

Labour and Employees' State Insurance Department

2.1 Welfare of Building and Other Construction Workers in the State

EXECUTIVE SUMMARY

The Government of India (GoI) enacted the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Building and Other Construction Workers Welfare Cess Act, 1996, to regulate the employment and conditions of service of the building and other construction workers and levy and collection of cess, respectively. Government of Odisha constituted (January 2004) the Orissa Building and Other Construction Workers' Welfare Board (the Board), under the Labour and Employees' State Insurance (L&ESI) Department, to collect Cess at the rate of one *per cent* on the cost of construction and utilise the same, for the welfare of the building and other construction (BOC) workers. The workers' population of Odisha was 1.75 crore, out of which 1.61 crore workers were in unorganised sector, as per the Census 2011. The BOC workers belong to unorganised sector and their number stood at 22.34 lakh, constituting 12.77 *per cent* of the total workers' population and 14 *per cent* of the population of workers in the unorganised sector. The Performance Audit was conducted between November 2022 and April 2023, with the broad objective of assessing efficiency in the collection and utilisation of labour cess. Audit found that Government Departments were primary defaulters, in registering themselves with the Board, as Establishments/ Employers. Resultantly, the contractors of the works and the BOC workers, engaged by them, had not been registered with the Board. The Board had assessed the number of the BOC workers as about 41.70 lakh, as of July 2020, against which, 36.74 lakh BOC workers, had been registered with the Board, as of March 2022. In the five sampled districts, out of 38,023 migrant BOC workers, who had returned to the State, during the period of lockdown imposed on account of the Covid-19 pandemic, only 3,457 returnee migrants had been registered with the Board. In case of 399 sampled BOC works, cess, amounting to ₹ 67.12 lakh, had not been collected. Also, cess amounting to ₹ 5.72 crore, received through demand drafts and cheques, in regard to 418 works, had not been encashed and the instruments had also not been revalidated. Four Development Authorities had not remitted cess, amounting to ₹ 13.97 crore, collected from the executants of the works awarded by them, during FYs 2017-18 to 2021-22.

The Board had utilised ₹ 2,301.29 crore (80 *per cent*), out of the available balance of ₹ 2,875.85 crore, during FYs 2017-18 to 2021-22. Of the total utilisation, a sum of ₹ 28.09 crore, had been incurred as Administrative expenses and the balance amount of ₹ 2,273.20 crore, had been utilised for welfare schemes. The Board was executing various welfare schemes for BOC workers, through different departments of the State Government. However, it was not monitoring the progress of utilisation of the funds released by it, nor was it monitoring the progress in the implementation of the scheme. Although the Cess fund was intended to be used for activities specific to the welfare of the BOC workers, it was noticed that the Cess fund was being utilised for other purposes as well.

The administration of the Cess fund was poor, as the annual accounts of the Board had remained in arrears, since FY 2014-15; reconciliation of figures was not being carried out, between different accounting heads; income tax returns were not being filed, *etc.* Further, the internal control system of the Board was very weak.

It is recommended that:

- 1. Each DLO should maintain a database of registered Establishments and Employers along with data on maximum number of workers employed by each of them, probable dates of commencement and completion of works.**
- 2. A system may be put in place, to ensure that the Government Departments, awarding BOC works and the entities, receiving work orders, get registered as Establishments and Employers, respectively, as soon as the work orders are placed.**
- 3. The Board may keep track of the BOC works and strictly enforce the provisions of the Act, for securing details of the BOC workers engaged therein, along with their registration status and take steps for their registration.**
- 4. The L&ESI Department should take up the matter of the non-collection and non-remittance of Cess with the concerned Departments in the Government for early collection and remittance of Cess to the Board.**
- 5. The Board may put in place, an appropriate system, for monitoring the progress of implementation of schemes, funded by it, and ensure that the funds are utilised timely and for the intended purposes.**
- 6. The process of procurement should be transparent and as per the regulations in place. The Board should exercise due oversight to ensure that undue benefits are not extended to entities in the procurement process.**
- 7. The Board may draw annual IEC plan for conducting awareness programmes for BOC workers to make them informed on their rights under different legislations as well as on the welfare schemes launched by the Board, for them.**
- 8. The Board may maintain a database of registered BOC workers, capturing all their details and may adopt DBT mode for transferring benefits to them.**
- 9. The Board may observe prudence in making expenditure from the Cess fund and ensure that the amount spent from the Cess fund, contributes to the direct welfare of the registered beneficiaries. The functionaries responsible for deviating from the ruling of the Apex Court in incurring expenditure from the Cess fund, should be held accountable.**
- 10. The Board may adopt a professional approach in administering the Cess fund, by timely preparation of annual accounts, after**

carrying out the required checks and balances, such as reconciliation of figures between various accounting heads.

11. The Board may strive to secure income tax exemption certification from IT authorities, to save avoidable payment of income tax.
12. The Board may strengthen its internal control system, by fixing targets for inspections, and identifying the aspects to be inspected. Preparation of Inspection Reports may be ensured and follow up action may be taken, to ensure that the lapses found during the inspections, are duly addressed.

2.1.1 Introduction

The Government of India (GoI) enacted the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, that is, the BOCW (RE&CS), Act to regulate the employment and conditions of service of the building and other construction workers. The Act, as per Section 1(4), is applicable to every establishment which employs or had employed 10 or more workers, on any day of the preceding 12 months, in any building or construction work.

Section 18 of the BOCW (RE&CS) Act, requires every Government to constitute a Building and Other Construction (BOC) Workers Board. The main functions of the Board, as laid down under Section 22 of the Act, are to provide financial assistance to the BOC workers, registered with the Board, for construction of house, education of their children, medical expenses, maternity assistance, payment of premia for Group Insurance Scheme, *etc.* and make payment of pension to beneficiaries, who have completed the age of sixty years.

GoI also enacted the Building and Other Construction Workers Welfare Cess (BOCWWC) Act, 1996, and framed the BOCWWC Rules, 1998, which provide for levy and collection of cess. Section 3 (1) of the BOCWWC Act, envisages imposition of cess, at the rate of not less than one *per cent* and not more than two *per cent*, on the cost of construction, incurred by employers/builders. Section 3 (3) of the Act, provides that the cess so collected, after deducting the cost of collection, shall be remitted to the BOC Board. In regard to construction works undertaken by a Government or a Public Sector Undertaking, Rule 4 (3) of BOCWWC Rules, provides that the cess shall be collected by the authority concerned, by deducting the amount of the cess from the bills paid for such works. In regard to works undertaken by private bodies, Rule 4 (4) provides that the amount of cess shall be deposited by the concerned private body, with the local authority, while submitting the application for approval of the building plan.

The population of workers in Odisha was 1.75 crore, out of which unorganised workers were 1.61 crore, as per the Census 2011. The BOC workers belong to unorganised sector. Their number stood at 22.34 lakh, which constituted 12.77 *per cent* of the total population of workers and 14 *per cent* of the population of workers in the unorganised sector. As such, the total population of BOC

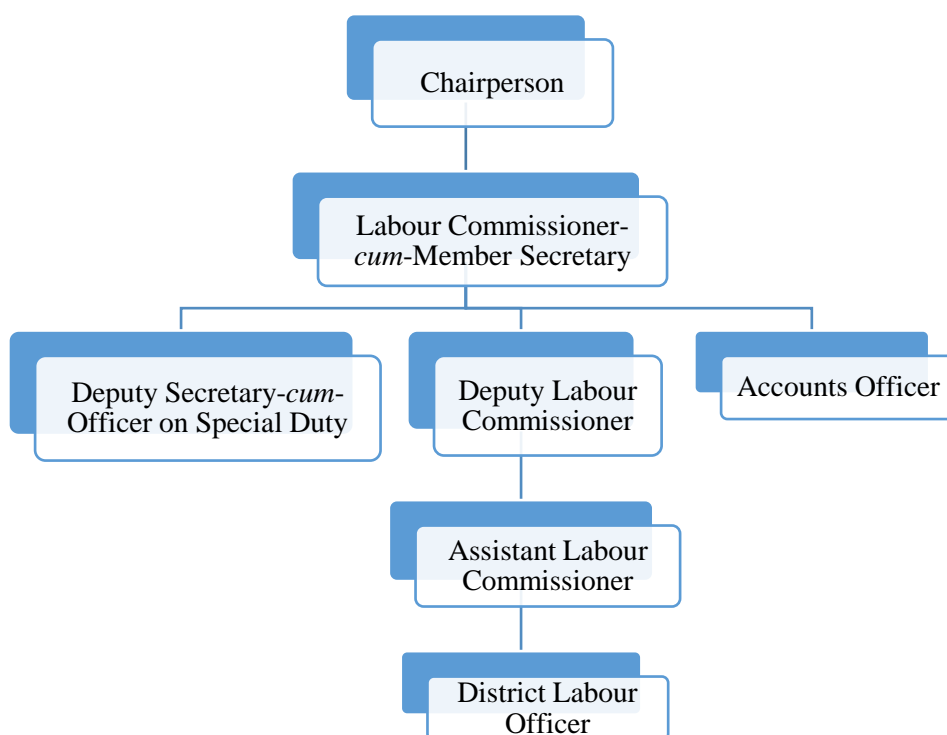
workers was miniscule, compared to the total worker's population, as well as the population of unorganised workers¹.

The Labour and Employees Insurance (L&ESI) Department in the Government of Odisha (GoO), under the provisions of BOCW (RE&CS) Act, framed (August 2002) the Orissa Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2002. It also constituted (January 2004) the Orissa Building and Other Construction Workers' Welfare Board (the Board). The L&ESI Department passed a resolution (December 2008) that cess, at the rate of one *per cent* of the cost of construction incurred by an employer/ builder², would be collected from the date of issue of the resolution.

2.1.1.1 Organisational structure of the Board

The Board is a body corporate, constituted under Section 18 of the BOCWWC Act. It functions under the administrative control of the L&ESI Department of GoO. The Labour Commissioner, Odisha, is the Member Secretary, as well as the Chief Executive Officer of the Board. The organisational structure of the Board is shown in **Chart 2.1.1**.

Chart 2.1.1: Organisational structure of the OBOCWWB



The role of a District Labour Officer (DLO) is crucial, being responsible for registration of establishments and workers, collection and assessment of cess as well as maintenance of accounts thereof, inspection of establishments and worksites, selection of beneficiaries and ultimate disbursement of benefits and overall enforcement of the provisions of the Acts in the district.

¹ Source: Activity Reports of the Labour & Employees' Insurance Department, for the FYs 2017-18 and 2020-21

² Excluding the cost of land and any other compensation paid or payable to a worker or to his/ her kin, under the Workmen Compensation Act, 1923

2.1.2 Audit Objectives

The Performance Audit, on the Welfare of BOC Workers in the State, was conducted with the objectives of assessing whether:

- There was an effective system for the registration of establishments and beneficiaries.
- The assessment of Cess, its collection, and its transfer to the fund, were efficient.
- Government has been able to ensure compliance with the health and safety norms prescribed by it.
- Government had implemented a transparent and effective system of inspections, for checking the evasion of labour cess and ensuring compliance to the health and safety norms, by employers.
- The administration and utilisation of funds, for implementation of welfare schemes by the Board, was efficient and effective, and was in consonance with the relevant Acts and Rules.

2.1.3 Audit Scope and Methodology

The Performance Audit was conducted between November 2022 and April 2023, covering 10 out of the 13 welfare schemes³ being implemented by the Board, pertaining to the period from FY 2017-18 to FY 2021-22. Audit test-checked the records of the L&ESI Department; the Board; 5 out of 32 District Labour Offices⁴; three Urban Local Bodies (ULB)⁵; four Development Authorities (DAs); and four Works Divisions⁶, each from Water Resources Department and Works Department, in the sampled districts, as detailed in *Appendix 2.1.1*. In addition, 16 registered establishments and 16 unregistered establishments⁷ were covered under Joint Physical Inspection (JPI), conducted along with the officials of the concerned sampled units, to derive assurance on the enforcement of the prescribed welfare facilities and maintenance of safety and health norms by the employers. Audit also surveyed, along with the officials of the concerned sampled units, the satisfaction level of 400 registered and 100 unregistered construction workers, in the four sampled districts. In each sample district, 100 registered and 22-30 unregistered BOC workers, were selected for the purpose.

