

Royal Audit Authority



Guideline to Fixing Accountability

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Foreword

Accountability in the simplest term is taking responsibility for one's decisions and actions. It denotes duty to report by those entrusted with the resources and responsibility to implement assigned activities. Accountability and transparency are the corner stone of good governance.

For a nation like ours with limited national wealth and resources the necessity of having accountability measures is very important. As per **ISSAI 20**, transparency and accountability is a powerful forces that when it is consistently and uniformly applied, can help fight corruption and improve overall governance.

Although the fixation of accountabilities on audit issues has come a long way, the need for proper guideline has been long felt necessary. Hence, this guidelines has been developed in accordance to Section 42 (a) and (e) of the Audit Act of Bhutan 2006 which empowers the Royal Audit Authority to develop rules, procedures and guidelines to carry out auditing economically, efficiently and effectively and adopt procedures for the issuance of audit clearance certificates. It is expected to bring uniformity and standard procedures for fixing accountability on audit issues.

The guideline for fixing accountability shall be revised and amended as and when required. I encourage all to make best use this guideline for fixing the accountability.

(Tshering Kezang)

Auditor General

1. Background

Accountability has been defined as obligations of public sector organizations and enterprises, which are entrusted with public resources, for fiscal and social responsibilities to those who have assigned such responsibilities to them. In other words, the accountability denotes duty to report by those entrusted with the resources and responsibility to implement assigned activities. Improved accountability is mainstay of good governance, which is the fourth pillar of development philosophy of GNH.

In audit the process of fixing accountability has proved to be an effective tool in resolving audit issues on time and to streamline the overall Financial Management System. It has also brought positive changes, improved compliances, created awareness and instilled strong sense of responsibility in public functionaries. Hence, it is imperative to redefine and streamline the process of fixing accountability that is fair, transparent and objective, particularly in an ever changing and evolving governance structure.

This guideline has been drawn in keeping with the provisions of relevant acts, rules and regulations and directives and is expected to address the current problems in fixation of accountability.

2. Objectives

The objectives of the guidelines are to:

- 2.1 Promote accountability in the public sector operations;
- 2.2 Ensure that accountability is fixed on those who are actually responsible for irregularities and lapses;
- 2.3 Promote greater compliance and speedier implementation of audit recommendations and/or timely actions on audit reports; and
- 2.4 Promote transparency, fairness and objectivity by applying uniform and consistent approach in holding the officials/Contractors/Consultant and accountable.

3. Mandates

3.1 The Constitution of Kingdom of Bhutan

Article 25.7 of the Constitution of Kingdom of Bhutan states that, “The Royal Audit Authority shall function in accordance with the Audit Act.”

3.2 The Audit Act of Bhutan 2006

Section 42(e) of the Audit Act of Bhutan 2006 states that, “The Authority may adopt procedures for the issuance of audit clearance certificate.”

Section 76 states, “The Lhengye Zhungtshog, Ministries, and other concerned authorities shall be responsible to take timely follow-up actions on audit reports under this Act”

3.3 The Parliamentary Resolutions

The issues of fixing appropriate accountabilities for unresolved audit issues were seriously deliberated in the Parliament and different resolutions were passed in various Sessions to strengthen the accountability system.

The **4th Session of 2nd** Parliament in 2014 resolved to introduce concrete measures to promote and enforce “supervisory accountability” in general and with regard to audit observations, in particular. The recommendations also reiterated the need to enforce the National Integrity Control Framework issued by the Ministry of Finance.

Similarly, the **6th Session of the 2nd** Parliament in 2015 resolved that “the concerned agencies have to strictly follow the financial rules and regulations and the Royal Audit Authority has to enforce the accountability fixation to the immediate supervisors.” Additionally the resolution reiterated the role of the Head of the agency as a supervisory accountability to take legal action to resolve the audit issues within 12 months from the issue of the audit report.

