corporation's decision (July 2015) to incur development cost under CIP Scheme. Thus, the Corporation had to bear excess burden of ₹ eight crore.

The Government stated (January 2019) that GoG had approved (October 2015) 50 *per cent* (*i.e.* ₹ four crore) as subsidy and decision in respect of remaining ₹ four crore would be taken by the Corporation. The reply is factually not correct because GoG had approved 50 *per cent* subsidy *i.e.* ₹ 22.59 crore against the total cost of ₹ 45.18 crore, which did not include

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<sup>12</sup> Seven industrial estates, five MSE parks and three Women MSE parks.

the development cost of ₹ eight crore. Hence, 50 per cent subsidy for the above ₹ eight crore was not approved. As the CIP scheme was discontinued, the Corporation bore the burden.

### ***Incorrect fixation of allotment price in respect of multi-level sheds***

**3.9.1.2** Under the scheme for assistance<sup>13</sup> to GIDC for developing multi-level sheds (MLS) introduced (March 2015) by GoG, the Corporation finalised<sup>14</sup> the Allotment price (AP) for MLS in 15 estates. The scheme guidelines stipulated for inclusion of interest and overhead charges in the development cost.

Audit observed that while fixing AP for MLS, the Corporation however did not include interest and overhead charges in the development cost in respect of any of the 15 estates. Therefore, non-inclusion of interest and overheads for multi-level sheds in the case of these 15 estates resulted in violation of scheme guidelines, fixation of lower AP and consequent loss of revenue of ₹ 28.35 crore (as shown in *Annexure 11*).

The Government stated (January 2019) that the Corporation did not include interest and overheads to keep the AP of the MLS low. Audit observed that this decision was taken without approval of the State Government and thus, was in contravention of the scheme guidelines.

### ***Fixation of lower allotment price for Saykha Women Park***

**3.9.1.3** The Corporation developed two estates viz. MSE Park (total area of 17.70 ha and allottable area of 14.25 ha) and Women park (total area of 23.68 ha and allottable area of 16.03 ha) at Saykha. The Corporation worked out AP of ₹ 1,390 (September 2017) for MSE park and it subsequently decided (May 2017) to adopt the above AP for Saykha Women Park also. Audit observed that total area, allottable area and additional development cost of Women Park was not considered for fixing its AP. Audit worked out AP for Saykha Women park at ₹ 1,510 per sqm considering the above parameters. Thus, fixation of lower AP led to loss of ₹ 1.92 crore<sup>15</sup>.

The Government contended (January 2019) that the audit has worked out the AP by considering total development cost of Women Park instead of additional development cost. The reply is not correct because Audit has worked out the AP of Women Park considering the parameters as adopted for working out the AP of MSE Park by the Corporation that included the additional development cost.

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<sup>13</sup> GoG gave financial assistance up to 50 per cent of the cost incurred for the development of multi-level shed to GIDC.

<sup>14</sup> AP of MLS in four estates (finalised in June 2017) and in 11 estates (finalised in September 2017).

<sup>15</sup> 16.03 ha × lower AP of ₹ 120 per sqm (₹ 1,510 less ₹ 1,390 per sqm).

### ***Education and Innovation Fund collected along with Allotment Price***

**3.9.1.4** Education Department (ED), GoG directed (August 2012) the Corporation to create a fund by levy of certain charge on its new allotments. The corpus of the said fund was to be utilised by ED. Accordingly, the Corporation resolved (September 2012) to collect additional ₹ five *per sqm* along with AP from new allotments in Dahej, Sanand and Halol-II estates for creation of the fund. Audit observed that though the Corporation collected ₹ 6.57 crore from October 2012 to March 2018 but did not remit this amount to the Education Department. Thus, a fund which was collected for a specific purpose remained unutilised for more than five years.

The Government stated (January 2019) that the Corporation has written to Education Department to submit a detailed proposal for utilisation of the fund.

### ***Land Reference Cases and its liability on allotment***

**3.9.2** The Corporation had acquired land for development of estates under the provisions of Land Acquisition Act, 1894 (Act). The important provisions of the Act are shown at ***Annexure 12***. During the review period (2013-18), compensation worth ₹ 305.06 crore were paid in 26 court awards under Land Reference Cases (LRCs).

Audit observed that even though the Corporation dealt with the additional land compensation payments routinely, it failed to verify whether the payments made to land owners were as per the provisions of the Act. This resulted in overpayments and short payments. Further, there was delayed/ non-recovery of additional land compensation paid by the Corporation based on court orders from the allottees. The incorrect application of provisions of the Act resulted in overpayment of ₹ 5 crore and short payment of ₹ 4.84 crore. Further, non-recovery of LRC liability worth ₹ 261.53 crore was noticed. The same are discussed below:

### ***Over/ short payment due to violation of provisions of the Act***

**3.9.2.1** Out of 26 court awards, Audit observed four instances of over payment and one instance of short payment of compensation to the land owners due to inadequate internal control mechanism in the payments made for LRCs.

- In two instances<sup>16</sup>, the escalation amount under Section 23 (1A) was calculated up to the date of award though possession of land was taken earlier. These resulted in overpayment (June/ August 2013) of ₹ 1.55 crore to the land owners of these two LRCs.

The Government stated (January 2019) that the Corporation has initiated steps to file affidavit for recovery of excess payment in the higher court in case of

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<sup>16</sup> Sarigam village (Valsad) - ₹ 51.36 lakh and Talodara village (Bharuch) - ₹ 103.50 lakh.

Talodara village. However, the Corporation did not reply to excess payment made in case of Sarigam village.

- In Manjusar village LRC, solatium was paid on compensation declared by the Court as well as on escalation amount though as per Section 23 (1A), it was payable only on the compensation declared by the Court. This resulted in overpayment (October 2012) of ₹ 1.04 crore to the land owners.

The Government stated (January 2019) that the payment was made based on the demand raised by the Officer on Special Duty (Land Acquisition) as per the court order and its calculation sheets. The reply is not convincing as the Corporation should have independently verified the demand raised by the OSD with reference to the provisions of the Act. Failure of the Corporation to do so led to overpayment.