Before commencement of audit, an Entry Conference was held, with the Principal Secretary of the L&ESI Department, on 18 October 2022, to share the Objectives, Scope and Methodology of audit. The audit findings have been

³ Basis of selection: Highest expenditure - five schemes; Moderate expenditure - four schemes; and Zero expenditure - one scheme

⁴ Three DLOs (Berhampur, Chatrapur and Cuttack) were selected on the basis of maximum amounts having been spent by them on welfare programmes for the beneficiaries, while two other DLOs (Khurda and Keonjhar) were selected on the basis of highest collection of cess

⁵ One DA and one ULB each, in the sampled districts of Ganjam, Cuttack and Khurda, were selected randomly and one DA was selected from the Keonjhar district.

⁶ One division each, from the Water Resources Department and Works Department, from each of the sampled districts, were selected on the basis of highest expenditure, incurred during FYs 2017-18 to 2021-22

⁷ Selected through Probability Proportional to Size without Replacement technique

forwarded (May 2023) to the Government, which was discussed with the Principal Secretary of the L&ESI Department in the Exit Meeting, held in April 2024. The replies of the Department as well as their views, given in the Exit Meeting, have been incorporated in the report, wherever necessary.

2.1.4 Audit Criteria

The criteria, against which the audit findings were benchmarked, were derived from the following sources:

- BOCW (RE&CS) Act, 1996
- OBOCW (RE&CS) Rules 2002
- BOCWW Cess Act, 1996 and OBOCWW Cess Rules, 1998
- Model Welfare Schemes, orders and circulars, issued by the Ministry of Labour and Employment, GoI
- Odisha Government Financial Rules
- Resolutions passed by the Board; and
- Instructions issued by the L&ESI Department, from time to time.

2.1.5 Acknowledgement

Audit acknowledges the co-operation extended by the officials of the L&ESI Department, as well as by the officials at the associated offices of L&ESI, Works and Water Resources Departments.

Audit findings

The Audit findings are discussed in the succeeding paragraphs.

2.1.6 System of registration of establishments and beneficiaries

As per Section 7 of the BOCW (RE&CS) Act, 1996, read with Rule 21 of OBOCW (RE&CS) Rules, 2002, the Government Departments/ PSUs/ Autonomous bodies, undertaking construction works, were to register themselves as Establishments/ Employers, with the Board. Further, the contractors/ sub-contractors, executing the construction works, were to be registered as Employers, with the Board.

The L&ESI Department decided (January 2015) that the Establishments/ Employers were to register themselves with the Board, within 60 days from the commencement of their works. They were also required to ensure that all eligible construction workers were registered with the Board. The Department also stipulated that the tender inviting authorities were to incorporate these requirements in the tender documents, as well as in the contract agreements. The Establishments/ Employers were required to verify the registration status of the Employers and workers, before making payments towards works done.

Besides the above, in pursuance of the directions (March and May 2018) of the Hon'ble Supreme Court⁸, the Ministry of Labour and Employment, GoI, constituted a committee to formulate an Action Plan and Model Welfare

⁸ Writ Petition (Civil) No. 318 of 2006, on which judgement was delivered on 21 August and 4 September 2015, 19 March 2018 and 7 May 2018

Scheme, for BOC Workers. The significant recommendations of the committee were to:

- Make registrations through online mode.
- Issue directions to all departments of Government, to share copies of work orders, pertaining to construction works, with the concerned Registration and Cess collecting authorities.
- Develop a suitable mechanism for regular monitoring of ongoing construction activities.
- Ensure regular estimation/ survey of workers and maintenance of a database of live memberships, including renewal of registrations (this was essential for formulation of proper welfare schemes and adequate delivery of services).

Entities or individuals, interested in being registered as Establishments/ Employers/ Workers were to submit their applications, before the concerned DLOs. The DLOs, upon accepting the applications, were to issue certificates of registration as Establishments/ Employers. In case of workers, the DLOs were to issue Identity Cards. The process of registration had been made online, from December 2020.

2.1.6.1 Deficiencies in the registration of entities, as Establishments/ Employers, with the Board

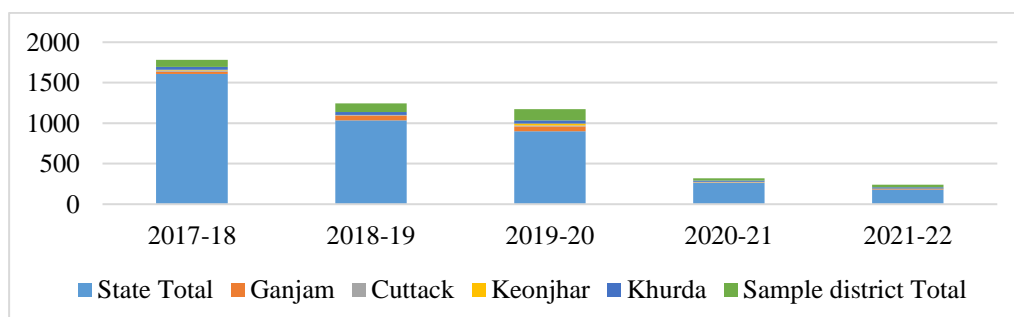
As per the information shared by the Board, with Audit, 3,986 entities had registered themselves as Employers with the Board, during FYs 2017-18 to 2021-22. During the same period, entities executing 387 BOC works had been registered as Employers, in the four sampled districts, as shown in **Table 2.1.1** and **Chart 2.1.2**.

Table 2.1.1: Year-wise registration of BOC works, during FYs 2017-18 to 2021-22

Financial Year	Total for the State	Ganjam	Cuttack	Keonjhar	Khurda	Total for the sampled districts
2017-18	1,610	27	15	06	38	86
2018-19	1,034	60	07	01	37	105
2019-20	899	63	11	23	40	137
2020-21	263	06	05	03	14	28
2021-22	180	08	04	02	17	31
Total	3,986	164	42	35	146	387

(Source: Data furnished by the DLOs of the sampled districts)

Chart 2.1.2: Registration of BOC works in the State and in the sampled districts



The database of entities registered as Establishments/ Employers maintained by the sampled DLOs were deficient as data on the maximum number of workers employed, probable dates of commencement and completion of works, etc., had not been maintained, though required under Rule 22 (3) of the OBOCW (RE&CS) Rules, 2002.

Audit observed that, in regard to the 387 BOC works (191 works under Government departments and 196 works under private agencies) in the sampled districts, the executants, *i.e.* the contractors, had been registered as Employers. However, despite these 387 works having been awarded by various Government departments / Private Agencies, only three Government offices⁹ had registered themselves as Establishments/ Employers.

Audit analysed the number of BOC works, awarded by the sampled Works Divisions, ULBs and DAs, *vis-à-vis* the number of works, where they had been registered as Establishments/ Employers. Audit found that these sampled units had awarded 1,371 BOC works¹⁰, costing ₹ 2,544.99 crore, during FYs 2017-18 to 2021-22. Audit test-checked 161 of these works¹¹ with a total agreement value of ₹ 1,636.01 crore (64.28 per cent), to assess their registration status, as detailed in **Table 2.1.2**.

Table 2.1.2: Number of BOC works executed under the sampled Divisions, during FYs 2017-18 to 2021-22 and the number of works test-checked in Audit

Sl. No.	District	Division	Works awarded		Works test-checked	
			No. of works executed	Agreement cost (₹ in crore)	No. of works test-checked	Agreement cost in (₹ in crore)
1	Ganjam	R&B Division No.1, Berhampur	17	159.18	17	159.18
		Irrigation Division, Bhanjanagar	10	13.03	7	12.33
2	Cuttack	R&B Division No.1, Cuttack	84	307.63	18	83.17
		R&B Division, Charbatia	141	242.64	16	97.13
		Cuttack Development Authority	11	9.68	6	8.75
		Cuttack Municipal Corporation	334	84.30	5	12.14
3	Keonjhar	Mega Lift Projects Division, Keonjhar	2	776.84	2	776.84
		R&B Division, Ghatagaon	175	396.08	24	92.78

⁹ Block Development Officer (BDO), Ghatagaon; BDO, Hatadihi; and Notified Area Council (*i.e.* a ULB), Aska

¹⁰ With agreement value of more than ₹ 10 lakh

¹¹ Having an agreement value of more than ₹ 1 crore

Sl. No.	District	Division	Works awarded		Works test-checked	
			No. of works executed	Agreement cost (₹ in crore)	No. of works test-checked	Agreement cost in (₹ in crore)
4	Khurda	Mega Lift Projects Division, Bhubaneswar	5	71.82	5	71.82
		R&B Division-II, Bhubaneswar	59	156.28	21	140.69
		Bhubaneswar Development Authority	95	156.13	18	132.34
		Bhubaneswar Municipal Corporation	438	171.38	22	48.84
Total			1,371	2,544.99	161	1,636.01

(Source: Data furnished by the sampled units)

Audit observed that:

- None of the sampled Works Divisions, ULBs and DAs, were registered as Establishments/ Employers, under the BOCW (RE & CS) Act, 1996, with the Board.
- Also, none of the contractors, carrying out the above 1,371 works, had been registered as Employers. As a result, the Board had sustained loss of registration fees, from these Employers, amounting to ₹ 1.37 lakh¹².
- In regard to the 161 sampled works, the concerned Government departments/ DAs/ ULBs, despite being tender inviting authorities, had not incorporated eligibility criteria for the bidders, in the tender documents, stating that the bidder should be registered as an Employer, and workers, working under the establishment of the Employer, should be registered as Beneficiaries with the Board.
- The sampled units had made payments, amounting to ₹ 12.20 crore, to the contractors, in regard to the above 161 works, without ensuring their registration status, as Employers, with the Board.

Thus, the Government Departments were the primary defaulters, in adhering to the provisions of the BOCW (RE & CS) Act, as they had not registered themselves with the Board, despite having awarded BOC works. Consequently, the contractors, executing these works, had also not been directed to register themselves, as Employers.

The L&ESI Department stated (April 2024) that the establishments engaging less than 10 OBC workers or individuals engaging such workers in construction of their own residences, having cost of construction less than ₹ 10 lakh, need not register under the Act. As most of the Government Departments execute work through contractors, registration of Government Departments is not a necessity. It was further stated that the registration fees so collected are neither tax revenue nor fund of the Board. It is the amount earned in lieu of

¹² Calculated as ₹ 100 X 1,371 = ₹ 1,37,100

service rendered by the Officers of the Department. Hence registration fee is not a loss to the Board. The Department, however, assured, of registering all establishments, especially non-government establishments.

The reply is not tenable as the registration fee is one type of contribution made by the beneficiaries for enrolment under the Board. Hence, registration fees should constitute part of cess fund. Besides, there is no mention in the Acts and Rules that the registration fees are earned in lieu of service rendered by the Officers of the Department.

Recommendations:

1. Each DLO should maintain a database of registered Establishments and Employers along with data on maximum number of workers employed by each of them, probable dates of commencement and completion of works.
2. A system may be put in place, to ensure that the Government Departments awarding BOC works, as well as the entities, receiving work orders, get themselves registered as Establishments and Employers, respectively, as soon as the work orders are placed.

2.1.6.2 Deficiencies in the registration of BOC workers

Section 12 of the Act provides that building workers aged between 18 and 60 years, can register themselves, in order to be eligible for the benefits available under the Act. A registration fee of ₹ 20 is to be deposited by a worker, at the time of registration, along with an annual contribution of ₹ 50, for a minimum of one year.

The Ministry of Labour and Employment, GoI, advised (July 2020) the State Governments to compile the data of BOC workers. As per the Board, about 41.70 lakh workers were engaged in construction activities in Odisha, as of July 2020. As of March 2022, the Board had registered 36.74 lakh BOC workers (88 per cent). As per the information shared by the sampled DLOs, the number of the registered BOC workers were 8,10,474, as of March 2022, out of which 4,42,767 BOC workers were registered as beneficiaries, during FYs 2017-18 to 2021-22, as shown in **Table 2.1.3**.

Table 2.1.3: Year-wise registration of BOC workers

District	No. of regd. BOC workers, at the end of FY 2016-17	Year-wise registration of BOC workers						No. of regd. BOC workers, at the end of FY 2021-22
		2017-18	2018-19	2019-20	2020-21	2021-22	Total 2017-22	
Ganjam	94,743	17,454	21,401	17,497	10,497	16,534	83,383	1,78,126
Cuttack	49,150	40,299	54,848	75,639	10,919	18,385	2,00,090	2,49,240
Keonjhar	99,119	9,268	14,762	3,532	2,906	1,166	31,634	1,30,753
Khurda	1,24,695	29,068	42,160	26,309	3,489	26,634	1,27,660	2,52,355
Total	3,67,707	96,089	1,33,171	1,22,977	27,811	62,719	4,42,767	8,10,474

(Source: Data furnished by the DLOs of the sampled districts)

As can be seen from **Table 2.1.3**, the total number of BOC workers, registered in FY 2021-22, were less than the number of BOC workers registered in the FY 2017-18, across all the four sampled districts. While the DLOs could not attribute any reasons to the decrease in registration, Audit observed that the measures suggested by the GoI, *i.e.* an Action Plan and Model Welfare Scheme, to increase the number of registrations, had not been adhered to, as highlighted in the succeeding paragraphs.

