

Chapter-III
Compliance Audit

CHAPTER-III COMPLIANCE AUDIT

Animal Husbandry Department

3.1 Embezzlement of Government money

Government receipts and beneficiary share had neither been accounted for in the cashbook nor deposited in the Government account, resulting in embezzlement of ₹ 99.71 lakh.

Rule 3 of Himachal Pradesh Financial Rules, 2009 provides that all money received by or on behalf of the Government shall be brought into the Government Account immediately and the Head of the Department shall obtain from the subordinates, monthly account and returns in such form as may be prescribed. Further, withdrawal from the Government account must be supported with relevant vouchers.

The Department of Animal Husbandry receives cash on account of various services relating to livestock development being provided to the beneficiaries. The sale proceeds therefrom and beneficiary share is to be accounted for and credited into the Government account. The Deputy Director, Animal Husbandry (Breeding), Solan (DDAH) was operating two¹ savings Bank accounts for receiving funds under various schemes and depositing the sale proceeds and beneficiary share into the account of the Director, Animal Husbandry-cum-Member Secretary, Himachal Pradesh, Poultry and Livestock Development Board (LDB) at State Bank of India, branch Boileauganj (Shimla).

The audit scrutiny (August 2018) of the records of the Deputy Director, Animal Husbandry (Breeding), Solan (DDAH) revealed the followings:

1. An amount of ₹ 41.40 lakh on account of artificial insemination, castration fee, sale of imported semen and registration fee was received by the DDAH, Solan during March 2016 and March 2018, but the same was not accounted for as receipt in the cash book. Out of this ₹ 12.09 lakh was directly deposited in the account of the LDB and the remaining amount of ₹ 29.31 lakh was not deposited in any of the Bank accounts. Subsequently, ₹ 29.31 lakh² pertaining to other schemes³ was transferred from the savings Bank account of the DDAH to the Bank account of the LDB, instead of depositing the cash received by cashier/accountant. No bills/ vouchers indicating the purpose/details etc. for the drawl of funds were found on record. Thus, ₹ 29.31 lakh received by the cashier/accountant were embezzled and subsequently made good from the funds pertaining to other schemes.

¹ State Bank of India, Solan and IndusInd Bank, Solan in the name of Assistant Director (Extension), Solan.

² Details of amount diverted from schemes: 2016-17 - ₹ 8,68,823, 2017-18 - ₹ 17,68,773 and 2018-19 - ₹ 2,93,380.

³ Backyard Poultry Scheme, Garbit Pashu Ahaar Scheme, Krishak Bakri PalanYojna etc.

2. DDAH withdrew ₹ 50 lakh (IndusInd Bank, Solan: ₹ five lakh and SBI, Solan: ₹ 45 lakh) during April 2016 to January 2018 on twelve occasions (range: ₹ 0.11 lakh to ₹ 9.50 lakh) through self-cheques. The said amount was neither accounted for in the cash book nor any vouchers in support of depositing the same into the Government account or justifications were produced to audit. This had resulted in embezzlement of ₹ 50 lakh through cash withdrawal, without supporting vouchers.
3. Under Backyard Poultry scheme, chicks are supplied by the Central Poultry Farm, Nahan (CPF) as per demand of field units for further distribution to beneficiaries. The sale proceeds collected by the Veterinary units after distribution of chicks, was to be deposited with the CPF, Nahan. During December 2016 to March 2018, sale proceeds of ₹ 10.61 lakh under the scheme, by various field units under the jurisdiction of DDAH, was deposited with the DDAH for further deposit with the CPF, Nahan. The receipts (TR-5) for ₹ 9.25 lakh only were issued and ₹ 1.36 lakh (received on 24 March 2018) were received without issuing any formal receipt. The whole amount of ₹ 10.61 lakh was neither accounted for in the cash book nor was it deposited in any Bank account. Further, an equal amount of ₹ 10.61 lakh was subsequently transferred from the savings Bank account at SBI, Solan to CPF, Nahan. Thus, amount of ₹ 10.61 lakh on account of sale proceeds of chicks, was embezzled by the cashier/superintendent.
4. Under Garbhit Pashu Aahar scheme, three kgs ration per day is to be provided to pregnant cow/ buffalo during last trimester (total 2.70 quintal for 90 days) and 50 per cent subsidy is given to the scheduled caste beneficiaries on this account. The amount of beneficiary share collected by the Veterinary units was required to be deposited into the account of the DDAH for further payment to feed suppliers. During 2016-18, an amount of ₹ 7.20 lakh (2016-17: ₹ 2.40 lakh for 92 beneficiaries and 2017-18: ₹ 4.80 lakh for 180 beneficiaries) on account of beneficiary share was deposited by various field units with the DDAH and receipts (TR-5) for the same were also issued to the concerned units. However, this amount was neither accounted for in the cash book nor deposited in any Bank account. Whereas, an equal amount was subsequently transferred from the SBI, Solan savings Bank account to the Himachal Pradesh Agro Industries, Parwanoo (feed supplier), resulting in embezzlement of ₹ 7.20 lakh, received as beneficiary share.
5. Under Krishak Bakri Palan Yojna (launched in 2017-18), 60 per cent subsidy is provided to the below poverty line beneficiaries and beneficiary share is to be deposited in the Government account. During 2017-18, beneficiary share of ₹ 2.58 lakh was deposited (February 2018) by the field units with the DDAH, however, no receipt (TR-5) was issued to the concerned units. This amount was neither accounted for in the cash book nor deposited in any of the savings Bank account, as of August 2018 resulting in embezzlement of ₹ 2.58 lakh.

Audit observed non-adherence to the established financial rules/procedures and lack of control mechanism had resulted in embezzlement of ₹ 99.71 lakh. Instances due to non-observance of control mechanism are detailed below:

- Cash book was not depicting the actual financial position as receipts were not being entered into and relevant vouchers in support of the transactions were not being maintained;
- Ledger accounts were not being maintained, despite directions from the higher authorities. Advance released for further utilisation was shown as final expenditure. Reconciliation of accounts was not carried out;
- Financial transactions in cash exceeding ₹ 10,000 were being made by issuing self-cheques in spite of Government directions for direct transfer of funds through RTGS;
- Internal audit of the DDAH had not been carried out by the departmental functionaries.

A departmental enquiry was conducted in May 2018 and total embezzlement of ₹ 79.98 lakh was pointed out including penal interest, out of which ₹ 57.93 lakh had been recovered.

The DDAH stated (July 2020) that departmental inquiry had been conducted and ₹ 57.93 lakh out of total embezzled amount of ₹ 79.98 lakh had been recovered from the concerned dealing assistant and the balance amount is being recovered on a monthly basis. Administrative action was also recommended against the defaulting officials.

The reply is not acceptable as audit had pointed out embezzlement of ₹ 99.71 lakh on the basis of test-check of available records and still ₹ 41.78 lakh is recoverable. Further, no administrative action against the defaulting officials had been taken by the Department, as of October 2020.

The failure of control mechanism at various levels in the Department, resulted in embezzlement of ₹ 99.71 lakh, while possibility of similar cases in other units dealing with cash transactions cannot be ruled out.

The Government may ensure compliance to financial rules and strengthen internal control mechanism to avoid loss of Government money. Further comprehensive enquiry for the period prior to audit should be undertaken (as audit findings are for test-checked period only) so that action for recovery of total embezzled amount may be initiated, besides initiating action against the defaulters.

The audit findings were referred to the Government in May 2020, their reply had not been received (December 2020).

Education Department

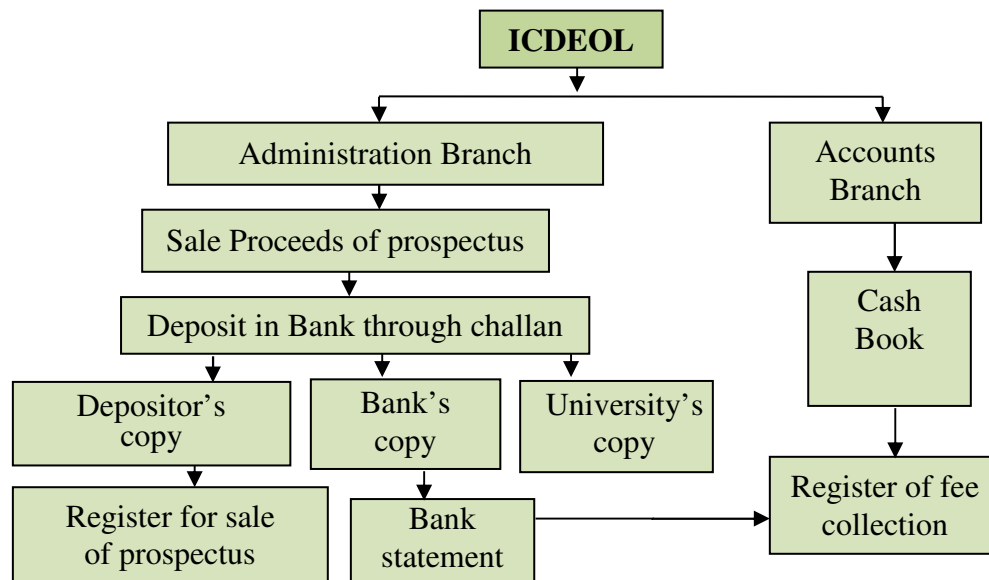
3.2 Embezzlement of funds in Himachal Pradesh University

Failure of authorities of Himachal Pradesh University to carry out periodic reconciliations and exercise necessary checks for comparing receipts in the registers/ records with those appearing in Bank statements, resulted in embezzlement of ₹ 1.13 crore.

The Himachal Pradesh University Accounts Manual, 1976 provides for maintenance of cash book by every officer responsible for receiving money on behalf of the University. All moneys received on account of the University shall forthwith be

deposited in State Bank of India for credit to the University's Account. The Principal/ Head of Department may delegate his authority to one of the officials of the Department but the responsibility will be that of the Head of the Department. At the end of each month the total of the receipts during that month should be reconciled with the Bank statement.

At the International Centre for Distance Education and Open Learning (ICDEOL) of the University, prospectus for admission in Under-Graduate and Post-Graduate programmes were sold in cash by the officials of the Administrative branch. The officials are entrusted with the job to deposit the sale proceeds in University's Bank account by filling three copies of challans- Depositor's copy, University's copy and Bank's copy. The Depositor's copies of the challans are used for accounting for the total receipts from sale of prospectus by the Administrative branch. The University's copies of the challans and Bank statements (obtained from the Bank) are used for making entries in the fee collection Register by the Accounts branch. The system is depicted in the following chart:



The scrutiny (November and December 2018) of records of the Director, ICDEOL showed that in contravention of the University Accounts Manual, the ICDEOL had neither maintained cash book nor undertaken reconciliation of the receipts of sale of prospectus with the Bank during 2011-18. Audit carried out cross verification of the Depositor's copies of challans and Registers for sale of prospectus maintained by Administrative branch and University's copies of challans and Bank statements kept by the Accounts branch for the period 2011-18.

The audit scrutiny revealed that the Senior Assistant dealing with the sale of prospectus had entered different amounts (in figures) in the Depositor's copies, University's copies and Bank's copies of challans. This was done by writing lesser amounts (in figures) in all copies of the challans at the time of depositing the same in the Bank, and later adding one more digit to the amounts (in figures) written in the Depositor's copies of challans to make it at par with the amounts actually received on account of sale of prospectus and thereafter entering the same amount in the Register for sale of prospectus. It was observed that in all copies of the challans, the amount deposited was not written in words either by the depositing official or by the Bank's

cashier leaving scope for manipulation. An illustrative example is shown in **Appendix-3.1**.

Thus, the actual amounts deposited in the Bank as per University's copies of challans and Bank statements maintained by the Accounts branch were lesser than the amounts actually received on account of sale of prospectus, and the official misappropriated ₹ 1.13 crore during 2011-18 by fraudulently short-depositing amounts in the Bank as detailed in **Table-3.2.1**.

Table-3.2.1: Short deposit of receipts from sale of prospectus in the University's Bank account by ICDEOL during 2011-18 (Appendix-3.2)

(₹ in lakh)			
Year	Amount actually received and claimed as deposited in the Bank as per Depositor's copies of challans and sale of prospectus Registers (maintained in Administration branch)	Amount actually deposited in the Bank as per University's copies of challans and bank statements (maintained in Accounts branch)	Amount short deposited and misappropriated
2011-12	18.07	2.93	15.14
2012-13	20.02	2.03	17.99
2013-14	22.47	3.83	18.64
2014-15	29.79	4.29	25.50
2015-16	24.75	5.45	19.30
2016-17	12.10	2.10	10.00
2017-18	8.03	2.03	6.00
Total	135.23	22.66	112.57

Source: Records of Himachal Pradesh University.

The embezzlement was attributable to inoperative internal controls, non-maintenance of cash book, non-reconciliation of receipts with the Bank, lack of coordination and non-reconciliation of receipts on monthly basis by the authorities (Section Officers, Assistant/ Deputy Registrars) in the Administration and Accounts branches, and non-monitoring by the Director, ICDEOL as regards monthly reconciliation of receipts by the officials concerned.

The Government stated (October 2020) that FIR was lodged (November 2018) in this regard after the matter was brought to attention⁴ and a departmental inquiry was initiated against the official, on the basis of which the said official was dismissed (February 2020) from service. Further, all cash transactions in ICDEOL have been discontinued and all fees and funds including from sale of prospectus are being collected online from the session 2018-19 onwards. An amount of ₹ 16.20 lakh has been recovered from the official and steps would be taken to recover the balance embezzled amount. However, no reasons were furnished for the prescribed internal

⁴ Audit of Himachal Pradesh University was conducted in November and December 2018 during which audit memoranda (Dated: 01, 03, 26 and 30 November 2018 and 05 December 2018) were issued.

controls being inoperative and FIR was under investigation with the Police, as of October 2020.

Thus, non-maintenance of cash book and failure of the University authorities to carry out periodic reconciliations and exercise necessary checks for comparing receipts in the registers/ records with those appearing in the Bank statements during 2011-18, resulted in embezzlement of ₹ 1.13 crore. Possibility of similar weaknesses in controls in one or more sections dealing with cash transactions cannot be ruled out.

