

RAA Report alleges irregularities in tendering of MLCPs and parking revenue loss to Thromde

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It also says only fraction of all parking fees money in Thimphu collected by two private companies goes to Thimphu Thromde

A section of the 'Performance Audit on Urban Planning and Development in Thimphu Throm,' report by the Royal Audit Authority (RAA) has pointed to various irregularities and inconsistencies in the tendering of the two Multi Level Car Parks (MLCPs) and apart from that has also said that Thimphu Thromde is incurring a huge revenue loss every year from the parking fees collected by the two contracted companies.

In 2014 KCR Pvt Ltd won the bid to construct the two MLCPs in a Public-Private Partnership (PPP) model where it would construct them at its own cost and run it for a concession period of 22 years during which it would share revenue with Thimphu Thromde and then handover the structure at the end.

Change in Concession period from 17 to 22 years not shared with all prospective bidders

The report says that the initial concession period was for 17 years. It says that the increase of the concession period from 17 to 22 years was done while issuing an addendum to the bid document dated 08 May 2014.

However, the amendment of concession period from 17 years to 22 years was made without an approval from competent authority and any discussion with all prospective bidders communicating increase in concession period was not available on record.

The report says this this would have limited the prospective bidders in getting information and must have privileged few bidders, which is highly inappropriate and irregular.

Around 4 to 5 companies had enquired about the project but ultimately only two bought the tender documents and wanted to bid. The RAA in essence is saying only these two companies knew about the concession period being increased to 22 years putting the others at a disadvantage.

Here the Thrompon Kinlay Dorjee told the paper that in the pre-bid meeting a request was made to increase the concession period.

The KCR CEO Namgay Penjore said that in the pre-bid meeting KCR had requested to increase the concession from 17 to 25 years and it seems the Thromde settled for a middle option of 22 years. He said the bid was awarded on July 2019 to KCR and it was conveyed to them in August that the Concession agreement was for 22 years now and in September 2014 the agreement was signed.

However, an official associated with the project who did not want to be named said that right from April 2014 the information documents had stated the increased 22 years lease period and 20 percent commercial space after feedback was taken from the bidders.

Commercial space information privileged some bidders

The Concession Agreement on Commercial Activities Area provides 20% commercial space in the MLCPs.

However, the same agreement is silent on share of contributions to Thimphu Thromde for the use of this space except for Parking space in MLCP according to the RAA.

It says the Notice Inviting Tender published in Kuensel, Business Bhutan, Thromde website and Economic Times, India specify the scope of the project as: Design, construction, operation and maintenance of two Multi-Level Car Parks (MLCP); Up-grade and management of off-street surface parking lots within the exclusive area; Up-grade and management of on-street surface parking spaces within the exclusive area.

However, the RAA said scope of work is silent on the usage and built-up commercial space.

RAA says 20% commercial space is assumed to have stemmed while formulating and signing of the Concession Agreement with the lone qualified bidder M/s KCR Pvt. Ltd.

RAA said it was learnt that 20% commercial space was included only while issuing the addendum to bid document dated 08 May 2014. However, the amendment was made without an approval from competent authority and any discussion ensued with all prospective bidders communicating 20% of the total built-up as commercial space in MLCPs was not available on record.

RAA says an audit report issued AIN: 15859 for this period covering 2015-2017 also does not mention any on the usage of commercial space in the scope of work.

The report says the occupancy certificate for MLCP 1 and 2 was issued on 16 July 2019 and 31 July 2019 respectively. However, there were no inspection reports and handing taking note on the physical structure of MLCPs and it also lacked clarity on the use of commercial space as to whether it is 'hotel, disco, bars, snooker room' etc. RAA found that a 'hotel' is being placed inside the MLCP 1.

RAA said that Thimphu Thromde is losing out in millions in terms of potential revenue from the parking and commercial space.

“Further, addendum issued at later stage without approval from competent authority would have limited the prospective bidders in getting information and must have privileged few bidders, which is highly inappropriate and irregular,” said the report.

The KCR CEO told the paper that initially the commercial space was at 15 percent but during the pre-bid meeting it had asked for 30 percent but the Thromde settled for 20 percent.

The Thrompon Kinlay Dorjee said the minutes of the pre-bid meeting will be shared with the RAA after discussions with the Ministry of Finance.

Thimphu Thromde getting only a small share of parking revenue

Not including the 550 parking slots in the MLCP 1 and 2 Thimphu Thromde according to the RAA has 1,460 parking spaces on the streets.

