



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

COMMITTEE

ON

**PUBLIC UNDERTAKINGS
(2023-2026)**

THIRTY FIRST REPORT

(Presented on 8th July, 2024)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2024**

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

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THIRTY FIRST REPORT

On

**Kerala State Construction Corporation Limited &
Roads and Bridges Development Corporation of Kerala Limited**

**(Based on the Report of the Comptroller and Auditor General of India for
the year ended 31st March, 2016)**

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COMMITTEE ON PUBLIC UNDERTAKINGS

(2023-2026)

COMPOSITION

Chairperson :

Shri E. Chandrasekharan.

Members :

Shri A. P. Anil Kumar

Shri Anwar Sadath

Shri Ahammad Devarkovil

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

Shri D. K. Murali

Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla.

Legislature Secretariat :

DR. N. Krishna Kumar, Secretary

Shri Venugopal R., Joint Secretary

Shri Anil Kumar B., Deputy Secretary

Shri Mohanan O., Under Secretary.

INTRODUCTION

I, the Chairperson, Committee on Public Undertakings (2023-2026) having been authorised by the Committee to present the Report on its behalf, present this 31st Report on Kerala State Construction Corporation Limited and Roads and Bridges Development Corporation of Kerala Limited based on the report of the Comptroller and Auditor General of India for the year ended 31st March, 2016 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Report of the Comptroller and Auditor General of India was laid on the Table of the House on 23-5-2017. The consideration of the audit paragraphs included in this report and the examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings (2021-2023) at its meeting held on 4-1-2023, 4-4-2023 and 3-8-2022.

This Report was considered and approved by the Committee (2023-2026) at its meeting held on 4-7-2024.

The Committee place on record its appreciation for the assistance rendered to them by the Accountant General (Audit), Kerala in the examination of the Audit paragraphs included in this Report.

The Committee wishes to express thanks to the officials of the PWD Department of the Secretariat, Kerala State Construction Corporation Limited and Roads and Bridges Development Corporation of Kerala Limited for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government, PWD and Finance Department and the officials of the Kerala State Construction Corporation Limited and Roads and Bridges Development Corporation of Kerala Limited who appeared for evidence and assisted the Committee by placing their views before the Committee.

Thiruvananthapuram,
8th July, 2024.

E. CHANDRASEKHARAN,
Chairperson,
Committee on Public Undertakings.

REPORT
ON
KERALA STATE CONSTRUCTION CORPORATION LIMITED & ROADS
AND BRIDGES DEVELOPMENT CORPORATION OF KERALA
LIMITED

I. Kerala State Construction Corporation Limited (KSCC)

Audit Report (2015-2016)

3.2 - Sub-contract Management by Public Sector Undertakings

3.2.5 - Execution of civil works on behalf of agencies of GoK

GoK and its agencies executed various civil construction works through PSUs such as SIDCO, Kerala State Construction Corporation Limited (KSCC), Kerala Irrigation Infrastructure Development Corporation Limited (KIIDC), Forest Industries Travancore Limited (FIT), Kerala State Coastal Area Development Corporation Limited (KSCADC) and Roads and Bridges Development Corporation of Kerala Limited (RBDCK). These PSUs received (2013-14 to 2015-16) 166 work orders valuing ₹2,111.67 crore from various departments of GoK for execution of civil works. Out of these, we examined 107 work orders valuing ₹1,718.81 crore in order to ascertain transparency in award of work and efficient execution.

All 107 work orders examined by us were issued to PSUs on nomination basis in violation of the provisions of Kerala Financial Code (KFC). These works were subsequently sub-contracted by the PSUs. Deficiencies noticed in the award of work by PSUs and their execution is discussed below.

3.2.5.1- Award of work to sub-contractors

We noticed violation of codal provisions in award of 69 works to sub-contractors by four PSUs as detailed in Table 3.9.

Table 3.9: Irregularities in award of work to sub-contractors

Sl. No.	Criteria/ Norm	Audit Observation
3	According to Paragraph 217 of Kerala PWD manual, work cannot be started before preparation of estimate and sanction by the competent authority. Administrative Sanction (AS) and Technical Sanction from competent authority shall precede a tender.	KSCC executed (February 2016) extra work in connection with construction of new bridge across river Payaswini (Athanadi Bridge) in Kasargod district before obtaining AS for the extra work.
4	As per CVC direction, limited tenders should be invited from the panel of approved contractors.	All the 55 sub-contracts valuing ₹930.16 crore entered into (during the three years from 2013-14 to 2015-16) by KSCC, which were selected for scrutiny, were awarded to contractors on nomination basis. As against the directions of BoD of KSCC, in the initial empanelment (2011-12), 10 out of 67 contractors did not meet 5 out of the 6 criteria fixed by the BoD for empanelment.
5	According to the guidelines issued (November 2002) by CVC for award of works, it was stated (paragraph 18) that security deposit (Bank Guarantee) of a reasonable amount and valid up to the defect liability period should be obtained from the contractor.	KSCC executed six ¹ works without obtaining Security Deposit from the sub-contractors.

1 Heavy Maintenance to Ottappalam- Mannarkkad Road, Construction of Academic Block in Medical College campus, Thrissur, Construction of new bridge across river Payaswini (Athanadi Bridge) in Kasargod District, Nettoor-Kundannur Bridge (Parallel) across Nettoor-Kundannurpuzha, Construction of Regulator cum Bridge at Purapallikkavu across Periyar river, Construction of Nanichery Kadavu Bridge across Baliappattanam river in Kannur District.

3.2.5.2 - Execution of civil works by sub-contractors

Issues noticed in execution of civil works by sub-contractors are discussed below:

- There was delay in execution of five civil works sub-contracted by SIDCO and five works by KSCC as detailed in Table 3.10.

Table 3.10: Delay in execution of civil works

Kerala State Construction Corporation Limited						
Sl No.	Name of Work	Name of contractor (Date of award of work)	Awarded cost (₹ in crore)	Scheduled date of completion	Progress as of February 2017 (per cent)	Remarks
6	Construction of new block for nephrology unit and dialysis centre at General Hospital Pala for Public Works Department.	Theruvath Builders (March 2014)	8.04	April 2015	Nil	Due to intervention of the Hon'ble High Court of Kerala, the work was stalled as a writ petition was filed by an individual residing near the construction site alleging that the construction was carried out without providing the required minimum set back of

						5 metres - as provided in the site plan- from the petitioner's property. It was also alleged that there was no approved Building Plan for the project. Considering the allegations, the Honourable High Court ordered (April 2016) KSCC to restrain from undertaking the construction.
7	Construction of Nettoor- Kundannur Bridge for Public Works Department	Greenworth Infra Structures Private Limited (October 2013)	26.57	June 2016	53	As per PWD Manual 2012, (Paragraph 2102 . 1 and 2101.1) after executing the agreement, the site has to be taken over from the Assistant Engineer (PWD) to commence the work immediately and where any
8	Construction of bridge near Mankombu Civil Station across Manimala river for Public Works Department	Contour Constructions Private Limited (March 2014)	24.47	March 2016	42	

9	Construction of Nilambur bypass road for Public Works Department.	Thrimathy Contracting Company (February 2014)	18.34	July 2015	Not commenced	delay is anticipated, the matter shall be brought to the notice of the authority who executed the agreement.
10	Construction of regulator cum bridge at Purap allikkavu across Periyar River for Irrigation Department	Seguro Foundations and Structures Private Limited (March 2015)	99.86	September 2017	12	KSCC did not analyse the site condition before awarding (June 2013 to July 2015) the works which resulted in unnecessary delay due to hindrances at site.

- According to CVC directions (April 2007), payment of mobilisation advance (MA) should be made only if it is clearly stipulated in the tender document. Amount of MA, interest to be charged, recovery schedule, etc., should be stipulated in the tender document upfront. CVC further clarified (February 2011) that in order to enable recovery, MA should be granted only after obtaining Bank Guarantee equivalent to 110 per cent of MA. SIDCO had granted MA of ₹1.51 crore in respect of two work orders², despite there being no such stipulation in the tender document. In both the

2 (Amount of MA in brackets) Construction of District Youth Bhavan at Panamaram, Wayanad at ₹2.21 crore (₹0.50 crore during July-August 2014) and Construction of multi-storeyed industrial estate building at Puzhakkalpadam, Thrissur at ₹10.09 crore (₹1.01 crore in January 2013).

above cases, MA was granted interest-free, resulting in loss of interest of ₹0.16 crore³. Similarly, KSCC released (October 2013 to December 2015) MA of ₹11.43 crore without obtaining required Security Deposit of ₹12.56 crore in respect of five⁴ work orders of Public Works Department (PWD). GoK accepted (February 2017) the audit observation and stated that the amount paid as MA in SIDCO had since been recovered with interest.

- According to the directions (September 2007) of GoK, PSUs executing civil works on behalf of GoK were eligible for centage/ consultancy charge ranging between five and eight per cent⁵ on the estimated cost or the actual cost of construction, whichever was lower.