University authorities may investigate the matter for previous years also, as audit findings are for test-checked period only, so that action for recovery of embezzled amount may be initiated, besides administrative action against the defaulters may be initiated. Further, prescribed internal controls may be made operative in the University to avoid such cases.

3.3 Irregular expenditure on testing of school uniform cloth

Testing of school uniform cloth was awarded directly to a laboratory in violation of Financial rules and principles of financial propriety and economy in public procurement, which resulted in irregular and uneconomical expenditure of ₹ 1.62 crore and extension of undue favour to the laboratory.

The Himachal Pradesh Financial Rules (HPFRs), 2009 provide that every officer authorised for procuring goods shall be responsible for efficiency and economy in public procurement besides ensuring fairness, transparency and competitiveness. The procurement of estimated value of ₹ 10 lakh or above shall be made through advertised tender system.

Under the 'Atal School Vardi Yojana'⁵ the State Government provides free-of-cost school uniform cloth to all students⁶ of Government schools. The specifications of the school uniform cloth are defined by an Empowered Committee constituted by the State Government. The cloth⁷ is procured by the Himachal Pradesh State Civil Supplies Corporation (HPSCSC) through an advertised tender process, in which samples of the cloth as per pre-defined specifications, along with quality assurance certificates and test analysis reports from accredited⁸ laboratories (pre-despatch testing) are to be submitted by the bidders along with their technical bids. An additional system of testing (post-despatch testing) of the cloth after receipt of supply is also prescribed in which samples⁹ of the cloth, selected randomly from amongst the batches received by each indenting officer, are to be got tested independently by HPSCSC from an accredited laboratory.

⁵ Merged scheme of Atal School Uniform Yojana (launched in 2012) and Mukhya Mantri Vardi Yojana (launched in 2016-17).

⁶ Students of classes 1st to 10th, extended to students of classes 11th and 12th from 2016-17, twice (April and October) every year.

⁷ In four sets: Set No. 1 (for boys from classes 1st to 5th) - shirt and trouser; Set No. 2 (for boys from classes 6th to 10th) - shirt and trouser; Set No. 3 (for girls from classes 1st to 5th) - kamiz and salwar; Set No. 4 (for girls from classes from 6th to 10th) - kamiz, salwar and dupatta.

⁸ Accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL).

⁹ A minimum of one set and a maximum of 0.05 per cent of the total supplied sets.

The scrutiny (November 2018) of records in the office of the Director, Elementary Education revealed that:

- For the year 2015-16, HPSCSC empanelled (June to November 2015) three accredited testing laboratories through invitation of expression of interest (EoI) for testing of school uniform cloth. The details of rates (per set) finalised with the three laboratories and the testing work assigned during 2015-16 are given in **Table-3.3.1**.

Table-3.3.1: Details of rates of laboratories for testing of uniform cloth

Laboratory	Rates per set (in ₹)				Remarks	No. of samples assigned for analysis/ testing
	Set No. 1	Set No. 2	Set No. 3	Set No. 4		
M/s Spectro Analytical Labs Ltd., New Delhi	4,900	4,900	4,900	4,900	L-1	120
M/s Testtex India Laboratories Pvt. Ltd., Mumbai	6,950 (42)	6,950 (42)	6,950 (42)	6,950 (42)	L-2	128
M/s Shriram Institute for Industrial Research, New Delhi	23,285 (375)	23,285 (375)	23,826 (386)	27,075 (453)	L-3	125

Note: Figures in parentheses denote percentage by which rates were higher than L-1 rates.

It can be seen from **Table-3.3.1** that with reference to the rates of M/s Spectro Analytical Labs Ltd. (L-1), the rates of M/s Shriram Institute for Industrial Research, New Delhi (L-3) were about five times higher. However, instead of awarding the work of testing to Spectro Analytical Labs Ltd. (L-1) on the basis of lowest rates, the work was awarded by the HPSCSC to all the three labs during 2015-16 without any justification. Reasons for empanelment of three laboratories instead of L-1 were not on records.

- For 2016-17 and 2017-18, the Empowered Committee, disregarding the Financial rules and considerations of propriety, economy, fairness and transparency, decided (March 2016) to directly award the work of both pre and post-despatch testing of samples to M/s Shriram Institute for Industrial Research, New Delhi without adopting any tendering/ empanelment process on the grounds that the laboratory had a reputation and credibility for fair testing; the basis for arriving at such conclusion was not on record. In doing so, the Empowered Committee also ignored the conflict of interest clearly evident in awarding the work of post-despatch testing (to be done by HPSCSC) to the same lab (M/s Shriram Institute for Industrial Research, New Delhi) undertaking pre-despatch testing (to be done by the cloth supplying firm).

From the above, it is evident that the Financial rules and economy considerations were by-passed in order to extend undue favour to the laboratory (M/s Shriram Institute for

Industrial Research, New Delhi) which charged the highest rates (by a substantial margin), resulting in irregular expenditure of ₹1.62 crore¹⁰.

The Government stated (October 2020) that the three laboratories were selected (for 2015-16) as per the decision of the Empowered Committee on the basis of Expression of Interest and the laboratories were not necessarily to be empanelled on L-1 basis as rates were not the sole criterion, but one of the important criteria. The laboratories were technically qualified for empanelment for 2015-16, 2016-17 and onwards, and the work was awarded to M/s Shriram Institute for Industrial Research, New Delhi (L-3) as the laboratory had a reputation and credibility for fair testing. The reply is not acceptable as all empanelled laboratories fulfilled all technical requirements and it cannot be reasoned that only one of the laboratories had reputation/ credibility for fair testing; and rates should have formed the only objective basis for awarding the work. Moreover, even if rates were not the sole criterion, other criteria should have been specified and put on record for transparency and objectivity in the award process. Not doing so constituted contravention of the Financial rules and disregard for principles of financial propriety and economy in public procurement besides, extending undue favour to one laboratory during 2016-18.

The State Government may ensure award of tenders strictly as per the applicable financial rules and economy considerations.

3.4 Unfruitful expenditure on construction of building

Contravention of approved building plan by executing agency and lack of monitoring by the Department led to denial of civic amenities to staff quarters which remained non-functional for more than 49 months, resulting in unfruitful expenditure of ₹ 2.27 crore.

As per Section 242 of the Himachal Pradesh Municipal Corporation (HPMC) Act, 1994, no building can be erected in the municipal area without the sanction of the Commissioner of the Municipal Corporation. Sections 244 to 246, of the Act, *ibid* provide for addition and alteration of the approved plan with the prior sanction of the Commissioner. Section 257 of the Act, *ibid* stipulates submission of completion report to the Commissioner and states that no person shall occupy any erected building until completion certificate is submitted and permission is granted by the Commissioner. Section 254 of the Act, *ibid* provides for denial of civic amenities including water and sewerage connections in case of violation of the provisions of the Act, *ibid*. As per the State Government instructions (November 2003), the user Department will be responsible for ensuring that there is no change in scope of work/ specifications and the executing agency will be responsible for drawing up of estimate of the work and its execution.

During the scrutiny (November 2018) of records of the office of the Director, Higher Education, it was observed that the State Government had accorded (March 2010) administrative approval and expenditure sanction (AA/ES) of ₹ one crore for

¹⁰ 2015-16: ₹ 38.89 lakh; 2016-17: ₹ 81.25 lakh; and 2017-18: ₹ 41.84 lakh.

construction of two blocks of staff quarters¹¹ at Shimla. Revised AA/ES of ₹ 2.27 crore for the work was accorded (November 2014) after approval (February 2014) of the building plan by Municipal Corporation (MC), Shimla. The Director, Higher Education released (between June 2010 and August 2016) ₹ 2.27 crore to the Executive Engineer, Public Works Department (PWD), Division No.-III Shimla for undertaking construction. The PWD completed (September 2016) construction of the staff quarters after incurring expenditure of ₹ 2.27 crore.

The records showed, however, that the PWD had deviated from the approved building plan without seeking prior permission of the Commissioner, Municipal Corporation, Shimla. When the completion plan (with modified building plan) was sent (February 2018) by the Education Department to the Municipal Corporation, Shimla for accepting completion of the buildings and granting no-objection certificate (NOC) for civic amenities, Municipal Corporation, Shimla pointed out (April and June 2018) certain major deviations¹². In this regard, scrutiny of the building plans showed that whereas the original building plan consisted of two independent rectangular blocks (at right angles to each other), the modified building plan showed the two blocks as being joined at the edge to create a single L-shaped building. This was also in violation of the National Building Code¹³ which states that buildings having plans with shapes like 'L' shall preferably be separated into rectangular parts by providing separation sections at appropriate places, and that separation of adjoining structures or parts of the same structure is required for structures having different total heights or storey heights to avoid collision during an earthquake.

While the Executive Engineer, PWD Division No.-III was responsible for non-adherence to the building plan approved by the Municipal Corporation, Shimla, the Director, Higher Education was responsible for lack of monitoring as regards execution as per the approved plan and taking over the staff quarters without highlighting the deviations. In view of non-adherence to the approved building plan, the Municipal Corporation, Shimla had not granted completion certificate/ NOC and not provided civic amenities for more than 49 months (as of October 2020), as a result of which the staff quarters could not be put to use and the expenditure of ₹ 2.27 crore incurred remained unfruitful, and exposed to depreciation.

The State Government stated (October 2020) that the staff quarters could not be allotted because of non-issue of NOC by the Municipal Corporation, Shimla and deviation had to be made due to non-availability of suitable strata during excavation for laying the foundations of the extreme columns of each block. However, this contention is not acceptable as the matter for executing deviations should have been

¹¹ Type-I: 06 sets and Type-II: 06 sets at Glen Hogen (adjoining O/o Directorate of Education, Shimla).

¹² Block to block distance of five metres was not maintained; orientation/ position of blocks was not as per approved plan and additional storey in the form of basement floor was constructed in type-II block.

¹³ Notified by the Bureau of Indian Standards.

highlighted and modified building plan should have been sent for approval of the Municipal Corporation, Shimla before construction.

The Department may ensure and monitor construction as per approved plan and modified plan, if required, should be got approved before executing deviations. Corrective actions in consultation with the Municipal Corporation, Shimla for utilisation of the building as per law may be taken.

General Administration Department

3.5 Undue favour and avoidable / wasteful expenditure on hiring of transport helicopter

- A. Undue favour was extended to M/s Pawan Hans Limited (PHL) by inserting and modifying conditions that excluded other bidders, allowing PHL to qualify technical evaluation ignoring the serious issue of its poor safety record, and allowing extension of contract despite unsatisfactory service delivery.**
- B. Unjustified and arbitrary award of 10 per cent annual increase in rates resulted in avoidable expenditure of ₹ 18.39 crore, while adjustment of excess/deficit flying hours on yearly basis instead of over the term of contract, led to wasteful expenditure of ₹ 6.97 crore on unutilized flying hours.**

The Himachal Pradesh Financial Rules (HPFRs) provide that every officer authorised for procurement shall be responsible for efficiency and economy in public procurement besides ensuring fairness, transparency and competitiveness.

The Government of Himachal Pradesh (GoHP) decided (July 2011) to hire transport helicopter¹⁴ on wet-lease basis¹⁵ for multi-use¹⁶. A civil aviation expert¹⁷ from the Directorate General of Civil Aviation (DGCA), Government of India was engaged for rendering technical advice, who provided (February 2012) a draft tender document to the department. Following multiple rounds of tendering¹⁸ (February 2012 to October 2012), the tender was awarded (October 2012) to M/s Pawan Hans Helicopter Limited (PHL) at a rate of ₹ 3.38 lakh per flying hour for a minimum 40 flying hours per month, with 10 per cent annual increase in the rate, for a term of five years (January 2013 to December 2017). The contract was extended¹⁹ (September 2017) for a further period of two years (January 2018 to December 2019) at a rate of ₹ 3.30 lakh per flying hour for a minimum 40 flying hours per month.

The scrutiny of records (August 2018) of the General Administration Department (GAD) and additional information obtained from the department, revealed the following:

¹⁴ Twin-engine large / heavy-duty transport helicopter with carrying capacity of more than 15 passengers.

¹⁵ A leasing arrangement whereby the lessor provides aircraft, complete crew, maintenance, and insurance to the lessee which pays by hours operated and any other duties, taxes, etc.

¹⁶ VIP duty, emergency evacuation and relief operation.

¹⁷ Capt. Irshad Ahmed, Flight Operations Inspector (Helicopters), DGCA, GoI.

¹⁸ Tender documents issued in February 2012; pre-bid meeting with interested bidders in March 2012 and modifications to tender documents issued; tender evaluation in April 2012 - cancelled due to qualifying of single firm in technical bid; tender documents revised and retendering in July 2012; tender evaluation in August 2012 and award in October 2012.

¹⁹ After fresh tenders were called (June 2017) and cancelled (August 2017).

A. Undue favour to PHL

The following irregularities were noticed in the course of tendering and award of the contract:

a. Condition relating to age of helicopters:

- i. The initial tender (February 2012), was cancelled as only one bidder had qualified technically. PHL did not qualify in this round.
- ii. The revised tender documents (July 2012) introduced a condition stipulating that helicopter must not be more than three years old, without any justification for arriving at the figure of three years. PHL emerged successful in this round.
- iii. The agreement signed (October 2012) with PHL, did not include clause regarding helicopter not being more than three years old, and there was no safeguard against PHL supplying an older helicopter.
- iv. Subsequently, in the fresh tender called (June 2017) in view of expiring contract with PHL, the condition regarding age of helicopter was modified to “not more than ten years old”, again without any justification, which was questioned by an interested party²⁰ on the basis that such helicopters had a life span of almost 30 years.