- Neither the Board, nor the DLOs, had conducted any survey/inspection, to identify the unregistered BOC workers and take steps to register them, with a view to ensuring that all the BOC workers in the State, are registered with the Board. Thus, no mechanism had been developed, to ensure the registration of all the eligible BOC workers.
- After introduction of the online mode of registration, from December 2020, by the Board, the Odisha Computer Application Centre (OCAC), the designated IT Directorate of GoO, had been assigned with the task of receipt and process of applications, for registration of BOC workers. As of April 2022, 1.24 lakh applications were pending for registration, with OCAC. Besides, 1.29 lakh benefit-applications were lying with DLOs for consideration for benefit disbursement. The period, from which these applications had been pending and the reasons for the pendency, were not shared with Audit.

The L&ESI Department stated (April 2024) that 43,139 applications were pending for registration and 29,700 benefit-applications were pending for consideration, as of March 2024. It was also stated that all possible steps were being taken to clear the pending applications at the earliest.

- From the Inspection Notes of the DLOs/ Assistant Labour Officers of the sampled districts, it was seen that they had not inspected any BOC worksites, within their jurisdiction, for identifying the potential BOC workers, for registration.
- No year-wise records, regarding live-registered¹³ BOC workers, had been maintained by the Board. Out of the total 36.74 lakh registered workers, as of March 2022, the number of live workers stood at 25.62 lakh (70 *per cent*). The defaults in retention of memberships, by 11.12 lakh BOC workers, were indicative of the failure of the Board, to take appropriate measures, such as issuance of timely alert to the registered beneficiaries about approaching renewal dates and holding regular camps/ facilitation centres, at the prominent labour *chowks/ addas*.

The L&ESI Department stated (April 2024) that they had launched an online portal in May 2022, where, a new updated ID Card, indicating validity period of the registration, is generated, as and when annual contribution is made by a beneficiary.

- In cases, where the Board, as well as the DLOs, had received the Cess from the Employers, it had not carried out any assessment/ analysis of

¹³ Those who had not defaulted in paying yearly subscriptions

the Cess payers, with the registration status of the BOC workers engaged by them.

- Further, the establishments/ employers had not submitted any cess returns to the Board, during FYs 2017-18 to 2021-22, detailing the number of BOC workers, engaged in their works, along with their registration status. Despite this, the Board had not issued notices to them, asking for the required details.

Thus, due to the apathy of the Government departments, awarding BOC works, in following the provisions of the Act, and the negligence of the Board, registration of all the BOC workers had not been ensured, resulting in their deprivation of the scheme benefits.

In the Exit Meeting (April 2024), the Principal Secretary of the L&ESI Department stated that the reason for low registration was outbreak of Covid-19 pandemic. It was, however, stated that the registration of workers had been remarkably improved thereafter.

2.1.6.2 (i) Low registration of the migrant BOC workers

As per the information furnished by the Panchayati Raj and Drinking Water (PR & DW) Department, about 8.24 lakh migrant workers (which included 1.40 lakh BOC workers) had returned to the State, due to the outbreak of Covid-19 pandemic. The L&ESI Department requested (July 2020) all the District Collectors to look into the registration of all the returnee BOC workers, at the earliest, preferably by the end of July 2020. Audit, however, noticed that, against the target of registration of 1.40 lakh returnee migrant construction workers, only 25,000 returnee migrants had been registered under the Board, as of October 2020.

Test-check of records and the information furnished by the DLOs of the sampled districts, revealed that 2,54,896 migrant workers had returned to the sampled districts, during the Covid-19 pandemic, out of which 38,023 migrant workers were BOC workers, as per skill mapping¹⁴. However, only 3,457 returnee migrants had been registered by the DLOs, leaving 34,566 migrants, yet to be registered, as of February 2023, as shown in **Table 2.1.4** and **Chart 2.1.3**.

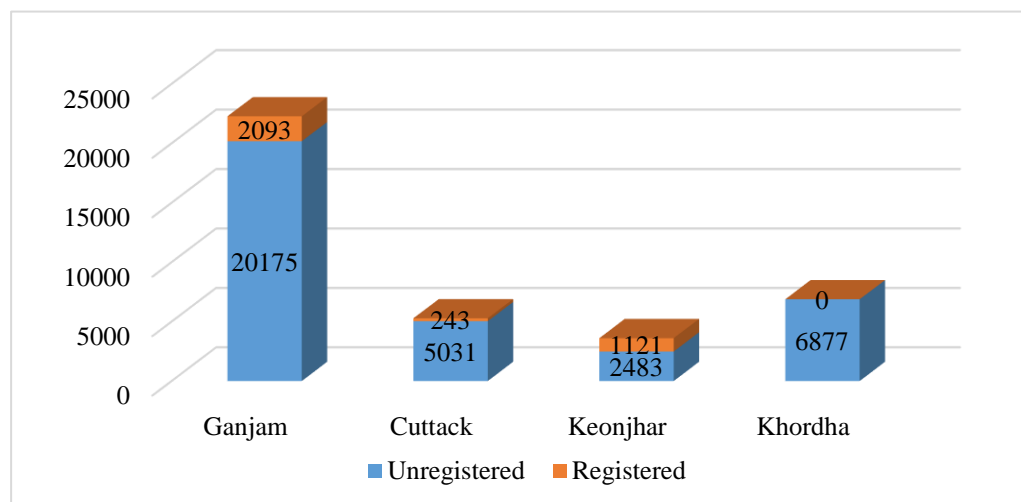
Table 2.1.4: Details of returnee migrant BOC workers

Sl. No.	District	No. of migrant returnees	No. of BOC workers, as per skill mapping	No. of BOC workers registered	No. of BOC workers, yet to be registered
1	Ganjam	2,12,359	22,268	2,093	20,175
2	Cuttack	12,946	5,274	243	5,031
3	Keonjhar	13,729	3,604	1,121	2,483
4	Khurda	15,862	6,877	0	6,877
	Total	2,54,896	38,023	3,457	34,566

(Source: Data furnished by the DLOs of the sampled districts)

¹⁴ PR&DW Department had carried out skill mapping of migrant workers

Chart 2.1.3: Registered vis-à-vis unregistered migrant BOC workers, in the sampled districts



Due to non-registration of 34,566 migrant BOC workers, the financial assistance available under the various welfare schemes, exclusively declared for the Covid-19 pandemic, *i.e.* two phases of Special Financial Assistance (SFA) for the Covid-19 pandemic (discussed in in **Paragraph 2.1.9.1**) could not be extended to them.

The L&ESI Department stated (April 2024) that the reasons for the low registration of migrant workers were (1) mobile phones of the migrants were switched off or (2) they had provided incomplete address or (3) they did not receive phone calls, *etc.* The fact, however, remained that the migrant construction workers could not be brought under the State Welfare Board, thereby depriving them of SFA.

Recommendation:

- 3. The Board may keep track of BOC works and strictly enforce the provisions of the Act, for securing details of the BOC workers engaged therein, along with their registration status and take steps for their registration.**

2.1.7 Collection and Remittance of Cess

2.1.7.1 Non/ short collection of Cess

Section 3 (1) of the BOCWWC Act, envisages imposition of cess, at the rate not less than one *per cent* and not more than two *per cent*, of the cost of construction, incurred by employers/ builders. Section 3 (3) of the Act, read with Rule 5(3) of the BOCWWC Rules, provide that the cess collected shall be transferred to the Board, within thirty days of its collection.

Audit test-checked records relating to approval of building plans and collection of cess, by the four DAs and three ULBs, during FYs 2017-18 to 2021-22 and found that 8,272 building plans had been approved. Of these, Audit test-checked 399 building plans (5 *per cent*). The number of building plans approved by the sampled units, number of cases test-checked in Audit and number of cases of cess collection, are given in **Table 2.1.5**.

Table 2.1.5: Building plans approved during FYs 2017-18 to 2021-22

District	Sampled ULBs/ DAs	No. of building plans approved	No. of building plans test- checked	No. of building plans, on which there was non/ short collection of cess	Amount of	
					Short collection	Non- collection
					₹ in lakh)	
Berhampur	Berhampur Development Authority (BeDA)	1,935	68	35	1.56	0
	Berhampur Municipal Corporation (BeMC)	1,168	60	0	0	0
Cuttack	Cuttack Development Authority (CDA)	1,135	50	08	0.16	0
	Cuttack Municipal Corporation (CMC)	544	50	09	0.09	0
Keonjhar	Town Planning Unit	314	35	24	0.24	0
Khurda	Bhubaneswar Development Authority (BDA)	2,811	78	37	0.37	0
	Bhubaneswar Municipal Corporation (BMC)	365	58	2	0	64.70
Total		8,272	399	115	2.42	64.70

(Source: Information furnished by the sampled ULBs and Development Authorities)

Audit found that, in case of two approved building plans, no cess had been collected and, in the remaining 113 cases, there were shortfalls in the collection of cess. Some instances are cited below:

- **Non-collection of cess:** The General Manager, Bhubaneswar Smart City Limited (BSCL), applied (July 2018) for permission for construction of two buildings¹⁵, having a total estimated cost of ₹ 64.70 crore. BMC did not collect the cess amount from the BSCL, at the time of approval of the building plans (October 2021), in violation of the provisions of the Act/ Rules and orders of the State Government. Audit noticed that the cess amount of ₹ 64.70 lakh had not been deposited by BSCL, as of April 2023.

¹⁵ At Saheed Nagar and Ashok Nagar, Bhubaneswar

The L&ESI Department stated (April 2024) that the BSCL had deducted cess, amounting to ₹ 64.30 lakh from the bills of the contractors of the works. The Department, however, could not confirm receipt of the amount by the Board, as deducted by the BSCL.

- **Short collection of cess:** For the purpose of computing the estimated cost of a building, the Housing and Urban Development Department, GoO, fixed (December 2020) the cost of construction of a dwelling unit at ₹ 1,750 per square feet, with provision of an annual increase by 2 per cent, i.e., ₹ 1,785, in FY 2021-22. Accordingly, the rate of cess per square feet, was ₹ 17.50 and ₹ 17.85, in FYs 2020-21 and 2021-22, respectively. In 113 building plans, which had been approved in FY 2021-22, cess had been collected at the rate of ₹ 17.50 per square feet, instead of ₹ 17.85 per square feet. This had resulted in short collection of cess amounting to ₹ 2.42 lakh.

On being pointed out in Audit, the Town Planning Authority, Keonjhar, stated that, during the Covid-19 pandemic, the revised rate had not come to their notice. However, the revised rate would be given effect in regard to the above approved plans, after obtaining clarification from the Department.

- **Short-realisation of cess, due to non-validation of cheques:** Audit noted that 418 cheques/ demand drafts, towards cess, amounting to ₹ 5.72 crore, received by the Board, during FYs 2017-18 to 2021-22, from different departments of the Government/ organisations, had been dishonoured by the banks, due to expiry of their validity periods; mismatched signatures; correction of amount in words or figures; mismatch of amount in figures or words; mismatch of account particulars, etc. Though the Board had asked the payer departments/ organisations to issue fresh cheques/ demand drafts, no fresh cheques or demand drafts had been received, till January 2023. Thus, a sum of ₹ 5.72 crore, had not been realised by the Board, as of January 2023.

The L&ESI Department stated (April 2024) that steps were being taken to ascertain the status of 418 cheques/ demand drafts.

2.1.7.2 Non-remittance of cess by DAs/ ULBs

As per Rule 5(3) of the BOCWWC Rules, the cess collected shall be transferred to the Board, within 30 days of its collection. Further, as per Rule 12 of Cess Rules, 1998, read with Section 8 of Cess Act, 1996, if any employer fails to pay any amount of cess within 30 days of its collection, such employer shall be liable to pay interest on the amount to be paid at the rate of two per cent for every month or part of a month comprised in the period from the date on which such payment is due, till such amount is actually paid.

