

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

NINETY SECOND REPORT

(Presented on 30th June, 2015)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2015**

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

NINETY SECOND REPORT

On

**Paragraphs relating to Public Works Department contained in the
Report of the Comptroller and Auditor General of India
for the year ended 31 March, 2011 (Civil)**

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Shri G. P. Unnikrishnan, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on its behalf present the 92nd Report on paragraphs relating to Public Works Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Civil).

The Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Civil) was laid on the Table of the House on 22nd March, 2012.

The Committee considered and finalised this Report at the meeting held on 3rd June, 2015.

The Committee place on record its appreciation of the assistance rendered to them by the Accountant General in the Examination of the Audit Report.

Thiruvananthapuram,
30th June, 2015.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

REPORT

PUBLIC WORKS DEPARTMENT

AUDIT PARAGRAPH

Excess Payment to a Contractor due to Incorrect Application of unit rate

Erroneous calculation of rebate at the time of payment on a road work under the Central Road Fund Scheme resulted in excess payment of ₹ 65.03 lakh to a contractor.

The Superintending Engineer (SE), National Highways, South Circle, Thiruvananthapuram awarded (August 2008) an item of work 'widening and improvement of riding quality of a major district road'* in Thiruvananthapuram District under the Central Road Fund Scheme for an amount of ₹ 10.74 crore to a contractor. The contractor was paid (September 2009) ₹ 11.65 crore on completion of the work.

The successful bidder committed an error in recording the unit rate for 'providing and laying of bituminous macadam (BM)', an item of work in the Bill of Quantities (BoQ). Instead of the actual rate of ₹ 3,122.355/m³ for the above item of work, ₹ 7,500/m³ was indicated in the BoQ. However, the total amount quoted for the estimated quantity of 6,853m³ for the above item was shown correctly as ₹ 2.14 crore reckoned at the actual rate of ₹ 3,122.355/m³. The grand total of his offer of ₹ 10.74 crore was also arrived at by taking the amount for the above item as ₹ 2.14 crore. The contractor pointed out the error in writing at the time of opening of the financial bid. However, the SE, instead of accepting the correct rate intimated by the contractor, executed the agreement by assuming the erroneous unit rate of ₹ 7,500/m³ and arrived at the item total for 6,853m³ of BM and the grand total of the bid as ₹ 5.14 crore instead of ₹ 2.14 crore and ₹ 13.74 crore instead of ₹ 10.74 crore respectively. The excess of ₹ 3 crore† on account of the above modification was depicted as rebate and finally the total of his offer was arrived at ₹ 10.74 crore. The procedure followed by the SE was incorrect as the contract provided for a much higher unit rate of ₹ 7,500/m³ of BM instead of ₹ 3,122.355/m³ and further it resulted in a complicated solution to a simple issue. It was seen that on actual execution, the quantity of 6,853 m³ for the item 'providing and laying of BM' increased to 8,926.17 m³.

* Neyyattinkara-Aruvipuram-Kattakkada-Neyyar Dam Road.

† {(7500-3122.36) x 6853 m³}

A supplemental agreement was executed for the revised quantity without effecting the correction in the rate intimated by the contractor. When the payment was made, the department deducted only ₹ 3.26 crore* as rebate by calculating the rebate on the total payment of ₹ 14.91 crore on a proportionate basis. However, the actual amount to be deducted worked out to ₹ 3.91 crore†. This resulted in excess payment of ₹ 65.03 lakh to the contractor.

Failure of the SE to adopt the correct rate for 'providing and laying of BM' in the contract agreement and adoption of a convoluted mechanism to rectify the error, facilitated the excess payment to the contractor.

The matter was referred to the Government in June 2011. Their reply had not been received (October 2011).

[Audit Paragraph 3.2.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Civil).]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

The Committee understood that the approved bidder had recorded the unit rate for a work in the bid as 7500/m³ instead of the actual cost of ₹ 3,122.355/m³ which resulted in the erroneous calculation of rebate and excess payment of ₹ 65.03 lakh to contractor. In this regard the Superintending Engineer (NH), PWD submitted that rebate was granted as per clause 26 in the instructions to Bidders in the standard Bidding document. She continued that Accountant General's objection was about the calculation of rebate but clause 27.2A provided to treat the increase due to corrections as rebate.

2. The Superintending Engineer (NH), PWD added that the letter pointing out the error was received after opening the tender and hence could not accept. In the meantime the second lowest bidder approached the High Court and the court directed to finalise the tender according to rule. The Government as per the direction of the High Court ordered the Chief Engineer to settle the issue. Though the second lowest bidder expressed his willingness to take up the work at ₹ 10.57 crore by reducing the rate for 3 items, the proposal was rejected as

* Total contract amount as worked out by the SE : ₹ 13.74 crore

Rebate allowed by the SE : ₹ 3 crore

Final amount payable as per supplemental agreement : ₹ 14.91 crore

Rebate deducted : $14.91 \times \frac{3}{13.74} = ₹ 3.26$ crore

13.74

† ₹ 4,377.64 (Difference between ₹ 7,500/m³ and the actual rate of ₹ 3,122.36/m³) x 8926.17m³ (quantity executed) : ₹ 3,90,75,559 = ₹ 3.91 crore.

the contract was for the whole items, the amount could not be arrived at by reducing the rate for individual items. Modification, withdrawals etc. on offer of bidders request, after opening competitive tenders could not be permitted.