- In LRC of Jamnagar-III estate, the Corporation failed to verify correctness of demand note and made payment (May 2016) of ₹ 2.41 crore twice for survey no. 135-P. This resulted in overpayment and consequential loss to the Corporation. The Government stated (January 2019) that the Corporation has requested the court for refund of overpayment. However, the same is yet to be recovered (January 2019). In the same LRC, interest for a period of three years was calculated on amount excluding solatium, which resulted in short payment (May 2016) of ₹ 4.84 crore. The Government/ Corporation did not reply to the audit observation.

The Corporation had failed to verify that the payments made to land owners were in accordance to the provisions of the Act; resulting in overpayments and short payments. This shows that the system established in the Corporation for dealing with LRCs was not robust and therefore needs to be strengthened.

#### ***Non recovery of the LRC compensation from the allottees***

**3.9.2.2** As the total additional land compensation payable on account of LRC is not known at the time of fixation of the AP of the estate, the Corporation issues the Offer-cum-Allotment (OCA) to the allottees stating that the differential amount arising on account of LRC decisions would be recoverable in full on finalisation of the LRCs by the court.

Audit reviewed the mechanism for recovery of additional land compensation paid by the Corporation as per court order, from the existing allottees of the estates. For this, Audit test-checked four out of the 26 LRC payments made by the Corporation during 2013-18. These LRCs related to three estates. Audit observed that the Corporation had not recovered (May 2018) ₹ 261.53 crore from the existing allottees of the estates, though compensation payments to the land owners had been made by the Corporation during October 2012 to July 2016. These are discussed below:

- The Corporation acquired (September 1999) 157.67 ha land (without consent) for development of Jamnagar-III estate. On declaration of



judgements by various courts, additional compensation of ₹ 255.42 crore<sup>17</sup> was paid (2013-2016) to the land owners. Till March 2018, 112.63 ha of land (1,335 plot holders) was allotted out of the allottable area of 115.63 ha. Audit estimated<sup>18</sup> the LRC liability of ₹ 216.96 crore which was recoverable from the 1,335 plot holders. Further, the AP of unallotted area of 3.00 ha needs to be revised for the recovery of remaining LRC liability.

The Government stated (January 2019) that the Corporation had decided (April 2018) to recover additional amount at the rate of ₹ 1,645 *per* sqm from the existing allottees of the Jamnagar-III estate. Audit observed that the Corporation recovered ₹ 17.45 crore from 107 plot holders till date (January 2019) against the estimated recoverable amount of ₹ 216.96 crore. The reply does not state the reasons for delay in initiating recovery, which highlights systemic deficiency in settling LRC cases.

- For Savli estate, based on the court judgment, the Corporation paid (2004-2012) ₹ 13.62 crore<sup>19</sup> towards additional compensation for 28.75 ha. Audit observed that the Corporation did not insert provision for recovery of LRC in the OCA; hence it could not raise demand for a total of ₹ 29.32 crore (including interest of ₹ 15.69 crore) from the 566 existing allottees in the estate.

The Government stated (January 2019) that 39.84 ha land of Savli estate was yet to be allotted and on its allotment, the Corporation would receive amount more than the LRC compensation. The reply is not convincing as due to non-inclusion of provision of LRC in the OCA, the Corporation could not recover it from the existing allottees. During the last two years (2016-18), no new allotment has been made by the Corporation; hence, the recovery from new allottees is remote.

- The Corporation acquired (August 1995) 38.43 ha land in Ambheti village, out of which 35.47 ha was allotted (June 1996) to Allottee 'D'. The Corporation paid additional compensation of ₹ 12.23 crore<sup>20</sup> (2013-2016) based on court judgements for the acquired land. The Head Office of the Corporation instructed (July 2016) its RM office (Vapi) to recover the same immediately from the allottee. Audit observed that no action was taken by RM office for recovering it from Allottee 'D' nor was the same followed up by the Head Office of the Corporation till the date of audit (May 2018). As on May 2018, LRC liability recoverable from Allottee 'D' worked to ₹ 15.25 crore<sup>21</sup> (including interest of ₹ 3.94 crore).

<sup>17</sup> ₹ 120.49 crore (November 2013- High Court award), ₹ 108.52 crore (May 2016- Supreme Court award) and ₹ 26.41 crore (February 2018- To other land owners under Section 28A of Act).

<sup>18</sup> Audit calculated LRC liability payable on the date of allotment for each plot as per the Act. LRC provision considered in AP and collected from plot holder was deducted from it. The difference along with interest from the date of allotment to March 2018 was recoverable from the plot holder.

<sup>19</sup> ₹ 5.78 crore (2 November 2004) *plus* ₹ 0.51 crore (27 November 2009) *plus* ₹ 0.43 crore (01 February 2010) *plus* ₹ 0.47 crore (19 February 2010) and ₹ 6.43 crore (October 2012).

<sup>20</sup> ₹ 7.87 crore (September 2014- Reference Court) and ₹ 4.36 crore (July 2016- High court).

<sup>21</sup> ₹ 11.31 crore (*i.e.* ₹ 12.23 crore × 35.47 ha/ 38.34 ha) *plus* interest of ₹ 3.94 crore.

The Government stated (January 2019) that the land owners had appealed for higher compensation to the Supreme Court of India and the Corporation would issue recovery notice after final disposal of the case. The reply does not state the reasons for non-initiation of action by the RM office despite instruction of its Head office in July 2016. Audit observed that in case of Jamnagar-III estate, delay in initiating recovery proceeding after court awards led to recovery of only eight *per cent* of the additional compensation paid by the Corporation from existing allottees in two years. The Corporation should recover the dues against LRC payments from time to time based on court orders in order to safeguard its financial interest.

From the review of the mechanism for recovery of additional land compensation in four test-checked instances revealed that though the Corporation had made the payments of the additional land compensation as per Court awards, it did not take adequate efforts for recovery of the same from the allottees of these estates resulting in non-recovery.

