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IRREGULAR AWARD OF CONSTRUCTION WORK

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

**PUBLIC ACCOUNTS
COMMITTEE
2009-2010**

FIRST REPORT

FIFTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

FIRST REPORT
PUBLIC ACCOUNTS COMMITTEE
(2009-2010)
(FIFTEENTH LOK SABHA)
IRREGULAR AWARD OF CONSTRUCTION
WORK

[ACTION TAKEN ON 60TH REPORT OF PUBLIC ACCOUNTS COMMITTEE
(14TH LOK SABHA)]

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



*Presented to Lok Sabha on 26-11-2009
Laid in Rajya Sabha on 26-11-2009*

LOK SABHA SECRETARIAT
NEW DELHI

November, 2009/Kartika, 1931 (Saka)

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2009-10)

PRESENT

Shri Jaswant Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Khagen Das
5. Shri Naveen Jindal
6. Shri Satpal Maharaj
7. Shri Bhartruhari Mahtab
8. Shri Gopinath Munde
9. Dr. K. Sambasiva Rao
10. Shri Jitendra Singh (Alwar)
11. Kunwar Rewati Raman Singh
12. Shri Yashwant Sinha
13. Shri K. Sudhakaran
14. Dr. M. Thambidurai
15. Shri Aruna Kumar Vundavalli

Rajya Sabha

16. Shri Prasanta Chatterjee
17. Shri Sharad Anantrao Joshi
18. Shri Ashwani Kumar
19. Shri Shanta Kumar
20. Dr. K. Malaisamy
21. Shri N.K. Singh
22. Prof. Saif-ud-din Soz

SECRETARIAT

1. Shri Ashok Sarin	—	<i>Joint Secretary</i>
2. Shri Raj Shekhar Sharma	—	<i>Director</i>
3. Shri M.K. Madhusudhan	—	<i>Addl. Director</i>

INTRODUCTION

I, the Chairman, Public Accounts Committee (2009-10), having been authorized by the Committee, do present on their behalf this First Report (Fifteenth Lok Sabha) on action taken by Government on the Observations/Recommendations of the Committee contained in their Sixtieth Report (Fourteenth Lok Sabha) on "Irregular Award of Construction Work".

2. The Sixtieth Report was presented to Lok Sabha on 30th November, 2007. Replies of the Government to the Observations/Recommendations contained in the Report were received on 22nd June, 2009. The Public Accounts Committee considered and adopted their First Report at the sitting held on 27th October, 2009. Minutes of the sitting are given at *Appendix I*.

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

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

5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Sixtieth Report (Fourteenth Lok Sabha) is given at *Appendix II*.

NEW DELHI;
13 November, 2009
22 Kartika, 1931 (Saka)

JASWANT SINGH,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their sixtieth Report (14th Lok Sabha) on Para 6.7 of the Report No. 3 of 2007 of Comptroller and Auditor General, Union Government (Civil—Autonomous Bodies) relating to **“Irregular Award of Construction Work”**.

2. The Sixtieth Report of Public Accounts Committee, which was presented to Lok Sabha on 30th November, 2007, contained 14 Observations/Recommendations. The Action Taken Notes in respect of all the Observations/Recommendations have been received from the Ministry of Human Resource Development/University Grants Commission and these have been categorized as under:

- (i) Observations/Recommendations of the Committee which have been accepted by Government;

Sl. Nos. 1, 2, 3, 4, 5, 8, 9, 12 and 14

Total: 9
Chapter -II

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

Sl. Nos. 6 and 11

Total: 2
Chapter - III

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

Sl. Nos. 7, 10 and 13

Total: 3
Chapter - IV

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

-Nil-

Total : Nil
Chapter -V

**LIST OF COMMITTEE'S OBSERVATIONS/RECOMMENDATIONS CONTAINED IN
THE SIXTIETH REPORT (14TH LOK SABHA)**

3. The Committee in their 60th Report on the subject had made the following important Observations/Recommendations:

- The Ministry of Human Resource Development have been asked to evolve a policy to restrict allotment of work to only those agencies which not only have a track record of being genuine contractors but are also found to be adhering to the terms and conditions of the contract, including timely completion of the project.
- The Committee had emphasised upon the need to maintain coordination between the Ministry and the UGC on the one hand and the UGC and the construction agency, *viz.*, Educational Consultants India Limited (Ed. CIL) on the other so as to ensure speedy completion of the project.
- The Ministry had been asked to re-appraise the role and mandate of Educational Consultants India Limited to undertake works as a construction agency in addition to their original mandate as a pure project consultant.
- Expressing their concern over the failure in adopting any Financial Rules by the UGC, the Committee had opined that the Government should have ensured the applicability of the General Financial Rules (GFR) in respect of UGC in letter and spirit and had also recommended that 'no objection' of the Ministry of Urban Development as required under GFR should be obtained by UGC/ Ministry of HRD in the instant case.

4. The Action Taken Notes furnished by the Ministry of Human Resource Development/University Grants Commission have been reproduced in the relevant Chapters of this Report. The Committee will now deal with the Action Taken by the Government on some of their Observations/Recommendations made in the Original Report, which need reiteration or merit comments.

A. Reappraisal of role and Mandate of Ed. CIL

(Recommendation Sl. No. 7, Para No. 60)

5. Considering the fact that Educational Consultants of India Ltd. (Ed. CIL) could not secure even basic approvals from agencies and could not commence construction even after a long period of 37 months or so, the case of Ed. CIL, as a construction agency/contractor as distinct from a project consultant had seemed to be on slippery ground. Therefore, the Committee had emphasized that the Ministry of HRD should re-appraise the role and mandate of Ed. CIL to undertake work as a construction agency in addition to their original mandate as a pure project consultant.

6. The Ministry in their Action Taken Note on the aforesaid recommendation have *inter-alia* stated as under:

- "(i) The work relating to construction of new office complex is a one time activity. UGC does not have its own engineering or construction wing. The Commission

had appointed a monitoring committee to periodically review the progress of the work. The delay has been due to reasons beyond the control of either the Ed. CIL or the UGC as explained in response to Question No. 57.