Audit noted that the seven sampled ULBs/ DAs had approved 8,272 building plans, during FYs 2017-18 to 2021-22 and had collected ₹ 108.61 crore towards labour cess. Of these, Audit test-checked 399 building plans, approved by the seven sampled DAs/ ULBs, on which labour cess, amounting to ₹ 5.96 crore, had been collected, as shown in **Table 2.1.6**.

Table 2.1.6: Building plans approved during FYs 2017-18 to 2021-22 and test-checked in Audit

Sl. No.	District	ULB/ Development Authority	Building plans approved, during FYs 2017-18 to 2021-22	Cess collected (₹ in crore)	Test-checked building plans	Cess collected in test-checked cases (₹ in crore)
1	Berhampur	BeDA	1,935	12.01	68	1.00
		BeMC	1,168	7.50	60	0.85
2	Cuttack	CDA	1,135	16.30	50	0.35
		CMC	544	11.12	50	0.21
3	Keonjhar	Town Planning Unit	314	1.74	35	0.16
4	Khurda	BDA	2,811	32.88	78	0.62
		BMC	365	27.06	58	2.77
Total			8,272	108.61	399	5.96

(Source: Information furnished by the sampled ULBs and Development authorities)

Further scrutiny in Audit revealed that:

- Out of ₹ 108.61 crore, collected towards Cess, by the seven sampled ULBs/ DAs, a sum of ₹ 63.79 crore (59 per cent) had been remitted to the Board, as of March 2023, while the balance amount of ₹ 44.82 crore, was still lying with them. The Board had, however, not insisted that the ULBs/ DAs remit the balance amount to its account, nor had it imposed any penalty for the non-remittance, as per Rule 12 of the Cess Rules, 1998, read with Section 8 of the Cess Act, 1996.
- CDA had collected fees on four different accounts, for grant of approval to building plans, viz. Additional scrutiny fees, Construction Workers' Welfare Cess, Sanction fees and Compounding fees. Accordingly, the owners of the buildings/ apartments had deposited the prescribed fees with the designated banks and the banks had, subsequently, transferred the same to the above mentioned accounts of the CDA. HDFC Bank, while transferring ₹ 15.07 crore to the bank accounts of the CDA, during FYs 2017-18 to 2021-22, did not, however, intimate the break-up of the various fees transferred. In the absence of this break-up, the exact amount of cess received could not be ascertained and the amount towards cess remained in the bank account of the CDA.
- In the absence of any proper system for registration of Establishments/ Employers, as discussed in **Paragraph 2.1.6**, the Board had no data on the amount of cess, due from the entities, who had been awarded BOC works. Audit sought information from six DAs, other than the sampled DAs, on the building plans approved, as well as the amount of cess collected and remitted during the FYs 2017-18 to 2021-22. In response, four DAs¹⁶ intimated about non-remittance of ₹ 13.97 crore to the Board, as shown in **Table 2.1.7**.

¹⁶ Two DAs viz., Sambalpur and Kalinga Nagar did not furnish the information

Table 2.1.7: Building plans approved, cess collected and remitted to the Board, by four DAs (other than the sampled DAs)

Sl. No.	Development Authority/ Town Planning Unit	No. of Building plans approved	Cess collected	Cess remitted	Cess retained, as of March 2022
			(₹ in lakh)		
1	Talcher Angul Meramandali Development Authority	1,262	428.14	0	428.14
2	Paradeep Development Authority	39	27.38	0	27.38
3	Puri Konark Development Authority	147	294.65	0	294.65
4	Rourkela Development Authority	372	646.88	0	646.88
Total		1,820	1,397.05	0	1,397.05

(Source: Information furnished by the sampled Development Authorities)

As can be seen from **Table 2.1.7**, ₹ 1,397.05 lakh, collected during FYs 2017-18 to 2021-22, towards cess, for approval of 1,820 building plans, had not been remitted to the Board. Despite this, the Board had not taken up the matter with the DAs, for early remittance of cess.

- **Non-remittance of Cess by Government Departments:** Audit noticed, from the Voucher Level Computerisation (VLC) database of the GoO maintained by the Principal Accountant General (A&E), as also from its Finance Accounts, that a sum of ₹ 13.48 crore had been collected towards Labour Cess, by various departments, and had been booked under the Major Head 0230 as ‘receipts’, during FYs 2017-18 to 2021-22. The entire amount had been retained by the Government, without remitting the same to the Board. As a result, the amount of ₹ 13.48 crore, had remained outside the Board’s accounts and had continued to remain as an undischarged liability, in the Public Account of the State Government. Non-remittance of this amount, to the Board, implied denial of the intended welfare benefits, to the beneficiaries.
- BMC had collected ₹ 4.75 crore towards cess, during FYs 2017-18 to 2021-22, from the bills of the contractors, engaged by it. Of this, it had remitted ₹ 3.78 crore, pertaining to the FYs 2017-18 to 2019-20 and the balance amount of ₹ 0.97 crore was still lying with it, as of March 2023. The Board, however, had not insisted that BMC remit the balance amount, to the Board’s account. Similarly, another sampled Works Division, viz. Irrigation Division, Bhanjanagar, had not remitted cess collected (FY 2021-22) from the contractors, amounting to ₹ 0.96 lakh, as of March 2023.
- **Non-remittance of annual contribution and registration fees of ₹ 20 lakh:** On scrutiny of the “Registration Fees” register, Audit found that the DLO, Cuttack, had received ₹ 4 crore, towards registration fees (₹ 31 lakh) and annual contribution (₹ 3.69 crore), in cash, from the BOC workers, during FYs 2017-18 to 2021-22. Out of this, the DLO had remitted ₹ 3.80 crore to the Board. The balance unremitted amount of ₹ 20 lakh could not be traced in the Cash Book, as daily collections had not been entered in the Cash Book as soon as the transactions

occurred; the Cash Book had not been closed; totalling had not been done; and analysis at the end of the month had also not been done, though this was required under Rule 37 of the OTC Vol-I. Thus, misutilisation of an amount of ₹ 20 lakh, cannot be ruled out.

The L&ESI Department stated (April 2024) that steps were being taken to issue necessary notification for ensuring transfer of cess amount to the accounts of the Board within 30 days of its collection and getting refund of the cess amount, already deposited in Government Account. It was also stated that the problem of non-remittance of cess from Government agencies would be solved, once the collection of cess is integrated with the WAMIS, IFMS and SUJOG portals.

Recommendation:

4. The L&ESI Department should take up the matter of the non-collection and non-remittance of Cess with the concerned Departments in the Government for early collection and remittance of Cess to the Board.

2.1.8 Management of the cess fund

The fund, created out of the receipts towards labour cess, is to be utilised for various welfare activities of the BOC workers, as per the provisions of Section 22 of the BOCW (RE&CS) Act. The year-wise collection and utilisation of funds, by the Board, during FYs 2017-18 to 2021-22, is summarised in **Table 2.1.8**.

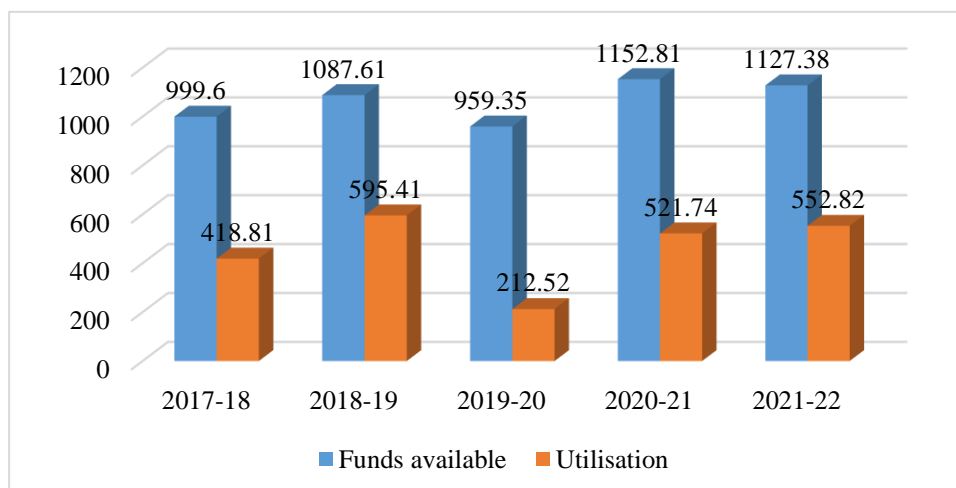
Table 2.1.8: Collection of Cess, Registration fee and Interest and Utilisation thereof, during FYs 2017-18 to 2021-22

Financial year	Opening Balance	Receipts towards Cess, Registration fee and Interest	Total funds available	Utilisation	Closing Balance
<i>(₹ in crore)</i>					
2017-18	715.13	284.47	999.60	418.81	580.79
2018-19	580.79	506.82	1,087.61	595.41	492.20
2019-20	492.20	467.15	959.35	212.52	746.83
2020-21	746.83	405.97	1,152.81	521.74	631.07
2021-22	631.07	496.31	1,127.38	552.82	574.56
Total		2,160.72¹⁷	2,875.85	2,301.29¹⁸	

(Source: Data furnished by the DLOs of the sampled districts)

¹⁷ Cess: ₹ 1,885.61 crore; Registration fee: ₹ 45.59 crore and Interest receipts: ₹ 229.52 crore

¹⁸ Scheme expenditure: ₹ 2,273.20 crore (including construction of Rest Shed: ₹ 0.15 crore) and Administrative expenses: ₹ 28.09 crore

Chart 2.1.4: Funds available vis-à-vis utilisation by the Board

As may be seen from **Chart 2.1.4**, the Board, having available funds of ₹ 2,875.85 crore, had utilised ₹ 2,301.29 crore (80 *per cent*) during FYs 2017-18 to 2021-22. Of the total utilised amount, a sum of ₹ 28.09 crore had been incurred as Administrative expenses, ₹ 2,273.05 crore had been incurred for welfare schemes and ₹ 0.15 crore for construction of rest sheds. The expenditure incurred for various welfare schemes, is detailed in **Appendix 2.1.2**.

2.1.8.1 Implementation of welfare schemes out of the Cess fund

Section 22 of the BOCW (RE&CS) Act outlines the main functions of the Board, which are, to provide financial assistance to the beneficiaries for construction of house, education of their children, medical expenses, maternity assistance, contribution to Group Insurance Scheme *etc.*, and make payment of pension to beneficiaries, who have completed the age of sixty years. The welfare schemes are funded from the Cess and registration fees collected from the Establishments/ Employers and from the BOC workers, respectively. The Board was implementing 13 welfare schemes, as of March 2022. Apart from this, the Board had constructed rest sheds and rental housing complexes for the BOC workers, and extended financial assistance to them, for coping with the Covid-19 pandemic.

Audit test-checked the case records of 400 beneficiaries, who had been provided benefits under 10 welfare schemes, implemented in the four sampled districts. Audit also examined records, relating to procurements and release of funds by the Board, for various welfare schemes. Deficiencies noticed in the implementation of the welfare schemes are discussed below.

2.1.8.2 Implementation of Welfare Schemes in the sampled districts

A registered BOC worker willing to avail benefits of any scheme, launched by the Board, has to submit an application to the DLO concerned. Beneficiaries are selected, for coverage under different welfare schemes, at the district level, by the concerned DLOs, with the selection being approved by the respective District Collectors. The Board releases funds on a lump sum basis, in favour of districts, as per their requisition. As per the terms of sanction of funds, the DLOs are required to submit Utilisation Certificates (UC), to the Board, at the earliest. In the four sampled districts, the number of beneficiaries covered and

amounts spent, during FYs 2017-18 to 2021-22, for the 10 sampled welfare schemes, are shown in **Appendix 2.1.3**.

- **Assistance under Nirman Shramik Pucca Ghar Yojana (NSPGY):** Under the scheme, the beneficiaries, out of the registered BOC workers, are selected by a committee, comprising of the District Collector, DLO and representative of the District Rural Development Agency (DRDA)¹⁹. Based on the number of beneficiaries selected, the Board places funds with the DRDA. The DRDA releases funds to the beneficiaries and oversees the implementation of the scheme. As per the NSPGY guidelines, houses are to be completed within 12 months from the date of release of the first instalment. The PR&DW Department is required to submit UCs against utilisation of funds. Audit noted that the Board had placed ₹ 104.16 crore, with the DRDAs of the four sampled districts, during FYs 2017-18 to 2021-22, for 8,167 beneficiaries. The Board, however, had no information on the number of beneficiaries covered, amounts released and status of construction of their houses. Audit gathered information, in this regard, from the PR&DW Department and concerned DRDAs, which indicated that 6,931 beneficiaries (85 per cent) out of the total of 8,167 beneficiaries, had been covered, as of March 2023. Audit further noticed that 172 out of 6,931 houses, were incomplete at various stages (not commenced: 101, lintel level: 53 and roof level: 18), as of March 2023.