The above indicates that conditions regarding age of helicopter were arbitrarily added and modified which went in favour of PHL.

b. Extension of contract with PHL

- i. As the contract with PHL was expiring in December 2017, fresh tender was issued in June 2017 for hiring of transport helicopter services from January 2018. Apart from PHL, only one other firm²¹ participated. The bid submitted by the other firm (dated 7 August 2017) was opened (“inadvertently”) on 9 August 2017 whereas date of opening of tender was 10 August 2017. PHL had submitted its bid on 9 August 2017, i.e. same day on which bid submitted by other firm was opened. The other firm had quoted rate of ₹ 3.35 lakh per flying hour whereas PHL quoted marginally lower rate of ₹ 3.30 lakh per flying hour. The other firm raised objections and tender was cancelled (August 2017).
- ii. However, PHL was granted (September 2017) extension of further two years at a rate of ₹3.30 lakh per flying hour for a minimum 40 flying hours per month by the Cabinet Committee ignoring the questionable circumstances in which previous tender was cancelled, without allowing retendering already initiated in August 2017, or giving the other firm opportunity to offer more competitive rates.

c. Ignoring safety and service record of PHL –

- i. **Safety record** –PHL was technically disqualified in previous round of tendering (April 2012) on account of poor safety record, this was ignored just three months later in the tender of July 2012.

²⁰ M/s Skyone Airways Private Limited.

²¹ M/s Skyone Airways Private Limited.

- ii. **Service record** – During the contract period of 2013-2017, the service record of PHL had remained unsatisfactory (**Appendix 3.3**). However, while extending contract with PHL for further two years (from January 2018), the Cabinet Committee ignored the poor service record of PHL. No penalty clause was inserted in the agreement to safeguard against poor services.

The Secretary, GAD stated (September 2020) that the decision for relaxing conditions on safety record was taken in the Council of Ministers' Meeting and the services of PHL were extended after 2017 because it was economical.

The reply is not acceptable as it did not provide any justification for fixing and changing the condition regarding age of helicopter first to three years (in July 2012), and then to ten years (in June 2017). Further, it did not explain the circumstances under which the tender in August 2017 was cancelled and retendering after cancellation was not done.

Thus, undue favour was extended to PHL by inserting and modifying condition regarding age of helicopter, cancelling tender and extending contract ignoring the poor safety and service record of PHL.

B. Avoidable / wasteful expenditure

a. Allowing 10 per cent annual increase over fixed monthly charges

- i. The DGCA expert had recommended (February 2012) that rates should be quoted as fixed monthly charges for a minimum guaranteed 40 flying hours per month for the entire contract period and no separate fluctuation charges should be payable. The comparison with another State (Government of Arunachal Pradesh) showed that tender document issued (2016) for hiring of similar transport helicopter services also had provision for fixed rates.
- ii. The department decided to allow a ten *per cent* annual increase on basic per flying hour rate after discussion with bidders in the pre-bid meeting. This was done without any detailed costing or use of empirically-derived formula to factor upward/ downward movement in prices, or taking cognizance of the fluctuating trend (**Appendix 3.3, Table No. 2**) in price of Aviation Turbine Fuel (ATF), one of the major cost components, during the period preceding the contract (June 2008 to December 2011).
- iii. Consequently, the department paid between ₹ 3.80 lakh and ₹ 5.58 lakh per flying hour (inclusive of taxes) to PHL for the transport helicopter services during the contract period (2013 to 2017) (**Appendix 3.3, Table No. 5**). Had the department awarded the contract at fixed monthly charges per flying hour for the entire contract period as advised by the expert, it would have saved an amount of ₹ 18.39 crore (**Appendix 3.3, Table No. 1**). Alternatively, had the department linked the per flying hour rate to ATF rates, the savings could have been even greater as ATF prices decreased during the contract period (**Appendix 3.3, Table No. 3**).

- iv. The above is also corroborated by the fact that the GoHP was hiring transport helicopter services in 2012 (before execution of contract with PHL) at the rate of ₹ 1.86 lakh per flying hour and in January 2018, the contract with PHL was extended (for two years) at a much lower rate of ₹ 3.30 lakh without any provision for annual increase of 10 *per cent*. As such, hiring the services at higher rate due to allowing annual increase was not justified.

The Secretary, GAD stated (August 2018, December 2019, September 2020) that it was not possible to presume beforehand that oil prices would decrease in coming years due to which 10 *per cent* enhancement was accepted. The reply is not acceptable because the fact of uncertainty in the price of ATF was acknowledged and thus fixed increase of 10 *per cent* would not be justified.

b. Adjustment of excess/deficit flying hours on yearly basis instead of over the term of contract

- i. The DGCA expert had advised (February 2012) that actual hours flown should be computed at the end of the term of agreement and lessee should pay for extra hours flown beyond 40 hours per month, at the end of the term of agreement.
- ii. However, after discussions in the pre-bid meeting (March 2012), the department decided that carrying forward of monthly deficit or excess flying hours shall be adjustable on yearly basis i.e. within one year.
- iii. The records showed that there was short utilization of the committed number of flying hours in three out of five years of the contract period (**Appendix 3.3, Table No. 4**). Had the deficit flying hours been adjustable over the term of the contract, the department would have been able to adjust the deficit flying hours in three out of the five years against the excess flying hours in the remaining two years. The decision of the department to compute excess/deficit flying hours at the end of each year meant that it had to pay not only for the deficit flying hours in each of the three years, but also for the excess flying hours in each of the remaining two years.
- iv. Thus, the department had to incur expenditure of ₹ 7.48 crore instead of ₹ 0.51 crore for unutilized flying hours resulting in wasteful expenditure of ₹ 6.97 crore²².

The Secretary, GAD stated (September 2020) that yearly settlement of excess/deficit was allowed taking into account past practice and the requirement of annual maintenance of record and settling of liabilities. The reply is not acceptable as the previous contract had a condition for utilization of excess-deficit flying hours during

²² ₹ 6.97 crore = ₹ 7.48 crore (actual additional payment) - 13.33 (Total excess/deficit hour) * ₹ 3.80 lakh per flying hour = (₹ 7.48 - ₹ 0.51 crore).

the term of the agreement, and unutilized flying hours for 2011-12 had been carried forward to 2012-13.

Recommendation: The State Government should formulate a policy for hiring of transport helicopter keeping in view recommendations of experts, past trend and experience, in order to ensure that public funds are used prudently.

Horticulture Department

3.6 Loss due to defective agreement

Release of 80 per cent advance payment to the suppliers without securing its financial interests and non-incorporation of clauses to withhold/ recover payment for defective material, resulted in loss of ₹ 1.47 crore.

Rule 108 of the Himachal Pradesh Financial Rules, 2009 stipulates that payment for services rendered or supplies made shall be released only after the services have been rendered or supplies made and where it is essential to make advance payment, the amount shall not exceed 30 per cent of the contract value to the private contractor and 40 per cent of contract value to a State/ Central Government organisation or a Public Sector Undertaking. Appropriate clauses for financial security and quality of material to be supplied should also be included in the agreement.

The Project Director (PD), Horticulture Development, entered into (April 2017) three agreements with foreign firms for supply of 1,53,450 improved plant material comprising of clonal rootstocks, grafted feathered and whip nursery fruit plants of different species under a World Bank funded project.

The agreement conditions included:

- On shipment and submission of certain documents, 80 per cent payment was to be released. The balance 10 per cent payment was to be released on acceptance of order and 10 per cent after plantation of material.
- Material to be shipped in containers (without transshipment²³) up to final destination.
- 1⁰C - 2⁰C temperature to be maintained during shipment/ inland transportation and data to be maintained, using three data loggers in each container.
- Pre-despatch inspection at the place of origin and screening for pathogens on arrival of consignment by post quarantine authority would be carried out.
- The plants should be free from soil and pests.
- The rootstock and scion wood should be free from all known viruses.

Audit scrutiny (November 2018) and subsequent information collected showed that during pre-despatch inspection (April 2017) carried out at place of origin, plants were found in good condition. However, out of 1.53 lakh plants ordered/ received and planted, 0.38 lakh plants (25 per cent) dried/ died after one month of plantation

²³Transshipment is the shipment of goods or containers to an intermediate destination, before being taken to the final destination.

(August-September 2017) resulting in loss of ₹ 1.47 crore, as detailed in **Table-3.6.1**.

Table-3.6.1: Details of loss in plantation

Name of firm	Name of plant	Quantity ordered	Contract value (₹ in lakh)	Advance payment on shipment (₹ in lakh)/ Date of payment	Balance payment (₹ in lakh) /Date of payment	Plants actually planted at Post Entry Quarantine site ²⁴	Dead plants	Rate per plant (in ₹)	Cost of dead plants (₹ in lakh)
M/s SRLA Pepinieres Coulie, France	Walnut	11,800	106.61	88.60 (11.07.17)	22.93 (28.08.17)	11,800	6,878 (58%)	945	65.00
M/s Gariba, Italy	Apple	46,400	152.22	120.50 (17.07.17)	30.04 (30.07.17)	46,230	9,350 (20%)	317	29.64
	Pear	1,100				1,102	543 (49%)	317	1.72
M/s Vitafruit Trading, Italy	Apple (whip)	93,750	218.73	179.17 (01.06.17)	16.20 (03.11.17)	93,653	20,714 (22%)	242	50.13
	Apple (feathered)	400				400	20 (5%)	403	0.08
Total:		1,53,450	477.56	388.27	69.17	1,53,185	37,505 (24%)		146.57

In order to ensure survival of planting material, the State Government issued necessary guidelines and constituted three Committees²⁵. Audit scrutiny of records pertaining to planting material received from three firms indicated the following:

I. M/s SRLA Pepinieres Coulie, France (11,800 walnut planting material)

1. The consignment was held up (July 2017) at Mumbai port as quarantine authorities found soil and slug infection in the planting material and overall health was not good.
2. Original Phytosanitary certificate²⁶ that was mandatory was not produced to team of scientists of Forest Research Institute, Dehradun (FRI) who also found substantial contamination with soil, spotted live slugs, fungal growth and lesions on the roots and stems of the planting material, thereby decided to reject the consignment. However, the Project Director, Horticulture Development Project replied (July 2017) that these observations were physical and not based on results of laboratory, and treatment for which was available in the country and requested FRI to review its decision in view of loss to the project as 80 per cent payment had already been released to the firm.
3. On arrival (August 2017) of the planting material at Baddi presence of soil and snails in violation of Quarantine Regulations, 2003 and absence of required data loggers in violation of the contract was noticed in the containers. Some of the bundles of the planting material were found dried in the containers.

²⁴ Difference in the number of quantity ordered and quantity planted was not on record/provided by Department.

²⁵ 1. For carrying inspection of Planting material on arrival, 2. For Handling the planting material at cold store, and 3. For Overseeing and supervising the plantation operations in PCDOs during PEQ period. In case mortality went beyond 1 per cent disciplinary action was to be taken against the defaulting officers/ officials.

²⁶ An inspection certificate issued by a competent governmental authority to show that a particular shipment has been treated to be free from harmful pests and plant diseases. The Phytosanitary Certificate must be issued before the customs clearance for export and import.

4. In spite of above mentioned observations all the planting material, 11,800 walnut, was planted (August 2017) at Post Entry Quarantine (PEQ) site, Bajaura, district Kullu and 6,878 (58 *per cent*) plants were found dead in October 2017.

II. M/s Gariba, Italy (46,230 apple and 1,102 pear planting material)

1. Data of the loggers on the containers could not be retrieved on arrival of planting material at Baddi in August 2017.
2. Planting material in the containers was found slightly sprouted.
3. All the planting material was planted (August-September 2017) at PEQ site, Bajaura, district Kullu. Out of 46,230 apple and 1,102 pear plantation received, 9,350 (20 *per cent*) apple and 543 (49 *per cent*) pear plants were found dead in November 2017.

III. M/s Vitafruit Trading, Italy(94,053 apple planting material)

1. On arrival (June 2017) of the plants at final destination Baddi, only 32,860 plants were found acceptable by the committee and rest of the plants which were in sprouting condition due to exposure to higher temperature (up to 20 degree) were rejected. The committee recommended to hand-over the already sprouted plants back to the supplier.
2. However, instead of returning/ rejecting the sprouted plants, 94,053 plants were accepted and planted (June-July 2017) at PEQ site, Bagthan, district Sirmaur. Out of these, 22 *per cent* (20,734) plants were found dead in September 2017.

It is evident from the above that the project authorities failed to safeguard the financial interest of the state and accepted contaminated plant material. No action was taken to recover the loss from the supplier despite violation of agreement conditions and high rate of mortality of plants received.

The Secretary stated (October 2020) that the Contract Agreement was executed on the basis of special condition of the contract, envisaged in the standard bid document of the World Bank which stipulates that the 80 *per cent* payment has to be made to the supplier on shipment of goods from abroad which cannot be termed as advance payment and the provision of performance security was kept in the contract for any defective planting material and the provisions of the HPFR, 2009 were not applicable. The reply is not acceptable as the standard bidding document does not mention anything specific to perishable/live materials and hence should not be applied to import of plants. Further, performance security (five *per cent*) was not sufficient to safeguard against supply of defective/contaminated planting material.

Thus, the department failed to ensure its interest due to release of 80 *per cent* advance payment and non-incorporation of suitable clauses to withhold/ recover payment for defective material. It also released 20 *per cent* balance payment to the suppliers despite receipt of improper material. Thus, acceptance of defective material by the department resulted in loss of ₹ 1.47 crore.

The State Government should ensure incorporation of suitable clauses in the agreement to protect its financial interests in case of default.

Industries Department

3.7 Mis-utilisation of Grant-in-Aid

Lack of monitoring and inaction on the part of the department had resulted in non-recovery of financial assistance and penalty of ₹ 1.29 crore under National/ State Mission on Food Processing Scheme.

The Ministry of Food Processing Industries, Government of India launched (2012-13) National Mission on Food Processing (NMPF) scheme for implementation through the States and UTs. The scheme was delinked from Central assistance and continued as State Mission on Food Processing (SMFP) by the State Government from 2015-16 onwards. The objective of scheme was to promote facilities of post-harvest operations including setting up of food processing industries, to support self-help groups in achieving Small and Medium Enterprises status and to raise the standard of food safety and hygiene, thereby providing better support system to organized food processing sector.

Under this scheme, financial assistance in two equal instalments in the form of Grant-in-Aid (GIA) is provided for 33.33 *per cent* for cost of plant and machinery and technical civil works subject to maximum of ₹ 75 lakh. The first instalment (50 *per cent* of eligible amount) is provided in advance on production of required documents. The second instalment (remaining 50 *per cent*) is to be released after start of production subject to verification by the State Mission Directorate of SMFP, and after utilisation of first instalment and submission of requisite documents. The implementation schedule for the project was 12 months, from the date of approval. The State Mission Directorate is required to ensure physical verification of the projects and concurrent evaluation at every stage to assess performance and to submit monthly progress reports to the State Government. The State Level Empowered Committee (SLEC) was authorised to recall the grant as arrear of land revenue in case of mis-utilisation of grants by the applicants. In case of breach of the surety bond filed by obligator, he was required to refund the entire amount of GIA along with penal interest of 10 *per cent* per annum.