[Audit Paragraphs 3.2. contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraphs are given in Appendix II

Discussions & Findings of the Committee

Para 3.2.5.1 - Award of work to sub-contractors

Table 3.9 : Irregularities in award of work to sub-contractors

Sl. No. (3) of Table 3.9

The Committee inquired how the extra work for the new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was initiated before receiving AS and TS. The witness responded that, according to the contract, the last date for completion of the work was 28-2-2016, and during the site visit of the PWD Principal Secretary, local authorities recommended some additional works for the

3 Up to March 2016- Panamaram: ₹0.04 crore, Puzhakkalpadam: ₹0.12 crore.

4 Amount of SD required given in brackets. Heavy Maintenance to Ottappalam Mannarkkad Road (₹1.13 crore), Construction of Academic Block in Medical College campus, Thrissur (₹4.12 crore), Construction of new bridge across river Payaswini (Athanadi Bridge) in Kasaragod District (₹3.85 crore), Nettoor-Kundannur Bridge (Parallel) across Nettoor-Kundannurpuzha (₹1.48 crore) and Construction of Bridge near Mankombu Civil Station across Manimala river in Alappuzha District (₹1.98 crore).

5 ₹5 crore and above- 5 per cent, between ₹3 crore and ₹5 crore – 6 per cent, between ₹50 lakh and ₹3 crore – 7 per cent, less than ₹50 lakh – 8 per cent.

completion of the project. As a result, the length of the approach road was increased to 3650 metres from 260 metres. The witness also replied that AS and TS were obtained before the completion of the job and the work was finished within the agreed time frame.

The Committee observed that as the act was done with good intention, no legal action needs to be taken against the officials concerned.

Conclusion/Recommendation of the Committee

1) The Committee observed that the extra work in new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was executed without approving the estimates by the Competent authority and Technical Sanction for extra work. But the Committee understood that it was performed for the extended construction of approach road in public interest at the behest of the Principal Secretary, PWD. Hence the Committee remarked that though the procedure was irregular it was done with a good intention and urges the authorities to adhere to the rules and procedures in implementing project as far as possible in future.

Sl. No. (4) of Table 3.9

As per the CVC direction, limited tenders should be invited from the panel of approved contractors. Since 10 out of 67 contractors did not meet five out of the six criteria established by the Board of Directors for empanelment, the Committee sought explanation regarding this.

The witness replied that after inviting applications for empanelling the contractors, list of contractors was prepared based on the applications and the Board of Directors which consist of Chief Engineer (Buildings), Chief Engineer (Roads & Bridges), Additional Secretary, Finance Department selected the empanelled contractors. The approved list of private joint venture enterprises was chosen by the Chief Engineer.

The Committee enquired why tender was not invited from the short listed panel of contractors. The project engineer replied that out of the 82 applications received, 76 were shortlisted, 67 were approved, and 10 were added as joint ventures, who were initially disqualified due to low scores. These 10 companies were selected by clubbing the companies with lower points.

The Committee enquired about how 55 contractors were chosen from a list of 67 without holding a short tender for work valued at ₹930.16 crore. The witness responded that the empanelling of contractors was published in the newspapers and the applications received accordingly were shortlisted and given to the Chief Engineer and approved by the Board of Directors. The Witness added that since 2016, the contractors were selected through e-tender.

The Committee was not satisfied with the explanation given by the witness and decided to give strict instructions to the authorities to avoid such irregularities in future.

Conclusion/Recommendation of the Committee

2) The Committee observes that 10 out of 67 contractors selected by the company did not meet five out of the six criteria laid down by the Board of Directors for empanelment. The Committee noticed that works estimated to ₹ 930.16 crore was entrusted to Sub Contractors on nomination basis without inviting limited tenders from the empanelled contractors. The Committee express its dissatisfaction with the explanation given by the witness and recommends that strict instructions must be given to the authorities to avoid such irregularities in future.

Sl. No. (5) of Table 3.9

The CVC guidelines states that security deposit should be obtained from the contractor in the form of Bank Guarantee or fixed deposit prior to the awarding of work contract, but the company completed the construction of six works without obtaining security deposit from the Sub-Contractors. The Committee sought explanation regarding this.

1st Work of Sl. No. (5) of Table 3.9

Heavy Maintenance to Ottappalam- Mannarkkad Road.

KSCC executed works without obtaining security deposit from the sub-contractors in connection with the maintenance of Ottappalam-Mannarkkad Road. While executing the agreement, it has been decided to recover ₹ 75 lakh as security deposit from the work of Reconstruction of Menonpara Bridge across Korayar River of the same contractor. The PWD Secretary informed the

Committee that the said amount could not be recovered because there was an undue delay in receiving payment from the department but the work has been completed, and no damage has been observed so far by clients or the general public. He also admitted that there was a lapse in procedures in the said work and concurred with the Committee's stand and stated that the job is currently being done in accordance with the procedures.

The Committee accepted the reply. Hence no remarks.

2nd Work of Sl. No. (5) of Table 3.9

Construction of Academic Block in Medical College campus, Thrissur.

The Committee accepted the Government's response that ₹10 lakh had been recovered from the payment of the final bill held in reserve as security for the construction of the academic block in the campus of Thrissur Medical College.

The Committee accepted the reply. Hence no remarks.

3rd work of Sl. No. (5) of Table 3.9

Construction of new bridge across River Payaswini (Athanadi bridge)

To a query of the Committee regarding the construction of Athanadi bridge in Kasaragod district across the Payaswini river without obtaining security deposit from sub-contractor, the Managing Director accepted the audit objection and informed the Committee that while executing the agreement, the security deposit amount of ₹70 lakh was proposed to be adjusted from the payment to the same contractor for the work Neeleswaram-Valiyaparamba road but the amount was not recovered as proposed. He added that the above mentioned security deposit was later recovered from the outstanding bill payment of the same contractor's work "Sethangoli Puthige Perla road" and the work has been completed and defect liability period is over.

The Committee suggested that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the department. The Managing Director replied that it was done as per the court order that Government should either pay the bill or give permission to carry out the works by adjusting the security deposit from the bill to be paid to them, and based on the High Court order, the Public Works Department issued a circular in 2003.

Conclusion/Recommendation of the Committee

3) *The Committee observes that the construction of Athanadi bridge in Kasaragod district across the Payaswini river was carried out without obtaining security deposit from sub-contractor and was later recovered from the outstanding bill payment of the same contractor's work. The Committee also observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.*

4th work of Sl. No. 5 of Table 3.9

Construction of Nettoor-Kundannur Bridge (parallel) across Nettoor-Kundannurpuzha

The Committee sought explanation regarding execution of work "Construction of Nettoor-Kundannur Bridge" without obtaining Security deposit before work execution. The Managing Director informed that the security deposit amount of ₹75 lakh for the said work was to be collected before the execution of the contract but it was deducted only at the time of issuing the part bill and the defect liability period had not ended even though the work was completed.

Conclusion/Recommendation of the Committee

4) *The Committee offers the same comments as above.*

5th work of Sl. No. 5 of Table 3.9

Construction of Regulator- cum- Bridge at Purappallikkavu across Periyar River

Regarding the work executed for the Construction of Regulator- cum- Bridge at Purappallikkavu across Periyar River without obtaining security deposit, the Managing Director replied that the security deposit amount of ₹75 lakh for the said work has been recovered from first part of the bill and the work was completed on 10-8-2017. Moreover the defect liability period of the work was also completed.

Conclusion/Recommendation of the Committee

5) The Committee offers the same remark as in para 3

6th work of Sl. No. 5 of Table 3.9

Construction of Nanichery Kadavu Bridge across Baliapattanam River

To a query of the Committee, the KSCC Managing Director replied that the security deposit amounting to ₹75 lakh for the said work was directed to be adjusted from the same contractor's Sreekandapuram-Kottumukham-Payavoor road work, but it was not recovered. The Kannur Regional Manager has been instructed to collect that amount from the contractor's project of 'Koomanthodu - Aralam Hill Highway' and the amount would be recovered from the final bill.

The Committee enquired about the current status of work and the procedure for collection of security deposit, the Managing Director, KSCC informed that the work has been completed and direction was given to collect the security deposit from the bill of another work of the same contractor based on a circular of 2003. The Secretary, Public Works Department added that if the concerned Department has given a recovery notice for security deposit during the said period, the amount can be adjusted from the bill to be paid, but if no notice was given, there is no certainty about the recovery of the amount. The Managing Director assured the Committee that he would check whether recovery notice has been issued to the contractor to recover the security deposit for that work.

The Committee enquired about the content of the 2003 circular, the Managing Director informed that the circular was issued on the basis of the Hon'ble High Court's instruction that it was inappropriate to insist for bank guarantee for new works as long as the pending bills for the previous works were not settled and that bills could be considered as a bank guarantee for new works.