Audit observed that the Board, after releasing funds to the DRDAs, was not monitoring progress in implementation of the scheme, which reflected its apathy towards successful implementation of the scheme.

- **Delay in release of Death Assistance:** Rule 271 of the OBOCW (RE & CS) Rules, 2002, provided that death benefit would be paid within a period of 60 days from the date of receipt of application. On scrutiny of 101 individual case records, relating to disbursement of death (normal) assistance, in four sampled districts, it was found, in 37 cases (37 per cent) that an amount of ₹ 67.25 lakh had been disbursed, with delays ranging between 29 days and 636 days, beyond the prescribed period of 60 days of receipt of applications.

The L&ESI Department stated (April 2024) that the executing Departments of NSPGY had been requested to integrate their database with the Nirman Shramik Portal for flow of data, enabling the Board to ascertain the status of sanction and disbursement of benefits under the scheme. On delay in release of Death Assistance, the Department attributed the reasons for the delay to incomplete application, non-production of required documents, nominee issue, Aadhaar linkage with bank accounts for payment in DBT mode, etc. The fact, however, remained that the Board had failed in timely disbursement of Death Assistance.

¹⁹ Under the administrative control of the Panchayati Raj and Drinking Water Department

Recommendation:

5. The Board may put in place, an appropriate system, for monitoring the progress of implementation of schemes funded by it, and ensure that the funds are utilised timely and for the intended purposes.

2.1.8.3 Irregularities in the procurement of bicycles and safety equipment

As per Rule 2 of Appendix 6 of OGFR (Vol-II), for the purchase of articles of value exceeding rupees ten thousand, sealed quotations should be invited, by giving wide publicity. As per Rule 18(vi) of OGFR-I, contracts should be placed only after the tenders have been openly invited and, in cases where the lowest tenders are not accepted, reasons thereof should be recorded.

On test-check of the tender files of the DLO, Cuttack, it was noticed that the DLO had issued (August 2017, September 2017 and November 2018) an Expression of Interest (EoI), for empanelment of vendors, for supply of three items, viz. bicycles, safety equipment and working tools. However, the quantities of bicycles or safety equipment to be supplied, or the periods of supply, had not been spelled out in the EoI. The tender was opened on 06 October 2017 and 26 November 2018. The Tender Committee decided (October 2017 and November 2018) that a bidder, quoting either one of the three items, would be eligible for consideration. Accordingly, seven bidders were found eligible for supply of bicycles and two bidders each, for safety equipment and working tools.

- **Procurement of bicycles:** The lowest quoted price, for supply of bicycles of Hercules brand, was ₹ 3,960 per piece. The prices quoted by the other bidders ranged from ₹ 3,960 to ₹ 4,000 per piece. The Tender Committee, however, selected all the seven bidders, for supply of bicycles, at ₹ 4,000 per piece. One supplier backed out from the deal. Reasons for acceptance of a price that was higher than the lowest bid, by ₹ 40 per piece were not found available on records. Due to acceptance of a price that was higher than the lowest quoted price, there was excess expenditure of ₹ 30.06 lakh, in the procurement of 75,151 bicycles.
- **Avoidable expenditure on procurement of safety equipment:** Two bids were found eligible for supply of safety equipment (helmets, gloves and shoes). The quoted prices of the eligible bidders were found to be ₹ 897 and ₹ 990, per unit. The Tender Committee, instead of selecting the lowest bidder for supply, selected both the bidders, including two bidders who had been termed ineligible, in view of stipulation in the tender that a bidder would bid for only one item, during the bid screening stage. The quantity of safety equipment, procured from each of the suppliers, as well as the rates and amounts paid in this regard, are shown in **Table 2.1.9**.

Table 2.1.9: Quantity and value of safety equipment procured

Sl. No.	Name and address of the vendor/ shop	Purchase price per item (₹)	Units procured	Value of procurement (₹ in lakh)	Remarks
1	M/s Narmada Dresses, Cuttack	897	3,754	33.67	Participated in the bid. Quoted lowest price.
2	M/s Vaishno Enterprises, Cuttack	990	8,336	82.53	Participated in the bid. Quoted highest price.
3	M/s K G Enterprises, Cuttack	1,000	38,126	381.26	Participated in the bid, but was eligible for supply of one item only (bicycle or safety equipment). Supplied both items.
		998	5,038	50.28	
4	M/s Subhalaxmi Suppliers, Cuttack	1,000	15,375	153.75	Participated in the bid, but was eligible for supply of one item only (bicycle or safety equipment). Supplied both items.
Total			70,629	701.49	

(Source: Compiled from records of the DLO, Cuttack)

As would be seen from **Table 2.1.9**, the basic sanctity of the tender process, which includes tenets, such as awarding supply order to the vendors quoting the lowest prices; limiting the award of supply orders to bidders who had participated in the tender and been found eligible *etc.*, had not been maintained. It is evident, from the manner of selection of suppliers, that the open bidding process had been used as a token act of transparency, while the suppliers had been selected for supply, regardless of their eligibility or otherwise, as determined through the tender process. Due to acceptance of price higher than the lowest quoted price by ₹ 103 per piece, there was excess expenditure of ₹ 67.95 lakh in procurement of 70,629 safety equipment.

Recommendations:

- The process of procurement should be transparent and as per the regulations in place. The Board should exercise due oversight to ensure that undue benefits are not extended to entities in the procurement process.**

2.1.8.4 Non-compliance of statutory provisions for the safety and welfare of BOC workers

The entities/ individuals, engaging BOC workers, are required to comply with the various provisions of the BOCW (RE & CS) Act, 1996 and Rules, 2002. Audit conducted JPI of 16 registered and 16 unregistered BOC works, awarded by four²⁰, out of the eight sampled Works Divisions, with the

²⁰ R&B Division, Ghatagaon; R&B Division, Cuttack; R&B Division, Charbatia; R&B Division II, Bhubaneswar

officials of the concerned DLOs, to assess the extent of compliance of the provisions contained in the Act and Rules, as shown in **Table 2.1.10**.

Table 2.1.10: Non-compliance of provisions of the BOCW (RE&CS) Act and Rules, by the four sampled Works Divisions

Nature of non-compliance	Provisions in the Act and Rules	No. of BOC works	No. of sampled units/contractors involved
Not registered as Establishment/ Employer	Section 7	32	Four sampled Works Divisions
Not registered as Employer	Section 7	14	14 contractors, under the four sampled Works Divisions
Non-maintenance of register of particulars of the building workers	Section 30 and Rule 238 & 239	20	20 contractors, under the four sampled Works Divisions
Non-maintenance of Muster Rolls and Register of Overtime	Section 30 and Rule 238 & 239	19	19 contractors, under the four sampled Works Divisions
Non-issue of Service Certificates to the BOC workers on termination of building works	Section 30 and Rule 238 & 239	22	22 contractors, under the five sampled Works Divisions
Non-provision of safety equipment and appliances for workers	Section 38	19	19 contractors, under the four sampled Works Divisions
Absence of accommodation, crèche, first aid and canteen for workers	Section 34	6	6 contractors, under the three sampled Works Divisions

(Source: JPI of the sampled works)

Absence of registration of Government Departments, as well as contractors, coupled with lack of inspections, resulted in deficiencies in the welfare facilities, as well as safety norms, at the work sites. In addition, the potential beneficiaries, working in the above unregistered works, could not be registered with the Board.

Audit conducted a joint survey of 400 registered and 100 unregistered construction workers, to assess their awareness regarding the activities of the Board. A customised questionnaire was prepared and the feedback obtained from the workers, was as follows:

Table 2.1.11: Feedbacks of BOC workers during joint survey of BOC workers

Registered BOC workers (400)	Unregistered BOC workers (100)
<ul style="list-style-type: none"> ✓ 284 beneficiaries (71 per cent) had not attended any awareness camp. ✓ 279 beneficiaries (70 per cent) did not know about the aims and objectives of the Board. ✓ 259 beneficiaries (65 per cent) did not know about any of the schemes, run by the Board. 	<ul style="list-style-type: none"> ✓ None of the 100 workers had been registered as beneficiaries under the OBOCW Welfare Board, even though they had been working as BOC workers, for periods, ranging between one and 40 years. ✓ None of the 100 workers had attended any awareness camps and they were unaware about the welfare board and the benefits available to them.

(Source: Survey of BOC workers conducted in audit)

The L&ESI Department stated (April 2024) that a mass campaign, in mission mode, would be launched, especially in construction season, for creating

awareness among the construction workers. It was also assured that all scheme-related details would be displayed on display boards, indicating details of DLOs (phone numbers and email addresses) in every Gram Panchayat Headquarters for creating awareness among mass.

2.1.9 Implementation of Welfare Schemes by the Board

2.1.9.1 Disbursement of funds under Special Financial Assistance

The L&ESI Department decided (March 2020) to grant Special Financial Assistance (SFA), at the rate of ₹ 1,500 per registered BOC worker, during the first wave of the Covid-19 pandemic. The Board transferred (April 2020) ₹ 315.37 crore, to the joint bank accounts, operated by the District Collectors concerned and the 32 DLOs of the 30 districts of the State. The Department had further instructed that the amounts should be credited to the bank accounts of the beneficiaries. Further, the DLOs were to submit UCs to the Board, at the earliest, duly signed by the District Collector.

Audit noted that the DLOs had released the entire amount to the ULBs and Blocks, along with a list of beneficiaries, for payment of SFA. The reason for making payments through ULBs/ Blocks, instead of making direct transfer to the beneficiaries' accounts, was that the DLOs did not have the bank particulars of the beneficiaries. Details of the amounts released and disbursed, in the four sampled districts, are shown in **Table 2.1.12**.

Table 2.1.12: SFA received and disbursed in the sampled districts

(Amount: ₹ in lakh)

District	SFA released by the Board		Disbursed by ULBs/ Blocks		Acknowledgements furnished by ULBs/ Blocks		Unspent balance
	No. of beneficiaries	Amount	No. of beneficiaries	Amount	No. of beneficiaries	Amount	
Keonjhar	91,958	1,379.37	80,777	1,211.66	9,751	146.27	167.71
Ganjam	1,42,827	2,142.41	1,29,773	1,946.60	0	0	195.81
Cuttack	1,87,531	2,812.97	98,239	1,473.59	57,737	866.06	1339.38
Khurda	1,54,394	2,317.45	1,46,064	2,192.51	0	0	124.94
Total	5,76,710	8,652.20	4,54,853	6,824.36	67,488	1,012.33	1,827.84

(Source: Information furnished by the DLOs of the sampled districts)

Audit observed that:

- Against release of ₹ 86.52 crore, for 5.77 lakh beneficiaries, of the four sampled districts, a sum of ₹ 68.24 crore (79 per cent) had been disbursed to 4.55 lakh beneficiaries. The reason for non-disbursement of the balance amount of ₹ 18.28 crore, was not found available on records. Thus, as many as 1.21 lakh beneficiaries (21 per cent), of the four sampled districts, had been deprived of the SFA.
- SFA was paid in cash, to the beneficiaries, instead of being credited into their bank accounts, in violation of the instructions of the L&ESI Department. Out of the amount of the ₹ 68.24 crore, disbursed to 4.55 lakh beneficiaries, the ULBs/ Blocks had furnished acknowledgements of 0.67 lakh beneficiaries (15 per cent) only, in support of receipt of an overall amount of ₹ 10.12 crore. Payment of SFA in cash and non-receipt of acknowledgements raises doubts on the veracity of the disbursements claimed to have been made. Further, no UCs had been submitted, by the DLOs, to the Board, as of March 2023.

Audit observed that the Board had not taken any steps to ensure that the SFA was paid to the remaining beneficiaries and UCs were received from the concerned DLOs.

The L&ESI Department stated (April 2024) that the revised proposal relating to disbursement of SFA in cash was accorded (April 2020) by them. It was also stated that the DLOs had been requested again to furnish the present status on refund of the unutilised funds from the first instalment of SFA.

2.1.9.2 Non-implementation of Group Insurance Scheme

As per Rule 274 of the OBOCW (RE&CS) Rules, 2002, the Board may undertake a Group Insurance Scheme, covering the life of the beneficiaries, with any insurance company and make payment of the premium, for such a Group Insurance Scheme, out of its funds. The Board may also go for Personal Accident Insurance Coverage.

Test-check of the records of the Department and the Board revealed that, neither any Group Insurance Scheme, nor any insurance for Personal Accidents, covering the lives of the beneficiaries, had been implemented. It was, however, noticed that death assistance of ₹ 353.94 crore, had been disbursed to 25,547 beneficiaries, out of the cess fund, during FYs 2017-18 to 2021-22.

Had the Board undertaken a Group Insurance Scheme, covering the lives of the beneficiaries and Personal Accident Insurance Coverage for the beneficiaries, with any Insurance Company, the amount disbursed towards death assistance, could have been borne by the Insurance Company and the Board would have borne only the insurance premia out of the cess funds. The amount of death assistance, in excess of the premia, could then have been utilised for the welfare of the BOC workers.

The L&ESI Department stated (April 2024) that the proposal of implementation of Group Insurance Scheme for the registered BOC workers was rejected by the Board members, keeping in view the amount spent on disbursement of Death Assistance was much less as compared to the premium to be paid against the registered BOC beneficiaries. The reply is not convincing as detailed workings of amount payable towards premia *vis-à-vis* death assistance paid per annum, was not shared with Audit.

2.1.9.3 Inadequate organisation of IEC activities

Information, Education & Communication (IEC) strategies aim at creating awareness and disseminating information among potential beneficiaries, in regard to the benefits available under various schemes/programmes, and guiding them on the manner in which these benefits may be accessed. The Ministry of Labour and Employment, GoI, directed (July 2020) that adequate Publicity/ IEC campaigns, on different welfare schemes of the Board, be undertaken, among the BOC workers, in the vernacular language.

Audit noted that the Board had released ₹ 1.19 crore, in favour of all the DLOs of the State, towards IEC activities, for three financial years²¹, from 2017-18

²¹ 2017-18: ₹ 50.42 lakh; 2018-19: ₹ 16 lakh; 2019-20: ₹ 52.75 lakh

to 2019-20. No funds had been released for the purpose, for FYs 2020-21 to 2021-22. Audit found that:

- The Board had not drawn up any annual IEC plan, to make the BOC workers aware of the aims and objectives of the Board, the *modus operandi* for their registration as beneficiaries of the Board, various benefits available under the, Board *etc.*
- The Board had not maintained records on the number of camps organised, number of meetings held, number of workers who had attended the meetings and camps, photographs of the events, *etc.*, in support of the IEC activities stated to have been organised.
- District-wise utilisation of funds, towards organising IEC activities, was not made available to Audit. The Board had neither insisted that the district officers submit the UCs, nor had it monitored the awareness camps/ IEC activities, stated to have been undertaken by the DLOs.
- The four sampled districts had an opening balance of ₹ 13.16 lakh and they had further received ₹23.92 lakh, for conducting IEC activities, during FYs 2017-18 to 2019-20. Out of the overall funds for ₹37.09 lakh, so available with them, for this purpose, they had utilised ₹ 26.58 lakh (72 *per cent*), as shown in **Table 2.1.13**. However, details such as the number of camps organised, number of meetings held, number of workers who had attended the camps so organised, photographs of the events *etc.*, were not available with them.

Table 2.1.13: Release and utilisation of funds, under IEC activities, in the sampled districts (as of March 2022)

(₹ in lakh)					
District	OB	Receipt	Total funds available	Utilisation	Percentage of utilisation
Ganjam	3.98	16.47	20.45	18.25	89
Cuttack	3.30	3.15	6.45	5.09	79
Keonjhar	1.68	1.50	3.18	2.11	66
Khurda	4.20	2.80	7.00	1.13	16
Total	13.16	23.92	37.08	26.58	72

(Source: Information furnished by the Board and the sampled DLOs)

In the absence of such documentation, the genuineness of the conduct of IEC programmes, could not be assured in audit. This also indicated that the Board was not aware of the nature and extent of activities undertaken at the field level.

Recommendations:

- 7. The Board may draw annual IEC plan and awareness programmes aimed at making BOC workers informed on their rights under different legislations as well as on the welfare schemes launched by the Board, for them.**

2.1.9.4 Inadmissible expenditure on different schemes by the Board

The Hon'ble Supreme Court, on WPC No. 318/2006 concerning implementation of the BOCW (RE&CS) Act and BOCWWC Act, delivered judgements on 21 August 2015 and 4 September 2015 & 19 March and 7 May

2018. The Court observed that construction of infrastructure, such as schools, hospitals, training centres, labour sheds-cum-night shelters, waiting halls, hostels, *etc.*, were substantive functions of the respective departments of a State Government. Therefore, funding for the construction of such infrastructure, needed to be met from the State Budget and not from the fund created out of collection of labour cess. The Court also ordered that corrective measures be taken in this regard, by recouping the amounts already utilised for these purposes, to the Cess Fund, with immediate effect. The Ministry of Labour and Employment, GoI, while conveying the judgement of the Supreme Court, directed (7 June 2016) all State Governments and UT Administrations, to abide by the judgements of the Supreme Court. Audit, however, noticed instances of violation of the above judgements of the Supreme Court, as cited below:

- **Construction of Rental Housing Complexes (RHCs) out of the cess fund:** The Board decided (October 2016) to construct 20 RHCs, in 20 industrial and urban locations²², in co-ordination with the Housing and Urban Development (H&UD) Department. Accordingly, the Board released (December 2016) ₹ 40 crore, out of the cess fund, in favour of the Mission Director, Odisha Urban Housing Mission, under the H&UD Department, for construction of these RHCs. As of April 2022, construction of 15 out of 20 RHCs, had started. Of the 15 RHCs taken up, construction of 13 RHCs had been completed at a cost of ₹ 34.78 crore, as of April 2022. Audit, however, noticed that one 200 bedded RHC was also taken up for construction, the related records of which were not made available to Audit. Audit observed that, since the RHCs were meant for all categories of workers, including BOC workers, sanction of funds for such purpose from the cess fund, had violated the orders of the Hon'ble Supreme Court and was, therefore, irregular.

The L&ESI Department stated (April 2024) in the Exit Meeting that RHCs were exclusively for BOC workers, which had been constructed in consultation with the Housing and Urban Development Department. The reply is not tenable in view of the judgement of the Hon'ble Supreme Court, that funding of the construction cost of such infrastructure, needed to be met from the State Budget and not from the fund created out of labour cess collected.

- **Publicity campaign:** The Panchayati Raj and Drinking Water Department in GoO launched (December 2018) a campaign, namely, Peoples Empowerment-Enabling Transparency and Enhancing Accountability (PEETHA), to improve the awareness of public in rural areas, about the various schemes of the State Government. The Board had released (December 2018) ₹ 4.71 crore, to the DLOs of 30 districts, for launching IEC activities, as part of the PEETHA programme. The amount included ₹ 88.50 lakh, received by the four sampled districts. The DLOs were entrusted with the task of organising Block/ GP level awareness camps, from 15th to 20th of each month, from December 2018 onwards. Audit noted, from the records of the

²² 50-bedded:10 locations; 100-bedded: 10 locations

four sampled districts, that an amount of ₹ 19.65 lakh²³ had been utilised by them, as of January 2023. The Board had no information about the amounts utilised and the activities undertaken by the districts. Audit, however, observed that, incurring expenditure from the cess fund, for a scheme like PEETHA, which was aimed at creating mass awareness about all Government schemes, was inadmissible, in view of the orders of the Hon'ble Supreme Court and the instructions of GoI.

The L&ESI Department stated (April 2024) in the Exit Meeting that PEETHA was a common platform where other Departments had also contributed to the scheme. The Board had contributed only its part to create awareness about the schemes run by it. The reply is not tenable since the amount incurred for the PEETHA scheme, out of cess fund was in deviation of the order of the Hon'ble Supreme Court.

- **Advertisement expenses:** The Board had spent ₹ 86.78 lakh on advertisements, during FYs 2017-18 to 2021-22²⁴, from the cess fund. Detailed vouchers, in support of the expenditure, were not produced to Audit. Hence, it remained unclear, as to whether the advertisement expenses, were in the direct interest of the BOC workers and were regular, in terms of the judgement of the Hon'ble Supreme Court.

The L&ESI Department stated (April 2024) in the Exit Meeting that advertisements were for creating awareness about schemes run by the Board and, hence, such expenditure was for the welfare of BOC workers. The reply is not tenable in view of the Hon'ble Supreme Court order that the expenses on advertisements from the cess amount collected is not appropriate and should be returned to the accounts of the construction workers.

Recommendations:

8. **The Board may maintain a database of registered BOC workers, capturing all their details and may adopt the DBT mode, for transferring benefits to them.**
9. **The Board may observe prudence in incurring expenditure from the cess fund and it may ensure that the amounts spent from the cess fund, contribute to the direct welfare of the registered beneficiaries. The functionaries responsible for deviating from the ruling of the Apex Court in incurring expenditure from the Cess fund, should be held accountable.**

²³ Cuttack: ₹ 4.87 lakh; Ganjam: ₹ 4.12 lakh; Keonjhar: ₹ 5.07 lakh; and Khurda: ₹ 5.59 lakh

²⁴ 2017-18: ₹ 36.64 lakh; 2018-19: ₹ 34.03 lakh; 2019-20: ₹ 10.90 lakh; 2020-21: ₹ 4.18 lakh; 2021-22: ₹ 1.03 lakh

2.1.9.5 *Inadmissible/ excess administrative expenditure from the cess fund*

The nature of expenditure to be met from the cess fund, has been outlined in Section 22 of the BOCW (RE&CS) Act. It includes financial assistance to the beneficiaries, who have completed 18 years but have not completed 60 years of age for: (i) construction of house (ii) contribution to a Group Insurance Scheme (iii) education of child (iv) medical expenses *etc.* Section 24 (3) put a ceiling on the administrative expenditure from the cess fund, at five *per cent* of the total expenditure during that year. The total expenditure incurred by the Board, *vis-à-vis* the Administrative expenditure, in each of the years, from FY 2017-18 to FY 2021-22, is shown in **Table 2.1.14**.

Table 2.1.14: Year-wise details of total expenditure from the cess fund vis-à-vis the administrative expenditure

(₹ in crore)

Financial Year	Total expenditure	Scheme expenditure		Administrative expenditure	
		Amount	Percentage	Amount	Percentage
2017-18	418.81	415.16	99	3.65	1
2018-19	595.41	585.85	98	9.56	2
2019-20	212.52	209.72	99	2.80	1
2020-21	521.74	518.47	99	3.27	1
2021-22	552.82	544.00	98	8.81	2
Total	2,301.30	2,273.20	99	28.09	1

(Source: Information furnished by the Board)

Audit noted, that, though the Administrative expenditure, in each of the financial years, had remained at 1 to 2 *per cent* of the total expenditure, *i.e.*, it had fallen within the stipulated range, certain items of inadmissible administrative expenditure, had also been incurred, as mentioned below:

- **Payment of salary of staff of the L&ESI Department:** The L&ESI Department had deployed 9 to 10 of its own staff, in the Board, during FYs 2017-18 to 2021-22. The staff so deployed was earlier being paid from the budgetary provisions, made in the State Budget, for the Department. However, the Government made a token provision of only ₹ 1,000, in the budget of FY 2017-18, towards the salary of the staff deployed in the Board. The Department clarified (June 2017) to the Board that the salaries of the deployed staff were to be met from the cess fund. Accordingly, a sum of ₹ 84.63 lakh was paid to them, for the months from March 2017 to September 2018. For the subsequent periods, their salaries were again paid from the budgetary provision of the Department. Though the Labour Commissioner-cum-Secretary of the Board requested (February 2021) the Department for reimbursement of ₹ 84.63 lakh, the same had not been recouped, as of April 2023.

The L&ESI Department stated (April 2024) that the amount would be deposited in the accounts of the Board.

- **Payment of service charges to the training providers:** The Board implemented a GoI scheme (November 2014), namely, Recognition of Prior Learning (RPL), for imparting training on building and other construction related works to the BOC workers. As per the scheme

guidelines, a worker was to be given ₹ 5,000, for purchase of toolkits (₹ 4,000) and safety equipment (₹ 1,000). The Board had engaged (FY 2014-15) six training providers²⁵ for imparting this training. Two training providers, namely, M/s Labour Net Services India Private Limited and M/s G&G Skills Developers Private Limited, proposed distribution of toolkits and safety equipment, to these workers, in addition to imparting training. In the MoU signed (January 2015) with the M/s Labour Net Services India Private Limited, it was provided that the training provider would be paid a service charge of 12.5 *per cent* of the cost of the toolkits and safety equipment, that were to be distributed among the trainees. However, no such clause was included in the MoU signed (March 2015) with M/s G&G Skills Developers Private Limited. In accordance with the terms of the MoU, M/s Labour Net Services India Private Limited was paid ₹ 17.02 lakh, towards service charges for distribution of toolkits and safety equipment, worth ₹ 1.36 crore, distributed during FY 2018-19. As toolkits and safety equipment were to be provided to the workers, without incurring any expenditure over and above the cost of the equipment, as per the guidelines, payment of service charges constituted inadmissible expenditure. Thus, inclusion of a clause for payment of service charges, in the MoU with only one, out of the two firms which had agreed to distribute the same, lacked justification. Thus, inclusion of such a clause, amounted to extension of undue favour.

The L&ESI Department stated (April 2024) that a sum of ₹ 2.21 crore had been recovered from M/s Labour Net Services India Pvt. Limited towards excess payment of service charges, in pursuance of the observations (February 2019) of Audit. The reply was not tenable in view of the fact that after the said Audit observation, further excess payment of ₹ 17.02 lakh had been made to the same training provider, which had not been recovered.

2.1.9.6 Excess payment to the training providers

The Ministry of Labour and Employment intimated (7 October 2014) all States that, a scheme, namely “Recognition of Prior Learning (RPL) for construction workers”, had been formulated, to improve their skills and productivity. The training cost, as per the guidelines provided by the GoI, was ₹27.50 per hour per worker, with a provision of enhancement of the training cost, of the previous financial year, by 10 *per cent*. Later, GoI clarified (28 November 2014) that the training cost would be at the rate of ₹27.50 per hour per worker and would be increased by ₹2.50 at the beginning of each financial year²⁶. The Board, however, submitted (December 2014) a draft MoU, to be signed with the training providers, to the L&ESI Department, for approval for providing the training cost at ₹ 27.50 per hour per worker, to be increased by 10 *per cent*, at the beginning of every financial year, instead of ₹2.50. The

²⁵ Labour Net Services India Private Limited; IL&FS Skill Development Corporation Limited; G&G Skill Developers Limited; Bhaskar Foundation; Sushil Bahudesiya Sikshan Sanstha; and O P Jindal Community College

²⁶ 2014-15: ₹ 27.50; 2015-16: ₹ 30.00; 2016-17: ₹ 32.50; 2017-18: ₹ 35.00; 2018-19: ₹ 37.50

Department also approved the erroneous draft MoU. The RPL training was discontinued from October 2018.

A mention had been made, vide Paragraph 2.9 of the Report of the Comptroller & Auditor General of India (General and Social Sector) for the year ended March 2019 on Government of Odisha (Report No. 5 of 2020) that, due to adoption of the pre-revised rate for annual increase of training cost, there had been excess payment of ₹ 7.41 crore, to six training providers. On this being pointed out in Audit, the Department had recovered ₹ 5.94 crore from five training providers. However, ₹ 1.47 crore had not been recovered from one training provider, as of March 2023. The training providers included two training providers, viz., OP Jindal Community College and G&G Skill Developers (P) Limited, from whom ₹ 7.37 lakh and ₹ 1.99 crore, respectively, had been recovered. However, these two training providers, as well as another training provider, were found to have been paid again, at the pre-revised rates, subsequently, resulting in excess payment of ₹ 1.80 crore, as shown in **Table 2.1.15**.

Table 2.1.15: Excess payments made to three training providers

Training provider	Year of training	No. of Trainees	Training Hours	Amount paid	Date of Payment	Hourly training cost, as per the guidelines	Amount due	Excess amount paid
OP Jindal Community College	2017-18	2,882	3,41,840	126,37,751	21.02.2019	35.00	119,64,400	6,73,351
	2018-19	2,054	2,46,480	99,08,983	21.02.2019	37.50	92,43,000	6,65,983
G&G Skill Developers (P) Limited	2018-19	3,666	4,39,120	176,78,232	08.02.2019	37.50	164,67,000	12,11,232
Bhaskar Foundation	2018-19	7,294	8,42,392	470,36,814	08.02.2019	37.50	315,89,700	154,47,114
Total		15,896	18,69,832	872,61,780	-	--	692,64,100	179,97,680

(Source: Records of the Board)

Audit observed that making excess payments to the training providers, even after recovering the excess amounts paid on an earlier occasion, was indicative of scant regard for the financial interests of the Board and also indicates a possible nexus between the training providers and the management of the Board, which merits investigation.

The L&ESI Department stated (April 2024) that an amount of ₹ 6.03 crore had already been recovered from five training providers. The reply is not tenable in view of the fact that the amounts so recovered were of instances, reported in the earlier Audit Report only.

2.1.10 Administration of the Cess Fund

The main source of income of the Board is the cess levied and collected under the BOCWWC Act and the registration fees and contribution fees, received from the registered construction workers, as well as the establishments and the contractors. Audit examined the efficiency in the administration of the Cess Fund, by the Board. The observations of audit, in this regard, are mentioned below.

2.1.10.1 Non-preparation of annual accounts of the Board, since FY 2014-15

Section 27(1) of the BOCW (RE & CS) Act, stipulates that the Board shall prepare an annual financial statement, in such form, as may be prescribed in consultation with the Comptroller and Auditor General of India. As per Section 27(3) of the BOCW (RE & CS) Act, read with Section 19(2) of the CAG's (DPC) Act, 1971, the accounts of the Board shall be audited by the Comptroller and Auditor General of India, annually.

Preparation of the annual accounts of the Board was in arrears, from FY 2014-15 onwards. The annual accounts of the Board, for FY 2013-14, were audited by the C&AG of India, during FY 2017-18. Thereafter, the Board had not prepared annual accounts. Due to pendency in the finalisation of annual accounts, there were discrepancies between the opening and closing balances, as well as non-reconciliation of the bank balance as per the Cash Book and the balance, as per the Bank Pass Book. On being pointed out by Audit, the Board carried out the reconciliation between the figures of the opening Cash balances of a financial year and the closing balances of the preceding financial year, in the Cash Books, for FYs 2017-18 to 2021-22. Reconciliations between the Cash Book and the Bank Pass Book for these years were also done.

As maintenance of financial records and reconciliation of balances among various accounting heads are crucial internal control tools, pendency in preparation of annual accounts can have consequential effect in weakening the internal control systems.

The L&ESI Department stated (April 2024) that the annual accounts would be placed before the forthcoming Board Meeting for approval and the same would be submitted for Audit.

2.1.10.2 Adoption of more than one accounting procedure for receipt of Cess

As per Section 3 of the BOCWWC Act, 1996 and Rule 5 of the Cess Rules, 1998, the proceeds of the cess should be transferred, by such Government office, Public Sector Undertaking, local authority or the cess collector, to the Board, along with the form of challan, as prescribed under the accounting procedures of the State.

The L&ESI Department decided (2008) that all agencies, carrying out execution of BOC works, should deposit cess in the Government account, under the Head of the Account "0230-Labour and Employment-101-Receipts under Labour Laws – 0014 - Collection of fees and Fines - 02190 - Fees realised under the BOCW (RE & CS) Act, 1996 - 02191 - Fees realised under the BOCWW Cess Act, 1996, for the year". However, in July 2013, the Labour Commissioner, who is the Secretary of the Board, instructed (July 2013) deposit of the cess collected, in a designated bank account²⁷.

It is evident from the above that the Board had adopted multiple receipt gateway systems for receipt of cess. In the absence of a uniform system of receipt of Cess by the Board, the possibility of loss of revenue to the Board and the diversion of welfare funds by the cess collecting/ deducting

²⁷ Saving Bank Account at Government Treasury Branch, State Bank of India, Bhubaneswar

authorities, cannot be ruled out. Instances of cess having been deposited in the Government Account but pending remittance to the Board, had come to notice of Audit, as highlighted at *Paragraph 2.1.7.2*.

The Board assured (April 2024) that single point cess collection procedure would be adopted through the Nirman Shramik portal.

2.1.10.3 Non-submission of Utilisation Certificates

The Board, while sanctioning funds for implementation of its schemes/programmes, make a stipulation that the utilising authority is to submit Utilisation Certificate at earliest.

Three welfare schemes, viz. Nirman Shramik Pucca Ghar Yojana (NSPGY), Nirman Shramik Pension Yojana (NSPY) and Education Assistance under Nirman Kusum, were implemented through the SS&EPD Department²⁸, PR&DW Department and DTE&T Department²⁹, respectively. The Board released funds from the Cess fund, in favour of these Departments, for implementation of these schemes. Details of the funds released during FYs 2017-18 to 2021-22, to the implementing Departments for NSPGY, NSPY and Nirman Kusum, are shown in **Table 2.1.16**.

Table 2.1.16: Funds released for NSPGY, NSPY and Nirman Kusum
(₹ in crore)

Financial Year	NSPGY (PR&DW)		NSPY (SS&EPD)		Nirman Kusum (DTE&T)		Total	
	No. of beneficiaries	Amount released	No. of beneficiaries	Amount released	No. of beneficiaries	Amount released	No. of beneficiaries	Amount released
2017-18	2,629	190.00	113	0.15	0	0	2,742	190.15
2018-19	5876	0	195	0.50	4,921	15.00	10,992	15.50
2019-20	9,840	40.00	132	0.50	4,068	0	14,040	40.50
2020-21	1,461	0	11	0	4,255	0	5,727	0
2021-22	0	0	0	0	5,291	10.00	5,291	10.00
Total	19,806	230.00	451	1.15	18,535	25.00	38,792	256.15

(Source: Information furnished by the Board)

As may be seen from **Table 2.1.16**, ₹ 256.15 crore had been released for 38,792 beneficiaries. However, the recipient departments had not furnished any UCs to the Board, as of April 2023. In the absence of UCs, the amount actually utilised by the Departments, could not be vouchsafed in Audit. The Board had, however, not insisted on submission of UCs, along with the beneficiary details.

The L&ESI Department stated (April 2024) that out of ₹ 266.65 crore released for NSPGY, NSPY and Nirman Kusum schemes during FYs 2017-18 to 2022-23, UC for ₹ 246.85 crore had been received. Reminder had been issued to concerned Departments for early submission of UCs for the balance amount.

2.1.10.4 Imprudent management of the cess fund, resulting in loss of interest

In regard to deposit of surplus funds of State Public Sector Undertakings and Autonomous Bodies, the Finance Department, GoO, prepares a panel of banks

²⁸ Social Security & Empowerment of Persons with Disabilities

²⁹ Directorate of Technical Education and Training

every year, on the basis of various parameters³⁰. It had, accordingly, issued (November 2014) an advisory to them, to park their surplus funds in bank accounts, in a manner that these funds fetch a higher rate of interest as compared to the rate offered by other approved banks. The Board, in its 17th Board Meeting (8 July 2015), decided that the surplus funds of the Board were to be invested in six to seven nationalised banks, from the panel of banks, approved by the Finance Department, providing higher rates of interest. The Board also decided that the funds which had already been invested, would be withdrawn for re-investment, only on maturity.

On scrutiny of the investment of surplus funds, by the Board, during FYs 2017-18 to 2021-22, Audit noticed that the Board had selected banks for investment of its surplus funds, without calling for quotations from the empanelled banks, in regard to the rates of interest offered by them, on term deposits of varied terms. In regard to two instances of short term deposits, Audit noticed the following:

- The Board had invested ₹31.34 crore in the Industrial Development Bank of India (IDBI), Bhubaneswar, on 22 October 2021, for one year, with interest at the rate of 3.31 *per cent* per annum. On the same date, however, the rate of interest offered by Bank of India, Bhubaneswar, was 5 *per cent*, for the same tenure of investment. Had the funds been invested in the Bank of India, instead of IDBI, the Board could have earned an extra amount of ₹52.96 lakh, towards interest, as on 21 October 2022.
- The Board had invested ₹9.50 crore, on 4 October 2021, in the Canara Bank, Bhubaneswar, at 3.65 *per cent*, for one year, while, on the same date, the rate of interest, offered by the Indian Overseas Bank (IOB), Bhubaneswar, was 5.15 *per cent*. Had the funds been invested in the Indian Overseas Bank, instead of Canara Bank, the Board could have earned an extra amount of ₹14.25 lakh, towards interest, as on 3 October 2022.

As such, due to the imprudent decisions of the management, in regard to the investment of surplus funds, in banks offering lower rates of interest, the Board sustained a loss of ₹ 67.21 lakh.

The L&ESI Department stated (April 2024) that Board had invited quotations from the Nationalised Banks, as per which, the quotation of Canara Bank was the highest, offering rate of interest at 3.65 *per cent* per annum, for the amount above ₹ 2 to ₹ 10 crore and the rate of interest offered by IOB was 2.50 *per cent*. IOB, however, had offered rate of interest at 5.15 *per cent* for amount below ₹ 2 crore. Therefore, fund was invested in the Canara Bank. The reply is not convincing as the entire amount could have been invested in multiple term deposits, with sum of ₹ 2 crore or less in each, which could have fetched more interest on investment.

³⁰ Credit-Deposit ratio, achievement under Annual Credit Plan, Branch Network, ratio of rural bank branches to total branches, priority sector advances, *etc.*

2.1.10.5 Avoidable liability towards income tax

As per Section 10 (46) of the Income Tax Act, 1961, specific income of a body or authority or/ Board or Trust or Commission, established or constituted under any Central or State Act, or by the Central or State Government, with the objective of regulating or administering any activity, for the benefit of the general public, would be exempted from income tax, subject to the condition, that the said entity is not engaged in any commercial activity.

The OBOCW WB is a Board, constituted under Rule 249 of the OBOCW (RE & CS) Rules, 2002, read with Section 18 of the BOCW (RE & CS) Act, 1996. The said Act is a Central Act, enacted by Parliament, to regulate the employment and conditions of service of the BOC workers and provide for their health, safety and other welfare measures. Under Section 60 of the above Act, the Central Government gives directions to the Board, from time to time, to carry out the provisions of the Act. Revenue, in the form of cess, registration fees and annual contribution of beneficiaries, was earned and deposited in the Board's bank account. As such, the Board has been acting towards the welfare of BOC workers and is not a profit-making organisation. The Board is, accordingly, required to file a return, under Section 10(46) of IT Act, 1961, for obtaining a tax exemption certificate, in order to avail exemption from paying income tax.

Scrutiny of files and information, furnished by the Board, revealed that TDS of ₹ 20.46 crore was deducted by banks, on the cess received from the Establishment/ Employers and interest earned on the investment of Cess funds, during FYs 2014-15 to 2018-19, as shown in **Table 2.1.17**.

Table 2.1.17: Amount of TDS, deducted during FYs 2014-15 to 2019-20

Assessment Year	Amount of TDS (₹ in crore)
2015-16	15.58
2016-17	2.08
2017-18	1.81
2018-19	0.98
2019-20	0.01
Total	20.46

(Source: Records of the OBOCW WB)

It was noticed that the Board had never filed income tax return (ITR), for getting exemption from paying income tax as the interest accrued on investment of cess fund, under Section 10(46) of the IT Act, 1961. The payment of income tax of ₹ 20.46 crore, could have been avoided, had the Board obtained an IT exemption certificate from the Income Tax Department, by filing ITRs for each of the assessment years.

The L&ESI Department stated (April 2024) that the IT return for the Assessment Years 2016-17 to 2019-20 had been filed, claiming refund of TDS deducted by the banks.

Recommendations:

10. The Board may adopt a professional approach in administering the Cess Fund, by timely preparation of annual accounts, after carrying out the required checks and balances, such as reconciliation of figures between various accounting heads.
11. The Board may strive to secure income tax exemption certification from IT authorities, to save avoidable payment of income tax.

2.1.11 Human Resource Management

As per Section 19 of the BOCW (RE & CS) Act, 1996, read with Rule 261 of the OBOCW (RE & CS) Rules, the Board may, with the prior approval of the State Government, appoint an officer of the Labour Directorate, not below the rank of Joint Labour Commissioner / Deputy Labour Commissioner / Assistant Labour Commissioner, on deputation basis, as the Secretary of the Board. The Board was to utilise the services of the officer and the other staff of the State Labour Directorate, for the due discharge of its functions, at both the headquarters and field levels, in addition to their duties. The Board could also appoint its own staff, if and when, staff spared by the Department was found to be deficient or otherwise unsuitable. A senior officer, belonging to the Odisha Financial Service Cadre, could be deputed to the Welfare Board, to look after the financial matters of the Board. The Supreme Court also issued directions (January 2010) to all the States, for the formation of a Welfare Board, with adequate full-time staff, within three months, from the date of issuance of the order.

2.1.11.1 Inadequate staff strength

The main functions of the staff of the Board were administration and investment of funds; registration of establishments and workers; formulation of schemes and ultimate disbursement of benefits to the beneficiaries; conducting inspections of establishments; assessment of cess; survey and inspection of work sites; ensuring implementation of safety measures; and overall enforcement of the provisions of the Act. Audit noticed that the persons-in-position (PIP), in the enforcement cadre of the State, were inadequate, as of March 2022, in comparison to the sanctioned strength (SS), as shown in **Table 2.1.18**.

Table 2.1.18: Sanctioned strength and persons-in-position for functioning of the Board

Sl. No.	Post	SS	PIP	Contractual employees, out of PIP	Vacancy	Percentage of vacancy
1	Joint Labour Commissioner	10	9	0	1	10
2	Divisional Labour Commissioner	45	12	0	33	73
3	District Labour Officer	63	33	0	30	48

Sl. No.	Post	SS	PIP	Contractual employees, out of PIP	Vacancy	Percentage of vacancy
4	Assistant Labour Officer	372	50	9	322	87
5	Rural Labour Inspector	47	46	46	1	2
Total		537	150	55	387	72

(Source: Information provided by the L&ESI Department)

As may be seen from **Table 2.1.18**, as against the SS of 537, the PIP was only 150 (28 per cent) and 387 (72 per cent) posts were laying vacant, in various cadres, as of March 2022.

2.1.12 Inspection and Monitoring

Audit noticed various lapses in the Inspection and Monitoring activities of the Board, as discussed below:

- Shortfall in the conduct of Board meetings:** In terms of Rule 251 of the OBOCW (RE & CS) Rules, 2002, the Board is required to meet once in every four months. Thus, there should have been 15 meetings during FYs 2017-18 to 2021-22, as per the rules. The Hon'ble Supreme Court had directed (February 2012) that the Welfare Board should hold its meetings, at least once in every two months. During FYs 2017-18 to 2021-22, however, only nine board meetings had been held. Due to the shortfall in holding of Board meetings, no targets could be fixed for the registration of establishments, awarding construction works to the contractors/ sub-contractors, carrying out BOC works; and registration of the BOC workers engaged by the contractors in such construction works. Though 13 welfare schemes had been approved in the meetings, coverage of beneficiaries, under the scheme Skill Development, was almost absent.
- Non-constitution of Advisory Committee:** As per Section 4 of the BOCW (RE & CS) Act, read with Rule 8 of the OBOCW (RE & CS) Rules, the State Government was to constitute a committee, called the State Building and Other Construction Workers' Advisory Committee (State Advisory Committee), to advise the State Government on matters, arising out of the administration of the above mentioned Act. Further, as per Rule 9(5) of the said Act, the State Advisory Committee was to be reconstituted after every three years. As per the judgement of the Supreme Court, the State Advisory Committee was to meet twice in a year. It was noted, in this regard, that the State Advisory Committee had been constituted once (in December 2008). However, no meeting was held since the constitution of the Committee. Thereafter, no State Advisory Committee had been constituted and, hence, no meetings had been held. Thus, suitable guidance to the Board, for development of a system for ensuring the registration of establishments, contractors, construction workers; implementation of the Group Insurance Scheme for beneficiaries; and other matters, arising out of the administration of both the Acts, could not be offered. Consequently, poor registration of establishments, contractors and BOC workers; inadequate coverage of beneficiaries under different

welfare schemes; and retention of huge amounts of cess by the cess collecting authorities, etc., were noticed in audit.

- **Non-maintenance of database of Cess returns:** In terms of Sections 4 and 5 of the BOCW (RE & CS) Act, 1996, and Rule 268 of the OBOCW (RE & CS) Rules, 2002, every employer was required to submit a consolidated report, within 15 days of the commencement of the work, containing the particulars of the BOC workers, entitled to be registered, as well as those who had left the office, during the preceding month, specifying the cess due, cess paid and the balance amount payable, if any. The Board had not maintained records on the Cess returns, received during FYs 2017-18 to 2021-22. As such, the Board was not aware of the amount of the cess collected/ deducted by the tender inviting authorities and the work executing agencies, in the State.

2.1.12.1 Non-conduct of Inspection of Establishments

As per Sections 43 and 44 of the BOCW (RE & CS) Act, read with Rule 287 of the OBOCW (RE & CS) Rules, Inspectors, appointed by Government in L&ESI Department, could conduct inspections of any premises/ worksites, to identify the unregistered employers and BOC workers and ensure compliance to any other provisions of the Act or Rules.

Audit noted that no targets of inspections had been fixed for the DLOs. However, as per the Monthly Progress Reports of the four sampled districts, the monthly inspection targets had been fixed by the DLOs for themselves. The targets of inspection, *vis-à-vis* the actual, inspections, as well as the inspection reports prepared, during FYs 2017-18 to 2021-22, are shown in **Table 2.1.19**.

Table 2.1.19: Shortfall in preparation of inspection reports during FYs 2017-18 to 2021-22

District	Target for Inspection	Total inspections conducted	Shortfall in inspections	Inspection reports prepared	Shortfall in preparation of inspection reports
Ganjam	9,970	140	9,830	28	112
Keonjhar	2,940	195	2,745	6	189
Khurda	10,525	47	10,478	0	47
Cuttack	3,070	0	3,070	0	0
Total	26,505	382	26,123	34	348

(Source: Information furnished by the sampled DLOs)

As may be seen from the **Table 2.1.19**, as against the target of 26,505 inspections, only 382 inspections (1.44 *per cent*) had been conducted, during the FYs 2017-18 to 2021-22, resulting in shortfall of 26,123 (98.56 *per cent*) inspections. Besides, out of 382 inspections conducted, the DLOs had prepared only 34 inspection reports. It was noticed that the inspections that had been conducted, were mainly related to enforcement of Acts³¹, other than the BOCW (RE & CS) Act. Though there was a huge shortfall in inspections, an amount of ₹ 2.16 crore³² had been spent by the Board, towards hiring

³¹ Payment of Wages Act, Minimum Wages Act, Child and Adolescent Act, etc.

³² Board Head Office: ₹ 11.51 lakh; Field offices: ₹ 204.92 lakh

charges of vehicles, during FYs 2017-18 to 2021-22. It was noted in this regard that, utilisation of funds from the cess fund, for purposes other than those, directly related to the welfare of the BOC workers, was irregular, in view of the judgement of the Hon'ble Supreme Court, as cited at **Paragraph 2.1.9.4**.

The L&ESI Department attributed (April 2024) inadequate inspection of establishments to shortage of enforcement officers at the district level. It was, however, assured, in the Exit Meeting, that the frequency of inspection would be increased after recruitment of new enforcement officers at district offices.

2.1.12.2 Lapses in the Internal Control System

Audit observed the following lapses in the internal control system of the Board:

- There was absence of any mechanism for registration of all Government Departments/ PSUs/ Autonomous Bodies, inviting tenders and awarding BOC works, as Establishments/ Employers, as also for the contractors carrying out BOC works, as employers.
- The Board had not conducted any survey or estimation, to identify the potential unregistered establishments for registration under the Act.
- There was no system, in existence, for ensuring linkages with the Central Government organisations (Central PSUs, Ports, etc.), to obtain status of their compliance and registration under the BOCW (R&CS) Act.
- There was complete absence of system for monitoring the construction activities in progress in the State and for making use of GIS technology/ mapping, etc., for tracing the BOC works.
- No effective procedure was in place to ensure the registration of BOC workers engaged in the construction sites by the owners/ builders/ private parties in respect of whom building plans had been approved by the local authorities.
- Though the DLOs had received cess proceeds deposited by the Establishments/ Employers/ cess collecting authorities, they had not co-related the cess proceeds with the cess depositing authorities, to trace the BOC works from which these cess proceeds had originated, with a view to ensuring the concerned Establishments/ Employers/ BOC workers, were duly registered with the Board.

Recommendation:

- 12. The Board may strengthen its internal control system, by fixing targets for inspections and identifying the aspects to be inspected. Preparation of Inspection Reports may be ensured and follow-up action may be taken, to ensure that the lapses found during the inspections, are duly addressed.**