The State Government replied (March 2021) that

(i) during implementation phase of the online portal *e-karmika*, there were instances where many shops and commercial establishments were closed but were not informed to the concerned authorities though enabling provision was made in the online portal.

(ii) the department had shortage of Labour Inspectors/Senior Labour Inspectors who are the notified authorities as per the 1961 Act for the purpose of registration and renewal of shops and establishments.

(iii) with the enactment of the Karnataka Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Unorganised Workers Social Security Act, the core activities of the department had drastically shifted from enforcement to welfare activities and the Labour Inspectors/Senior Labour Inspectors were carrying out voluminous amount of such work of the Boards established under the above Acts.

(iv) the Labour Inspectors/Senior Labour Inspectors would be strictly instructed to verify the status of shops and commercial establishments and carryout registration and renewals of such establishments.

The reply is not acceptable as it is primary responsibility of the Labour Inspector, the notified authority to carry out such inspections as may be required to ensure that all shops and commercial establishments are registered and periodically renewed such that there is no loss of revenue to Government and that no establishment functions without a valid registration.

In view of the huge pendency of renewal of registrations, the department should take up a survey of shops and commercial establishments in the State immediately to ascertain the actual status of their existence and registration and ensure that the establishments continue to function with valid registrations. The department should also initiate action for the loss caused due to delay in updating the portal.

Department of Health and Family Welfare Services

2.6 Short levy of liquidated damages

The Chief Engineer, Health Engineering Wing levied nominal penalty for delays on part of the contractors in completing the works based on the recommendations of the Executive Engineers of the divisions. This resulted in short levy of liquidated damages of ₹14.63 crore besides extending undue benefit to the contractors.

The Chief Engineer, Health Engineering Wing, Health and Family Welfare Services Department is responsible for construction, repair, maintenance of the Health and Medical institutions of the department. Tenders were invited during the period (November 2013 to November 2017) for the works of various hospitals at the district and taluk level by the Chief Engineer.

Clause 41.1 of general conditions of the tender document stipulate that the contractor shall pay liquidated damages to the employer at the rate per day as stated in the contract data for each day after the completion date is later than the intended completion date (for the whole of the works or the milestone as stated in the contract data). The total amount of liquidated damages shall not exceed amount defined in the contract data. Different rates were prescribed for imposition of liquidated damages based on the milestones besides rates for overall delay. The maximum amount of liquidated damages for the whole of the works was ten *per cent* of final contract price.

Audit reviewed (July 2019) 30[31] out of 375 works selected across four divisions[32] for the period 2017-18 and 2018-19 and observed delay in completion of six works. The Executive Engineers of the divisions attributed the delay both to the department and the contractors. Periodic notices were issued to the contractors for the delay in completion of the work. However, the Executive Engineers while recommending for extension of time proposed for levy of nominal penalty in the range of ₹100 - ₹5000 for the delay on part of the contractors, which was approved by the Chief Engineer as detailed below:

(i) The work of Renovation and Expansion of 100 bedded MCH at Gadag was due for completion on 25 November 2015 but was completed on 31 January 2019 after a delay of 1,166 days. The delay attributed to the contractor was 230 days. A nominal penalty of ₹1,000 per day was levied as against ₹25,950 per day as per the contract.

(ii) The work of construction of District Health Office Building in Yadgir was completed after a delay of 417 days of which 294 days' delay was attributed to the contractor. However, a penalty of only ₹100 per day was levied as against ₹25,600 per day as per the contract.

(iii) The delay in completion of the work of construction of 100 Bed MCH wing at District Hospital, Bidar was 120 days. The delay attributed to the contractor was 60 days and a penalty of ₹100 per day was levied instead of ₹1,99,356 per day (one *per cent* of the contract price).

(iv) The work of construction of Trauma Care Centre at Kalaburagi was completed after a delay of 444 days. Penalty was levied at ₹400 per day instead of ₹39,725 per day for 30 days of delay attributed to the contractor.

(v) The delay in completion of the work of Upgradation of Taluk level hospital at Yellapura was 375 days. Though 253 days' delay was attributed to the contractor, penalty was levied at ₹200 per day as against ₹81,374 per day as per the contract.

(vi) The work of construction of Super Specialty hospital in the premises of Gulbarga Institute of Medical Sciences, Kalaburagi was due for completion on 26 September 2019. Extension of time of 365 days was

[31] 22 works of estimated cost more than one crore and 8 works of estimated cost less than one crore. Works were selected across all the four divisions based on highest estimated cost of the work

[32] Bengaluru, Dharwad, Kalaburagi and Mysuru

approved by the Chief Engineer subject to levy of penalty of ₹5000 per day for 92 days of delay attributed to the contractor and the work was to be completed by 26 September 2020. The penalty to be levied as per the contract was ₹12,41,465 per day.