4. Types of accountability

Section 182 and 183 of the Public Finance Act 2007 under Responsibility of Loses briefly defines the responsibilities of head of agency and concerned person as follows;

- Section 182 stipulates that “each person shall be held personally responsible for any loss sustained by the Government due to acts of fraud or negligence on his part.”
- Section 183 states that “heads of budgetary bodies shall bear oversight responsibility for any loss sustained by the government due to lack of (a) Proper internal control system in their respective organization or timely action or directives to check such loses;

The Bhutan Civil Service Rules and Regulations (BCSR) also stipulate various provisions regarding accountability. Some of the main provisions include the followings:

- Section 19.3.3 “A civil servant shall be held responsible and liable for expenditure of government funds, use of government properties, or any decision or action thereon in violations of the provision of the CSAB 2010, BCSR and other laws”;
- Section 3.3.2: “A civil servant in managerial and supervisory positions shall be accountable to provide necessary leadership and control over his subordinates, amongst others, to ensure that there is no corruption or serious officials misconducts amongst his subordinates”;
- Section 3.3.3: “A civil servant, particularly in a managerial and supervisory positions, shall be accountable and liable for administrative actions for corruption or serious officials misconduct of his subordinates even when his is not directly involved; and
- Section 19.3.8: “A supervisor shall be liable for administrative actions, including compulsory retirement and termination, for any major corruption or grave misconduct of his subordinates even if the supervisor concerned is not directly involved in such misdeeds.”

Currently, there are two types of fixing accountability in practice - **Direct Accountability** and **Supervisory Accountability**. These accountabilities are broadly in line with the principles of the above provision;

4.1 Direct Accountability:

The ‘Direct Accountability’ for audit observations is fixed on those individual(s), members of committees, members of the boards, etc. who are directly involved in executing activities, making decisions or who are direct beneficiaries from such decisions, actions or inactions, etc. With the inclusion of Contractors and Consultants under accountabilities framework, the direct accountabilities shall now also be fixed to the contractor / consultants wherever applicable in accordance to the guidelines.

4.2 Supervisory Accountability:

‘Supervisory Accountability’ rest on the supervising officer(s), members of committees, members of the boards, etc. depending on their involvement in decision making and executions.

5. Who are accountable?

- 5.1 The accountability should be fixed on the official(s) who have dealt the case most directly as the official(s) who have taken certain decision should be responsible for the decision taken;
- 5.2 Where the decisions are taken by the committee, it is appropriate that the committee members are to be held accountable for the decision;

- 5.3 The cases where the decisions are taken by a committee or senior executives / management and the accountability fixed at a junior level staff should be avoided;
- 5.4 The contractors/ consultants shall be held accountable wherever deemed appropriate in accordance to the guidelines to fixing accountability to the contractors;
- 5.5 In accordance to the resolution of the 6thSession of 2nd Parliament, the supervisory accountability should rest on the immediate supervisor and the Head of the Agency shall be held overall accountable to ensure that all the audit issues gets resolved within 12 months of the issue of audit reports;
- 5.6 If issues do not get resolved within 12 months, then it is the responsibility of the Head of the Agency to initiate legal actions against those officials who are held accountable, both the direct and supervisor;
- 5.7 The Head of the Agency or the top management should be held accountable on policy issues, systemic issues, overall internal governance issues, strategic issues, etc. as it is normally the top management and/or the Head of the Agency who can address such issues;

6. Accountability fixing process

- 6.1 It is the responsibility of management of the audited agencies to fix accountability on all audit issues;
- 6.2 The process of fixing accountability should be fair and transparent. The management should discuss, deliberate and agree with individuals on whom the accountabilities are being fixed;
- 6.3 The management should submit the signed accountability statement along with the responses to audit team within the specified/agreed time or prior to audit exit meeting, whichever is earlier;
- 6.4 All the individuals held accountable should be given opportunity to attend the audit exit meeting for their consent, as may be practicable;
- 6.5 It is the responsibility of the head of the agency to intimate all concerned held accountable immediately upon receipt of the audit report;
- 6.6 If the management invariably delays the submission of signed accountability statement, and if further delay could risk the issue of audit report on time, then the RAA will fix the accountability on the head of the agency and other key management personnel directly associated with lapses and irregularities until such time the properly signed accountability statement is submitted, provided that the submission does not exceed the due date of Action Taken Report (ATR);
- 6.7 The accountability statement submitted during the audit exit meeting shall be final;
- 6.8 The accountability statement submitted shall form a part of the audit report;