3. The Committee was at a dismay to note that the Superintending Engineer instead of accepting the corrected rate intimated by the contractor executed the agreement, assuming the erroneous unit rate. It opined that even if the contention of the department that they have acted as per bid rules it could not convince why the department had not calculated the rebate considering the variation in quantity. The Superintending Engineer, Public Works Department replied that while calculating the rebate, the difference of ₹ 3 crore was considered as 21.84% taking into account of the total amount quoted by him. The Accountant General's observation was based on the assumption of unit rate. The Committee observed that rebate was granted to reduce the total figure, but it resulted in the excess payment of ₹ 65 lakh.

4. The Committee strongly expressed its displeasure over the reply furnished by the Government and directed the Public Works Department to be more vigilant in dealing such cases in future.

Conclusion/Recommendation

5. The Committee considers that it is not tenable that the department had incurred an excess expenditure to the tune of ₹ 65 lakh even after a rebate was granted to reduce the total figure. It opines that the officials responsible should not be left scot-free since they had calculated the rebate for the difference from the actual amount due to erroneous quoting. The Committee expresses its displeasure over the reply furnished by the department and directs the Public Works Department to be vigilant in avoiding such delicacies.

AUDIT PARAGRAPH

Kerala Road Fund Board—Deficiencies in the execution of Thiruvananthapuram City Road Improvement Project

The Thiruvananthapuram City Road Improvement Project remained incomplete even after seven years of award of a contract to the Thiruvananthapuram Road Development Company Limited and the Government had incurred arbitration liability of ₹ 125 crore (as against the estimated cost of ₹ 140 crore) towards cost escalation, idling of resources, delay in handing over land, etc.

The Kerala Road Fund Board (KRFB) awarded (March 2004) the Thiruvananthapuram City Road Improvement Project to the Thiruvananthapuram Road Development Company Limited (TRDCL), to be implemented as a

Public Private Partnership (PPP) Project under the Build-Operate-Transfer (BOT) Scheme. The estimated cost of the project was ₹ 140 crore. As per the negotiated bid, the payment was to be made to TRDCL as six-monthly annuities of ₹ 17.75 crore for 15 years starting from 16th November, 2006. The project was to be completed by November 2006. The scope of the work included widening of 12 corridors of city roads for a total length of 42 km., geometric improvement, strengthening of road surfaces, improvement of junctions, construction of flyovers, etc. The project remained incomplete even after seven years of award of the work.

As per the agreement signed between KRFB and TRDCL in March 2004, KRFB was to handover an encumbrance-free site to TRDCL between 15th April, 2004 and 30th December, 2004. Smooth execution of work was critically dependant on a free site. Given a tight schedule of 30 months for execution of the project, the problems relating to an encumbrance-free site such as litigations, procedural formalities and disputes should have been sorted out before award of the work. In recognition of the complexity of providing a clear site, provisions of the Public Works Department manual stipulate that the land for starting the work in time should be in possession for being handed over before the award of the work. Given the merit in this stipulation, KRFB should have adopted this procedure. This was not done.

In a Government Order of 1985, it was clearly recognized that incorporation of an arbitration clause could seriously jeopardise the Government's interest due to risk of misuse and consequent loss to the Government. In spite of this, the KRFB included the arbitration clause in the original agreement. Any delay in execution of a project has serious adverse implications by way of claims towards idle labour, idle machinery and cost escalation. These major risks were known at the time of calling for the bids. While there was a provision in the agreement for arbitration, the agreement executed in March 2004 did not provide for any formula regarding computation of claims towards idle labour and machinery, cost escalation and prescribe a verification mechanism for daily count of labour and machinery.

KRFB failed to provide encumbrance-free land as per the schedule mentioned in the contract and TRDCL stopped (November 2006) the work and demanded compensation (₹ 120 crore) towards cost escalation, extended stay, interest during construction etc. A preliminary assessment of the claims made by TRDCL was also done by M/s KITCO, a Government of India Public Sector

Undertaking and the value of compensation to be paid to TRDCL was assessed as ₹ 21 crore. While executing the resumption agreement (January 2008), it was agreed to resolve the above compensation claim through the arbitration procedure. TRDCL demanded an amount of ₹ 267.01 crore as compensation before the Arbitral Tribunal.

TRDCL's claim consisted of four parts. KRFB submitted before the Tribunal that all the claims made by TRDCL were not legally maintainable and factually sustainable and they were not liable to pay the amount claimed by TRDCL. It was prayed that the claims may be rejected. Later KRFB agreed to a non-speaking* award from the Tribunal and an amount of ₹ 125 crore was awarded in favour of TRDCL.

Having incorporated an arbitration clause in departure from the practice followed in the State, there was failure to clearly specify how compensation towards idle labour, idle machinery, cost escalation would be computed. This was thus a major lacuna in the original agreement. The monitoring mechanism was also flawed as they failed to maintain a day-wise log book of idle labour and machinery. These defects coupled with award of the project before ensuring all problems relating to providing of clear site to TRDCL which were not sorted out resulted in a massive contractual liability of ₹ 125 crore which was very close to the initial estimated cost of the project of ₹ 140 crore.

The Government replied (September 2011) that it had accepted the non-speaking award mainly to reduce the prolonged process involved in the arbitration and to avoid cost escalation that may arise because of this process. The reply is silent about the deficiencies in the original agreement and lapses relating to maintenance of log book during execution of the project.

As per the original agreement, the annuity payment was to start only after completion of the project. In contravention of this contract clause, KRFB made an upfront payment of ₹ 15 crore (in two instalments). A resumption agreement was also executed with TRDCL in January 2008 with a fresh annuity payment starting from January 2008, though the project had not been completed. The Government stated (September 2011) that measures taken by KRFB contributed to the speedy implementation of the project, which eventually became beneficial to the public at large. The argument of Government is not acceptable as the decision of the Government was in violation of the original agreement and was clearly a favour to TRDCL.

* An award made without giving reasons.

[Audit Paragraph 3.4.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2011 (Civil).]