- (ii) In case of mobilization advance CPWD & Ed. CIL both pay a mobilization advance to the construction agency generally by charging a simple interest @ 10% per annum. However, it is clarified that the term "mobilization advance" has been inappropriately used in the present context, as it relates only to the contractor. In the case of CPWD or Ed. CIL, the advance is given by way of deposit towards cost of construction in different stages. However, the interest so accrued on the mobilization advance is recovered from the construction agency's bill & is credited to the project account.
- (iii) The inordinate delay is due to the fact that most of the statutory authorities have gone through one or two rounds of modifications which consumed much time attributed to procedural delay. This can be seen by the following explanation given by Ed. CIL:

'For the DDA in principle approval, finally after making the master plan and getting clearances, we applied on 3.8.2004 and we receive the in principle clearance on 3.3.2005. Then the other authority from which we needed clearance was the Airport Authority of India to which we applied with all the paper work and we got the clearance on 25.1.2005. Then comes the Delhi Metro Railway. We have applied on 21.12.2004 and we got the clearance on 7.4.2005. Then after getting the in principle approval from DDA, we had to apply to the Delhi Fire Services on 3.3.2005. We got the clearance from the Delhi Fire Services on 1.6.2006. Then we applied to the Urban Arts Commission, soon after getting the in principle from DDA on 3.3.2005. The clearance from Delhi Urban Arts Commission was still awaited. We have had two rounds. They had observation round and we have replied to them. Then they had another round of observation. We have again replied them. After 3 or 4 sitting round of repeated exercises we were able to get DUAC approval. Meanwhile we have also got environmental clearance. Now, 3 or 4 round of sittings were already completed and we are finalizing with the DDA for the final approval'.

Now, that the UGC has set up a Project Monitoring Committee for monitoring the execution of the project, it is expected that the project will be completed within the stipulated time as per the substitute agreement. An officer both in UGC and Ed. CIL have been appointed as the project Coordinating Officers so as to coordinate all the activities relating to the construction. Since the planning and designing work was in progress, the UGC did not think it proper to withdraw the advance from Ed. CIL, in the midst of the process of obtaining the statutory clearances from the various authorities, which were in advanced stages and for which they had incurred some expenditure also. So far as changing the mandate of Ed. CIL, as desired by PAC is concerned, the M/HRD has conveyed "EFC also considered the response of the Ministry of Urban Development (Works Division) Dated 2nd March, 2009, stating that Ed. CIL

was not mandated to carry out civil or electrical works and is not a PWO within the meaning of Rule 126 (4) of GFR. The EFC was of the opinion that Ed., CIL, being a PSU under M/HRD as also having substantial past experience in similar construction projects especially the establishment of the Indian Institutes of Information Technology in Thiruvananthapuram, Gwalior & Allahabad, may continue with providing project management consultancy as per the terms & conditions, including the payment of consultancy charges as specified, arrived at in the agreement dated 26-02-08 worked out between UGC & Ed. CIL with the intervention of the Ministry of HRD. EFC also felt that any change in the construction agency at this stage, when lot of action has already been taken by Ed. CIL, may not be in the interest of the project".

7. From the Action taken reply furnished by the Ministry of Human Resource Development it is apparent that no concerted efforts have been made by UGC to periodically monitor the progress made by Educational Consultants India Limited in obtaining requisite approvals/clearances from the various agencies so that the construction of the project could be commenced at the earliest. Further there is no evidence to suggest as to whether UGC had held any meetings with Ed. CIL in this regard, which is anything but regrettable. The UGC seems to be just content with passing the blame to other statutory bodies such as Delhi Development Authority, Delhi Fire Service, Airport Authority of India and Delhi Urban Arts Commission etc., for the inordinate delay in completion of the Project. It is only after a gap of more than 4 years and that too after the subject has been selected by PAC for examination that UGC had woken up and has now decided to set up a Project Monitoring Committee to monitor the execution of the Project. The Committee expect that the Project Monitoring Committee set up by the UGC will work in close coordination with Ed. CIL in ensuring that the Project is completed within the revised stipulated time schedule i.e., by September, 2010. Given the fact that Ed. CIL had failed in obtaining necessary clearances from the various agencies leading to inordinate delay in execution of the Project, casts serious doubts on its ability to take up the role of a construction agency. This view was further vindicated by the position taken by Ministry of Urban Development which had stated that Ed. CIL is not mandated to undertake Civil or Electrical work and that it is not a PWO within the meaning of Rule 126(4) of GFR. The Committee, therefore, reiterate their recommendation that the role and mandate of Ed. CIL to undertake work as a construction agency in addition to their original mandate as a pure project consultant, needs to be reviewed afresh by the Ministry of Human Resource Development.

B. Adoption of General Financial Rules (GFR) by UGC

(Recommendation Sl. No. 10, Para No. 63)

8. The Committee had opined that in the absence of any financial rules adopted by the UGC through a resolution, the Government should have ensured the applicability of the General Financial Rules (GFR) in letter and spirit. The Committee therefore, has desired that 'No Objection Certificate' of the Ministry of Urban Development as required under GFR should be first obtained by UGC/Ministry of HRD in the instant case and thereafter, UGC should adopt its own Rules or the General Financial Rules

of Government of India as they deem fit.

9. In their Action Taken Notes the Ministry have started as under:

"As per observation of the PAC, a NOC from the Ministry of Urban Development is being obtained through the HRD Ministry. So far as adopting GFR is concerned, the Commission has been following the general rules framed under GFR excepting the one relating to approval of Expenditure Finance Committee (RFC) as the UGC is an autonomous organization and adoption of this procedure would entail considerable delay."

10. The Committee do not accept the plea taken by the UGC that the adoption of General Financial Rules relating to approval of Expenditure Finance Committee (EFC) would lead to considerable delay in the execution of a Project. In the instant case, it is very much evident that the delay in completion of Project was due to lack of proper Project Planning and absence of any monitoring mechanism to oversee the Project implementation in the UGC, and not on account of delay in approval of Project by EFC. The Committee therefore, reiterate that the Ministry should examine the feasibility of adopting GFR "in toto" including the one relating to EFC, in respect of UGC.

C. Cost Escalation of the Project and Measures to complete the Project within revised time frame

(Recommendation Sl. No. 13, Para 66)

11. Taking note of the escalation in the cost of the project due to excessive delay in execution and completion of the project by Educational Consultants India Limited (Ed. CIL), the Committee had desired that they may be informed about the actual cost escalation of the Project. The Committee had urged upon the Ministry/UGC to take urgent measures to complete the project within the revised time frame in order to contain further cost escalation of the project. They had also asked the UGC and the Ministry to take up the matter of cost escalation with Educational Consultants India Limited and impose suitable penalties on them.

