

Design and Construction of Kohuwala and Gatambe Flyovers Project - 2023

The audit of the financial statements of the Design and Construction of Kohuwala and Gatambe Flyovers Project for the year ended 31 December 2023 was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka. My comments and observations which I consider should be reported to Parliament appear in this report

1.2 Implementation, Objectives, Funding and Duration of the Project

According to the Loan Agreement, then the Ministry of Highways, presently the Ministry of Transport and Highways is the Executing Agency, and Road Development Authority is the Implementing Agency of the Project. The objectives of the Project are the Designing and Construction of flyovers planned to be located where Kohuwala in the Colombo district and Gatambe in the Kandy district. The activities of the Project are implemented under 02 sites namely the kohuwala flyover and the Gatambe flyover. As per the Loan Agreement, the estimated total cost of the Project was EURO 54.974 million equivalent to Rs. 11,167 million and out of that EURO 52 million equivalent to Rs.10,192 million was agreed to be financed by the Hungarian Export-Import Bank. The balance amount of Rs.975 million is expected to be financed by the Government of Sri Lanka. The Project had commenced its activities on 2021 August 16 and scheduled to be completed by 15 February 2024.

1.3 Qualified Opinion

In my opinion, except for the effects of the matters described in the Basis for Qualified Opinion section of my report, the accompanying financial statements give a true and fair view of the financial position of the Project as at 31 December 2023 and its cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.4 Basis for Opinion

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

1.5 Responsibilities of management and those charged with governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Those charged with governance are responsible for overseeing the Project's financial reporting process.

1.6 Auditor's Responsibilities for the audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit.

I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control of the Project.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

2. Comments on Financial Statements

2.1 Accounting Deficiencies

No	Accounting Deficiency / Audit Issue	Amount Rs. Million	Response of the Management	Auditor's Recommendations
(a)	The payments for contractor had been made with delay. As a result, as per the section 14.8 of the contract agreement payable was Rs.157.85 million. However, it had not been disclosed in the financial statement as per the Section 100 of the Public Sector Accounting Standard No. 08.	157.85	It has not been disclosed in the Financial Statements mistakenly.	All events and transactions have been recorded as per Public Sector Accounting Standard.
(b)	The statutory compensation and Land Acquisition and Resettlement Committee (LARC) allowance amounting to Rs.13.99 million for the land lot No. 270 had not been shown as payable balance in the financial statement for the year under review. Therefore, the liability and the working progress balances as at 31 December 2023 had been understated by that amount.	13.99	The voucher for the land lot no. 270/520801/08 had not been received to PMU as at 31 December 2023.	Financial statement should be prepared base on the accrual basis as per the Public Sector Accounting Standard.

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| (c) | A sum of Rs. 2,418.21 million payable for 20 interim payment certificates had been shown under equity in the statement of financial position without the consent of the lender. Therefore, the liability was understated and equity was overstated by that amount in the year under review. | 2,418.21 | Agreed. This will be rectified from next financial statement. | Financial statement should be prepared accurately. |
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3. Physical Performance

3.1 Contract Administration

No	Audit Issue	Response of the Management	Auditor's Recommendation
(a)	The proposal for the design and construction of Gatambe and Kohuwala flyovers had been evaluated by a Cabinet Appointed Negotiation Committee (CANC) on 26 March 2019 and recommendation to mutual suspension also should be taken by a TEC assisting cabinet appointed procurement committee including a treasury member as per the Section 2.8.2 of the Procurement Guideline. However, it was observed that the Secretary to the Ministry of Transport and Highways had not been act accordingly and prepared a cabinet memorandum based on recommendations given by a TEC without a member from the Treasury and it had been submitted to Cabinet of Ministers on 31 May 2023. Cabinet of Ministers had been approved that memorandum on 04 July 2023 with the observation of the Minister of finance. As a result of that the Chairman of Road Development	Not agreed. At the time of contractor submitting the suspension of work, they have not submitted total cost claim. The claim of Euro. 448,452.56 falls within the threshold of MPC. Therefore, the TEC to assist the MPC is appointed by the Ministry. However, the Contractor has now submitted total approximate cost claim which has to be handled by Cabinet Appointed Procurement Committee (CAPC). Accordingly, action will be taken to appoint suitable TEC from the Treasury in near future.	Chief accounting officer should conduct a proper investigation on appointment of TEC and inform to relevant authorities to take disciplinary action and recover the lost from the officers who violate the provisions of the procurement guideline.

Authority had been signed supplementary agreement to suspend the construction of the project until 31 December 2024. Therefore, it was observed that due procedures to signed supplementary agreement had not been followed by the line Ministry and the authority.

