

ULTRA MEGA POWER PROJECTS UNDER SPECIAL PURPOSE VEHICLES

[Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Seventeenth Report (16th Lok Sabha)]

MINISTRY OF POWER

**PUBLIC ACCOUNTS COMMITTEE
(2017-18)**

NINETY-FIRST REPORT

SIXTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

NINETY-FIRST REPORT

PUBLIC ACCOUNTS COMMITTEE **(2017-18)**

(SIXTEENTH LOK SABHA)

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MINISTRY OF POWER



Presented to Lok Sabha on: 28/03/2018

Laid in Rajya Sabha on: 28/03/2018

**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2018 /Chaitra, 1939-40 (Saka)

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* Not appended in the Report

COMPOSITION OF PUBLIC ACCOUNTS COMMITTEE (2017-18)

Shri Mallikarjun Kharge - Chairperson

M E M B E R S

L O K S A B H A

2. Shri Sudip Bandyopadhyay
3. Shri Subhash Chandra Baheria
4. Shri Prem Singh Chandumajra
5. Shri Nishikant Dubey
6. Shri Gajanan Chandrakant Kirtikar
7. Shri Bhartruhari Mahtab
8. Smt. Riti Pathak
9. Vacant
10. Shri Abhishek Singh
11. Prof. Ram Shanker
12. Dr. Kirit Somaiya
13. Shri Anurag Singh Thakur
14. Shri Shivkumar C. Udasi
15. Dr. P. Venugopal

R A J Y A S A B H A

16. Shri Naresh Agrawal
17. Shri Satyavrat Chaturvedi
18. Shri Bhubaneswar Kalita
19. Shri Mohd. Ali Khan[†]
20. Shri Sukhendu Sekhar Roy[‡]
21. Shri Ajay Sancheti
22. Shri Bhupender Yadav

SECRETARIAT

- | | | | |
|----|------------------------|---|-------------------------|
| 1. | Shri A.K. Singh | - | Additional Secretary |
| 2. | Shri T. Jayakumar | - | Director |
| 3. | Shri Paolienlal Haokip | - | Deputy Secretary |
| 4. | Shri Ashikho Alema | - | Sr. Executive Assistant |

* Shri Neiphiu Rioh Ceased to be a Member of Committee consequent upon acceptance of his resignation from Lok Sabha w.e.f. 22 February, 2018.

[†] Elected w.e.f. 29 December, 2017 in lieu of vacancy caused due to retirement of Shri Shantaram Naik.

[‡] ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha on 18 August, 2017 and re-elected w.e.f. 29 December, 2017.

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2017-18), having been authorised by the Committee, do present this Ninety-First Report (Sixteenth Lok Sabha) on Action Taken by the Government on the Observation/ Recommendations contained in the 17th Report (16th Lok Sabha) on 'Ultra Mega Power Projects Under Special Purpose Vehicles', relating to the Ministry of Power.

2. The Seventeenth Report was presented to Lok Sabha and laid in Rajya Sabha on 29.04.2015. Replies of the Government to all the observations/ Recommendations contained in the Report were received. The Public Accounts Committee considered and adopted the Ninety-First Report at their sitting held on 15 March, 2018. Minutes of the sitting are given at Appendix-I

3. For facility of reference and convenience, the Observations/Recommendations of the Committee have been printed in bold and form Part II of the Report.

4. 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.

5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Seventeenth Report (16th Lok Sabha) is given at Appendix-II

NEW DELHI;
27 March, 2018
८ Chaitra, 1939-40 (Saka)

MALLIKARJUN KHARGE
Chairperson,
Public Accounts Committee

REPORT

PART – I

INTRODUCTORY

This Report of the Public Accounts Committee deals with the Action Taken by the Government on the Observations and Recommendations of the Committee contained in their Seventeenth Report (16th Lok Sabha) on "**Ultra Mega Power Projects Under Special Purpose Vehicles**" C&AG Report No. 6 of 2012-13, Union Government (Performance Audit) relating to the Ministries of Power and Coal.

2. The Seventeenth Report (16th Lok Sabha), which was presented to Lok Sabha and laid in Rajya Sabha on 29th April, 2015 contained 17 Observations and Recommendations. Action Taken Notes in respect of all the Observations and Recommendations have been received from the Ministry of Power and are broadly categorized as under:

(i) Observations/Recommendations which have been accepted by the Government:

Para Nos. 1-2 and 4-17

Total: 16

Chapter - II

(ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:

Para Nos. Nil

Total: Nil

Chapter - III

(iii) Observations/Recommendations in respect of which replies of Government have not been accepted by the Committee and which require reiteration:

Para Nos. Nil

Total: Nil

Chapter - IV

(iv) Observations/Recommendations in respect of which Government have furnished interim replies:

Para No. 3

Total: 1

Chapter – V

3. The detailed examination of the subject by the Committee revealed glaring lapses/deficiencies in the Bid Process Management, Bid Evaluation, granting permission for diversion of surplus coal as well as undue financial benefit to Reliance Power Limited, the project developer of Sasan UMPP. The Committee had accordingly given the observations/recommendations in their Seventeenth Report.

4. The Action Taken Notes furnished by the Ministry of Power in respect of all Observations and Recommendations of the Committee have been reproduced in the relevant Chapters of this Report. The Committee will now deal with the Action Taken by the Government on the Observations and Recommendations made in the Original Report which either need reiteration or merit comments.

(Recommendation Para No.2)

STATUS OF CASES PENDING AGAINST M/s. E&Y

5. In their 17th Report, the Committee were seriously concerned to note the manner in which the Ministry of Power proceeded with the appointment of Bid Process Management Consultant in respect of Sasan, Mundra, Krishnapatnam and Tilaiya UMPPs. The lowest bids of ICRA of Rs. 54.50 lakh and Rs. 44.50 lakh for the consultancy assignments of Sasan and Mundra UMPPs respectively were ignored though the bidder was declared technically qualified by the Bid Evaluation Committee and was at the top position both in the financial score and the combined score. The work was instead awarded to E&Y at higher rates of Rs. 1.28 Crore each on the ground that they had more experience and were managing bid process of Anpara Power Project in Bangladesh. This was done pursuant to the Bid Evaluation Committee's recommendation that Ultra Mega Power Project being a prestigious assignment and as there was large variation in the technical rating and price quoted by the consultancy firms, the first three highest ranked firms viz. ICRA, E&Y and CRISIL may be called for making presentation to the High Level Committee. The Committee found that it was contrary to the bid conditions which stipulated that the

top 5 bidders were to be called for negotiations mainly for the purpose of price reduction to match the lowest price quoted and the bidder who got the highest score as per the combined technical and financial weightage formula was to be awarded the work. There was no provision in the laid down procedure for further screening like presentation and comparative evaluation during the negotiation process once the ranking based on combined technical and financial score of bidders had been done. Subsequently, the High Level Committee constituted by the Ministry and which had representation by SBI, CEA, IDBI, IDFC and PFC rejected ICRA and selected E&Y by representation by observing that ICRA had only limited experience in bid process management since they had assisted in evaluation of RFQ bids of only 100 MW hydro electric plants in Uttarakhand and was having retired professionals. The reasoning of the HLC was not tenable as having declared ICRA as technically qualified, it was not proper to go into the relative merits of the bidders since the selection process specified at the time of Invitation of bids did not envisage it. Moreover, the retired professionals came through ICRA and not as individual experts and as per the tender documents there was no specific bar on having retired professionals being engaged by ICRA for the assignment, as also admitted by the Ministry. Thus, the High Level Committee's action of disregarding ICRA's bid was erroneous. The Committee also found that the work of evaluation of bids for Anpara Project was not completed by E&Y on the date of bid submission for Sasan and Mundra consultancy work. Since the bid criteria allowed consideration of successfully completed assignments as relevant past experience, it was not fair to conclude that E&Y had the past experience of Anpara project required to secure qualification. The Committee further noted that the other areas of experience claimed by E&Y mainly related to bid documents whereas in the case of UMPPs, the significances of bid evaluation experience was more than bid documentation experience. As such, the evidence on record did not suggest that E&Y had relevant experience more than that of ICRA in managing the bid process of projects. The subsequent developments, viz. the failure on the part of E&Y (the consultant) to

