The Government accepted the audit observation and stated (April 2019) that as per bid conditions, the penalty was to be recovered by the respective offices of CMOs/CMSs and in view of this, Divisional Additional Directors of the concerned units had been directed to investigate the matter and submit report after fixing responsibility. Government also assured to take action against the responsible officers after receipt of the report. However, status of action taken in the matter was awaited (January 2021), despite reminders (May 2020 and August 2020).

3.10 Unfruitful expenditure on Central Oxygen System

Lackadaisical approach of the department resulted in unfruitful expenditure of ₹ 1.88 crore on procurement of Central Oxygen System, which could not be made operational even after a lapse of more than eight to ten years.

Financial Rules[201] stipulate that the main duty of officers entering into contracts is to ensure that the Government gets fair return for the money to be spent. Further, where it is considered advisable to delay payment till it is ascertained that the machinery is in proper working order, it should be definitely stated in the agreement that the payment of the balance is contingent on the proper working of the machinery.

Scrutiny of records (July 2015 and November 2016) of the office of Superintendent-in-Chief, District Hospital (Male) Agra and information collected subsequently (September 2019) revealed that the Government of Uttar Pradesh sanctioned ₹ 2.76 crore and ₹ 2.70 crore in February 2010 and December 2011 respectively, for procurement of equipment and furnishing material to upgrade the medical facilities in District Hospital (DH), Agra. Accordingly, DH Agra invited tenders in March 2010 and November 2011 and executed agreements with two firms in March 2010 and February 2012 respectively for supply of various equipment and furnishing material, including Central Oxygen Systems (COS). Accordingly, COS for 50 beds and 60 beds (total 110 beds) were supplied by respective firms at the cost of ₹ 0.83 crore (March 2010) and ₹ 1.29 crore (March 2012) respectively.

Audit observed that the agreement executed by DH Agra with the suppliers neither incorporated any express clause for installation and commissioning of the COS nor linked release of payment to suppliers with successful commissioning of the system. The conditions of tender forming part of the agreement simply stipulated that *"the entire responsibility of providing training for use, operation and preventive maintenance of the equipment will be of the suppliers. The equipment will be required to be of high quality. In case of non-receipt of satisfactory quality by the specialist, payment would not be possible."* The lack of definite and express conditions in the agreements, defining duties and responsibilities of the suppliers and also for releasing payment subject to successful commissioning of the COS, facilitated DH Agra to release the entire payment totalling ₹ 2.12 crore[202] to the suppliers after supply and installation of the components, but before making the COS

[201] Appendix XIX of Financial Handbook Volume V (Part-1).
[202] ₹ 0.83 crore and ₹1.29 crore in March 2010 and March 2012 against supplies of 50 beds and 60 beds COS respectively.

operational (except COS for 10 beds in ICU ward[203]). Further, while making payments, DH Agra neither ensured training to hospital staff for use and operation of the equipment and preventive maintenance of the system by the supplier nor recorded certificate stating that the quality of the COS supplied was found satisfactory by the specialist. Releasing full payment to suppliers without ensuring that the system was fully operational and without fulfilling all the other contractual obligations, led to lack of interest on the part of the suppliers in making the COS operational, which is reinforced by the fact that the COS remained non-operational despite repeated reminders[204] issued to suppliers in this regard. Even the security deposit, made by the suppliers could not be forfeited as it was taken in a non-recognised form[205], i.e. cheques, which became stale after lapse of their validity periods and could not be encashed.

On being pointed out by Audit (July 2015), the matter was taken up (September 2016) by DH Agra with both the suppliers[206] for making the systems operational. The surveyor deputed by the suppliers quoted (May 2016) a sum of ₹ 77,950 (excluding tax) on account of service charges and cost of equipment required for making the COS operational. DH Agra informed (June 2016) Director General, Medical and Health Services (DGMHS) and requested either to make allotment of ₹ 77,950, as quoted by the surveyor or direct the suppliers to make the systems operational. The office of DGMHS directed (July 2016) DH Agra to submit the particulars of Superintendents-in-Chief who were posted in the DH during 2009-12 and 2016-17 so that further action could be taken. Meanwhile, District Magistrate, Agra also wrote (May 2017) a letter to both the suppliers, but only one supplier submitted (September 2017) a revised estimate of ₹ 3.61 lakh for making the COS operational. The amount sought (September 2017) from the DGMHS was yet to be released (June 2020).

Government, in reply and during discussion (December 2017), accepted the audit observation and stated that the matter would be investigated and responsibilities would be fixed to avoid recurrence of such incidences in the future. Information regarding action taken by the Government in the matter was awaited (September 2020).

Thus, release of full payment to suppliers without getting the COS operational, failure to ensure preventive maintenance of the equipment supplied and imparting training to hospital staff for use of the system, and failure to take up the case timely with the supplier, to make the system operational led to the expenditure of ₹ 1.88 crore being rendered unfruitful. Further, despite the assurance of Government (December 2017) in response to the audit observation, the COS was lying non-functional (September 2020) and the hospital continued to depend on small cylinders.

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[203] The COS for ICU beds was supplied and paid (₹ 24.17 lakh) in March 2012

[204] Against Supply Order of February 2012: October 2014, December 2014, March 2015, April 2015, June 2015.

[205] Paragraph 613 and 614 of Financial Handbook Volume 6.

[206] DH, Agra informed (September 2020) that since supplier of both the firms was the same, the letters and reminders, prior to 23.9.2016, were issued to only one firm.