### **Adherence to Allotment Policies, Procedures, Rules and Regulations**

**3.10** Adherence by the Corporation to its allotment policies, procedures, rules and regulations was reviewed in audit with respect to the procedure for selection of applicants, allotment of plots, recovery of AP from allottees and recovery of fees/ penalty for other permissions given by the Corporation. When an allottee approaches the Corporation for any permission like transfer, sub-division of plot, allotment of adjoining plot, *etc.*, the Corporation *suo-moto* reviewed the charges/ fees related to the plot before granting the permission. These charges included scrutiny fees, penalty for delay in submission of the building plan, commencement of construction without approval, non-utilisation penalty, transfer fees, sub-division fees, *etc.* These charges/ fees are discussed in detail in the subsequent paragraphs. Audit reviewed the records (allottees files) maintained at test-checked field offices. Based on the details received from Corporation, Audit test-checked available data and records of 2,040 out of 2,806<sup>22</sup> allotments made during 2013-18, 162 out of 4,245 transfer cases<sup>23</sup> and 33 out of 400 sub-division cases (where the sub-division fees charged exceeded ₹ 15 lakh) during the period 2013-18 from the test-checked field offices. While examining the test-checked records, Audit reviewed all the charges/ fees applicable in that particular case. The observations in this regard are discussed in subsequent paragraphs.

#### ***Procedure for selection of applicants for allotment of plots***

**3.10.1** The Corporation invites online applications for allotment of plot in an estate. The interested parties submit their applications along with requisite documents at the respective field office. After scrutiny of documents, the field offices forward the applications to the head office. A Screening Committee

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<sup>22</sup> This included 930 allotments in Dahej-II & III and Sanand-II estates made prior to 2013-14.

<sup>23</sup> In 250 cases out of 4,245 transfer cases, the transfer fees levied exceeded ₹ 20 lakh. Audit randomly test-checked 74 out of these 250 cases and 88 other transfer cases.

arranges presentation by applicants at head office and approves/ rejects the application. Subsequently, list of successful applicants along with allotted plot number is sent to the field office for further processing. On receipt of the above list, the field offices issue OCA letter to the applicants to be accepted within 60 days. If the plot holder fails to make payment within stipulated time, the OCA stands cancelled. On receipt of payment, possession of the plot is handed over to the plot holder.

Audit reviewed the process of application for plots and its allotment was conducted. No major deviations with respect to the laid down system for selection of the applicants and allotment of plots through issue of OCA. Minor delays in issue of OCA at eight estates were observed in 244 out of 579 online applications received during 2016-18. In one case, there was inordinate delay of 38 months in issue of OCA for a plot on auction. These delays had resulted in delayed recovery of allotment price and consequential interest loss, which were communicated to Management for corrective actions.

### ***Recovery of allotment price for additional area***

**3.10.2** Subsequent to handing over of possession of the plot to the allottee, the actual area of the plot is measured by Survey Branch of the RM office concerned and a field book is prepared, which is considered as the final allotted area. In some cases the Corporation itself obtained the possession of certain pockets of land subsequent to initial allotment and this additional area was allotted later. As per the policy (07 January 1998 and 26 June 2002) of the Corporation, if there is difference between the initial allotted area and the actual area, a corrigendum is issued by the Corporation to the party to give effect to the consequent recovery/ refund at prevailing AP.

Audit observed that in cases of allotment of additional area, the Corporation did not initiate prompt action for recovery of the additional allotment price resulting in non-recovery. Two instances of non-recovery due to delay in initiating action for recovery of allotment price are discussed below:

### ***Non-recovery of allotment price and withdrawn rebate***

**3.10.2.1** The Corporation decided (December 2009) to allot 369 ha of land to an allottee at Dahej-II estate. Accordingly, it allotted (31 December 2009) 223.32 ha of land to the allottee. The balance land was to be handed over to the allottee subsequently on receipt of possession of the remaining land by the Corporation. The allottee paid (January 2010) ₹ 93.99 crore for 223.32 ha after availing concession<sup>24</sup> of ₹ 30.71 crore and additional rebate of ₹ 4.94 crore for upfront payment. Subsequently, the allottee informed (April 2010) that out of the land allotted to it, gas pipelines of other companies were passing through 24 ha.

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<sup>24</sup> In order to promote the estate, the Corporation gave concession and rebate for full payment to first seven allottees of that estate and subsequently on withdrawal of this concession and rebate, the demand for the same was raised to all these seven allottees.

The concession and rebate was withdrawn (07 April 2010) *ab initio* by the Corporation and it raised demand (May 2010) of the same from the allottee. Against the total amount due of ₹ 35.65 crore, the allottee paid (July 2010) ₹ 15.93 crore claiming deduction of ₹ 19.72 crore. This deduction was claimed by the allottee for the allotment cost of 24 ha of land through which gas pipelines were passing and hence not usable by it (₹ 13.93 crore) and rebate for upfront payment (₹ 5.79 crore). Subsequently, the Corporation allotted additional land to the allottee between 2011 and 2014 as detailed in the **Table 3.2** below.

**Table 3.2: Allotments made and payments received from allottee**

Sl. No.	Month & Year of allotment	Hectares	Amount payable (₹ in crore)	Payment month
1	December 2009 (Original allotment)	223.32	109.92 (93.99 + 15.93)	December 2009/(₹ 93.99 crore) July 2010/(₹ 15.93 crore)
2	August 2011	2.88	2.15	September 2011
3	March 2012	17.29	12.88	April 2012
4	March 2014	79.37	88.51	(Not paid)

**Source:** Information/ records of the Corporation.

The allottee did not pay ₹ 88.51 crore for the 79.37 ha land (allotted in March 2014) on the ground that its payment made for 24 ha land should be adjusted.

