

CIRCULAR**Sub : Action to be taken on CAG Audit Paras on public sector undertakings for the year ended 31st March 2018 .. Related to Engineering Projects.**

Performance audit on infrastructure work ongoing/ completed by CIDCO was conducted by Comptroller and Auditor General of India (CAG) for the year ended 31st March 2018. Common Audit findings and the action to be taken by all concern shall be as under:

Sr. No.	Para No.	<i>Audit observations</i>	<i>Action to be taken</i>
1	4.8.4.1	<p><i>Lack of wide publicity to notice inviting tenders</i></p> <p>The GoM directed (October 2013) that for proper publicity of tenders, advertisements for tenders should be published in leading newspapers with highest circulation to enable good response to the tenders. CIDCO adopted (May 2015) the revised policy for advertisement of tenders, wherein, tenders with project cost above Rs. 1 crore had to be released in three newspaper, out of which, one should be in a leading newspaper at the national level. CIDCO also decided that in the case of major projects like NMIA project and NMMR project, advertisements had to be published in leading national as well as in international publications.</p> <p>Audit observed that in 16 tenders with estimated tender cost of Rs. 50 crore and above, advertisements were not released in leading newspapers at the national level in violation of the laid down guidelines. The advertisements were released in Mumbai edition of English and in vernacular newspapers. Further, global tenders for projects like NMMR and NMIA projects were not published in any international publication. This resulted in poor response to the tenders and lack of competition as only two or three were received against 10 tenders.</p> <p>CIDCO stated that the advertisements were published in leading English and regional newspaper and were also uploaded to their website. CIDCO further stated that e-bid notice would henceforth be published in newspaper having international circulation.</p>	<p>In case of Global Tenders and tenders having high project cost like Airport, Metro etc., PRO is requested to publish the NIB in appropriate leading newspapers at National / International level with highest circulation in its nationwide edition as well as International publication for proper publicity of tenders as per the prevailing policy approved by the board for release of Advertisement/tenders in Newspapers.</p> <p>In case of special projects/works depending upon the nature of work / project and its magnitude, concern Executive Engineer shall request PRO for the specific level and language of Newspaper/ publication (National / International) required if any. However PRO shall examine the suggestions of EE in line with existing policy with regard to Advertisement and take appropriate action accordingly.</p> <p>PRO shall also take review of the existing policy as well as Govt. Of Maharashtra guidelines regarding publication of tenders and do the needful for revision in existing policy, if necessary in line with audit observations to avoid recurrence of audit observations in future.</p>


Sr. No.	Para No.	<i>Audit observations</i>	<i>Action to be taken</i>
2	4.8.5	<p><i>Internal control and monitoring</i> Internal control is concerned with evaluating and improving the effectiveness of risk management, control and governance processes in an organization. It is, thus, imperative that the progress of the works is reviewed periodically by CIDCO and corrective actions are taken promptly. Besides, payments to contractors and consultants also need to be strictly governed as per the contract conditions to avoid granting of any undue favour to the contractors and consultants.</p> <p>CIDCO has not implemented Information Technology (IT) based monitoring system for engineering works and projects, which would have facilitated the Management to receive real time project related information to enable them to take timely and appropriate action on critical issues.</p> <p>CIDCO appraised that it was in the process of implementing IT based monitoring system.</p>	<p>CIDCO has appointed M/s KPMG as Programme Monitoring Consultants for capital projects costing more than INR 100 Cr. by using appropriate Information Technology (IT) based monitoring systems in order to take timely and appropriate action on critical issues promptly. (Ref: Circular No. CIDCO / MD / 334 / 3007 dt.13.11.2020)</p> <p>All EEs shall co-ordinate with M/s KPMG and provide the required documents of their capital projects more than INR 100.00 Cr from time to time for internal control and monitoring.</p>
3	4.8.6.4	<p><i>Non-renewal of insurance cover by the contractors</i> As per the contract conditions, the insurance policies for works and contractor's equipment known as contractor's All Risk (CAR) insurance policy was to cover the period from the date of commencement of work at the site until the date of issue of the taking over certificate. Further, it was also prescribed that all the insurance policies were to be kept alive till expiry of defect liability period prescribed in the contract. Audit observed that in seven contracts with a contract value of Rs. 192.02 crore, insurance policies covering an amount of Rs. 204.30 crore were not renewed by the contractors. Non-renewal of the insurance policies by the contractors resulted in unwarranted exposure to risks related to the contracts and violation of the tender conditions. CIDCO accepted and stated that due care would be taken in future to avoid such eventuality.</p>	<p>All the insurance policies so obtained shall cover entire contract period including extension if any and also till the expiry of the entire defect liability period. In case of additional work if any, contractor shall renew the policies based on revised value of work / contract price from time to time.</p>