12. The Ministry in their Action Taken Note on the aforesaid recommendation have *inter-alia* stated as under:

"Ed CIL submitted revised preliminary estimate of Rs: 113.85 crores in April, 2008. It also submitted tendered cost of subject work for civil and electrical works amounting to Rs: 71,89,17,315.00 in July, 2008. The Commission approved both the preliminary cost and the tendered cost in its meeting held on 10.09.2008. This was referred to the M/HRD for concurrence. The M/HRD has conveyed its final approval on 11.05.09 for Rs: 6497.00 lacs for the following after considering the project at its EFC meeting held on 5.12.08:

- (a) Academic and Administrative Complex area of 16,551sq.m. instead of 23,775.75 sq.m. as originally proposed;
- (b) Guest House block of 20 rooms instead of 120 rooms as originally proposed;

- (c) Driver Dormitory as originally proposed;
- (d) 8 flats for Group D residences instead of 16 flats as originally proposed;
- (e) Deletion of Offices' residences and the Sports & Cultural Centre; and
- (f) Proportionate external development and provision of ancillary services for the revised area;

The revised project proposal at a cost estimate of Rs. 6497 lacs has been approved by the competent authority. The EFC has directed that the project may be re-tendered in view of the substantial reduction in the scope of the project to be implemented in the 1st Phase as well as considering the scenario of a general reduction in rates in respect of raw materials".

13. The Committee regret to find that the UGC has not furnished the actual estimates of the cost escalation of the Project on account of the inordinate delay in its execution. In the absence of this vital data/information it would be rather difficult to assess the reasonableness of the revised Project cost proposal of Rs. 64.97 crore approved by the Ministry of Human Resource Development. Moreover, the revised cost estimate of the project as approved by the Ministry was worked out after substantial reduction in the scope of the Project. What is surprising is the fact that the Ministry have not taken any action for imposition of penalty on Ed.CIL for cost escalation in the Project as recommended by them. The Committee, therefore, reiterate that Ministry should examine the feasibility of imposing penalty on Ed.CIL for the cost escalation in the original Project cost. The Committee also expect that the Ministry/UGC would take all possible steps to complete the project within the revised time frame so that there would not be any further cost escalation of the Project.

CHAPTER II

OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Observations/Recommendations No. 1

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

[S.No. 1, Para 54 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

No comments

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 2

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

[S.No 2., Para 55 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

The UGC had requested the MHRD on 1st July, 2003 to accord administrative and financial sanction for the said project. In response to the Commission's request the

Ministry of HRD communicated on 2nd July, 2003 that it had no objection to award this project to Ed. CIL subject to observance of all prescribed norms and rules by the UGC. The 'No Objection' may kindly be viewed in the context of the powers available to the Commission to expand from its Fund under Section 16(3) of the UGC Act for the functions under Section 12 (j)"Under section 16(3) of the UGC Act dealing with the fund of the Commission, the Commission may spend such sums, as it may think fit for performing it's functions under the Act and such sums shall be treated as expenditure payable out of the funds of the Commission. Further, in section 12 dealing with the "Functions of the Commission" clause (j) empowers the Commission to perform such other functions as may be deemed necessary by the Commission as may be incidentally or conducive to the discharge of it's general duty for the promotion and coordination of the University Education. Therefore, section 16(3) read with section 12(j) implies that for the plan of construction of the proposed campus of the UGC, being conducive to the discharge of it's functions, the Commission was well within it's power to use it's fund for the said purpose".

In the light of the aforesaid, after discussing the above matters in length, the members of the Commission in a meeting held on 10th March, 2008 unanimously resolved that UGC being a Statutory Body established and governed under the University Grants Commission Act, 1956, has complete autonomy to perform it's functions as prescribed under the UGC Act, 1956. The members further unanimously resolved that as per the provisions of the UGC Act, 1956, the UGC is empowered to perform all such other functions as may be deemed necessary by the Commission for advancing the cause of Higher Education in India or as may be incidental or conducive to the discharge of it's other functions as provided in section 12 of the UGC Act, 1956. The Commission, therefore, further emphasized and unanimously resolved that no financial and Administrative approval of the Ministry of Human Resource Development and the Ministry of Finance is required. Thus even though no prior clearance of the Government was required, the Commission approached the Central Government for administrative and financial approval and the Government gave its no Objection thereto. However, UGC had not directly approached Ministry of Urban Development for sanction as being an autonomous body of M/HRD, UGC is supposed to route all such proposals through its administrative ministry *i.e.* M/HRD.

Ed. CIL being Government of India undertaking under the Ministry of HRD was awarded the work by UGC. The Commission was not aware of the requirement of obtaining a 'No Objection' from the Ministry of Urban Development while awarding the work to the Ed. CIL. Awarding the deposit work to the CPWD would have required $33\frac{1}{3}$ percent of the estimated project cost to that agency, whereas the Commission has given an advance of only Rs. 4.00 crores to Ed. CIL.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 3

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

- (i) UGC had not obtained formal administrative and financial sanctions from the Ministry of Human Resource Development (Department of Higher Education);
- (ii) They had also not obtained 'No Objection Certificate' from Ministry of Urban Development as required under General Financial Rules for not getting the work executed through CPWD;
- (iii) Additional liability of Rs.6.45 crore had been incurred by the UGC on account of consultancy charges (including service tax of Rs. 59.75 lakhs) payable to Ed. CIL over and above the project cost;
- (iv) UGC had irregularly released (September 2003) Rs 4.00 crore as interest free mobilization advance to Ed. CIL;
- (v) There was no clause in the agreement to protect the interest of UGC in the event of delays attributable to Ed/ CIL;
- (vi) Payment of service tax of Rs. 59.75 lakh (10.2 per cent on estimated cost) on consultancy charges payable to Ed. CIL was also irregular as according to provision contained in Finance Act, 1994, Service tax is not leviable on construction of Government buildings which are not used for commercial purposes; and
- (vii) As per agreement the work was to be completed by November 2005. But even after lapse of 37 months from signing of the agreement with Ed.CIL, the construction is yet to commence.

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

[S. No. 3, Para 56 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

- (i) The Commission had entered into a fresh agreement with Ed.CIL on 26th February, 2008. A copy of which is enclosed at **Annexure-I**. The Commission at its meeting held on 10.03.2008 considered the agreement signed on 26th February, 2008 between Ed.CIL and UGC for construction of New Building Complex for UGC at JNU Campus. The issue whether UGC would require the approval of MHRD or Ministry of Finance came up for discussion. In the light of the provisions of UGC Act, 1956 particularly provision made in the Sections 12, 12(b), 12(c), 12(cc), 12(j), 16(3) and also the reply of MHRD to Qr. No. 4 as recorded in the minutes of the meeting of Public Accounts Committee dated 30th July, 2007, the Commission unanimously resolved that no financial and administrative approval of MHRD and Ministry of Finance are required. A copy of the

minutes of the meeting of the commission dated 10.03.2008 is **enclosed as Annexure-II** for ready reference.

- (ii) A NOC from the Ministry of Urban Development is being obtained through M/HRD for not getting the work executed through CPWD. Copies of the letters dated 2-5-08, 16-9-08, 31-10-08, 1-12-08 and 24-12-08 sent to M/HRD are given as **Annexure-III**. The work in question was initially awarded to CPWD and was later withdrawn from them. So far as adoption of GFR by UGC concerned, the Commission has been following the general rules framed under GFR excepting the one relating to approval of expenditure Finance Committee (EFC) as the UGC is an autonomous organization and adoption of this procedure shall entail considerable delay.
- (iii) UGC agreed to pay consultancy charges of Rs. 6.45 crores including service tax of Rs. 59.75 lakhs to Ed. CIL keeping in view the comparative advantages enumerated by Ed. EIL in comparison to CPWD which are given in the Table in the next page.

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

No.	In case work was undertaken by CPWD	In case, work is undertaken by Ed. CIL
(iii)	<p>CPWD retains the initial deposit of 33.33% of the estimated cost obtained as the 1st instalment till the last and raises monthly bill @ 100% for the expenses incurred by them.</p> <p>(As per CPWD's Works-Manual 2003, clause 3.5.2)</p>	<p>In case of Ed.CIL, all the expenditure incurred at pre-construction stage is made from the initial advance provided by the UGC. As such, the expenditures incurred for survey work, geo-technical investigations, publication of press notice for inviting Construction Agencies for pre-qualification process, fees of the statutory authorities, documentation of bids, etc. is adjusted from this advance. Further at construction stage, Ed. CIL adjusts the advance @ 10% of the value of each running account bill as per the terms and conditions of the Agreement between UGC & Ed.CIL.</p>
iv)	<p>In case of CPWD, when delays are experienced by them in obtaining funds from the Client organization and there is a requirement to incur expenditure out of the 33.33% reserve to keep the works going, the matter is brought to the notice of Superintending Engineer/Chief Engineer promptly for taking up the matter with the Client Department.</p> <p>Further in case of CPWD, no expenditure is incurred by them, on Deposit Works out of CPWD grants.</p> <p>(As per CPWD Manual-2003 Clause 3.5.3)</p>	<p>In case of Ed.CIL, when delays are experienced to obtain funds from sister organizations, Ed.CIL at critical stages has funded the project from its internal resources so that the project does not suffer and the work is not held up.</p> <p>This practice enhances the comfort level of the Client organization and ensure the timely completion of the projects.</p>
(iv)	<p>The release of interest free mobilization advance of Rs. 4.00 crore to Ed. CIL was in accordance with the term and conditions of the agreement. As per the agreement, the 30% of the total estimates should be made as mobilization advance within 30 days of the agreement. It is further explained that in case of CPWD, for works undertaken for autonomous bodies financed entirely from Government funds (like UGC), CPWD seeks funds equivalent to 33.33% of the estimated cost of the work as a deposit in advance. As per CPWD's Works-Manual 2003, Clause 3.5.2 and 3.5.3, the UGC need to pay Rs. 20.55 crore to CPWD as advance deposited in case the work was awarded to CPWD. However, in case of works undertaken by ED.CIL, a mobilization advance of</p>	

Rs. 4.00 crore only *i.e.* equivalent to 6.49% of the estimated cost of work had only been provided by UGC for assignment. It may be mentioned that during this period most of the designing work has been completed by Ed.CIL.

(v) The matter for the provision of adequate safeguards to protect the interest of the UGC particularly in the matter of delays attributable to Ed.CIL was examined and the new substitute Agreement dated 26.2.2008 ensures this issue. Clause 7.1 of the new substitute agreement reads that in the event the completion of the work is delayed beyond 30 months from the date of signing of the instant agreement due to reasons attributable to Ed.CIL, Ed. CIL shall be liable to pay to UGC a compensation @ Rs. 40,000/- per month, subject to ceiling of 5% of the total consultancy charges calculated @ 8.75%.

(vi) The service tax is payable by Ed. CIL on the consultancy charges recoverable from UGC, for being deposited in turn with the Central Government. Ed. CIL is not exempt from the service tax in respect of consultancy fee charged by it on its services for clients including the UGC. It cannot be treated as included in Project Cost. It is an extra element.

(vii) While the Ed. CIL has been making all efforts to start the work, it could not do so far want of statutory clearances from various bodies such as, Delhi Urban Arts Commission (DUAC), Delhi Metro Rail Corporation (DMRC), Airport Authority of India (AAI) and Delhi Fire Service, apart from the necessary environmental clearance. As on date, the statutory clearances from all the statutory bodies have been obtained. Only final approval from DDA is awaited, which is in the final stages.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 4

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

[S.No. 4, Para 57 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

The main reason of delay has been due to consistent delayed clearances from various statutory bodies, which are essential before starting any construction work which can be termed as 'procedural delay'. It is not uncommon that many big projects in Delhi have suffered such procedural delays. As informed by the Ed. CIL, clearances from all the statutory agencies have been obtained. As on date only final approval from DDA is awaited which is in final stage.

The latest position on the project is that the construction work has not yet been started due to non-receipt of final approval from DDA. Pending DDA Final approval, Ed. CIL is taking action to re-tender the project as per Expenditure Finance Committee (EFC) direction.

UGC do not have its own in house Division of Engineers and Architects. It had to depend on outside experts for such an ambitious project. UGC could not get a satisfactory layout plan either from CPWD, architects or School of Planning and Architecture inspite of its best efforts and initiation. At last it decided to handover the project on 'turnkey basis' to Ed. CIL being a body under the Ministry of HRD.

Thus it is observed that there is a 'procedural delay' in getting the clearance from the statutory bodies which is beyond the control of either UGC or Ed. CIL.

The Office has already signed the substitute agreement on 26.2.2008 where all the conditions are clearly spelt out and ensures functional coordination between the UGC and Ed. CIL for speedy completion of the project. The project is scheduled to be completed within 30 months of coming into force of the substitute agreement from 6th March, 2008.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007)

Observations/Recommendations No. 5

The Committee have been informed that being statutory/Autonomous Body, it is not compulsory for the UGC to award its construction work to CPWD, as it is in the case of Government Departments. However, the UGC have failed to furnish convincing explanation as to what prompted them to opt for Ed. CIL rather than the CPWD. While observing that the project for construction of UGC complex was plagued with abnormal delays, the Committee feel that if the work had been executed through CPWD, which was earlier awarded the contract in April, 1991, it could have been possibly completed by them earlier, because being a Government of India organization, the CPWD provides a dedicated project team in case of important and time bound projects. The Committee find in their examination that no attempt was made by the UGC to identify the financial benefits that would have been received in case the work was awarded to CPWD; proper exercise was also not undertaken to verify the technical capabilities of both the agencies; further, measures were not taken to ensure that the requisite time schedule of completion of the project would be met either by the CPWD or Ed. CIL. The Committee thus cannot but come to an inescapable conclusion that the selection of a particular agency was almost pre-determined in the instant case. In the light of the ham-handed manner in which the

contract has been handled, the Committee while expressing their displeasure in the matter, recommend that UGC should at least now evolve a policy to restrict allotment of work to those agencies which not only have a track record of being genuine contractors but are also found adhering to the terms and conditions of the contract, including timely completion of the project.

[S.No. 5, Para 58 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

Award of the job to Ed. CIL was not pre-determined due to the fact that initially UGC awarded the job to CPWD. When CPWD could not furnish the satisfactory layout plan to UGC and also UGC tried to get the lay out plan done by other agencies without any satisfactory result, the contract was given to Ed. CIL assuming that Ed. CIL being an organization under Ministry of HRD and a sister concern of UGC under one umbrella there could be a good coordination between the two in respect of completion of this building. It will not be out of place to record here a portion of letter by the then UGC Chairman, Dr. Arun Nigavekar to Shri V.S. Pandey, the then Joint Secretary, MHRD which reads as follows:—

“We intend to lay the foundation stone of the building on 28th December, 2002 at the hands of either the Prime Minister or the President of India. I have had discussions with the Hon'ble HRM and he has suggested that Ed. CIL would be able to do the task of construction of the UGC's building on turnkey basis in a time bound manner. I am therefore approaching you with a request to ask the appropriate officer in Ed. CIL to get in touch with Dr. Dev Swarup, Deputy Secretary, UGC who is coordinating the activity of the construction of the UGC building.”

This was also reported in the Commission's meeting held on 27.12.2002.

The track record of the details of the constructions works undertaken by Ed. CIL during last ten years is also supportive for giving the work to them. The details are enclosed at *Annexure-IV*.

However, the new substitute agreement between Ed. CIL and UGC which has been signed on 26.2.2008 will take care of all these issues recommended by PAC through mutual coordination/cooperation and participation by both UGC and Ed. CIL.

The issue of finalization of revised Agreement was discussed in the meeting dated 20.02.2008 chaired by Secretary (HE), MHRD. The decisions taken in the meeting are as follows:—

“After the submissions by Ed. CIL and UGC with regard the finalization of the agreement, the Secretary, MHRD gave his approval regarding the following points to be included in the revised agreement:—

1. The compensation for delay caused by Ed. CIL will have a ceiling not exceeding 5% of the total consultant charges payable to Ed. CIL.

2. The consultancy charge payable to Ed. CIL will be reduced to 8.75% from the present level of 9.5% which will meet all the issues pertaining to the interest earned on mobilization advance and other related aspects. Hence, the Ed. CIL will not refund interest to UGC.
3. So far as the statutory approval is concerned, the same will be the joint responsibility of both Ed. CIL and UGC. This would mean that Ed. CIL will obtain the necessary approval and UGC will facilitate the process by way of signing of the necessary documents as and when required.
4. A letter of request will be sent by the UGC to Ministry of Urban Development for an *Ex-post facto* "No Objection Certificate" in relation to award of work to Ed. CIL.
5. The Ed. CIL team confirmed that the proposed building shall have following compliant mechanisms:
 - (a) Water harvesting
 - (b) Energy Efficient
 - (c) Green Building
 - (d) Environment Friendly Building
 - (e) Building providing Good Wind Flow pattern
6. The Chairperson, Ed. CIL assured that the revised financial estimate will be Submitted to the UGC **on or before 5th of March, 2008.**
7. It was further decided that revised agreement incorporating all the above points may be signed by UGC and Ed. CIL on the **afternoon of 21st February, 2008.**
8. It was stated that the above revision harmonise the agreement with the PAC recommendations. It was decided that strong monitoring mechanisms be put in place at all levels to ensure timely completion of project with no further slippages."

For an affective and speedy implementation of this project, it was desired that one officer from UGC may be identified who would interact with Mr. Lokhande, the representative from Ed. CIL for this purpose. A copy of the substitute new agreement is enclosed at **Annexure-1.**

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 8

Another disquieting aspect observed by the Committee is that UGC had incurred an additional liability of Rs. 6.45 crore on account of consultancy charges (including service tax of Rs. 59.75 lakh) payable to Ed. CIL over and above the project cost. The Committee are constrained to point out that instead of initiating steps to undertake a

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

[SI.No. 8, Para 61 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

The matter for the provision of adequate safeguards to protect the interest of the UGC particularly in the matter of delays attributable to Ed. CIL was examined and the new substitute agreement ensures this. The relevant portion in the agreement is discussed below:

“7.1 In the event, the completion of the work is delayed beyond 30 months from the date of signing of the instant agreement due to reasons attributable to Ed. CIL, Ed. CIL shall be liable to pay to UGC a compensation @Rs. 40,000/- per month, subject to ceiling of 5% of the total consultancy charges calculated @ 8.75%.”

“5.2 CONSULTANCY CHARGES

Ed. CIL consultancy charges of 8.75% of Actual Final Project cost will be regulated as under:

Sl. No.	Stage	Cumulative percentage of Ed. CIL's Consultancy Charges
A.	On execution of the Agreement between the UGC and Ed. CIL.	10% of Ed. CIL's consultancy charges calculated @ 9.5% as per earlier agreement, on the cost as per initial project estimate/has already been adjusted from the initial mobilization advance of Rs. 4.00 crores as per the earlier Agreement dated 08.05.2003. It is clarified that 10% of Ed. CIL's consultancy @ 8.75% and extra payment made to Ed. CIL under this head, shall be adjusted from the subsequent payment stage.

S.No.	Stage	Cumulative percentage of Ed. CIL's Consultancy Charges
B.	On preparation and approval of preliminary drawings and estimate.	30% of Ed. CIL's consultancy charges on the preliminary estimated cost after adjusting the earlier payment. It is certified that 30% of Ed. CIL's consultancy charges shall now be calculated @ 8.75% and extra payment made to Ed. CIL under this head, shall be adjusted from the subsequent payment stage.
C.	On preparation of detailed building drawings and designs.	45% of Ed. CIL's consultancy charges on the preliminary estimated cost, after adjusting the earlier payment.
D.	On completion of solicitation process	60% of Ed. CIL's consultancy charges on tendered cost, after adjusting the earlier payment.
E.	During and on completion of the construction according to the stages set forth in the Contract Deed with the construction agency for payment to the Construction Agency.	100% of Ed. CIL's consultancy charges on actual cost, spread over the period of the project linked to settlement of R/A bills. The last instalment will be adjusted in accordance with the Actual Final Cost, after adjusting the earlier payment.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC dated 30th November, 2007).