The Committee observed that in 2003, the Public Works Department issued a circular based on the order received by those who went to High Court in a special case. The Committee opined that if the agreement of one work was executed, the security deposit should be collected from the bill pending to be settled and no need to wait for the new work.

The Secretary, Public Works Department informed the Committee that, if the recovery notice was issued the amount could be recovered from the next work of the contractor. Then the Committee recommended to initiate legal proceedings against the official concerned.

Conclusion/ Recommendation of the Committee

6) The Committee observes that there was a serious lapse on the part of the KSCC in obtaining Security Deposit from the sub-contractors at the time of execution of contract in all the six works mentioned above. The Committee noticed that in response to a High Court order, a circular was issued in 2003 for treating arrears payable to a contractor as Security Deposit in another work of the same Contractor. Hence the arrears payable to the Contractor was treated as Security Deposit in another work of the Contractor in all these six works. The Committee insists on strict adherence to obtaining Security Deposit at the time of awarding of contracts in future.

Audit Para 3.2.5.2 - Execution of civil works by sub-contractors

Table 3.10 : Delay in execution of civil works.

Sl. No. (6) of Table 3.10

The Committee enquired about the circumstances that led to the filing of a suit against the Company in building a new block for the dialysis centre and nephrology unit at Pala General Hospital and to explain the current status of the case. The witness responded that the minimum set back for the said work was 2 metres, but 2.75 metres was provided in this case. The adjacent building owner filed a writ petition claiming that the construction was carried out without providing the required minimum set back of 5 metres, but the court dismissed the petition, allowing the work to resume. The work was completed in January 2019 at the old rate. The Committee enquired whether any extra expenditure was incurred due to the delay in completing the project. The witness informed that the work was completed at the old rate and hence there was no loss to the company.

The Committee further enquired whether any steps had been taken to avoid such delay in future projects. The witness replied that now all works has been awarded after completing all proceedings related to land acquisition.

The Committee accepted the reply. Hence no Comments

Audit Para 3.2.5.2. - Sl. No. (7) of Table 3.10

The Committee inquired about the delay in completion of the work due to the failure of the company to analyse the site condition before awarding the work for the construction of the Nettoor-Kundannur bridge for the Public Works Department. The witness replied that heavy concrete blocks of old bridge were immersed in mud, that could not be seen outside, which obstructed the piling process and the delay in moving the existing water supply line by the Kerala Water Authority also resulted in the delay in the completion of the said work. The witness said that these facts were reported to the PWD officials and requested to remove the obstacles for the completion of the project and the project was completed in 2019.

The Committee accepted the reply. Hence no Comments.

Audit Para 3.2.5.2. - Sl. No. (8) of Table 3.10

The Committee enquired about the delay in completing the construction of the bridge near Mankombe Civil Station across Manimala river for the Public Works Department. The witness replied that the work was held up due to the delay in land acquisition. Delay in preparing the new design and delay in disbursing the land value to the land owners also led to this condition. There was also a delay in getting permission from Government for converting the paddy land to purayidam since the area was not entered in the Data Bank. However the land was acquired after submitting a petition to the Minister for Public Works and the work was completed in June 2020.

The Committee accepted the reply. Hence no Comments

Audit Para 3.2.5.2. - Sl. No. (9) of Table 3.10

The Committee enquired about the delay in the construction of Nilambur Bypass Road for PWD. The witness informed that Administrative Sanction was accorded for the first phase of construction of Nilambur Bypass for an amount of ₹35 crore including ₹21 crore for construction and ₹14 crore for land acquisition. But some people protested against land acquisition and only very little land has

been acquired and more than two kilometers of land is yet to be acquired. The witness added that after discussion with Roads Division Engineer, it was decided to terminate this work.

The Additional Secretary admitted that there was a slight error in allocating the funds for the construction of the above bypass. The Additional Secretary assured that the Chief Engineer has submitted a proposal for revised Administrative Sanction for ₹154 crore and if the Finance Department renew the administrative permission, the remaining works can be rearranged and completed either through KSCC or other agencies.

The Committee observed that the cost of the work was raised four times from what it was before and the Committee expressed its strong discontent about the same.

Conclusion/Recommendation of the Committee

7) The Committee criticises both Public Works Department and KSCC for the flaws in executing the work in time. The Committee observes that the cost of the work has risen four times from the estimate. So the Committee recommends to furnish a report detailing the current status of the project.

Audit Para 3.2.5.2. - Sl. No. (10) of Table 3.10

The Committee inquired about the construction of regulator-cum-bridge across the Periyar River at Purapallikkavu for Irrigation Department in Ernakulam district and the failure to analyse the site condition before awarding the work which caused delay in the completion of the work. The witness informed that the completion of the work was delayed due to the delay in receiving the detailed design for the mechanical components of the gate and shutter of the regulator-cum-bridge, it was nevertheless finished ahead of schedule.

The Committee accepted the reply. Hence no Comments

Audit Para 3.5 - Irregular appointment of employees in KSCC Limited

Appointment of employees in violation of existing Government directions and irregular regularisation of temporary employees resulted in failure to ensure transparency and fairness in recruitment.

3.5.3 - Irregular engagement of temporary staff

As per the provisions of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, vacancies⁶ for contract employment exceeding three months were to be notified to the Employment Exchanges. Further, for such employment, Rules for Reservation in Government Service shall be applicable. According to Rule 14 of Rules for Reservation in Government Service, unit of appointment for the purpose of reservation shall be 20, out of which two shall be reserved for persons belonging to Scheduled Castes and Scheduled Tribes, eight for other backward classes and remaining 10 shall be from the open category. We observed that six⁷ PSUs and one department engaged 1686 contract employees, without notifying the vacancies to Employment Exchanges as detailed in Table 3.13.

Table-3.13: Engagement of temporary staff

Sl. No.	Audit findings	Management/ Government Reply
1	<p>KSCC⁸</p> <p>Government had directed (March 2013) the Company to make appointments on contract/daily wages/temporary basis only against sanctioned posts. However, the Company appointed 60 employees on temporary basis in various cadres from March 2013 to June 2016, of which 32 were not against any sanctioned post.</p>	<p>Government replied (December 2016) that although sanctioned strength had been fixed, actual requirement would vary depending on the work on hand because the Company was a contracting company.</p> <p>Reply of GoK was contrary to its own standing orders that contract appointments should be only against sanctioned posts.</p>

⁶ Does not apply to vacancies in relation to any employment to do unskilled office work.

⁷ SIDCO, Kerala State Construction Corporation Limited, Kerala State Financial Enterprises Limited, Oil Palm India Limited, Kerala State Poultry Development Corporation Limited and Kerala State Industrial Enterprises Limited.

⁸ Kerala State Construction Corporation Limited.

The replies were only partially acceptable as temporary appointment had to be made from Employment Exchange against sanctioned posts only thereby ensuring transparency, equal opportunity and reservation rules in appointments.

3.5.4 - Irregular regularisation of contract employees

The Hon'ble Supreme Court held (April 2006) in Umadevi Vs. State of Karnataka that 'regularisation' is not and cannot be a mode of recruitment by any State. It was also held that regularisation cannot give permanence to an employee whose services are *ad hoc* in nature.

As mandated under Article 14 and 16 of the Constitution, fair chances for all eligible candidates should be given in public appointment which can be achieved through public notice/ advertisement, a transparent selection procedure and adoption of reservation policy for weaker sections. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. The passing of orders for continuance tends to defeat the very Constitutional scheme of public employment.

We observed that two PSUs and two departments regularised 476 employees as detailed in Table 3.14.

Table-3.14: Details of temporary staff irregularly regularised

Sl. No.	Name of PSU/Department	Temporary staff regularised	Month/Year in which regularised	Audit findings
1.	KSCC	62	March 2013	The employees were regularised considering long years of service and bleak opportunity for alternative appointment

Government also stated (December 2016) that in respect of KSCC, the appointments were made as there were bleak opportunities for further employment to the regularised employees

The replies are not acceptable as the regularisation of temporary employees is against decision of Hon'ble Supreme Court.

[Audit Paragraphs 3.5. contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraphs are given in Appendix II

Discussion & Findings of the Committee

Audit Para – 3.5.3 - Irregular engagement of temporary staff

The Committee sought explanation regarding the appointment of 60 employees on temporary basis in various cadres from March 2013 to June 2016, of which 32 were not against any sanctioned posts. The Secretary, Public Works Department could not give a precise reply to the audit reference. The Managing Director further informed that there was an irregularity in the recruitment process and that a detailed report would be submitted after investigating the same.

The Committee pointed out that in the Government reply it was stated that possibility of getting experienced and reliable persons from Employment Exchange were remote. Moreover, contract workers hired for a project can be dismissed at any time and they were paid less than those hired through Employment Exchange. The Committee noted that the list for appointment of qualified staff was not requested from the Employment Exchange and the points mentioned in the Government reply were justifications given after the appointments were made.