Notes furnished by Government on the above audit paragraph is included as Appendix II

6. Regarding the audit paragraph, the witness, Chief Executive Officer, Kerala Road Fund Board replied that a stretch of about 42 km. road development was envisaged to complete under Thiruvananthapuram City Road Development Project and nearly 40 km. of road construction was completed. He continued that the construction of Thakaraparambu flyover and extension work near Pattoor Cemetary were left to be completed and was optimistic that those works could be finished by December 2014. He informed that it was the first project of its kind under Road Development Project in India, which got appreciation from the Union Ministry of Urban Affairs. Regarding the incorporation of the arbitration clause, the witness, Chief Executive Officer replied that the PPP Projects agreements were undertaken as per the guideline of the Finance Ministry of the Government of India and the guidelines stipulate to include arbitration clause as a dispute solution mechanism. He added that the award of arbitration clause in this case was inspected by Government and a Committee including Chief Secretary, Finance Secretary and Law Secretary had approved the same.

7. To a query regarding the delay in completion of project, the Chief Executive Officer, Kerala Road Fund Board answered that at the time of Commission of the Project in 2004, Revenue Department and the nodal agency TRIDA were assured to handover the land within 9 months but it was not done in time.

8. The Committee remarked that the Public Works Department could not left Scot-free for the inordinate delay in handing over the site and it reminded that it was the responsibility of the department to make land available for the construction of road and the department did not act according to the rule that work should be tendered only if hindrance free land is available. The Committee was at a loss to note that the inefficiency of the Public Works Department resulted in a massive contractual liability of ₹ 125 crore to the exchequer. The Committee directed the Public Works Department to take all effective measures to avoid such lapses in future. It decided to recommend the Public Works Department to ensure that before awarding any work hindrance free land should be made available.

Conclusion/Recommendation

9. The Committee was at a loss to note that the inefficiency of the Public Works Department in handing over the land for the construction of road resulted in a loss of ₹ 125 crore to the exchequer. It directs the Public Works Department to take all effective measures to avoid such lapses in future. It recommends the department that hindrance free land should be made available as per the rule.

10. The Committee desires to have details of the present status of the project.

AUDIT PARAGRAPH

Wasteful Expenditure on Repair Works

The department carried out surface renewal works on a State Highway immediately before the execution of heavy maintenance work under the Kerala State Transport Project, which resulted in wasteful expenditure of ₹ 73.19 lakh.

The Chief Engineer (CE), Kerala State Transport Project (KSTP) instructed (May 2008) the CE, Roads and Bridges, Public Works Department that only ordinary repairs should be carried out on the Palakkad-Meenakshipuram Road (36.30 km.) as the road had been selected for immediate heavy maintenance work. However, the Executive Engineer (EE), Roads Division, Palakkad and the Assistant Executive Engineer (AEE), Roads Subdivision, Palakkad arranged to execute chipping carpet works* along 10 reaches† of the above road.

It was seen in audit that agreements for all these works were executed after receipt of the communication from the CE, KSTP and the works were undertaken during the period from 27th May to 24th December, 2008. A total expenditure of ₹ 73.19 lakh was incurred on the repair works just before handing over the site to KSTP on 26th December, 2008. Meanwhile, KSTP invited (August 2008) tenders and awarded (December 2008) a contract for heavy maintenance works. The work was commenced in December 2008 and completed in February 2011. Thus the execution of surface renewal works immediately before the execution of heavy maintenance works by KSTP on the road resulted in wasteful expenditure of ₹ 73.19 lakh.

The EE stated (November 2009) that due to heavy rain, the bituminous surface of the road had been damaged considerably and the maintenance work was carried out to make the road traffic-worthy. The reply is not acceptable as

* Work intended to restore the road surface close to its original condition.

† Five reaches each having less than 1500 m. by EE and five reaches each having a length of 250 m. by AEE.

there were specific instructions by the CE, KSTP to undertake ordinary repair works only. Instead, the department carried out surface renewal (chipping carpet) works.

The matter was referred to the Government in July 2011. Their reply had not been received (October 2011).

[Audit Paragraph 3.4.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Civil).]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

11. Regarding the Audit query, that by carrying out the repairing works of Palakkad-Meenakshipuram State Highway before the commencement of KSTP the department incurred a wasteful expenditure of ₹ 73.19 lakh, the Chief Engineer (Roads and Bridges) apprised that maintenance was done in 2008-09 as per the direction laid down by the Public Works Department 12th Finance Commission. The KSTP require minimum four months time to complete its procedures to start a project and the road could not be left unrepaired for such a long time the mere reason that heavy maintenance works were envisaged to be carried out. So the expenditure incurred in this regard could not be considered as an infructuous expense. The Committee evaluated the stance of the department as practical. So it urged that Public Works Department that execution of such interim works should be done only in exigencies and decided to recommend to examine the feasibility of setting up departmental co-ordination between National Highway Authority and State PWD in the state level to monitor maintenance of National Highways.

Conclusion/Recommendation

12. The Committee urges the Public Works Department that execution of interim repair works of major projects should be done only in exigencies. It emphasizes on the need of co-ordination between Public Works Department and National Highway Authority in the state level to monitor the maintenance of National Highways. It suggests the Public Works Department to take steps in this regard.

AUDIT PARAGRAPH

Wasteful Expenditure

Execution of a work without proper investigation and delay in rearranging the balance work rendered the foundation work of a bridge already executed at ₹ 52.39 lakh wasteful and also created additional financial commitment of ₹ 74.03 lakh due to change in design of the foundation.

