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BITS Audit memos threaten participation of former PM and FM in 2029 elections and leave a memo for Cabinet Secretary

The Special Audit Report on the Bhutan Integrated Taxation System (BITS) was recently discussed in Parliament, and one of the main points of the report was Audit memos issued against former Prime Minister Dasho Dr Lotay Tshering, former Finance Minister Namgay Tshering, and the current Cabinet Secretary Dasho Kesang Deki.

This comes against the backdrop of the recent decision of the Royal Audit Authority (RAA) not to issue an Audit Clearance to former Phuentsholing Thrompon Uttam Kumar Rai, which meant he could not take part in the elections even though he had planned to do so. Uttam Rai was unable either to clear the pending audit cases under the Thromde or to take the unresolved ones to court, due to which he did not get his clearance.

The memos issued in the BITS report, if not resolved or solved, could very well mean that both the former PM and FM may be unable to take part in the 2029 elections.

No ordinary memos

The problem for the three above and many others is that while there is no corruption and no personal benefit involved, the audit memos are no ordinary memos that can be resolved by them recovering some money from others or paying some money themselves. The report is not asking for any recovery.

The main focus of the Audit Report and the subsequent memos is on the violation of procurement rules in directly awarding the work to Thimphu TechPark Limited and the issues and financial implications arising from that.

When it comes to the former PM, the report says that he violated the Procurement Rules and Regulations (PRR) 2019 by awarding a Nu 610.11 million (mn) tender directly to Druk Holding and Investments (DHI) and Thimphu TechPark Limited (TTPL) when anything above Nu 400,000 should invite an open tender and bidding.

It pointed out that under the rules, the highest level of Tender Committee is a ministerial one chaired by the Secretary.

RAA said the risk of adhering to directives from an elected Prime Minister may create a precedent that would render the prevailing laws, statutes, and regulations null and void. RAA said such practices expose the organization to the risk of not achieving value for money; limit competition, potentially leading to inflated pricing or sub-optimal service delivery; increase the risk of favoritism; and constitute non-compliance with the PRR 2019, thereby weakening governance and accountability mechanisms.

In the case of the former FM, the RAA report places Supervisory Accountability on him for a lack of market research and technical capacity assessment for the direct engagement of TTPL.

Section 1.1.5 of the PRR 2019 requires procuring agencies to undertake adequate market research and analysis prior to initiating procurement, particularly for complex, high-value, and high-risk assignments.

RAA said there was no documentation demonstrating that the technical and managerial capacity of TTPL was assessed against the project's scope and complexity; that market risks, implementation challenges, and delivery constraints were formally evaluated; or that alternative procurement approaches were examined based on market intelligence. In the absence of such analysis, there was limited assurance that the selected entity possessed the requisite expertise, systems development experience, and resource capability to successfully deliver a large-scale, mission-critical taxation system like BITS 1.0.

In the case of the current Cabinet Secretary, the memo against her is for failure to salvage and reuse BITS 1.0 deliverables.

RAA said an audit observation titled 'Failure in development of Bhutan Integrated Taxation System (BITS) for Goods & Services Tax (GST) and its cost implication thereof -Nu. 119.111 mn' was raised during the audit of the Department of Revenue and Customs for FY 2021-2022. RAA said the observation was conditionally dropped based on the agency's assurance that the outputs handed over by TTPL would be salvaged and integrated into BITS 2.0.

RAA said this assurance was further reinforced by the Cabinet Secretary's Analysis of the Failure of the BITS Project (January 2024), which indicated potential reuse value in several components, including Nu 18.978 mn of the inception report, Nu 44.590 mn of process and design documents, database schemes, and knowledge transfer to 17 people. However, audit verification found no substantive evidence that the digital or technical outputs of BITS 1.0 were salvaged, integrated, or meaningfully utilized in the development of BITS 2.0.

Legal case

Their troubles do not end there, because the RAA under Section 123 of the Audit Act 2018 says, 'Any serious cases remaining unresolved for 12 months after deliberation in the Parliament shall be referred to the Court of Law by the agencies concerned. Failure to refer such cases to the Court of Law shall result in denial of an Audit Clearance Certificate to the Head of agencies concerned.'

The above essentially means that by sometime in June or July next year, this BITS Audit report could very well end up in court. This would be a headache not just for the former PM and FM, but also for the current Cabinet Secretary, who is the senior-most bureaucrat and a node of coordination for the bureaucracy.

Action Taken Reports

The Audit Report was issued on 31 March 2026 to Parliament after an August 2025 joint sitting of Parliament discussing the Goods and Services Tax and BITS resolved that there needs to be a special audit on BITS.

The RAA had given three months for an Action Taken Report (ATR) that ended on 30 June 2026; however, an ATR has not yet been submitted to the RAA as the Ministry of Finance and Cabinet Secretariat will be meeting on the issue to see what needs to be done.

The Public Accounts Committee of the National Assembly presented the audit report in Parliament, and the PAC is also expected to present an ATR to Parliament on the report. The PAC will also be relying on the government for the ATR.

