

**Minutes of the 3<sup>rd</sup> State Level High Powered Steering Committee (SHPSC) of KSUDP/JnNURM/UIDSSMT held on 5<sup>th</sup> August 2020 at 04:00 PM in the Committee Room of Chief Secretary, Government of Kerala**

The meeting commenced at 04:00 PM with Dr. Vishwas Mehta IAS, Chief Secretary, Government of Kerala in the chair (List of participants enclosed as Annexure I).

Sri. Venkatesapathy S. IAS, Managing Director of Kerala Water Authority, presented the agenda notes.

**Item No.1: APPROVAL OF MINUTES OF THE 2<sup>nd</sup> MEETING OF SHPSC.**

**Decision taken:** *The Committee approved the minutes of 2<sup>nd</sup> meeting of SHPSC held on 13<sup>th</sup> November 2019.*

**Item No.2: ACTION TAKEN REPORT ON THE DECISIONS OF THE 2<sup>nd</sup> SHPSC**

<i>Agenda Item</i>	<i>2<sup>nd</sup> SHPSC Decision</i>	<i>Action Taken</i>	<i>3<sup>rd</sup> SHPSC Decision</i>
2.1: KSUDP Sewerage Project of Kollam Corporation – Rehabilitation of Existing sewerage system and extension of sewerage system to Zone A1 -Part I - in Kollam corporation– <b>KLM-SS-01 –Closure of Contract and approval of Variations.</b>	After a detailed discussion, it was decided that the matter should be placed as an agenda in the next Board meeting of Kerala Water Authority and directed to place in the next SHPSC meeting with their specific comments.	<i>Kerala Water Authority (Board) decision obtained. Placed as an Agenda Item No. 4 in this SHPSC</i>	<b>Noted</b>
2.2: KSUDP Sewerage Project of Kollam Corporation– Rehabilitation of Existing sewerage system and extension of sewerage system to Zone A1 -Part II in Kollam corporation– <b>KLM-SS-02 – Closure of contract and approval of variation.</b>	After a detailed discussion, it was decided that the matter should be placed as an agenda in the next Board meeting of Kerala Water Authority and directed to place in the next SHPSC meeting with their specific comments.	<i>Kerala Water Authority (Board) decision obtained. Placed as an Agenda Item No. 5 in this SHPSC</i>	<b>Noted</b>

<i>Agenda Item</i>	<i>2<sup>nd</sup> SHPSC Decision</i>	<i>Action Taken</i>	<i>3<sup>rd</sup> SHPSC Decision</i>
2.3: ADB aided KSUDP Sewerage project of Kozhikode Corporation- construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B) - <b>To arrive at an appropriate decision</b>	<p>The SHPSC observed that serious lapse has occurred on the part of officials working in Kerala Water Authority, Kozhikode city for not extending / encashing the Bank Guarantee against Mobilization Advance given to the Contractor. It was decided to identify the officials responsible for the lapse of Bank Guarantee, thereby causing financial loss to Govt. and to initiate disciplinary action against them. The Managing Director, Kerala Water Authority has been entrusted to give a detailed report on this to Govt.</p> <p>After detailed deliberation, Committee approved the payment for an amount of Rs. 44.49 lakh to the contractor, recommended by 4th SLTC and also decided to approve the claims considered by the 5th SLTC, subject to the condition that the firm substantiates with the required documental proof.</p> <p>It was decided to encash the Bank Guarantee</p>	<p><i>The Vigilance wing of Kerala Water Authority is entrusted to enquire into the lapse in non-extending/ encashing the bank guarantee against mobilisation advance given to the contractor. The enquiry is in progress.</i></p> <p><i>The additional claim recommended by the 6th SLTC and the recommendations of the 8th SLTC are placed as Agenda Item No.3 in this SHPSC.</i></p> <p><i>The Bank Guarantee for Rs. 1,93,91,381/- for the work of STP at Muttathara was encashed on 06.01.2020 and kept with Project Coordinator, JnNURM, Trivandrum. Mobilisation advance given is Rs.2,50,91,500/- and the amount already recovered is Rs.50,18,300/- and the claim already approved by SHPSC</i></p>	<b>Noted</b>

<i>Agenda Item</i>	<i>2<sup>nd</sup> SHPSC Decision</i>	<i>Action Taken</i>	<i>3<sup>rd</sup> SHPSC Decision</i>
	submitted by the same firm for their work of 107 MLD STP at Muttathara, to enable the recovery of the balance amount of mobilization advance and interest, due to Government. If the amount is not sufficient, revenue recovery proceeding shall be resorted to. The recommendation of 2nd SLTC for pre-closure of Contract is also ratified.	for payment to the Contractors is Rs.44,48,702/-. Balance amount pending as Mobilisation is. Rs.1,56,24,498/- which is less than the encashed BG amount of Rs. 1,93,91,381/-. Hence revenue recovery proceedings are not required. Since Mobilisation Advance is interest free as per agreement, no interest needs to be collected. This issue is also placed for clarification as an Agenda Item No.3 in this SHPSC	
2.4: Item No. 4: JNNURM-Water Supply Scheme to Kochi City – Part 1 – Package WS 04 – Design, Supply, laying, testing and Commissioning of 12526m 1118mm OD M.S SW 10 mm thick (Cement lined) Raw Water Gravity Main from Arakkunnam Sump to Malekkadu and from Kayal	SHPSC accorded sanction to release the payment for design services amounting to Rs. 33.09 lakh. The amount should be met from the available fund in the share of JnNURM being kept with the Kochi Corporation and the balance amount required shall be borne from the own fund of Kochi Corporation. The Secretary, Kochi Corporation should intimate to SMMU after	No funds have been received yet from Kochi Corporation	<b>Letter from KWA had been sent on 30/06/2020 in file no KWA/JNNURM/PRO J.C/GR1/E1-106/10. MD, AMRUT informed that, as reported by Kochi Corporation no bill has been received in the Kochi Corporation from KWA.</b>