Audit observed that though the allottee did not pay the withdrawn rebate of ₹ 5.79 crore, subsequent allotment of more parcels of land were made to the allottee by the Corporation without insisting on recovery of the outstanding amount. Audit further observed that the stand taken by the allottee that payment made for 24 ha of land should be adjusted against the land allotted in March 2014 was not correct as the allottee had already adjusted the same while making payment for withdrawn concession in July 2010. The Corporation, therefore, needs to recover ₹ 144.34 crore<sup>25</sup> (₹ 88.51 crore along with applicable interest of ₹ 44.25 crore *plus* ₹ 5.79 crore along with applicable interest of ₹ 5.79 crore) from the allottee till date (January 2019).

The Corporation decided (November 2017) to take over the 24 ha land from the allottee and declare the same as open utility corridor. The Corporation collects Right of Use (RoU) charge<sup>26</sup> for a period of 10 years in advance from the users of the utility corridor. Audit observed that since the Corporation was aware from April 2010 regarding pipelines of oil companies passing through 24 ha of land, the Corporation could have taken back the possession of land from the allottee and started recovery of RoU charges from 2010 itself from the oil companies. The delay in taking back the possession of land resulted in

<sup>25</sup> For land allotted in March 2014: (i) Allotment price ₹ 88.51 crore and (ii) Interest on delay in payment of ₹ 88.51 crore for 4 years at the rate of 12.5 *per cent per annum* simple interest.  
For Recovery of rebate amount from July 2010: (i) Recovery of rebate amount of ₹ 5.79 crore and (ii) Interest on delay in recovery of ₹ 5.79 crore for 8 years at the rate of 12.5 *per cent per annum* simple interest.

<sup>26</sup> As per the policy for granting Right of Use (RoU) for a period of 10 years, the Corporation charges one-time payment of 10 *per cent* of prevailing AP for the land. The RoU can be renewed subsequently for every 10 years by again paying 10 *per cent* of the AP prevailing at that time.

loss of opportunity to recover RoU charges of ₹ 2.59 crore<sup>27</sup> for the period 2010-2020. It may be mentioned that though the decision in this regard was taken in 2017, the same was yet to be acted upon (January 2019) by the Corporation.

The Government stated (January 2019) that the allottee has not yet paid the dues and the Corporation has taken up the matter with the allottee.

***Non recovery of additional allotment price for change in area of plot***

**3.10.2.2** An allottee 'P' was allotted (February 2010) a plot with tentative area of 1.41 lakh sqm at Dunga Estate under Vapi RM office. The allotment was made at a discounted AP<sup>28</sup> considering it as a special case for establishing educational institute. In the meantime, in 2013 Corporation decided to allot more land to the allottee 'P' but the same could not be finalised due to disagreement over AP. Finally, the field book<sup>29</sup> of the originally allotted plot in 2010 was prepared in April 2017 and actual area allotted on re-measurement came to 1.52 lakh sqm. Therefore, AP of ₹ 2.65 crore<sup>30</sup> for differential area of 10,279 sqm after giving 50 per cent discount on the AP prevailing in 2017-18 was demanded (July 2017) from the allottee by the Corporation. The allottee 'P' requested (August 2017) the Corporation to charge the original AP of 2010 and give discount on it. This request of the allottee 'P' was turned down by the Corporation in March 2018. Since, the AP was revised in April 2018, the amount outstanding from the allottee 'P' at prevailing AP increased to ₹ 2.93 crore<sup>31</sup> which is yet to be recovered (January 2019).

In addition, Audit also observed that allottees are required to pay charges like service charges, Infrastructure Upgradation Fund (IUF), Non Agricultural Assessment (NAA) charges *etc.*, to the Corporation. The allottee 'P' did not pay IUF and NAA charges since allotment of the plot in February 2010. The amount outstanding with interest till date (January 2019) was ₹ 85.71 lakh.

Thus, delayed preparation of the field book by the Corporation led to failure in recovery of the remaining AP of the plot. Further, the Corporation did not initiate any action for non-payment of revenue charges and differential AP.

The Government stated (January 2019) that the Corporation would recover the AP for increased area of land.

<sup>27</sup> 24 ha × AP of ₹ 1080 per sqm (the original finalised AP of Dahej estate) × 10 per cent.

<sup>28</sup> AP of Dunga estate in 2010 was ₹ 1,600 per sqm, whereas the plot was allotted at ₹ 485 per sqm.

<sup>29</sup> Field Book for the plot is prepared by the Survey Department under the RM office wherein the final measurements of the allotted plots are measured and entered. The measurement in the Field book is the actual area allotted and any adjustment of the remaining area for which AP was not recovered previously is recovered after finalisation of Field Book.

<sup>30</sup> (Industrial area of 7,347.93 sqm × ₹ 1,615) + (Commercial area of 2,931.92 sqm × ₹ 3,633.75).

<sup>31</sup> (Industrial area of 7,347.93 sqm × ₹ 1,780) + (Commercial area of 2,931.92 sqm × ₹ 4,005).

### Other permissions related to plot utilisation

**3.10.3** Over and above the permissions in relation to initial utilisation of land, the Corporation also grants various other permissions like sub-division of plot, its transfer, time-limit extension for utilisation, *etc.* The charges levied for the above permissions are governed by various circulars issued by the Corporation from time to time, which are broadly tabulated as under:

**Table 3.3: Important permissions and their fees**

Sl. No	Purpose	Fees	Calculation
1	Sub-division of plot	Sub-division Fees	Area of plot × AP × <i>per cent</i> mentioned in circular
2	Transfer of plot	Transfer Fees	
3	Time limit extension	NU penalty	

**Source:** Various circulars issued by the Corporation.

Audit observed that due to multiplicity of circulars, there were instances of incorrect application/ interpretation of the circulars by the field offices of the Corporation. This resulted in short recovery/ non-recovery of the applicable fees. Based on test-check of records in Audit, some of the major audit findings related to other permissions resulting in short recovery of sub-division fees, non-utilisation (NU) penalty, *etc.* are discussed in the succeeding paragraphs:

#### Short recovery of sub-division fee

**3.10.3.1** A plot-holder can sub-divide its plot into smaller plots with approval of Corporation and on payment of sub-division fees. As per the Corporation's circular (08 June 2016), sub-division fees for utilised plots<sup>32</sup> and unutilised plots are leviable at 5 and 10 *per cent* respectively for sub-division of a plot up to 10 plots.