The levy of penalty at nominal rates was against the contractual terms and conditions stated above. Moreover, the basis or the rationale behind levying such nominal amounts were neither recorded nor was explained to audit.

Imposing nominal rates resulted not only in short levy of liquidated damages amounting to ₹14.63 crore as detailed in the **Appendix 2.11** but also in extending undue benefit to the contractors. Further, the delay in timely completion of the works defeated the very objective of the department in providing healthcare services on time to the intended beneficiaries.

The State Government replied (April 2021) that the delay was mainly due to field issues such as delay in handing over site, shifting of utilities, design clearances and approval to the additional works which were not envisaged at the time of preparation of estimate. It further stated that non-levy of penalty would attract price escalation for the extended period which increases the cost of the work and to avoid this, a nominal penalty was levied to the contractor.

The reply is not acceptable as the State Government merely stated the reasons for the delays and did not furnish the basis for arriving at the nominal amounts as low as ₹100 per day for the delays attributed to the contractor in violation of the contractual terms and conditions. Further, as per the reply, the work of construction of Super Specialty hospital in the premises of Gulbarga Institute of Medical Sciences, Kalaburagi was still under progress though extension of time provided ended on 29 September 2020. However, the reply does not indicate the action proposed to be taken for the additional delay in completion of the work.

The State Government should fix responsibility for the short levy of liquidated damages.

2.7 Avoidable expenditure

Adopting Cement Concrete (Machine Mixed) for M25 grade concrete instead of Ready-Mix concrete in estimate/BOQ by the department of Health and Family Welfare, Engineering Sub-Division resulted in avoidable expenditure of ₹3.30 crore and undue benefit to the contractor.

Department of Health & Family Welfare Services follows the Schedule of Rates (SR) of Public Works, Ports and Inland Water Transport Department for preparation of estimates for various works undertaken by it. The SR provides separate rates to be adopted for providing Machine Mixed Reinforced Cement concrete (RCC) and Ready-Mix Cement Concrete (RMC) for different grades (M20, M25, M30, M35). The SR also specified that all concrete above M20

Appendix-2.11
(Reference: Paragraph 2.6/Page 31)

Statement showing the short levy of penalty

Sl. No.	Work details	Contract price (₹ in Lakh)	Date of Agreement	Due date of completion	Actual Date of completion	Delay		Penalty (Amount in ₹)		Difference (in ₹)
						Total No. of days	Attributed to contractor	To be levied as per contract	Actual penalty collected	
1.	Renovation and Expansion of 100 bedded MCH in Gadag District. Contractor: M/s. Balaji Projects	1451.54	09-05-2014	25-11-2015	31-01-2019	1166	230	230 x 25,950 = 59,68,500	230 x 1000= 2,30,000	57,38,500
2.	Construction of District Health office building, Yadgir District Contractor: Shri. P. Ravindranath	725.59	11-01-2017	02-05-2018	31-05-2019	417	294	294 x 25,600 = 75,26,400 =72,55,900*	294 x 100 = 29,400	72,26,500
3.	Construction of 100 Bed MCH Wing at District Hospital, Bidar Contractor: Shri. Eranna Mamadapur	1993.50	24-06-2017	13-11-2018	13-03-2019	120	60	60 x 1,99,356 = 1,19,61,360	60 x 100= 6000	1,19,55,365
4.	Construction of Super Specialty Hospital in the premises of Gulbarga Institute of Medical Sciences, Kalaburagi Contractor: M/s. Jampana Construction Pvt. Ltd.	12414.65	27-03-2018	26-09-2019	Extension of time was allowed up to 26.09.2020#	365	92	92 x 12,41,465 = 11,42,14,780	92 x 5,000 = 4,60,000	11,37,54,780
5.	Construction of trauma Care Centre, Kalaburagi	2570.94	03-02-2016	08-08-2017	20-11-2018	444	30	30 x 39,725= 11,91,750	30 x 400 = 12000	11,79,750
6.	Upgradation of TLH from 30 beds at Yallapura in U.K. District	644.44	21-09-2016	17-01-2018	31-12-2018	375	253	253 x 81,375 = 20587875 =64,44,000*	253 x 200 = 50,600	63,93,400
	Total									**14,62,98,295**

Source: EOT form and Chief Engineer sanction letter

 # The work is still under progress as per the reply furnished by the State Government (April 2021)

*** Restricted to 10 per cent of the contract price**