Administrative sanction for the work 'construction of Muttakavu Bridge in Kollam-Ayoor Road' was issued in March 1996 for ₹ 1.05 crore and the work was awarded (October 1998) to the Kerala State Construction Corporation Limited (KSCC) for an accepted probable amount of contract (APAC) of ₹ 1.89 crore. KSCC could not complete the work within the stipulated date (19th January, 2000) of completion or within several extensions given up to 30th June, 2003. KSCC completed only 10 per cent of the work and abandoned it after casting piles and carrying out a portion of pile driving work (cost of the work done: ₹ 52.39 lakh). Hence, the Superintending Engineer (SE), Roads and Bridges, South Circle, Thiruvananthapuram terminated (March 2004) the work at the risk and cost of the Corporation. However, the risk and cost liability of KSCC had not been assessed even after the lapse of seven years. The estimates were revised and administrative sanction for the revised estimates was issued (March 2009), after a delay of five years. The SE executed an agreement (October 2009) with another contractor for the balance work at an APAC of ₹ 3.55 crore.

The revised estimate was prepared based on the earlier design of the bridge of pre-cast pile foundation. While driving down of piles was attempted on resumption of the work, the pile heads were getting damaged due to the deterioration of the old pre-cast piles and the peculiar soil condition and the continuation of piling was found to be impossible. Hence, the design of the foundation had to be changed from pre-cast piles to bored *in situ* piles after detailed investigation. As a result, the estimated cost of the balance work increased to ₹ 4.29 crore. The execution of the balance work was in progress.

Thus the failure of the department to design a foundation structure suitable to the soil structure based on proper investigation and the inordinate delay in rearranging the balance work rendered the expenditure of ₹ 52.39 lakh on the work already executed wasteful and created additional commitment of ₹ 74.03* lakh at the estimated rates.

The matter was referred to Government in July 2011. Their reply had not been received (October 2011).

[Audit Paragraph 3.4.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2011 (Civil).]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

13. Regarding the audit objection, the Committee observed that PWD Roads Wing was deficient in conducting scientific study on the roads in our State. It expressed its displeasure over the inertia of the department in taking

* ₹ 429.34 lakh—₹ 355.31 lakh.

any rectifying measures even after the faults were pointed out by Audit. The witness, Chief Engineer (Roads and Bridges) deposed that even though studies were being conducted in this regard; it could not be fully implemented due to some inadequacies. He supplemented that procedural delay was the reason for incurring excess expenditure and explained that the construction of Muttakavu Bridge in Kollam-Ayoor Road was awarded to KSCC and was envisaged to complete by pre-cast system. But KSCC had abandoned the work after casting piles. So the work had to be re-tendered at revised estimate, naturally at latest rate. He continued that five years after when the work was re-arranged the circumstances demanded further piling for 4 metres. But due to the elasticity of clay further piling was impossible and change of design became inevitable. He concluded that the work had been completed and bridge opened for traffic in May 2013. The Committee accepted the explanation of the department.

Conclusion/Recommendation

14. The Committee was disappointed to note that the roads division of the Public Works Department was not capable of conducting scientific study on the roads. It reprimands the department for not taking any remedial measure even after lapses were pointed out by Audit. The Committee directs the Public Works Department to strengthen the roads division so that it could conduct scientific study on the maintenance of roads.

Thiruvananthapuram,
30th June, 2015.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No.	Para No.	Department concerned	Conclusion/Recommendation
1	5	Public Works	The Committee considers that it is not tenable that the department had incurred an excess expenditure to the tune of ₹ 65 lakh even after a rebate was granted to reduce the total figure. It opines that the officials responsible should not be left scot-free since they had calculated the rebate for the difference from the actual amount due to erroneous quoting. The Committee expresses its displeasure over the reply furnished by the department and directs the Public Works Department to be vigilant in avoiding such delicacies.
2	9	"	The Committee was at a loss to note that the inefficiency of the Public Works Department in handing over the land for the construction of road resulted in a loss of ₹ 125 crore to the exchequer. It directs the Public Works Department to take all effective measures to avoid such lapses in future. It recommends the department that hindrance free land should be made available as per the rule.
3	10	"	The Committee desires to have details of the present status of the project.
4	12	"	The Committee urges the Public Works Department that execution of interim repair works of major projects should be done only in exigencies. It emphasizes on the need of co-ordination between Public Works Department and National Highway Authority in the state level to monitor the maintenance of National Highways. It suggests the Public Works Department to take steps in this regard.
5	14	"	The Committee was disappointed to note that the roads division of the Public Works Department was not capable of conducting scientific study on the roads. It reprimands the department for not taking any remedial measure even after lapses were pointed out by Audit. The Committee directs the Public Works Department to strengthen the roads division so that it could conduct scientific study on the maintenance of roads.

NOTES FURNISHED BY GOVERNMENT

Government of Kerala

Public Works (D) Department

COMMITTEE ON PUBLIC ACCOUNTS (2011-14)

REMEDIAL MEASURES TAKEN ON THE REPORT OF THE COMPTROLLER & AUDITOR GENERAL FOR THE YEAR ENDED ON 31.03.2011 (CIVIL)