- (b) As per the Paragraph 3.1.(a), the TEC had recommended to grant extension of time (EOT) of 433 days for Gatambe flyover without considering the clause 19.2 of the contract agreement which mentioned that the contractor shall submit a notice of Force Majeure within 14 days after being aware about the event of circumstance and clause 20.1 of contract agreement which mentioning that the contractor shall give a notice as soon as practicable and not later than 28 days after being aware about the event or circumstance to suspend the work.
- The Contractor made request on 22 April 2022, from the Employer to submit reasonable evidence on arrangements of finance the project referring Sub-Clause 2.4 of the General Conditions of the Contract. However, the Employer could not give a definitive answer since the Ministry of Finance could not confirm such information under the economic crisis that prevailed. So contractually after 20 May 2022, anytime the Contractor can notify suspension of works or reducing the rate of works.
- Action should be taken to recover additional cost of implementing improper recommendations from officers who made improper recommendations.
- (c) The TEC mentioned in Paragraph 3.1(a) and TEC had been recommended to grant extension of time (EOT) of 315 days for Kohuwala flyover without considering the clause 20.1 of contract agreement which mentioning that the contractor
- The Employer could not give a definitive answer since the Ministry of Finance could not confirm such information under the economic crisis that prevailed. So contractually after 20
- Chief accounting officer should conduct an investigation on poor project management and re-evaluate the improper recommendations made by TEC.

shall give a notice as soon as practicable and not later than 28 days after being aware about the event or circumstance. Due to employer failed to comply with sub-clause “14.7 timing of payment on 27 June 2022, a request made by the contractor mentioning that reducing the rate of work as per the clause 16.1 of contract agreement. However, the contractor had not suspended the work as per the requests and TEC had been considered this request and delay hand over possession to employer and delay in handing over site to contractor had been considered by above mentioned TEC without considering the clause 20.1 of contract agreement.

May 2022, anytime the Contractor can notify suspension of works or reducing the rate of works.

- (d) The employer had been granted Euro 10 million as an advance to the contractor as per the clause 14.2 of the contract agreement. Even though, at the time of employer decided to mutual suspension of the project on 25 October 2023, there was a recovery balance of Euro 7.23 million from advance while outstanding payment to Euro 6.14 million to the contractor. However, these balances had not been considered at the time of mutually suspend the project and recommended to pay financial charges amount to Euro 448,452.56 by the TEC for evaluation of financial charges due to delay payment appointed by the Additional Secretary Engineering to Ministry of Transport and Highways.
- Finance charges for the delayed payments by the Employer to the Contractor are also according to the terms and conditions of the Contract. Both these payments have no interference with the mutual suspension. The purpose of the mutual suspension was to mitigate the risk of the Employer resulting from the material breach of the Contract by the Employer.
- Chief accounting officer should conduct an investigation on poor project management and re-evaluate the improper recommendations made by TEC.
- (e) The Chairman of the RDA had been entered in to a supplementary agreement for suspension the project with contractor on 25 October 2023 without obtaining consent from the Antony General.
- The supplementary agreements do not alter any terms or conditions of the MOU or the Contract other than the validity period of the MOU.
- Action should be taken to obtain the consent from the Attorney General and introduce the internal control system to overcome such laps in future.
- (f) Due to delay payment of the project According to the Section 2.8.2 of the Procurement Guideline, TEC should be appointed to evaluation of financial charges a TEC assisting cabinet appointed procurement committee shall be consist of five members including one member representatives from the Treasury and it shall be appointed by the National Procurement Agency
- Please refer the answer mentioned in 3.1.(a).
- Action should be taken to recover additional cost of implementing improper recommendations from officers who made improper recommendations.

(NPA) with the recommendation by the secretary to the line ministry. However, a TEC appointed to evaluation of financial charges due to delay payment in Kohuwala and Gatambe flyover project had not consist a member from the Treasury and also the TEC had been appointed by the Additional Secretary Engineering to Ministry of Transport and Highways. Therefore, it was observed that the recommendation for financial charges amount to Euro 448,452.56 has not taken by the proper TEC accordance with the Procurement Guideline.

- (g) Without completing the following contract works Kohuwala flyover had been opened to the general public from 17 July 2024.
- Piliyandala end services road works
 - Colombo end services road works
 - Piliyandala end approach drainage works
 - Piliyandala end approach drainage works
 - Construction of pedestrian lane.
 - Drainage works of Kohuwala junction and junction improvement
 - Junction signalization
 - Installation of streetlights of flyover and services roads
 - Drainage works of flyover
- This was done upon the request by the government which was made considering the grievances of the public. Immediate action should be taken to complete the balance works.

- (h) According to the preliminary appraisal conducted in 2018 by the line ministry it had been identified saving the cost of Rs.4.25 million per day to the national economy by constructing a flyover at Kohuwala and Gatambe. However, it was observed that delaying the construction works would be caused to delay the outcome of the project.
- Agreed. However, the underlying reasons for the delay were unforeseeable and macro in nature, which is beyond the control or the purview of the Employer.
- Action should be taken to finish the construction works within scheduled time period.

3.2 System and Controls

No	Audit Issue	Response of the Management	Auditor's Recommendation
(a)	Even though, 152 land lots had been gazetted under section 07 of the land acquisition act for the Gatambe flyover, the valuation reports for those land lots had not been obtained by the PMU until the end of the year 2023. Apart from that, the PMU had only completed the payment of compensation over 91 land lots from total land lots of 160 acquired for the Kohuwala flyover. Therefore, it was observed that the progress of land acquisition had remained at a low level for both flyovers.	The delay in progress at Kohuwala was primarily due to the late submission of survey drawings by the Survey Department and the delayed issuance of valuation reports by the Valuation Department.	Action should be taken to expedite the land acquisition process.
(b)	Even though, the PMU had completed the payment of compensation for 51 land lots acquired for the Kohuwala flyover, the certificate as per section 44 of the Land Acquisition Act had not been obtained by the PMU at the end of the year under review.	Efforts have been taken to expedite the said works. Only 5 lots have been processed and those are ready to issue Sec 44(1).	Action should be taken to expedite the land acquisition process.