

Irregular award of Construction work
MINISTRY OF HUMAN RESOURCE
DEVELOPMENT
(DEPTT. OF HIGHER EDUCATION)
&
UNIVERSITY GRANTS COMMISSION.

PUBLIC ACCOUNTS
COMMITTEE
2007-2008

SIXTIETH REPORT

FOURTEENTH LOK SABHA



LOK SABHA SECRETARIAT
NEW DELHI.

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PUBLIC ACCOUNTS COMMITTEE
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IRREGULAR AWARD OF CONSTRUCTION WORK

MINISTRY OF HUMAN RESOURCE
DEVELOPMENT
(DEPARTMENT OF HIGHER EDUCATION)
&
UNIVERSITY GRANTS COMMISSION



*Presented to Lok Sabha on 30 November, 2007
Laid in Rajya Sabha on 30 November, 2007*

LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2007-2008)

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INTRODUCTION

1. I, the Chairman, Public Accounts Committee, as authorised by the Committee, do present this Sixtieth Report relating to “Irregular Award of Construction Work” on Paragraph 6.7 of the Report of Comptroller & Auditor General of India for the year ended 31 March, 2006 (No. 3 of 2007), Union Government (Civil—Autonomous Bodies).

2. The Report of the Comptroller & Auditor General of India for the year ended 31 March, 2006 (No. 3 of 2007), Union Government (Civil—Autonomous Bodies) was laid on the Table of the House on 14th May, 2007.

3. The Committee took evidence of the representatives of the Ministry of Human Resource Development (Department of Higher Education) University Grants Commission and Educational Consultants India Limited on the subject at their sittings held on 11th June, 2007 and 30th July, 2007. The Committee considered and finalised this Report at their sitting held on 23rd November, 2007. Minutes of the sittings form Annexures to the Report.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

5. The Committee would like to express their thanks to the officers of the Ministry of Human Resource Development (Department of Higher Education), University Grants Commission and Educational Consultants India Limited for the cooperation extended by them in furnishing information and tendering evidence before the Committee.

6. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

7. The Committee also place on record their appreciation for the invaluable assistance rendered to them by the officials of Lok Sabha Secretariat attached with the Committee.

NEW DELHI;
23 November, 2007

2 Agra Hayana, 1929 (Saka)

PROF. VIJAY KUMAR MALHOTRA,
Chairman,
Public Accounts Committee.

REPORT

PART I

BACKGROUND ANALYSIS

IRREGULAR AWARD OF CONSTRUCTION WORK

This Report is based on the Audit review contained in Para 6.7 of the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2006, No. 3 of 2007, Union Government (Civil—Autonomous Bodies) relating to "**Irregular Award of Construction Work**" by the University Grants Commission (UGC).

I. Introductory

2. The University Grants Commission (UGC) is a statutory autonomous body established by an Act of Parliament in 1956. It is a national body for the coordination, determination, and maintenance of standards of University education in the country. UGC's functions are provided in Section 12 of the UGC Act, the relevant portion of which is reproduced below:

"It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities, and for the purpose of performing its functions under this Act, the Commission may perform such other functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of Higher Education in India or as may be incidental or conducive to the discharge of the above functions."

3. When asked to state as to whether the UGC is a Statutory Body or Autonomous Body/or both and what powers have been given to them under the name of Statutory Autonomous Body, the Ministry of HRD (Department of Higher Education) stated:

"UGC is a Statutory, Autonomous Body. Its powers and functions are enumerated in Sections 12, 12A, 13 and 16-18 of the UGC Act. Except for the provisions of Sections 2 and 21 & 26, the Commission is autonomous *vis-a-vis* the Central Government. However, in financial and administrative matters, the University Grants Commission is guided, in its functioning, by the rules and regulations of the Government of India."

4. As regards the rules and regulations adopted by the UGC in its functioning, the Ministry of HRD (Department of Higher Education) in a note stated as under:

"UGC does not have any financial rules of its own. The UGC has specifically adopted the provisions of FR/SR for the purpose of their Service Regulations. In the absence of any other rules, the UGC is expected to *mutatis mutandis*

follow the principles of General Financial Rules (GFR), Financial Rules (FR) & Supplementary Rules (SR). In cases, where a specific authorization is required from the Ministry or any other authority, the Commission is expected to seek such authorization."

5. In this regard, the Secretary, Ministry of HRD (Department of Higher Education) informed the Committee during evidence that UGC has not formally adopted GFR but they have formally adopted GFR as far as service conditions are concerned. He also stated that they have since given instructions to UGC to adopt GFR formally in their Commission meeting so that there is no ambiguity about it.

6. Elaborating further in this regard, he added:

"The Government has not chosen to make any rules despite the lapse of over 50 years. Now, we have suggested that they should follow GFR to the extent they are applicable to an autonomous organization, and in situations like this we have a right to give them a direction that for the following you must come for EFC or for the following you must come for this procedure. We will now be making that kind of a rule in due course."

II. Audit Paragraph/Findings

7. Audit scrutiny has revealed that the University Grants Commission (UGC) had in its possession 20 acres of land in the campus of Jawaharlal Nehru University (JNU). The land was sub-leased by JNU to UGC on no rent basis for construction of UGC complex in January 1990. Audit has observed that UGC irregularly awarded consultancy work to Educational Consultants India Limited (Ed. CIL) in December 2002 for construction of UGC complex (formal agreement was signed in May 2003) without obtaining administrative and financial sanctions from the Ministry of Human Resource Development and 'No Objection' Certificate from the Ministry of Urban Development resulting in additional liability of Rs. 6.45 crore (including service tax of Rs. 59.75 lakh) on account of consultancy charges. Audit has further pointed out that UGC also irregularly paid interest free mobilisation advance of Rs. four crore to Ed. CIL, resulting in undue benefit to the firm. The work of construction of the complex on the land allotted in 1990 is yet to commence despite release of mobilization advance in September, 2003.

8. Audit scrutiny of the subject has brought out the following shortcomings in the contract awarded to Ed. CIL by UGC:

- UGC allotted the work to Ed. CIL without obtaining the formal administrative and financial approval. Subsequently, in July, 2003 UGC had requested the Ministry of Human Resource Development (Department of Higher Education) to accord administrative and financial sanctions. However, formal administrative and financial sanctions have not yet been accorded by the Ministry (November 2006).
- The work was awarded to Ed. CIL without obtaining 'no objection certificate from the Ministry of Urban Development as required under GFRs for not getting the work executed through CPWD.

- UGC incurred additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed. CIL over and above the project cost.
- UGC had released (September 2003) Rs. four crore as interest free mobilisation advance. This was irregular since according to paragraph 32.7 of CPWD Manual, the amount of mobilization advance can be paid at a simple interest of 10 per cent per annum subject to a maximum of 10 per cent of the estimated cost or Rs. one crore whichever is less. In this case, UGC not only exceeded the limit of Rs. one crore but even the 10 per cent interest clause was not incorporated in the agreement which resulted in undue benefit to Ed. CIL which worked out to Rs. one crore upto March, 2006.
- Clause 3.10 of the agreement provided that if the project got extended beyond the time frame specified in the agreement for reasons beyond the control of Ed.CIL, UGC shall pay Rs. 0.40 lakh per month for the extended period of Ed.CIL towards maintenance of its site establishment. There was, however, no clause in the agreement to protect the interest of UGC in the event of delays attributable to Ed. CIL.
- According to clause 6.2 of the agreement, UGC was required to pay service tax of Rs. 59.75 lakh (10.2 *per cent* on estimated cost) on consultancy charges payable to Ed. CIL which was also irregular as according to provision contained in Finance Act, 1994, service tax is not leviable on construction of government building which are not used for commercial purposes.
- As per agreement the work was to be completed by November, 2005. But even after 37 months since award of work, only the master plan, preliminary drawings and designs had been prepared and certain approval of the local bodies such as DDA, Airport Authority of India and Delhi Fire Service etc. had been obtained.

9. The Committee have dealt with the Audit findings and observations and the position explained by the Ministry of HRD (Department of Higher Education), University Grants Commission and Ed. CIL, in the succeeding Paragraphs.

III. Non-obtaining of formal administrative and financial sanctions from the Ministry of HRD

10. Audit scrutiny disclosed that UGC was required to obtain administrative and financial approval for the construction of the complex from the Ministry as the Ministry had not delegated these powers to UGC. UGC allotted the work to Ed. CIL without obtaining the formal administrative and financial approval. Subsequently, in July 2003, UGC had requested the Ministry to accord administrative and financial sanctions. In response to this request, the Ministry communicated that it had no objection to award this project to Ed. CIL subject to observance of relevant norms and rules. However, formal administrative and financial sanctions have not yet been accorded by the Ministry.