<i>Agenda Item</i>	<i>2<sup>nd</sup> SHPSC Decision</i>	<i>Action Taken</i>	<i>3<sup>rd</sup> SHPSC Decision</i>
crossing and near Super market at Nettoor to Water Treatment Plant at Maradu-Approval for payment for design services	effecting payment		
2.5: KSUDP - KCH-WS-01- Improvements to Intake Water Treatment Plant and Transmission Mains, Kochi - <i>Fund request for completion of works and extension of time with LD and approval of variations</i>	SHPSC accorded post-facto sanction for extension of time up to 31.03.2019 with LD clause and accorded sanction for the variation proposal amounting to Rs. 28.33 lakh. The amount should be met from the own fund/Plan fund of Kochi Corporation. The Secretary, Kochi Corporation should intimate to SMMU after effecting payment.	No funds have been received from Kochi Corporation. The PC, JNNURM requested the Secretary, Kochi Corporation to remit the amount of Rs.58,52,281/- as part payment (Out of the total amount of Rs.2.46 crores to be paid) to the contractor vide letter dated 9.12.2019.	<b><i>MD, AMRUT informed that, as reported by Kochi Corporation, the payment is under process in ULB.</i></b>
2.6: JnNURM-Water Supply Scheme to Kochi City - Part I - Package – WS - 07 – Clear Water Transmission Main DI Pipes- Design, Supply, Laying, Jointing, Testing and Commissioning of various size from 350mm to 800mm from Treatment Plant to various destinations - <i>Decision on Rate enhancement</i>	SHPSC approved the enhancement of rate eligible to the Contractor amounting to Rs. 119.92 lakh due to delay in handing-over of site by the Employer. The amount should be met from the available fund in state share of JnNURM/Plan fund of Kochi Corporation. LD to be imposed for other reaches where work got delayed due to Contractors fault. The Secretary, Kochi Corporation should intimate to SMMU after effecting payment.	Fund for the final bill amounting to Rs.1,58,33,468/- including Rs. 119.92 lakh approved by SHPSC obtained from Kochi Corporation and payment given to the contractor M/s. Shriram EPC. LD amounting to Rs.15,61,731/- has been deducted from the final bill.	<b><i>Noted</i></b>

<i>Agenda Item</i>	<i>2<sup>nd</sup> SHPSC Decision</i>	<i>Action Taken</i>	<i>3<sup>rd</sup> SHPSC Decision</i>
<b>2.7:</b> UIDSSMT – UWSS to Changanassery Municipality – Supplying, laying, jointing, testing and commissioning of various size of PVC pipes for a length of 15 km for the replacement of damaged AC distribution in Zone II and construction of pump house at Perunna and maintenance for a period of 18 months <i>-Extension of time of            completion without            LD.</i>	SHPSC accorded post-facto sanction for extension of time up to 31.08.2017 and accorded sanction to meet the additional amount of Rs. 1.75 lakh from the fund available with the Municipality under UIDSSMT- Solid Waste Management account. The Secretary, Changanassery Municipality should ensure that only state share should be utilized for this purpose as the unutilized central share with interest to be remitted to GOI	<i>Payment of this            work was made from            savings of UIDSSMT            works of Thiruvalla            and Changanassery            Municipality based            on Contempt of            Court case in WP            No: 24391/2017</i>	<b><i>Noted</i></b>
<b>Other Decisions</b>	<ul style="list-style-type: none"> <li><i>All pending payments and other requirements for works taken up under KSUDP / JNnURM / UIDSSMT should be consolidated and closed within a specified time period.</i></li> <li><i>Considering the large number of pending legal issues in KWA, the MD was asked to explore the possibility of taking more of legal persons on contract or to outsource legal services to a reputed legal firm, in order to ensure timely intervention and filing of appeals. It was asked to list out all pending cases, prioritize</i></li> </ul>	<i>Direction given to            all divisions to            comply and close the            KSUDP/Jnnurm/UI            DSSMT works.</i>  <i>Noted and action            will be taken            accordingly.</i>	<b><i>Noted</i></b>

	<p><i>the same and explore the need of keeping a separate counsel for defending KWA in the NGT</i></p> <ul style="list-style-type: none"> <li>• <i>Taking in to consideration the public protest against sewerage projects in Kollam, the Committee observed that similar works being taken up under AMRUT should not be prolonged in cases where the works are disrupted due to protests and the works should be closed after giving a specific time limit (say 1 month) to the respective ULBs to solve the issues stopping the work.</i></li> </ul>		
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**Item No. 3: ADB aided KSUDP Sewerage project of Kozhikode Corporation- construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B) – Settlement of claims submitted by the firm.**

Details of work
<p><b>Name of Contractor</b> - M/s.UEM India Ltd (Presently Toshiba Water Solutions Private Limited)</p> <p><b>Agreement Date</b> - 27.03.2015</p> <p><b>Contract Value</b> - Rs.29.08 cr.</p> <p><b>Period of completion</b> - 18 months</p> <p>Work started on August, 2015</p> <p>Work stopped by National Green Tribunal Chennai bench on 18/12/2015. Petitioner was Sri. I.K.Biju</p> <p>The Hon' High court of Kerala revoked the stay order on 29/6/2016.</p> <p>On 1/7/2016, UEM was informed to restart the work immediately.</p> <p>The NGT further stayed construction on 11/8/2016.</p> <p>The Mobilisation Advance was given to the firm in 2 instalments in April and May 2015 for Rs. 2,50,91,500/-</p> <p>The Mobilisation Advance recovered from the firm from RA1 / RA2 bills of the firm is Rs. 50,18,300 /-.</p> <p>The outstanding BG with the firm is Rs 2,00,73,200/-</p>