point out the shortcomings/deficiencies in the technical experience claimed by Reliance Power Ltd and the PFC's decision to debar E&Y for a period of three years w.e.f. 19th July, 2011 for their failure to perform in one of the assignments i.e. Sasan UMPP, raise serious doubts about the award of the consultancy assignment to E&Y besides reinforcing the Committee's apprehension that the appointment of E&Y was not made in a transparent manner. In yet another instance of irregularity, the Committee found that the lowest price of ₹ 54 lakh for Krishnapatnam UMPP was quoted by Feedback but in contravention of the bid conditions, E&Y, which emerged as the highest ranked bidder, was not asked to match their price with the price quoted by Feedback. The Ministry's submission that though there was no requirement in the tender document to match the price of the lowest quoted bidder, the HLC got the price reduced, failed to impress the Committee as E&Y was asked to match the price of ₹ 60 lakh quoted by the second lowest bidder. Worse, bids for consultancy work for Tilaiya UMPP were not called for but the work was awarded to E&Y at a cost of ₹ 60 lakh based on the contention that Tilaiya UMPP was on fast track. The Ministry claimed that the assignment for Tilaiya UMPP was awarded at the same cost and terms and conditions as the Odisha UMPP and scope of work for both the assignments was same, they being pit-head based UMPPs. In view of the fact that bids for different project may turn out to be different due to time factor and market conditions even if the projects are of similar nature, the Committee were opined that the Ministry ought to have taken matching action to ensure appointment of bid consultant for Tilaiya UMPP through a proper tendering process instead of resorting to flimsy excuses. All the above cited facts led the Committee to conclude that undue favours were extended to E&Y by flouting the bidding conditions and undermining transparency and accountability. The Committee, therefore, recommended that the entire process followed for the appointment of E&Y as consultant for four UMPPs be thoroughly investigated by an appropriate agency to unearth possible manipulations and fix responsibility. The Committee also desired

that robust checks and balances be put in place so as to ensure transparency and accountability in any such appointment of consultants in future.

6. The Ministry of Power in their Action Taken Note have stated as under:-

"PAC recommendations were forwarded to CBI vide Ministry of Power letter dated 25.06.2015. Para 3 of the letter states "CBI has already initiated a preliminary enquiry No.PE 2(E) 2012 and Ministry of Power has provided various documents in response to CBI letters dated 28.1.2013, 18.2.2013, 04.06.2013, 07.10.2013 and 17.04.2014. In view of the PAC recommendation, CBI may seek additional information/documents, if required." A copy of the letter is at Annex-1.

A committee was constituted by MoP vide letter No C-13011/12/2007-V&S dated 31.12.2008 under Mr. P.S. Bami, ex-CMD, NTPC to investigate the alleged manipulation in the award of Sasan UMPP. On the recommendations of the committee, the Consultant E&Y has been debarred by PFC for any future assignment for a period of three years from 19.07.2011.

E&Y challenged the decision of PFC in the Hon'ble High Court of Delhi. The Hon'ble High Court vide its order dated 22.7.2011 has stayed the operation of PFC's letter of debarment with the clarification that such stay would however not entitle the petitioner (i.e. E&Y) to deal with PFC. MoP issued show cause notice to M/s. E&Y on 9.9.11 seeking its reply, if any, within 15 days as to why M/s. E&Y may not be debarred for any future assignments of all PSUs/Organizations under the administrative control of MoP. M/s E&Y filed a petition in Delhi High Court against the show cause notice dated 9.9.11 of this Ministry and obtained a stay in the matter. Both the above matters are being heard together. Last hearing was held on 27.08.2015. Next hearing is to be held on 14.01.2016.