The scrutiny (August and December 2019) of the records of the Offices of the District Industries Centres (DICs) Kullu and Nahan showed that 1st instalment of financial

assistance amounting to ₹ 86.89 lakh was released to four beneficiaries as detailed in **Table-3.7.1.**

Table-3.7.1: Details of financial assistance released to beneficiaries

(Amount in ₹)

Sl. No.	Name of beneficiary	Eligible amount sanctioned by the SLEC	First instalment (date of release)	Date of physical verification & Date of issue of 1 st notice	Delay from date of release of 1 st instalment till the date of audit	Penal interest @ 10 per cent per annum	Total recovery (First instalment + penalty)	Remarks
1.	M/s Lavender Dairy & Milk Products Vill. Neerpur Kala Amb	56,70,000	28,35,000 (23.10.2013)	11.07.2014 & 22.09.2017	74 months	17,48,250	45,83,250	The unit was found closed during physical verification.
2.	M/s Sidharth Industries, VPO, Mohal	8,25,000	3,72,000 (30.05.2014)	01.12.2016 & 28.06.2017	63 months	1,95,300	5,67,300	Production has not started as of May 2020.
3.	M/s Lug Valley Trout Fish farm Vill. Rujag PO Bhutti	55,89,000	27,94,500 (05.03.2014)	03.12.2016 & 28.06.2017	65 months	15,13,687	43,08,187	
4.	M/s Maa Bhawneswari Industry Dobhi PO Puid	53,76,000	26,87,500 (16.12.2016)	Nil & 13.11.2018	32 months	7,16,667	34,04,167	
Total:		1,74,60,000	86,89,000			41,73,904	1,28,62,904	

It is evident from the above that all four units had taken the subsidy, however, none of them had started any production till the date of audit. Audit scrutiny revealed that the department conducted the mandatory physical verification with a delay ranging between 18 to 22 months (three cases) and the notices of recovery were issued after delay of one to three years after the issue of subsidy. However, no amount had been recovered till October 2020.

Thus, lack of monitoring and inaction on the part of the department had resulted in non-recovery of financial assistance and penalty of ₹ 1.29 crore under National/ State Mission on Food Processing Scheme.

The Director of Industries stated (October 2020) that notices were issued to recover the subsidy amount from these units. Further, all the concerned General Managers, District Industries Centres had also been directed to recover the 1st instalment amount.

The reply is not acceptable, as mere issuance of recovery notices cannot relieve the department of its responsibility. Lack of monitoring and control mechanism and delayed action by the department had resulted not only in mis-utilisation of Government funds but also defeated the purpose of the scheme.

The audit finding was referred to Government in May 2020, their reply had not been received (December 2020).

The State Government may strengthen internal control mechanism to achieve intended objectives of the scheme and take suitable action for recovery of grant-in-aid from the defaulters.

Labour and Employment Department

3.8 Non-utilisation of funds and unfruitful expenditure on infrastructure

Himachal Pradesh Building and Other Construction Workers Welfare Board did not formulate action plan for utilisation of fund with systematic assessment of requirements. Consequently, 86 per cent of funds collected, and assets created at an expenditure of ₹ 24.15 crore for skill development institute and labour accommodation remained unutilised.

The objective of the Himachal Pradesh Building and Other Construction Workers Welfare Board (constituted in March 2009) is to register and extend financial benefits to building and other construction workers under various welfare schemes²⁷. A total of 1,77,833 workers were registered with the Board as of 31 August 2020. As per the Building and Construction Workers Welfare Cess Act (1996) and Cess Rules (1998) employers engaged in building and other construction works are required to pay cess at the prescribed rate²⁸ to the Board. As per directions (July 2013) of the Ministry of Labour and Employment, Government of India, the Board shall spend every year at least 20 per cent of the balance cess at the beginning of the financial year on activities relating to skill development of registered workers and their dependents.

The scrutiny (February 2019) of records of the Himachal Pradesh Building and Other Construction Workers Welfare Board revealed the following issues:

i. ***Inadequate expenditure on welfare and skill development activities–***

Against available funds of ₹ 686.44 crore²⁹ during 2014-19, the Board had incurred total expenditure of only ₹ 93.61 crore (14 per cent) leaving unspent funds of ₹ 592.83 crore, as of March 2019. Expenditure on labour welfare schemes/ activities (**Appendix-3.4**) during above period was ₹ 84.13 crore (12 per cent of available funds).

The Board had not formulated any policy/ action plan for skill development of registered workers and their dependents. During 2014-19, the Board had not spent any funds on skill development except releasing ₹ 15.14 crore (merely four per cent of the stipulated amount of ₹ 385.37 crore³⁰ as per directions of July 2013, *ibid*) for construction of a Skill Development Institute.

²⁷ Maternity benefit, pension, advance for construction of house, disability pension, loans for purchase of tools, payment of funeral assistance, payment of death benefit, medical assistance, financial assistance for education, financial assistance for marriage, family pension, bicycle to women workers, skill development allowance, health insurance scheme, etc.

²⁸ The present rate of cess is one per cent of the cost of construction incurred by the employer.

²⁹ Opening balance 2014-15: ₹ 246.75 crore (Receipts during 2014-19: ₹ 439.69 crore).

³⁰ Calculated as sum of 20 per cent of balance cess at the beginning of financial years 2014-19, viz. 20 per cent of sum of ₹ 246.75 crore (2014-15), ₹ 322.11 crore (2015-16), ₹ 383.62 crore (2016-17), ₹ 458.59 crore (2017-18) and ₹ 515.76 crore (2018-19).

ii. ***Unfruitful expenditure on Skill Development Institute –***

The Board approved (January 2015) and released ₹ 15.14 crore³¹ (during August 2015 and May 2017) for construction of a Skill Development Institute at Palkwah, Una district without formulated action plan regarding courses, curricula, target group of beneficiaries, faculty, and utilisation of skill and training. It was observed that even though construction of the institute had been completed by HPSIDC³² in September 2017, the Board had neither formulated any action plan for making it functional nor taken possession of the building, as of July 2019. Thus, the building remained idle since September 2017 and expenditure of ₹ 15.14 crore remained unfruitful.

iii. ***Unfruitful expenditure on labour transit hostels –***

The Board accorded (February and July 2014) approval of ₹ 8.92 crore for construction of workers' transit hostels at two locations³³ viz. Dulehar (in Una district) and Ghansot (in Solan district) and released ₹ 9.01 crore³⁴ to HPSIDC (between February 2014 and October 2017) for construction of the transit hostels. The HPSIDC completed the construction of transit hostel at Dulehar in May 2016 after expenditure of ₹ 4.55 crore, and at Ghansot in July 2017 after expenditure of ₹ 4.46 crore. However, neither of the transit hostels had been made functional/ put to use as of February 2020. It was observed that the Board had not conducted assessment of workers likely to stay in the transit hostels, and all the registered workers taken into account at the time of submitting the proposals were either MNREGS³⁵ workers (Dulehar: 330 and Ghansot: 90) or other local workers (Dulehar: Nil and Ghansot: 233) who would normally not stay in transit hostels. Thus, the transit hostels remained idle since May 2016 and July 2017 and total expenditure of ₹ 9.01 crore incurred on their construction remained unfruitful.

It was evident from the above that the Board had not prepared any action plan for utilising the available funds on welfare schemes for building/ other construction workers and 86 per cent of funds remained unutilised during 2014-18. Moreover, expenditure of ₹ 24.15 crore incurred by the Board on infrastructure creation without having an action plan remained unfruitful as the created infrastructure was not put to use even after lapse of 21 to 44 months, since the construction.

The Government stated (October 2020) that:

- The expenditure was inadequate because of the less number of registered workers and efforts were being made to maximize registration of the workers;

³¹ August 2015: ₹ 1.00 crore; February 2016: ₹ 2.50 crore; May 2016: ₹ 1.50 crore; September 2016: ₹ 5.00 crore, February 2017: ₹ 5.00 crore and May 2017: ₹ 0.14 crore.

³² Himachal Pradesh State Industrial Development Corporation.

³³ At Dulehar in Una district (February 2014: ₹ 4.46 crore) and Ghansot in Solan district (July 2014: ₹ 4.46 crore).

³⁴ Hostel at Dulehar: ₹ 4.55 crore (February 2014: ₹ 0.50 crore; November 2014: ₹ 0.75 crore; July 2015: ₹ 1.00 crore; February 2016: ₹ 2.22 crore and October 2016: ₹ 0.08 crore) and hostel at Ghansot: ₹ 4.46 crore (July 2014: ₹ 0.50 crore; April 2016: ₹ 1.00 crore; May 2016: ₹ 1.50 crore; October 2016: ₹ 1.00 crore and October 2017: ₹ 0.46 crore).

³⁵ Mahatma Gandhi National Rural Employment Guarantee Scheme.

- The Board is striving hard for utilisation of Skill Development Institute and recoupage of expenditure incurred on construction. The matter of optimum utilisation of the Institute is under the consideration of the Government; and
- Despite advertisements and awareness about the transit hostels the workers are not coming forward to use these facilities.

The fact, however, remains that the Board had constructed the Skill Development Institute and workers' transit hostels without any action plan for its utilisation.

The Board may prepare an action plan for utilising the available funds and assets on welfare schemes of construction workers.

Planning Department

3.9 Mis-utilisation of Sectoral Decentralised Planning funds

In violation of scheme guidelines for Sectoral Decentralised Planning (SDP), allocation of ₹ 80.23 lakh meant for development work was diverted for work within religious places.

The Sectoral Decentralised Planning (SDP) is a programme of the State Government wherein five *per cent* of approved plan outlays on specified development heads³⁶ are pooled and placed at the disposal of districts. As per SDP guidelines (2004), Deputy Commissioners (DCs) of districts are competent to accord administrative approval and expenditure sanction for development works under the programme after prior approval of the 'District Planning, Development and Twenty-Point Programme Review Committee' (Committee). The guidelines prescribe³⁷ that expenditure on works within premises of temples/ religious places is not permissible.

The issue of mis-utilisation of SDP funds in respect of five³⁸ districts was highlighted in the previous Audit Report³⁹ in which it was pointed out that DCs had sanctioned works 'near' temple premises, whereas the works were executed within the temple premises. The scrutiny of records (September 2018 to July 2019) of the office of the DCs of two other districts viz. Mandi and Solan showed that these type of irregularities were still persisting. The DCs had sanctioned and released funds of ₹ 80.23 lakh⁴⁰ during 2015-19 for execution of 53 works⁴¹ within temples/ religious premises without prior approval of the Committee, in violation of the programme guidelines. Execution of these works, not being permissible as per guidelines out of SDP allocations, was irregular. Persistent irregularity without any corrective action was indicative of lack of due diligence and wilful violation of guidelines.

³⁶ Social and Water Conservation, Integrated Rural Energy Programme, Community Development, Minor Irrigation, Flood Control, Cottage and Small Industries, Roads and Bridges, Primary Education, General Education, Allopathy, Ayurveda, Rural Water Supply, SCs/STs/OBCs Welfare and Social Welfare.

³⁷ Paragraph 30 of SDP Guidelines provides certain items/works not permissible out of SDP funds which include expenditure on any work within the premises of temples.

³⁸ Bilaspur, Chamba, Kangra, Shimla and Una.

³⁹ Para 3.13 of Report of the Comptroller and Auditor General of India on Social, General and Economic Sectors (Non-PSUs) for the year ended 31 March 2018.

⁴⁰ Mandi: ₹ 57.73 lakh (44 works) and Solan: ₹ 22.50 lakh (nine works).

⁴¹ Construction of *sarail*/ community halls/ *bhawans* (52) and installation of solar lights (one).

In reply, the District Planning Officer, Mandi stated (February 2019) that works within religious premises had been sanctioned on the recommendation of public representatives. The District Planning Officer, Solan stated (July 2019) that works within temples/ religious places were sanctioned in the larger public interest. The replies are not acceptable as the programme guidelines clearly prohibit works within temples/ religious premises.

Audit findings were referred to the Government in May 2020, their reply had not been received (December 2020).

The Government may ensure sanction of SDP funds strictly for works of developmental nature, as envisaged in scheme guidelines.

3.10 Sanctioning of inadmissible works under *Vidhayak Kshetra Vikas Nidhi Yojana*

District authorities sanctioned inadmissible works for religious places amounting to ₹ 2.32 crore under *Vidhayak Kshetra Vikas Nidhi Yojana* in disregard of guidelines.

The *Vidhayak Kshetra Vikas Nidhi Yojana* (VKVNY) provides for execution of development works for creation of permanent assets recommended by Members of Legislative Assembly (MLAs) for their Constituencies based on locally felt needs through respective Deputy Commissioners (DCs). The scheme guidelines prohibit, *inter alia*, sanction and release of funds for works within places of religious worship and on land belonging to or owned by religious faiths/ groups.

The scrutiny (March 2016 to October 2018) of records of four⁴² districts showed that the DCs had sanctioned and released (between October 2013 and March 2018) funds of ₹ 2.32 crore⁴³ for execution of 146 works of construction of community *bhawans/ sarai bhawans/* protection walls/ kitchen sheds, etc. within places of religious worship (**Appendix-3.5**). While 12 works of ₹ 0.40 crore in Kinnaur district were specifically sanctioned for religious places, the remaining 134 works had been sanctioned by using word 'near' with places of religious worship while according sanction with the intent to show such religious places as a landmark in the sanction orders; however, verification from corresponding records viz. proposals from user groups and land records maintained in the offices of the field functionaries showed that these works had been sanctioned for execution on land belonging to religious places, which was prohibited under the scheme.

Similar irregularities have been highlighted in the previous Audit Reports⁴⁴. However, corrective action for past audit findings had not been taken and continued persistence of such irregularities was indicative of lack of due diligence on the part of district authorities as regards scrutinising the admissibility of proposed works and wilful violation of scheme guidelines.