RAA official speaks

An RAA official said that under Section 123 of the Audit Act, the issue has to be put to court within one year and it will likely have to be the Office of the Attorney General (OAG). The RAA official said the charges would have to be framed by the OAG based on the RAA report. The official said that the OAG cannot drop the case, unlike ACC cases. The official added that if the then cabinet had amended the procurement rules to allow for such a provision, then there would be no issues as far as the award was concerned, but this was not done.

The reason the matter may end up in court is, firstly, because the ATR is required from the Cabinet Secretariat, which is headed by the Cabinet Secretary who is named in the report, and secondly, it involves a former minister and PM against whom action cannot be taken by any agency.

Legally, this will be the first case of its kind. This is because normally the OAG takes recovery cases to court for the RAA, like recovering money from an official or usually a contractor, etc. Here, there is no recovery to be made, but a violation of the procurement rules and, as a result, a wastage of resources.

Former Finance Minister says he was not contacted

Former Finance Minister Namgay Tshering said, "First and foremost, this is a decision taken by the then government of the day and not Dr Lotay or Namgay Tshering. It was discussed in the cabinet and also in the Lhengye Dhensa, and in fact, in the presence of the ministers, DHI and TTPL were called to ask if they could handle the project. Only after their assurance did the government give them the project."

The former minister also asked why the RAA did not contact him or the former PM while the audit was going on; he said when he later asked, he was told by the RAA that it is not their mandate and that the government machinery must contact them. He said the work was given directly to TTPL with the very noble intention of building our capacity and also ensuring lower operational and maintenance costs in the future. The former minister said the job was not given to a private company, but to a state-owned company.

The minister said procurement rules were not breached as the cabinet took a decision and the finance ministry acted on it. He said the responses to the report appear mainly to have been done by the GST project manager and appear half-hearted. He claimed that the BITS issue had been resolved, but it was dug up by Parliament again. The former minister claimed that a key document from the cabinet that lists it as a government order to award the work may not have been submitted.

Cabinet Secretary responds

Cabinet Secretary Kesang Deki said that if there were any corruption, favoritism, policy corruption, etc., then they themselves would have held people accountable, but there were no such things. She said that the RAA was given all the explanations and documents, including the letter from the Prime Minister, which was a government order. She said that if there are such outcomes, then the risk-averse culture may only get stronger in the bureaucracy.

She said the then government wanted to try out something new with this project, and the audit issues had actually been resolved in the past. The Cabinet Secretary said she is ready for any action that the RAA wants, including against her. She said that if the case goes to court a year later, she would be ready at that time as well.

On why aspects of BITS 1.0 could not be used in BITS 2.0, she said they would try and salvage as much as they could, but later the technical people told her that BITS 2.0 is a different system, so BITS 1.0 cannot be used there. She said to avoid an audit memo, she could have forced the salvaging BITS 1.0, but then the result would be that there might not even be a BITS 2.0 by now. The Cabinet Secretary said the RAA report has been a learning experience. She said what must also be taken into account is the pandemic and the situation at the time.

OAG views on the matter

This paper talked to an OAG official on the matter, and the official said they have not received any case on BITS yet from the RAA and they would only really know when the RAA sends them the case with the possible charges. The OAG official said that normally the OAG only pursues restitution cases for the RAA in court, so a case like this would be the first of its kind, and if it does come, they will have to discuss with the RAA what exactly they want.

There is a view within the OAG that this could be an administrative case since there is no recovery and it may not be possible to prosecute it in court, but the RAA, on the other hand, feels that this decision should be left to the court. If the case does go to court a year later and there are prosecutions, then it will have far-reaching implications for the three. The case even has the potential to lead to another institutional conflict, this time between the RAA and the OAG, with the former insisting on a case based on its Act and the OAG citing provisions in its Act not to take it up as a case.

An RAA official said the issue is about accountability and the rule of law. The official said if they had wanted to do something different, then there are enough sandbox provisions, and they could have gotten permission from Parliament while approving the budget with a proper monitoring committee, etc. The RAA official said if officials insist nothing wrong happened, then there is no need even to have a compliance audit.

This paper asked for a response from the former Prime Minister on the issue, but there was no response.

Memos on others too

The BITS report has placed audit memos on others too, like Kuenga Jurmi, CEO of TTPL, and Sonam Chophel, Senior Inspector, DRC, as well as on retired people like former Finance Secretary Nim Dorji, former DG, DRC Wangchuk Thayey, and former CEO of TTPL Dr. Tshering Cigay Dorji; but again, these are all on procedural matters with no financial recovery to be made. The above will be affected too when it comes to Audit Memos or even a possible legal case.

The BITS Report says that procurement rules were not followed. Additional expenditures included Nu 119.11 mn spent on BITS 1.0, Nu 78.79 mn in infrastructure investments for BITS 1.0, Nu 60.12 mn for the development of BIRMS, and Nu 329.52 mn being the difference between the contract price of BITS 2.0 and the contract price of BITS 1.0.

It also said the evaluation criteria used to select the international implementation partner were revised by TTPL without documented justification. The RAA also noted weak contractual safeguards, including the release of advance payments exceeding regulatory limits and weak oversight of contractual obligations, including inadequate enforcement of requirements for the deployment of qualified international technical experts.

Given the unique nature of the case and it being the first of its kind, it remains to be seen what the ultimate resolution will be.

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