PFC has also withheld payment of Rs. 51,20,000/- out of ₹ 1,28,00,000/ and also sent a demand for returning Rs. 76,80,000 paid to them under the contract for Sasan UMPP. E&Y went for arbitration against PFC's action. The matter is presently under arbitration.

Further, PFC/PFCCL has started e-tendering process as per directions of Gol to ensure transparency, speedy, non-discriminatory, competitive price discovery, accountability and security in tender process."

7. The Committee note with satisfaction that the Ministry had caused CBI to look into the irregularities relating to the appointment of Ernst & Young as consultant for four UMPPs and the constitution of a committee to investigate alleged manipulation in allocation of Sasan UMPP. The Committee desire to be apprised of the latest status of the investigations in the matter. The Committee also note that PFC had also withheld payment of Rs.51,20,000/- out of Rs.1,28,00,000/ and also sent a demand for returning Rs. 76,80,000 paid to them under the contract for Sasan UMPP and M/s. E&Y went for arbitration against PFC's action. The Committee desire to be apprised of the latest developments in the matter.

(Recommendation Para No.4)

STATUS OF REVISION OF SBDs FOR UMPPs

8. In their 17th Report, the Committee were informed that all the bidders had prior information that the Statutory Auditor's certificate would be required to be submitted alongwith the bid documents. The Statutory Auditors were appointed by the Companies themselves and there was obviously no assurance that there would be suppression or distortion of facts and manipulation of the bid documents. The Committee further observe that the bid documents for RFQs, RPFs, etc. are prepared not by the Ministry alone but with the help of outside people and also in consultation with a number of stakeholders. Under the circumstances, the

Committee viewed that onus lies with the Ministry to tie up all the loose ends in the bid preparation and submission process with special emphasis on verifying the veracity of the certificate of the Statutory Auditors who were appointed by the Companies/bidders themselves. As assured by the Secretary, MoP in evidence, the Committee trusted that the Ministry would impose certain strict conditions on the bidders about the method and format in which bidding should be done so as to ensure a foolproof system of bid management.

9. The Ministry of Power in their Action Taken Note have stated as under:-

“The requirement of networth of the bidders for qualification was enhanced to 15% of the Estimated Project Cost in the Model Bidding Documents notified by MoP in September 2013.

An Expert Committee under the Chairmanship of Shri Pratyush Sinha has been constituted to recommend the revised Standard Bidding Documents (SBDs) applicable to UMPPs/Case-2. The draft SBDs (RfQ, RFP, PPA) and Guidelines formulated by Expert Committee have been placed on the website of Ministry of Power for seeking the stakeholders' comments. SBDs for UMPPs based on captive domestic coal blocks are under approval in MoP which would be notified after due approval. SBDs for UMPPs based on imported coal is under finalization by the committee. In line with the recommendation of the PAC, the Expert Committee has recommended for SBDs based on domestic captive coal that the technical experience required for qualification is as follows:

- The projects considered for qualification should be from power or core sector (coal mining, telecom, ports, airports, railways, metro rail, highways and bridges, industrial parks/ estates, logistic parks, pipelines, irrigation, water supply, sewerage and real estate development)

- Aggregate of revenue/ capex/ construction payment in these projects of not less than Estimated Project Cost (EPC) if projects solely of power sector and 1.5 times of EPC in other cases and the capital cost of each project should be more than 5% of Estimated Project Cost. Further, atleast 1/10th of the experience should be from power sector.”

10. The Committee note that since 2006 so many Expert Committee have been constituted to recommend the revision of the Standard Bidding Documents (SBDs) applicable to UMPPs/Case-2 and the draft SBDs (RFQ, RFP, PPA) and Guidelines formulated by Expert Committee have been placed on the website of Ministry of Power for seeking the stakeholders' comments. The Ministry have also stated that SBDs for UMPPs based on captive domestic coal blocks are under approval in the Ministry which would be notified after due approval and SBDs for UMPPs based on imported coal are under finalization by the committee. The Committee desire that the revised SBDs for both captive domestic coal blocks and imported coal be finalized at the earliest.