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4	4.8.6.5	<p>Non-recovery/renewal of performance security</p> <p>As per the letter of acceptance, the successful bidder was to pay performance security at five per cent of the contract price. Of this, 2.50 per cent was contract deposit (CD) in the form of bank guarantee (BG) issued by nationalized bank and remaining 2.50 per cent was to be recovered as retention money from the payments made to the contractor. Further, the CD obtained in the form of BG was to be kept valid till the issue of taking over certificates to the contractor.</p> <p>Audit observed (August 2018) that CIDCO did not obtain BG amounting to Rs. 1 crore in Five cases as CD on additional works of Rs. 40.12 crore awarded to contractors. CIDCO accepted that CD on additional work was not obtained from the contractor.</p> <p>Audit further observed that in five cases, the BG amounting to Rs. 2.64 crore obtained for CD was not renewed (August 2018) by the contractor and had lapsed even though the taking over certificate was not yet issued.</p> <p>CIDCO accepted and stated that due care would be taken in future to avoid such eventuality.</p>	<p>In case of additional works, if any, the performance security against additional scope of work (Contract deposit @ 2.5% and Retention money @ 2.5%) shall be deposited / recovered through RA Bills from time to time as per Clause No.10.1 of GCC. Total Performance security shall be recovered at 05 %(five percent) of revised value of the work (i.e. contract price)</p>
5	4.8.6.6	<p>Non-issue of taking over certificate and non-preparation of work completion report</p> <p>As per the conditions of contract, the concerned engineers of the Division would issue taking over certificate to the contractor after completion of works in all respects. Preparation of work completion report (WCR) was essential as it gives a complete picture of the actual work executed, amount paid to the contractors and date of commissioning of the asset.</p> <p>Out of the 47 contracts test checked, Audit observed that work in respect of 29 contracts were completed out of which, the taking over certificate were not issued in eight cases. Further, CIDCO had not compiled the data on pending final bills in case of completed works. In none of the 29 completed works, WCR was prepared by CIDCO.</p> <p>CIDCO accepted and stated that due care would be taken in future.</p>	<p>A. Taking over certificate: On completion of work, taking over certificate shall be issued to the contractor as per clause No. 48.1 of General conditions of contract. This document shall be made mandatory for submission of Final Bill. Contract deposit shall not be released without issuance of Taking over certificate as per clause No. 60.3 (a) of General conditions of contract.</p> <p>B. Pending Final Bills and Work completion report (WCR): After completion of work, Work completion Report (WCR) shall be prepared and submitted along with Final Bill. Henceforth Final bill shall not be released without Work Completion Report (WCR). In case of earlier completed works, where the final bill is still pending, concern EE shall take review of all pending final bills and process the same on priority along with WCR.</p>

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6	4.8.6.7	<p>Non-payment of appropriate stamp duty</p> <p>As per the Maharashtra Stamp (Amendment) Act. 2006 (Act.) the stamp Duty (SD) to be levied on the agreements for works contracts up to Rs. 10 lakh was Rs. 100. Further, SD to be levied for agreements for works contracts exceeding Rs. 10 lakh was Rs. 100 plus Rs. 100 for every one lakh in excess of Rs. 10 lakh or part thereof, subject to maximum of Rs. five lakh. The Act was amended (April 2015) and the SD to be levied was Rs. 500 for agreements up to Rs. 10 lakh and for agreements exceeding Rs. 10 lakh was Rs. 500 <i>plus 0.1 per cent</i> of the amount above Rs. 10 lakh subject to maximum of Rs. 25 lakh. Audit observed that in 11 cases, the SD paid by the contractors was not as per the prescribed rate, resulting in short-payment of Rs. 14.99 lakh to the exchequer. Out of the 11 cases mentioned above, in seven cases, the contractors were awarded additional works over and above the original contract for which no formal agreement was entered into resulting in non-payment of SD.</p> <p>CIDCO accepted and stated that due care would be taken in future.</p>	<p>Stamp duty shall be paid on contract agreement on Accepted price at the rate prescribed as per Maharashtra Stamp Act 2006 and its amendment from time to time. In case of additional scope of work or variation, if any, concern EE shall execute the supplementary agreement for additional scope of work for payment of appropriate stamp duty as per the Maharashtra Stamp Act and its amendment from time to time.</p> <p>Henceforth, the payment due to the contractor against additional scope of work shall not be released unless execution of supplementary agreement with appropriate stamp duty.</p>

All Executive Engineers are hereby requested to note the above audit findings / directives and take immediate necessary action in this regard for all ongoing works to avoid recurrence of audit observations as above in future. Necessary condition shall be incorporated under 'Special conditions of contract' for the bids to be invited henceforth.

This circular is issued as per approval of CE(NM), CE(NMIA), CE(SP) and consent of CAO & PRO.


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