Para No.	Recommendation of the Committee	Action taken by Government												
3.2.5	<p>Excess payment to a contractor due to incorrect application of unit rate</p> <p>Erroneous calculation of rebate at the time of payment on a road work under the Central Road Fund Scheme resulted in excess payment of Rs.65.03 lakh to a contractor. The Superintending Engineer (SE), National Highways South Circle, Thiruvananthapuram awarded (August 2008) an item of work widening and improvement of riding quality of a major district road in Thiruvananthapuram District under the Central Road Fund Scheme for an amount of Rs.10.74 crore to a contractor. The contractor was paid (September 2009) Rs.11.65 crore on completion of the work.</p> <p>The successful bidder committed an error in recording the unit rate for providing and laying of bituminous macadam (BM) an item of work in the Bill of Quantities (BoQ). Instead</p>	<p>Ministry of Road Transport & Highways, Government of India has issued Administrative Sanction and the Superintending Engineer, National Highways, South Circle, Thiruvananthapuram has invited tenders for the work "Improvements to Neyyattinkara - Aruvippuram - Neyyar Dam road" under Central Road Fund.</p> <p>The tender was based on the item rates and with approximate quantity to be executed. The Chief Engineer's Tender Committee for Technical Evaluation held on 10.04.2008 had qualified the following two bidders. The financial bids opened on 15.04.2008. The result of opening financial bid is as follows:</p> <table border="1" data-bbox="627 258 813 905"> <thead> <tr> <th>Sl. No.</th> <th>Name of Bidder</th> <th>Amount Quoted (In Rupees)</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>M/s.Sreedhanya Constructions</td> <td>10,73,53,000/-</td> <td>First Lowest</td> </tr> <tr> <td>2</td> <td>Shri.G.Sukumaran, Aswathy Constructions</td> <td>11,62,94,265/-</td> <td>Second Lowest</td> </tr> </tbody> </table> <p>During the scrutiny of the tenders received, an arithmetical mistake was found in the tender from the First Lowest. The quoted amount did not match while multiplying the unit rate with the quantity to be executed for item No.8 Bituminous Macadam. The extract of the tender for the item is as shown below:-</p>	Sl. No.	Name of Bidder	Amount Quoted (In Rupees)	Remarks	1	M/s.Sreedhanya Constructions	10,73,53,000/-	First Lowest	2	Shri.G.Sukumaran, Aswathy Constructions	11,62,94,265/-	Second Lowest
Sl. No.	Name of Bidder	Amount Quoted (In Rupees)	Remarks											
1	M/s.Sreedhanya Constructions	10,73,53,000/-	First Lowest											
2	Shri.G.Sukumaran, Aswathy Constructions	11,62,94,265/-	Second Lowest											

Item No	Item	Quantity	Rate		Amount
			Figures	Words	
8	Bituminous macadam	6853	7500	Seven thousand five hundred only	2,13,97,500/-

of the actual rate of Rs.3,122.355/m³ for the above item. of work, Rs.7,500/m³ was indicated in the BoQ. However, the total amount quoted for the estimated quantity of 6,853m³ for the above item was shown correctly as Rs.2.14 crore reckoned at the actual rate of Rs.3,122.355/m³. The grand total of his offer of Rs.10.74 crore was also arrived at by taking the amount for the above item as Rs.2.14 crore. The contractor pointed out the error in writing at the time of opening of the financial bid. However, the Superintendent Engineer, instead of accepting the correct rate intimated by the contractor, executed the agreement by assuming the erroneous unit rate of Rs.7,500/m³ and arrived at the item total for 6,853m³ of BM and the grant total of the bid as Rs.5.14 crore instead of Rs.2.14 crore and Rs.13.74 crore instead of Rs.10.74 crore respectively. The excess of Rs.3 crore on account of the above modification was depicted as rebate and finally the total of his offer was arrived at Rs.10.74 crore. The procedure followed by the Superintendent Engineer was incorrect as the contract provided for a much higher unit rate of Rs.7,500/m³ of BM instead of Rs.3,122.355/m³ and further it

Clause 26 of the instructions to Bidders in the Bidding documents of the subject tender clearly specifies the mode of operation to be followed for dealing with arithmetical corrections.

Clause 26 - 1 (b) "Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity the unit rate as quoted will govern".

According to the above clause even though there is difference in the amount while multiplying the unit rate and quantity, the unit rate of Rs.7500/- will stand as valid. Thus the quoted amount for the item will become Rs.5,13,97,500/- instead of Rs.2,13,97,500/- and the total quoted amount will become Rs.13,73,53,000/- against Rs.10,73,53,000/- already mentioned in the tender.

Again clause 26.2 of the instructions to bidders of the work deals how to overcome a situation if arisen as mentioned above. Clause 26.2 is as follows:-

(a) "If bid price increased as a result of those corrections, the amount as stated in the bid will be the 'bid price' and the increase will be treated as rebate."

(b) "If the bid price decreases as a result of correction, the decreased amount will be treated as bid price."

"such adjusted bid price shall be considered as binding upon the bidder. If the Bidder does not accept the corrected amount the bid will be rejected and the Bid security will be forfeited."

In this case the Bid price increased by 3 crores due to arithmetical correction. The increase is to be considered as rebate as per the clause 26.2 (a) as mentioned above. The rebate is worked out as 21.84% of the arithmetically corrected amount of Rs.13,73,53,000/- and after rebate the total Bid amount became Rs.10,73,53,000/- as quoted before correction.