### Brief history of the work and Action Taken Report

- Work stayed by National Green Tribunal Chennai bench on 18/12/2015.
- On 22/12/2015, UEM was directed to halt the construction works related to STP with immediate effect.
- On 7/1/2016, UEM informed that work at STP site stopped by the firm completely since December 22, 2015. They also requested to provide further update on resumption of construction work at site enabling them to plan mobilization of their man power and resources.
- M/s UEM India Pvt. Ltd vide letter dated 14/4/2016 has raised compensation claim towards stoppage of work amounting to Rs.1.08 Cr. for period from 22-12-2015 to 31-3-2016.
- The Hon' High court of Kerala revoked the stay order on 29/6/2016.
- On 1/7/2016, UEM was informed to restart the work immediately.
- The firm submitted revised compensation claims on 15/7/2016 for Rs. 1.16 Cr. for the period from 18-12-2015 to 15/7/2016. (In the claim submitted by the firm, supporting details were not submitted.)
- Additional Project Manager informed Bank of Tokyo Mitsubishi and UEM on 22/9/2017 to renew bank guarantee for further one year since bank guarantee is going to expire on 30/9/2017 and also requested that the liabilities under this Bank Guarantee shall be discharged unless a written intimation is given to the effect that there is no liability outstanding against the contractor in respect of the above work.
- The bank informed the address change on 11/1/2018.
- APM again addressed Bank of Tokyo Mitsubishi on 18/1/2018 that the liabilities under this Bank Guarantee shall be discharged unless a written intimation is given to the effect that there is no liability outstanding against the contractor in respect of the above work since the Bank Guarantee expired on 31.12.2017. Also addressed UEM to revalidate the Bank Guarantee for another one year.
- The Contractor vide letter dated 27-3-2018, had requested the termination of contract and to release the compensation claim of Rs. 1.54 Cr.
- Again, the Contractor vide letter dated 31/5/2018, submitted a revised claim of Rs. 1.99 Cr. and requested the termination of contract.
- The CE, Operations, KWA instructed in the minutes of the meeting held on 17/1/2019 to withhold the Bank Guarantee of the firm of their work at 107 MLD STP at Muttathara ( Rs 1,93,91,381/-) till the finalization of their claim.

- 2nd State Level Technical committee (SLTC) held on 11/4/19 discussed the issues involved and entrusted KWA to submit more details. **The 2nd SLTC** recommended the pre-closure of Contract to avoid any further claims of compensation by the Contractor subject to ratification by SHPSC.
- Meeting was convened by MD, KWA with the representatives of the firm on 6/6/2019. The firm was informed in this meeting that the admissibility of the claims is to be decided as per Agreement conditions.
- On 12.06.2019, M/s.Toshiba Water Solutions Pvt Ltd submitted a revised claim of Rs.2.67 Cr.
- Accordingly, in the 3rd SLTC meeting held on 22.07.2019, the claims submitted by M/s. Toshiba Water Solutions were discussed and scrutinized by SLTC members, verified the claims with respect to Contract conditions and opined that all the claims cannot be admitted. SLTC also observed that the firm had not enclosed supporting documents, bills and vouchers along with the claim. Accordingly, the firm was once again addressed for submitting supporting documents including bills and vouchers.
- On request from KWA, M/s, Toshiba Water Solutions Pvt. Ltd submitted copies of ledgers and bank statements showing expenditure incurred on various items. The same has been verified and the admissible amount was placed in the 4th SLTC meeting held on 3.9.2019.

**Recommendations of 4th SLTC held on 3.9.2019**

1. The final amount of the eligible claim without any interest is **Rs.44,48,702.00**
2. Balance amount with the contractor as Mobilisation advance is **Rs. 2,00,73,200.00**
3. The amount to be recovered from the firm without any interest component is **Rs.1,56,24,498.00.**

The 4th SLTC Committee recommends to place before the SHPSC the above recommendations for each claim, for final decision on the Settlement of the compensation claim.

The SLTC was reconstituted on 1/11/2019 vide G.O. (Rt) No. 2427/2019/LSGD with Technical Member, KWA as Chairman. The 5th SLTC was held on 8.11.2019 to re-examine the settlement of the claims as per Government direction. It was decided to allow a few more claims also in addition to earlier admitted claim, provided the firm produce additional documents. The committee decided to place the recommendations before the State Level High Powered Steering Committee (SHPSC).

**Recommendations of the 5th SLTC held on 08.11.2019**

After discussion on other claims raised, it was decided to allow the following claims also in addition to earlier admitted claim.

- Regarding the claim due to Idling of manpower (Item No.7), it was decided to admit the claim if the firm could furnish details of salary disbursed including apportioned cost paid if any to engaged staff during the period
- Regarding the claim for site security service (Item 8.1), it was decided to consider the claims till the materials were shifted, ie. upto March 2019 instead of upto June 2016, subject to furnishing evidence in this regard
- Regarding claims towards electricity, water charges and rent also, it was decided to give the claims if the firm can produce documents such as bills, rental agreement etc
- It was insisted to furnish proof of insurance policy for considering insurance charges

**The committee decided to place the recommendations before the SHPSC.**

**Recommendation of 2nd SHPSC held on 13.11.2019.**

- The 2nd SHPSC observed that serious lapse has occurred on the part of officials working in Kerala Water Authority, Kozhikode city for non-extending/ encashing the bank guarantee against mobilisation advance given to the contractor.
- It was decided to identify the officials responsible for the lapse of Bank Guarantee, thereby causing financial loss to Government and to initiate disciplinary action against them. The Managing Director, Kerala Water Authority has been entrusted to give a detailed report on this to Government.
- *After detailed deliberation, approved the payment for an amount of Rs. 44.49 lakhs to the contractor, recommended by 4th SLTC and also decided to approve the claims considered by the 5th SLTC, subject to the condition that the firm substantiates with the required documental proof.*
- It was decided to encash the Bank Guarantee submitted by the same firm for their work of 107 MLD STP at Muttathara, to enable the recovery of the balance amount of mobilization advance and interest, due to Government. If the amount is not sufficient, revenue recovery proceeding shall be resorted to and the recommendation of 2nd SLTC for pre-closure of contract was also ratified.