The Committee pointed out that the procedure for recruitment of candidates through Employment Exchanges should be followed even if the candidates who are experienced, dedicated and skilled are not available through Employment Exchange and the excuses raised by department is not at all acceptable.

The Committee suggested to give a detailed report regarding whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make appointments on contract basis or whether contract appointments were made with the prior permission of the government by following the procedures.

Conclusions/Recommendations of the Committee

8) The Committee is of the view that it has become a regular practice of most of the PSUs making contract appointments flouting all the prevailing guidelines of reservation and regularising them after 10-15 years of service depriving the chance of the deserved educated youth.

9) The Committee recommends to furnish a detailed report on matters such as: whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make the appointment on contract basis or whether contract appointments were made with the prior permission of the Government by following the procedures.

Discussion & Findings of the Committee

Audit Para – 3.5.4 - Irregular regularisation of contract employees

To a query about regularisation of 62 contract employees, the Managing Director informed that 62 contract employees above 50 years of age in various categories with fixed qualifications were continuously serving the Corporation since 1980. He added that a proposal letter No.cc/R12/89 dated 7-7-2012 has been submitted to the Government to regularise the services of these employees and after detailed examination, the Government has instructed to regularise these

employees through G.O.(Ms.) No.29/13/PWD dated 14-3-2013. It had been clarified in the Order that henceforth no appointment should be made to the said posts on contract/daily/temporary basis without creating the post in accordance with the law and with the prior approval of the Government.

The Committee inquired whether temporary appointments are being made through Employment Exchange. The Managing Director informed that at present contract employees were appointed from Employment Exchanges on temporary basis.

The Committee observed that the contract employees appointed in 1980 were regularised in 2013. The Committee opined that regularisation of contract employees was illegal as it denies the opportunity to eligible candidates and hence eligible persons could also be considered along with regularisation of contract employees.

Conclusion/Recommendation of the Committee

10) The Committee vehemently criticises the Public Works Department for regularising the contract employees in 2013 since it is illegal and denies opportunity to eligible candidates. So the Committee recommends that the Government should take appropriate steps including fixing liability to Managing Director and taking disciplinary proceedings against other concerned officials to avoid such malpractices in future.

II . Roads and Bridges Development Corporation of Kerala

Audit Report (2015-2016)

Audit Para 3.2.5 - Execution of Civil works on behalf of agencies of Government of Kerala

Audit Para – 3.2.5.3 - Quality of construction work

We noticed poor quality of construction and violation of codal provisions in respect of six civil works executed by three PSUs as given in Table 3.11.

Table 3.11 : Details of poor quality of construction of civil works

Sl.No.	Name of work sub contracted	Audit finding
Roads and Bridges Development Corporation of Kerala Limited.		
6	Construction of River Bridge at Station Kadavu for PWD awarded (May 2012) to Hope Constructions for ₹16.84 crore.	Failure of the sub-contractor to mobilise resources at site resulted in foreclosure of contract without any risk and cost to the sub-contractor. Retendering of balance work, despite objection from Finance Department resulted in cost increase of ₹6.44 crore.

[Audit Paragraphs 3.2.5.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2016]

The Notes furnished by the Government on the audit paragraph are given in Appendix II

Discussion & Findings of the Committee

The Committee wanted explanation regarding the audit objection. The Additional General Manager, Roads and Bridges Development Corporation of Kerala Ltd. informed that the work was awarded before the acquisition of land for the construction of Ernakulam Station Wharf River Bridge. As the entire land was not acquired and handed over during the contract period, the work could not be completed even after the expiry of the contract period and contractor insisted on rate escalation for further work. The contractor refused to continue the work without rate escalation and requested to foreclose the contract by paying for the work already done. A legal opinion was sought for the termination of the contract with risk and cost. As it was suggested for an amicable settlement, the Board of Directors decided to terminate the said contract without any risk and cost and to call for tenders for the remaining work with the approval of the Cabinet, and accorded Administrative Sanction with price escalation for the remaining work. The work was completed in 2018.

To a query of the Committee, the Additional General Manager informed that the rest of the work was tendered for ₹23 crore and completed at ₹18.50 crore. The Committee pointed out that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time.

Conclusion/Recommendation of the Committee

11) The Committee observes that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time. Hence the Committee recommends that strict instructions must be given to the authorities to avoid such irregularities in future.

Thiruvananthapuram,
8th July, 2024.

E. Chandrasekharan,
Chairperson,
Committee on Public Undertakings.

APPENDIX - I
SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para. No.	Department Concerned	Conclusions/Recommendations
1	1	PWD	The Committee observed that the extra work in new bridge (Athanadi Bridge) crossing the Payaswini River in Kasaragod was executed without approving the estimates by the Competent authority and Technical Sanction for extra work. But the Committee understood that it was performed for the extended construction of approach road in public interest at the behest of the Principal Secretary, PWD. Hence the Committee remarked that though the procedure was irregular it was done with a good intention and urges the authorities to adhere to the rules and procedures in implementing project as far as possible in future.
2	2	PWD	The Committee observes that 10 out of 67 contractors selected by the company did not meet five out of the six criteria laid down by the Board of Directors for empanelment. The Committee noticed that works estimated to ₹ 930.16 crore was entrusted to Sub Contractors on nomination basis without inviting limited tenders from the empanelled contractors. The Committee express its dissatisfaction with the explanation given by the witness and recommends that strict instructions must be given to the authorities to avoid such irregularities in future.

3	3	PWD	The Committee observes that the construction of Athanadi bridge in Kasaragod district across the Payaswini river was carried out without obtaining security deposit from sub-contractor and was later recovered from the outstanding bill payment of the same contractor's work. The Committee also observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.
4	4	PWD	The Committee observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.
5	5	PWD	The Committee observes that the failure to collect the security deposit at the time of execution of the contract was a lapse on the part of the Company. So the Committee recommends that henceforth Security deposit should be collected at the time of executing the agreement with sub-contractors and recommends that such lapse should not be repeated in future.

6	6	PWD	<p>The Committee observes that there was a serious lapse on the part of the KSCC in obtaining Security Deposit from the sub-contractors at the time of execution of contract in all the six works mentioned above. The Committee noticed that in response to a High Court order, a circular was issued in 2003 for treating arrears payable to a contractor as Security Deposit in another work of the same Contractor. Hence the arrears payable to the Contractor was treated as Security Deposit in another work of the Contractor in all these six works. The Committee insists on strict adherence to obtaining Security Deposit at the time of awarding of contracts in future.</p>
7	7	PWD	<p>The Committee criticises both Public Works Department and KSCC for the flaws in executing the work in time. The Committee observes that the cost of the work has risen four times from the estimate. So the Committee recommends to furnish a report detailing the current status of the project.</p>
8	8	PWD	<p>The Committee is of the view that it has become a regular practice of most of the PSUs making contract appointments flouting all the prevailing guidelines of reservation and regularising them after 10-15 years of service depriving the chance of the deserved educated youth.</p>

9	9	PWD	The Committee recommends to furnish a detailed report on matters such as: whether steps were taken to make appointments through Employment Exchange, whether the Board has the power to make the appointment on contract basis or whether contract appointments were made with the prior permission of the Government by following the procedures.
10	10	PWD	The Committee vehemently criticises the Public Works Department for regularising the contract employees in 2013 since it is illegal and denies opportunity to eligible candidates. So the Committee recommends that the Government should take appropriate steps including fixing liability to Managing Director and taking disciplinary proceedings against other concerned officials to avoid such malpractices in future.
11	11	PWD	The Committee observes that total cost had increased due to the termination of the contract without risk and cost and delay in acquiring and handing over the land to the contractor in time. Hence the Committee recommends that strict instructions must be given to the authorities to avoid such irregularities in future.

APPENDIX- II

Notes furnished by Government to the Audit Paragraph

Reply to para 3.2 (3.2.5.1 (3), 3.2.5.2 (7), 3.2.5.2 (8), of Audit Report on (PSUs) for the year ended 31 March 2016- Bridge works concerned to Kerala State Construction Corporation.