⁴² Chamba, Kangra, Kinnaur and Sirmaur.

⁴³ Chamba: ₹ 0.67 crore (32 works); Kangra: ₹ 0.85 crore (64 works); Kinnaur: ₹ 0.40 crore (12 works); and Sirmaur: ₹ 0.40 crore (38 works).

⁴⁴ Para No. 3.14 of Audit Report No. 4 of 2019 on Social, General and Economic Sectors (Non-PSUs) for the year ended 31 March 2018 and Para No. 3.6 of Audit Report No. 3 of 2013 on Social, General and Economic Sectors (Non-PSUs) for the year ended 31 March 2013.

In reply, the District Planning Officers (DPOs), Chamba and Sirmaur districts, Credit Planning Officer, Kangra and Project Officer ITDP, Kinnaur stated (March 2018 to December 2019) that the works in question were community assets and had been sanctioned to provide benefit to the community as a whole rather than a particular community/ group and on the recommendations of MLAs concerned. The replies are not acceptable as sanction of works pertaining to religious places has been explicitly prohibited under VKVNY and are indicative of lack of control mechanism in the department.

The matter was referred to the Government in May 2020, but their reply had not been received (December 2020).

The State Government may review such cases in the remaining districts to ensure that these instances do not recur and responsibility in the administrative set up may be fixed.

Public Works Department

3.11 Undue favour to contractor on suspended work of road

Extension of undue favour to the contractor amounting to ₹ 2.88 crore on account of non-obtaining of performance guarantee, payment for unauthorised execution of excavation work at significantly high rates, non-recovery of useful stones, non-recovery of compensation, and less deduction of security deposit in respect of suspended work of road.

Instructions of Engineer-In-Chief (2012) provide that any item varying more than (+) five *per cent* must be got approved by the Executive Engineer from the competent authority in the shape of financial implication immediately, when necessity of such deviation/variation comes to his notice during execution of a work.

In order to improve transport facilities in Dharampur area of Mandi district, "Construction of balance work of Proun Rangar Kharoun Saklana road km 0/0 to 10/585" was approved (August 2015) for ₹ 5.41 crore under NABARD RIDF-XXI⁴⁵ and was technically sanctioned for ₹ 5.07 crore. The work (construction of retaining wall, breast wall, cross drainage work, road-side drains, parapets, sign boards, kilometre stones, providing water bound macadam grades I, II and III, and tarring) was awarded (August 2016) to a contractor⁴⁶ for ₹ 5.15 crore and stipulated to be completed within two years.

The scrutiny of records (September 2019) of HPPWD B&R Division, Dharampur revealed the following:

- **Short receipt of performance guarantee ₹ 0.22 crore** – As per Rule 107 of Himachal Pradesh Financial Rules, (2009), performance guarantee of an amount between five and 10 *per cent* of the contract value is to be obtained from the successful contractor on the award of the contract. However, against minimum

⁴⁵ National Bank for Agriculture and Rural Development; Rural Infrastructure Development Fund.

⁴⁶ Sh. Sanjeev Bhandari, Govt. Contractor, Village – Grauhi, P.O. – Bhararoo, Tehsil – Joginder Nagar, District – Mandi.

amount of performance guarantee of ₹ 0.26 crore (@ five per cent of ₹ 5.15 crore), an amount of only ₹ 0.04 crore was accepted as earnest money deposit from the contractor, thereby extending undue favour of ₹ 0.22 crore to the contractor.

- ***Non-execution of awarded items and suspension of work*** – Items in the scope of work (construction of retaining wall, breast wall, cross drainage work, road-side drains, parapets, providing water bound macadam grades I, II and III, and tarring) constituting 96 per cent of the award amount were not executed and mostly excavation work (*detailed in the next point*) was done by the contractor. The contractor had stopped work since December 2016 (only four months after award of work) and machinery had been taken away from the site.
- ***Payment of ₹ 1.86 crore for unauthorized execution of excavation work at significantly high rates*** –
 - ***Payment for unauthorised execution of excavation work*** – As per the scope of work, there was a provision of 8,632.58 cu.m. costing ₹ 0.17 crore for excavation work which was to be executed by the contractor. However, the contractor had undertaken excavation of 1,02,752.98 cu.m. thereby executing a quantity of 94,120.40 cu.m. (nearly 11 times in excess of the provision) unauthorisedly. Subsequently, when the contractor presented (March 2017) first running account bill of ₹ 2.45 crore, the department informed (May 2017) the contractor that he had submitted a fake bill in view of impossibility of bed-cutting (up to 7 m deep at 0/000 km of the already motorable road) and unnecessary cutting work without any justification. Despite these observations, the department made advance payments on hand receipts⁴⁷ and passed running account bills⁴⁸ of the contractor without any justification. Against the provision of ₹ 0.17 crore for excavation work (3.31 per cent of award amount ₹ 5.15 crore) in the contract, expenditure of ₹ 2.03 crore (39.42 per cent) was incurred. Thus, undue favour of ₹ 1.86 crore⁴⁹ was extended to the contractor by making advance payments on hand receipts and passing running account bills in respect of unauthorised work executed by the contractor. There was no record of any inspection conducted by the departmental officials during execution, which eventually would have avoided the extra/unauthorised excavation. This indicates lack of monitoring on the part of the department.
 - ***Award of excavation work at significantly high rates***– Further, it was observed that in the estimates submitted for technical sanction to NABARD, the weighted average rate for excavation worked out to ₹ 126.08 per cu.m.⁵⁰

⁴⁷ ₹ 0.50 crore (January 2018), ₹ 0.45 crore (undated) and ₹ 0.35 crore (undated).

⁴⁸ First running account bill for ₹ 0.56 crore (January 2019), second running account bill with cumulative amount of ₹ 2.27 crore (April 2019).

⁴⁹ ₹ 2.03 crore paid to the contractor for excavation work (1,02,752.98 cu.m.) minus provision of ₹ 0.17 crore in the award (for 8,632.58 cu.m.).

⁵⁰ Weighted average of rates of excavation for different quantities of different types of soil: (₹ 84.95*2079.67 cu.m + ₹ 134.45*5683.52 cu.m + ₹ 212.55*439.76 cu.m) / (2079.67+5683.52+439.76) = ₹ 126.08 cu.m.

However, the excavation work was awarded to the contractor at an aggregate rate of ₹ 198 per cu.m. which was higher than the weighted average rate by ₹ 71.92 per cu.m. (57 per cent). Despite the award letter clearly stipulating that high rate items should not be executed above the quantities taken in detailed notice inviting tender (scope of work), the department allowed the contractor to execute the high rate item of excavation nearly 11 times in excess of the scope of work. Had the excavation work been awarded at the weighted average rate of ₹ 126.08 per cu.m, an amount of ₹ 1.19 crore⁵¹ would have been payable to the contractor for excess excavation and amount of ₹ 0.67 crore⁵² could have been saved.

Thus, the Department, despite the high rate of the item, made advance payments on hand receipts, passed the running account bills and released payments to the contractor for unauthorised execution of excavation work.

- **Non-recovery of useful stones, ₹ 0.23 crore** – As per scope of work, recovery of useful stone of 641.64 cu.m. @ ₹ 300 per cu.m. was to be effected on pro-rata basis for the quantity of cutting (excavation) in earth work. Accordingly, ₹ 0.02 crore was due to be recovered on account of useful stone in excavation of 8,632.58 cu.m. However, excavation to the extent of 1,02,752.98 cu.m. was shown as executed by the contractor and proportionately, an amount of ₹ 0.23 crore i.e. @ ₹ 300 per cu.m. for 7,637.39 cu.m.⁵³ of useful stone, should have been recovered. However, the department did not recover any amount from the contractor on account of useful stone, thereby extending undue favour of ₹ 0.23 crore to the contractor.
- **Non-recovery of compensation, ₹ 0.51 crore** – The department, invoking penal clause in the agreement for non-completion of work within the stipulated time period, levied (April 2018) compensation of ₹ 0.51 crore against the contractor. However, the amount had not been recovered, as of September 2019.
- **Less deduction of security deposit, ₹ 0.06 crore** – Security deposit of ₹ 0.11 crore (@ five per cent of gross amount of ₹ 2.27 crore paid to contractor) was required to be deducted from the running account bills of the contractor. However, the department had deducted security deposit amount of only ₹ 0.05 crore at the time of passing the bills, thereby extending undue favour of ₹ 0.06 crore to the contractor.

It is evident from the above that the department had extended undue favour to the contractor with overall financial implication of ₹ 2.88 crore⁵⁴. Against award amount of ₹ 5.15 crore, payment of ₹ 2.27 crore (44 per cent) had already been made to the contractor, whereas only four per cent of awarded work had been executed and major items of work constituting 96 per cent of the award amount were not executed. It was not clear as to how these major items of work would be completed within the approved amount of ₹ 5.41 crore, entailing the risk of project failure. The work, stipulated to be

⁵¹ (102752.98-8632.58)*126.08= ₹ 1.19 crore.

⁵² (₹ 1.86-₹ 1.19)= ₹ 0.67 crore.

⁵³ (641.64/8632.58)*102752.98 = 7637.39 cu.m.

⁵⁴ ₹ 0.22 cr + ₹ 1.86 cr + ₹ 0.23 cr+ ₹ 0.51 cr+ ₹ 0.06 cr = ₹ 2.88 crore.

completed by August 2018, was lying suspended since December 2016 and the intended objective of improving road connectivity in the area remained unachieved.

The Engineer-in-Chief stated (November 2020) that as per agreement, there was no provision of taking performance guarantee from the contractor, extra excavation had been carried out as per actual requirement and DPR prepared was faulty, higher excavation rates had been awarded by the negotiation committee chaired by the Chief Engineer, keeping in view market rates and verbal requests from the contractor, useful stone recovery was not mentioned in the agreement, however the matter was being taken up with higher authorities for initiating action; compensation of ₹ 0.51 crore for non-completion of work has been waived by the Superintending Engineer. The reply is not acceptable as non-obtaining of performance security was a violation of provisions of the Himachal Pradesh Financial Rules. The extra excavation was undertaken without approval from the competent authority and the department had itself objected to its unnecessary and unauthorized nature. No reasons have been furnished for making advance payments on hand receipts and passing of running account bills, in disregard of the objections raised previously by the department for execution of unauthorised work by the contractor. Further, the basis for accepting higher rates by the negotiation committee has not been furnished to audit. Moreover, the higher rates were accepted for a very small quantity of excavation work, and allowing the contractor to undertake work nearly 1,100 *per cent* above scope without approval is unacceptable and in contravention of the terms of the award letter. Further, no justification has been provided for waiver of compensation.

Audit findings were referred to the Government in June 2020, their reply had not been received (December 2020).

The Department may strengthen monitoring mechanisms to safeguard financial interest of the State Government and ensure recovery of the due amount from the contractor.

Revenue Department

3.12 Mis-utilisation of State Disaster Response Fund (SDRF) for inadmissible works

The State Executive Committee was not ensuring proper utilisation of money drawn from SDRF, resulting in mis-utilisation of ₹ 14.63 crore by Deputy Commissioners on inadmissible works of repair and restoration without any damage by disaster/ calamity.

The Government of India (GoI) guidelines of September 2010 (revised in July 2015) on administration of the State Disaster Response Fund (SDRF) stipulate that SDRF is to be used only for providing immediate relief to victims of specified disasters/ calamities. The guidelines further stipulate that the State Executive Committee (SEC), chaired by the Chief Secretary of the State Government, shall ensure that the money drawn from the SDRF is actually utilised for the purposes for which the SDRF has been set up, expenditures are incurred only on specified items as per norms, and funds are not diverted towards inadmissible expenditure. The funds from SDRF are allocated by the State Government to various Deputy Commissioners (DCs) and departments for utilisation with reference to the GoI guidelines on items of expenditure and norms of assistance from SDRF, which state that assistance for repair of State Government

buildings, viz., office buildings, residential quarters, etc., is not covered under the SDRF.

The scrutiny of records (between September 2018 and December 2019) relating to works sanctioned under the SDRF revealed that:

- In six districts⁵⁵, the DCs had sanctioned and released (between April 2015 and March 2019) funds of ₹ 7.55 crore for execution of 416 works of repair and renovation of Government offices and residential buildings, court premises, playgrounds, etc. in violation of the aforementioned guidelines/ instructions. These cases of mis-utilisation from the SDRF had no justification as no damage to the sanctioned works had been incurred due to disaster/ calamity.
- In two districts⁵⁶, the DCs had sanctioned (between October 2018 and June 2019) ₹ 3.83 crore for execution of 244 repair and restoration works without obtaining assessment reports of damages due to natural calamities from the concerned revenue authorities, which was in contravention of the provisions of the SDRF guidelines.
- In Sirmaur district, the DC sanctioned and released (between April 2018 to August 2018) ₹ 3.25 crore to 13 executing agencies (EAs) for repair and restoration works in the district without obtaining the details of works and assessment reports of damages from the concerned revenue authorities. The funds were released in lump sum in anticipation of requirement in violation of the SDRF guidelines. The DC had not ensured the utilisation of the amount for the intended purpose/ relief works under the SDRF after release of the funds with reports of damages from the concerned revenue authorities. This was fraught with the risk of mis-utilisation of SDRF.

The SEC, which was required to ensure proper utilisation of the SDRF, had not prescribed any control/ reporting mechanism in respect of relief works sanctioned under the SDRF resulting in mis-utilisation of the SDRF by the district authorities. The State Government is sending utilisation certificates of the SDRF to the GoI, on release basis.

The district level authorities concerned⁵⁷ stated (September 2018 to March 2020) that the works were sanctioned in emergent cases to prevent further loss to public/ Government property and the works were sanctioned without damage assessment report on the basis of panchayat resolution. The reply is not acceptable as expenditure on preventive repair or strengthening of Government offices and residential buildings, etc. was not covered under the SDRF. Further, the issue of mis-utilisation of money

⁵⁵ Chamba (21 works: ₹ 0.93 crore), Hamirpur (38 works: ₹ 0.52 crore), Kullu (53 works: ₹ 0.65 crore), Mandi (145 works: ₹ 2.57 crore), Sirmaur (13 works: ₹ 0.33 crore) and Solan (146 works: ₹ 2.55 crore).