As per 2nd SHPSC decision, M/s. Toshiba Pvt. Ltd. Submitted additional details on 27.11.2019 and APM, Kozhikode re-examined the claim and submitted report. The summary of the individual claims are as follows:

Sl. No.	Description of work	Amount admissible (A) (Rs)	Previously admitted (B) (Rs)	Balance Admissible claim(C=A-B) (Rs)
1	Item 7 ( Idling of Man power) 7a.1 Project Manager RCM – TM Raghavan 7.a2 UEM Infra from Jan-16 to Set-17 ... 7.a3 Site Accountant Sub Total	55,000  4,34,412 0 4,89,412/-	0	4,89,412/-
2	Item 8 (Loss due to recurring monthly services expenses) 8.1 Site Security Service from Jan, 16 to Mar, 19 8.2 Other extra expenses like Electricity, water charges etc. Sub Total	7,73,920 26,616 8,00,536	2,54,488	5,46,048
3	Item 9 ( Banking / Insurance Charges Liability) 9.1 Bank charges 9.2 Insurance charges Sub Total	0 5130 5130	0	5130
<b>Grand Total of additional admissible amount</b>			<b>Rs. 10,40,590/-</b>	

**Recommendation of 6th SLTC held on 30/01/2020**

The 6th SLTC held on 30.01.2020 discussed the additional claim and decided as follows;

- As per the 2nd SHPSC decision, the committee approved the payment of **Rs. 44.49 lakhs** to the contractor and decided to approve the claims considered by the 5th SLTC subject to the condition the firm substantiates the required documental proof. Hence the contractor was requested for additional documents and the contractor submitted the documental proof. The APM, Kozhikode verified the documents submitted by the firm and informed **that an additional amount of Rs 10,40,590/- could be admitted** based on the documents submitted by the firm. The committee verified and decided to approve the additional claim of **Rs 10,40,590/-**. Thus the final acceptable claim amount is **Rs 54,89,292/-**. The SLTC decided to settle the claim with **Rs 54,89,292/-** and report to next SHPSC for information.
- The 2nd SHPSC decided to encash the Bank Guarantee submitted by the firm for their work of 107mld STP at Muttathara to enable the recovery of the balance amount of mobilisation advance and interest due to Government. As per this decision, **the Bank Guarantee for Rs**

**1,93,91,381/- was encashed for the work of STP at Muttathara and kept with PC, JnNRUM, Trivandrum.**

- The 2nd SHPSC also decided to identify the officials responsible for the lapse of Bank Guarantee thereby causing financial loss to Government and to initiate disciplinary action against them. **The action has been initiated and the report shall be submitted to Government.**
- The SLTC decided to submit the above action taken report to the next SHPSC for information. Also decided to seek clarification on recovery of interest as decided in the 2nd SHPSC meeting since Mobilisation Advance is interest free as per agreement.

As per 6th SLTC recommendations, the following is the status on the actions initiated by KWA.

- The action for the settlement of the claim is initiated by PC, JNNURM.
- The Bank Guarantee for Rs.1,93,91,381/- for the work of STP at Muttathara was encashed on 06.01.2020 and kept with Project Coordinator, JNNURM, Thiruvananthapuram.
- The Vigilance wing of KWA is enquiring into the lapse in non-extending/encashing the bank guarantee against mobilization advance given to the contractor.

3rd SHPSC meeting for considering the above was scheduled on 9.07.2020, but did not materialize due to triple lockdown imposed in Thiruvananthapuram Corporation.

In the meantime a meeting was convened by the Chief Secretary on 14.7.2020 to settle the issue based on the DO letter No.P-21054/4/2020-IC(Asia) dated 6th July 2020 of the Secretary, Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India. In the letter, it is highlighted that the recent economic stimulus package for Japanese companies considering relocating their supply chain disrupted due to COVID 19 has provided an opportunity to India to leverage this opportunity and showcase India as a globally viable manufacturing destination.

An e-mail from Ms. Mona Khandhar IAS, Minister Economic & Commerce, Embassy of India, Tokyo dated 10.07.2020 addressed to the Principal Secretary, Industries & Commerce and NORKA, requesting for a solution in the matter was also received. Considering the importance of the subject as mentioned above, Chief Secretary authorised the Secretary in charge of Water Resources and the Managing Director, KWA to discuss with the firm M/s.Toshiba Water Solutions Private Limited on these issues and to take immediate steps to resolve the issue in a time bound manner.

In this regard, it may also be noted that, for settling the claim of this work, the Bank Guarantee for the work JNNURM/ADB- Sewerage - Package TVM-SS-03- Construction and O&M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram has been encashed. Hence the SLTC has to

consider the two issues (STP at Muttathara and STP at Kozhikkode) in its entirety and approve the eligible amounts.

As per the directions of the Chief Secretary, a VC was conducted on 15.7.2020 with M/s. Toshiba Water Solutions by the Secretary in charge of Water Resources and the Managing Director, KWA. In the meeting M/s. Toshiba agreed to the compensation claim of Rs.54,89,292/- for the work of STP at Kozhikkode. In regard to the work of STP at Thiruvananthapuram, the difference in the claim to be settled by SLTC after discussion with the representative of M/s. Toshiba at Thiruvananthapuram

On 15.7.2020 itself, the firm M/s.Toshiba Water Solutions submitted their final claims through email.