11. To a query as to why the administrative and financial sanctions were not obtained by UGC from the Ministry of Human Resource Development in this case

despite existence of clear provisions to this effect, the UGC in a written note replied as under:

"The UGC had requested the MHRD on 1st July, 2003 to accord administrative and financial sanctions for the said project. In response to the Commission's request, the Ministry of HRD communicated on 2nd July, 2003 that it had no objection to award this project to Ed. CIL subject to observance of all prescribed norms and rules by the UGC. The 'no objection' may kindly be viewed in the context of the powers available to the Commission to expend from its Fund, under Section 16(3) of the UGC Act for the functions covered under Section 12(j). Thus even though no prior clearance of the Government was required, the Commission approached the Central Government for administrative and financial approval and the Government gave its 'No objection' thereto".

12. In this regard, the Ministry of HRD added:

"It was on receipt of a specific demand from Ed. CIL on 3rd June, 2003 that UGC sought financial and administrative approval of the Ministry of HRD to release Rs. 4.00 crore to Ed. CIL. The Ministry conveyed its no objection to award the project to Ed. CIL on 2nd July, 2003, subject to observance of all prescribed norms and rules by UGC. However, on an observation of the Internal Audit of the UGC that the UGC's regulations do not provide for construction of new campus and, therefore, it would be necessary for the Ministry of Human Resource Development either to delegate these powers to Commission or issue a necessary approval for the construction of UGC Complex at an approximate cost of Rs. 30 crore, for which a provision was available in the Xth Plan of UGC, the matter was taken up again by the Commission in its meeting held on 22nd August, 2003. The Commission gave its approval.

It was on the strength of the above approval that UGC released an amount of Rs. 4.00 crore to Ed. CIL on 18th September, 2003 and informed the Ministry accordingly. The Ministry of Human Resource Development however, issued a letter to UGC on 4.12.2003 pointing out that (a) for a project of Rs. 30 crore, competence to sanction lies with no authority lower than EFC and (b) prescribed norms do not seem to have been observed before award of work to Ed. CIL. The letter accordingly requested that the matter be placed again before the Commission in its next meeting, for fresh consideration."

13. On being asked as to whether the matter was placed again before the Commission and what was their decision in this regard, the UGC in a written note stated as under:

"The matter was not placed again before the Commission. Although, the Commission is of the opinion that it is competent in regard to the approval of the project and award of work. In respect of the observation of the CAG, UGC has written on 12.02.2007 to the Ministry to accord the said approval and allow incurring of expenditure towards payment to Ed. CIL for construction of UGC's proposed campus."

14. The Committee further desired to know as to whether the matter regarding award of consultancy work to Ed. CIL has been examined in the Ministry. In response, the Ministry stated as under:

"On receipt of the findings of the C&AG, the matter has been examined in the Ministry. The Ministry is of the opinion that the Ed. CIL is a PSU under the Ministry of Human Resource Development and consultancy work for universities and academic institutions is within its mandate and the Ministry has conveyed its 'No Objection' to the award of work by the UGC to Ed. CIL. However, UGC has been requested to furnish the details of estimates, scope and coverage of the project and the justification thereof."

IV. Non-Obtaining of 'No Objection' certificate from Ministry of Urban Development

15. According to Audit the work was awarded to Ed.CIL without obtaining 'No Objection Certificate' from the Ministry of Urban Development as required under GFRs for not getting the work executed through CPWD. The Committee desired to know the reasons for not obtaining 'No Objection' certificate from the Ministry of Urban Development. In a note submitted to the Committee, the Ministry informed:

"The work in question was initially awarded to CPWD and was later withdrawn from them. Secondly, Ed.CIL is a public undertaking of the Ministry itself. Thirdly, the exact provision of the GFR to the effect that NOC is necessary for Statutory Autonomous Bodies also, has not been quoted in the C&AG's Report. The provisions of GFR seem to relates to works undertaken by a Ministry or Department and not autonomous organizations. The present work even if, assigned to CPWD would come under the category of 'Deposit Works' to which the provisions of GFR would not apply."

16. In reply to a related query, the UGC admitted that they were not aware of this provision of seeking 'No Objection' from the Ministry of Urban Development.

17. In this regard, the Secretary, Ministry of HRD (Department of Higher Education) assured the Committee during evidence that once GFRs are adopted, then it will become obligatory on the part of UGC to follow that process.

V. Award of Construction Work : Transfer from CPWD to Ed. CIL

18. In a note submitted to the Committee, the Ministry of HRD (Department of Higher Education) have informed that prior to the award of work to Ed. CIL, the UGC awarded the construction work to the CPWD in April, 1991 at a total cost of Rs. 11.20 crore and a sum of Rs. 10.00 lakh was given to CPWD as initial deposit in May 1992. UGC did not approve the lay out plan prepared by the CPWD, through an outside Architect, and therefore, terminated the contract in June 1993, after paying Rs. 2.33 lakh for the services rendered. Subsequently, in December, 1993, UGC constituted a Committee of Experts, which short-listed four Architects. The Architects did not respond to UGC's request to intimate the terms and conditions about fees for consultancy and supervision. Thereafter, in December, 1996 UGC took up the matter which School of Planning and Architecture (SPA) for developing architectural design

of the complex. However, since UGC could not provide the details about building by-laws from the authority issuing the letter of allotment of the said land, the design could not be finalized till 2002. UGC approached Ed. CIL in October, 2002 to undertake the project on turn key basis. A formal agreement was signed between UGC and Ed. CIL in May 2003.

19. When asked about the rationale behind awarding the work to Ed. CIL in place of CPWD, the UGC in a written note submitted to the Committee stated that the work was awarded to Ed. CIL, keeping in mind the fact that Ed. CIL is a Public Undertaking under the Ministry of HRD, with a hope that there would be good coordination and the work will be done in a time-bound manner with proper quality.

20. Replying to a query about the justification for not awarding the work to CPWD, the representative of the Ministry of HRD stated during evidence:

"Being an Autonomous body it is not compulsory on the UGC to award its construction work to the CPWD, as it is in the case of Government Departments. That compulsion does not apply to the UGC. The UGC, of course, can if it so wishes, give its work to CPWD, as it did in fact in the beginning."

21. The Committee desired to know as to what extent the UGC was to be benefited by awarding the work to Ed. CIL in place of CPWD, the Ed. CIL in a note stated as follows:

"CPWD is Government of India Department, under the Ministry of Urban Development (MUD) while Ed. CIL is a 'Mini Ratna' Public Sector Enterprise (PSE) under the Ministry of Human Resource Development (MHRD).

- (a) Ed. CIL's capabilities span the entire spectrum of setting up of Institutional Buildings in Education Sector right from concept to commissioning on a turn-key basis and the Company specialize in the implementation of Institutional Buildings as project management consultant, whereas CPWD undertake works of all nature such as general buildings, warehouses, hospitals, residences, roads, etc.
- (b) Ed. CIL provides a dedicated and qualified project team for each project. This team is competent of taking site decisions on the spot. This ensure quick and responsive decision making for controlling time and cost over-runs.

Ed. CIL also closely liasions with all the specialized agencies (civil, electrical, HVAC, Lifts, site development, etc.) involved in the project which facilitate co-ordination between various engineering disciplines.

On the other hand, CPWD has its own hierarchical set up which is involved in the decision-making for all projects. Only in case of important and time-bound works, CPWD provides a dedicated project team.

- (c) Ed. CIL and UGC both being sister organizations under the umbrella of MHRD have a common interest to oversee the successful implementation of the project. Senior management of both the organizations have always

easy accessibility to each other and are responsive to resolve the hindrances, if any, cropping up in the assignment, whereas CPWD being a separate organization with its own gigantic size and hierarchy, mutual accessibility to each other is more difficult.

- (d) Ed. CIL keeps Client organization informed of the project developments and takes clearances at various vital/critical stages from the Client. As such, the Client is kept abreast of the status of the work and any difficulties or bottlenecks arising out of any reasons are resolved amicably and quickly."