(Recommendation Para No.10)

SPECIFICATION OF LAND REQUIREMENT FOR DIFFERENT TYPES OF UMPPS AT THE PROJECT INCEPTION STAGE

11. In their 17th Report, the Committee noted with regret that the Central Electricity Authority could not finalize norms regarding land requirements for thermal power plants especially of the larger ones in sync with the process of UMPPs which started in 2005. Action in this regard was initiated only in April 2007 and the requisite norms were finalized in December 2007 when the land for Mundra and Krishnapatnam UMPPs had already been agreed upon. When compared to the new norms, the land agreed for the two UMPPs was in excess by a whopping margin of

1538 acres in the case of Mundra and 1096 acres in the case of Krishnapatnam. The Committee were informed that the matter was deliberated by the EGoM in their meeting held in May 2008 wherein it was decided that since the land requirement had already been worked out in respect of these projects, it was now upto the project developers themselves to take a view on the excess land so agreed upon. However, the EGoM decided that land requirement for yet to be awarded UMPPs be worked out by CEA based on its norms. Unfortunately, the decision of the EGoM based on deficient feedback leaves enough scope for the project developers to probably utilize the excess land in a manner other than the purpose approved by EGoM. Besides, excess land of the magnitude of 2634 acres is too large to be ignored and left at the mercy of private project developers. Needless to say, permitting excess land to the project developers was obtained based on deficient feedback given to the EGoM. Since land was acquired by the project developers for tariff based bidding projects, the Committee impressed upon the Ministry to put in place robust checks and balances to prevent utilization of such land for any other purpose including creating merchant power capacity by the developers failing which excess land allotted to the Project Developers be taken back from them wherever warranted. The Committee also urged the Ministry/CEA to work out precisely the land requirement for the yet to be awarded UMPPs as per the new norms prescribed by the CEA in December 2007 so as to ensure rationale allotment of land and its utilization for the avowed objective.

12. The Ministry of Power in their Action Taken Note have stated as under:

“Deliberating the land requirement for coal based thermal power stations, especially for the proposed UMPPs in the MoP, it was observed that comparatively larger area was being used for setting up coal based thermal power stations in our country whereas the land requirement in other countries was reported to be much less. Accordingly, CEA constituted a committee comprising of members from CEA, NTPC, BHEL,

Desein & TATA Consulting Engineers on 4th April, 2007 to work out the land requirement for coal based thermal power stations of different capacities both for pit head stations based on indigenous coal and coastal stations based on imported coal. The Committee submitted its report in December 2007.

Land is increasingly becoming a scarce resource and availability of land is posing a big challenge for future as well as currently planned thermal power plants. Further problems have been compounded due to demand from other competing sectors and certain objections on the part of local population. A need was felt to review the earlier CEA report of December, 2007 on land requirement of thermal power stations. The committee consisting of representatives from CEA, NTPC, BHEL, Desein & TATA Consulting Engineers and L&T, Sargent & Lundy was revived in October, 2009 to suggest further optimization of land. The committee after detailed deliberations has recommended reduction in land for various categories of thermal power stations in September, 2010. The stipulations contained in MoE&F's notification dated 3.11.2009 for land requirement for ash dyke area have also been duly considered for optimization of land requirement in this review report.

Comparative land requirement as per CEA norms 2007 and 2010 are as below:

Sl. No.	Type of UMPP	Land requirement as per CEA norms 2007 (in Acres)	Present land requirement as per CEA norms 2010 (in Acres)
1.	Pit Head (6X660MW)	3280	2420
2.	Pit Head (5X800 MW)	2770	2440
3.	Coastal (6X660 MW)	1580	1220
4.	Coastal (5X800 MW)	1530	1230

MoP has given its concurrence to go ahead with the reduced requirement of land recommended by the committee. Accordingly, land requirement norms as per CEA 2010 recommendations are being followed for proposed UMPPs. However, precise land requirement for each UMPPs yet to be awarded can be worked out after finalization of site location and other formalities.”