Audit observed that the Corporation followed different norms on the same plot for the purpose of levying non-utilisation (NU) penalty and sub-division fees. This along with incorrect application of the rate of sub-division fees led to short recovery of sub-division fees of ₹ 4.27 crore as discussed below:

- In case of sub-division of plot allotted to allottee 'H' at Jhagadia Industrial Estate, the Corporation levied (July 2016) sub-division fees at 5 *per cent* instead of 10 *per cent* though the plot was unutilised on the date of application of sub-division. This resulted in short recovery of sub-division fees of ₹ 45.57 lakh<sup>33</sup>.
- An allottee 'C' having Plot No. 100 (9,615 sqm) at Vapi Industrial Estate was allotted (April 1992) Plot No. 99 of area 10,857 sqm as an adjoining plot. The allottee 'C' applied (December 2011) for sub-division of Plot No.99. Audit observed that though the Plot No.99 was open and unutilised at the time of application for sub-division, the Corporation considered it as

<sup>32</sup> Utilised plots means a plot where commercial operation had commenced and constructed area was at least 20 *per cent* of plot area.

<sup>33</sup> 10 *per cent* of ₹ 1,070 (AP) × 85,184.32 sqm (area of plot) = ₹ 91.14 lakh less ₹ 45.57 lakh.

an utilised plot. This was so considered by the Corporation on the plea that it was adjoining to Plot No.100 which was an utilised plot and hence combined (as single unit). Therefore, the Corporation did not levy non-utilisation (NU) penalty. On the other hand for levying the sub-division fees (November 2015), Plot No.99 was treated as an un-utilised separate plot and not combined to Plot No. 100.

Audit observed that the Corporation followed different norms for the same plot (Plot No.99 of 10,857 sqm) for levying NU penalty and sub-divisions fees. Since the Corporation had already considered both the plots (Plot No.99 and 100) as a combined plot for utilisation purpose, it should have levied sub-division fees on full area of combined plot of 20,472 sqm instead of only 10.857 sqm of Plot No.99. This resulted in short recovery of sub-division fees of ₹ 78.60 lakh<sup>34</sup>. Thus, by following different norms, the Corporation passed undue benefit to allottee 'C' of ₹ 78.60 lakh.

- In another similar instance noticed in the test-check by Audit, two plots of 21,135.26 sqm each at Vatva industrial estate were transferred (June 2014/October 2014) to allottee 'S' as combined plot. Subsequently, the Corporation approved (16 September 2016) sub-division of these plots considering them as separate plots. Accordingly, allottee 'S' paid sub-division fees<sup>35</sup> (November/December 2016) of ₹ 2.02 crore<sup>36</sup>.

Audit observed that at the time of transfer of these plots, the utilisation proof for one plot was considered for both the plots and it was considered as a combined plot (as single unit). However, the plots were considered as separate plots for the purpose of sub-division. Had the Corporation not adopted different norms for transfer and sub-division, and considered both the plots as combined plot for the purpose of sub-division, the sub-division fees of ₹ 5.05 crore (total area 42,270.52 sqm × 25 per cent × AP ₹ 4,780) would have been recovered as the sub-division would have resulted into 30 plots. This led to short recovery of sub-division fee of ₹ 3.03 crore (₹ 5.05 crore leviable less ₹ 2.02 crore received).

### ***Short recovery of NU penalty due to incorrect interpretation of circular***

**3.10.3.2** The Corporation, in some cases, allots plots without creating any infrastructure facilities on 'as is where is' basis at original land cost<sup>37</sup>. If such plots do not fall under any estate, then the AP related charges are calculated on deemed AP<sup>38</sup> i.e., 50 per cent of the prevailing jantri rate. Audit scrutiny revealed that the Corporation levied NU penalty of ₹ 0.87 crore in three cases of plots allotted on 'as is where is' basis during the review period.

<sup>34</sup> Area of 9,615 sqm (i.e. Combined area of 20,472 sqm less Area of 10,857 sqm of Plot No. 99) × 25 per cent sub-division fees × Allotment price of ₹ 3,270 prevailing in 2015-16.

<sup>35</sup> As per the policy, sub-division fees for unutilised plots was 10 per cent for up to 10 sub-divided plots, 15 per cent for 11 to 20 sub-divided plots and 25 per cent for 21 to 50 sub-divided plots.

<sup>36</sup> 21,135.26 sqm × 10 per cent × AP of ₹ 4,780 for each of the two plots.

<sup>37</sup> including incidental costs for purchase of land.

<sup>38</sup> As per circular no. GIDC/ O&M/ CIR/ allotment/ policy/ 1(8)/ 9 dated 19 February 2009.

It was observed that NU penalty was not calculated on deemed AP. Audit worked out the NU penalty based on the deemed AP which is shown in the **Annexure 13**. Thus, the total NU penalty leviable in these three cases was ₹ 9.70 crore against ₹ 0.87 crore recovered by the Corporation. This resulted in short levy of ₹ 8.83 crore.

The Government stated (January 2019) that AP for 'as is where is basis' plot was 10 *per cent* of 50 *per cent* of *jantri* rate, hence the NU penalty was applied correctly. The reply is not correct as the circular February 2009 define deemed AP as 50 *per cent* of *jantri* rate. NU penalty is levied on AP of the estate and in this case the deemed AP.

### **Monitoring of utilisation of allotted plots in estate**

**3.11** The allottee has to submit the building plans within 3 to 12 months from the date of possession of the plot for approval of the Corporation. Based on site verification and scrutiny of plan with the norms, the Corporation approves or rejects the same. After approval, allottee commences construction on the plot. Once the construction reaches plinth level, the allottee applies for plinth level check certificate and after this inspection, the Corporation allows the allottee to complete the remaining construction. Within the laid down moratorium period<sup>39</sup>, allottee has to commence commercial production/operation; failing which the Corporation can take back the possession of plot. The allottee can also apply for extension of moratorium period by paying non-utilisation (NU) penalty.