<p>resulted in a complicated solution to a simple issue. It was seen that on actual execution, the quantity of 6,853 m³ for the item 'providing and laying of BM' increased to 8,926.17 m³. A supplemental agreement was executed for the revised quantity without effecting the correction in the rate intimated by the contractor. When the payment was made, the department deducted only Rs.326 crore as rebate by calculating the rebate on the total payment of Rs.14.91 crore on a proportionate basis. However, the actual amount to be deducted worked out to Rs.3.91 crore. This resulted in excess payment of Rs.65.03 lakh to the contractor.</p> <p>Failure of the Superintending Engineer to adopt the correct rate for 'providing and laying of BM' in the contract agreement and adoption of a convoluted mechanism to rectify the error, facilitated the excess payment to the contractor.</p> <p>The matter was referred to the Government in June 2011. Their reply had not been received (October 2011).</p>	<p>The Superintending Engineer, National Highways, South Circle, Thiruvananthapuram has entered into the Agreement with the lowest bidder in accordance with the terms and conditions of the tender for the lowest bid price of Rs.10,73,53,000/-.</p> <p>The lowest bidder has also given an under taking as per letter dated 15.04.2008 to execute the work at his Bid Price. He had also described how the arithmetical mistake was happened and he wants to keep quoted amount to Bituminous Macadam as Rs.2,13,97,500/- and the rate to be modified so that his bid price will remain as Rs.10,73,53,000/-.</p> <p>During execution of work there were certain changes in the quantities from the BOQ as they were necessary for the satisfactory completion of the work. Necessary Supplementary Agreement was executed for the varied quantities.</p> <p>On completion of the work the quantities executed were measured and priced at the contractors quoted rate. This came as Rs.14,91,30,678.75, the applicable rebate of 21.8% applied on this amount and thus the final bill became Rs.11,65,58,252.90.</p> <p>The Accountant General has pointed out that if the unit rate for Bituminous Macadam is reduced to Rs.3122.355/m³ at the time of opening of tender, instead of treating the amount as rebate Government could have saved an amount of Rs.65.03 lakh.</p> <p>But since there is specific clauses in the instructions for bidders for dealing in these kinds of situations Superintending Engineer could not do anything as he likes.</p> <p>Moreover the 2nd lowest Contractor Shri.G.Sukumaran also informed by his letter dated: 30.07.2008 that he is ready to reduce the rate of 3 items than quoted by him so as to reduce the total amount of Rs.10,57,578/-.</p> <p>Modifications, withdrawals, etc. on offer of bidders request after opening of tenders is not permitted as this practice jeopardizes the principle of competitive tenders.</p> <p>In the above circumstances, the Superintending Engineer, National Highways, South Circle, Thiruvananthapuram has no other option before him than to act as per the terms and conditions of tender.</p>
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ACTION TAKEN REPORT ON PARA 3.4.6 ON THE REPORT OF CSAG

No.	Para No.	Recommendation	Action Taken																								
1	3.4.6	<p>Kerala Road Fund Board - Deficiencies in the execution of Thiruvananthapuram City Road Improvement Project. The Thiruvananthapuram City Road Improvement Project remained incomplete even after seven years of award of a contract to the Thiruvananthapuram Road Development Company Limited and the Government had incurred arbitration liability of Rs.125 crore (as against the estimated cost of Rs.140 crore) towards cost escalation, idling of resources, delay in handing over land, etc.</p>	<p>The claims of M/s. TRDCL, the concessionaire of Thiruvananthapuram City Road Improvement Project, for enhanced compensation was referred to the Arbitration Tribunal pursuant to the agreement executed with them on 04.01.2008 as approved by the Council of Ministers met on 02.01.2008. The arbitration tribunal consisting of 2 retired judges of the Supreme Court of India and one retired judge of the High Court of Kerala, examined the claims of the concessionaire and passed the award dated 30.04.2009 admitting an amount of Rs. 124.947 crore towards additional compensation to the concessionaire as detailed below:-</p>																								
<table border="1"> <thead> <tr> <th data-bbox="630 913 639 1241">Item</th> <th data-bbox="639 913 671 1241">Amount claimed by TRDCL (Cr)</th> <th data-bbox="671 913 703 1241">Amount awarded by Arbitration Tribunal (Cr)</th> </tr> </thead> <tbody> <tr> <td data-bbox="703 913 724 1241">Cost of Establishment</td> <td data-bbox="724 913 745 1241">58.004</td> <td data-bbox="745 913 767 1241">58.000</td> </tr> <tr> <td data-bbox="767 913 788 1241">Escalation</td> <td data-bbox="788 913 809 1241">51.264</td> <td data-bbox="809 913 830 1241">17.875</td> </tr> <tr> <td data-bbox="830 913 852 1241">Interest during construction</td> <td data-bbox="852 913 873 1241">31.480</td> <td data-bbox="873 913 894 1241">Nil</td> </tr> <tr> <td data-bbox="894 913 916 1241">Idling of resources</td> <td data-bbox="916 913 937 1241">64.598</td> <td data-bbox="937 913 958 1241">29.844</td> </tr> <tr> <td data-bbox="958 913 979 1241">Cost of retention of resources</td> <td data-bbox="979 913 1001 1241">41.588</td> <td data-bbox="1001 913 1022 1241">Nil</td> </tr> <tr> <td data-bbox="1022 913 1043 1241">Premature demobilization</td> <td data-bbox="1043 913 1064 1241">0.686</td> <td data-bbox="1065 913 1064 1241">Nil</td> </tr> <tr> <td data-bbox="1086 913 1064 1241">Loss of Profit</td> <td data-bbox="1107 913 1064 1241">17.923</td> <td data-bbox="1128 913 1064 1241">Nil</td> </tr> </tbody> </table>			Item	Amount claimed by TRDCL (Cr)	Amount awarded by Arbitration Tribunal (Cr)	Cost of Establishment	58.004	58.000	Escalation	51.264	17.875	Interest during construction	31.480	Nil	Idling of resources	64.598	29.844	Cost of retention of resources	41.588	Nil	Premature demobilization	0.686	Nil	Loss of Profit	17.923	Nil	
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Extra Works	1.470	Nil
Increased Cost	19.228	19.228
Total	206.241	124.947

Government examined the Arbitration Award in detail on various angles.

As reported earlier the claims for enhanced compensation arose mainly because of the delay in handing over hindrance free land to the concessionaire. The cost of establishment claimed by concessionaire on account of the delay was admitted by the Tribunal almost in full. The claims of the Concessionaire towards escalation, idling of resources and increased cost were allowed only partially. Their other claims such as interest during construction, cost of retention of resources, pre mature demobilization, loss of profit and extra works were fully rejected by the Tribunal.