⁵⁶ Bilaspur (138 works: ₹ 1.94 crore) and Solan (106 works: ₹ 1.89 crore).

⁵⁷ Assistant Controller (Finance and Accounts), Bilaspur; Additional Deputy Commissioner, Chamba; District Revenue Officers, Kullu and Hamirpur; Deputy Commissioner, Sirmaur at Nahan and District Planning Officer, Solan.

from the SDRF had been raised in various Audit Reports⁵⁸. In case of Audit Reports for 2014-15 and 2016-17, the Public Accounts Committee in its recommendations (September 2019) had directed to release the funds strictly as per guidelines/ norms of the SDRF. In spite of this, the State Government and district authorities had not taken any corrective action to adhere to the guidelines.

Audit findings were referred to the Government in May 2020, their reply had not been received (December 2020).

The Government may enforce provisions of the guidelines while sanctioning and approving expenditure under the SDRF.

Technical Education Department

3.13 Infructuous expenditure and blocking of funds due to non-construction of building of Polytechnic

Failure of the Department to check feasibility of site before diversion of land for construction of Polytechnic and delay in identification of land at alternative site, resulted in infructuous expenditure of ₹ 99.91 lakh, and blocking of ₹ seven crore and non-construction of Polytechnic for more than nine years.

Under the 'Sub-Mission on Polytechnics under the Coordinated Action for Skill Development' the Government of India (GoI) had sanctioned and released central assistance of ₹ seven crore⁵⁹ to the State Government for setting up of New Polytechnic in Lahaul and Spiti district. As per the GoI instructions (January 2009), the assistance was subject to the condition that land for the Polytechnic would be provided free of cost by the State Government. The State Government notified (March 2011) establishment of Government Polytechnic at Udaipur in Lahaul and Spiti district. The Polytechnic started functioning from Session 2013-14 at Sundernagar⁶⁰ on a temporary basis.

The scrutiny (July 2019) of records of the Director, Technical Education, Vocational and Industrial Training (TEVIT), Sundernagar showed that for setting up of the Polytechnic at Udaipur, the Department had identified (August 2009) land measuring 25-01 bigha (2.0273 hectare) at *khasra* numbers 24/12/1 (14-19 bigha) and 8/1 (10-02 bigha) in Muhal Demarcated Protected Forest Phatgahar in Udaipur Tehsil, without ascertaining/ ensuring feasibility, as detailed below:

- i. The land at *khasra* number 24/12/1 (14-19 bigha) was in the possession of Border Road Organisation (BRO)/ General Reserve Engineer Force (GREF). This fact was stated (May 2012) by the Environment Engineer, Himachal Pradesh State Pollution Control Board, Kullu while issuing no objection certificate for purchase of the land. Rather than ensuring evacuation of the land from BRO/ GREF before taking

⁵⁸ Audit Report on Social, General and Economic Sectors (Non-PSUs) for the years 2014-15 (Para 3.26), 2016-17 (Para 3.22) and 2017-18 (Para 3.17).

⁵⁹ June 2009: ₹ 2.00 crore and September 2011: ₹ 5.00 crore.

⁶⁰ At Government Engineering College, Sundernagar, Mandi district (nearly 300 kms from Udaipur, Lahaul and Spiti).

up the matter further, the Department went ahead with seeking forest clearance from the Ministry of Environment and Forests (MoEF), GoI which accorded (July 2012) in-principle approval for diversion of the above forest land for non-forestry purpose in terms of the Forest Conservation Act, 1980. The Directorate of Technical Education, Vocational and Industrial Training deposited/ remitted (November 2012) ₹ 99.91 lakh⁶¹ with the *Ad hoc* Compensatory Afforestation Fund Management and Planning Authority (CAMPA)/ State Forest Department on account of net present value (NPV), compensatory afforestation (CA), etc. Subsequently, on grounds of national security, the diverted land at *khasra* number 24/12/1 (14-19 *bigha*) could not be got evacuated from the BRO/ GREF.

- ii. The land at *khasra* number 8/1 (10-2 *bigha*) was found to be unsuitable for any construction as it was on the bank of the river Chenab and its end had a steep slope. The Department had not checked feasibility/ suitability of the land earlier while seeking diversion.

Eventually, after lapse of over four years, the Department identified (April 2017) a new site at Kukumseri for construction of the proposed Polytechnic. The Principal, Government Polytechnic, Udaipur at Sundernagar requested (July 2017) the Forest Department for refund/ adjustment of the amount of ₹ 99.91 lakh already paid to the *Ad hoc* CAMPA/ State Forest Department in November 2012 against the charges involved for diversion of the forest land at the new site at Kukumseri. The Forest Department, however, stated (August 2017) that the Forest Conservation Act, 1980 did not provide for exchange of forest land proposed for diversion in lieu of land earlier approved in-principle by the MoEF, GoI. Thus, expenditure of ₹ 99.91 lakh incurred towards cost of land at previous site was rendered infructuous. The grant of ₹ seven crore was lying unutilised with the Directorate of Technical Education (₹ 6.50 crore) and the Public Works Department (₹ 0.50 crore) as of September 2020.

Subsequently, the case for transfer of the land for the site at Kukumseri also did not fructify and the Sub Divisional Officer (Civil), Udaipur had proposed (August 2018) another site for the purpose and the process for its transfer was in progress, as of September 2020.

The failure of the Department to check feasibility of identified land prior to obtaining clearance for diversion of forest land resulted in infructuous expenditure of ₹ 99.91 lakh. Besides, central assistance of ₹ seven crore remained blocked for more than nine to eleven years, while the objective of opening Polytechnic in the tribal district of Lahaul and Spiti could not be achieved.

The State Government, stated (October 2020) that the selected land was in the possession of BRO/ GREF and case for acquisition/ diversion of land at alternative site

⁶¹ Deposited in *Ad hoc* CAMPA account (₹ 99.42 lakh) at Union Bank of India Sundernagar, New Delhi (SB344902010105419 through RTGS) and remitted to the Divisional Forest Officer, Lahaul Forest Division at Keylong (₹ 0.49 lakh) through Bank Draft No. 447411 dated 27 November 2012.

was under process. The Department did not furnish reasons for diversion of unsuitable land and inordinate delay in identification of alternative site between November 2012 and September 2020.

The State Government may ensure selection of site free from all encumbrances and its feasibility before conceptualising projects for timely and intended benefits. The State Government may also take up for refund of amount of ₹ 99.91 lakh paid for diversion of land, in possession of BRO/ GREF with MoEF, GoI.

Town and Country Planning and Urban Development Departments

3.14 Planning and Regulation of Construction

Planning and regulatory frameworks governing construction were applicable to a limited area of the State. The objective of planned development was nullified as intended development plans were either not prepared or were not implemented. The Regulation was ineffective as rules/ regulations were not correctly applied by the Regulatory Authorities, action was not taken on unauthorised construction and mechanisms for detecting unauthorised construction were deficient.

3.14.1 Introduction

With a view to plan and regulate systematic and sustainable construction and land use, the Government of Himachal Pradesh (GoHP) enacted Himachal Pradesh Town and Country Planning Act, 1977 (HPTCP Act) and notified Himachal Pradesh Town and Country Planning Rules, 1978 (HPTCP Rules). Under the HPTCP Act and Rules, areas are to be notified as “planning areas” which may include both “urban” and non-urban/ “rural” areas. The Town and Country Planning Department is required to prepare “development plans” for these notified planning areas with proposals for planned development. Regulation of construction in the notified areas is to be done with reference to regulatory provisions contained in development plans (where prepared) or general regulations contained in the HPTCP Rules. In urban areas falling within planning areas, regulation is the responsibility of the Urban Local Bodies, whereas in non-urban/ rural areas, the responsibility of regulation is vested with the Town and Country Planning Department.

3.14.2 Scope and Methodology

The scope of audit included 10 planning areas⁶² selected using a combination of stratified random sampling and judgmental sampling methods with population as criteria. Audit covered the offices responsible for planning and regulation of construction and land use in these planning areas – Directorate of TCP alongwith its subordinate offices viz. six⁶³ Divisional TCP offices and four⁶⁴ Sub-Divisional TCP offices, and 11 ULBs viz. both⁶⁵ Municipal Corporations and nine⁶⁶ Municipal

⁶² Chamba, Dalhousie, Dharamshala, Kullu, Mandi, Nahan, Shimla, Solan, Sundernagar and Una.

⁶³ Kangra, Kullu, Mandi, Nahan, Shimla and Solan.

⁶⁴ Chamba, Manali, Sundernagar and Una.

⁶⁵ Municipal Corporations Dharamshala and Shimla.

⁶⁶ Municipal Councils Chamba, Dalhousie, Kullu, Manali, Mandi, Nahan, Solan, Sundernagar and Una.

Councils (MCs). The methodology of audit included scrutiny of records pertaining to the period from 2016 (or earlier wherever required) to 2019 and joint physical inspections. Audit was conducted between June 2019 and February 2020.

Audit Findings

3.14.3 Limited applicability of Act and Rules

Section 1 of the HPTCP Act states that: (i) the Act extends to the whole of the State, and (ii) the Act shall come into force on such date as the State Government may notify for different areas and for different provisions. Thus, the Act and Rules made thereunder would only become applicable after executive orders/ notifications of the State Government.

In this regard, it was observed that between 1977 and 2018, the State notified 90 areas (55 “planning areas” and 35 “special areas”) where general regulations of HPTCP Rules or provisions of development plans (where prepared) on planning and regulation were applicable. As of June 2019, the HPTCP Act and Rules were applicable to only 2,041 sq.km. (11 *per cent*)⁶⁷ out of the total 18,640 sq.km.⁶⁸ of urban and rural area of the State.

The State Government stated (November 2020) that constitution of Planning/ Special Areas is being done after including rural and peri-urban areas beyond the limits of already urbanised areas. The fact, however, remained that most of the rural and peri-urban area of the State still remained beyond purview of the Act/ Rules, *ibid*.

3.14.4 Planning

3.14.4.1 Notification of areas and preparation of plans

Section of Act	Area	Plan	Audit Observation
1	2	3	4
13(1), 66(1) & 18	<p>“Planning Area” – To be notified by State Government and limits defined.</p> <p>“Special Area” – To be notified by State Government for planned development in certain areas.</p>	<p>“Development plan” –</p> <ul style="list-style-type: none"> To be prepared for every “planning area” and “special area” by Director, TCP and Special Area Development Authority respectively. Should contain following details –allocation of land for residential, industrial, commercial or agricultural purposes; open spaces (parks and gardens, green belts, zoological gardens and play grounds); public institutions and offices; pattern of National and State highways connecting region, ring roads, etc.; location for airports, railway stations etc.; proposals for general landscaping and preservation of natural areas; amenities and utilities; regulations for sectoral plan. 	<ul style="list-style-type: none"> 55 planning areas and 35 special areas constituted/ notified after periods ranging between two months and 41 years from notification of HPTCP Act. Development plans for 30 planning areas and 29 special areas were not prepared (June 2019). Development Plans for 25 planning areas and six special areas were prepared and notified after periods ranging from one year to 31 years from date of notification of Planning Area.

⁶⁷ Planning Area: 891.64 sq. km. (urban area: 251.48 + rural area: 640.16); Special Area: 1,148.92 sq. km. (urban area 108.47 sq. km. + rural area 1,040.45 sq. km.).

⁶⁸ Worked out by reducing 37,033 sq. km. of forest area from total 55,673 sq. km. area of the State.

1	2	3	4
21	<p>“Sector” – Refers to an area within a planning area for which detailed sectoral plan is to be prepared.</p>	<p>“Sectoral plan”–</p> <ul style="list-style-type: none"> • To be prepared by Director, TCP. • Should elaborate upon details of land-use contained in development plans, provide details of land liable to be acquired for public purposes, areas reserved for agriculture, public and semi-public spaces, open spaces, parks/ gardens, green belts, playgrounds and recreational areas, street patterns, etc. 	<ul style="list-style-type: none"> • Only four sectoral plans (Jakhoo and Bhattakufer sectors of Shimla, Hiranagar sector of Hamirpur, Brow sector of Rampur) were prepared (1999), record of which was not available. • No sectoral plan prepared in respect of any of the 31 notified development plans as of December 2019, even though one to 39 years had elapsed since their notification.

In the absence of development plans (30 planning areas and 29 special areas) and sectoral plans, the manner in which land was to be used, developed or conserved, etc. was not specified, leaving scope for unplanned development.

The State Government stated (November 2020) that preparation of development plans is a lengthy process. The reply is not acceptable as plans had not been prepared for inordinately long periods.

3.14.4.2 Development plans

As detailed above, 31 development plans in respect of 25 planning areas and six special areas had been notified. The scrutiny of records of Director, TCP showed the following:

(i) Preparation of development plans after large-scale development –

The scrutiny of 11⁶⁹ development plans pertaining to nine test-checked areas showed that scope of planning was reduced in view of large proportion of the area already developed prior to preparation of the plans:

- 100 per cent in Dalhousie plan area;
- Between 50 per cent and 75 per cent in eight⁷⁰ planning areas, and;
- Between 27 per cent and 40 per cent in two⁷¹ planning areas.

The above indicated that these areas largely developed in an unplanned manner.

⁶⁹ Chamba, Dalhousie, Dharamshala, Kullu-Bhuntar Agglomeration, Kullu (Left-Out Area), Manali Agglomeration, Mandi, Nahan, Solan, Sundernagar and Una; does not include Interim Development Plan for Shimla prepared in 1979.

⁷⁰ Chamba, Dharamshala, Kullu-Bhunter Agglomeration, Kullu (Left-Out Area), Manali Agglomeration, Nahan, Solan and Sundernagar.

⁷¹ Mandi and Una.

(ii) Phasing and review of development plans –

The development plans envisaged a system of review after each phase (period of five years) of the plan to assess the position of implementation of proposals and modify the plan depending on need/ new requirements.

Test-check of 17 development plans in the Directorate, TCP revealed the following:

- Institutional mechanism for review after each phase had not been established by the TCP Department.
- In the case of nine⁷² development plans, one to three phases had already elapsed as of June 2019 but none of the plans had been reviewed.
- In the case of two development plans viz. Dharamshala and Una, the plans had expired but new plans were not prepared for long periods (Dharamshala: no development plan between 2001 and 2018; Una: no development plan since 2011).