Observations/Recommendations No. 9

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

As regards obtaining of formal administrative and financial approvals, contradictory views have been expressed on the issue; the Ministry of HRD had advised the UGC *vide* their letter dated 4 December, 2003 that for a project of Rs. 30 crore, the competence to sanction lies with no authority lower than the Expenditure Financial Committee (EFC) of the Ministry and that prescribed norms do not seem to have been observed before award of work to Ed. CIL. The UGC was also asked to place the matter again before the Commission for fresh consideration, which the UGC did not do. Instead, they proceeded with the contract and thought it fit to approach the

Ministry as late as February, 2007 for formal *post-facto* approval for incurring of expenditure towards payment already made to Ed. CIL. This however, ran contrary to the UGC's earlier stand that they were well within their powers to sanction the work to Ed. CIL and no formal or administrative sanction of the Ministry was required for the project. In response to the subsequent reference by the UGC, the Ministry asked the UGC for providing further details regarding estimates, scope and coverage of the project and the justification thereof, which again did not serve as Ed. CIL was already in the midst of executing the contract. The Committee believe that the Ministry and the UGC's position in the matter is contradictory and rather confounding. The Committee would require further clarification in this regard from the Ministry.

[Sl. No. 9, Para 62 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

On perusal of the observation of the PAC, UGC thought it proper to again write to the Ministry of HRD for financial and administrative approval irrespective of the fact that it has already obtained 'no objection' from the HRD Ministry earlier, though it was not necessary by virtue of the provision in Section 16 (3) read with provisions of Section 12 of the UGC Act which implies that for the plan of construction of the proposed campus of the UGC, being conducive to the discharge of its functions, the Commission was well within its power to use its fund for the said purpose.

The Commission again considered the matter at its meeting held on 10th March, 2008 and has resolved to approve the following:—

1. Agreement between Ed. CIL and UGC.
2. Creation of Project Monitoring Cell and assign Director (Admn.) as Project Co-ordinating Officer.
3. Approval of the escalation cost from Rs. 6811.00 lakhs to the present value based of prevailing scheduled rates which shall be submitted by Ed. CIL.

The Ed. CIL later, submitted revised preliminary estimates of Rs. 113.85 crores and tendered cost of subject work for civil and electrical works to the tune of Rs. 71,89,17,315. This was approved by the Commission and sent for MHRD concurrence on 25-09-2008. The MHRD considered the project in the Expenditure Finance Committee (EFC) meeting on 2-3-2009 and conveyed approval for Rs. 6497.00 lakhs on 11-5-2009 for the 1st phase of construction of the project with substantial reduction in the scope of the project.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 12

Yet another instance confirming lack of financial prudence on the part of the UGC relates to the payment of Rs. 40,000 per month for the extended period given to Ed. CIL towards maintenance of its site establishment. What is of concern to the Committee

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

[Sl. No. 12., Para 65 of 60th Report of PAC
(Lok Sabha)].

Action Taken by the Government

In the meeting held under the Chairmanship of Secretary, MHRD on 20.02.2008 wherein the representatives of UGC and Ed. CIL were present, it was decided that the consultancy charges payable to Ed. CIL will be reduced to 8.75% from the present level of 9.5% to set off the interest component payable by Ed. CIL on mobilization advances of Rs. 4.00 crores. The matter for the provision of adequate safeguards to protect the interest of the UGC particularly in the matter of delays attributable to Ed. CIL was examined and the new substitute agreement dated 26.02.2008 ensures this. A clause has been incorporated in the agreement that Ed. CIL will also have to pay at the rate of Rs. 40,000/- a month if the delay is on account of them.

(Ministry/Department of MHRD/UGC O.M.No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 14

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

- (i) Ed. CIL have completed the process of analysis and evaluation of construction agencies qualifications;
- (ii) The parking plans have been modified in accordance with the provisions of the latest 'Delhi Master Plan-2021';

- (iii) Action for environmental clearances is under way with DPCC and Ministry of Environment and Forests; and
- (iv) UGC has been requested to expedite clearances from DUAC and DDA and a draft of the revised Agreement between UGC and Ed. CIL is under preparation.

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

[Sl. No. 14, Para 67 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

- (i) The UGC has set up a Project Monitoring Cell for monitoring the execution of the project.
- (ii) A substitute revised agreement has been signed on 26.2.2008.
- (iii) A revised cost estimate has been submitted by Ed. CIL which was sent to MHRD for approval. The MHRD has conveyed its final approval for Rs: 6497.00 lacs for the project to be implemented in the 1st Phase. The matter has been ratified by the commission in its meeting held on 19-05-2009.
- (iv) The EFC has directed to re-tender the project and Ed. CIL now is in the process of re-tendering the project as per EFC direction.
- (v) All other statutory approvals have already been obtained as reported by the Ed. CIL. DDA's final approval is expected at any time very shortly.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC dated 30th November, 2007).

CHAPTER III

OBSERVATIONS/RECOMMENDATIONS, WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM THE GOVERNMENT

Observations/Recommendations No. 6

The Committee have further been informed that UGC had entrusted the task to Ed. CIL with the hope that there would be good coordination between them and the work will be done in a time bound manner with proper quality. Taking into account the Ed. CIL had badly delayed the project (the original target year being 2003), the Committee can only conclude that this project has been symptomatic of bad planning and total absence of functional coordination between the UGC and Ed. CIL. The Committee would not like the Ministry of Human Resource Development to take concrete initiatives to oversee the project and to maintain coordination between the Ministry and the UGC on the one hand and the UGC and Ed. CIL on the other in order to ensure speedy completion of the project with proper enforcement of terms and conditions of the contract and for dealing with the problems arising therefrom.

[Sl. No. 6, Para 59 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

The office has now signed the substitute new agreement with Ed. CIL on 26.02.2008 wherein all the conditions are clearly spelt out and ensures functional coordination between the UGC and Ed. CIL for speedy completion of the project in a time bound manner. Penalty clause has also been incorporated in this agreement for both the parties in case of any default on either party.

(Ministry/Department of MHRD/UGC O.M.No. 32/1/6/2007/PAC
dated 30th November, 2007).

Observations/Recommendations No. 11

The Committee noticed that as per agreement, the work was to be completed by November, 2005. But even after a lapse of 37 months since the awarding of work, only the master plan, preliminary drawings and design have been prepared and certain approvals of local bodies in the process of being obtained. The Committee have been informed that the project could not be started for want of statutory clearances from various bodies like the DDA and Delhi Urban Arts Commission (DUAC). The Secretary, Ministry of Human Resources Development during evidence informed the Committee that as per the agreement, the primary responsibility for getting those clearances rested with UGC. On the causes that contributed to delay, the Committee only find that these are the normal reasons to which delays in execution of all Government works are attributed and these should have been anticipated. The Committee find it difficult to

appreciate as to how and why these factors were not taken into account at the time of planning the project and before prescribing targets for completion of the project. These delays could have been avoided by better anticipation, coordination and effective monitoring by UGC. The Committee expect UGC to streamline their administrative mechanism and improve their procedures/efficiency.

[Sl. No. 11, Para 64 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

Since UGC do not have any specialized agency to implement, monitor and obtain the necessary approval from the agencies concerned, it had appointed ED. CIL as a Project Management Consultant to do the above activities on a turn-key basis. These have been informed to Ed. CIL while signing the agreement in 2003 as well as in 2008. Ed. CIL has agreed to take up these activities on behalf of UGC and the Commission has been facilitating the work of getting the approval from various agencies.

A Project Monitoring Committee consisting of the following members has been constituted to oversee the issue relating to the "New Campus of UGC" on a regular basis:

1. Chairman, UGC
2. Vice-Chairman, UGC
3. Secretary, UGC
4. Prof. A Samanta, Commission Member, UGC
5. Shri M.K. Gupta, Suptd. Engineer, IUAC, New Delhi
6. Shri I.D. Rastogi, ADG, CPWD (Retd.,) New Delhi
7. Prof. Virender Kumar, Prof. of Civil Engineering and Consultant, BHU, Varanasi

Consultants:—

Shri S.L. Karunakaran, Addl. Director General (Retd.), CPWD, New Delhi.

Shri S. L. Narasimhan, Suptd. Engineer, (Electrical), (Retd.), CPWD, New Delhi.

The Director, (Admn.) UGC is the Project Co-ordinating officer of the project.

In the light of the PAC Para the above Committee shall be broad based to include more experts as and when required and shall be called as "Project Oversight Mechanism" to oversee the implementation of the project in order to monitor the efficiency as also to improve the procedures of work. Provision has been kept in the substitute Agreement to communicate each problem in a time bound manner reciprocally.

(Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

CHAPTER IV

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Observations/Recommendations No. 7

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

As regards the mandate and capability of Ed. CIL in the construction of similar projects, the Committee have been informed that Ed. CIL has diversified into construction activities and have the requisite capability to execute such projects. However, considering the fact that Ed. CIL could not secure even basic approvals from agencies and could not commence construction even after a long period of 37 months or so, the case of Ed. CIL as a construction agency/contractor as distinct

from a project consultant seems to be on slippery ground. In such an obvious scenario, the Committee are constrained to recommend that the Ministry of HRD should re-appraise the role and mandate of Ed. CIL to undertake work as a construction agency in addition to their original mandate as a pure project consultant.

[S. No. 7 Para 60 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

- (i) The work relating to construction of new office complex is a one time activity. UGC does not have its own engineering or construction wing. The Commission had appointed a monitoring committee to periodically review the progress of the work. The delay has been due to reasons beyond the control of either the Ed. CIL or the UGC as explained in response to Question No. 57.
- (ii) In case of mobilization advance CPWD & Ed. CIL both pay a mobilization advance to the construction agency generally by charging a simple interest @ 10% per annum. However, it is clarified that the term "mobilization advance" has been inappropriately used in the present context, as it relates only to the contractor. In the case of CPWD or Ed. CIL the advance is given by way of deposit towards cost of construction in different stages. However, the interest so accrued on the mobilization advance is recovered from the construction agency's bill and is credited to the project account.
- (iii) The inordinate delay is due to the fact that most of the statutory authorities have gone through one or two rounds of modifications which consumed much time attributed to procedural delay. This can be seen by the following explanation given by Ed. CIL.

"For the DDA in principle approval, finally after making the master plan and getting clearances, we applied on 3.8.2004 and we receive the in principle clearance on 3.3.2005. Then the other authority from which we needed clearance was the Airport Authority of India to which we applied with all the paper work and we got the clearance on 25.1.2005. Then comes the Delhi Metro Railway. We have applied on 21.12.2004 and we got the clearance on 7.4.2005. Then after getting the in principle approval from DDA, we had to apply to the Delhi Fire Services on 3.3.2005. We got the clearance from the Delhi Fire Services on 1.6.2006. Then we applied to the Urban Arts Commission, soon after getting the in principle from DDA on 3.3.2005. The clearance from Delhi Urban Arts Commission was still awaited. We have had two rounds. They had observation round and we have replied to them. Then they had another round of observation. We have again replied them. After 3 or 4 sitting round of repeated exercises we were able to get DUAC approval. Meanwhile we have also got environmental clearance. Now, 3 or 4 round of sittings were already completed and we are finalizing with the DDA for the final approval.

Now, that the UGC has set up a Project Monitoring Committee for monitoring the execution of the project, it is expected that the project will be completed within the stipulated time as per the substitute agreement. An officer both in UGC and Ed. CIL have been appointed as the project Coordinating Officers so as to coordinate all the activities relating to the construction.

Since the planning and designing work was in progress, the UGC did not think it proper to withdraw the advance from Ed. CIL in the midst of the process of obtaining the statutory clearances from the various authorities, which were in advanced stages and for which they had incurred some expenditure also. So far as changing the mandate of Ed. CIL, as desired by PAC is concerned, the M/HRD has conveyed "EFC also considered the response of the Ministry of Urban Development (Works Division) dated 2nd March, 2009, stating that Ed. CIL was not mandated to carry out civil or electrical works and is not a PWO within the meaning of Rule 126 (4) of GFR. The EFC was of the opinion that Ed. CIL, being a PSU under M/HRD as also having substantial past experience in similar construction projects especially the establishment of the Indian Institutes of Information Technology in Thiruvananthapuram, Gwalior & Allahabad, may continue with providing project management consultancy as per the terms & conditions, including the payment of consultancy charges as specified, arrived at in the agreement dated 26.02.08 worked out between UGC & Ed. CIL with the intervention of the Ministry of HRD. EFC also felt that any change in the construction agency at this stage, when lot of action has already been taken by Ed. CIL may not be in the interest of the project.

(Ministry/ Department of MHRD/UGC O. M. No. 32/1/6/2007/PAC dated 30th November, 2007).

Comments of the Committee

Please *see* paragraph No. 7 of Chapter I.

Observations/Recommendations No. 10

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

Further, as regards non-obtaining of 'No Objection Certificate' from Ministry of Urban Development for not awarding the contract to CPWD, the UGC have replied that as the provisions of General Financial Rules (GFR) relate to works undertaken by the Ministry/Department and not to autonomous organizations, the present work even if assigned to CPWD, would have come under the category of 'Deposit works' to which the provisions of GFRs would not have applied. The Committee are of the

opinion that in the absence of any financial rules adopted by the UGC through a resolution, the Government should have ensured the applicability of the GFRs in latter and spirit. A selective adoption of the GFRs for the functioning of UGC is inexplicable. It is only after the Committee have taken up the subject for examination, the Ministry of HRD also took up the matter and issued instructions to UGC to formally adopt the GFRs to remove the ambiguity. The Committee cannot but depurate the lackadaisical approach displayed both by the Ministry as well as UGC to such an important administrative aspect of their functioning. The Committee desire that 'no objection' of the Ministry of Urban Development as required by GFRs be first obtained by UGC/ Ministry of HRD for the instant case and thereafter, UGC may adopt its own Rules or the General Financial Rules of Government of India as they may deem fit.