RAA found that 1,460 parking slots as per its calculation generates around Nu 145.1 mn in revenue every year.

However, the RAA said that Thromde got only Nu 20.14 mn from this which is 13.88 percent while the two parking companies KCR Pvt Ltd in the core area and Kuenchap Enterprise in CFM and South Thimphu would get Nu 125 mn as their share.

Of this the RAA says that KCR Pvt Ltd with 1,013 parking areas (outside the two MLCPs) in the Thimphu core area makes Nu 98.06 mn a year of which it keeps Nu 84.04 mn and gives Thromde only Nu 14.02 mn.

With the Thimphu Thromde planning to convert more free parking areas in the core areas into paid parking areas and handing over to KCR this revenue will go up even higher.

Kuenchap Enterprise has 447 slots in South Thimphu and the CFM. It makes 47.03 mn according to the RAA of which it keeps Nu 40.89 mn and gives Thimphu Thromde Nu 6.14 mn. The move to close the CFM temporarily or eventually decentralize may impact Kuenchap Enterprise though.

The KCR CEO denied the above and said collections are not that high and around 50 to 60 percent of what is collected is given to the Thromde.

He also said KCR currently has 998 parking slots outside the two MLCPs though their numbers keep varying.

RAA said that Thimphu Thromde is losing out millions in potential revenue from the parking space.

As a result of substantial delays in the completion of MLCP, the Thimphu Thromde was deprived of Nu 8.153 mn in terms of revenue loss due to delays in completion of MLCPs. The RAA report noted that, Thimphu Thromde had written to M/s KCR Pvt. Ltd. to deposit the liquidated damages and revenue loss. However, as of 30 June 2019 the amounts remain still recoverable.

The latest update according to the Thimphu Thromde and the KCR CEO is that Nu 8.153 mn has been waived off by the cabinet since the grounds of delay was found to be sincere.

No land lease fee for MLCP and illegal waiver of scrutiny fees

The RAA said Concession Agreement Clause 7.4 Land Cost states that, 'any charges, rates or taxes arising or payable in respect of the license granted (whether temporary or permanent) by the Concessionaire of land or buildings or of any rights or interests in respect of land or buildings shall be paid by the Concessionaire'. The Concession Agreement was entered on 1 September 2014.

Similarly, the Clause 2.1.5 of Development Control Regulations (DCR) 2004 states, 'a person or body applying for permission for carrying out development shall with application pay to the implementing authority the scrutiny fees.'

However, the RAA noted found the Concessionaire has not paid land cost in terms of land taxes or lease fee to Thimphu Thromde as required by the Concession Agreement and the 25th Thromde Tshogde held on 17 July 2015 waived off 50 percent of Nu 1.932 mn drawing and scrutiny fees of MLCP in deviation to the DCR.

The RAA said that as such, the Concessionaire has failed to abide by the Concession Agreement and Thromde Tshogde waiving off 50 percent of scrutiny fees is in deviation to the existing DCR.

RAA said that liquidated damages of Nu 780,000 was also not collected from KCR by Thromde for delay of the two MLCPs.

No data on parking slots

RAA said that Thimphu Thromde has no proper records (inventory) maintained for parking slots.

The details of parking slots are inconsistent with what the Infrastructure Division provided to the audit team and what is being tabulated for payments as concessional fees and charges by the parking fee contactors.

The report said that due to differences and inconsistencies in the parking slots data, Thimphu Thromde is losing revenue receivables.

The RAA said that as per Thromde records KCR had to pay for 1,013 parking slots but the actual parking inventory showed 1,118 parking slots which is a difference of 105 slots and an annual loss of Nu 3.24 mn to Thromde.

It said Kuenchap Enterprise had to pay for 447 slots but the inventory showed 535 slots which is a difference of 88 slots causing a loss of Nu 2.85 mn a year.

Thromde Response

The Thromde management said that during the preparation of the concession document the PPP policy was under preparation and it could not have referred it. It said land registration could not be done with NLCS, which took months.

It said documents were maintained by the IFC and Thromde did not have a dedicated unit to record proceedings and document the process.

Thromde said it lacked experience on implementation of such a project since it was the first of its kind in the country.

It said delay occurred due to issues of FDI partners not able to remit dollars from Nepal and the structural design changes that had to be made requiring increased volume of steel and concrete.

Thromde said fines and penalties were not settled because the parking facilities have not been utilized as expected with a very low occupancy rate.