- 6.9 Should there be any disagreement on the accountability fixed by the management, the individuals should raise the issue indicating the ground for contestation with the management;
- 6.10 The RAA shall independently ascertain whether the process of fixing accountability by the management was fair and transparent and if necessary remove the name of those from the Accountability Statement who have been held wrongly or unfairly accountable, and include the names of those who are accountable based on the authority's review of accounts and operations of audited entity and upon carrying out additional verifications and reviews as may be considered necessary by it;
- 6.11 The cases pertaining to the deceased, missing and absconded personnel shall be dealt in accordance to the relevant laws; and
- 6.12 Accountability fixation against the contractor/ consultant shall be in accordance to *Annexure A: Guidelines to accountability fixation to contractor/ consultant.*

7. Relief of audit accountability

- 7.1 Accountability fixed against individuals shall remain until the issues are resolved appropriately;
- 7.2 In respect of transfer cases, the relieved official shall hand over all unresolved audit observations to the relieving official through proper handing taking over note in line with Section 2.2.2 (f vi) of Finance and Accounting Manual of FRR 2016;
- 7.3 In respect of cases pertaining to fraud, corruption and embezzlement, the accountability shall remain with the official even if he/she is transferred. Where the incumbent has direct financial and other obligations to settle, the accountability shall remain with him/her;
- 7.4 The process of transferring accountability in the case of separation from the service shall apply as in 7.2 & 7.3 above;
- 7.5 Where cases are subjudice, accountability shall remain till the cases are settled as per the court verdict. In respect of cases involving officials not charge-sheeted, the RAA shall review the accountability;
- 7.6 For those cases which are forwarded to Anti-Corruption Commission (ACC), the accountability shall continue to prevail if the case has been qualified for further investigation by the ACC. For cases where further ACC intervention is not warranted, the RAA shall review the accountability status; and
- 7.7 The cases pertaining to the deceased, missing and absconded personnel shall be dealt in accordance to the relevant laws.

8. Accountability and Audit Clearance

The system of holding someone accountable is only effective if there is a system to validate how responsibly that individual has responded to issues he/she was held accountable for. Therefore, it is of paramount importance that there is a robust follow-up mechanism in place. Based on the follow-up, the RAA shall affect audit clearance as follows for various purposes subject to point 8.6, 8.7, & 8.8. of the exception clauses.

- 8.1 Any individual who is held directly accountable on audit issues shall not be issued Audit Clearance until those issues are settled completely;
- 8.2 Officials who are held supervisor accountability shall not be issued Audit Clearance if the issues remain unresolved even after 12 months from the issue of the Audit Report;
- 8.3 Both direct as well as the supervisory held accountable officials shall be denied audit clearance certificate if the issues reported are categorized under fraud, corruption and embezzlement till such time the issues are resolved appropriately;
- 8.4 Audit Clearance Certificate shall not be issued to those who are implicated in the chargesheet in respect of cases which are subjudice or those cases which are with the Office of the Attorney General; and
- 8.5 The Head of the Agency shall not be issued Audit Clearance if he/she fails to initiate appropriate actions including legal actions where warranted to resolve the audit issues within 12 months from the date of issue of audit reports.

However, there can be certain exceptions on the above clauses as below:

- 8.6 The Audit Clearance can be issued to individuals who are held accountable on lapses which are procedural in nature, trivial issues, systemic issues, control weaknesses, which are inherent to certain agencies not involving recoverable amounts, including irregularities occurring in proper discharge of their duties not warranting any administrative action. However, Audit Clearance shall be denied if no Action Taken Report is submitted within three months from the date of issue of audit report or no appropriate remedial measures are initiated to improve the system or where RAA conclude that action taken and measure initiated are inappropriate or insufficient;
- 8.7 In the event of demise of accountable official, audit clearance shall be issued for the purpose of releasing his/her post-retirement benefits on the basis of letter of undertaking of the management to adjust recoverable amounts from the benefits; and
- 8.8 In respect of deceased accountable official whose cases are subjudice, or with ACC and OAG, the audit clearance shall be denied until court verdict or consent of ACC and OAG are furnished.