In order to review the system in place for plot-wise tracking for various stages of utilisation of the plot, Audit test-checked two estates (Sanand-II and Dahej estate), which were having area of more than 1,000 ha, out of the five new estates developed in the selected RM offices during 2008-13, *i.e.*, previous five years before the review period. Audit observed that the Corporation did not have a system in place for plot wise tracking of the various stages of construction activities on the plot and utilisation of plot. Instead, the Corporation took action and verified the stage-wise utilisation of plots only when the allottee approached to the Corporation for any permission. In absence of any periodic review for utilisation of plots, there were cases of delay in utilisation of plot and unauthorised construction/ utilisation of plot.

Further, review of allottees files at selected field offices revealed two cases of unauthorised construction. Audit also conducted a review of 79 transfer cases at Ankleshwar RM office transferred under a concessional 'Exit Policy' for unutilised plots to highlight the lapse of annual review about plot utilisation and undue benefit availed by such allottees during transfer of plots. Further, a joint visits at three estates was conducted which revealed unauthorised utilisation of plots. The details of the same are discussed below:

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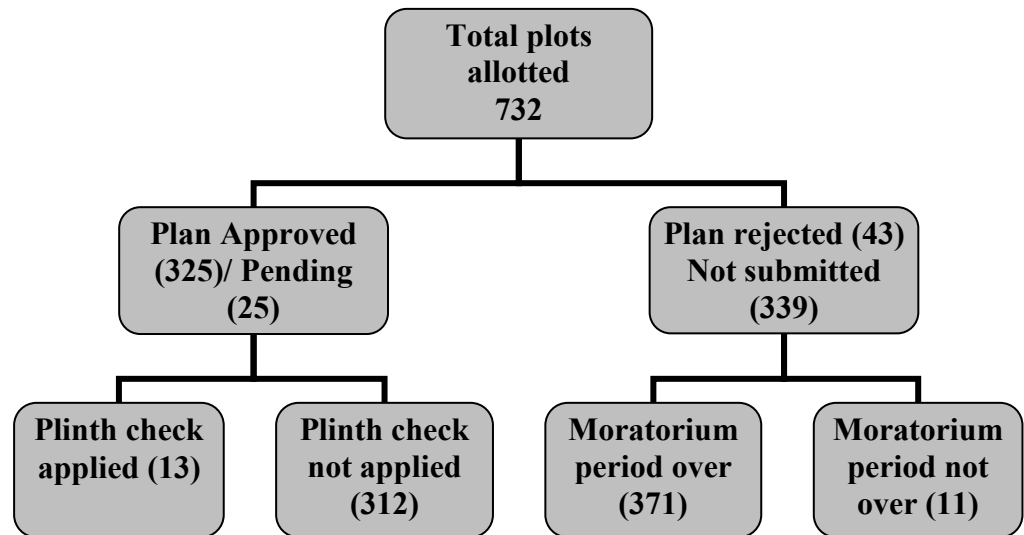
<sup>39</sup> Three years, four years and five years from the date of possession for plot admeasuring less than 50,000 sqm, between 50,000 and 1 lakh sqm and above 1 lakh sqm, respectively.



***Absence of periodic review of submission of plans***

**3.11.1** After possession of the plot, the allottee has to submit building plans, consequently complete construction as per the approved building plan and utilize the plot within the moratorium period as per the timelines laid down by the Corporation. The Corporation levies penalty for delay at each stage. Penalty was also leviable for construction by the allottee without approval of building plan by the Corporation. If the allottee fails to adhere to the above, the Corporation has the right to tack back the possession of the plot.

Audit conducted a test-check of the allotments at Dahej estate (Dahej-II and III) in order to evaluate the system existing at field office level for tracking the stage wise utilisation of plots. The allotments at Dahej II and III estate commenced from July 2010. A total of 736 plots were allotted in these estates as on March 2018, of which plan submission date for 732 plots had elapsed by that date. Audit reviewed the details of submission of plan by these 732 plots with reference to the provisions laid down in various circulars of the Corporation and the details are given in Chart below:



- Out of 732 allottees, 339 had not applied for approval of plan till date. Plans submitted by 43 allottees were rejected but they did not submit the revised plan in lieu of the rejected plans.
- Of the 382 plots for which plan was rejected/ not submitted, moratorium period of 371 plots was over. In the absence of records of periodic site verification of the plots by the field offices of the Corporation, Audit is not in a position to comment on whether the timelines prescribed by the Corporation for various stages to put the plot to use were adhered to or not. The Corporation may review the status of allotted plots and levy penalty for unapproved construction or non-utilisation penalty, as the case may be.
- Out of 325 plots for which plans were approved, the Corporation received application for plinth level check for only 13 plots. This leaves scope for construction in violation of the approved plans.

Audit observed that the Corporation did not have any system in vogue to undertake periodic review at regular intervals to assess the status of submission of building plans by the allottees. Periodic review would have enabled the Corporation to identify cases of non-compliance and take appropriate action. Out of 732 plots, Audit further scrutinised the records of 62 plots (with area more than 30,000 sqm) for test-check on random basis. Audit scrutiny revealed that 16 out of 62 plot holders had failed to adhere to timeline prescribed for plan submission and commencement of construction. Owing to absence of periodic review by the Corporation, it could not levy penalty<sup>40</sup> of ₹ 4.98 crore for non-submission of plan in 13 out of these 16 plots. Further, the Corporation could not levy penalty for delay in commencement of construction of ₹ 4.56 crore in all the 16 plots.

The Government stated (January 2019) that the Corporation had guidelines in place for survey, periodical checks, and review of unauthorised construction and actions to be taken for violation. The reply does not justify the monitoring lapse by the Corporation to ensure compliance to its guidelines.

It may be added that the above observation is based on test-check in Audit of only 62 plot holders in Dahej estate and more such cases (either in this or other estates) cannot be ruled out. The Corporation needs to review all cases of allotment to ensure compliance to its guidelines.