The estimated cost of construction of the project as prepared by Kerala Road Fund Board in 2002 based on 1999 SOR of PWD was Rs. 105.60 crore. (But as per the key assumptions submitted by the concessionaire the total cost of the project including interest during construction, design charges, insurance charges, SPV cost, etc was Rs. 180.90 crore. This amount together with its tender excess, interest on borrowed capital and cost of maintenance for 15 years constituted the base for quoting the annuity amounting to Rs. 537.42 crore). The percentage of work completed by the concessionaire in phase I was 30%. The cost of balance work as per SOR 1999 was estimated as Rs. 73.92 crore which at the time of passing the award came to Rs. 162.17 crore based on SOR of 2008. This shows that there was an actual increase in the estimated cost of balance works to the tune of Rs. 88.25 crore. The

balance amount after deducting this 88.25 crore from the award amount of Rs. 124.947 crore was only Rs. 36.70 crore. Taking into account the loss the concessionaire suffered due to the delay in completion of the work and the future escalation in the cost of labour and materials for the next two years this amount could not be termed as excessive.

Government have directed to examine the option of terminating the contract with M/s. TRDCL after Phase I of the project and arranging the balance work through other means. In that case as per Article 12.4 of the original agreement, the Board was bound to pay an amount to the tune of Rs. 82 crore to the concessionaire as 'Termination Payment' for premature termination of the contract. Moreover the chances of getting another concessionaire for undertaking the balance work on BOT was little. In that case the works were to be arranged as a regular EPC contract incurring the full expenditure from the state exchequer. In the light of the high tender excess quoted by contractors for such works to be carried out in a capital city like Thiruvananthapuram, where any road works during day time were hardly possible, the actual expenditure to be incurred by Government for arranging the balance work would have definitely been much more than the cost of Rs. 162.17 crore estimated by Kerala Road Fund Board. As such, the award was found advantageous and acceptable.

Besides the condition of the roads transferred to KRFB for development under Thiruvananthapuram City Road Improvement Project became rather worse by that time and neither KRFB nor PWD could arrange any development works on them. The pillars of a flyover at Bakery Junction were standing half constructed in the middle of the road as a symbol of the stalemate. There were severe criticism from all corners including strictures from the judiciary on the pathetic situation of the roads and the delay in restarting the project and Government could not have waited for long to get the arbitration case settled finally.

By this time almost-90% of the land required for development of the road had also been acquired.

Government considered the matter at the highest level and constituted a committee with the Chief Secretary as the chairperson and Secretaries of the departments Public Works, Finance and Law as members to examine the award of the Arbitration Tribunal.

The Council of Ministers considered all aspects as reported by the committee headed by the Chief Secretary and accorded sanction to accept the award of the arbitration tribunal and pay the additional compensation to the concessionaire.

Accordingly the amount of award was released to the concessionaire except Rs. 19.228 crores towards increased cost which was decided to be disbursed on completion of the works. The concessionaire resumed the works of the project and has almost completed the same except a few items. As on date the works of almost 40 Km of the road have been completed substantially and only the works of a few items are pending.

Under these circumstances, it is requested to accept the above report and RMT Statement and further action in this regard may be dropped.



**GOVERNMENT OF KERALA
PUBLIC WORKS (PS) DEPARTMENT**

**Action taken Statement in Audit Para 3.4.7 of the Report of Comptroller and Auditor General of India
for the year ended on 31/03/2009**

Sl. No	Para No.	Recommendation/Conclusion	Action taken by Government.
1	3.4.7	<p>Wasteful expenditure on repair works:- The department carried out surface renewal works on a State Highway immediately before the execution of heavy maintenance work under the Kerala State Transport Project, which resulted in wasteful expenditure of Rs.73.19 lakh.</p> <p>The Chief Engineer (CE), Kerala State Transport Project (KSTP) instructed (May 2008)the CE, Roads and Bridges, Public Works Department that only ordinary repairs should be carried out on the Palakkad-Meenakshipuram Road (36.30 km) as the road had been selected for immediate heavy maintenance work. However, the</p>	<p>The Roads Division, Palakkad had arranged 10 Nos. of repair works under XII Finance Commission in Palakkad-Thathamangalam-Pollachi road in 2008-09. The Palakkad-Meenakshipuram road is an important State Highway connecting Kerala and Tamil Nadu. The surface of the road had become damaged considerably due to heavy monsoon that occurred in 2008, and not fit for traffic. The people's representatives and Hon'ble MLA's have time and again requested that department for making the road traffic worthy. As per the request made by the people and local representatives, the above work was executed.</p>