Para	Name of Work	Audit Observation	Reply
3.2 3.2.5.1(3)	Athanadi Bridge	KSCC executed (February 2016) extra work in connection with construction of new bridge across river Payaswini (Athanadi Bridge) in Kasaragode district before obtaining AS for the work.	<p>This work is a MoU work with PWD department. As per GO(Rt) No. 146/2014/PWD dt. 30.01.2014 Administrative Sanction was accorded for Rs. 1490 lakhs and vide GO (Rt) No.298/2014/PWD dt. 25.02.2014. Technical Sanction was accorded for Rs. 1490 lakhs. Agreement executed with Superintending Engineer No. SE (K)/255 /2013-14 dt. 28.02.2014. The last date of completion as per agreement is 28-02-2016. During execution and on the site visit of PWD Principal Secretary and the local authorities, it was recommended to carry out some additional works for the satisfactory completion of this bridge work. The length of the approach road was extended to 3650 m, instead of 260 m as in the Original proposal. The revised estimate is prepared for extra works and KSCC got revised Administrative Sanction vide GO(Rt)/128/2015/PWD dt. 24.01.2015 for an amount of Rs. 2120 lakhs and revised Technical Sanction on 09.09.2015 vide GO(Rt) 1323/2015/PWD for Rs. 2050 lakhs. Supplementary agreement with Superintending Engineer was signed on 22.09.2015. The work was completed on 28-2-2016 within the agreed date of completion.</p> <p>In view of the above audit observation may kindly be dropped.</p>

3.2	3.2.5.2(7)	Construction of Work Nettoor-Kundannur Bridge for Public Works Department	<p>As per PWD Manual 2012, (Paragraph 2102.1 and 2101.1) after executing the agreement, the site has to be taken over from the Assistant Engineer (PWD) to commence the work immediately and where any delay is anticipated, the matter shall be brought to the notice of the authority who executed the agreement.</p> <p>KSCC did not analyse the site condition before awarding (June 2013 to July 2015) the work which resulted in unnecessary delay due to hindrance at site.</p>	<p>For this work, Administrative Sanction has been accorded as per GO (Rt) 459/2013 PWD dt. 30.03.2013 for Rs. 29.50 Crore. Technical sanction was accorded vide No. 322/CE/R2012-13/322 for an amount of Rs. 29.50 Crore. Agreement was executed with the client department vide No. 107/SECCA/2012-13 dt. 24.09.2013. The site was handed over on 25.09.2013 with a completion time up to 24.09.2015.</p> <p>During the piling, the work was obstructed due to heavy concrete blocks under soil periphery. This matter was reported to the Superintending Engineer vide letter No. CC/GM(E)/EKM-547/013/1763 dt. 31.05.2014. Again this work was delayed due to pending payments and delay in shifting the existing water supply line by KWA. It was also reported to the Executive Engineer PWD, Roads Division Ernakulam vide letter No. CC/RME/NE-KU-B/2013/1176 dt. 03.06.2015. Also KSCC had informed the following site issues to the Superintending Engineer R&B central circle, Aluva vide letter no. CC/GM(E)/EKM/ 547/013/3392 (a) dt. 23.09.2015 that, the pile could not be driven at pier point P3 as per the approved design, as the KWA laid HDPE pipe line run through the alignment of bridge. But they were not able to relocate the pipeline. Also the kentle edge used for sinking the well of the existing bridge by Hindustan Construction Company Ltd existed deep in the clay.</p> <p>The bridge portion of the work was completed on 09.12.2017 but the approach road work was pending. Hence KSCC had</p>
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			<p>requested to the Executive Engineer Road & Bridges Division Ernakulam, to take necessary action to make the land available, so as to complete the work, vide letter No. CC/RME/NK- B/2013/3189 dt. 08.05.2018.</p> <p>These facts were reported and have requested to the PWD officials from time to time for removing these obstructions to complete the work. Finally this work completed on 28.06.2019.</p> <p>In view of the above audit observation may kindly be dropped.</p>
3.2	3.2.5.2(8)	Construction of Bridge near Mancombu Civil Station across Manimala river for Public Work Department.	<p>Administrative sanction was accorded to the work vide GO. (Rt) No.412/13/PWD dt 22/03/2013 for Rs. 2850 lakhs and Technical sanction issued by the Chief Engineer (Roads & Bridges) vide TS No. 347/CE/R2012-13/347 dt 30/03/2013 for Rs. 2850 lakhs. Agreement for the above work was executed vide No.162/SESC/2013-14 on 20-01-2014. The Regional Manager Alappuzha reported to the Executive Engineer, Public Work Department, Road division Alappuzha that the land for approach road in Rulinkunnu side has not been handed over and the construction of approach road and retaining wall of Mancombu side was held up due to delay in land acquisition. KSCC had requested for action for making the available land at the earliest vide letter no CC.M(P)/Alp/MB/14/1021 dt 09-12-2015.</p> <p>The Regional Manager, Alappuzha has reported to the Superintendent Engineer R& B, South Circle, PWD Trivandrum</p>

				<p>vide No.CC/M(P)/Alp/ MBB/14/1274 dt 04.08.2016 for extension of Time of completion of work citing that the land acquisition procedure was not yet completed for the construction of abutment in A2 location on Pulinkunnu side. Also requested to take necessary action to complete the land acquisition procedure.</p> <p>On 31-05-2018 the General Manager KSCC TVM informed and requested the Superintending Engineer R & B, South Circle, PWD Trivandrum, that land acquisition of the north side of the bridge has not been completed. He also cited delay for new design also have delayed the completion of work.</p> <p>Delay in handing over of the site was occurred due to the delay in procedure for transferring the land value to land owners, delay in getting permission from the Registrar, Agricultural University in respect of land owned by Kerala Agricultural University RICE Research Station, Mancombu and delay in getting permission from Government for converting the paddy land into 'purayidam', since the area was not entered in the Data Bank.</p> <p>The work was completed in all respect on 24/06/2020.</p> <p>In view of the above audit observation may kindly be dropped.</p>
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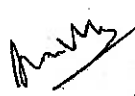
Action Taken Report on the C & AG's report on Public Sector
Undertakings for the year ended 31st March 2016
Public Works (PS) Department

Para No	Recommendation	Action Taken
3.2.5.1 (5)	<u>Award of work to sub-contractors</u> KSCC Executed works without obtaining Security Deposit from the sub-contractors. Name of work: Heavy Maintenance to Ottappalam-Mannarklad Road	As per clause (10) of the agreement of the said work, Rs.75/- Lakh should be deposited as security deposit by the contractor in the form of Bank Guarantee/Fixed Deposit receipts from a nationalized or scheduled bank hypothecated to KSCC and is equally valid up to the expiry of the Defect Liability Period. While executing the agreement, it has been decided to recover the security deposit of Rs.75/- Lakh from the work 'Re-Construction of Menonpara Bridge across Korayar River' of the same contractor. The security deposit of Rs.75/- Lakh had not been recovered from the work 'Re-Construction of Menonpara Bridge across Korayar River' due to undue delay in receiving payment from the client Department, PWD. Since payments from client Department were delayed considerably, it is the practice in PWD and also in KSCC to admit pending bills as securities. As such the final bill of the work 'Re-Construction of Menonpara Bridge across Korayar River' was released keeping the part bill of 'Improvements to Sethangolli - Puthege - Perla road Km 0/000 to 3/000 in Kasargod district as security. The work 'Heavy Maintenance to Ottappalam - Mannarklad Road' was completed on 31.05.2015 and the Defect liability period was also expired and no damages were pointed out by the client or public so far.


A. MITH K. JOSEPH
 Additional Secretary
 Public Works Department
 Government Secretariat
 Thiruvananthapuram

Action Taken Report on the C & AG's report in Public Sector Undertaking's
2016 March 31st ended.

3	3.2.5.1(4)	Empanelled (2011-12) inclusion of 10 contractors without meeting criteria fixed by BOD of KSCC and awarding of work on nomination basis	list of KSCC invited applications for empanelment of contractors from contractors. Based on the applications, the list of contractors were prepared and approval from Board of Directors had obtained. The Board of Directors of KSCC consist of Chief Engineer Buildings, Chief Engineer Roads & Bridges, Additional Secretary Finance Department. After obtaining specific approval of CE Buildings, CE Road & Bridges works are entrusted to experienced contractors. The selection procedure of empanelled list of contractors is transparent purely official.
4	3.2.5.1(5)	Execution of works without obtaining security deposit from the sub contractors.	Construction of Academic block Medical College Campus Thiruvur In the agreement condition as per clause (11), EMD, Security Deposit and Retention collected did not exceed 7.5% of Contract PAC or Rs.10 lakh whichever is lower. So Rs.10 lakh has been recovered from the reimbursement of final bill and kept as security deposit.
5	3.2.5.2(6)	Delay execution works.	in Construction of New Block for Nephrology Unit and dialysis centre at General Hospital Pala for Public Works Department. The minimum set back required is 2 M only. A Set back of 2.75 M is provided in this case. Minor deviations in the original plan is permissible as per KMBRs. Construction of building by limiting the set back to 2.75 M is purely of with good intention to provide much clearance between the building and the boundary of the petitioner. The KSOC Ltd. has submitted detailed statement of facts in this regard. The delay in work was due to pending litigation. The Hon'ble High Court disposed the writ petition filed by Smt. Alice George on 02.03.2017 and permitted to resume the work. The work has been completed on 28.01.2019.


J. UNNIKRISHNAN
Additional Secretary to Govt.
Public Works Dept.
Govt. Secretariat
Chennai

Reply on the Audit report of the Comp. & Auditor General of India on Public Sector

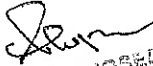
Undertakings for the year ended 31st March, 2016.