#### ***Unauthorised construction without submission of layout plan***

**3.11.2** In case an allottee commences commercial production without obtaining building plan approval and the plinth-level check for completion of construction, the Corporation treats the construction as unauthorised and levies penalty for unauthorised construction on the built-up area. During scrutiny of allottee files for land allotment in excess of 30,000 sqm. in abovementioned 62 plots in Dahej estate and one plot of Dungra estate, Audit noticed two cases, one in each estate of unauthorised construction and consequent non-recovery of penalty due to absence of annual review by the Corporation. On being pointed out, the Corporation recovered penalty of ₹ 1.96 crore from one of the allottee.

The other case relates to allottee 'P', which was allotted an area of 1.41 lakh sqm in February 2010 at Dungra Estate (Vapi RM Office). Audit observed from the website of the allottee 'P' that it had completed construction up to plinth level in July 2017. Scrutiny of records of the Corporation revealed that allottee 'P' had not submitted plans before commencing construction activity till date of Audit (May 2018). However, no action has been initiated by the Corporation to recover the penalty for unauthorised construction by the allottee 'P' (December 2018). Since the actual construction area/ built-up area was not on record of the Corporation, Audit cannot quantify the amount of penalty leviable on the allottee 'P'. Thus, lack of internal control system for

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<sup>40</sup> In each case (Area of the plot in sqm × months of delay × penalty at prescribe rate).

periodic site visit and inadequate monitoring of the construction activity on the plots allotted in the estate resulted in unauthorised construction by the allottees and non-levy of penalty. Further, even though the plot allotted to allottee 'P' was unutilised till date (May 2018), the Corporation did not levy NU penalty of ₹ 3.24 crore<sup>41</sup>.

The Government/ Corporation did not give reply to the observation.

***Absence of periodic review of utilisation status of the plots***

**3.11.3** The Corporation issued various circulars from time to time which provided that plot-holders should utilise the plot within moratorium period<sup>42</sup>. If the plot holder fails to do so but intends to utilise it later; then the moratorium period can be extended by paying NU penalty at the rate of two *per cent per annum* on the prevailing AP. Otherwise, the plot could be taken back by the Corporation.

Audit observed that utilisation status of plots was not reviewed periodically. Thus, the Corporation failed to recover or raise demand for NU penalty. Two instances of non-recovery of NU penalty due to absence of a system for periodic review of utilisation of plots are discussed below:

- Allotment of plots in Sanand-II estate commenced in July 2011 and 677 plots were allotted till April 2018. The Corporation extended the moratorium period for the allotments made up to December 2016 as infrastructure was belatedly completed by the Corporation in December 2013. Audit scrutiny revealed that as on March 2018, moratorium period of 396 out of 677 plots, had elapsed. During test-check in Audit of utilisation status of the plots allotted at Sanand-II estate, it was observed that out of these 396 plots, 290 plots remained unutilised as on March 2018. Audit observed that the Corporation had not *suo-motu* monitored the utilisation of these 290 plots as per the timelines prescribed for various stages so as to put the plot to use. The Corporation may after levying NU penalty of ₹ 21.95 crore either extend moratorium period or take back the possession of these 290 plots.
- The Corporation introduced (02 December 2015) an "Exit policy" for the unutilised plots which *inter-alia* provided for charging of NU penalty at one *per cent per annum* (maximum up to 10 *per cent*) for the unutilised period. The policy remained in force till 31 March 2017. Audit observed that the plot holders neither utilised the plot nor applied for extension in moratorium period. Instead, they took advantage of the lower rates of NU penalty offered under the Exit policy. This provided safe passage to plot holders who had not utilised their plots by paying concessional NU penalty. The records of 79 allottees, furnished by Ankleshwar RM office to Audit, for review of 'Exit Policy' revealed that had the Corporation

<sup>41</sup> 1,51,839 sqm × ₹ 3,560 (prevailing AP) × 2 *per cent* × 3 years.

<sup>42</sup> From the date of possession of the plot: (A) 3 years, if plot size is smaller than 50,000 sq.mtr. (B) 5 years, if plot size is greater than 1 lakh sq. mtr. and (C) 4 years for others.

periodically reviewed the utilisation status of the allotted plots, the Corporation could have recovered additional NU penalty of ₹ 4.26 crore.

These instances highlight that the Corporation did not have any system to undertake periodic review at regular intervals to assess the status of utilisation of plots by the allottees. Periodic review would have enabled the Corporation to identify cases of non-utilisation and recover NU penalty from time to time as per the policy in vogue during that time. This would also encourage the entrepreneurs for timely setting up of industries and discourage the uninterested investors.

It is pertinent to mention that the cases mentioned above relate only to those noticed during test-check in Audit. More such cases in the Corporation cannot be ruled out. The Corporation may undertake the above exercise to identify all such cases.

The Government did not give reply to the observation.

### ***Non regularisation of moratorium period***

**3.11.4** In addition to the above, Audit observed that the Corporation allotted (December 2006) a plot to allottee 'G' at Vilayat industrial estate under Ankleshwar RM office. The Corporation raised (2 June 2012) a demand for NU penalty for non-utilisation of the plot. However, the allottee 'G' did not pay the same and contended (October 2015) that since an electric power cable of 66 KV was passing through the plot, it could not utilise the same. As this cable was removed in February 2012, the allottee 'G' asked the Corporation to consider the moratorium period from that date. The allottee 'G' had commissioned its plant in May 2013.

Audit observed that the allottee 'G' showed willingness (October 2015) to settle the issue by applying for regularisation of NU penalty under the Corporation's circular<sup>43</sup> of 15 May 2015 and approached the Corporation again for the same in June 2017 and March 2018. The Corporation, however, did not take any action (April 2018) for regularisation and to recover NU penalty of ₹ 5.01 crore<sup>44</sup> as per the circular of October 2015 but continued to demand the NU penalty at normal rates. Thus, it lost an opportunity to collect NU penalty, which was already agreed by the allottee.

The Government stated (January 2019) that the application made by the allottee 'G' (October 2015) for settlement of dues was not accompanied with no due certificate, hence the same was not processed. The reply is not correct because the applicant had to produce no due certificate within 30 days from

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<sup>43</sup> Circular dated 15 May 2015 stated that an allottee who utilised the plot after the time limit stipulated can apply for regularisation of non-utilisation period by making payment of NU penalty at the concessional rate of one *per cent* per annum. Last date of application under this Circular was 31 October 2015.

<sup>44</sup>  $21,39,514 \text{ sqm} \times \text{AP of } ₹ 780 \text{ per sqm} \times 1 \text{ per cent NU penalty for three years (i.e. from end of moratorium period in December 2010 to date of utilisation in May 2013)} = ₹ 5.01 \text{ crore.}$

receipt of provisional order. In the instant case, the Corporation neither issued the provisional order mentioning the charges payable by allottee 'G' nor informed the allottee regarding not processing of its application without submission of NDC.

***Purpose of utilisation***

**3.11.5** The Corporation develops estate based on Detailed Development (DD) plan mainly comprising of industrial and commercial plots. The Offer-cum-allotment (OCA) letter mentions the purpose of allotment of a plot. Industrial plots are allotted at pre-determined Allotment Price (AP) and permitted to carry only industrial activity. Commercial plots are allotted either on auction basis or at two times the AP fixed for industrial plots. Industrial plots are not allowed to carry commercial activity without prior approval of the Corporation for which permission is granted by it after receipt of conversion fees. The cases of unauthorised use of industrial plots are discussed below:

***Unauthorised utilisation of plot***

**3.11.5.1** The Corporation develops estates based on Detailed Development (DD) plan mainly comprising industrial and commercial plots. The OCA letter mentions the purpose of allotment of a plot. Industrial plots are allotted at pre-determined Allotment Price (AP) and permitted to carry only industrial activity. Commercial plots are allotted on auction basis. Based on the local requirement, the Corporation also permits conversion of industrial plot into commercial plot after levy of four times the prevailing AP as conversion fees. The Corporation can take back the possession of plot if it is utilised for commercial activity without its permission. The cases of unauthorised use of industrial plots are discussed below:

Joint visits of three estates were carried out (June 2018) by audit team with the officials of RM Office and Division Office of the Corporation to examine the usage of industrial plots. In all the three estates, instances of utilisation of plots for purpose other than for industrial purposes were noted during Audit. This defeated the original objective of the Detailed Development (DD) plans for the estates. The Corporation may review all such cases and take necessary action as per law.

The Government stated (January 2019) that the Corporation has guidelines for undertaking survey, periodical checks and review of unauthorised construction and related circulars. The reply is not convincing as despite having guidelines, the cases cited by Audit indicates that the guidelines and circulars have not been acted upon and no action has been initiated against such unauthorised construction. Further, similar unauthorised utilisation of plots may exist in other estates.

### ***Non review of saturated and unsaturated estates***

**3.11.6** The estates of the Corporation are categorized into saturated (more than 90 *per cent* plots have been allotted in the estate) and unsaturated estates. As per the circular (October 2006) of the Corporation, the status of each estate was to be reviewed periodically in order to re-categorise an estate from unsaturated to saturated. Plots in saturated estates are allotted through auction whereas plots in unsaturated estates are allotted on AP. After 2006, the categorisation of estates between saturated and unsaturated was reviewed in 2016 only. Audit review of six estates declared as saturated in the year 2016 and having an area of more than 10 lakh sqm revealed that had annual review been conducted for re-categorisation, all these six estates would have been declared as saturated during 2006-11. Further, the Corporation lost an opportunity to recover additional revenue on an area of 3,95,304 sqm which could have been allotted on auction in these six estates fetching higher prices as against the allotment at prevailing AP of the estates. Thus, non-review of the categorisation of estate periodically resulted in loss of opportunity to recover additional revenue through auction of property in saturated estates.

The Government stated (January 2019) that the Corporation would direct its field offices to re-categorise its estates periodically after carrying out review.

### ***Overall conclusion on Monitoring of estates***

**3.11.7** Audit observed that the systems in place for monitoring of the allotted plots in the estates were inadequate resulting in delayed utilisation and unauthorised construction/ utilisation of the plots. This also resulted in non-recovery of associated charges/ fees.

It is mentioned that the cases discussed in the preceding paragraphs relate only to the cases noticed in Audit during its test-check. More such cases in the Corporation cannot be ruled out.

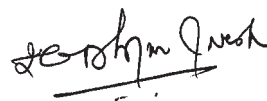
## **Conclusion and Recommendations**

**3.12** The Corporation achieved most of the objectives envisaged in the State Industrial policies related to development of industrial estates. Instances of acquisition of unsuitable land, delayed acquisition and idle investment were noticed in land acquisition and development of estates. The Corporation fixed lower allotment price due to deviation from the existing common methodology for costing and non-adherence to the policy/ guidelines of GoG. The Corporation failed to verify the payments made to land owners in accordance with relevant statutes and delayed the recovery of additional compensation from the allottees of the estates concerned. The Corporation did not apply relevant and prevailing circulars in many cases leading to short recovery/ non-recovery of various charges. There was no system of periodic monitoring to check the status of utilisation of plots resulting in delay in utilisation of plot and unauthorised construction/ utilisation of plots.

**Recommendations:**

*The Corporation may;*

- *adopt uniform policy for fixation of allotment price considering all cost factors.*
- *ensure additional land compensations are paid in accordance with the Act and devise a mechanism to recover the same from allottees in a time bound manner.*
- *ensure that its circulars are applied uniformly for collection of various fees/ charges.*
- *devise a periodic on-site inspection system to monitor construction/ utilisation of the allotted plots.*



**(H. K. DHARMADARSHI)**  
**Principal Accountant General**  
**(Economic & Revenue Sector Audit) Gujarat**

**Ahmedabad**  
**The**

**Countersigned**



**(RAJIV MEHRISHI)**  
**Comptroller and Auditor General of India**

**New Delhi**  
**The**