<p>Executive Engineer (EE), Roads Division, Palakkad and the Assistant Executive Engineer (AEE), Roads Sub Division, Palakkad arranged to execute chipping carpet works along 10 reaches of the above road.</p> <p>It was seen in audit that agreements for all these works were executed after receipt of the communication from the CE, KSTP and the works were undertaken during the period from 27 May to 24 December 2008. A total expenditure of Rs.73.19 lakhs was incurred on the repair works just before handing over the site to KSTP on 26 December 2008. Meanwhile, KSTP invited (August 2008) tenders and awarded (December 2008) a contract for heavy maintenance works. The work was commenced in December 2008 and completed in February 2011. Thus the execution of surface renewal works immediately before the</p>	<p>The road was selected for heavy maintenance under KSTP. But it may be noted that KSTP has selected the work of Perumbilavu-Nilambur road, another important State Highway under Heavy maintenance work, and no work has since been executed by them. The road had since become fully damaged and the Roads Division had to arrange many repair works to make the road traffic worthy. The Division had to execute the work wherever the surface was damaged fully in Palakkad-Thathamangalam road (having a length of 35/010 km) even though the road was selected for maintenance work by the KSTP. It may be noted that had repair work (renewal works) not been carried out in time, the condition of the road would have become worst and not fit for traffic. The division would have to face criticism from all sides from</p>
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	<p>execution of heavy maintenance works by KSTP on the road resulted in wasteful expenditure of Rs. 73.19 lakh.</p> <p>The EE stated (November 2009) that due to heavy rain, the bituminous surface of the road had been damaged considerably and the maintenance work was carried out to make the road traffic-worthy. The reply is not acceptable as there were specific instructions by the CE, KSTP to undertake ordinary repair works only. Instead, the department carried out surface renewal (chipping carpet) works.</p>	<p>local bodies and public. Considering the pathetic condition of the important State Highway having interstate connectivity, the works were arranged. Taking these facts into consideration the objection raised may kindly be dropped.</p>
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GOVERNMENT OF KERALA
PUBLIC WORKS (D) DEPARTMENT
Committee on Public Accounts (2011-14) Report of Comptroller and Auditor General
for the year ended 31.03.2011 (Civil)

Sl. No.	Para No.	Recommendation/conclusion	Action taken
1	3.4.8	<p>Execution of a work without proper investigation and delay in rearranging the balance work rendered the foundation work of a bridge already executed at Rs.52.39 lakh wasteful and also created additional financial commitment of Rs.74.03 lakh due to change in design of the foundation</p> <p>Administrative sanction for the work 'construction of Muttakavu Bridge in Kollam - Aloor Road' was issued in March 1996 for Rs.1.05 crore and the work was awarded (October 1998) to the Kerala State Construction Corporation Limited (KSCC) for an accepted probable amount of contract (APAC) of Rs.1.89 crore. KSCC could not complete the work within the stipulated date (19 January 2000) of completion or within several extensions given up to 30th June 2003. KSCC completed only 10 per cent of the work and abandoned it after casting piles and carrying</p>	<p>Administrative Sanction was accorded for the work as per G.O.(Rt) No.306/2008/PWD dated: 12.03.2008. The bridge work was taken up initially under NABARD RIDF VII and the work was entrusted to Kerala State Construction Corporation for an amount of Rs.1.26.12,073/- based on the 1996 Schedule of Rates with 78.56% above the estimate rate. Due to non completion of work, the work was terminated (on March 2004). The up-to-date expenditure incurred so far was Rs.52,38,894/- as reported by the Executive Engineer, Roads Division, Kollam. The balance estimate for the work was prepared based on 1996 Schedule of Rates. Even though the work was tendered twice, there was no response to the tender calls. A quotation at 212% above estimate rates (prepared</p>

<p>out a portion of pile driving work (cost of the work done Rs.52:39 lakh). Hence, the Superintending Engineer, Roads and Bridges, South Circle, Thiruvananthapuram terminated (March 2004) the work at the risk and cost of the Corporation. However, the risk and cost liability of KSCC had not been assessed even after the lapse of seven years. The estimates were revised and administrative sanction for the revised estimates was issued (March 2009), after a delay of five years. The Superintending Engineer executed an agreement (October 2009) with another contractor for the balance work at an APAC of Rs.3.55 crore.</p>	<p>based on 1996 SOR) was obtained from Shri. Robin P. Alex, but Government rejected the same vide letter No.940/D1/07/PWD dated: 24.09.2007. Again the estimate was revised based on 2007 SOR and Administrative Sanction and Technical Sanction was given for an amount of Rs.215 lakh and Rs.220 lakh respectively. Further as per direction for assigning the work under NABARD XIV a detailed project report for an amount of Rs.265 lakh was submitted based on 2008 SOR and Technical Sanction for Rs.265 lakh was issued vide order No.CE/R&B/NB/14/27/07 dated: 23.06.08. The work was tendered and awarded to Shri. Jose Thomas at 38% above estimate rate. The delay occurred in re-arranging the work was due to the above facts.</p>
<p>The revised estimate was prepared based on the earlier design of the bridge of Pre-cast pile foundation. While driving down of piles was attempted on resumption of the work, the pile heads were getting damaged due to the deterioration of the old pre-cast piles and the peculiar soil condition and the continuation of piling was found to be impossible. Hence, the design of the foundation had to be changed from pre-cast piles to bored in situ piles after detailed investigation. As a result, the estimated cost of the balance work increased to Rs.4.29 crore. The execution of the balance work was in progress.</p>	<p>it may be noted that to check the structural safety to the existing precast pile penetration test was conducted and penetration stopped after 50 blows at a drop height of 0.60 cm. The drop height increased gradually and at drop height 1.50 M cracks began to develop on pile faces below the pile head. Subsequently as per the direction from Design Wing 'soil' investigation work was carried out and it was known that further driving</p>

	<p>Thus the failure of the department to design a foundation structure suitable to the soil structure based on proper investigation and the inordinate delay in rearranging the balance work rendered the expenditure of Rs.52.39 lakh on the work already executed wasteful and created additional commitment of Rs.74.03 lakh at the estimated rates.</p>	<p>down of piles was impossible due to the phenomenon of "Thixotrophy". The soil expert recommended bored pile of 1 M diameter and accordingly revised design for foundation was prepared from Design Wing of PWD. Thus it is to be noted that change in design occurred due to phenomenon of "Thixotrophy" only and not due to original defective soil investigation. The risk and cost liability has not been fixed and not recovered from M/s.Kerata State Construction Corporation. The work has been completed and bridge opened for traffic during May 2013. The above facts may be considered and the objection raised may be dropped.</p>
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