22. Ed. CIL have further elaborated the comparative advantages accruing to the client organisation, namely UGC as under:

No. In case, work was undertaken by CPWD	In case, work is undertaken by Ed. CIL
<p>(i) For works undertaken for autonomous bodies financed entirely from Government funds (like UGC), CPWD seeks funds equivalent to 33.33% of the estimated cost of the work as a deposit in advance.</p> <p>The UGC would have had to pay Rs. 20.55 crore to CPWD as mobilization advance in case the work was awarded to CPWD.</p> <p>(As per CPWD's Works-Manual 2003, Clause 3.5.2 & 3.5.3.) & Ed. CIL both.</p>	<p>A mobilization advance of Rs. 4.00 crore only <i>i.e.</i> equivalent to 6.49% of the estimated cost of work had only been provided by UGC for assignment.</p>
<p>(ii) CPWD & Ed. CIL both pay a mobilization advance to the construction agency generally by charging a simple interest @ 10% per annum simple interest.</p> <p>As per CPWD's Works Manual 2003, there is no mention about the treatment to be given to the interest earned by CPWD out of the advance paid to the construction agency.</p>	<p>However in case of Ed. CIL, the interest so accrued on the mobilization advance is recovered from the construction agency's bill and is credited to the UGC's accounts (<i>and not retained by Ed. CIL</i>).</p>
<p>(iii) CPWD retains the initial deposit of 33.33% of the estimated cost obtained as the 1st instalment till the last and raises monthly bill @ 100% for the expenses incurred by them.</p> <p>(As per CPWD's Works-Manual 2003,</p>	<p>In case of Ed. CIL, all the expenditure incurred at pre-construction stage is made from the initial advance provided by the UGC.</p> <p>As such, the expenditures incurred for <i>survey work, geo-</i></p>

No. In case, work was undertaken by CPWD	In case, work is undertaken by Ed. CIL
<p>Clause 3.5.2)</p> <p>(iv) In case of CPWD, when delays are experienced by them in obtaining funds from the Client organization and there is a requirement to incur expenditure out of the 33.33% reserve to keep the works going, the matter is brought to the notice of Superintending Engineer/Chief Engineer promptly for taking up the matter with the Client Department.</p> <p>Further, in case of CPWD, no expenditure is incurred by them, on Deposit Works out of CPWD grants. (As per CPWD Manual-2003 Clause 3.5.3).</p>	<p>technical investigations, publications of press notice for inviting Construction Agencies for pre-qualification process, fees of the statutory authorities, documentation of bids, etc. is adjusted from this Advance.</p> <p>Further at construction stage, Ed. CIL adjusts the advance @ 10% of the value of each running account, bill as per the terms and conditions of the Agreement between UGC and Ed. CIL.</p> <p>In case of Ed. CIL, when delays are experienced to obtain funds from sister organizations, Ed. CIL at critical stages has funded the project from its internal resources so that the project does not suffer and the work is not held up.</p> <p>This practice enhance the comfort level of the Client organization and ensure the timely completion of the projects.</p>

VI. Objectives and Functions of Ed. CIL

23. The main objectives pursued by the Company since its incorporation in 1981 are as follows (as per the Company's Memorandum Articles of Association).

- (e) To offer educational consultancy service to a number of agencies such as Governments and educational institutions of developing countries, funding organizations like the World Bank/Asian Development Bank, international agencies like the UNESCO and ESCAP as well as to the Government of India in the context of its technical assistance/economic co-operation programmes. Education in this context covers the entire spectrum of general as well as professional educational and training.
- (f) To undertake surveys of educational requirements and to prepare feasibility/evaluation reports of educational projects/programmes.

- (g) To plan and establish educational Institutions/programmes on turn-key basis.
- (h) To prepare detailed project reports for establishment of educational institutions/programmes and to advise on specifications of inputs such as buildings, equipment, faculty and other staff.
- (i) To advise on and to undertake development of curricula, teaching aids, evaluation systems, educational technologies and learning resource centres.
- (j) To develop organizational structures for educational administration and management.
- (k) To assess manpower requirements and to prepare inventory of jobs and skill profiles of occupations.
- (l) To undertake organization of continuing educational programmes, short term training seminars/workshops, etc.
- (m) To undertake preparation and publication of suitable teaching materials, books and guides.
- (n) To undertake studies and research on specific educational problems and manpower planning.
- (o) To foster and maintain close liaison and cooperation with various national, international and foreign aid giving agencies with a view to identify availability of resources to implement specific educational programmes/projects.
- (p) To undertake training of foreign and local students at the institutions in our country, both generally as well as in the context of technical assistance/ economic cooperation programmes, and provide manpower in the educational field to client countries.
- (q) To provide experts and expertise in the educational field to clients.
- (r) To assist in the recruitment/secondment of experts, teaching faculty and technical manpower on behalf of agencies both at home and abroad including international agencies.
- (s) To establish and promote any societies. Trusts and Associations or other non-profit making bodies to undertake such activities which are directly or indirectly connected with the activities in which the Company is engaged and to become a Member of, act as or appoint trustees, governors, agents or delegates to control, manage, superintend or otherwise assist such societies, trusts and associations or bodies.

VII. Pattern of funding of the Project

24. When enquired about the pattern of funding of the project awarded to Ed. CIL, the Ministry in a written note submitted as under:

"Ed. CIL was to charge 9.50 per cent of actual project cost as consultancy charges and Service Tax @ 10.2 per cent on Ed. CIL's margin. UGC also agreed to pay mobilization advance of 30% of the initial project cost/budget cost. The preliminary estimate of the project was worked out as Rs. 68.11 crore and sum of

Rs. 4.00 crore was paid by the UGC as the mobilization advance to Ed. CIL in September, 2003. The Ed. CIL sought this amount to initiate the process of conducting survey and selection of an architect for the project. Prior to the award of work to Ed. CIL, the UGC awarded the construction work to the CPWD in April, 1991 at a total cost of Rs. 11.20 crore and a sum of Rs. 10.00 lakh was given to CPWD as initial deposit in May, 1992. UGC did not approve the lay out plan, pre-plan prepared by the CPWD, through an outside Architect, and therefore, terminated the contract in June, 1993, after paying Rs. 2.33 lakh for the services rendered. UGC approached Ed. CIL in October, 2002 to undertake the project on turn key basis. A formal agreement was signed between UGC and Ed. CIL in May 2003. A sum of Rs. 4.00 crore was paid by the UGC as the mobilization advance to Ed. CIL in September, 2003.

The Ed. CIL sought this amount to initiate the process of conducting survey and selection of an architect for the project. It was on receipt of a specific demand from Ed. CIL on 3rd June, 2003 that UGC sought financial and administrative approval of the Ministry of HRD to release Rs. 4.00 crore to Ed. CIL. The Ministry conveyed its no-objection to award the project to Ed. CIL on 2nd July, 2003, subject to observance of all prescribed norms and rules by UGC. However, on an observation of the Internal Audit of the UGC that the UGC's regulations do not provide for construction of new campus and, therefore, it would be necessary for the Ministry of Human Resource Development either to delegate these powers to Commission or issue a necessary approval for the construction of UGC Complex at an approximate cost of Rs. 30.00 crore, for which a provision was available in the Xth Plan of UGC, the matter was taken up again by the Commission in its meeting held on 22nd August, 2003."

25. Regarding *basis* adopted by the UGC to ensure the reasonableness of rate of consultancy charges, *i.e.* 9.5 per cent, while entering into agreement with Ed. CIL, the Ministry informed:

"It was mutually decided by the Chairman, UGC and the CMD, Ed. CIL and approved by the Commission. This rate of consultancy charges is in keeping with the standard rate of 9.5% to 11% levied by Ed. CIL, from its clients including autonomous organizations fully funded by the Central Government."

VIII. Irregular release of Mobilisation Advance

26. Audit review highlighted that UGC had released (September, 2003) Rs. four crore as interest free mobilisation advance. This was irregular since according to paragraph 32.7 of CPWD Manual, the amount of mobilization advance can be paid at a simple interest of *10 per cent per annum* subject to a maximum of *10 per cent* of the estimated cost or Rs. one crore whichever is less. In this case, UGC not only exceeded to limit of Rs. one crore but even the *10 per cent* interest clause was not incorporated in the agreement which resulted in undue benefit to Ed. CIL which worked out to Rs. one crore upto March, 2006.

27. While submitting justification for interest free mobilization advance of Rs. 4.00 crore paid to Ed. CIL as against the admissibility of Rs. one crore under the CPWD manual, the Ministry in their post-evidence replies stated:

"While it is true that the grant of mobilization advance for executing capital intensive works under Section 32.7 of the CPWD Manual Vol. II for similar works is to be limited to a maximum of 10% of the estimated cost or Rs. 1.00 crore, whichever is less, it is submitted that the said Section is applicable to mobilization advance to the contractors. Since Ed. CIL was, as per the agreement not a contractor of the UGC, but was required to provide agency function, similar to the CPWD for 'Deposit Works', Section 3.5.2 of the CPWD works Manual are applicable in the case of Ed. CIL. According to Section 3.5.2, in cases of deposit works of autonomous bodies financed entirely from Government funds, 33 $\frac{1}{3}$ % of the estimated cost of the work is got deposited as advance. In view of this the advance of Rs. 4.00 crore is much lower than the 33 $\frac{1}{3}$ % of the estimated cost."

28. In this connection, explaining the role of Ed. CIL in the construction of this project, the representative of the Ministry of HRD during evidence deposed that the Ed. CIL has not been assigned this work in the capacity of the contractor, but in the capacity of the project management consultant and as per the CPWD Manual, the ceiling of Rs. 1 crore as mobilization advance applies to the contractors not to the project management consultants.

29. When the Committee desired to know, whether the Ministry/UGC has fixed any responsibility for hasty release of mobilization advance without provision of interest, the UGC informed that the release of interest free mobilization advance was made as per the provision of agreement. Therefore, the question of fixing the responsibility does not arise. Even with the CPWD, the Commission would have been required to release interest free advance of a much higher amount.

IX. Additional Liability on Account of Consultancy Charges

30. Audit scrutiny disclose that since CPWD does not recover departmental charges for executing the work of autonomous bodies fully funded by the Central Government, UGC incurred additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed. CIL over and above the project cost.

31. On being asked whether the UGC has investigated the reasons for lapse in creating the additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) due to its preference of Ed. CIL over CPWD, the UGC informed that no such investigation has been carried out by the UGC.

32. The Committee desired to know as to whether the reasons or inclusion of clause regarding payment of Service Tax while UGC complex was exempt from it have been investigated, the UGC in a written note stated as under:

"The service tax is payable by Ed. CIL on the consultancy charges recoverable from the UGC, for being deposited in turn with the Central Government. Ed. CIL is not exempt from Service tax in respect of consultancy fee charged by it on its services for clients including the UGC."

33. The Committee were informed that in the light of the CAG's observation, UGC has been advised by the Ministry to go carefully and examine the extra liability of Rs. 6.45 crore as a result of the agreement executed with Ed. CIL and also look into the agreement to take action suitably for amending agreement with the Ed. CIL.

34. When asked as to whether suitable amendment has since been made in the agreement with Ed. CIL, the UGC informed the Committee as under:

"The agreement was signed on dated 8th May, 2003 for a period of 44 months. UGC and Ed. CIL are reviewing the contract agreement in terms of Clause 5.3.6 of Agreement. It is expected that in the revised agreement after the review, the interests of the UGC would be further protected."

X. Delay in project completion

35. According to Audit, as per agreement, the work was to be completed by November, 2005. But even after 37 months since award of work, only the master plan, preliminary drawings and designs had been prepared and certain approvals of the local bodies such as DDA, Airport Authority of India and Delhi Fire Service etc. had been obtained.

36. The Committee desired to know as to how much time stipulated in the contract to complete the period, the UGC in their written information stated as under:

"The time stipulated in agreement to complete the buildings under the project was a maximum of 30 months from the date of award of the contract to the construction agency. It may be added that the total project period as per the agreement is maximum of 38 months with Ed. CIL services continuing for 44 months during the validity of the agreement period."

37. While responding to the Committee's query as to why the UGC authorities have been unable to persuade Ed. CIL to start construction work, the UGC submitted:

"While the Ed. CIL has been making all efforts to start the work, it could not do so for want of Statutory clearances from various bodies such as, Delhi Development Authority (DDA), Delhi Urban Arts Commission (DUAC), Delhi Metro Rail Corporation (DMRC), Airport Authority of India (AAI) and Delhi Fire Service, apart from the necessary environment clearance. The statutory clearances from the DUAC and final approval from DDA are awaited. The process of obtaining requisite clearances from the Delhi Pollution Control Board and the Ministry of Environment and Forest are being initiated by Ed. CIL."

38. Apprising the Committee about the process of getting statutory approvals which are required before any construction activity, the representative of Ed. CIL stated during evidence:

"For the DDA in principle approval, we finally after making the master plan and getting clearances, we applied on 3.8.2004 and we received the in principle clearance on 3.3.2005. Then the other authority from which we needed clearance

was the Airport Authority of India to which we applied with all the paper work and we got the clearance on 25.1.2005. Then comes the Delhi Metro Railway. We have applied on 21.12.2004 and we got the clearance on 7.4.2005. Then after getting the in principle approval from DDA, we had to apply to the Delhi Fire Services on 3.3.2005. We got the clearance from the Delhi Fire Services on 1.6.2006. Then we applied to the Delhi Urban Arts Commission, soon after getting the in principle approval from DDA on 3.3.2005. The clearance from Delhi Urban Arts Commission is still awaited. We have had two rounds. They had observation round and we have replied to them. Then they had another round of observation. We have again replied them. Now we are expecting to get back the clearance shortly. Meanwhile we have to also get environmental clearance. We have started the process for that and that is also under way. Once we get the DUAC approval, then we have to go back to the DDA for the final approval."

39. In this regard, the Secretary, HRD informed the Committee during evidence that the primary responsibility for getting those clearances, as per the agreement, was with UGC because as the main owner of the building they have to apply for those things but ofcourse, Ed.CIL was to actively associate and help them in getting those clearances.

40. When asked about the exact time when the clearances from Delhi Urban Arts Commission and Delhi Development Authority will be obtained, the Ed.CIL in their note submitted that the DUAC's clearances are expected by September, 2007, after which DDA's (final) approval shall be expected by November, 2007.

41. While admitting that there has been some delays and dereliction of duty here and there, the Secretary, Ministry of HRD (Department of Higher Education) during evidence further assured the Committee that they will do their best and see that there will be no further delay on the plan of action which has been made, by which the building should be in position by December, 2009.

XI. Lacunae in the Contract

42. Audit Paragraph highlighted that clause 3.10 of the agreement provided that if the project got extended beyond the time frame specified in the agreement for reasons beyond the control of Ed.CIL, UGC shall pay Rs. 0.40 lakh per month for the extended period to Ed. CIL towards maintenance of its site establishment. There was, however, no clause in the agreement to protect the interest of UGC in the event of delays attributable to Ed.CIL.

43. The Committee desired to know as to what remedy existed in the contract for such delays and what action has been taken to get the contract enforced. In response, the UGC in their written information stated as under:

"Although there is no clause for levying any penalty on the Ed.CIL by the UGC, Clause 5.3.6 of the Contract Agreement provides for review of mobilization advance on account of the pace of works, the revision being worked out mutually by the UGC and Ed. CIL. Interests of UGC and Ed.CIL would be protected *vis-a-vis* the construction agencies through a standard clause for

Liquidated Damages in the Agreement to be entered into between the agency to be given the contract and Ed.CIL. The agreement was initially for a period of 44 months and is being reviewed, providing for the interests of UGC."

44. It has been observed from the Audit Paragraph that the UGC had an agreement with the Ed. CIL that UGC will pay Rs. 40,000 per month for the extended period to Ed.CIL towards its maintenance. In this regard, the Committee sought to know as to whether any agreement was made that if Ed. CIL could not complete the work in time it would have to pay fine. The Secretary, Ministry of HRD during evidence deposed under:

"The reappraisal arrangement in the earlier agreement, there was only a penalty of Rs. 40,000 being paid by UGC for the delays which may occur because of UGC's action. But now a reappraisal clause is also being built in where Ed. CIL will also have to pay at the same rate of Rs. 40,000 a month if the delay is on account of them. This would protect the interest of UGC and the Government in that sense."

45. When asked that in view of inordinate delay in starting the construction of the project, whether the Ministry has taken any steps to get the mobilization advance refunded alongwith interest earned by Ed. CIL, the Ministry in their Post-evidence information replied as under:

"The matter regarding the refund of interest on advance provided by UGC on 26-09-2003 was amicably resolved between the UGC and Ed. CIL during the course of a meeting with Secretary, Department of Higher Education, where Ed. CIL agreed to reduce its consultancy charges from 9.5% to a suitable level and further agreeing to reciprocal penalty provision of Rs. 40,000 per month subject to a maximum of Rs. 5.00 lakh, for delays in completion of project as attributable to Ed. CIL."

XII. Time schedule for the project

46. The Committee sought to know as to how much more time will Ed. CIL require to complete the project, the Ed.CIL in their post-evidence note submitted to the Committee stated:

"Ed.CIL has planned the time schedule for start of construction activities at site as follows:

Sl. No.	Activity	Event/Date/Duration
1	2	3
(i)	UGC's approval to the 'Preliminary Cost Estimate'	20-02-2007
(ii)	Preparation of 'Pre-qualification Application Document Booklet'	21-02-2007 to 17-04-2007
(iii)	Submission of 'Pre-qualification Application Document Booklet' to UGC for their concurrence	18-04-2007
(iv)	Prepare 'Evaluation Criteria' and 'Score Scheme'	20-04-2007 to 25-05-2007

1	2	3
(v)	Design & issuance of 'Press Notice' inviting construction agencies for Pre-qualification	20-05-2007 to 29-05-2007
(vi)	Issuance of Pre-qualification 'Pre-qualification Application Document Booklet' to the prospective construction agencies.	30-05-2007 to 29-06-2007
(vii)	Opening 'Pre-qualification Application Document Booklet'	02-07-2007
(viii)	Analysis & evaluation of construction agencies qualification	03-07-2007 to 10-08-2007
(ix)	Preparation & submission of 'Pre-qualification Analysis Report' to UGC	11-08-2007 to 16-08-2007
(x)	Approval of 'Pre-qualification Analysis Report' from UGC	23-08-2007
(xi)	Bid documentation	01-05-2007 to 30-08-2007
(xii)	Tendering	01-09-2007 to 25-09-2007
(xiii)	Evaluation of tenders	26-09-2007 to 30-10-2007
(xiv)	Receipt of all the mandatory statutory clearances by UGC*	15-11-2007 (Tentative)
(xv)	Contract Award	15-11-2007 to 10-12-2007 (Tentative)
(xvi)	Commencement of Construction activities	25-12-2007 (Tentative)

*UGC, as the Owner, has to seek the clearances to the 'Building Plans' from all the statutory authorities. The approval of 'Building Plans' is a critical activity at this stage & the commencement of construction activities shall depend on the clearances.