The claims of the firm, and the allowable amounts proposed by KWA for the two works

(1.ADB aided KSUDP Sewerage Project of Kozhikode Corporation- Construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B),

2. JNNURM/ADB – Sewerage - Package TVM-SS-03 Construction and O & M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram) were placed before the 7th SLTC held on 17.7.2020 for a decision.

**Recommendation of 7th SLTC held on 17/07/2020**

The 7th SLTC noted that for settling the claims of Toshiba Water Solutions, the two works (i) ADB aided KSUDP Sewerage project of Kozhikode Corporation- Construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B) and (ii) JNNURM/ADB- Sewerage - Package TVM-SS-03- Construction and O&M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram, have to be considered together since the performance guarantee of TVM-SS-03 was encashed against the mobilization advance amounts due in Kozhikode work.

Hence, it is decided to make a financial statement showing the total amounts paid and due to the contractor in Thiruvananthapuram work and also the Project Coordinator, JNNURM is entrusted to present a detailed report on the work JNNURM/ADB- Sewerage - Package TVM-SS-03- Construction and O&M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram, for further action on the matter.

On 23.7.2020, Project Co-ordinator, JNNURM Thiruvananthapuram submitted a report and the following observations are noted:

1. The work was awarded to the Contractor M/s. Toshiba Water Solutions Pvt Ltd (Formerly M/s. UEM India Ltd), New Delhi and the agreement was executed by the Additional Project Manager (WS&SS), Project Implementation Unit, KSUDP on 27.03.2009 as two agreements, one for the Design, construction, erection, testing and commissioning of the 107 MLD STP (Agmt. No. 36/08-09 dated 27.03.2009 for Rs.72,69,21,680) and the other for the

Operation and maintenance for five years of the 107MLD Sewage Treatment Plant at Thiruvananthapuram (Agmt. No.37/08-09 dated 27.03.2009 for Rs.7,30,78,320).

2. The work was completed and the Operation and maintenance of the Sewage Treatment Plant commenced on 1.10.2013.
3. The original O&M expired on 30.09.2018. Due to the delay in finalization of the new tenders after the approval of Thiruvananthapuram Corporation, O&M contract was extended upto 31.08.2019 at the same rate as per the terms and conditions of the original agreement.
4. The new O&M contract of the STP was awarded to M/s. Eco Chem Sales and Services Ltd, Surat and they started operations from 1.09.2019.
5. The total amounts paid to the firm and the amounts due to the firm (M/s.UEM India Limited) are worked out. The consolidated amount to be paid to the firm based on the claim preferred by the firm M/s. Toshiba Water Solutions Pvt. Ltd were also worked out.

In this regard it may please be noted that as per the evaluations, an amount of Rs.14,12,419/- will have to be recovered from the firm for the work of STP at Muttathara, Thiruvananthapuram. This has occurred due to release of O&M payments to the contractor taking the rates based on the year only without considering the flow. As an ambiguity arised in regard to rates based on year/flow, legal opinion was sought from the Chief Law Officer of KWA who concluded that "negotiation letter dated, 18.03.2009 being the integral part of the contract, the firm is only eligible for the revised rate after 9.2% discount in each year as specified therein. And if the flow is less than 50%, the firm is eligible for a minimum of Rs.115 lakhs. 9.2% discount is seen applicable here also, as per the negotiation letter. In all these circumstances, the concerned Authority shall ensure the accurate percentage of water flow". These rates are used for the computations.

With regard to the work of ADB aided KSUDP Sewerage project of Kozhikode Corporation- construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B), the admissible amount is worked out as follows:

Sl. No.	Description	Claimed amount	Admissible amount	Remarks
1	TOTAL CLAIM PASSED BY KWA	54,89,292	54,89,292	Approved by the 6th SLTC
2	SECURITY DEPOSITED (RETENTION DEDUCTED VIDE RA-01 & RA-02 - KSUDP)	26,60,916	26,60,916	Retention amount. This can be released on settlement of the issue
3	GST @ 12% on Rs. 54,89,292/-	6,58,715	0	Claim of Rs.54,89,292 is for the period upto May 2017 only and hence GST is not applicable.
	<b>Total</b>	<b>88,08,923</b>	<b>81,50,208</b>	

The final claim to be settled is detailed as below.

**1. ADB aided KSUDP Sewerage Project of Kozhikode Corporation- Construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B)**

Outstanding amount of Mobilization advance to be recovered	- Rs.2,00,73,200.00
Compensation Claim admitted	- Rs. 54,89,292.00
Retention amount to be paid	- Rs. 26,60,916.00
Balance to be recovered	- Rs.1,19,22,992.00

**2. JNNURM/ADB – Sewerage - Package TVM-SS-03 Construction and O & M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram**

Amount payable to the Contractor	- Rs.-14,12,419.00 (to be recovered)
Bank Guarantee encashed	- Rs. 1,93,91,381.00
Total Payable to the Contractor	- Rs. 1,79,78,962.00

**Considering the two works together, balance payable to the Contractor = 1,79,78,962-1,19,22,992= 60,55,970.00**

This evaluation was placed before the 8th SLTC for a decision.

**Recommendation of 8th SLTC held on 23/07/2020**

The 8th SLTC held on 23.7.2020 noted that for settling the claims of Toshiba Water Solutions, the two works (i) ADB aided KSUDP Sewerage project of Kozhikode Corporation- Construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD-SS-03B) and (ii) JNNURM/ADB- Sewerage - Package TVM-SS-03- Construction and O&M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram, have to be considered together since the performance guarantee of TVM-SS-03 was encashed against the mobilization advance amount due in Kozhikode work. The Committee discussed the financial statements submitted by the Project Coordinator, JNNURM as decided in the 7th SLTC held on 17.7.2020. The claim preferred by the firm vide their email dated 15.7.2020 was also considered.

In regard to the work of STP at Kozhikode, it was pointed out that, GST claim preferred by the firm cannot be admitted as the works were completed before 1.07.2017. Hence the compensation claim has to be limited to Rs.54,89,292/- as decided in the 6th SLTC held on 30.01.2020. The retention amount kept with KWA can also be released.

In regard to the work of STP at Muttathara, the claim preferred by the firm M/s. Toshiba, included pending O&M bills for 5 months, pending payment of diesel bills, GST claim of 12% for the works executed from 1.7.2017, and release of withhold amounts for the delay in repair of standby equipment. The Committee noted that, for this work, excess payment has already been made to the firm which has occurred due to release of O&M payments to the contractor based on the yearly rates

without considering the flow. The committee also noted the legal opinion which also confirmed that the rates shall be as per the actual quantum of flow as accepted in the agreement. The committee therefore decided to accept the statements submitted by the Project Coordinator, JNNURM, Thiruvananthapuram, the Payment Authority. The differential GST claim is limited to 4.67%, the practice followed in KWA.

**After detailed discussion, the following decisions were made.**

1. The SLTC decided to settle the compensation claim for the work of STP at Kozhikode with Rs.54,89,292/-. The retention amount kept with KWA can also be released on settlement of the claims.
2. In regard to the work of STP at Muttathara, Thiruvananthapuram, the SLTC decided to settle the claim as certified by the Project Coordinator, JNNURM, Thiruvananthapuram, the Payment Authority.
3. In the 2nd SHPSC, it was decided to encash the B.G submitted by the firm for their work of 107 MLD STP at Muttathara, to enable the recovery of the balance amount of mobilisation advance and interest, due to Government. The Committee decided to clarify on the recovery of interest, since mobilisation advance is interest free as per agreement (Section 9- Contract forms, Appendix I (A)).
4. As the Bank Guarantee of the work of 107MLD STP, Thiruvananthapuram is encashed and kept with Kerala Water Authority, the settlement and closure of the two works of the firm may be effected to avoid further financial burden on Government.

The 8th SLTC decided to report the above to the next SHPSC for decision.

**Decision Taken:**

**1) The MD, KWA informed the Committee as follows;**

- **For the work- Construction of 13.5 MLD STP at Kozhikode (PACKAGE NO. KZD -SS- 03B), the amount to be recovered from M/s Toshiba is Rs. 1, 19, 22, 992 .00.**
- **Two technical committees have been convened on 17/07/2020 and on 23/07/2020 and the Committee observed that, for the work- TVM-SS-03- Construction and O & M (5 years) of 107 MLD STP at Muttathara, Thiruvananthapuram, an excess payment has already been made to the firm which has occurred due to release of O&M payments to the contractor based on the yearly rates without considering the flow. The outstanding payment due to the Contractor for this work taking into account the encashed BG amount of Rs.1,93,91,381.00 is Rs. 1,79,78,962.00. Considering the two works together, balance payable to the Contractor = 1,79,78,962- 1,19,22,992= Rs. 60,55,970.00.**



- 2) The Chair expressed concern on the laxity of KWA officials in making excess payment.
- 3) After detailed discussion the Committee took the following decision; The Committee agreed with the recommendations of 8<sup>th</sup> State Level Technical Committee with following remarks.
  - To settle the compensation claim for the work of STP at Kozhikode with Rs.54,89,292/-
  - In respect to the recovery of interest for mobilisation advance, the Committee took note of the relevant Agreement clauses and directed KWA to follow the relevant Agreement clauses in this regard.
  - The Committee directed MD, KWA to release the net Payable amount to M/s.Toshiba amounting to Rs.60,55,970.00/- at the earliest after duly verifying the documents by KWA Finance Manager in accordance with the Agreement clauses. Municipal Finance Expert of AMRUT shall also look into the calculations to ensure that no liabilities are outstanding.
  - The Committee directed MD, KWA to forward the final settlement calculations to M/s Toshiba for information.

**Item No. 4: KSUDP Sewerage Project of Kollam Corporation – Rehabilitation of Existing sewerage system and extension of sewerage system to Zone A1 -Part I - in Kollam corporation– KLM-SS-01 –Closure of contract and approval of Variations.**

Details of work			
<b>Name of Contractor-</b> M/s. Tomco Engineering (P) Ltd <b>Agreement Date-</b> 20.06.2012 Contract Value- Rs.24.01 cr. (19.36% higher to Engineers Estimate). Revised contract value-34.05 Cr Original Time of completion- 20.12.2013 Temporarily stopped from 4/5/2018 due to public protest			
<u>Status of work</u>			
Sl No	Main components	BOQ QTY	Executed
1	Pumping Stations	3Nos	1No
2	Pumping main	7.95 km	4.355 km
3	Sewer Net work	3.596 km	0.827 km
Brief history of the work and Action Taken Report			
1. The contract amount of Rs.24.01 Crore has been revised to 34.05 Crore with 73% escalation by 49th Empowered Committee meeting held on 10/02/2015.			

2. As per the GO (Rt) No. 533/2018/LSGD dated 24.2.2018, a sub committee was constituted with the following members to resolve all technical issues including the variation submitted by KWA and certify the work done/ being done by the Contractor.
  - The Chief Engineer (Projects), KWA – Chairman
  - The Principal Consultant, KWA - Member
  - The Additional Project Manager/Superintending Engineer, KWA, Kollam – Member
  - Superintending Engineer, Kollam Corporation – Convener.
3. The Sub Committee held a meeting on 17/07/2018, discussed the subject matter in detail and decided to recommended the following.
  - Recommended the excess/extra items (variation) already executed and to be executed for Rs. 2.38 crores.
  - Decided to identify the works that can be executed to arrange partial commissioning of the ongoing works for Rs.21.47 Cr. as per the meeting held on 31/01/2018 by the Hon'ble Minister, LSGD.
  - Recommended to extend time of completion for the works up to 30/12/2019 without imposing any penalty as requested by the Contractor
4. The work got Temporarily stopped from 4/5/2018 due to public protest.
5. The total expenditure incurred is Rs.15.30 Crore (Including road restoration amount of Rs.1.37 Cr.).
6. An amount of **Rs. 53.29 Lakh** for excess/extra item (Variations) were already executed.
7. Throughout the execution of the project there has been continuous public protest stating that the laying works can only be continued after the construction and completion of 12 MLD STP at Kureepuzha.

The Contractor was called and heard by the Members of SLTC and *Contractor demanded rate increase based on site conditions @ 47% above the current enhanced rate and expressed his objection to execute the work, if enhanced rate is not admitted.*

SLTC Recommendation: (16th item of 3rd SLTC meeting)

- Closure of contract to avoid unnecessary financial burden on Government.
- With regard to pipes supplied, SLTC recommended to follow Agreement conditions.
- SLTC recommended Variations as recommended by Sub Committee for approval to SHPSC.



- *APM/SE, KWA may be asked to prepare estimate, for the balance works*
- *If SHPSC agrees for closure, release of retention and performance guarantee to be done as per Agreement conditions.*

Decision of 2nd SHPSC held on 13.11.2019

*After a detailed discussion, it was decided that the matter should be placed as an agenda in the next Board Meeting of KWA and directed to place in the next SHPSC meeting with their specific comments*

Decision of 411th Meeting of KWA held on 03.01.2020

*The Authority resolved to approve the 3rd SLTC recommendation held on 22.07.2019 as mentioned below*

- *Closure of contract to avoid unnecessary financial burden on Government.*
- *With regard to pipes supplied, SLTC recommended to follow Agreement conditions*
- *SLTC recommended Variations as recommended by Sub Committee for approval to SHPSC.*
- *APM/SE, KWA was asked to prepare estimate, for the balance works.*
- *If SHPSC agrees for closure, release of retention and performance guarantee to be done as per Agreement conditions.*

*The Authority recommended that Kollam Corporation may be directed to release the amount required for the payment of balance bill due to the contractor. The Authority also resolved to place the above decision before the next SHPSC as directed in the 2nd SHPSC held on 13.11.2019.*

**Decision taken:**

**1) SHPSC agreed with the recommendations of the 3<sup>rd</sup> State Level Technical Committee Meeting and the recommendations of the Kerala Water Authority Board as below.**

- *Closure of contract to avoid unnecessary financial burden on Government.*
- *With regard to pipes supplied, to follow Agreement conditions*
- *Variations as recommended by Sub Committee for approval to SHPSC limiting to the works already executed amounting to Rs.53.29 lakhs.*
- *APM/SE, KWA was asked to prepare estimate, for the balance works.*
- *Release of retention and performance guarantee to be done as per Agreement conditions.*



- 2) As per the decision taken in the 57<sup>th</sup> Empowered Committee, SHPSC directed Kollam Corporation to meet the expenditure against the outstanding payment to the contractor from the plan fund of Kollam Corporation. MD, KWA informed that an amount of 1.03 crores of Kollam corporation is available with KWA from which this amount will be met.

**Item No. 5: KSUDP Sewerage Project of Kollam Corporation– Rehabilitation of Existing sewerage system and extension of sewerage system to Zone A1 -Part II in Kollam corporation – KLM-SS-02 – Closure of contract and approval of variation.**

#### Details of Work

**Name of Contractor-** M/s. Tomco Engineering (P) Ltd

**Agreement Date-**20.06.2012

**Contract Value-** Rs.36.35 cr.

Revised contract value-55.90 Cr

**Original Time of completion-** 20.06.2014

Work temporarily stopped from 4/5/2018 due to public protest

Sl No	Main components	BOQ QTY	Executed
1	Pumping Stations	3 No.	3 No.
2	Pumping main	6.0 km	2.95 km
3	Sewer Net work	20.65 km	7.29 km

#### Brief history of the work and Action Taken Report

1. The contract amount of Rs.36.34 Crore has been revised to 55.90 Crore with 73% escalation by 49<sup>th</sup> Empowered Committee meeting held on 10/02/2015.
2. As per the GO (Rt) No. 533/2018/LSGD dated 24.2.2018, a sub committee was constituted with the following members to resolve all technical issues including the variation submitted by KWA and certify the work done/ being done by the Contractor.
  - The Chief Engineer (Projects), KWA – Chairman
  - The Principal Consultant, KWA - Member
  - The Additional Project Manager/Superintending Engineer, KWA, Kollam – Member
  - Superintending Engineer, Kollam Corporation – Convener

3. The Sub Committee held a meeting on 17/07/2018 discussed the subject matter in detail and decided to recommend the following:
  - Recommended the excess/extra items (variation) already executed and to be executed for **Rs. 1.3 crores.**
  - Decided to identify the works that can be executed to arrange partial commissioning of the ongoing works for Rs. 21.58 Cr. as per the meeting held on 31/01/2018 by the Hon'ble Minister, LS GD.
  - Recommended to extend time of completion for the works up to 30/12/2019 without imposing any penalty as requested by the Contractor.
4. The work got temporarily stopped from 4/5/2018 due to public protest.
5. The total expenditure incurred is Rs 22.63 Cr. (Including road restoration amount of Rs. 3.19 Cr.).
6. An amount of **Rs. 63.477 Lakh** for excess/extra item (Variations) were already executed.
7. Throughout the execution of the project there has been continuous public protest stating that the laying works can only be continued after the construction and completion of 12 MLD STP at Kureepuzha.