[S. No. 10 Para 63 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

As per observation of the PAC, a NOC from the Ministry of Urban Development is being obtained through the HRD Ministry. So far as adopting GFR is concerned, the Commission has been following the general rules framed under GFR excepting the one relating to approval of Expenditure Finance Committee (EFC) as the UGC is an autonomous organization and adoption of this procedure would entail considerable delay.

(Ministry/ Department of MHRD/UGC O. M. No. 32/1/6/2007/PAC
dated 30th November, 2007).

Comments of the Committee

Please *see* paragraph No.10 of Chapter I

Observations/Recommendations No. 13

Furnishing the details of the cost of the construction project at the time of initiation and the cost at present, the UGC informed the Committee that as on February, 2007, the escalation was 19.8% amounting to Rs. 13.50 crore and that Ed.CIL has been asked to compute and inform the extent of additional cost escalation. The Committee note with much concern that ineffective project management and the excessive delay in execution and completion of the project by Ed. CIL has entailed a huge financial burden on the UGC. While expressing their anguish over the ineptitude of the concerned authorities in the matter, the Committee desire that the Ministry/UGC should take urgent measures to complete the project within the revised time-frame in order to contain further cost escalation of the project. The Committee would like to be informed of the actual cost escalation in this case. The Committee would also expect the UGC and the Ministry to take up the matter of cost escalation with Ed.CIL and impose suitable penalties on them.

[S. No. 13. Para 66 of 60th Report of PAC (Lok Sabha)].

Action Taken by the Government

Ed.CIL submitted revised preliminary estimate of Rs. 113.85 crores in April, 2008. It also submitted tendered cost of subject work for civil and electrical works amounting to Rs. 71,89,17,315.00 in July, 2008. The Commission approved both the preliminary cost and the tendered cost in its meeting held on 10.09.2008. This was referred to the M/HRD for concurrence. The M/HRD has conveyed its final approval on 11.05.09 for Rs. 6497.00 lakhs for the following after considering the project at its EFC meeting held on 5.12.08:—

- (a) Academic and Administrative Complex area of 16,551 sq.m. instead of 23,775.75 sq.m. as originally proposed.
- (b) Guest House block of 20 rooms instead of 120 rooms as originally proposed.
- (c) Driver Dormitory as originally proposed.
- (d) 8 flats for Group D residences instead of 16 flats as originally proposed.
- (e) Deletion of Offices' residences and the Sports & Cultural Centre.
- (f) Proportionate external development and provision of ancillary services for the revised area.

The revised project proposal at a cost estimate of Rs. 6497 lacs has been approved by the competent authority.

The EFC has directed that the project may be re-tendered in view of the substantial reduction in the scope of the project to be implemented in the 1st Phase as well as considering the scenario of a general reduction in rates in respect of raw materials.

[Ministry/Department of MHRD/UGC O.M. No. 32/1/6/2007/PAC dated 30th November, 2007].

Comments of the Committee

Please *see* paragraph No. 13 Chapter I.

CHAPTER V

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

—NIL—

NEW DELHI;
13 November, 2009
22 Kartika 1931 (Saka)

JASWANT SINGH,
Chairman,
Public Accounts Committee.

APPENDIX-I

MINUTES OF THE THIRD SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2009-10) HELD ON 27TH OCTOBER, 2009

The Committee sat from 1230 hrs. to 1330 hrs. on 27th October, 2009 in Room No. 53, First Floor, Parliament House, New Delhi.

PRESENT

Shri Jaswant Singh — *Chairman*

Lok Sabha

2. Shri Naveen Jindal
3. Shri Bhartruhari Mahtab
4. Shri Jitendra Singh (Alwar)
5. Kunwar Rewati Raman Singh
6. Shri Aruna Kumar Vundavalli

Rajya Sabha

7. Shri Prasanta Chatterjee
8. Shri Sharad Anantrao Joshi
9. Shri Ashwani Kumar
10. Dr. K. Malaisamy

SECRETARIAT

1. Shri Raj Shekhar Sharma	—	<i>Director</i>
2. Shri M.K. Madhusudan	—	<i>Additional Director</i>
3. Shri Sanjeev Sharma	—	<i>Deputy Secretary</i>

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

1. Shri Vinod Rai	—	Comptroller & Auditor General of India
2. Ms. Rekha Gupta	—	Dy CAG Report Central (RC)
3. Shri Gautam Guha	—	Director General of Audit, (Defence Services)
4. Shri R.B. Sinha	—	Director General (Report Central)
5. Shri P.K. Kataria	—	Pr. Director (Report Central)

A. Representatives of the Ministry of Human Resource Development (Department of School Education and Literacy)

1. Smt. Anshu Vaish	—	Secretary (SE&L)
2. Shri S.K. Ray	—	AS&FA(HRD)
3. Smt. Anita Kaul	—	Joint Secretary
4. Shri Anant Kumar Singh	—	Joint Secretary

B. Representative of the Ministry of Health & Family Welfare

Shri Amit Mohan Prasad — Joint Secretary

C. Representative of Ministry of Consumer Affairs, Food and Public Distribution (Department of Food & Public Distribution)

Shri Bhagwan Sahai — Joint Secretary

2. ***	***	***
3. ***	***	***
4. ***	***	***

The witnesses, then withdrew.

A copy of the verbatim proceedings of the sitting has been kept on record.

5. The Committee, then, took up the following Draft Reports for consideration:—

(i) Draft Action Taken Report on the Observations/Recommendations of the Committee contained in their Sixtieth Report (Fourteenth Lok Sabha) on **"Irregular Award of Construction Work"**

(ii) ***	***	***
(iii) ***	***	***

6. After some discussion, the Committee adopted the above-mentioned Draft Reports. The Chairman, however, desired that suggestions/modifications, if any, of the Members may be communicated to the Lok Sabha Secretariat latest by 4th November, 2009.

7. The Committee, then, authorized the Chairman to finalise the Draft Reports in the light of the factual verifications received from the Office of the C&AG and present the same to the House on a date convenient to him.

The Committee then adjourned.

*** Matters not related to this Report.

APPENDIX-II

(*Vide* para 5 of introduction)

Analysis of the Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their Sixtieth Report (Fourteenth Lok Sabha)