Thus, progress as regards implementation of proposals was not monitored and changed requirements, if any, were not considered for mid-course correction.

(iii) Status of implementation of proposals in development plans –

The 31 development plans notified between 1979 and 2019 contained phase-wise development proposals (roads, water, public amenities etc.) which were to be implemented through creation of institutional mechanisms, land acquisition and land pooling, etc.

The following was observed regarding implementation of these development plans –

• **Non-creation of prescribed institutional mechanism for implementation –**

The HPTCP Act provided for establishment of Town and Country Development Authority (TCDA) for implementing proposals in the development plan, preparing town development schemes, acquisition and development of land.

However, the State Government had neither constituted TCDA even after lapse of more than 42 years since notification of the HPTCP Act, nor did it entrust TCP department or any other department/ body with necessary powers for implementing development proposals, acquisition and development of land, etc. as envisaged in development plans. As such, there was no institutional mechanism for implementation of proposals for the planned development.

• **Non-implementation of development proposals –**

- In the test-checked planning areas, there was no progress as regards implementation of the proposals (developing parking lots, warehousing sites, land for commercial complexes, fruit/ vegetable markets, etc.) contained in the development plans, and no efforts were made for utilisation of land in line with the land-use proposed for various development and other activities (residential, commercial, agriculture, etc.).

⁷² Bilaspur, Chamba, Dalhousie, Kullu-Bhunter Agglomeration, Kullu (Left-Out Area), Manali Agglomeration, Mandi, Nahan and Solan.

- Further, in seven⁷³ out of 12 test-checked development plans, development proposals also envisaged land acquisition, land pooling and reconstitution, sub-division of land and creation of serviced land. However, no action had been taken in respect of the above proposals.

Thus, lack of action on implementation of development proposals rendered the exercise of preparing development plans infructuous.

3.14.4.3 Areas excluded from planning area

Audit observed that the State Government had issued various notifications to exclude some areas from planning areas while some areas were not being considered as part of planning area by the TCP department, as detailed in the **Table-3.14.1**.

Table-3.14.1: Details of exclusion of areas from planning areas

Sl. No.	Name of planning area	Date of notification of planning area	No. of areas excluded/ not considered part of planning area	Area excluded (in hectares)	Remarks
1.	Chamba	05.07.1986	03 settlements (not considered part of planning area <i>w.e.f.</i> 2010)	492	Mugla, Karian and Sultanpur settlements (outside jurisdiction of MC Chamba) remained outside scope of planning/ regulation without notification for exclusion
2.	Dalhousie*	30.07.1986	01 revenue village (excluded <i>w.e.f.</i> 29.05.2004)	Not available	Banikhet revenue village remained outside scope of planning/ regulation
3.	Hamirpur	28.01.1997	81 villages excluded (<i>w.e.f.</i> 01.08.2012); 46 villages re-included (<i>w.e.f.</i> 13.01.2014)	3,147	35 excluded villages remained outside scope of planning/ regulation
4.	Manali Agglomeration*	20.06.2005	01 area (not considered part of planning area <i>w.e.f.</i> June 2005; considered <i>w.e.f.</i> April 2015)	Not available	Development plan contained contradictory provisions regarding both inclusion and exclusion of Shuru area; clarification on area never being excluded was issued in April 2015; area considered outside scope of planning/ regulation for ten years
5.	Rampur	01.05.1986	03 villages (excluded <i>w.e.f.</i> 01.08.2012)	809.90	Villages remained outside scope of planning/ regulation
6.	Sundernagar*	04.03.2014	17 villages (excluded <i>w.e.f.</i> 22.08.2016)	2,520.60	Villages remained outside scope of planning/ regulation

*Test checked planning areas.

⁷³ Chamba, Dharamshala, Kullu-Bhuntar Agglomeration, Kullu (Left-Out Area), Manali Agglomeration, Mandi and Sundernagar.

The above exclusions and non-consideration of areas as planning areas without any notification, resulted in unplanned development in these areas. This was evident in the case of Banikhet revenue village (excluded from Dalhousie planning area), Shuru area (in Manali Agglomeration) and Karian settlement (not considered part of Chamba planning area) where joint physical verification (October 2019 to December 2019) showed that multi-storeyed commercial buildings including hotels (exceeding the upper limit on height of buildings prescribed for planning areas) had been constructed without provision for dedicated parking (mandatory in planning areas), set-backs, etc. as discussed below:



Karian settlement (Chamba planning area)
(13.12.2019)

- 50 buildings of Karian settlement inspected (main bazaar alongside NH)
- 12 buildings under-construction without planning permission
- Five buildings had more than four storeys (three storeys permissible)
- Parking facility not available in any of the buildings despite feasibility of approach road
- 25 buildings were constructed in a row without leaving space as per norms
- Set-back distance of 5 metres from edge of road on either side not maintained



Shuru area (in Manali Agglomeration) having multi-storeyed commercial buildings
(17.10.2019)

- 12 commercial buildings in Shuru area inspected
- In 11 buildings, number of storeys ranged from five storeys to eight storeys (four-storeys permissible)
- Parking floor not available in 10 buildings despite feasibility of approach road
- Set-back distances not as per regulations of development plan (5 metres from edge of road) in any of the 12 buildings

The department replied that the exclusions were made on the basis of proposals from field offices and Political Representatives of the areas.

The reply did not address the issue of accountability in case of occurrence of any hazardous incident due to deviations made in constructions with respect to regulations, applicable to planning areas.

3.14.5 Regulation

The regulatory framework prescribed by the HPTCP Act and Rules is applicable only to areas notified as “planning/ special areas”. The framework includes regulations contained in development plans (if prepared) or general regulations stipulated under the Rules, covering procedure for grant of planning permissions, land-use change, regularisation of deviations under composition and retention policies, etc. Regulatory powers have been vested in the Director, TCP and the ULBs.

3.14.5.1 Planning Permissions

Planning permission from competent authorities in TCP department and the ULBs is mandatory before undertaking any kind of land development. Audit observations relating to grant of planning permissions are detailed below:

A. Lack of institutional capacity

The TCP department and the ULBs were responsible for: (i) processing applications received from person(s) intending to undertake construction and according planning permission after verification of documents, technical scrutiny of documents/ plan, site visit, etc., and (ii) enforcement of regulations and detection/ action on cases of unauthorised construction.

Audit observed that the institutional capacity for discharging these primary functions was inadequate as detailed (status as of March 2019) in the **Table-3.14.2**.

Table-3.14.2: Details of institutional capacity of the TCP and the ULBs

Sanctioned posts/ persons-in-position		Category of officials / staff involved		Audit Observation
TCP	ULBs	TCP	ULBs	
96/ 81	28/ 22	<i>Technical</i> – Draughtsman/ Junior Engineer, Planning Officer, Assistant Town Planner, Town and Country Planner, State Town Planner <i>Administrative</i> – Director, TCP	<i>Technical</i> – Draughtsman/ Junior Engineer <i>Administrative</i> – Commissioner/ Executive Officer of ULB	<ul style="list-style-type: none"> • The ULBs had not been provided adequate manpower for processing of planning permission cases (2,254 cases processed by the ULBs against 2,008 by field offices of TCP department during 2016-19). • ULBs had only one level of technical check viz. Draughtsman/ Junior Engineer. • Four⁷⁴ out of 10 test-checked ULBs (except the Municipal Corporation Shimla) also had Municipal/ Assistant Engineer but the planning permission cases were not being routed through such officials.

As shown in the table above, the ULBs in particular did not have the institutional capacity for processing of planning permission cases leading to inadequate checks and grant of planning permissions in contravention of rules/ regulations as discussed subsequently under Paragraph 3.14.5.1 (C).

B. Non-disposal of cases of planning permission

Section 31 of HPTCP Act provides that if a decision on granting or refusing permission is not communicated to an applicant within two months from the receipt of application, such permission shall be deemed to have been granted to the applicant, on the date immediately following the date of expiry of two months.

Audit observed that in five out of 10 test-checked areas, action for granting/ refusing planning permission had not been initiated by the ULBs in 512⁷⁵ out of 1,965 cases⁷⁶

⁷⁴ MCs: Dharamshala; Kullu; Solan and Una.

⁷⁵ MCs: Dharamshala: 393; Chamba: 06; Nahan: 24; Sundernagar: 61 and Una: 28.

⁷⁶ MCs: Dharamshala: 470; Chamba: 199; Nahan: 537; Sundernagar: 479 and Una: 280.

received during 2016-19 for periods ranging between two and 43 months (as of August to December 2019). In the Municipal Corporation, Dharamshala, cases were pending for disposal since the year 2001.

This meant that permission was legally deemed to have been granted to the applicants and in case of unauthorised construction being undertaken no legal action would be possible under the Act against the applicants.

The State Government attributed (November 2020) the delay to shortage of technical staff.

C. Non-application of rules/ regulations in grant of planning permission

The planning permission was to be granted by the authorities with reference to rules/ regulations in respect of demarcation report, no-objection certificate from the HPPWD/ Fire Services, furnishing of structural stability certificates (SSCs), hill-cutting, plinth height, set-backs, floor area ratio, number of storeys/ building height, parking, solar passive building design, rainwater harvesting structures/ tanks, as detailed in **Appendix-3.6**.

Test-check of 834 (11 *per cent*) out of 7,580 cases of planning permissions granted by authorities in 11 selected areas, revealed that in 649 cases (78 *per cent*) planning permissions were granted in contravention of rules/ regulations, as detailed in the table below:

Provision of Rules/ Regulations	Audit Observation
1.	2.
Demarcation Report	In 383 cases ⁷⁷ (46 <i>per cent</i>), planning permission was accorded on the basis of self-declaration or affidavit from applicants instead of demarcation report required to be issued by revenue authorities.
NOC from HPPWD	In 42 cases ⁷⁸ (five <i>per cent</i>), planning permission was accorded without no-objection certificate from HP Public Works Department (HPPWD).
NOC from Fire Services	In 198 cases ⁷⁹ (24 <i>per cent</i>), building height of 15 metres or above was allowed without no-objection certificate from the Fire Department.
Hill cutting	In 19 ⁸⁰ cases (two <i>per cent</i>) (applicable in 767 out of 834 test-checked cases), hill cutting was allowed in excess (between 0.80 metres and 13.50 metres in one stretch) of prescribed limit. In 59 cases (seven <i>per cent</i>) land contouring was not shown (Municipal Council Nahan).
Plinth height	In 23 cases ⁸¹ (three <i>per cent</i>), height of plinth level was allowed in excess (between 0.1 metres and 7.11 metres) of prescribed limits.
Set-backs	In 89 cases ⁸² (11 <i>per cent</i>), set-backs below prescribed requirement were allowed, resulting in haphazard construction.

⁷⁷ Chamba: 34; Dalhousie: 11; Dharamshala: 83; Kullu: 31; Manali: 21; Mandi:108; Nahan: 63 and Una: 32.

⁷⁸ MC Dharamshala: 02; TCP Kullu: 06; MC Nahan : 05 and MC Una: 29.

⁷⁹ Dalhousie: 15; Dharamshala: 54; Kullu: 23; Manali: 34; Nahan: 11; Shimla: 28; Solan: 14; Sundernagar: 09; and Una: 10.

⁸⁰ Dalhousie: 03; Dharamshala: 11 and Shimla: 05.

⁸¹ SDTP Dalhousie: 02; MC Dharamshala: 19 and MC Shimla: 02.

⁸² Chamba: 05; Dalhousie: 02; MC Dharamshala: 02; MC Kullu: 01; MC Mandi: 03; MC Nahan: 31; MC Shimla: 01; Sundernagar: 09 and MC Una: 35.

1.	2.
Floor Area Ratio (FAR)	In 46 cases ⁸³ (six per cent), FAR higher (by between 0.07 and 1.23) than prescribed parameters was allowed.
Storeys/ Building height	In 168 cases ⁸⁴ (20 per cent) height of buildings/ number of storeys was not restricted, as per regulations.
Parking	In 69 cases ⁸⁵ (eight per cent), planning permission was accorded without parking provision, despite feasibility of approach road.
Solar passive building designs	In 358 cases ⁸⁶ (43 per cent), planning permission was accorded without specification of solar passive design and place of installation in drawings.
Rain Water Harvesting Structure (RWHS)	In 93 cases ⁸⁷ (11 per cent), planning permission was accorded without RWHS being proposed, or without defining capacity, or capacity being lower (by between 82 and 24,283 litres) than prescribed requirement.
Relaxation allowed by the Director, TCP	In eight cases (of private and Government buildings), the Director, TCP allowed relaxation between 23 and 72 per cent in set-backs, 12 and 34 per cent in height of buildings, 13 and 74 per cent in height of floors, and three storeys in number of storeys. No justification for such relaxation, on account of site conditions or public interest was found, on record.

- Allowing of hill-cutting, plinth height, height/ number of storeys of buildings in excess of norms was a risk in view of hilly and high seismic zones in the State.
- Allowing construction of buildings without mandatory parking implied that vehicles would be parked alongside roads resulting in traffic jams.
- Non-ensuring of solar passive provision and RWHS indicated inadequate focus on sustainable development.

Thus, authorities were not applying prescribed rules for planned/ regulated construction.

3.14.5.2 Unauthorised constructions

As per provisions of the HPTCP Act, any land development undertaken without obtaining planning permission or by way of deviation from approved planning permission is deemed to be unauthorised. Unauthorised constructions are liable under Section 39 of HPTCP Act for stopping, sealing, compounding, demolition and prosecution of the person in default.

⁸³ MC Chamba: 02; MC Dharamshala: 10; MC Mandi: 02; MC Nahan: 13; MC Shimla: 12 and MC Sundernagar: 07.

⁸⁴ Dharamshala: 44; Kullu: 05; MC Nahan: 38; TCP Solan: 05; MC Chamba: 10; MC Mandi: 16; MC Solan: 28 and Shimla: 22.

⁸⁵ Divisional Office, Shimla: 09; MC Nahan: 23; MC Sundernagar: 11 and MC Una: 26.