9. The Final Authority

Notwithstanding the above (point number 8.6, 8.7 & 8.8) the Auditor General or the delegated committee shall exercise professional judgment in determining the nature of lapses or irregularities and resolve the audit issues in line with **section 43** of the Audit Act of Bhutan 2006 in the spirit of upholding accountability in the public operations.

10. Accountability on Performance Audit Report

Following are the accountability fixation process that shall be followed for performance audit reports.

- 10.1 The accountability shall be fixed on every recommendation in the performance audit report to ensure that the recommendations are implemented;
- 10.2 The responsibility to fix accountability shall rest with the management;
- 10.3 Should RAA find that the accountability is being fixed on the wrong individual(s), the RAA shall call for a meeting with the agency/agencies to re-discuss the accountability statement;
- 10.4 Within three months of issue of performance audit report, the management must submit the Action Taken Report along with signed accountability statement and an action plan on how, when and who will implement the recommendations;
- 10.5 In the event the management fails to submit the signed accountability statement the RAA shall fix the accountability on the head of agency to implement the recommendations;
- 10.6 If the deadlines in the action plan be unreasonable, the RAA shall call for a meeting with the audited agency/agencies to re-discuss and agree on the dates for implementing the recommendations; *and*
- 10.7 If the management fails to implement the recommendations as per the time frame agreed in the action plan, the RAA shall reserve the right to deny the audit clearance on those officials who are held responsible and accountable;

1. Background

1.1 Introduction

This document contains a set of guidelines for fixing accountability against contractors / consultants on audit issues and should be read in conjunction with **Section 6.12** of the overall Guidelines to Fixing Accountability.

In addition to the present system of accountability on the civil servant, the need for extending the accountabilities to the private sector were expressed at various forums in order to enhance the accountability mechanism in the overall utilization of the public funds. Accordingly, this guidelines is developed based on series suggestions, feedbacks and directives from various stakeholders including the implementers, legislators and regulators to enhance the accountability mechanism in the utilization of public funds.

1.2 Objectives

The objectives of holding the contractors/ consultants¹ accountable are to:

- 1.2.1 To enhance accountability mechanism in government operations and utilization of public funds; and
- 1.2.2 To promote accountability and ethics in both public and private sectors.

2. Fixation of accountability

2.1 Types of observations where the accountability are fixed on the contractors/ consultants;

- 2.1.1 The contractors shall be held accountable for the audit observations pertaining to irregularities including excess payments, double payments, inadmissible payments, non-deductions, defective and substandard quality of works and any other irregularities where the nature of the observation warrants the contractors to be obliged to make good the amount or necessitates actions from the contractors;
- 2.1.2 Similarly, the consultants shall be held accountable for the audit observations pertaining to irregularities including excess payments, double payments, inadmissible payments, ineffective supervision of works, faulty designs, and any other irregularities where the nature of the observation warrants the consultants to be obliged to make good the amount or necessitates actions from the consultants;

¹ The consultant referred herein is the work consultant.

- 2.1.3 The contractors /consultant shall be held accountable for any violation of the PRR and the contract documents;