The Contractor was called and heard by the Members of SLTC and Contractor demanded rate increase based on site conditions @ 47% above the current enhanced rate and expressed his objection to execute the work, if enhanced rate is not admitted.

**SLTC Recommendation:(17th item of 3rd SLTC meeting)**

- *Closure of contract to avoid unnecessary financial burden on Government.*
- *With regard to pipes supplied, SLTC recommended to follow Agreement conditions.*
- *SLTC recommended Variations as recommended by Sub Committee for approval to SHPSC.*
- *APM/SE, KWA was asked to prepare estimate, for the balance works*
- *If SHPSC agrees for closure, release of retention and performance guarantee to be done as per Agreement conditions.*

**Decision of 2nd SHPSC held on 13.11.2019**

*After a detailed discussion, it was decided that the matter should be placed as an agenda in the*

next Board Meeting of KWA and directed to place in the next SHPSC meeting with their specific comments

**Decision of 411th Meeting of KWA held on 03.01.2020**

The Authority discussed the agenda and resolved to approve the 3<sup>rd</sup> SLTC recommendation held on 22.07.2019 as mentioned below

- Closure of contract to avoid unnecessary financial burden on Government.
- With regard to pipes supplied, SLTC recommended to follow Agreement conditions.
- Variations as recommended by Sub Committee for approval to SHPSC.
- APM/SE, KWA was asked to prepare estimate, for the balance works
- If SHPSC agrees for closure, release of retention and performance guarantee to be done as per Agreement conditions.

The Authority recommended that Kollam Corporation may be directed to release the amount required for the payment of balance bill due to the contractor. The Authority also resolved to place the above decision before the next SHPSC as directed in the 2<sup>nd</sup> SHPSC held on 13.11.2019.

**Decision taken:**

- 1) SHPSC agreed with the recommendations of the 3<sup>rd</sup> State Level Technical Committee Meeting and the recommendations of the Kerala Water Authority Board as below.

- Closure of contract to avoid unnecessary financial burden on Government.
- With regard to pipes supplied, to follow Agreement conditions.
- Variations as recommended by Sub Committee for approval to SHPSC, limiting to the works already executed amounting to Rs.63.477 lakhs.
- APM/SE, KWA was asked to prepare estimate, for the balance works
- Release of retention and performance guarantee to be done as per Agreement conditions.

- 2) As per the decision taken in the 57<sup>th</sup> Empowered Committee, SHPSC directed Kollam Corporation to meet the expenditure against the outstanding payment to the contractor from the plan fund of Kollam Corporation.

Item No.6: UIDSSMT – WSS to Payyannur Municipality – Laying, testing, commissioning and maintenance of distribution network with 600 mm to 200mm DI pipe and 160mm to 75mm dia PVC pipes- Contempt of Court case – Fund allotment

<b>Details of work</b>
Name of contractor- M/s. Build tech Engineers & Contractors Work completed on 31.12.2016
<b>Justification/reason for present request</b>
KWA reported that the work has been completed satisfactorily by the Contractor on 31.12.2016. An amount of Rs. 26.10 lakh (final bill amount due to the contractor – Rs.23.83 lakhs and miscellaneous payment towards advertisement charge, survey report, KSEB – Rs.2.28 lakh.) were due for the works done. Due to inordinate delay in effecting payment to the contractor, he has approached the Hon'ble High Court of Kerala with Managing Director, Kerala Water Authority as Ist respondent. As Kerala Water Authority has to comply with the Judgement of CoC No. 1189/2019 of Court, payment of Rs. 23,82,679/- was effected to Contractor from Kerala Water Authority's own fund to avoid contempt proceedings. 3rd SLTC Meeting decided to take up the issue directly with Government. As there is no fund in the budget head of JnNURM for the year 2019-2020, Government was asked vide letter No. A1-788/2019/AMRUT dated 15.07.2019 to allocate fund as additional authorization and further clarifications sought were submitted on 15.10.2019.

**SLTC Recommendation:**

The 6th SLTC held on 30.01.2020, noted the status and decided to bring the subject matter before next SHPSC so as to direct LSGD to allocate the amount due to Kerala Water Authority.

**Decision taken:**

SHPSC accorded sanction to allocate an amount of Rs. 26,10,679/- to the JnNURM head of account 2217-08-800- 89 (plan) as additional authorization for releasing to Kerala Water Authority.

  
MISSION DIRECTOR  
AMRUT

  
MANAGING DIRECTOR  
KERALA WATER AUTHORITY

  
PRINCIPAL SECRETARY  
LOCAL SELF GOVERNMENT DEPT(URBAN)

  
CHIEF SECRETARY  
(Chairman, SHPSC)

**List of Participants**

- Dr. Vishwas Mehta IAS, Chief Secretary
- Sri. R. K. Singh IAS, Additional Chief Secretary, Finance Department
- Sri. T.K. Jose IAS, Additional Chief Secretary, Water Resource Department
- Sri. Venu.V., Additional Chief Secretary, Planning & Economic Affairs Dept.
- Sri.Biswanath Sinha IAS, Principal Secretary, Urban, LSGD
- Sri. Anand Singh IAS, Secretary, Public Works Department
- Sri.S.Venkadesapathy IAS, Managing Director, Kerala Water Authority
- Dr. Renu Raj IAS Mission Director, AMRUT
- Smt. Preetha.K.S, Joint Secretary, Environmental Department
- Smt. Girija.K.S, Chief Town Planner (Planning)
- Smt. Leena Kumary.S, Chief Engineer (P&O), Kerala Water Authority
- Smt. Raji.S.S.. Deputy Town Planner (LSG Planning)