Para No.	Audit Observation/Audit Objection	Remarks of Government										
		<p>The total length of Nilambur bypass (Phase-I and II) is 6 kms. 1st phase is starting from Jyothipadi in KNG road and ending at Mukkatta in SH 39 , 2nd phase is starting from Mukkatta in SH 39 and ending at Veliyamthode in KNG road. As per GO(Rt)No.1216/2013/PWD dated 10.09.2013 , Administrative Sanction was accorded for the 1st phase of the Construction of Nilambur Bypass for an amount of Rs. 35 crore including Rs. 21 crore for construction and Rs.14 crore for land acquisition. Technical sanction was issued for the 1st phase construction of the bypass project as per G.O(Rt)No.182/2014/PWD dated 05.02.2014. The work entrusted to KSCC and agreement executed by Superintending Engineer, Roads and Bridges , North Circle , Kozhikode as agreement dated 20.02.2014.</p> <p>The proposed bypass required land at 30 M width and pavement width of 10 M. Some people protested against land acquisition. Due to protests a meeting was conducted with land owners, political party leaders and Government officials and they were convinced that the compensation for LA will be given in Phase Manners. Protested people agreed for the same. Government have sanctioned fund for land acquisition as detailed below;</p> <table border="1"> <thead> <tr> <th>Sl No.</th> <th>Order No.</th> <th>Amount</th> <th>Length</th> <th>Area (Hr)</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Sl No.	Order No.	Amount	Length	Area (Hr)					
Sl No.	Order No.	Amount	Length	Area (Hr)								
	Delay in											

3.2.5.2(9)	execution of civil works by sub-contractors- Construction of Nilambur Bypass Road for Public Works Department- KSCC did not analyse the site condition before awarding the work which resulted in unnecessary delay due to hindrances at site.(June 2013 to July 2015).	1.	G.O(Rt)No,1216/13/PWD dated 10.09.2013	14 Crore	960 meter	2.88
		2.	G.O(Rt)No,1568/16/PWD dated 15.11.2016	1.2 Crore		
		3.	G.O(Rt)No,1177/18/PWD dated 30.07.2018	10 Crore	900 meter	2.7
		4.	G.O(Rt)No,8564/19/Fin dated 31.10.2019	10 Crore	600 meter	1.8
		<p>Land acquired in 2016 for 960 M stretch by using the available fund (15.20 Cr) . The site handed over to the contractor on 24.02.2016 with acquired land of 960 M (chainage 0/000 to 0/960) Length of road. After the site was taken over by the KSCC, on 10.04.2017, KSCC had reported to the agreement authority that the site was only partially handed over and also the red earth for filling was not available in nearby locations and hence had to be conveyed from the other places. At that time Mining and Geology Department was not giving permission for extraction of red earth. Hence , the agreement authority , i.e., Superintending Engineer had been requested to take steps for getting special sanction for quarrying the red earth from the places pointed out by the KSCC from the Mining & Geology Department and District Collector. After all these communication and requests , Further land of 900 M (Chainage 0/960 to 1/860) was made available to the work after completing LA Procedure on 22.07.2019. The 1.86 KMs length road level raised by filling sufficient earth and road formation completed. The first Part Bill passed for Rs.2,54,71,855/-. Balance portion of land has not been handed over to KSCC till date.</p> <p>The agreement was executed with KSCC as per SOR</p>				

2012 and continuing the same rate. A comprehensive Administrative sanction for the work has been accorded for an amount of 140.43 Crores. Since the estimate for the work is based on DSoR 2012, Chief Engineer is taking steps to submit Revised Estimate to Government as per current DSoR.

Revised comprehensive Administrative Sanction will be issued, the hurdles associated with land acquisition will be eased and proper progression of the work will be ensured.


AJITH K JOSEPH
Additional Secretary
Public Works Department
Government of Kerala
Thiruvananthapuram

GOVERNMENT OF KERALA

PUBLIC WORKS (B) DEPARTMENT

Reply to para 3.2.5.2(10) of Audit Report on (PSUs) for the year ended 31 March 2016, regarding "Construction of Regulator Cum Bridge at Purappallikkavu across Periyar river for Irrigation Department in Ernakulam District"

SL.NO.	PARA NO.	RECOMMENDATION OF THE COMMITTEE	ACTION TAKEN REPORT
			<p>The Administrative Sanction was obtained for this work vide G.O(Rt) No. 377/2011/WRD dated 04/04/2011 for Rs. 68 Crores.</p> <p>Technical Sanction was obtained vide G.O(Rt) No. 410/2014/WRD dated 24/04/2014 for Rs. 100</p> <p>As per PWD Manual 2012, Crores (Rs. 84.06.75.625 for civil (Paragraph 2102.1 and 2101.1) work and Rs. 13.50.00.000/- for after executing the agreement, the Mechanical work).</p> <p>site has to be taken over from the Revised Administrative Sanction Assistant Engineer (PWD) to was obtained vide G.O(Rt) No. commence the work immediately! 1042/2014/WRD dated 06.11.2014 and where any delay is anticipated, for Rs. 100 Crore. The agreement</p> <p>3.2.5.2(10) the matter shall be brought to the was executed with SI. Irrigation, notice of the authority who Central Circle, Thrissur vide executed the agreement.</p> <p>Agreement No. 14/ST/ICC/2015- KSCC did not analyze the site 16 dt 28.07.2015. The site was condition before awarding (June taken over on 18.03.2015 with a 2013 to July 2015) the work which completion time as per agreement resulted in unnecessary delay due up to 17.09.2017. The work has to hindrance at site.</p> <p>been completed in all respect as on 10.08.2017, within the agreed time of completion. Meanwhile, some delay occurred during execution that the delay in obtaining detailed design of mechanical parts of gate and shutter work of this regulator cum bridge.</p>



GOVERNMENT OF KERALA

PUBLIC WORKS (B) DEPARTMENT

Reply to para 3.5 of Audit Report on (PSUs) for the year ended 31 March 2016, regarding
 "Irregular appointment of employees in Public Works Department and KSCC Ltd. -
 Appointment of employees in violation of existing Government directions and irregular
 regularisation of temporary employees resulted in failure to ensure transparency and
 fairness in recruitment"

Sl. No.	Para No.	Recommendation of the Committee	Action Taken Report
1	3.5	1) KSCC Ltd: Government had directed (March 2013) the Company to make appointments on contract /daily wages /temporary basis only against sanctioned posts. However, the company appointed 60 employees on temporary basis in various cadres from March 2013 to June 2016, of which 32 were not against any sanctioned post.	During the period from 3/2013 to 6/2016 the KSCC was awarded with 46 works on MOU basis and 98 works on consultancy basis. These works are spread in various part of the State including remote areas. These works were to be executed under close supervision and has to be completed within a time span of 12 months, 18 months, 24 months etc. For the satisfactory and speedy completion of these projects, experienced and dedicated personnel in the cadre of Regional Manager, Project Engineer, Assistant Project Engineer, Engineering Assistant Gr.I, Engineering Assistant Gr.II, Engineering Assistant Gr.III in large number was required. Sanctioned post of Technical officers were inadequate to meet the manpower requirements of the Corporation due to the increased volume of works during the reported periods. The average turnover of the company during the period was Rs.500 Crore which is more than double in the previous years. However the company could not maintain a permanent staff structure due to fluctuation in the volume of works. Shortage of own and deputation staff was experienced in these years as officers from the Government Departments were not willing to work on

			<p>deputation basis considering the high work load in KSCC compared with the Government Departments. Most of employees appointed through Public Service Commission in the category of Engineering Assistant Gr.I, Engineering Assistant Gr.II, Engineering Assistant Gr.III left the KSCC upon receiving better opportunity. The Government have not appointed officers from other Departments on Deputation basis against the post of Senior Consultant, Secretary, Finance Manager, Senior Accounts Officer during these years and possibility of getting experienced and reliable persons from Employment Exchange was also remote. More over a permanent staff structure cannot be maintained in KSCC for its construction activities as there are wide variations in the volume of works entrusted by the Government.</p> <p>In order to overcome such a situation and for the best interest of the works, KSCC was compelled to appoint experienced and dedicated personnel on contract basis. Contract appointment of Senior Consultant, Secretary, Finance Manager, Senior Accounts Officer, Regional Managers, Project Engineers were made on the basis of Government orders and other technical and non technical hands are engaged on the basis of the Board approval. It may be noted that contract employees appointed for a particular project can be terminated at any time or on completion of the project. It may be also noted that these contract employees were given low salary than those appointed on regular basis or through Employment Exchange etc.</p>
		<p>2) PWD: The Department appointed 248 daily wage employees against 73 sanctioned posts, out of which</p>	<p>Daily waged staff are appointed by the respective Executive Engineers for the smooth functioning of the offices like rest house. Such employees have to be recruited</p>

GOVERNMENT OF KERALA
PUBLIC WORKS (D) DEPARTMENT

Reply to para 3.2.5.3 Item No.6 of Audit Report on (PSUs) for the year ended 31st March 2016.
Item No.6 concerned to Roads and Bridges Development Corporation of Kerala Ltd.

SLNo	Para No.	Audit Para	Action taken by the Government
1	3.2. 5.3 Item No.6	<p>Audit Paragraph related to Roads and Bridges Development Corporation of Kerala.</p> <p>Works entrusted to PSUs on nomination basis in violation of the provisions of Kerala Financial Code (KFC). These works were subsequently sub-contracted by the PSUs. Deficiencies noticed by audit in the award of work by PSUs and their execution.</p> <p>Failure of the sub-contractor to mobilise resources at site resulted in foreclosure of contract without any risk and cost to the sub-contractor. Retendering of balance work, despite objection from Frinance Department resulted in cost increase of ₹6.44 crore.</p>	<ol style="list-style-type: none"> 1. As per G.O.(Rt) No.706/2010/PWD dated 29.04.2010 Government had entrusted the construction of Station Kadavu Bridge (Emakulam) along with three other works to KRFB to arrange through Roads and Bridges Development Corporation of Kerala Ltd for which an Administrative Sanction for Rs. 18.75 Cr was issued by the Government. RBDCK is the Project Management Agency, NOT contractor for the works as entrusted by the Government. KITCO Ltd was appointed as the Design and Construction Management Consultant for the works as per letter No. RBDCK/T42/598 dated 25.05.2010 and the contractor was appointed after competitive public bidding. Hence the mention in the audit finding that the work was sub-contracted is not correct. Also the statement that the failure of the contractor to mobilise resources at site resulted in foreclosure of contract without risk and cost to the subcontractor is not accurate as explained below in detail. 2. The bridge consists of pre-stressed spans 28.0m x 10 nos + 46.00m x 1no. Centre span + approaches of 114.0m long and total length of 440.0m. 3. Request for sanction to acquire land required for the Bridge had been submitted to the Government as per ref: LA-1544/2010/1706 dated 03.12.2010. In normal course of action LA authority should be able to hand over the land within maximum one year. Further it was expected that the land would be obtained by advance possession as promised during the meeting held on 17-04-2010, chaired by the then Honorable Minister Sri. S. Sharma who was the MLA of Vypin constituency. In consideration of the above, it was decided to proceed with bidding of the work before acquiring the land. 4. The Work for Construction of River Bridge across Periyar connecting

Station Kadavu and Valiyapazhampillithuruth was tendered as a Design and construction bid as per Bid No. RBDCK/Works/ 12 dated 27.11.2010 with PAC Rs. 12.80 Cr by publishing in three news papers Manorama, Desabhimani, Indian Express.

5. The technical bid was opened on 05.01.2011. Three bids received. All are pre-qualified and price bid opened on 18.01.2011. Responses received to the bids were as follows.

- 1) M/s. IVRCL Infrastructures and Projects -Rs. 23,26,19,277/-
- 2) M/s. CVCC.Pvt. Ltd. -Rs. 18,26,82,200/-
- 3) M/s. RDS Projects Ltd. -Rs. 17,94,00,494/-

6. Since the lowest quoted price Rs. 17,94,00,494/- was high compared to the estimated amount, the work was re-tendered.

7. The work was retendered as per Bid No. RBDCK/Works/05/2011 dated 19.02.2011 with PAC Rs. 13.50 Cr. by publishing in three news papers, Manorama, Desabhimani, Indian Express as an item Rate tender.

8. The technical bid was opened on 05.03.2011. Two bids received. Both bidders are pre-qualified and price bid opened on 10.03.2011. Responses received to the bids were as follows.

- 1) M/s. Skilled Constructions Co Ltd. - Rs.17,97,56,530/-
- 2) M/s. RDS Projects Ltd. - Rs. 18,30,45,332/-

9. The lowest quoted price of M/s. Skilled Constructions Co Ltd was 30.0% more than the estimated amount Rs. 13,85,72,197.00. Price was negotiated to Rs. 17,84,06,530/- which was 29% above and hence the work was re-tendered.

10. The work was retendered as per Bid No. RBDCK/Works/15/2011 dated 12.07.2011 with PAC Rs.14.08 Cr. by publishing in three news papers Manorama, Hindu and Mathrubhumi as an item Rate tender.

11. The technical bid was opened on 18.08.2011. Three bids received. All three bidders are pre-qualified and price bid opened on 12.09.2011. Responses received to the bids were as follows.

- 1) M/s. Hope constructions - Rs. 16,84,42,200.00
- 2) M/s. Skilled Constructions Company Ltd- Rs. 17,43,32,780.00
- 3) M/s. Contour Constructions Pvt. Ltd.- Rs. 17,84,86,766.00

12. The lowest price offered in the second re-tender was Rs. 16,84,42,200.00 by M/s. Hope Constructions against the estimated amount of Rs.140,843,328.00 which is 19.60% above the estimate amount. Since the estimate was based on 2010 PWD schedule of rates and during the process of tendering, the Government as per G.O.(Rt) No. 1151/2011/PWD dated 03.09.2011, had approved rate revision @ 15% over the 2010 SoR for Civil works in 2011 and since quote was received in response to re-tendering of the work in third time Letter of Acceptance was issued to M/s. Hope Construction at their quoted price of Rs. 16,84,42,200.00 and the agreement was executed on 17.01.2012.
13. However the construction could not be started without shifting the Juncar Jetty of Station Kadavu Panchayath operated along the alignment. The Panchayath failed to shift the Jetty in time and hence requested RBDCK to construct a new Jetty on the land identified by the Panchayath on Station Kadavu side. Construction of Jetty was arranged by RBDCK, and the same was completed on 25.04.2012. The Juncar service was shifted to the new Station Kadavu Jetty on 17.05.2012 by the Panchayath. However on Thuruthu side, the old Jetty operated on the alignment.
14. The pier locations of the bridge were abutment A1(on Thuruthu side), P1 to P10 and A2 (on Station Kadavu side). Out of these 12 pier locations P2 to P19 was in the river. By shifting Jetty on Station Kadavu side access to pier locations P 10 to P5 was available since 17.05.2012 and Notice to Proceed with the work (NTP) was issued on 21.05.2012, setting the date for completion as 21.11.2013, being the period for completion is 18 months.
15. Piling on locations P10 to P5 was arranged by constructing sand bund. Pier locations P4 to P1 was not hindrance fee due to the operation of Juncar from the old Jetty in Thuruthu. Contractor M/s. Hope Constructions as per their letter No. HOPE/ KITCO/2012/011 dated 25.07.2012 informed their intension to mobilise the pontoon for piling in P4 to P1 locations on 30-08-2012. However Secretary, Puthenvelikkara Panchayath as per letter No.A2/106/11 dated 19/07/2012 informed that they need more time to shift the Jetty on VP Thuruth side. Accordingly RBDCK vide letter No. RBDCK/Station43/1225 dated 03-08-2012 informed the contractor of the possible delay and advised to postpone the

pontoon mobilization.

16. The Panchayath failed to find out a suitable location to shift the V.P. Thuruth side Jetty. Contractor as per letter No. HOPE/KITCO/2012 dated 23.02.2013 had notified the financial losses incurred due to remobilization of rigs and pontoon due to non availability of work front and reported remobilization of the pontoon on 22.02.2013 for piling in P4-P2 locations. However the pontoon brought to the site got sunken in water while idling for work front. (Idling pontoons are more susceptible to be sunken as there is no day to day attention) Later on the Panchayath took plot for lease on Thuruthu side for new Jetty construction on the basis of RBDCK agreeing to pay the lease rent. The rented plot was suitable only to construct a Jetty to transport passengers and two wheelers. The Panchayath agreed the same and the construction of VP Thuruthu side Jetty suitable for transporting only two wheelers and Passengers had been completed in the leased land on 05.04.2013. RBDCK requested the Panchayath to stop operation of the Juncar from old jetty vide letter No. RBDCK (Stationkadavu/T43/761 dated 16-04-2013. However the Juncar continued to operate from the old Jetty. RBDCK vide letter No. RBDCK/Stationkadavu/T43/1118 dated 17-06-2013 requested to the Panchayath again, to shift the ferry service pointing out the contractors legal right to make claim for hindrance until the ferry is shifted. The Secretary Puthenvelikkara Panchayath, vide letter No.A2-106/11 dated 18.06.2013 reported that the new ferry started on 10/06/2013. Based on this letter, RBDCK informed the contractor vide letter No. RBDCK Stationkadavu/T43/1133 dated 19-06-2013 that the pier locations P1 to P4 should be considered hindrance free with effect from 10-06-2013. However the juncar continued to operate from the old Jetty irrespective of several reminders by RBDCK.
17. Even though 6 pier locations, P10 to P5 in the river portion was hindrances free, the contractor was able to complete the piling only at locations P10, P9, P8, P7 along with 5 out of 8 piles at P6 location before monsoon season (June 2013).
18. The contractor had erected sand bund in hindrance free Pile locations P10 to P5 and had mobilized 4 rigs, one on each pier location at a time, for the available 6 location. However after completing piles in four

locations (p10, p9, p8, & p7) and while the piling on fifth location P6 (where 5 out of 8 piles completed) was progressing, the sand bund was washed off in the flood in June 2013. The local residents objected reconstruction of bund as reported by contractors. Since the reconstruction of bund was obstructed by the local public, the contractor had to change their programme and the pontoon brought to the site for piling in P4to P2 location on 22/02/2013 was repaired and deployed in P6 location (and two more pile completed) which was earlier planned to execute over sand bund.

19. The Panchayath continued ferrying 4 wheelers operating from the old Jetty and the contractor took stand that the locations P1 to P4 was not hindrance free.
20. The contractor was able to execute only 30 piles, 4 pile caps and 4 Pier caps for a total value of Rs.2,29,65,270.00
21. The contractor was instructed to take over the land in twelve plots by letter No. 567/DP/522/BAH/2014 dated 02-05-2014 of the Engineer for which consent for advance possession was received. The contractor disagreed to take over the land vide letter No. nil dated 09.05.2014 citing reason that the plots are not hindrance free due to existing structures and other improvements. Even though advance possession paper was signed, the physical possession of the plots were with the land owners as there were working saw mills, occupied houses and other improvements in those plots (A saw mill was in operation in Station Kadavu side on the plot adjacent to the river and even consent was not given by the plot owner Dr. Renu on the Thuruthu side adjacent to the river)
22. Vide letter No. nil dated 09-05-2014, the contractor M/s. Hope: Constructions has claimed that the completion of work within the intended completion period was prevented due to the failure of the employer to hand over unhindered possession of site and stated that he: will execute further work only if revised rates are allowed or the contract be closed.
23. As noted above there was failure from the part of RBDCK in handing over the site to the contractor and the contractor could not make much progress even where work front was available. At the same time the contractor was forced to work with limited access and partial / delayed

- possession of the site for the entire duration of the contract.
24. Contract condition clearly mentioned in sub-clause 42.1 in the contract data that the site possession shall be within 14 days of the issue of notice to proceed with the work except for the area marked for acquisition in the approach portion. Possession of such area shall be given not later than 12 Months from the issue of NTP" which was not happened as;
- (a) pile locations P1, P2, P3 and P4 was not hindrance free noted above due to Juncar operation and
 - (b) the land on either side of the river, which was due to be handed over to the contractor before 21-05-2012 as per the contract was never been handed over and
 - (c) the contractor was forced to work with limited access and partial possession of the site for the entire duration of the contract.
25. Even though the contractor was directed by the employer on 30th April 2014 to take over 12 plots based on the advance possession consents signed by the plot owners, physical possession of the same were not given by the land owners as there were working saw mills, occupied houses and other improvements in those plots as stated by the contractor. Physical possession of the plots were happened only since 23/02/2016.
26. In the above circumstances, outright rejection of the contractor's claims that the employer's failure in handing over hindrance free site, delay in shifting jetty, flood etc prevented them from discharging their contractual obligations may not stand legal scrutiny as possession of free, unhindered site is the indispensable right of the contractor and liability of the employer.
27. Since the contractor categorically stated vide letter No. nil dated 09-05-2014, that they will execute further work only if revised rates are allowed or otherwise requested to foreclose the contract by paying for the work already done and releasing the performance security. The contractor definitely will take the matter to the court of law if the contract was terminated with risk and cost.
28. In order to ensure a legally sustainable decision on this matter, opinion of the Standing Counsel Adv. M. Vijayakumar was called for. After detailed examination of all relevant records, Adv. M. Vijayakumar vide his letter dated 02-06-2014, suggested that if the contract is terminated

- and work rearranged at the risk and cost of the contractor, the matter will end up in litigation which will be long drawn, expensive and outcome cannot be predicted. He recommended that the best option is to venture into an amicable settlement with the Contractor M/s. Hope Constructions.
29. The matter had been placed before the 59th meeting of the Board of Directors of RBDCK held on 10th June 2014 to examine whether
- i) the contract with Hope Construction is to be terminated and the balance work is to be rearranged through fresh contract with the approval of Government
 - ii) If the contract is to be terminated, whether it is to be amicably foreclosed by paying for the work already executed or to be terminated under the risk and cost of the Contractor.
30. The Director Board resolved by resolution No.07/04/59, to terminate the contract without risk and cost with permission of the Government
31. The 60th meeting of the Board of Directors of RBDCK held on 3rd September 2014 further resolved as per resolution No.07/05/60 that "the company shall approach the Government once again to consider grant exemption from imposing risk and cost on the contractor M/s. Hope Constructions who were engaged in the construction of Station Kadavu Bridge".
32. The matter had been discussed in the meeting held by Hon. Chief Minister in the presence of Hon. Minister for Public work and MLA Sri.V D Satheeshan on 15-10-2014. After detailed discussion and inconsideration of the urgency and importance to complete the bridge and out of the conviction that the contractor is unable to complete the work, it was decided to for-close the contract with M/s. Hope Constructions without risk and cost with the approval of the Cabinet.
33. Consequent to the approval of the Cabinet, Government accorded sanction to terminate the contract without the risk and cost of the contractor M/s. Hope Constructions as per G.O(Rt)No.72/2015/PWD dated 14-01-2015, and the contract was closed without risk and cost on 28-03-2016.
34. The action taken to tender and award the construction work prior to land acquisition that lead to subsequent closure of the work without risk and cost has not resulted to any loss to the public exchequer as the work


- amounting to Rs. 2,29,61,331.00 have been executed at the rate prevailed in 2010. Now the balance work is only need to be executed at the current price.
35. The balance work was tendered after all due process and Government approvals as noted below
- (a) Administrative Sanction for the Construction of River Bridge at Station Kadavu across Periyar River in Ernakulam District (Balance work) was accorded as per GO (Rt) No.607/2015/PWD dated 06-05-2015;
 - (b) Technical Sanction for the Construction of River Bridge at Station Kadavu across Periyar River in Ernakulam District (Balance work) was accorded as per G.O. (Rt) No.971/ 2015/ PWD dt 08.07.2015.
 - (c) Permission for Tendering the work was received as per Letter No.17612 / D1/2015/PWD dated 22-07-2015 of Secretary PWD.
 - (d) Special Sanction for the Construction of River Bridge at Station Kadavu across Periyar River in Ernakulam District (Balance work) was received as per G.O. (Rt) No.1266/2015/PWD dt 26.08.2015.
36. E-Tender No. RBDCK/STATIONKADVAU/14/2015 dated 20-07-2015 and Retender as per E-Tender No.RBDCK/STATIONKADVU/14/2015/R1 dated 18-08-2015 was published on e-tendering portal www.etenders.kerala.gov.in, but did not receive any response.
37. Since there was no response to two consecutive E tenders, Quotation notice as per QTN REF No. RBDCK/STATIONKADVAU/14/2015/R2 dated 23-09-2015 was published in three news papers and two quotations were received.
38. Total amount quoted by the qualified bidder M/s. Seguro Inkel Consortium was Rs. 26,45,52,568/- against the estimated PAC of Rs. 18,49,78,861/-
39. Government sanction accorded for the quotation of M/s. Seguro Inkel Consortium Ltd by limiting the Agreed PAC to Rs. 23.00 Crores as per G.O. (Rt) No. 93/2016/ PWD dated 14-01-2016.
40. However the inference that the cancellation of original contract and probable award of Work to Seguro Inkel Consortium resulted in extra expenditure of 6.44 crore would be true only if the land was taken possession at the time of bidding during 2011, which is not the fact. If the work was not tendered and Works worth Rs. 2,29.61.331.00 was not

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executed earlier, that works also should have been executed at current rate which is approximately 58.0 % more than the previous rates. That would have resulted in an additional expenditure of about Rs. 133.00 lakhs for the work already executed. Hence the action taken to award the work prior to land acquisition which resulted to the re-arrangement of the work has resulted only savings of about Rs. 133.00 lakhs to the public exchequer.

41. The Length of the bridge being 440.0m and total approximate cost being Rs. 20.8 Cr. (Rs. 18.5 Cr. + the works already executed Rs. 2.3 cr), the cost of construction would be Rs. 4.72 lakhs / RM which is very reasonable. The work has now completed and opened to traffic.
42. During the period referred to in the report and till 2016 May, Govt. used to grant contracts directly to accredited agencies which include RBDCK. Now this practice is stopped. In those days accredited agencies used to appoint contractors for execution and supervision. That is what happened in this case also.
43. In view of the above, audit query No.6 of audit Report No.4 for the year ended 31st March 2016 related to the Roads and Bridges Development Corporation of Kerala may be dropped.

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