⁸⁶ Chamba: 37; Dalhousie: 12; Dharamshala: 29; Kullu: 22; Manali: 32, Mandi: 108; Nahan: 25; Shimla: 09; Solan: 02; Sundernagar: 21; and Una: 61.

⁸⁷ Dalhousie: 03; Dharamshala: 21; Mandi: 05; Nahan: 26; Sundernagar: 07 and Una: 31.

Audit findings relating to unauthorised construction are discussed in the following paragraphs:

A. Inadequate institutional mechanisms

The scrutiny of records of the Directorate, TCP and test-checked ULBs revealed the following deficiencies in institutional mechanisms for detecting cases of unauthorised construction:

Mechanism	Audit Finding
Reporting mechanisms	<ul style="list-style-type: none"> • TCP department – Reports/ returns on regularisation cases, unauthorised construction, etc. were being submitted by the field offices of TCP department to Directorate, TCP. • ULBs – <ul style="list-style-type: none"> ○ Eight ULBs⁸⁸ had not maintained registers showing position/ status of unsafe buildings, regularisation cases, unauthorised construction, forest violations, encroachment cases, complaint cases. ○ Directorate, TCP had delegated powers of regulation of construction/ land use to the ULBs in respect of urban areas without any reporting mechanism on status of planning permissions, unauthorised construction, regularisation of unauthorised construction, etc.
Test-check of planning permissions	<ul style="list-style-type: none"> • TCP department– As per directions (March 2015) of the Director, TCP, Assistant Town Planner was to test-check 20 <i>per cent</i> of cases decided by Planning Officers, and Town and Country Planner was to test-check 10 <i>per cent</i> cases decided by Planning Officers/ Assistant Town Planners. Audit found that no test-check had been done at any stage. • ULBs – No system of test-check of planning permission cases was in existence in the ULBs.
Field inspections to detect unauthorised constructions	<ul style="list-style-type: none"> • TCP department – As per instructions (February 2018) of the Director, TCP, field officials of TCP department shall carry out inspections in planning areas/ special areas once a week to detect unauthorised constructions. Audit observed that although inspection schedules had been prepared, no record of site visits or inspection notes was available indicating either that inspections were not being undertaken or that outcomes of inspections were not being recorded/ followed-up. • ULBs – No system of periodic inspections to detect unauthorised construction was in existence in the ULBs.

Thus, regulatory and internal control mechanisms were either non-existent (especially in the ULBs) or functioning inadequately. This led to deficiencies in identifying unauthorised construction, action on unauthorised construction, unsafe buildings, encroachment on Government/ ULB land, etc. as discussed in subsequent paragraphs 3.14.5.2 (B) and 3.14.5.3.

⁸⁸

MCs: Chamba, Dharamshala, Mandi, Nahan, Shimla, Solan, Sundernagar and Una.

The State Government stated (November 2020) that process to fill up vacant technical posts was being initiated, and efforts were being made to check unauthorised construction.

B. Status of action on cases of unauthorised construction

In view of inadequate mechanisms, cases of unauthorised construction came to notice through retention policies, complaints from the public, and random field visits by officials.

(i) Cases identified under retention policies –

The State Government had notified nine retention policies between 1997 and 2017 for regularisation of cases of unauthorised construction. The details of cases received, retained, rejected and closed under such retention policies are detailed below:

- *Eight retention policies between 1997 and 2009* – 8,198 cases were received out of which 2,108 cases were retained, 2,489 cases were rejected and 3,601 cases were not considered as these pertained to periods not covered under such policies or construction was beyond limits stipulated under the respective retention policies. However, no action had been initiated by the TCP department/ ULBs in respect of the 2,489 rejected cases and 3,601 cases not considered for retention.
- *Retention policy of 2016-2017* – The policy notified through the HPTCP (Amendment) Bill, 2016 was quashed (December 2017) by the Himachal Pradesh High Court, against which a review petition had been filed (June 2019) by the State Government. However, 8,782 cases of unauthorised construction had been received following notification of the policy, in respect of which no action had been initiated by the TCP department/ ULBs, as of June 2019.

The frequent notification of retention policies for regularisation of unauthorised construction and lack of action on rejected/ not considered cases afforded a sense of impunity as regards unauthorised construction and undermined the regulatory framework. This issue had been pointed out through the Audit Report on Social, General and Economic Sectors (Non-PSUs) for the year ended 31 March 2016 (Paragraph 2.4) also, however, no corrective action had been taken, as of June 2019.

The State Government stated (November 2020) that cases received under retention policies were regularised as per provisions of the Act/ Rules. The reply does not address the issue of cases not accepted under retention policies, on which no action had been taken.

(ii) Other cases of unauthorised construction –

The scrutiny of records of the Directorate, TCP and test-checked ULBs and joint physical inspections undertaken by Audit, revealed cases where action had not been taken in respect of unauthorised construction, violation of provisions of Ancient Monuments and Archaeological Sites and Remains (AMASR) Act, and unauthorised

development/ encroachment on land belonging to the Government/ ULBs, as detailed in **Table-3.14.3**.

Table-3.14.3: Details of unauthorised development on Government/ ULBs land

Category 1.	Audit Observation 2.
<p><i>Notices issued but further action not taken</i></p> <p>(Non-compliance with first notice within 15 days renders person liable for stopping, sealing, compounding, demolition, and prosecution)</p>	<p><i>ULBs –</i></p> <ul style="list-style-type: none"> • Notices served in respect of 2,229 cases of unauthorised construction in test checked ULBs⁸⁹ (2016-19). • Only 12 unauthorised constructions regularised/ demolished. • No further action taken in the remaining 2,217 cases, as of March 2019. <p><i>Directorate, TCP –</i></p> <ul style="list-style-type: none"> • Notices served in respect of 10,727 cases of unauthorised construction in non-urban planning areas (2016-19)⁹⁰. • Only 23 unauthorised constructions regularised/ demolished. • No further action taken in the remaining 10,704 cases, as of July 2019.
<p><i>Unauthorised construction of Government buildings</i></p>	<ul style="list-style-type: none"> • Construction of 50⁹¹ multi-storeyed Government buildings undertaken without planning permission. • Ex-post facto regularisation not accorded by the TCP department and observations issued (2005-17) to respective departments. • Observations of TCP department remained unattended (as of June 2019) and buildings remained unauthorised. • All these unauthorised buildings had been provided civic amenities.
<p><i>Unauthorised development/ encroachment on Government/ ULB land</i></p>	<ul style="list-style-type: none"> • <i>Municipal Corporation, Dharamshala –</i> <ul style="list-style-type: none"> ○ In Dharamkot to lower Bhagsunag cluster of Dharamshala, 10 out of 13 physically inspected hotels/ under construction buildings had covered <i>nallah</i> (on Government land) with concrete slabs for parking; one hotel had constructed five storeys against approval of four storeys; no action had been taken by the ULB. • <i>Municipal Council, Kullu –</i> <ul style="list-style-type: none"> ○ DC Kullu allotted (1984) forest land (at Hanumani Bagh) for Tibetan settlement allowing construction of temporary houses; State Intelligence Bureau reported (February 2016) construction of <i>pucca</i> houses, however, except for serving (April 2019) four notices, no action was taken by Municipal Council, Kullu. ○ ULB land allotted to vendors (between Bus Stand and Sarvari <i>Khud</i>); tin structures were raised by vendors on allotted land without permission; while 21 notices were served (March 2018) to vendors; no further action was taken. • <i>Municipal Council, Manali –</i> <ul style="list-style-type: none"> ○ ULB land allotted to vendors (behind Bus Stand); vendors raised semi-<i>pucca</i> structures on allotted land without permission; two notices were served (for structures near Hotel Diamond); no further action was, however, taken.

⁸⁹ All test-checked ULBs except Shimla and Solan where data was not provided.

⁹⁰ Opening balance on 1st January 2016: 8,670; and fresh cases from 1st January 2016 to March 2019: 2,057.

⁹¹ Kullu: 07; Mandi: 28; Shimla: 09 and Solan: 06.

1.	2.
<p>Violation of AMASR Act</p> <p>(No construction allowed within 100 metres (prohibited area) of identified monuments; for construction up to 200 metres beyond (regulated area), sanction required from ASI)</p>	<ul style="list-style-type: none"> • In Chamba town, ASI had declared eight monuments⁹² as protected. • ASI served 66 notices to stop/ remove unauthorised construction near protected monuments during 2012-19; work had already been completed in five cases; complaints were filed in 61 cases by the police; no record of action taken maintained by the Municipal Council, Chamba. • Three notices pertained to Government construction; planning permission had been accorded without seeking sanction from ASI. • One notice pertained to construction of parking (located 120 metres away from a protected monument) by the MC Chamba; MC Chamba sought (August 2013) sanction from designated authority (Director, Language and Culture) as per ASI directions (June 2013), but did not wait for sanction and continued the construction work.

Photographs are shown below:



Unauthorised construction (Tibetan colony) at Kullu on Government land (21.09.2019)



Covered *nallah* on Government land (Bhagsunag to Dharamkot road) (21.09.2019)

By not taking action to stop/ seal/ compound/ demolish/ initiate prosecution in cases of unauthorised construction, the TCP department and the ULBs had diluted regulatory controls and allowed unauthorised construction to continue with impunity.

(iii) Results of Joint survey undertaken by Audit –

In order to ascertain the extent of unauthorised construction, Audit undertook a joint survey of 670 buildings in selected areas during August - December 2019. The findings are discussed below –

- In 618 (92 per cent) buildings, there was no provision for parking in spite of vehicular approach being available.

⁹² Bajreshwari, Banshi Gopal, Chamunda Devi, Hari Rai, Shri Lakshmi Narayan, Shri Sita Ram, Champawati temples and Rock Sculptor depicting Sita, Rama, Hanuman, etc.

- In 33 (five per cent) buildings (in Manali, Mandi and Chamba), parking floors were converted into receptions, habitable rooms and gyms, etc.



Parking floor converted into reception in hotel at Manali (17.10.2019)



Construction without set-backs in main bazaar area of Chamba (05.12.2019)

- In 453 (68 per cent) buildings, front set-back was not left as per regulations.
- In 84 (13 per cent) buildings, number of storeys exceeded permissible limits.



Building with no. of storeys exceeding permissible limits in Dalhousie (03.10.2019)



Tree covered within building in Dharamshala (21.09.2019)

- In 30 (four per cent) buildings, either trees were covered within buildings or distance of two metres from trees as per regulations was not left.

C. Arbitrary rates charged for regularisation of unauthorised construction –

Audit observed that four out of 11 test-checked ULBs were charging fees for regularisation of unauthorised construction on a case-to-case basis at arbitrary rates ranging between ₹ 1,600 and ₹ 16,000 per sq.m. Out of the 189 test-checked cases pertaining to these ULBs, there were 39 cases⁹³ in which higher amount (totalling ₹ 17.14 lakh) was charged and three cases⁹⁴ in which lower amount (total ₹ 0.89 lakh) was charged. This entailed risk of corruption in charging of fees for regularisation of unauthorised deviations.

⁹³ MC Dharamshala: 11 cases (₹ 6.89 lakh); Nahan: 01 case (₹ 2.63 lakh); MC Shimla: 23 cases (₹ 7.03 lakh) and Una: 04 cases (₹ 0.59 lakh).

⁹⁴ Dharamshala: 01 (₹ 0.75 lakh) and Nahan: 02 (₹ 0.14 lakh).

3.14.5.3 Action on Unsafe Buildings

As per the provisions of Municipal Corporation/ Council Acts, Municipal Commissioner/ Executive Officer can undertake surveys and direct any building in dangerous/ unsafe condition to be vacated forthwith/ within a period, specified in such order.

Audit observed the following:

- ***Inaction on buildings declared to be unsafe*** – None of the 11 test-checked ULBs had conducted any survey of buildings in unsafe/ dangerous condition. In one ULB (Shimla), 84 buildings had been declared unsafe (2010 onwards) 11 to 93 months after residents had informed the ULB about its condition. Out of these 84 buildings, 12 buildings were re-constructed, 18 buildings were vacated and four buildings were demolished. However, no action had been taken in respect of the remaining 50 buildings which were still occupied (July 2019). Thus, ULBs had not given due importance to the issue of safety of buildings/ inhabitants.

Thus, planning permissions were granted in contravention of rules, mechanisms for detecting unauthorised construction were inadequate and action on unauthorised construction was not taken.

3.14.6 Conclusions

The objective of planned and sustainable development of land in the State could not be achieved as even after four decades of enactment of the HPTCP Act, only 11 *per cent* of available area could be brought under the planning and regulatory framework governing construction. There were irregular constructions in areas excluded from planning area, which were capable of posing a hazard due to deviations made. Areas already developed were taken into a planning area, which did not fulfill the requirements of construction in planned area, as such haphazard and unsustainable constructions took place. In areas where planning frameworks were applicable, development plans were either not prepared in time or were not implemented.

The department was ineffective in monitoring unsafe buildings, granting planning permissions, detecting unauthorised construction etc. Consequently, unsustainable constructions have mushroomed throughout the State, posing a challenge to the fragile ecosystem in the State, which lies in a sensitive seismic zone, and in case of a natural calamity, such unplanned development have a potential of becoming a source of major disaster.


3.14.7 Recommendations

In view of the audit findings, the State Government may consider:

- Preparation of a State-wide master plan for extending the Himachal Pradesh Town and Country Planning Act, 1977 to the entire State to ensure planned and regulated development.***
- Notification of Town and Country Development Authority as mandated in the Himachal Pradesh Town and Country Planning Act.***


- (iii) *Focusing on areas with potential for growth for prior preparation of plans and create suitable institutional mechanism for implementation of development proposals within defined timeframes.*
- (iv) *Framing guidelines to be followed with respect to exclusion of areas from planning area, and assigning responsibility to a local body/ authority to regulate the same against any unauthorised construction activity.*
- (v) *Reviewing the provision of deemed permission after two months of application, as that in audit view has facilitated unauthorised construction in a large manner.*

Shimla
Dated: 25th June, 2021


(Ritu Dhillon)
Principal Accountant General (Audit)
Himachal Pradesh

Countersigned

New Delhi
Dated: 30th June, 2021


(Girish Chandra Murmu)
Comptroller and Auditor General of India