2.2 Process of fixing accountability

- 2.2.1 It is the responsibility of the management of the audited agencies to fix the accountability to the concerned Contractors/ Consultants, where deemed appropriate;
- 2.2.2 The agency concerned shall exercise reasonable judgment to fix accountabilities to the contractors / consultants;
- 2.2.3 The process of fixing accountability should be fair and transparent. The Head of the agency shall be responsible to communicate the contractor/ consultant prior to fixation of accountability on the audit issue;
- 2.2.4 The accountability should be fixed upon discussion and deliberation with Contractors/ Consultants;
- 2.2.5 Primarily, it is the concerned dealing official who should be accountable on the audit issues. Wherever the Contractors/consultants are held accountable, the concerned dealing official shall also be held directly accountable and shall not be absolved off the fiduciary responsibility on audit issues and the supervisory accountability shall rest on appropriate official/authority of the agency responsible for overall supervision;
- 2.2.6 In respect of works supervised by the engineering consultant the supervisory accountability shall be concurrently fixed on the appropriate official/authority of the agency responsible for overall supervision besides the consultant;
- 2.2.7 The agency should submit the signed accountability statement along with the responses to the audit team within the specified/agreed time or prior to audit exit meeting;
- 2.2.8 In case the signed accountability statement is not submitted on time the accountability shall be fixed in accordance to **Section 6.6** of the Guidelines to Accountability Fixation;
- 2.2.9 The accountability of contractors/ consultants shall be reflected in the Audit Report along with the concerned responsible official. The duly signed accountability statement shall form a part of the Audit Report;
- 2.2.10 The RAA shall incorporate the accountability details in the Audit Information Management System (AIMS) of RAA immediately upon the transmittal of audit report by CDB registration number as well as CID;
- 2.2.11 Concurrently, the RAA shall also incorporate the details of accountable contractor /consultant in the e-Zotin system by CDB registration number;

- 2.2.12 The concerned agency upon receipt of final audit report from the RAA shall communicate the relevant excerpt of audit observations to the contractor/ consultant at the earliest possible;

3. Accountability and Renewal of Registration Certificate

3.1 Renewal of registration certificate

- 3.1.1 The CDB shall include a mandatory requirement to check whether the contractor/ consultant applying for renewal of registration certificate have any unresolved audit observations in their Information System as on date of application;
- 3.1.2 In case the contractors/ consultants have unresolved audit issues, the CDB shall not renew the Registration Certificate till the audit issue has been resolved.

3.2 Settlement of audit observation

- 3.2.1 For any unresolved audit issues leading to the denial for renewal of CDB registration, the contractor/consultant may be directed by the CDB to resolve the audit observation with the concerned agency;
- 3.2.2 The agencies concerned shall submit the details of action taken including justifications and supporting documents to the RAA for its review;
- 3.2.3 The amount determined as recoverable from the contractor/ consultant may either be directly deposited into designated Audit Recoveries Account maintained with the Bank or deposited with the nearest RAA's office along with applicable penalty of 24% per annum if any, under intimation to RAA;
- 3.2.4 The RAA shall acknowledge the amount deposited into the Audit Recoveries Account and update the *e-Zotin*;
- 3.2.5 For any defective/ substandard works where contractor/ consultant is held accountable, it is the responsibility of the contractor/ consultant to rectify the defective/substandard works. The agency concerned upon satisfaction of the rectification should furnish evidences to RAA for further review;
- 3.2.6 Justifications and additional supporting documents if any, furnished by the agencies contractor/Consultant, the RAA shall review the replies / justifications and decide appropriately on the acceptability of the responses to resolve the issues;

4. Relief of audit accountability

4.1 Accountability settlement

- 4.1.1 Accountability fixed against Contractors/ consultant shall remain until the issues are resolved appropriately;
- 4.1.2 Where cases are subjudice or under arbitration, accountability shall remain till the cases are settled as per the court verdict or arbitral award;
- 4.1.3 For cases which are referred to ACC and OAG, the accountability shall continue to remain until due process of investigation and prosecution is completed;
- 4.1.4 The accountability pertaining to cases of the deceased, missing and absconded contractor /consultant shall be dealt in accordance with the laws of the land;
- 4.1.5 Upon resolving the observations and updating in *e-Zotin*, the contractor /consultant is deemed relieved of the accountability.

Annexure B: Background and current problem of accountability fixation

After the completion of field audit, the audit observations are issued to the respective audited agencies. The management is then expected to submit a written response to all the audit memos within one month from the issue of final audit memos along with the accountability statement. It is expected that the accountability is fixed by the management in consultation with those responsible for lapses. The management and officials are required to deliberate, discuss and agree before fixing the accountability. It is also the responsibility of the management to inform respective individual regarding the need to fix accountability on his/her name should he/she had missed the accountability fixation process. The accountability statement is signed by the management and submitted along with the responses before the audit exit meeting. The rationale behind is to provide opportunity to individuals and management to accept accountability during the exit meeting.