47. As regards the time by which the project will be completed, the Secretary Ministry of HRD (Department of Higher Education) informed the Committee during evidence:—

"With the plan of approvals, that is from the Delhi Urban Arts Commission and DDA and the environmental clearance would be available with us before the end of November and by that time we feel that the work would be awarded and as per the programme drawn up, by December, 2009 we are hopeful and confident that this work can be completed."

XIII. Cost-escalation

48. On being asked about the original estimate of the project, the Committee were informed that it was worked out as Rs. 68.11 crore. In this regard the Secretary, Ministry of HRD (Department of Higher Education) also informed during evidence that it was very low. The detailed estimates were not prepared.

49. The Committee sought to know about the cost-escalation of the project. The UGC have appraised the Committee as below:—

"The estimated escalation of cost shall be 19.8%* over the estimated cost due to delay in sanction of Preliminary Cost Estimate by UGC (total delay: 30 months). The same has been appraised to UGC *vide* Ed. CIL's letter dated 07.02.2007."

50. In this regard, UGC also informed the Committee that as on February, 2007, the escalation was 19.8% amount to Rs. 13.50 crore. Ed. CIL has been requested to inform the extent of escalation as at present.

51. On this issue, during evidence, the Secretary Ministry of HRD (Department of Higher Education) has further added as follows:—

"It would be around 19.75 crore because of increase of rates of various items. The actual estimated construction cost was Rs. 61.65 crore and on that the cost of escalation etc. would be of the order of Rs. 17.83 crore and Ed. CIL's consultancy charges will go up a little bit and there would be increase in the service tax and total it would come to about 87.85 crore."

XIV. Present status of the project

52. Further, when asked to furnish the current status of the project, the Ministry of HRD (Department of Higher Education) have appraised the Committee as below:—

- (i) Ed. CIL have completed the process of analysis & evaluation of construction agencies' qualifications. Out of the sixteen applications received within the stipulated period against the press notice inviting firms/contractors to apply for pre-qualification process, nine firms/contractors have been recommended to be shortlisted for issuance of tender documents. A detailed pre-qualification analysis report has been submitted by Ed. CIL for the UGC's approval.
- (ii) The tender documents comprising as many as five volumes, are at an advance stage of finalisation.
- (iii) The 'parking plans' have been modified in accordance with the provisions of the latest 'Delhi Master Plan-2021' as per directions of the Delhi Urban Arts Commission (DUAC). The proforma of 'planning permission' and 'landscape & parking plan' duly signed by the Secretary, UGC and the Registrar, JNU was handed over to Ed. CIL on 14-09-2007, so as to get the permission of the Delhi Urban Arts Commission/Delhi Development Authority.
- (iv) Action for environmental clearances is under way with Delhi Pollution Control Committee and the Ministry of Environmental & Forests respectively for approvals.
- (v) At this stage, obtaining clearances to the 'Building Plans' from the statutory authorities especially from DUAC & DDA has become the most critical activity. UGC has been requested to expedite statutory clearances from the above said authorities, so that clearances from DUAC can be got at the earliest.

*The additional cost implication on the construction cost due to change of Cost Index between the date of submission of the 'Preliminary Cost Estimate' (11.08.2004) & its approval by UGC (20.02.2007) in Rs. 13.50 crore (approximately).

- (vi) As regards signing of the revised Agreement between the UGC and Ed. CIL, a draft of the Agreement is under preparation by the UGC in consultation with Ed. CIL.

XV. Absence of Monitoring Mechanism

53. As regards the monitoring mechanism available in the UGC to implement the contracts in time and how did the above mechanism fail in getting the work done as per schedule, the UGC in their written submission stated as under:—

"The work relating to construction of new Office Complex is a new one time activity. UGC does not have its own engineering or construction wing. The Commission had appointed a monitoring Committee to periodically review the progress of the work. The delay has been due to reasons beyond the control or either the Ed. CIL or the UGC".

PART II

OBSERVATIONS AND RECOMMENDATIONS

54. The University Grants Commission (UGC) is a statutory Autonomous body established under the University Grants Commission Act, 1956. As per the UGC Act, it shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in universities. The Commission may perform such other functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of Higher Education in India as may be incidental or conducive to the discharge of the above functions.

[Sl. No. 1]

55. The Committee's examination of the Audit Paragraph relating to 'Irregular award of Construction work' has brought out that Jawaharlal Nehru University sub-leased 20 acres of land in JNU campus to UGC on no rent basis for construction of UGC complex in January 1990. The UGC awarded the consultancy work for the construction of UGC complex to Educational Consultants India Limited (Ed. CIL) in May, 2003, without obtaining administrative and financial sanctions from the Ministry of Human Resource Development and 'No Objection Certificate' from the Ministry of Urban Development as required under General Financial Rules for not getting the work through CPWD, resulting in extra liability of Rs. 6.45 crore UGC also irregularly paid interest free mobilization advance of Rs. 4 crore to Ed. CIL. Even after lapse of 37 months from signing of the agreement, the construction is yet to commence.

[Sl. No. 2]

56. During the course of examination of the subject, the Committee have come across several instances of irregularities in the contract awarded to Ed. CIL. Some of the major deficiencies noticed in the contract are as follows :—

- (i) UGC had not obtained formal administrative and financial sanctions from the Ministry of Human Resource Development (Department of Higher Education);
- (ii) they had also not obtained 'No Objection Certificate' from Ministry of Urban Development as required under General Financial Rules for not getting the work executed through CPWD;
- (iii) additional liability of Rs. 6.45 crore had been incurred by the UGC on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed. CIL over and above the project cost;

- (iv) UGC had irregularly released (September 2003) Rs. 4 crore as interest free mobilization advance to Ed. CIL;
- (v) there was no clause in the agreement to protect the interest of UGC in the event of delays attributable to Ed. CIL;
- (vi) payment of service tax of Rs. 59.75 lakh (10.2 per cent on estimated cost) on consultancy charges payable to Ed. CIL was also irregular as according to provision contained in Finance Act 1994, Service tax is not leviable on construction of Govt. buildings which are not used for commercial purposes; and
- (vii) as per agreement the work was to be completed by November 2005. But even after lapse of 37 months from signing of the agreement with Ed. CIL, the construction is yet to commence.

The Committee have dealt with these deficiencies in detail in the succeeding Paragraphs.

[Sl. No. 3]

57. The Committee note that initially, the construction project was awarded to CPWD in April 1991 but due to the preparation of lay-out plan by an outside architect, which was not acceptable to the UGC, the contract was terminated in June 1993. Subsequently, the UGC constituted a Committee of Experts in December, 1996. The four architects short listed by them did not intimate the terms and conditions about fees for consultancy and supervision. Thereafter, the UGC took up the matter with School of Planning and Architecture (SPA) for developing architectural design of the complex which could not be finalized till 2002. In October, 2002, the UGC approached Ed. CIL to undertake the project on turn-key basis. A formal agreement was signed between UGC and Ed. CIL in May, 2003. The sequence of events thus clearly shows that the selection process of the construction agency was characterized by confusion and delay which has finally resulted in the project still remaining pending. The Committee strongly recommend that the Ministry of Human Resource Development should enquire into the reasons for such an unacceptable delay in the undertaking and completion of the project and apprise them about the credible steps taken to avoid such slippages in decision-making in the Ministry/UGC.

[Sl. No. 4]

58. The Committee have been informed that being statutory Autonomous Body, it is not compulsory for the UGC to award its construction work to CPWD, as it is in the case of Government Departments. However, the UGC have failed to furnish convincing explanation as to what promoted them to opt for Ed. CIL rather than the CPWD. While observing that the project for construction of UGC complex was plagued with abnormal delays, the Committee feel that if the work had been executed through CPWD, which was earlier awarded the contract in April, 1991, it could have been possibly completed by them earlier, because being a Government of India organization, the CPWD provides a dedicated project team in case of important and time bound projects. The Committee find in their examination that no attempt was made by the UGC to identify the financial benefits that would have been received in case the work was awarded to CPWD; proper exercise was also not undertaken to verify the technical capabilities of both the agencies; further measures were not

taken to ensure that the requisite time schedule for completion of the project would be met either by the CPWD or Ed. CIL. The Committee thus cannot but come to an inescapable conclusion that the selection of a particular agency was almost pre-determined in the instant case. In the light of the ham-handed manner in which the contract has been handled, the Committee while expressing their displeasure in the matter, recommend that UGC should at least now evolve a policy to restrict allotment of work to those agencies which not only have a track record of being genuine contractors but are also found adhering to the terms and conditions of the contract, including timely completion of the project.

[Sl. No. 5]

59. The Committee have further been informed that UGC had entrusted the task to Ed. CIL with the hope that there would be good coordination between them and the work will be done in a time bound manner with proper quality. Taking into account that Ed. CIL had badly delayed the project (the original target year being 2003), the Committee can only conclude that this project has been symptomatic of bad planning and total absence of functional coordination between the UGC & Ed. CIL. The Committee would now like the Ministry of Human Resource Development to take concrete initiatives to oversee the project and to maintain coordination between the Ministry and the UGC on the one hand and the UGC & Ed. CIL on the other in order to ensure speedy completion of the project with proper enforcement of terms and conditions of the contract and for dealing with the problems arising therefrom.

[Sl. No. 6]

60. The Committee further note that UGC had released (September, 2003) Rs. four crore as interest free mobilization advance to Ed. CIL. The Committee find this an irregular payment, since as per the CPWD Manual, the amount of mobilization advance could be paid at a simple interest of 10 per cent per annum, subject to a maximum of 10 per cent of the estimated cost or Rs. one crore, whichever is less. In the instant case, the UGC not only exceeded the limit of Rs. one crore, but even the 10 per cent interest clause was also not incorporated in the contract which resulted in giving undue benefit to Ed. CIL. The UGC have tried to argue their case that the said provision was applicable only to mobilization advance to the contractors and since Ed. CIL was not a contractor of the UGC but was required to provide agency function similar to the CPWD for 'Deposit Works', the said provision of the CPWD Works Manual was not applicable to them. UGC has thus contended that alternately, the provision which stipulates that in case of deposit works of autonomous bodies financed entirely from Govt. funds, 33 $\frac{1}{3}$ % of the estimated cost of the work is to be deposited as advance was applicable in their case. Considering the fact that the Ed. CIL had failed to execute and complete the work despite 37 months of the award of contract to them UGC's plea on the legality and reasonableness of the mobilization advance paid to Ed. CIL appears to be meaningless and rather infructuous. The cost overrun of the project with a low initial estimate entailing huge cost escalation (almost 20%), resulting out of the excessive delay, clearly defeat the arguments put forth by UGC in this regard. The Committee would like to know from the UGC as to whether they had ever monitored the utilization of the mobilization advance by Ed. CIL, particularly when Ed. CIL

was simply unable to make any progress with the project and was not able to secure even basic approvals before construction could commence. The Committee may also be apprised about the reasons for not securing the refund of the advance extended to Ed. CIL in spite of lack of any progress by Ed. CIL in the commencement of the project.

As regards the mandate and capability of Ed. CIL in the construction of similar projects, the Committee have been informed that Ed. CIL has diversified into construction activities and have the requisite capability to execute such projects. However, considering the fact that Ed. CIL could not secure even basic approvals from agencies and could not commence construction even after a long period of 37 months or so, the case of Ed. CIL, as a construction agency/contractor as distinct from a project consultant seems to be on slippery ground. In such an obvious scenario, the Committee are constrained to recommend that the Ministry of HRD should re-appraise the role and mandate of Ed. CIL to undertake work as a construction agency in addition to their original mandate as a pure project consultant.

[Sl. No. 7]

61. Another disquieting aspect observed by the Committee is that UGC had incurred an additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed. CIL over and above the project cost. The Committee are constrained to point out that instead of initiating steps to undertake a comparative cost analysis of both the agencies in question, namely CPWD and Ed. CIL, the UGC in a rather unusual manner incurred an additional liability of Rs. 6.45 crore on account of consultancy charges, which could have been avoided. Surprisingly, they ignored the claims of CPWD while awarding the contract, despite it being a specialized agency already involved in many similar projects. This undoubtedly, could not only have saved them from incurring extra expenditure but could have also got their project executed well in time. The Committee thus can only conclude that the UGC displayed an unwarranted hurry in the matter without taking into account the ground realities. They have now initiated some steps to salvage their losses and have tried to redeem themselves, only after the subject was taken up by the Committee for detailed examination. The Committee have now been informed that UGC and Ed. CIL are reviewing their contract. The Committee hope that the UGC will provide adequate safeguards in the Agreement to protect their interest. They would like to be apprised about the specific safeguards being incorporated in the contract by UGC.

[Sl. No. 8]

62. The Committee are constrained to point out that UGC allotted the work to Ed. CIL without obtaining the formal administrative and financial approvals from the Ministry of Human Resource Development (Department of Higher Education). The UGC had also not obtained 'No Objection Certificate' from the Ministry of Urban Development as is required under the General Financial Rules (GFRs) for not getting the work done through CPWD.

As regards obtaining of formal administrative and financial approvals, contradictory views have been expressed on the issue, the Ministry of HRD had advised the UGC *vide* their letter dated 4 December, 2003 that for a project of

Rs. 30 crore, the competence to sanction lies with no authority lower than the Expenditure Finance Committee (EFC) of the Ministry and that prescribed norms do not seem to have been observed before award of work to Ed. CIL. The UGC was also asked to place the matter again before the Commission for fresh consideration, which the UGC did not do. Instead, they proceeded with the contract and thought it fit to approach the Ministry as late as February, 2007 for formal *post-facto* approval for incurring of expenditure towards payment already made to Ed. CIL. This however, ran contrary to the UGC's earlier stand that they were well within their powers to sanction the work to Ed. CIL and no formal or administrative sanction of the Ministry was required for the project. In response to the subsequent reference by the UGC, the Ministry asked the UGC for providing further details regarding estimates, scope and coverage of the project and the justification thereof, which again did not serve any purpose as Ed. CIL was already in the midst of executing the contract. The Committee believe that the Ministry and the UGC's position in the matter is contradictory and rather confounding. The Committee would require further clarification in this regard from the Ministry.

[Sl. No. 9]

63. In this connection, the Committee regret to note that post July, 2003, the Ministry did not make any efforts to review the project with UGC. The Committee are of the opinion that had the Ministry assumed responsibility and taken necessary steps to review the progress with UGC during the intervening period from July, 2003 to February, 2007, the project could well have been completed earlier. The Committee would expect the Ministry to be alive and alert to progress of important projects such as that of UGC, notwithstanding the autonomy accorded to the institution. The Ministry's overall responsibility cannot diminish as the nodal agency under whose aegis autonomous bodies like the UGC function.

Further, as regards non-obtaining of 'No Objection Certificate' from Ministry of Urban Development for not awarding the contract to CPWD, the UGC have replied that as the provisions of General Financial Rules (GFRs) relate to works undertaken by the Ministry/Department and not to autonomous organizations, the present work even if assigned to CPWD would have come under the category of 'Deposit works' to which the provisions of GFRs would not have applied. The Committee are of the opinion that in the absence of any financial rules adopted by the UGC through a resolution, the Government should have ensured the applicability of the GFRs in letter and spirit. A selective adoption of the GFRs for the functioning of UGC is inexplicable. It is only after the Committee have taken up the subject for examination, the Ministry of HRD also took up the matter and issued instructions to UGC to formally adopt the GFRs to remove the ambiguity. The Committee cannot but deprecate the lackadaisical approach displayed both by the Ministry as well as UGC to such an important administrative aspect of their functioning. The Committee desire that 'no objection' of the Ministry of Urban Development as required by GFRs be first obtained by UGC/Ministry of HRD for the instant case and thereafter, UGC may adopt its own Rules or the General Financial Rules of Government of India as they deem fit.

[Sl. No. 10]

64. The Committee noticed that as per agreement, the work was to be completed by November, 2005. But even after a lapse of 37 months since the awarding of work, only the master plan, preliminary drawings and designs have been prepared and certain approvals of local bodies in the process of being obtained. The Committee have been informed that the project could not be started for want of statutory clearances from various bodies like the DDA and Delhi Urban Arts Commission (DUAC). The Secretary, Ministry of Human Resource Development during evidence informed the Committee that as per the agreement, the primary responsibility for getting those clearances rested with UGC. On the causes that contributed to delay, the Committee only find that these are the normal reasons to which delays in execution of all Government works are attributed and these should have been anticipated. The Committee find it difficult to appreciate as to how and why these factors were not taken into account at the time of planning the project and before prescribing targets for completion of the project. These delays could have been avoided by better anticipation, coordination and effective monitoring by UGC. The Committee expect UGC to streamline their administrative mechanism and improve their procedures/efficiency.

[Sl. No. 11]

65. Yet another instance confirming lack of financial prudence on the part of the UGC relates to the payment of Rs. 40,000 per month for the extended period given to Ed. CIL towards maintenance of its site establishment. What is of concern to the Committee is the fact that there was no clause in the agreement to protect the interest of UGC in the event of delays attributable on the part of Ed. CIL, although a similar clause was incorporated to protect Ed. CIL. Such a conscious omission in the contract detrimental to the interest of UGC, in the opinion of the Committee, amounts to showing undue favour to Ed. CIL. The Ministry have also failed to furnish any explanation for non-enforcement of the contract provisions to safeguard the interest of UGC. However, Secretary, Ministry of Human Resource Development stated during evidence that a reappraisal clause is now being inserted, wherein Ed. CIL would also have to pay Rs. 40,000 per month, if the delay is on their part. Further, as regards the steps being taken to refund the mobilization advance alongwith interest (in view of the inordinate delay in starting the construction of the project), the Committee have been informed that this matter has been amicably resolved between the UGC and Ed. CIL, wherein Ed. CIL has agreed to reduce its consultancy charges from 9.5% to a suitable level and to introduce reciprocal penalty provision for delays in completion of project. Had the UGC taken such a protective measure earlier, abnormal delay in completion of the project could have been avoided, saving thereby precious resources of the UGC. While taking a serious view of this act of omission by UGC, the Committee trust that the Ministry/UGC would learn the right lesson from this lapse. Adequate care should henceforth be taken to protect Government Interest while concluding contracts of similar nature.

[Sl. No. 12]

66. Furnishing the details of the cost of the construction project at the time of initiation and the cost at present, the UGC informed the Committee that as on February, 2007, the escalation was 19.8% amounting to Rs. 13.50 crore and that

Ed. CIL has been asked to compute and inform the extent of additional cost escalation. The Committee note with much concern that ineffective project management and the excessive delay in execution and completion of the project by Ed. CIL has entailed a huge financial burden on the UGC. While expressing their anguish over the ineptitude of the concerned authorities in the matter, the Committee desire that the Ministry/UGC should take urgent measures to complete the project within the revised time frame in order to contain further cost escalation of the project. The Committee would like to be informed of the actual cost escalation in this case. The Committee would also expect the UGC and the Ministry to take up the matter of cost escalation with Ed. CIL, and impose suitable penalties on them.

[Sl. No. 13]

67. As regards the present status of the project, the Committee have been informed that the Ed. CIL have stated to have initiated some remedial measures such as:—

- (i) Ed. CIL have completed the process of analysis and evaluation of construction agencies qualifications;**
- (ii) the parking plans have been modified in accordance with the provisions of the latest 'Delhi Master Plan-2021';**
- (iii) action for environmental clearances is under way with DPCC and Ministry of Environment and Forests; and**
- (iv) UGC has been requested to expedite clearances from DUAC & DDA and a draft of the revised Agreement between UGC and Ed. CIL is under preparation.**

The Committee, while taking note of the belated steps being taken to accomplish the project, emphasise that an efficient and effective monitoring mechanism at the level of both the Ministry and the UGC to oversee the implementation of the project as also the proposed revised agreement with Ed. CIL is the need of the hour. The Committee would await the Ministry's response on the follow up measures taken by them and the results achieved therefrom.

[Sl. No. 14]

NEW DELHI;
23 November, 2007

2 Agrahayana 1929 (Saka)

PROF. VIJAY KUMAR MALHOTRA,
Chairman,
Public Accounts Committee.

ANNEXURE-I

MINUTES OF THE FOURTH SITTING OF THE PUBLIC ACCOUNTS
COMMITTEE (2007-2008) HELD ON 11TH JUNE, 2007

The Committee sat from 1600 hrs. to 1700 hrs. on 11th June, 2007 in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Khagen Das
3. Shri R. L. Jalappa
4. Shri Bhartruhari Mahtab
5. Shri Brajesh Pathak
6. Shri K. S. Rao
7. Shri Kharabela Swain
8. Shri Tarit Baran Topdar

Rajya Sabha

9. Prof. P. J. Kurien
10. Shri Janardhana Poojary
11. Shri Prasanta Chatterjee

SECRETARIAT

1. Shri A. Mukhopadhyay — *Joint Secretary*
2. Shri Brahm Dutt — *Director*
3. Shri M. K. Madhusudhan — *Deputy Secretary*
4. Shri Ramkumar Suryanarayanan — *Under Secretary*

Office of the Comptroller and Auditor General of India

1. Shri B. K. Chattopadhyay — ADAI (RC)
2. Shri A. K. Thakur — DG(CR)
3. Shri Nand Kishore — Pr. Director (AB)

Representatives of the Ministry of Human Resource Development (Department of Higher Education) & University Grants Commission (UGC)

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| 1. Shri K. M. Acharya | — | Additional Secretary |
| 2. Shri S. K. Ray | — | Joint Secretary & Financial Adviser |
| 3. Prof. Sukhadeo Thorat | — | Chairman, UGC |
| 4. Prof. Moolchand Sharma | — | Vice-Chairman |
| 5. Ms. Anju Banerjee | — | Chairman & Managing Director (Ed. CIL) |

2. At the outset, the Chairman, PAC welcomed the Members and Audit Officers to the sitting of the Committee. The Chairman informed the Members that the sitting has been convened to take oral evidence of the representatives of the Ministry of Human Resource Development (Department of Higher Education) and University Grants Commission on Para Nos. 6.7 & 6.8 of the Report of C&AG of India for the year ended March, 2006, Union Government (Civil - Autonomous Bodies), No. 3 of 2007 relating to "**University Grants Commission (i) Irregular award of construction work; and (ii) injudicious release of grants**" respectively. Thereafter, the Officers of the C&AG of India briefed the Committee on the important points arising out of the audit paragraphs.

3. Then, the representatives of the Ministry of Human Resource Development (Department of Higher Education) and University Grants Commission were called in. The Chairman read out the contents of the Direction 58 by the Speaker regarding secret nature of the proceedings of the Committee.

4. Since the Secretary, Ministry of Human Resource Development (Department of Higher Education) was unable to attend the sitting, for which prior permission of Hon'ble Chairman was obtained, the Additional Secretary, Ministry of Human Resource Development (Department of Higher Education) and the Chairman, University Grants Commission after introducing their colleagues to the Committee made a brief presentation on the points arising out of Audit paras. The witnesses also replied to the queries raised by the Members. The CMD, Educational Consultants of India Ltd., also explained the position about the role of their organization on the audit findings and the queries of the Members thereupon. As the witnesses could not give satisfactory replies to certain queries raised by the Members, the Committee decided to hold another meeting on the subject, after considering the written replies of the Ministry. The Hon'ble Chairman also directed the Ministry to furnish the information as desired by the Members in writing at the earliest particularly in regard to:—

- (i) Reasons for taking project back from CPWD;
- (ii) Permission of the M/o HRD to award the work to Ed. CIL;
- (iii) Reasons for delay in implementation of project;
- (iv) Agreement/contract with Ed. CIL-safeguarding interests of UGC;
- (v) Advance of Rs. 4 crore to Ed. CIL and its utilization;
- (vi) Renewal of agreement with Ed. CIL;

- (vii) Capacity of Ed. CIL to take up construction projects;
 - (viii) Rationality in giving advance money to Universities without sanctioning the schemes/projects.
5. A copy of the verbatim proceedings of the sitting has been kept on record.

The Committee then adjourned.

MINUTES OF THE SEVENTH SITTING OF THE PUBLIC ACCOUNTS
COMMITTEE (2007-2008) HELD ON 30TH JULY, 2007

The Committee sat from 1600 hrs. to 1730 hrs. on 30th July, 2007 in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Raghunath Jha
3. Shri Bhartruhari Mahtab
4. Shri K.S. Rao
5. Shri Mohan Singh
6. Shri Kharabela Swain
7. Shri Tarit Baran Topdar

Rajya Sabha

8. Prof. P.J. Kurien
9. Shri Janardhana Poojary
10. Shri Prasanta Chatterjee
11. Dr. K. Malaisamy

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shri A. Mukhopadhyay — *Joint secretary*
3. Shri Brahm Dutt — *Director*
4. Shri M.K. Madhusudhan — *Deputy Secretary*
5. Shri Ramkumar Suryanarayanan — *Under Secretary*

Office of the Comptroller and Auditor General of India

1. Shri B.K. Chattopadhyay — ADAI (RC)
2. Shri A.K. Thakur — DG(CR)
3. Shri Nand Kishore — Pr. Director (AB)

Representatives of the Ministry of Human Resource Development (Department of Higher Education). University Grants Commission (UGC) and Educational Consultants India Limited

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| 1. Shri R.P. Agrawal | — | Secretary (Higher Education) |
| 2. Shri Sunil Kumar | — | Joint Secretary (Higher Education) |
| 3. Shri S.K. Ray | — | Joint Secretary & Financial Adviser |
| 4. Prof. Sukhadeo Thorat | — | Chairman, UGC |
| 5. Dr. T.R. Kem | — | Secretary, UGC |
| 6. Dr. R.K. Chauhan | — | Additional Secretary & Financial Adviser, UGC |
| 7. Ms. Anju Banerjee | — | Chairman & Managing Director (Ed. CIL) |

2. At the outset, the Chairman, PAC welcomed the Members of the Committee, Audit Officers and representatives of the Ministry of Human Resource Development (Department of Higher Education). University Grants Commission (UGC) and Educational Consultants India Limited (Ed. CIL) to the sitting of the Committee. The Chairman informed that the sitting of the Committee has been convened to resume further evidence of the representatives of the Ministry of Human resource Development (Department of Higher Education), UGC and Ed. CIL on the issues arising out of Paras 6.7 & 6.8 of C&AG's Report No. 3 of 2007 Union Government (Civil - Autonomous Bodies), relating to "**Irregular award of construction work**" and "**Injudicious release of grants**", which had remained inconclusive on 11th June, 2007. The Chairman read out the contents of the Direction 58 by the Speaker regarding secret nature of the proceedings of the Committee.

3. The Chairman further observed that the Officials could not satisfy with their replies on the various points arising out of Audit paragraphs and the queries made by the Members during the earlier evidence on the subject. Certain key issues remained to be resolved, such as the competence of the UGC to enter into a contract with Ed. CIL in preference to CPWD, terms of agreement with Ed. CIL and their proposed modification with adequate safeguards, inordinate delay in the execution of the project and the inability of the UGC in ensuring timely completion of the project. He desired a firm assurance from the Ministry, UGC as well as the Ed. CIL on the exact time period by which the UGC building project will be eventually completed. He also desired to know about the quantum of cost escalation that has occurred due to the delay and the total estimated project cost which UGC will now have to bear.

4. Thereafter, the Secretary, Ministry of Human Resource Development (Department of Higher Education), after introducing his colleagues to the Committee, briefly explained the points raised by the Chairman. Subsequently, the Members of the Committee sought clarifications on the points arising out of the Audit Paragraphs and the Post-evidence Information furnished by the Ministry. The Secretary (Department of Higher Education) assured the Committee that the project will be completed by

December, 2009. To certain queries, for which the witnesses' replies were not readily available, the Chairman directed the representatives of the Ministry to furnish the requisite information at the earliest. The points on which clarification was sought are as under:—

- (i) problems faced in early finalization of project;
 - (ii) details regarding original estimated construction cost in 1991 and the estimated cost as of today;
 - (iii) details regarding cost escalation;
 - (iv) renewal of agreement with Ed. CIL and Inclusion of penalty and liquidated damages clause to safeguard the interests of UGC;
 - (v) applicability of the General Financial Rules (GFRs) to UGC *vis-à-vis* framing of specific rules for UGC as stipulated in UGC Act; and
 - (vi) steps taken to obtain clearance for construction of UGC Building from Delhi Urban Arts Commission (DUAC), Delhi Development Authority (DDA) and other agencies.
5. A copy of the verbatim proceedings of the sitting has been kept on record.

The Committee then adjourned.

PART II

MINUTES OF THE THIRTEENTH SITTING OF PUBLIC ACCOUNTS
COMMITTEE (2007-2008) HELD ON 23rd NOVEMBER, 2007

The Committee sat from 1600 hrs. to 1630 hrs. on 23rd November, 2007 in Room No. 51 (Chairman's Chamber), First Floor, Parliament House, New Delhi.

PRESENT

Prof. Vijay Kumar Malhotra — *Chairman*

Lok Sabha

2. Shri Kirip Chaliha
3. Shri Khagen Das
4. Shri Raghunath Jha
5. Shri Bhartruhari Mahtab
6. Shri Brajesh Pathak
7. Shri Rajiv Ranjan 'Lalan' Singh

Rajya Sabha

8. Shri V. Narayanasamy
9. Shri Prasanta Chatterjee

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shri A. Mukhopadhyay — *Joint Secretary*
3. Shri M.K. Madhusudhan — *Deputy Secretary-II*
4. Shri Ramkumar Suryanarayanan — *Under Secretary*

Representative of the Office of the Comptroller and Auditor General of India

Shri Nand Kishore — *Pr. Director of Audit (AB)*

2. At the outset, the Chairman, PAC welcomed the Members and Audit Officers to the sitting of the Committee. Thereafter, the Committee took up for consideration and adoption the following draft Reports:—

- (i) Draft Report on Para 6.7 of C&AG's Report No. 3 of 2007, Union Government [Civil — Autonomous Bodies] relating to "**Irregular Award of Construction Work**";

- (ii) draft Report on Paras 1.1 to 1.11 of Chapter 1 of C&AG's Report No. 5 of 2006, Union Government (Railways) relating to "**Project Management practices in Gauge Conversion and New Line Projects**"; and
- (iii) draft Action Taken Report on the 31st Report of PAC (14th Lok Sabha) on "**Excesses Over Voted Grants and Charged Appropriations (2004-2005)**".

3. After some deliberations, the Committee adopted these draft Reports without any amendments/modifications and authorized the Chairman to finalize and present the same to Parliament in the light of factual verification, if any, done by the Audit.

The Committee then adjourned.

APPENDIX

Audit paragraph 6.7 of Report No. 3 of 2007 of C&AG of India for the year ended March, 2006 Union Government (Civil-Autonomous Bodies) relating to "Irregular Award of Construction Work".

The University Grants Commission Irregularly awarded consultancy work to Educational Consultants India Limited without obtaining administrative and financial sanctions from the Ministry of Human Resource Development and No Objection Certificate from the Ministry of Urban Development resulting in extra liability of Rs. 6.45 crore. UGC also irregularly paid interest free mobilisation advance of Rs. four crore to Ed. CIL. Even after lapse of 37 months from signing of agreement, the construction was yet to commence as of June 2006.

The University Grants Commission (UGC) had in its possession 20 acre of land in the campus of Jawaharlal Nehru University (JNU). The land was sub-leased by JNU to UGC on no rent basis for construction of UGC complex in January 1990. UGC allotted the work of construction to Educational Consultant India Limited (Ed. CIL) in December 2002 on project management basis. Formal agreement was signed in May, 2003. According to the agreement, Ed. CIL was to be paid 9.5 percent of the actual project cost as consultancy charges and also service tax on Ed.CIL's margin. As per the preliminary estimate, the project cost was Rs. 68.11 crore and the construction was to be completed in 24 to 30 months. Audit scrutiny (November 2004 and October 2005) brought out the following:—

- * UGC was required to obtain administrative and financial approval for the construction of the complex from the Ministry as the Ministry had not delegated these powers to UGC. UGC allotted the work to Ed.CIL without obtaining the formal administrative and financial approval. Subsequently, in July 2003 UGC had requested the Ministry to accord administrative and financial sanctions. In response to this request, the Ministry communicated that it had no objection to award this project to Ed. CIL subject to observance of relevant norms and rules. However, formal administrative and financial sanctions have not yet been accorded by the Ministry (November 2006).
- * The work was awarded to Ed. CIL without obtaining 'no objection certificate' from the Ministry of Urban Development as required under GFRs for not getting the work executed through CPWD.
- * Since CPWD does not recover departmental charges for executing the work of autonomous bodies fully funded by the Central Government, UGC incurred additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed.CIL over and above the project cost.

- * UGC had released (September 2003) Rs. four crore as interest free mobilization advance. This was irregular since according to paragraph 32.7 of CPWD Manual, the amount of mobilization advance can be paid at a simple interest of 10 per cent per annum subject to a maximum of 10 per cent of the estimated cost or Rs. One crore whichever is less. In this case, UGC not only exceeded the limit of Rs. One crore but even the 10 per cent interest clause was not incorporated in the agreement which resulted in undue benefit to Ed. CIL which worked out to Rs. One crore upto march 2006.
- * Clause 3.10 of the agreement provided that if the project got extended beyond the time frame specified in the agreement for reasons beyond the control of Ed.CIL, UGC shall pay Rs. 0.40 lakh per month for the extended period to Ed.CIL towards maintenance of its site establishment. There was, however, no clause in the agreement to protect the interest of UGC in the event of delays attributable to Ed.CIL.
- * According to clause 6.2 of the agreement, UGC was required to pay service tax of Rs. 59.75 lakh (10.2 per cent on estimated cost) on consultancy charges payable to Ed.CIL which was also irregular as according to provision contained in Finance Act 1994, service tax is not leviable on construction of government buildings which are not used for commercial purposes.
- * As per agreement the work was to be completed by November 2005. But even after 37 months since award of work, only the master plan, preliminary drawings and designs had been prepared and certain approvals of the local bodies such as DDA, Airport Authority of India and Delhi Fire Service etc. had been obtained.

Thus, UGC irregularly awarded the work of construction of Ed.CIL resulting in additional liability of Rs. 6.45 crore (including service tax of Rs. 59.75 lakh) on account of consultancy charges. Besides, irregular release of interest-free mobilization advance of Rs. four crore to Ed.CIL resulted in undue benefit to the firm. The work of construction of the complex on the land allotted in 1990 was not commenced as of June 2006 i.e. even after lapse of more than three years since signing of agreement despite release of mobilization advance in September 2003.

In response to audit observation, UGC stated (June 2006) that although UGC was aware that the construction was to be carried out by CPWD but keeping in view that UGC and Ed.CIL were organizations under the Ministry of Human Resource Development, it had decided to allot the work to Ed.CIL for better coordination as UGC did not have the technical man-power. It added that advance of Rs. four crore was given to Ed.CIL for appointing an architect and getting the master plan and technical design prepared. The reply is not tenable as the organizations getting construction work done through CPWD do not need to have their own technical manpower. The fact that Ed.CIL is yet to commence construction (November 2006) work defies the assumption of better coordination.

The matter was referred to the Ministry in July 2006; their reply was awaited as of December 2006.