13. The Ministry of Power submitted that while examining the land requirement for coal based thermal power stations for the proposed UMPPs, it was observed that comparatively larger area was being used for setting up the power stations in our country whereas land requirement in other countries was reported to be much less. Accordingly a committee was constituted in 2007 to work out the land requirement for coal based thermal power stations of different capacities for both pit head stations based on indigenous coal and coastal stations based on imported coal. In 2009, another committee reviewed the earlier report of 2007 to suggest further optimization of land. In 2010, after detailed deliberations the committee recommended reduction in requirement of land for various categories of thermal power stations. The Committee also note that the Ministry of Power have concurred with the reduced requirement of land as recommended by the committee and land requirement norms as per Central Electricity Authority (CEA) 2010 recommendations are being followed for proposed UMPPs. The Committee further note that precise land requirement for each UMPPs are yet to be awarded and can be worked out after finalisation of site location and other formalities. The Committee are unable to comprehend as to why the Ministry have to wait for the finalization of site location and other formalities to determine and allocate the precise land requirement for each proposed UMPPs since the CEA 2010 norms have already specified the requirement of land for different type of UMPPs with different production capacity.

The Committee, therefore recommend that precise land required by each UMPPs be determined and allocated based on the production capacity and type of UMPP as per the CEA 2010 norms immediately. The Committee further recommend that requirement of land for a UMPP be determined during the inception stage of the project and ensure that no excess land is awarded to the UMPPs.

(Recommendation Para No. 15)

14. In their 17th Report the Committee noted that Kerandari B & C coal blocks for Tilaiya UMPP (also awarded to RPL) were allocated with the same conditions for usage/disposal of surplus coal as applicable to Sasan UMPP. The Committee found that against the requirement of only 16 million tonne per annum for Tilaiya UMPP, production from the coal blocks allotted for the project would be 40 million tonne per annum thus leaving a surplus of 24 million tonne per annum. In March 2011, RPL sought permission to use the surplus coal from the Tilaiya coal blocks to meet the demands for its other power projects. In April 2012, the EGoM, however, decided that the application of RPL for use of surplus coal from the coal blocks allotted to Tilaiya Project be processed under the yet to be formulated new Policy on surplus coal. The Committee felt that permission given to RPL to use surplus coal from Sasan in Chitrangi Project was not an appropriate decision. However, while urging for the early finalization of the new policy on surplus coal, the Committee trusted that the policy would address all the concerns of allocation of coal blocks for UMPPs including the need for proper assessment of the actual production capacity of coal mines as per the latest technology and allocation of the precise coal blocks afterwards to the successful bidder with explicit prohibition of diversion of surplus coal. A suitable monitoring mechanism with mandated responsibility centres be introduced to enforce the conditions stipulated by the new policy in the offing.

15. The Ministry of Power in their Action Taken Note have stated as under:

"MoC has observed that mining plans of Kerandari B & C coal blocks was approved for 40 MTPA whereas actual requirement of Tilaiya UMPP is 16 MTPA. MoC requested CMPDIL on 25.6.2015 to explore separation of Kerandari B&C coal blocks by making assessment of its coal reserves and coal production capacity.

In the meanwhile, Jharkhand Integrated Power Limited (JIPL), a subsidiary of RPL has issued notice of termination of Power Purchase Agreement (PPA) on 28.4.2015. The Government of Jharkhand has to take final decision on the termination notice. Further action on the issue of coal requirement for Tilaiya UMPP would be taken by MoP/MoC after a final decision is taken by Govt. of Jharkhand."

16. The Committee are constrained to note that inspite of their recommendation to expedite finalising the new policy on surplus coal is yet to be put in place as a result the glaring shortcomings of extant policy continues to plague the system. The Committee therefore, reiterate their recommendation for early finalization of new policy on surplus coal and desire that proper assessment of the actual production capacity of coal mines be made by the Ministry and thereafter the allocation of precise coal blocks is made to successful bidders as per actual requirement with stringent monitoring to prevent diversion of coal.

NEW DELHI;

27 March, 2018

6 Chaitra, 1939-40 (Saka)

MALLIKARJUN KHARGE

Chairperson,
Public Accounts Committee