However, at times these procedures are not practiced strictly by the audited agencies and accountability is fixed on wrong individuals without their consent and knowledge. In many occasions the submission of accountability statements are either delayed or not submitted at all. This delays the finalization and issuance of audit reports.

There are no proper formal guidelines, a document, to guide the fixing of accountability. As a result, the present system of fixing accountability is plagued with the following.

- The fixation of accountabilities are not uniform across different audited agencies;
- Sometimes, persons who are held accountable are not aware of how, when and for which para the accountability has been fixed on him/her;
- There have been instances of accountabilities fixed only on employees holding lower position or to the wrong person and the committees and the approving authorities are not held accountable;
- At times employees are unfairly penalized for inaction or non-cooperation of third parties such as contractors, suppliers etc. to resolve the issues;
- There is risk of possible litigation for wrong fixation of accountability;
- The management faces problem of fixing accountability incase people are transferred or already resigned/ retired from the service;
- Certain policy issues, systemic issues, issues inherent with certain type of agencies, fixing accountability becomes difficult on such cases. Also no one accepts the responsibilities and more often it is forced on some officials and he/she gets penalized in the process;
- After the RAA forwards a case to ACC, the audit clearance to both the supervisor and the direct accountable official are withheld. Sometimes, it has been noticed, that the management had initiated administrative actions deemed fit, yet the RAA does not issue the audit clearance;

- Still further, there are cases where the Hon'ble court has issued verdict but the defaulters still do not honour it and in the process the official held accountable gets penalized;
- While a defaulter, for instance a contractor, is convicted for another case and is serving a prison terms, the official who is held accountable for any issues with the same contractor has to wait for that contractor to complete his prison terms to settle his issues. And in the process he is penalized;
- While a case under category of 'Fraud, Corruption and Embezzlement' is under prolonged litigation, the officials held supervisory accountable, who are not directly involved in the case also gets penalized; and
- The audit issues for which direct accountabilities are fixed on contract employees who exit the service without obtaining audit clearance never gets resolved.

4th Session of 2nd Parliament, 2014:

As the supervisors are held accountable for the acts of their subordinates, it would be important to enhance their awareness about (a) why they are being held accountable? (b) What steps can they take so that the controls within their units are strengthened and acts of error, fraud and misconduct are minimized? In this regard, National Internal Control Framework (NICF) which was recently issued by the Ministry of Finance (MoF) in December 2013 is a very useful and pertinent document that has been developed for use by heads of agencies to strengthen integrity, transparency, efficiency, effectiveness, accountability and ethical behaviour at all levels. All agencies must adopt and implement the NICF and the MoF should provide any guidance needed to implement the same in the various agencies.

The above recommendations also apply to those agencies that fall outside the purview of the RCSC such as Local Governments, Corporations, Financial Institutions, Civil Society Organizations, Political Parties, etc. but which are statutorily required to be audited by the RAA. It was resolved to introduce concrete measures to promote and enforce “supervisory accountability” in general and with regard to audit observations, in particular. It was also resolved to submit an Action Taken Report in this regard to the parliament through PAC.

6th Session of the 2nd Parliament, 2015

The resolution of the 6th Session of the 2nd Parliament was intimated to the RAA vide the National Assembly of Bhutan’s letter No.NAB-P-2(S6)2015/2247 dated 30.12.2015. The resolutions are as follows:

1. The concern agencies should strictly adhere to Financial Rules and Regulations and the RAA should impose accountability on immediate supervisors.
2. The Head of the Agencies should take immediate responsibility to resolve all pending audit issues to ensure judicious use of public resources. Therefore, the Head of the Agencies should ensure all pending audit issues are resolved within 12 months from the date of issue of audit reports. Should it remain unresolved by the end of 12 months, the Head of the Agencies should initiate legal actions against the concerned officials. All these initiatives by the agencies should be reported to the RAA by 30th September of every year to incorporate in the review report of the RAA which gets submitted to the Parliament.

Annexure D: Accountability Diagram:


