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PART I: INTRODUCTION

The Constitution of the Kingdom of Bhutan 2008 provides that “There shall be a Royal Audit Authority to audit and report on the economy, efficiency and effectiveness in the use of public resources”. In line with this important Constitutional responsibility, the Royal Audit Authority (RAA) is mandated to audit and report on the economy, efficiency and effectiveness in the use of public resources.

Mandates:

Article 25.1 of the Constitution of Kingdom of Bhutan 2008 provides that “There shall be a Royal Audit Authority to audit and report on the economy, efficiency and effectiveness in the use of public resources.”

Further, Section 44 (c) of the Audit Act of Bhutan 2006 specifically provides that “It shall be the duty of the Authority to promote economy, efficiency and effectiveness in the use of public resources through its reports and recommendations”. Accordingly, the RAA engages itself in examining whether the ministries and agencies achieve value for money in public operations by doing the right things in the right and the least expensive way. The RAA provides its opinions on the results of these operations through various audit reports along with series of recommendations intended to remedy the observed deficiencies and taking corrective actions. In addition to audit observations and recommendations contained in the various audit reports, the RAA in fulfilling its advisory role, periodically undertakes focused studies on specific issues that are significant, pervasive and cross cutting in nature and merit timely intervention of the government for necessary corrective actions. The reports of such studies that contain analysis of issues, likely impacts, conclusions and suggested course of actions in the form of recommendations are issued through Auditor General’s Advisory Series.

In 2008, the RAA had issued the Auditor General’s Advisory Series on “Constructions and Procurement”. The study delved into identifying problems and deficiencies in the areas of constructions and procurement system and its causes to suggest remedial measures for strengthening and improving the construction and procurement processes. In view of the persisting problems in the procurement and management of consultancy services reported in the audit reports issued in the past, the RAA has focused its attention to study and review the procurement and management of consultancy services by the government agencies. And given the fact that the procurement and management of consultancy services have significant qualitative, quantitative and financial dimensions in the

public procurement, the RAA deemed it necessary to focus on this area to draw attention of the government on the existence of the problems and to suggest course of actions that will render improved systems and improved economy, efficiency and effectiveness in the management and procurement of consultancy services by the government. Thus, the Auditor General's Advisory Series 2013 contains Auditor General's report on the economy, efficiency and effectiveness in the procurement and management of consultancy services by the government agencies.

RAA through this paper intends to report to the Royal Government of Bhutan on issues and concerns pertaining to procurement of consultancy services along with recommendations to address the systemic issues to add value in the engagement of consultants rather than initiating actions on individual cases.

Consultancy services are usually procured to address the specialized needs of the procuring agencies where in-house capacities and expertise are either not available or inadequate. The consultancy services providers are deemed to be professional and highly specialized in their specific areas of interest. However, prudence must be exercised in acquiring the consultancy services in order to obtain high quality and specialized services of high relevance to the type of services desired at reasonable costs. Besides, the consultancy services also have the potential to strengthen the professional and technical capacities of the procuring agencies through transfer of technical know-how. Further, the policy on acquiring consultancy services also encourages and supports private sector development as well as the government policy of maintaining "small, compact and efficient" civil service.

Recognizing the increasing importance of privatization and divestment to aid capacity development in the private sector, and ultimately enhance efficiency and development of the overall economy of the country, the Royal Government of Bhutan (RGoB) has been continually outsourcing works and consultancy services. The government has been putting considerable efforts in improving and streamlining the system of governance including financial management system such as enactment and improvement of laws, updating of financial rules and regulations, budgetary, accounting, reporting reforms, strengthening of institutional and human resources capabilities. However, there are still areas where further reviews and reforms are necessary. Procurement of consultancy services is one of such areas requiring appropriate government interventions.

Therefore, the RAA through this paper intends to report to the Royal Government of Bhutan on issues and concerns pertaining to procurement of consultancy services along with recommendations to address the systemic issues to add value in the engagement of consultants rather than initiating actions on individual cases.

PART II: BACKGROUND & SCOPE OF THE STUDY

From financial year 2007-08 to 2011-12, the government had incurred expenditures aggregating to Nu. 4,594.15 million on procurement of consultancy services as exhibited in Table 2.1 (Figure indicated in the table does not capture the entire expenditures incurred on Consultancy Services as there could be expenditures charged to other financial object codes besides object code 55.01).

Table 2.1: Sector-wise expenditures incurred on Consultancy Services from 2007-08 to 2011-12
 XXXXXXXXXX (in million Nu.)

Ministries & Agencies	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	TOTAL	% proportion
MoHCA	1.51	3.10	2.14	6.01	35.89	48.65	1.06
MoF	8.04	63.04	38.15	18.15	19.00	146.39	3.19
MoFA	-	-	0.01	0.12	0.72	0.85	0.02
MoA&PS	24.37	28.66	40.90	30.24	56.71	180.87	3.94
MoEA	111.70	63.79	375.24	1,427.89	365.61	2,344.23	51.03
MoWHS	45.57	62.36	49.32	88.01	103.67	348.93	7.60
MoIC	5.04	14.36	23.85	28.31	47.00	118.56	2.58
MoH	12.42	10.27	17.64	36.50	13.73	90.56	1.97
MoE	33.97	20.60	127.21	26.33	9.48	217.60	4.74
MoLHR	3.57	3.48	3.36	5.68	20.68	36.77	0.80
Dzongkhag Admins.	11.84	12.17	0.42	0.95	3.32	28.69	0.62
Autonomous Agencies	47.00	87.49	345.80	334.96	216.78	1,032.04	22.46
TOTAL	305.03	369.33	1,024.06	2,003.15	892.59	4,594.15	100.00

Source: Consolidated Annual Financial Statement of the Royal Government of Bhutan (Financial Object Code 55.01)

As evident from Table 2.1, the Ministry of Economic Affairs (MoEA) had the highest amount of expenditure on consultancy services of Nu. 2,344.23 million, accounting for 51.03% of the total expenditure on consultancy services in the last five years. The major consultancy services availed by the Ministry were for preparation of Detailed Project Report (DPR), pre-feasibility studies and pre-construction activities in the Hydro Power Projects. Likewise, the Gross National Happiness Commission had acquired the consultancy services involving expenditure of Nu. 430.81 million¹ during the same period, representing 41.74% of the total expenditures of Nu. 1,032.04 million expended by various Autonomous Agencies on consultancy services as exhibited in Table 2.1. The expenditure was mainly incurred on procurement of consultancy services for Accelerating Bhutan's Socio-economic Development (ABSD) Project provided by McKinsey & Co., Inc. during the period 2009-10 and 2010-11 as exhibited in Table 2.2.

¹Source: Annual Consolidated Financial Statement of the Royal Government of Bhutan

Table 2.2: Categories of Consultancy Service expenditures by major activities during the period from 2007-08 to 2011-12 (in million Nu.)

Year	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	TOTAL
Hydro-power Consultancy	79.64	44.39	328.74	1,351.58	0	1,804.35
ABSD Project Consultancy	0	0	221.92	185.36	0	407.28
Others	225.39	324.94	473.40	466.21	892.59	2,382.53
TOTAL	305.03	369.33	1,024.06	2,003.15	892.59	4,594.15

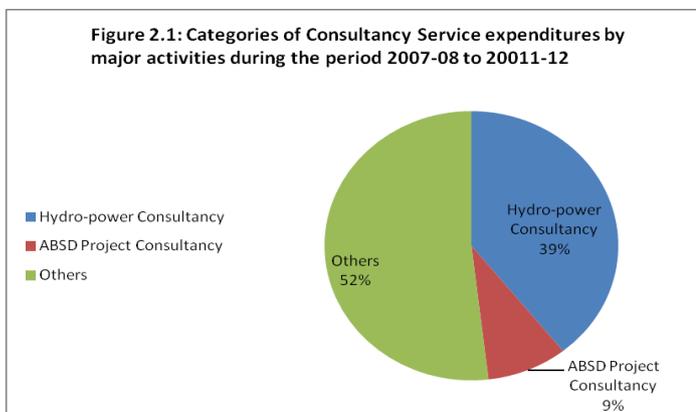
Since the Hydro-power Consultancy and ABSD Project constituted substantial portion of the consultancy activities as exhibited in Figure 2.1, separate case studies have been brought out in this report on these two aspects besides consultancy services availed for various other purposes to ascertain whether the procuring agencies have achieved value of money spent on the services availed.

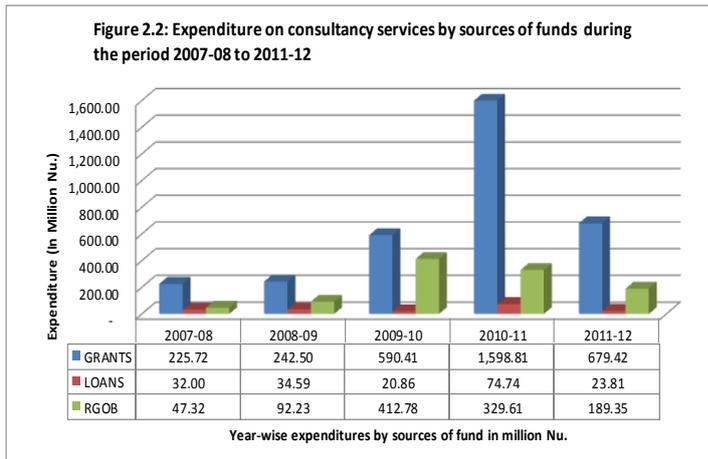
During the period from 2007-08 to 2011-12, the consultancy for Hydro-power and ABSD Project represented about 39% and 9% of the total expenditure incurred for consultancy services respectively. Under the category 'Others',

representing 52% of the aggregate expenditures, the consultancy services were mainly availed for activities such as preparation of drawings and designs of roads, bridges and buildings, drafting of legislations, standards and manuals of technical nature, development of information systems, etc.

The total expenditures on the consultancy activities have also been increasing over the years except for 2011-12 as exhibited in Table 2.1. Therefore with such quantum of expenditures incurred annually, the RAA found it imperative to highlight some of the policy and implementation issues observed in these activities and report to the Government to make an informed decision. Timely interventions from the Government could save further drain of its resources, especially at a time when the nation is faced with resource constraints and when the situation is further aggravated by shortage of INR as most of the consultancy services were outsourced to the international consultancy firms.

A significant portion of the expenditures made on procurement of consultancy services were financed through external funding as exhibited in Figure 2.2.





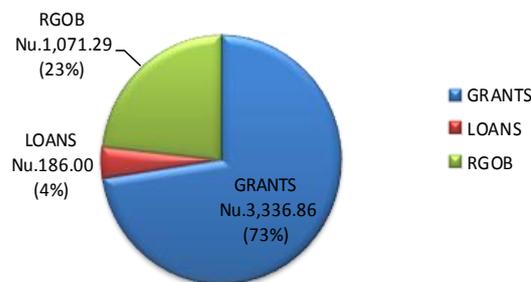
The external sources contributed for 77% (73% Grants and 4% Loans) of the total expenditures incurred for acquiring professional services as exhibited in Figure 2.3. RGOB's contribution accounted for 23% of the total expenditures made for professional services

aggregating to Nu. 1,071.29 million.

As evident from the figure, the proportion of consulting activities financed through external sources was huge, partly attributed to project agreements that required procuring agencies to outsource consultancy services only to the donor identified consultancy firms or to be obtained through direct technical assistance provided by the donors.

It was also observed that the high value consulting activities were generally being executed by the consultants from outside the country. Therefore, the current practice of outsourcing of consultancy services has apparently not been effective in addressing the policy intention of promoting and building the private sectors when major share of the services were outsourced to the international consultants. In absence of specific data, the RAA could not ascertain the exact extent of consultancy activities executed by the international firms. However, the share of expenditure incurred for consultancy services under Hydro-power and ABSD Project Consultancy to the aggregate expenditures as exhibited in the Figure 2.1 (above) provide to show that substantial part of the consulting activities were executed by the international consultants. The figure indicated that Hydro-power and ABSD Project activities have together contributed 48% of the aggregate expenditure of Nu. 4,594.15 million incurred over the period from 2007-08 to 2011-12. From the remaining 52% of the aggregate expenditures, more than half of it was paid to the consultancy firms from outside the country.

Figure 2.3: Proportion of consultancy services expenditures by sources of funds for the period 2007-08 to 2011-12 in million Nu.



As apparent from Figure 2.3, a significant portion of the services were procured through external financing. The external financing scheme comes with such arrangement as project-tied agreement, and contribution of technical assistance and professional services in-kind availed through involvement of funding agencies.

A detailed review of select consultancy services in the public sector showed that the quality of services provided by the consultants were apparently not commensurate with amount paid for their services. The quality of the services rendered by consultants had on numerous occasions suffered serious deficiencies impeding the economy, efficiency and effectiveness in the use of government resources.

Therefore, there is an urgent need to reconsider the policy intent of outsourcing consultancy services in deriving maximum benefits from the cost incurred on these services. Such services procured through loans also needs serious consideration on the backdrop of soaring cost of debts and the current INR shortage in the economy. The Royal Government of Bhutan may also need to consider the interest of sustainable development of in-house capacity in the long run when the services provided by the consultants proved to be lacking in terms of transfer of knowledge to the clients. There may be a need for the government to come out with clear and definitive strategies to achieve the policy intent of outsourcing consultancy services.

PART III: LAPSES AND DEFICIENCIES

Consultancy Services may make substantial value additions by providing specialized skills and expertise at competitive cost where these are not available within the public sector. Outsourcing of such services by public sector also promotes private sector development and high degree of specialization in various fields. Besides ensuring availability of specialized skills and know-how such a policy will also help government maintain a reasonably small, compact and efficient civil service. It has also huge potential for knowledge and skill transfer in many areas. While enormous benefits can be reaped from engaging consultants, the procuring agencies need to exercise prudence in the engagement of consultants that would ensure economic, efficient and effective use of government resources.

The Royal Audit Authority had observed shortcomings and lapses of pertinent nature involving poor quality of deliverables and outputs from the consultants. The current practices in engagement of consultancy is plagued with numerous systemic problems, unclear strategies and objectives with consequential adverse impact on the quality of works, time and cost thereby impeding achievement of value-for-money in the procurement of consultancy services and overall programme implementation. The Royal Audit Authority has been continually reporting the systemic lapses to the Royal Government of Bhutan through various specific reports and Annual Audit Reports along with its recommendations. However, the shortcomings in this sector continue to surface in the system indicating that it has not received appropriate interventions from the policy makers and other stakeholders. Therefore, the Auditor General's Advisory Series 2013 reiterates the subject with exclusive focus on the Consultancy Services as discussed below drawing attentions of the policy makers and other stakeholders for policy interventions directed towards achieving value for money in the engagement of consultants in the public sector. This AG's Advisory Series has been prepared based on review of various audit reports issued by the RAA over the years and on further analysis of additional information pertaining to procurement of Consultancy Services.

3.1. Legal and policy framework

The introduction of the Public Finance Act, 2007 provided the mandate to the Ministry of Finance to issue Financial Rules and Regulations and such other rules, manuals, directives, instructions or notifications according to the powers in this Act and amending or cancelling them. The Procurement Rules and Regulations, 2009 was framed to streamline and strengthen the public procurement system. A separate chapter is dedicated for Procurement of Consultancy Services in view of the significance and distinct processes involved in the methods of procurement of works and goods.

The review of existing procurement system for consultancy services indicated that there is no strong policy framework for public procurement. The absence of a strong policy framework results in varied practices and procedures which renders scope for numerous deviations and lapses in the implementation of the rules. Some of the inadequacies are explained below:

3.1.1. Absence of clear strategies on procurement of consultancy services

- a) There are no clear strategies and adequate guidelines prescribing processes and procedures to determine need for engagement of consultants by the procuring agencies. The procuring agencies resort to engagement of consultants for many activities without assessing if the works can be carried out with the available capacities within the organization or by availing the services of other relevant departments within public sector.

“Before a contracting authority considers hiring external support, it must first determine that the project cannot be delivered in-house. If adequate internal resources are not available or if an external review is mandated, it is only at this stage that hiring of external support should be considered.” - Guidelines for Engagement of Consultants, 2006 Republic of Ireland
- b) There is no specific guideline for coordinating with central technical agencies such as MoWHS, DIT etc. for technical backstopping that can be availed by the procuring agencies in scoping the work and assessing the need for engaging consultants.
- c) The consultancy services were procured for all kinds of works, irrespective of the nature, complexity, size and degree of expertise required on a repetitive basis. The absence of prescribed processes and requirements to demonstrate the need for a consultancy services may encourage indiscriminate procurement of consultancy services even if it is not necessary.
- d) It may also render scope for undermining the available capacity within the procuring agency. This could breed complacencies and contribute to waning of available knowledge and expertise within the organization.
- e) The engagement of consultants for services which can be carried out by the available in-house resources may not be economical. Engagement of consultants without actual need may result in avoidable expenditure and underutilization of in-house resources.
- f) Thus, in view of the inadequacies of the guidelines, the consultancy services seem to provide very little value for money to the government besides giving rise to varying and inconsistent practices. There have been cases of wastages, delays, poor quality of works and abnormal cost besides many other flaws. These issues had been brought out in various individual audit reports and some of which are reiterated in the succeeding paragraphs.

- g) The Ministry of Finance responded that Procurement Rules and Regulations 2009 contain provisions on procurement of consultancy services and that the Ministry of Finance had issued two types of standard form contracts. Further, it was also stated that the Procurement guidelines July 2012 outlines five main considerations that the procuring agencies need to take into account in the procurement of consultancy services which include:
- 1) Need for high quality service;
 - 2) Need for economy and efficiency;
 - 3) Need to give all qualified consultants an opportunity to compete;
 - 4) Government interest in encouraging the development and use of national consultants; and
 - 5) Need for transparency in the selection process.

The Ministry also commented that the need assessment is taken care at the budgeting stage as the budgeting agencies are required to fully justify their budget proposal on each activity.

- h) The PRR 2009 provide for engagement of consultants for provision of expert advice or assistance in institutional matters and specialized services in connection with the implementation of projects and detailed engineering and a design. However, it lacks clarity on requirement of appropriate mechanisms to demonstrate the need by the procuring agencies. The need for engaging consultants may be demonstrated through determination of complexity of work that may not be within the skills and expertise available in the procuring agency.

The arguments for engaging consultants made by the procuring agencies ought to be validated and certified by relevant authorities if engagements of consultants are to be made in the spirit of considerations identified in the Procurement Guidelines. As the public agencies vary in multiple dimensions; sizes, structures, people, skills, etc., the capability of individual agencies differ and hence, the need for engaging consultants must be demonstrated in the context of their own capabilities and constraints. A work of design and drawing may be within the capacity of Ministries having adequate engineers but not for smaller agencies which do not have a single engineer.

Thus, the absence of prescribed processes or specific requirement to carry out need analysis and to document the decision to acquire consultancy services seem to render inconsistent practices undermining value for money in the engagement of consultants. To ensure economy, efficiency and quality services, need assessments and cost-benefit analysis are critical requirements and it should be adequately addressed in the procurement guidelines. The procuring agencies should also be obliged to comply with the requirements.

3.1.2. Inadequacies in the Procurement Rules and Regulations, 2009

- a) The Ministry of Finance as required under Section 104 of the Public Finance Act, 2007 has developed Procurement Rules and Regulations with a separate chapter on procurement of consultancy services. It outlines the procedures in engagement of consultants by the procuring agencies within the government.

“Bid and performance securities are not recommended for consultants’ services. Their enforcement is often subject to judgment calls, they can be easily abused, and they tend to increase the costs to the consulting industry without evident benefits” 7.4.2.3 - Procurement Rules and Regulations, 2009 Royal Government of Bhutan.

- b) However, the PRR 2009 is not comprehensive as far as requirement for need assessment, preparation of procurement plan, requirement of bid and performance securities, clauses on liquidated damages etc. are concerned. These critical elements have not been addressed adequately in the PRR 2009 for Procurement of Consultancy Services.
- c) In view of the inadequate stipulations of critical clauses in the PRR 2009, the implementations of the rules may be impaired. The inconsistencies in the implementation that may ensue from inadequacy of rules would undermine accountability in the execution of work and impede economy, efficiency and effectiveness in the use of resources.
- d) The Ministry of Finance responded that the Procurement Guidelines issued in July 2012 supplements the provisions in Chapter VII of the PRR 2009 and standard form contracts. However, it was accepted that the PRR does not include requirement for preparations of procurement plans, which has been incorporated in the draft procurement policy document which is under review. The Ministry also indicated that the inclusion of provisions for bid securities, performance securities and liquidated damages in the PRR is not in line with the World Bank procurement procedures.
- e) Existing procurement rules do not protect the interest of procuring agencies in absence of penal provisions to safeguard against damage and loss sustained due to non-performance or poor performance of the Consultant. While adoption of good practices is necessary the relevance of and associated risks in applying such practices in the local context cannot be overlooked.

3.1.3. Issuance of licenses for the establishment of consulting firms without proper assessment of technical capacities

- a) The licensing system does not require assessment of the technical capacities and competencies of the consultancy firms during registration and issuing of the licenses for the local consultants except for construction, education and

legal firms for which respective parent agencies provide certificate of eligibility.

- b) Many consulting firms have mushroomed in the market some of which may not possess requisite professional and technical competences. Liberal licensing system such as this may be seen to encourage private sector development. However, as a taker of their services, the procuring agencies must not be placed at the position where they cannot take advantage of competent consulting firms and exercise their choice to obtain best services.
- c) Thus, the existing system of issuing licenses for establishment of consultancy firms may not ensure availability of requisite expertise in the market. Therefore, it may risk the procuring agencies from getting competent consulting firms to obtain value for money from the services provided by such firms.

Many consulting firms have mushroomed in the market some of which may not possess requisite professional and technical competences.

3.1.4. *Inadequate human resource capacity in the public procurement policy division*

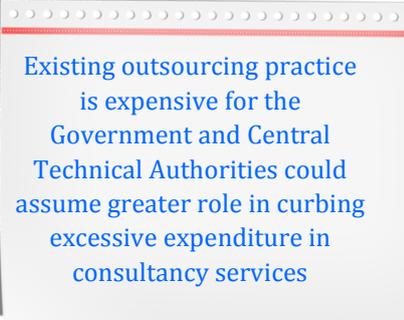
- a) The Public Procurement Policy Division, under Ministry of Finance has been established to monitor the overall procurement systems in the country. As outlined in the PRR 2009, the basic function of the Division is to assist the procuring agencies in public procurement through implementation of procurement rules and regulations.
- b) However, the PPPD lacks adequate and competent personnel to provide assistance to the procuring agencies and carry out regular monitoring and evaluation activities. Procuring agencies also do not seek timely guidance on procurement of consultancy services as many agencies may not be aware of the existence and responsibilities of the PPPD.
- c) Without a strong PPPD, proper monitoring of procurement system and its effectiveness may be impeded.
- d) The Ministry responded that the PPD has full strength of people approved by the RCSC and that they lack professional procurement background. Further, it stated that the responsibilities to manage human resources rest with RCSC.
- e) While it may be acknowledged that the human resources of the PPPD is governed by the BCSRR, the onus of determining and justifying adequate human resources and expertise falls on the Ministry based on its roles and responsibilities. Moreover, considering the nature, importance and scope of

The PPPD lacks adequate and competent personnel to provide assistance to the procuring agencies and carry out regular monitoring and evaluation activities.

role of this division, it is imperative that the division is adequately manned with qualified and experienced personnel.

3.1.5. Unclear role and accountability of central technical agencies

- a) Relevant Central Technical agencies could play important and decisive role in ascertaining the need for hiring consultants and the extent of consultancy services required. Some of the works of less complex and routine nature such as supervision works could be carried out departmentally at much lower cost.
- b) Similarly preparation of designs, drawings and estimates of works which are not very complex and specialized may well be accomplished economically by in-house or through engagement of technical expertise available in central technical agencies or even recruitment of expertise in-house.
- c) Existing practice of outsourcing almost all engineering and other works is expensive for the Government and Central Technical Authorities could assume greater role in curbing excessive expenditure in consultancy services.
- d) As indicated earlier, the central technical agencies such as MOWHS, DIT etc. have no clear role in co-coordinating and assisting the procuring agencies in assessing the need, determining the scope of work and other backstopping services in the engagement of consultancy services.
- e) As both quality and strength of technical expertise is largely confined within the civil service, it is paradoxical that most engineering works which were performed earlier are being outsourced to consultants at exorbitantly higher costs. The cost benefit analysis carried out by the RAA in a simplistic way as may be seen from issues reported later strongly supports this view.
- f) The MoEA responded that Department of Hydropower and Power System which is a planning and policy department and as such does not have capacity and manpower to deal with multi-disciplinary technical aspects of hydropower development. However, the ministry undertakes adequate review of works/reports of consultants through technical assistance from specialized agencies of GoI and RGoB.



Existing outsourcing practice is expensive for the Government and Central Technical Authorities could assume greater role in curbing excessive expenditure in consultancy services

The Ministry maintained that if the central technical agency under the MOEA has to build all in-house hydropower technical expertise to carryout engineering, design, implementation and supervisory skills, this would not

be in line with the policy of government outsourcing specialized functions to the private sectors and maintaining a compact and efficient government department.

- g) While the rationale of the MoEA on the hydro power sector being palpably a highly technical and complex nature is understandable, considering the importance of this sector in our economy and number and scale of projects already in the pipeline, it would seem imperative to develop capacity at least to be able to identify fundamental flaws and inadequacies in the DPR to minimize major surprises and severe financial and other consequences. The Government should also consider developing capacity for carrying out preliminary geo-technical investigations and preparation of the DPR within the MoEA or Hydro Power Corporations in Bhutan e.g., DGPC etc. instead of placing continual dependence on outside agencies for such important and critical aspects of Hydro Power Projects.

As regards construction, IT and other sectors, central technical agencies will play a significant role in rendering technical backstopping to the other procuring agencies if there is an instituted system of coordination in the procurement of consultancy services.

3.1.6. Engagement of consultant in multiple works-possible conflict of interest

- a) International procurement practices suggest that consultants should not be engaged for multiple works where there is possible conflict of interest. However, contrary to such best practice, there were instances where consultancy firms were given multiple consultancy services giving rise to conflict of interest situation.
- b) For instance, the evidence of such practice that had surfaced during the review showed that a consultant who was engaged for preparation of design, drawing, and preparation of estimates was also given work of supervision of the construction activities. In such case, there was high risk of suppressing design flaws and encouraging collusive practices.
- c) Despite specific stipulations in the PRR 2009 (*Clause 7.2.1*), it is seen as a standard practice to engage consultants for multiple assignments (*e.g., for designing as well as supervising the same construction works*).
- d) The MoEA responded that the current mechanism of appointing consultants on a nomination basis by the governments works well in the interest of the

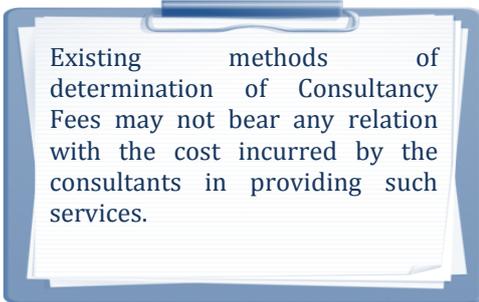
Consultancy firm was given multiple consultancy services and engaged for multiple works giving rise to conflict of interest situation.

project. The Ministry of Finance reiterated the four circumstances under which the conflict of interest that are contained in the chapter VII of the PRR 2009.

- e) Current practice of engaging consultants for multiple assignments across agencies including by Central Technical Agencies indicate not only implementation flaws but also possible inadequacies in the rules. The existing practice of engaging consultant for multiple assignments encourages conflicting roles which is detrimental to the interest of the government in achieving value for money in the use of public resources.

3.1.7. Inappropriate basis for fixation of consultancy fees

- a) Existing procurement rules provide for lump-sum or time-based method of payment of consultancy fees. However, in most cases consultancy fees paid are calculated as a percentage of the estimated cost of the project. Existing methods of compensation may not bear any relation with the cost incurred by the consultants in providing such services. Such method per se does not reflect the real value of money that would be obtained from the services provided by the consultants but provides scope for charging exorbitant rates by the consultants.



Existing methods of determination of Consultancy Fees may not bear any relation with the cost incurred by the consultants in providing such services.

- b) Further, there is no maximum ceiling prescribed for payment of consultancy fee. Such practice comes at a huge disadvantage to the procuring agency as there are possibilities of the consultants inflating the estimates to their advantage.
- c) There are also no guidelines prescribed stipulating basis of charging fee for consultancy services in cases where consultants are engaged to develop designs and drawings of many similar structures. Obviously, such designs and drawings could be replicated with very little additional efforts, yet there is possibility of paying fees as many times in absence of guidelines. Some countries like Sri-

Name of Agency	Type of consultancy	Consultancy fees (Nu.) in million	Remarks
Department of Roads, MoWHS	Design and drawings	12.790	Lump-sum
Ministry of Health	Design and drawings for 350 and 150 Bedded Hospitals	9.082	1.8%
Ministry of Health	Supervision for 350 Bedded Hospitals	7.791	1.6%
Ministry of Health	Supervision for 150 Bedded Hospitals	7.816	2.35%
DUDES	Design and drawings	2.108	4%
DUDES	Supervision	2.108	4%
Health Infrastructure Development Division, MOH	Design and drawings for 40 Bedded Hospital, Samtse	6.537	3.5%
Institute of Language and Culture Studies (RUB)	Design and drawings and Supervision for 150 bedded Hospital at Gelephu	13.125	Lump-sum
	Design and drawings for Construction of Academic Zone(ILCS) at Taktsi	11.072	Lump-sum
	Supervision for Construction of Academic Zone(ILCS) at Taktsi	7.051	Lump-sum

Lanka, South Wales etc. seems to have specific stipulations to deal with such cases.

- d) Apparently such inappropriate methods and practices have been encouraged in absence of clear policy and guidelines on the fixation of consultancy fees. Such practice may impede economy in the engagement of consultancy services which may not be advantageous to the Royal Government.
- e) The Ministry of Finance responded that the procuring agency is required to assess the reasonableness of the consultant's financial proposal and exercise prudence in the expenditure of the funds. Further, it was stated that the breakdown of remuneration is provided in Section 4- Financial Proposal, Standard Forms – Appendix to enable proper review of the financial proposal by the consultant.

Response provided by the MoF does not adequately cover the issues raised. Existing rules and guidelines are not comprehensive enough to ensure that agencies exercise due prudence in ascertaining reasonableness of consulting fees paid. Absence of upper limits on fees and non-stipulations of basis for determining fees for similar designs etc. also provide scope for excessive fees. In many cases even for fixed lump sum contract, additional supervision payments are made for extended period at monthly rates derived on the basis of original fee divided by original duration of works irrespective of the progress of works, changes in the scale and pace of actual construction works, complexities of remaining works and cost of supervising the remaining works. Engagement of same consulting firm for preparations of designs, drawings, BOQs, tender documents as well as for supervising the works provide ample opportunity to make changes or keep scope for changes essentially to serve their own interest at the cost of the government.

3.2. *Consultancy Management and Implementation issues*

The engagement of consultants should ideally start with planning which entail assessment of the need and determining the specific requirements of the project to be initiated. The agencies need to take stock of internal resources and identify gaps. After consideration of benefits that might likely to accrue in view of the constraints of its internal resource, the procuring agencies should decide to engage consultants in the most objective and economical manner. Once the consultants have been engaged, the management of consultants through effective monitoring control assumes a critical aspect to ensure that project objectives are met, expected deliverables are delivered, correctives actions are initiated and obligations of the consultants are discharged in accordance with the terms of the contract agreed between the procuring agencies and the consultants. These processes are to ensure that procuring agencies use the consultants in the most advantageous manner to obtain value for money.

The RAA reviewed these processes to ascertain whether the practices prevalent in the management of consultants conform to best practices and the procuring agencies ensure that the value for money is obtained from the huge resources spent on procurement of consultancy services in various sectors. Various instances were noted where the procuring agencies had failed to imbibe critical best practices in the management of consultants and thereby, apparently impeding economy, efficiency and effectiveness in the engagement of consultants.

Typical reasons for engaging a consultant include:

- The work is essential and the skills and expertise are not available within the public sector;
- The experience of private organizations/industry is required; and/or
- There is a need for an independent opinion

Courtesy: Engaging and Managing Consultants, Queensland Government

3.2.1 Need assessment not carried out adequately in acquiring the consultancy services

- The clients/procuring agencies have not carried out proper need analysis for acquiring the consultancy services. The assessment of needs would entail determining the nature and scope of work to be outsourced with due regard to its complexity, identifying the resource (knowledge and skills) gap and determining the actual needs for consultancy services. It was seen that the clients/agencies do not assess the available internal resources to identify the need for engaging consultants.
- Such practices reflect that the agencies are not clear of what is required from the consultants. There is no evident proof that the need of the consultants was discussed before acquiring their services. It appeared that the agencies also do not have adequate mechanisms or information to find appropriately skilled internal staffs within itself or other agencies to ascertain the following:
 - ⊕ Whether consultancy services are actually required or not through determining the skills gap that exist within the organization.
 - ⊕ Nature, area/scope of work and extent of expertise necessary to carry out the work.
 - ⊕ Benefits that would possibly accrue through cost-benefit analysis and also other advantages that would possibly be obtained by using consultants over other options/alternatives entailing assessment of best available solutions.
 - ⊕ Availability of financial and other resources.
- The procuring agencies thus indiscriminately prefer to outsource the work without properly assessing its internal resources, available knowledge and



skills, and determining the actual needs of the expert's service. Such practices have led to making a wrong investment of government's scarce resources and resulting in huge financial implications to the government exchequer.

- d) The MoEA responded that Department of Hydropower and Power System is a planning and policy department and as such does not have capacity and manpower to deal with multi-disciplinary technical aspects of hydropower development. However, the ministry undertakes adequate review of works/reports of consultants through technical assistance from specialized agencies of GoI and RGoB.

The Ministry also maintained that, if the central technical agency under the MOEA has to build all in-house hydropower technical expertise to carryout engineering, design, implementation and supervisory skills, this would be not in line with the policy of government to outsource specialized functions to the private sectors and the policy of maintaining a compact and efficient government department.

- e) The existing bilateral arrangement of engagement of consultants in the hydro power may well be justified as being highly technical and complex nature of project that the Department of Hydropower and Power Systems handles. However, it is reiterated that building capacity to carry out need assessment and cost benefit analysis of exercising various available options irrespective of sources of funding and complexity of projects is imperative for prudent and sound decision making. Likewise, the need assessment of consultancy services for projects other than hydropower in all procuring agencies is prerequisite to ensure that consultants are engaged in areas that are beyond the capacity of the internal expertise and there is value for money in engaging consultant(s). Consultancy services should be preferred only after ascertaining and demonstrating that it is the best available option and would provide value for money to the procuring agencies.

3.2.2 *Non-preparation of comprehensive procurement plan*

- a) The procuring agencies do not prepare a comprehensive procurement plan that would specify in detail the kind of services required, when it is required, scope of work, whether the services are available locally or internationally, selection methods, recruitment schedule and cost estimate for the particular service. The Plan will clearly set out the framework in procurement regardless of the type of funding and help in determining the requirement of consultants.
- b) In absence of comprehensive procurement plan, the procuring

The inadequacies in planning had led to unwarranted procurement, unrealistic expenditures and inadequacies in the consultancy output sought.

agencies may seem oblivious to the possible effects of ad-hoc decisions that may hamper the achievement of project objectives. It exhibits state of unpreparedness of the procuring agencies that may be a costly affair as cost incurred may not be reasonable.

- c) However, the procuring agencies insisted that the plans were not prepared because there was no requirement of procurement plan in the Procurement Rules and Regulations 2009. Therefore, inadequacies in planning had led to unwarranted procurement, unrealistic expenditures and inadequacies in the consultancy output sought.
- d) The MoF responded that the procurement plan has been incorporated as requirement in the draft procurement policy document which is currently under review.

3.2.3 Inadequate monitoring and supervision of the works of the consultant

- a) Monitoring and supervision of works carried out by the consultants assumes a vital role in ensuring that delivery of services by the consultants is within expectations of the procuring agencies in terms of quantity, quality and timeliness in the delivery of the services. It must be carried out as per the Terms of Reference executed for the consultants.



Defective works executed despite engagement of supervising consultants

- b) A review of some works carried out by the consultants showed that the work of the Consultants were not adequately monitored and supervised by the procuring agencies. The procuring agencies were not able to detect the deficient works of consultants during the execution of contract.
- c) As such, deficiencies that have occurred in the work of consultancy services could not be rectified on time as detection of defects and deficiencies possibly could not be made at the time of its occurrence due to inadequate

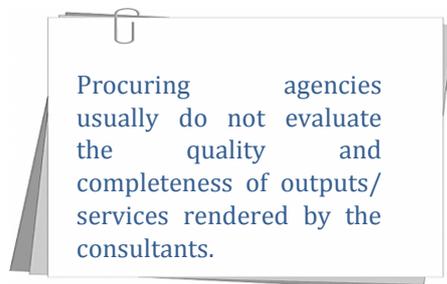
Inadequate monitoring and supervision by the procuring agencies can partly be attributed to lack of competency of the clients to judge the work of the consultants & lack of clarity of their own needs & expectations from the consultants

monitoring and supervision controls exercised by the procuring agencies.

- d) Inadequate monitoring and supervision by the procuring agencies can partly be attributed to lack of competency of the clients to judge the work of the consultants and also because of lack of clarity of their own needs and expectations from the consultants.
- e) Thus, the inadequate monitoring and supervision of the works of the consultants owing to agencies' own inability to comprehend its actual needs, incapacity or otherwise had led to delivery of poor quality services that had impeded economy, efficiency and effectiveness of the resource spent on procuring such services. (Box Three: Case (I-IV))
- f) The RAA did not receive any response on the issue.

3.2.4 *Services rendered by consultants not properly evaluated*

- a) One of the critical phases in engaging consultants is when the job is completed and output is submitted to the procuring agencies. The procuring agencies must evaluate the results of the consultant's work and determine whether the consultants have delivered the expected



results. Procuring agencies must insist on insisting on delivery of agreed output and not be at the mercy of consultants to be a mere recipient of what is provided as their output. A thorough mechanism for evaluating the services/outputs of the consultants must be instituted to ensure that intended outputs are delivered and the procuring agencies get value for money.

- b) In the actual scenario, as evident from the review conducted on the work carried out by consultants, procuring agencies usually do not evaluate the quality and completeness of outputs/ services rendered by the consultants.
- c) As such, the deficiencies in the consultancy services are rarely rectified and continue to surface in their subsequent assignments.

Without a proper evaluation system for the work carried out by consultants, it is difficult to ascertain whether the clients had received the services they aspired for and whether the consultants were able to provide as per the terms and conditions of the contract. *(Box one: case I-VIII)*

3.2.5 *Improper evaluation and selection of consultancy firms*

- a) Though the agencies invite competitive bids for acquiring the consultancy services, there appeared to have inherent limitations to objectively select the right and competent firms or individuals.
- b) Such inappropriate selection would have occurred apparently due to inability of procuring agencies to fully comprehend the organizational needs and the

type and extent of expertise required to carry out the tasks as manifested in the TORs which were incomprehensive and vague.

- c) Inappropriate selection of Consultants would affect the delivery of services and the procuring agencies may not achieve value for money in the procurement of such services. (Box One: Case I-VIII)

3.2.6 Lack of competent and professional consultancy firms in the market

- a) The license issuing authorities do not exercise strict and appropriate screening processes in assessing the competency of the consultancy firms. Any individual applicant can avail the licenses for the consultancy services by filling up 'Application form for Industry License' and on producing copies of Security Clearance and Citizenship Identity Card. Only for the consultancy services related to education, legal and construction related consultancy, the applicants are required to obtain clearances from the concerned authorities.
- b) As per the guidelines developed by the CDB which provide clearance for construction related consultancy, the applicants were assessed based on the strength of human resources declared and establishment of office and engagement of a permanent manager.
- c) However, for many other categories of consultancy services, the business licenses were issued without requirement of such clearances and establishment. For these services, the applicants were not required to declare their financial, technical and personnel capacities.
- d) Even in cases where the firms have complied with the requirement of CDB, the exercise carried out appeared mere a formality to fulfill the requirement as there have been instances where Consulting Firms have reflected names of individuals without actually recruiting them into their firms.

Due to lack of proper procedures and established prerequisites to start a consultancy business, many aspirants without requisite educational and professional background would choose to avail the licenses to operate the business. While such liberal system of licensing provides opportunity to undertake consultancy ventures and augurs well for supporting private sector development and creation of self-employment, it deprives the market of the pool of professional and high skilled consulting firms. The procuring agencies may be constrained to exercise their choice which ultimately impedes the quality of works of consultants.

The license issuing authorities do not exercise strict and appropriate screening processes in assessing the competency of the consultancy firms.

3.2.7 *Restricted preference of procuring agencies in acquiring consultancy services under project-tied assistance*

- a) Generally, the consultancy services under the project-tied agreement requires the consultancy services to be outsourced or requires the involvement of the relevant donors/lenders in the selection of consulting firms.
- b) There is a risk that procuring agencies might not be able to comprehend the competence/credentials of the consultants and resulting in inappropriate selection of consultants which may render ineffective or uneconomical use of resources.

3.2.8 *Inadequate transfer of knowledge*

- a) One of the biggest benefits that accrue to the procuring agencies through engagement of consultants is transfer of knowledge in the areas of work assigned to the consultants. This can only be done if there is a proper mechanism to encourage transfer of knowledge. The mechanism would provide opportunities to build-up strong and capable pool of human resources within the agency.

The transfer of skills and knowledge was not included as a specific deliverable in the contract.
- b) International best practices on procurement of consultancy services reveal that, use of consultants for regular activities of any government ministry or agency is avoided. This is because governments in general encourage transfer of knowledge and skills while using consultants so that there is no need to engage them again. It also avoids the huge costs of procuring consultancy services time and again at very exorbitant costs.
- c) The study, however, revealed that most of the organizations do not specify what is required from the consultants, the mode of transfer of knowledge to be applied and engaging relevant staff who would learn and later take over similar projects.
- d) Apparently, the transfer of skills and knowledge was not included as a specific deliverable in the contract. Therefore, consultants are not seen obliged to train the internal staff to ensure that the organization build and augment its internal capacity and ensure that the agency does not need to hire consultancy services if activities of similar nature are to be implemented in future.
- e) The activities like drawing and design of roads and bridges, monitoring and supervision of construction activities, design and drawing of buildings are regular activities of some of the ministries in the government. It would be a substantial loss if all such activities require hiring of consultants for work the agencies are required to carry out on a regular basis.

- f) With lack of commitments of procuring agencies for transfer of knowledge in the form of appropriate arrangements in the process of engagement of consultants, the agencies apparently fail to address the constraints of specific knowledge as no transfer of knowledge apparently takes place.
- g) The Ministry of Finance commented that the specific clause on training or transfer of knowledge to the procuring agency staff is contained in the Procurement Guidelines 2012.
- h) While the requirement on transfer of knowledge or training is broadly stipulated in the Procurement Guidelines 2012, the concerned agencies must be required to identify areas where transfer of knowledge is possible and make specific arrangements through TORs with the consultants. Such arrangements would ensure that the knowledge and skills are imparted to the identified staff within the agencies or organizations.

3.2.9 Undue confidence on consultants' works in comparison to in-house expertise

- a) There is a general tendency amongst the procuring agencies to place greater confidence on the advices and services provided by the external consultants. Such practice seems to ignore the potentials of in-house expertise.

"A consultant is someone you pay a hundred dollars an hour to give you the same advice you ignore from your assistant".

— Robert Orben

- b) Such practices have become inherent in the system which encourages the procuring agencies to naturally opt for engaging external consultants. Such involuntary choice of the agencies undermines the in-house capacities without any technical or financial advantage.
- c) So much so that the engagement of external consultants have become regular practice in which even the routine and core activities and functions of the agencies are also outsourced. This might prove to be a very costly affair to the government in the long run in terms of sustainability of experts and highly specialized professionals across the board.

3.2.10 Unrealistic estimates prepared by the consultants – indicating no value for money on engagement of consultants

- a) The consultants especially in mega construction and other projects were engaged and paid huge sums of money for the services rendered. There were many instances where the deliverables of the consultants were apparently not commensurate

There were many instances where the deliverables of the consultants were apparently not commensurate with the amount paid, implying agencies not realizing value for money

with the amount paid, implying agencies not realizing value for money.

- b) One of the common flaws and deficient deliverables was unrealistic preparation of estimates and Bill of Quantities (BOQ). This had led to huge deviations in the quantities of work and rendered changes in the scope of works through extra/additional items during actual execution. Following are some of the reasons for deficient preparation of estimates and BOQs:
- The preliminary studies such as geo-tech, geodetics, topography survey etc. were not carried out adequately which had flawed the preparation of designs, drawings and project cost estimates.
 - The deviations have also resulted into payment of huge extra cost by way of time and cost over-run due to inadequate survey, tentative quantification and estimation, ad-hoc changes in specifications and designs during implementation etc. Besides financial implications, such problems will also have potential effect on the quality of the infrastructures created.
- c) The changes in quantities of work items due to omission, incorrect estimation, addition, deletions and changes to scope of work beyond the allowable deviation limit are usually paid at analyzed rate which is normally higher than the rate agreed in BOQ. In many cases such changes resulted in enormous cost to the project even at the risk of rendering the project financially not viable.
- d) There were cases where consultant's reports and recommendations were not used and adhered to. Such cases include, making changes to the designs and specifications in whole or in part. The reasons for such alterations could be; lack of proper planning, inadequate consultations and studies, lack of proper review of the consultants' outputs and engaging inappropriate personnel.
- e) A few of cases from analysis exemplifying inadequate preliminary studies being carried out for preparation of estimates and BOQs which have resulted in huge financial burden are reproduced in Box one: Cases(i-viii).
- f) MoEA responded that for the bilateral projects, the scope of works and TOR are prepared in consultation with the nominated consultants and the GOI central technical agencies and the deviations are attributed to geological surprises owing to fragile and complex Himalayan geology.

MoEA mostly deals with Hydro Power Projects and reasons for deviations are due to geological surprises owing to fragile and complex Himalayan geology and time span involved in DPR preparation and actual implementation. MoEA also maintained that projects in Bhutan are executed with greater efficiency as compared to projects in the region.

No responses were received from other Ministries and agencies.

- g) The impact of adverse geological conditions and surprises is usually very severe involving huge cost and time overruns and even on the quality of

works executed. The surprises as indicated by the MoEA occur essentially due to inadequate time and resources allocated for carrying out proper preliminary studies and geo-technical investigations. Moreover, the outputs of the consultants are accepted without ensuring the adequacy, accuracy and completeness with consequential adverse impact on the quality, cost and progress of works. Thus it is important and prudent to conduct adequate geotechnical studies to ensure that DPRs are prepared more accurately.

Similarly, unrealistic estimates prepared for other works invariably result in major deviations and cost escalations. This again is attributable to lack of proper planning, inadequate site surveys and preliminary studies, inadequate consultations, lack of proper review of outputs etc.

BOX ONE: *Cases of inadequate preliminary studies conducted for preparation of BOQs and Estimates*

- i. The contract for design and drawings, and supervision of the construction of New Vocational Training Institute (Department of Human Resources, MoLHR) at Dolungang, Jigmeling was awarded to M/s Progressive Research Consultancy Services at a contract amount of Nu. 1,802,050.00 and Nu. 2,953,450.00 with supervision completion time of 18 months. The consultant while preparing the tender documents had prepared the documents soliciting Unit Price Contracts (Item rate) but awarded the construction contract to M/s Singye Construction Pvt. Ltd., Thimphu on a lump Sum Price contract of Nu.287,988,136.43 computed on the basis of item rates offered by the bidder against the actual quantity of units provided in the Bill of Quantities(BOQs) deviating the provisions of the procurement rules and regulations.

It was observed that there was excess quantification of items of works viz. Windows and Doors in the BOQs as compared to the Designs & Drawings involving financial implication of Nu.1.361 million. Such instances clearly indicated poor quality works, lack of competency of consultants and no value for money in Consultancy fee paid and may result into an excess payment considering the contract being awarded on Lump-sum Contract.

- ii. The work of preparation of detailed design including the bidding documents for feeder roads in eastern and western regions under the Road Network Project funded under the ADB loan was awarded to M/ Druk Consultancy, Thimphu in association with M/s GEOCE Consultant (P) Limited, Nepal at an agreed fee of Nu. 12.79 million. The estimates prepared were too erroneous resulting into huge variation in many items of works actually executed. Variation in excavation of rock work was as high as over 820% which entailed payment at analyzed and negotiated rate of Nu. 424.81 per cum as against tendered rate of Nu. 155.86 per cum for quantities exceeding 25% variation limit. The project incurred additional cost of Nu. 36.609 million due to erroneous preparation of estimates. There was thus no value for money in the consultancy work. Rather, it proved to be too costly for the Government.
- iii. The work of preparation of Bill of Quantities for the construction of 350 bedded JDWNR Hospital under the GOI funded Project was awarded to M/s Apollo Hospital Enterprise Ltd., New Delhi at contract amount of Nu. 9,082,250.811 (1.8 % of the estimated value). The construction work was awarded to M/s Druk ThuendrelLerig at the lowest evaluated bid value of Nu. 486,911,773.20.
- iv. The BOQ was found erroneous as some items of works were not quantified but the bidders were asked to quote rates for these items where as in some cases they were asked not to quote their rates. Payments were found made at analyzed rates which were much higher than the quoted rates. Inadequacies in the BOQ had resulted in extra work on disposal of excavated earth paid at analyzed rate, resulting to extra financial burden of Nu.19,180,672.91.
- v. M/s Gyeltshen Consultancy in association with M/s Construma Consultancy Pvt. Ltd., India were awarded the consultancy service for the preparation of design and drawings of the construction of Flyover and Viaduct at Changbangdu Bridge at a consultancy fee of Nu. 1.685 million in 2006 by the Department of Roads. As per the ToR, the design consultant was required to provide exhaustive and explicit Bill of Quantities (BOQ) to avoid deviation, changes, additions, alterations and substitution during implementation phase. However, comparison of works actually executed with the BOQ revealed variation of as high as 725% indicating poor quality of works and incompetence of consulting firms.

BOX ONE: *Cases of inadequate preliminary studies conducted for preparation of BOQs and estimates*

- vi. The work of preparation of design, drawing and bills of quantities for renovation and remodeling of the Banquet Hall was awarded to M/s Tashi Dawa Associates at a cost of Nu. 2.108 million by the Department of Urban Development and Engineering Services. There were huge deviations between the quantities of works actually executed and as reflected in the BOQ which was as high as 158% entailing additional financial implication of Nu. 5.267 million. The poor quality work indicated professional incompetence of consultant and there was no value for money from their services for which Nu. 2.108 million was paid.
- vii. The work of preparation of design & drawings for the construction of National TV Centre for Bhutan Broadcasting Service Corporation Ltd., Thimphu was awarded to M/s Gandhara Designs Consultancy at a consultancy fee of Nu.3.2 million in 2004. There were abnormal deviations in the BOQ and actual works executed which ranged between (-) 100% to (+) 927.36%. While many unnecessary items were found included (Nu.7.211 million), there were cases of many important items left out (Nu.1.623 million). There was thus no value for money in engaging consultants at a fee of Nu. 3.200 million.
- viii. M/s DrukKuen Consultancy was awarded the consultancy contract for design and drawing of the construction of Science Laboratory at Samtse College of Education by the Royal University of Bhutan at a quoted price of Nu. 488,040.00. As against the estimated cost of Nu. 16.999 million actual expenditure for the construction of Science Laboratory was 20.377 million. There were deviations in the BOQ and quantities of works actually executed including additional items for which payments were made at analyzed rates. Additional cost involved in payment at analyzed rates for deviation beyond 20% and for additional items amounted to Nu. 4.603 million.
- ix. In December 2000, M/s RITES, New Delhi was awarded the consultancy contract for preparation of design and drawings and estimates including BOQ for the construction of Tashichhodzong-Babesa Expressway Road (6.145 Km) for a fee of Nu. 2.35 million. The Consultant had prepared detailed design report and estimated cost of project at Nu. 406,732,121.00 (including a provisional cost of three bridges estimated at Nu. 77,748,000.00).

However, there were substantial changes and curtailment of the scope of work during implementation of the project resulting in non-execution and compromising the quality of works executed.

- x. The drawings and designs, including preparation of Bill of Quantities for three Thimphu-Babesa expressway bridges were contracted to three Consultancy firms at an aggregate consultancy fee of Nu. 16.032 million.

It was observed that there was a huge deviation in the actual executed quantities from the original estimates in the BOQs. As of the dates of audit deviations involving financial implication of Nu.19.195 million and the minus deviations to the extent of Nu. 16.544 million were noted. Besides, extra items of works to the tune of Nu. 1.71 million were executed although not incorporated in the BOQs. Such instances of huge deviations clearly indicated poor quality works, lack of competency of consultants and no value for money in Consultancy fee paid.

3.2.11 Inadequacies in contractual terms – lack of measures to indemnify against loss arising from poor performance of consultants

- a) The contract documents and TOR clearly define the objectives and scope of the work, fees and mode of payment, level of expertise and staff required, counterpart staff to be provided by the procuring agencies, timeframe, facilities to be provided in addition to the fees, trainings to be conducted, expected deliverables, specific duties for individual experts etc.
- b) There is no clause of indemnity in the event the consultants fail to deliver the services. It was found that procuring agencies do not execute TORs and contracts properly specifying liability on the part of consultants to indemnify against loss on account of failure to deliver the services and goods.
- c) As per the PRR, 2009; *“ToR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants’ preparation of their proposals”*. Terms of Reference form the main basis on which the consultants carry out their work.



Ceiling collapsed at Taktasi, the constructions supervised by M/s Lhaling Drugyel and Green Place Pvt. Ltd with concept Consultancy, Kolkata, India (Supervision cost Nu.17.150million)



Defective alignment of the columns and beams at Vocational Training Institute (VTI), Dolungang, Sarpang. Executed by M/s Singye Construction and supervised by supervision consultant M/s Progressive Research Consultancy Services (PRCS) hired at Nu. 8.486million.

- d) The review of TORs showed that in some cases important and necessary provisions and clauses were left out. Such inadequacies in the TOR had resulted in absolving consultants of obligations to make good the loss or damages sustained by the procuring agencies in the form of poor quality or incomplete work.
- e) The following but not limited to, are the possible effects of improper execution of ToR and contract documents:
- ⊕ Changing the personnel during the implementation of the work by the consultancy firms could lead to unavailability of the required expertise for the project resulting in underachieved objectives;
 - ⊕ The TOR drawn for specific work can be used or replicated in other consultancy contracts even in case of other works of different technicalities;
 - ⊕ Non stipulation of the requirement of Performance Security and Liquidated Damages clauses for breach of contractual obligations including delay, non-completion and non/poor performance in the TORs can absolve parties from responsibilities;
 - ⊕ Problems associated with payment and work disputes which may result in disproportionate payments as against progress of the work;
 - ⊕ Extension of time with unspecified additional benefits to the parties.
- f) Instances of inadequate stipulation of contractual provisions in engagement of consultants are reproduced in Box two: Cases (i-vi).
- g) The MoEA responded that the indemnity clause may not be appropriate for bilateral projects funded by GOI in which RBOB has limited say.
- No response was received from other ministries and agencies.
- h) In absence of proper accountability of consultant(s) there is no remedy available for loss or damages arising from poor performance of consultants.

Financial implications of deficient works of consultants are even more severe in mega projects. In the interest of both the governments, it is necessary and prudent to institute proper accountability mechanism in place besides strengthening the quality review process.

BOX TWO: Cases of inadequate stipulation of contractual provision in the contract

- i. The Army Welfare Project, Phuentsholing awarded consultancy services for development of Integrated Financial Management and Reporting System (IFMRS) to M/s Pss IT Services Pvt. Ltd., Kolkata on 22nd May, 2008 at their quoted price of Nu.2,370,000.00. The review of bid documents of M/s. Pss IT Services Pvt. Ltd. revealed that the firm had not quoted for out-of-pocket expenses and taxes in their bid. Determination of lowest evaluated bid without important cost components was not proper. Proper TOR was not drawn up. There were delays, huge out of pocket expenses incurred and frequent changes of personnel of consulting firm entailing additional costs. In absence of penalty provisions, the consultants were not held liable for the undue delay in the work which had hampered installation of the software on time and its application.
- ii. In the consultancy services awarded by the Royal Education Council to M/s Education Initiatives Pvt. Ltd. during the financial year 2009-2010 for project activities valuing Nu. 42,241,742.00 there were inadequacies in contract agreement and the TOR. As a result 3% TDS amounting to Nu. 0.879 million could not be deducted. Due to inadequacies in the TOR additional payment of Nu. 1.556 million was made.
- iii. Penden Cement Authority Ltd. (PCAL) had directly awarded a contract for consultancy services to M/s Conveyor & Ropeway Services Pvt. Ltd., Kolkata during the year 2011 to carry out detailed feasibility study for preparation of DPR for installation of Ropeway between Dorokha/Denchukha to Samtse at a cost of Nu. 1.6 million without competitive bidding. Two critical works viz., soil/rock investigations and testing at strategic locations and project cost estimates as well as financial analysis including IRR and payback period were not carried out. As against 12 weeks completion time frame the consultants had taken 38 weeks to complete their works and a valid Bank Guarantee was also not furnished. There was delay, works carried out were deficient and not properly reviewed by the PCAL, TOR was not comprehensive and the Consultant did not fulfill required obligations.
- iv. There were flaws in the consultancy service to draft the "Construction Development Authority (CDA) Act" for Construction Development Board (CDB) which was awarded to the lowest evaluated bidder, M/s UC Associates: Bhutan Law Office, Thimphu at a negotiated cost of Nu. 0.490 million. A score of 20 was allocated for specific experience as against 10 points specified in the Standard Request for Proposal (SRFP), there was no penal provision for delays, two firms who did not comply with the requirements of SRFP were also evaluated and the selected firm did not meet insurance requirement. There was also no performance bank guarantee to mitigate the risks associated with the poor performance. The engagement of consultancy services had suffered in terms of inadequacies in TOR resulting to complication and lack of indemnity to safeguard against poor performance of the Consultants.
- v. M/s E & Y were engaged by the Department of Public Accounts, Ministry of Finance for development of accounting and auditing standards and other related services under the ADB funding. There were lack of clarity on the exact deliverables required from them, the TOR and related agreement drawn-up failed to comprehend the various issues as may emerge during implementation of the Project. The quality of services rendered was not commensurate with the fee paid and there was no value for money in engaging the firm paying huge amount of fee.
- vi. The Municipal Finance Consultant was engaged by Thimphu Thromde funded through World Bank as consultant to assist and support the PPD in preparing ToRs for various activities and other related task in capacity building of financial management at fee of US \$ 550 per day and per diem of US \$ 96 per day for a period of fifteen man-months spread over three years. As the deliverables were not properly defined, the consultant was assigned adhoc works at the later stage. Subsequently, in view of difficulty in exercising monitoring over the consultant, the management terminated the contract after engagement for 95 days after incurring expenditure of US \$ 52,250 (Nu. 2.648 million) as professional fees and per diem of Nu. 0.374 million.

3.2.12 Irregularities in consultancy services for supervision of works

The procuring agencies had availed the services of the consultants for supervising the works executed by the contractors. The RAA observed many deficiencies in such engagements which had possibly undermined economy, efficiency and effectiveness in the use of resources. Some of the deficient practices in the engagement of consultants for supervision of works are as discussed below:

- a) The contracts for supervision of work were found to have been given to the same consultant who was engaged in the preparation of design, drawing and estimates. The very act of engaging same consultant for the supervision of the contract apparently showed existence of conflict of interest. In such case, the professional judgment of the consultant will be flawed or influenced by his secondary interest of concealing flaws in his earlier works. This may result in execution of substandard works, additional costs for rectification works and even promote collusive practices.
- b) The consultants for supervision of works are primarily engaged to ensure quality, progress and timely completion of the work. However, the review of some of the works supervised by the consulting firms revealed that there were instances of substandard works being carried out and there were staggering delays in completion of work resulting in time and cost overruns. There were instances where the consultants had not deployed the required supervising staff in the field as specified in the contract agreement which apparently had affected the quality of the work.
- c) It is apparent that the consultants had not carried out proper supervision of the works and the procuring agencies were not able to realize value for money. The monitoring and control by the procuring agencies over the supervising consultants were literally non-existent as procuring agencies had apparently acted as mere recipient of what was provided by the consultants. The procuring agencies had failed to assume appropriate authority in monitoring the works carried out by the supervising consultants.
- d) The practice of engaging same consultant for supervision creates favourable environment for undesired practices that may be costly affair for the procuring agencies. The procuring agencies' unenthusiastic stance on assuming appropriate authority to exercise check and balance in the engagement of supervision firms might render scope for undermining quality of work, undeterred and unreasonable payments and more importantly, collusive practices that may become endemic in the system. *(Box three: Cases I-VI)*



Motor applied too thick showing poor workmanship.

BOX THREE: Cases of irregularities in engagement of consultants for supervision

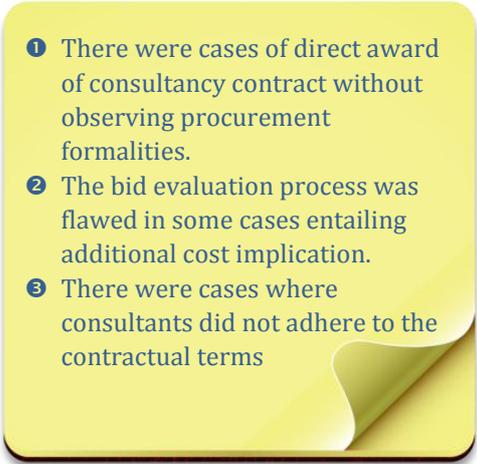
- i. The contract for design and drawings, and supervision of the construction of Academic Zone (Institute of Language and Culture Studies) at Taktse was awarded to M/s Green Place Consultancy Services at a contract amount of Nu. 11,072,080.00 and Nu. 7,051,323.92 with a completion time of 8 and 24 months respectively. Supervision charges were to be calculated and disbursed on the basis of work progress using the ratio of the construction contractor's bill against the total contract price. However, although as per the work progress the supervision charges payable was Nu. 2.605 million, the consultant was paid Nu. 5.077 million as of the dates of audit with an excess payment of Nu. 2.471 million. Therefore, the engagement of Consultant for supervision of works had not been properly monitored as required under the Contract Agreement resulting into an excess payment of Nu. 2.471 million. As of June 2013, due to extension of construction period, change in scope of work, permission granted to engage quality control engineer etc. total supervision charges paid amounted to Nu. 19.253 million i.e. over two and half times the original contract amount. The Consultant also did not deploy committed personnel both internal and external professionals. Quality of construction works was found deficient and substandard and one of ceilings had collapsed. Besides, there were many other lapses. Payment terms were also found changed which entailed payments for the extended duration. Thus there was no value in the acquiring consultancy services.
- ii. The Hotel & Tourism Management Institute – Construction Project (HTMTI-CP) had engaged three different consultants for supervision of construction works of HTMTI Complex including one of them as a consultant on administration and site supervision. Duration of the two of the consultants was 24 months and 18 months each while no duration was specified for consultant on administration and Site supervision. Remunerations payable were daily rates, travel costs and daily allowances for two consultants and monthly fixed rate of Nu. 58,300 for one consultant.

Due to delay in completion of construction works additional supervision charges amounting to Nu. 9.184 million were paid. Since the consultants were engaged to supervise and monitor the progress and quality of works, payment of additional supervision charge due to delay in completion of construction works they benefitted from additional remuneration of Nu.9.184 million at the cost of the Government.

- iii. M/s SDK consultancy was awarded the supervision contract at Sherubtse College, Kanglung for the construction of Science Laboratories, Executive Guest House, Student Service Center, Provost Quarter (2 nos), Remodeling of old quarters (3 nos), Compound Fencing and Basketball court for a contract period of 18 months. The monthly remuneration of Nu.75,930.05 were paid. The construction works were not completed on time and extension of six months was granted both for construction contractor and the consultant. The supervising consultant had thus failed to discharge their duty of ensuring smooth progress and timely completion of work. However, as against the agreed monthly rate of Nu. 75,930.05 the fee was revised to Nu. 91,024.94 per month providing additional financial benefit of Nu 0.364 million.
- iv. The Infrastructure Development Project of the Royal Institute of Management, Simtokha funded by the Government of India included river training works executed by M/s Ramsay Construction, and construction of IT, Library Block and Multipurpose Student Research Centre. The supervision contract for these works was awarded to M/s Zorig Consultancy Pvt. Ltd. for Nu.4.072 million. However, the river training works were not supervised properly as many defects were observed in the completed works and the consultant had not objected to various defects in the construction. The contractors had not followed the design and drawings and the BOQ strictly and the supervising consultant had not raised any concerns regarding the same. Therefore, the supervision charges of Nu.4,071,750.00 paid to Consultant had not received value for money spent on their services.
- v. The preparation of Design and Drawings of Jigmecholing Dratshang in Sarpang Dzongkhag was awarded to a consultant at the cost of 6.5% of the estimate amounting to Nu. 16,988,344.62. Similarly, for Tsirang Dzong construction and construction of Chhukha Dzong, the consultancy contract was awarded for preparation of design and drawings, preparation of bills of quantities and supervision of the work at 6.5% and 6.9% of the estimated cost respectively. The award of drawing and design and the supervision of the works to the same consultant could be detrimental in many ways. There is always a possibility of conflict of interest when the drawings and design for construction and supervision of the works is given to the same firm and risk of overlooking flaws in design, technical specifications, drawings and estimates with resultant adverse impact on quality and cost of project.
- vi. During the 9th FYP, the Ministry of Agriculture outsourced important works like Survey and Design, Geotech Studies, Environmental Studies, Social Studies and supervision works of farm roads construction in various part of country to M/s Kyingkhon Consultancy at consultancy fees of Nu. 8,766,764.00, including supervision charges amounting Nu. 4,966,842.00. Supervision of the construction works were not carried out properly as all the farm roads supervised by the Consultant were poorly constructed. Therefore, the government had not received value for money spent on the supervision charges of Nu. 4,966,842.00 paid to the Consultant.

3.2.13 Other issues – irregularities in bid evaluation, direct award, non-adherence to contract agreement

1. The review of the procurement of consultancy services by various procuring agencies revealed several cases where the consultancy services were acquired without complying with the procurement process. Further, it was noted that consulting firms had not adhered to the terms of contract in providing their services. Following are some of the issues of non-compliances to the due process of procurement of consultancy services noted during the review:

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- ① There were cases of direct award of consultancy contract without observing procurement formalities.
 - ② The bid evaluation process was flawed in some cases entailing additional cost implication.
 - ③ There were cases where consultants did not adhere to the contractual terms

- ⊕ There were cases of direct award of consultancy contract without observing procurement formalities stipulated in the PRR 2009.
 - ⊕ The bid evaluation process was flawed in some cases which entailed additional cost implication or provided undue advantage to the winning bidder.
 - ⊕ There were cases where consultants did not adhere to the contractual terms resulting in delivery of poor quality of services or acceptance of services not specified or required by the procuring agencies.
 - ⊕ There were instances where the recommendations of the consultants which possibly could have added value were ignored without any basis.
2. The practice of direct award had not only violated the procurement norms but also impeded transparency, fairness and wider participation and depriving the benefits of competitive bidding. The flawed bid evaluation process would have undermined fairness and objectivity in the evaluation of the bid.
 3. Non implementation of recommendations of the consultant per se may not necessarily constitute deficient practice but disregarding the useful and constructive recommendations which are seen to add value. If valuable and critical recommendations are not implemented, it is not only the cost that was incurred by the procuring agencies in availing the service of the consultants go waste but also foregoing the potential value additions that might accrue. (*Box four: Cases I –IX.*)
 4. The RAA did not receive any response on these observations.

BOX FOUR: *Cases of other irregularities in engagement of consultants*

- i. The contract for design and drawings, and supervision of the construction of New Vocational Training Institute (Department of Human Resources, MoLHR) at Dolungang, Jigmeling was awarded to M/s Progressive Research Consultancy Services at a contract amount of Nu. 1,802,050.00 and Nu. 2,953,450.00 respectively with supervision completion timeline of 18 months. However, the consultant while preparing the tender documents had increased the initially fixed construction duration of 18 months to 24 months on the increase of the cost from initially estimated cost of Nu.105 million to Nu.222.00 million although there was no increase in scope of the proposed infrastructures from the initial plan. In addition the Supervising Consultant had done away with the maintenance of the **Measurement Books** despite stipulation in the agreed TOR, GCC and SCC besides increasing two additional engineers on ensuring quality of construction. The changes in the TOR, contract duration and increase of engineers benefited the Consultant not only in terms of decrease in responsibilities but also financially to the extent of Nu.3.295million. The changes in agreed TOR, contract duration and increase of human resources with substantial financial impact is a clear indication of weak consultant management system and total dependence on the consultants despite existence of possible conflict of interest.
- ii. There were huge cost and time over-run due to failure of consultant to submit the drawings and other technical documents in line with scales and instructions prescribed in the Terms of Reference of the Consultancy Contract awarded to M/s Druk Heritage Consultancy at a fee of 6.5% of the estimated cost. As per preliminary estimate the cost of work was Nu. 69.930 million. However the consultant subsequently submitted the revised project cost of Nu. 88.666 million resulting into payment of inflated consultancy fee of Nu.5.763 million, an increase by 24.82% from the initial estimates. The delays on the part of the consultant to submit the requisite documents entailed escalation payments to the contractor.
- iii. The Consultancy Contract awarded to M/s M/s Druk Heritage Consultancy, Thimphu at a negotiated consultancy fee of 6.9% of the project estimates of Chukha Dzong Construction Project was terminated due to deficiencies of serious nature in the design and model surfaced during actual implementation of the work. The Consultant was paid Nu. 5.016 million for the partial completion of their work. The additional cost implication on account of rectification of defective work resulting from defective design and model provided by the Consultant worked out to the tune of Nu. 9.115 million. Additional cost of Nu. 57 million was projected on account of cost index on account of delays, which is an increase by 40%.
- iv. The consultancy services for preparation of structural, architectural and other drawings including designing of traditional and aesthetic religious monumental structure of construction of Dratshang in Jigmecholing, Sarpang including supervision of works along with government engineers to monitor and regulate quality construction was awarded directly to M/s Druk Heritage Consultancy at a negotiated consultancy fee of Nu.1,104,242.40, i.e., 6.5% of the estimated project cost estimated at Nu. 16,988,344.62. The Consultant was required to provide design and drawings for entrance gates, parking area, outdoor lighting, courtyards, path-ways, passages including appropriate safety system of firefighting, security alarm, grills, water supply, compound fencing, and retaining walls etc which were, however, not incorporated in the final drawings.

Moreover, the entire site supervision was directly monitored by the government engineer and no services were rendered by the consultancy firm. Non-provision of technical assistance in accordance to the agreement entailed that the payment of Nu.552,121.00 (50% of the consultancy charges) made to the consultants was paid for services not rendered. Therefore, the consultancy fees of Nu. 1,104,242.40 did not achieve value for money as it was paid for poor quality services rendered by the Consultant.

BOX FOUR: Cases of other irregularities in engagement of consultants

- v. The designing of structural plan for Gelephu, Damphu and Samtse towns were directly awarded to M/s Benninger Architectonics, USA at an aggregate cost of Nu.4,000,000.00 vide work order No. File No 1/DUDH/UPDD/2003/1625 dated 31/1/2003. Similarly, the consultancy work in connection with the architectural design of the "Secretariat Complexes", Thimphu for four Ministries viz. Ministry of Education, Ministry of Agriculture, Ministry of Finance and Ministry of Foreign Affairs were also directly awarded to the same firm at a total cost of Nu. 3.5 million as Part I consultancy work. Subsequently, upon completion of Part I, the same firm was again awarded Part II consultancy for detailed technical design and preparation of tender documents at a total cost of Nu. 22.591 million. The direct award of the work was approved by the CCM as conveyed vide the Cabinet Secretary's letter COM/03/03/259 dated 6th November, 2003.

Besides impeding transparency, fairness and competitive bidding, such direct award of work to the consulting firm would also defeat the very endeavor of the government of promoting and building capacity of national consultancy firms.

- vi. M/s Gonefel Options Consultant had carried out survey for identification of information needs at the geog level at a fee of Nu. 0.831 million and prepared a titled "Report on Identified Information Needs of Rural Citizens." After the identification of information needs, the Department awarded the work of developing Content and Application System (CAS) based on the identified information needs of rural communities to M/s Infotech Software at a cost of Nu. 430,000.00.

The CAS was developed with the intention of including the identified information needs of the rural citizens to make the content accessible offline and from the local servers. The Consultants were required to include all the information identified in the report. The review of the content of the CAS revealed that the CAS did not provide all the information identified by the local communities. Therefore, the identified information needs neither benefitted the rural communities nor was the CAS ever used, thereby resulting in a wasteful expenditure amounting to Nu. 1.261 million resulting from poor deliveries of the Consultant.

- vii. The Health Infrastructure Development Division (HIDD), MOH had awarded the consultancy for planning and design of the GOI funded 40 bedded Samtse Hospital to M/s Progressive Research & Consultancy Services and M/s Faircon Healthkare Services, Kolkata (Joint Venture) at a negotiated cost of Nu. 6,537,048.00 being 3.5% of estimated cost.

The consultants had prepared the cost estimates based on Bhutan Schedule of Rates 2009, rate analysis wherever applicable and adding provisions of cost escalation. However, the HIDD did not carry out proper scrutiny of the cost estimates to ensure correctness of the designs, drawings and estimates/BOQs and that no excess fees were paid through over estimation of costs.

- viii. During the financial year 2008-09, Bhutan Indigenous Games & Sports Association (BIGSA) had directly awarded the consultancy services for engineering design and supervision work of the construction of shooting shed cum office and 50 bedded hostel to Mr. Fritz Baumgarter on 24/06/2009 at the negotiated fee of Nu. 410,000.00 and Nu. 1,942,000.00 respectively upon non-receipt of response to NIQ published on 7.09.08 for consultancy services.

The direct award of consultancy services to an individual who was not registered with the CDB had undermined the procurement norms of the country.

- ix. The initial design of the 192 bedded student hostel at College of Science & Technology, Phuentsholing was carried out by the JOCV Architect. The construction works were awarded to M/s Kencho Dorji Construction, Chukha vide work order No. CST/ADM/Civil/Hostel Const/009/3411 dated 12/02/2009 at the lowest evaluated bid of Nu. 32,105,932.01.

However, the Vice Chancellor, RUB had instructed for reorientation and modification of the structural layout of the building during one of his visits to the college. Subsequently, the modification design and drawing works of hostel construction was awarded to M/s Yalama Arts & Consultancy. Consequently, the change of design and drawings of the building after the award had resulted in increase of work scope drastically thereby escalating the cost to Nu.43,331,770.00 from the initial bid of Nu. 32,105,932.01. The resultant cost increase of Nu.11,225,837.99, i.e 34.96% increase from the original estimates indicated that the JOCV Architect had not delivered his service properly or the Vice Chancellor's intervention at inappropriate time had impeded competitive bid and defeated the very purpose of inviting competitive bids.

3.3. Cost Benefit Analysis

Government agencies are expected to pursue prudent and sound financial management practices. It is expected that public resources are used economically, efficiently and effectively to achieve value for money in public operations. It is, therefore, imperative for the policy formulating and rule making authorities including respective principal central technical agencies should ensure that the Government agencies resort to outsourcing of activities only when it will result in value addition and if procuring agencies can obtain competitive advantage and better quality services vis-à-vis if such activities were to be executed departmentally or by pooling resources within the government.

- ❶ Government had spent over two times the cost on consultants that would have been incurred if the same assignment was undertaken by in-house experts.
- ❷ There seems to be hardly any rationale to outsource engineering services when Civil service has far more engineers in numbers and level of qualifications.
- ❸ The government is incurring huge losses both in terms of quality and cost in acquiring the services of the consultants.

The RAA had carried out simple cost benefit analyses of engaging consultants for three different real cases where services of the consultants were engaged. For the purpose of comparisons, the salaries of civil servants (engineers) of appropriate position levels were taken into consideration for computation of cost. Further, additional 40% has been allowed to cover other costs including overheads. The analyses were considered for work of such nature that it could be executed by the expertise available within the organization. The results of the analyses showed that:

- a) By engaging consultants the Government had spent over two times the cost that would have been incurred if the same assignment was undertaken by in-house experts.
- b) Besides the extra cost that is apparently incurred in engaging the consultants, other qualitative matters were also considered for analysis and result indicated support for the opinion that there was no value for money from engaging consultants. The following arguments are offered to further support this view:
 - Civil service has far more engineers both in terms of numbers and level of qualifications compared to the private sector. Unless the policy really contributes in development of private sector and healthy and competitive market, there seems to be hardly any rationale to outsource engineering services. The policy must create conducive environment for not only growth of private sector and maintaining small, compact and efficient civil service but also result in value addition, comparative cost advantage and

sustaining professional capacities and high level of specializations in the private sector.

- The government is incurring huge losses both in terms of quality and cost in acquiring the services of the consultants. Surely this existing scenario is not in the interest of government and even for the private sector development as consulting services are acquired repetitively even for works that are not complex at higher costs. This is mostly so for the consultancy firms involved in preparation of designs, drawings, estimates and supervision of works.
- Cases of deficient works carried out by the consultants as evident from numerous deficiencies pointed in the audit reports on a regular basis does not really seem to bring value for money to the procuring agencies.

Case I: Consultancy works for preparing designs, drawings for Bus shed and terminals for Paro, Trashigang & SamdrupJongkhar

The Ministry of Information and Communications had engaged Consultants in carrying out designs and drawings for the construction of bus shed and terminals in Paro, Trashigang and S/jongkhar, incurring an aggregate expenditure of Nu.1.989million.

ANALYSIS: For the purpose of the analysis below, the RAA had assumed engagement of 1 Architect, 1 Civil and 1 Electrical Engineer as such works are generally being carried out engaging services of these professionals. The comparison between the cost of using consultants and in-house expertise showed following results as tabulated below:

Sl. No.	Activity	Consultants	Duration	Consultancy Fee (in Nu)	Estimated Cost using in-house expertise (in Nu.)	Difference or Saving (in Nu.)
1	Design and Drawing of Bus Shed, S/Jongkhar	M/s SDK Consultancy Services, Phuentsholing	2 Months (06/04/2009 - 15/06/2009)	500,000.00	135,720.00 *(Nu. 22,620.00 x 3 pers x 2 mths.)	364,280.00
2	Design and Drawing of Bus Terminal, Tashigang	M/s SDK Consultancy Services, Phuentsholing	2 Months (06/04/2009 - 15/06/2009)	795,000.00	135,720.00 (Nu. 22,620.00 x 3 pers x 2 mths.)	659,280.00
3	Design and Drawing of Bus Terminal, Paro	M/s Zorig Consultants, Thimphu	5 Months (1/04/2008 - 30/08/2008)	693,600.00	339,300.00 (Nu. 22,620.00 x 3 pes x 5 mths.)	354,300.00
TOTAL				1,988,600.00	610,740.00	1,377,860.00
Total (after adding 40% overhead cost)				1,988,600.00	855,036.00	1,133,564.0

**Note: Pay Scale of P2 position (1 Architect, 1 Civil & 1 Electrical Engineer) taken on assumption for the analysis.*

RESULT: As evident from the table the total cost incurred for the above three activities would have been Nu. 0.855 million(Nu. 0.611 million salary plus 40% overhead cost) only if in-house engineers were used as against the total actual cost of Nu. 1.989 million incurred in engaging the consultants. As such the procuring agencies had to bear additional cost of about Nu. 1.133 million representing 132.51% more or over 2 times expensive than engaging in-house expertise.

CASE II: CONSULTANCY WORKS FOR SUPERVISION OF THREE CONSTRUCTION IN THE EDUCATION SECTOR

The education sector had awarded the consultancy works for supervision of three construction works at different education institutes as detailed in the table below:

ANALYSIS : For the purpose of the analysis below, the RAA had assumed engagement of 1 Architect, 1 Civil and 1 Electrical Engineer as such works are generally being carried out engaging services of these professionals. The comparison between the cost of using consultants and in-house expertise showed following results as tabulated below:

Activity	Consultancy cost (Nu.)	Duration	Estimated cost using govt. engineers (22,629*3*months)	Estimated Savings
Supervision of construction of Academic Zone ILCS, Taktse	7,051,323.92	24 months	1,628,640.00	5,422,683.92
Supervision Construction of HTMTI, Thimphu	9,183,882.00	20 months	1,357,200.00	7,826,682.00
Supervision of Constructions at Sherubtse College	1,912,890.54	24 months	1,628,640.00	284,250.54
Total	18,148,096.46		4,614,480.00	13,533,616.46
Total after 40% overhead cost	18,148,096.46		6,460,272.00	11,687,824.46

RESULT: As would be seen from the above three cases, there was potential loss of Nu. 11.688 million while engaging the consultants for the supervision. (The cost of consultant is 181% more or almost three times expensive than engaging in-house resources).

Besides the cost comparison, the qualitative aspects were also considered to ascertain whether engaging the consultants brought benefits to the procuring agencies. These included:

- The government had regularly suffered various defects and deficiencies in the works carried out by consultants as pointed out in past audit reports.
- Further, unless the monitoring over the works consultants is carried or government officials also specifically assigned for the supervision of work, the involvement of consultants alone for supervision may not guarantee that the works are carried out economically, efficiently and effectively

CASE III: CONSULTANCY WORKS FOR DESIGN AND DRAWING OF HOSPITALS UNDER HEALTH SECTOR

The consultancy works for preparing design and drawing of various hospitals under health sector were given at the total cost of Nu. 33.276 million to various consultants. The job of design and drawing of such structures is very technical and requires appropriate skills and knowledge in carrying it out. However, most agencies tend to rely on use of consultants time and again for similar jobs indicating improper planning on procurement of such services. Moreover, the costs of procurement of such consultancy services are very expensive in comparison to use of internal resources.

ANALYSIS : The RAA has made assumptions on the position levels of the consultants at government level. The comparison of the cost between engaging consultants and using internal resources showed savings of over Nu. 25 million as shown in the table below:

<i>Name of work (design & drawing)</i>	<i>Consultancy Fees (in Nu. Millions)</i>	<i>Duration</i>	<i>Estimated cost (using Govt. Engineers)</i>	<i>Estimated Savings</i>
40 Bedded District Hospital, Samtse	6.537	10 months	1.939	4.599
20 Bedded District Hospital, Tsirang	4.089	8 months	1.551	2.538
Detoxification & Treatment Centre, Gidakom	1.800	5 months	0.856	0.944
20 Bedded District Hospital, Haa	2.350	5 months	0.630	1.720
150 Bedded CRRH, Gelephu	13.000	12 months	1.783	11.217
Pharmaceutical Industry, Gidakom	5.500	5 months	0.856	4.644
Total	33.276		7.615	25.661
Total (After adding 40% overhead cost)	33.276		10.661	22.615

RESULT: As apparent in the table, there would have been huge cost saving of Nu. 22.615 million had the procuring agencies resorted to engaging in-house experts instead of availing services of consultants (The engagement of consultant was 212% more or over three times expensive than engaging in-house resources)

Cost benefit analysis carried out is indicative only and comprehensive analysis would have entailed consideration of many other qualitative and quantitative aspects of individual cases.

3.4. Case studies on consultancy services

The RAA focused on two specific cases of engagement of consultancy services; Consultancy services for the hydro power projects and Accelerating Bhutan's Socio-economic Development (ABSD) Project. It was intended to highlight some of the deficient management practices in the engagement of consultancy services noted in two big projects.

3.4.1 Consultancy services for the hydropower projects

The Royal Government of Bhutan accords great importance to the development of hydropower in the country. With financial assistance from the Government of India, the RGOB has targeted hydroelectric generation of 10,000 Mega Watt by 2020.

All Hydropower Projects need to undergo various stages before commencement of actual constructions. As such, the consultancy services to conduct pre-feasibility studies, preparation of Detailed Project Report and pre-construction activities constitute a substantial portion of the expenditures for hydropower projects. During the period 2007-08 to 2011-12, a total of Nu. 1,804.350 million was spent on procurement of consultancy services in the Hydropower Sector.

The RAA reviewed the services provided by consultancy firms in preparing Detailed Project Report, conducting Pre-feasibility studies and preparation of estimates for pre-construction activities in projects like, the Tala Hydropower Project Authority and Punatsangchu-I Hydropower Project Authority. Besides, the RAA had also reviewed the cases of major deviations in the audit of the Mangdechu Hydroelectric Project Authority.

The consultancy services for preparation of Detailed Project Report (DPR) and estimations of pre-construction activities of these Projects was awarded to M/s WAPCOS Ltd. The firm had also prepared detailed designs and drawings, including preparation of specifications and tender documents, technical evaluation, testing of construction material, model studies for design of structure and periodic review and updating of construction schedule.

Deficiencies and lapses

Some of the significant deficiencies observed in the consultancy services in this sector are as discussed below:

- a) There were several deficiencies in the design and preparation of estimates mostly attributable to inadequate preliminary studies such as geo-tech, topographical studies etc. This had resulted in huge deviation in actual and estimated quantities necessitating payments at analyzed rate which are usually much higher than the quoted rates.

The Office of the Director (Technical), PHPA I & II responded that the deviation in actual and estimated quantities in hydro-electric project is not due to any deficiency in designs but mainly due to change in design necessitated at the time of actual construction due to reasons like geological surprises, actual site requirement which may not be assessed by preliminary studies at the time of preparation of Detailed Project Report.

- * There were several deficiencies in the design and preparation of estimates
- * Major changes in scope rendered numerous complications related to contract management
- * There were time and cost overruns
- * The cost of PHPA was revised to almost three times the initially projected cost.

- b) Major changes in the scope of work had ensued from unrealistic estimates prepared by the consultant. The changes rendered numerous complications related to contract management.

The Office of the Director (Technical), PHPA I & II justified that the site conditions at the time of execution may bring change in scope of work and cannot be avoided in such mega hydro projects.

- c) There were time and cost overruns, significant portion of which were on account of inadequacies in the Detailed Project Report.

The Office of the Director (Technical), PHPA I & II justified that the estimated cost in DPR is prepared at certain price level and for such mega projects in which construction period is about 7-8 years, the escalation in prices, subsequent changes during construction, execution of unforeseen items contribute to increase in DPR cost.

- d) The cost of Punatsangchu Hydropower Project was revised to almost three times the initially projected cost. There were significant changes in the scope of work and construction sites of some of the major works. Many extra items of works had to be executed which the consultants had not provided in the DPR. This entailed additional financial implications.

The Office of the Director (Technical), PHPA I & II responded that during the actual execution, the envisaged geology shows surprises that result in change of scope, execution of various unforeseen items, shortage in quantity of suitable constructions materials as assessed to be available in quarry at preliminary stage. The geology based on preliminary investigations may not match with the detailed geology encountered at the construction stage. The major changes occur due to relocation of various components of the project suiting to the site requirements.

- e) In the audit of the Mangdechu Hydroelectric Project Authority there was a case where the items included in the Detailed Project Report prepared by the

consultant were later changed. The consultant insisted to maintain the same item as it was cheaper than the alternative item which the management opted. This would entail possible extra financial implication of Nu. 779.898 million as the item was treated as extra item to be paid at analyzed rate.

The Mangdechu Hydroelectric Project Authority responded that extra cost indicated is a theoretical notional cost and the projection of theoretical cost before execution of the job may lead to misunderstanding.

- f) There is no accountability mechanism and penal provisions to hold the consultants responsible for the flawed and deficient DPRs. The project thus, inevitably bears the consequences of flaws in the services rendered by the consultants.

The Office of the Director (Technical), PHPA I & II maintained that hydro projects involve construction of huge underground structure for which it is not possible to assess the extent of geology that will actually be encountered during construction.

- g) The consultant had delayed the preparation and submission of DPR for Hydropower Projects included in the 10,000 MW plan. It was observed that none of the DPRs could be completed as scheduled necessitating repeated extensions of time for completion. This has invariably delayed the implementation of the projects and has posed a serious impediment to realization of national target of 10,000 MW by 2020 besides the likely time and cost over-runs that the project will experience.

The Office of the Director (Technical), PHPA I & II submitted that the preparation of DPR through multiple agencies, appraisal process to technical committees and other specialized agencies take longer time and contribute to delay in completion of DPR.

- h) Despite considerable experiences of implementation of Hydro Power Projects in Bhutan, it has become a common practice to make payments at analyzed rates for deviated quantities beyond 30%. This is seen to be one of major causes for cost escalation. It would have been imperative on the part of the consultant and the project management to anticipate possible variations in the quantities of works and accordingly recognize in the BOQ and tender documents to minimize huge deviations and payments at analyzed rates.

The Office of the Director (Technical), PHPA I & II justified that in the hydro power project the extent of variations in all items of work in the bidding documents are made in such a way that economical offer could be obtained. The extent of variation of 30% kept in bidding documents is as per norms and guidelines.

- i) Response provided attributed most deficiencies and lapses in the consultancy services in hydro power sector to adverse geological conditions

and surprises. While the adverse geological conditions contribute largely towards inadequacies in the DPR and resultant subsequent changes, BOQs prepared do not seem to reflect these realities and provide for in their estimates.

As regards observation at (e) above, the amount was computed based on cost analysis adopted by the Project only to demonstrate the possible impact of changes in the construction methodologies after the award of work. The actual additional financial implications may not be exactly the same. In situations where consultant's recommendations are not valid, the authorities and management should deliberate and identify optimal methodology before flotation of tenders to avoid payments for substituted items at very high rates.

Inadequacies in the DPR occur mainly due to inadequate time and resources allocated for carrying out detailed preliminary studies and investigations. Since these flaws have huge implications both qualitative and financial, it may be worth spending adequate time and resources for conducting thorough investigations and preparing a bankable DPR.

3.4.2 Consultancy services for the ABSD project – Mckinsey& Company, Inc.

The Accelerating Bhutan's Socio-economic Development (ABSD) Project was conceptualized and initiated by the Royal Government of Bhutan. M/s McKinsey & Co., a global management consulting firm based in India was awarded the consultancy services at negotiated bid of US\$ 9.1 million (Nu.443 million). The Contract Agreement was signed on 25th June 2009 between the GNHC and McKinsey & Co. The project commenced on 1st July 2009 for the duration of twenty-six months and ended in August 2011, after a delay of three months.

The ABSD Project was agreed on three tracks with an objective identified under each track as follows:

Sl. No.	Track No	Description of Track	Objective
1	Track 1	Improving Public Services	Provide critical public services cheaper, faster and at higher quality levels
2	Track 2	Generating Employment	Generate a substantial portion of the 90,000 jobs required in the Tenth Plan period
3	Track 3	Enabling and Managing Change	Enable and manage change to ensure real and sustained impact

The Project was initiated in two phases. **Phase I (Diagnostic Phase: first three months)**: Identified areas of focus and developed detailed portfolios for five public services and five key sectors. **Phase II (Implementation Phase: twenty-three months)**: Development of Performance Compacts. In total, ten Performance Compacts, containing 71 Charters/Initiatives were developed for five public services in Track 1, and five sectors in Track 2 as indicated in the table below:

Performance Facilitation Unit (PFU) was instituted under GNHC to ensure smooth and successful implementation of these Compacts. It coordinated with the concerned sectors to facilitate, de-bottleneck and monitor progress on initiatives.

As the project involved huge investment, representing 9% of the expenditures incurred on consultancy services during the period 2007-08 to 2011-12, the RAA reviewed the proposal and implementation of the ABSD Initiatives to ascertain whether the engagement of McKinsey & Company had accorded due regard to economy, efficiency and effectiveness in acquiring its services.

Sl. No.	Sectors	Charter Owner	Date of signing Compact	Remarks
1	Tourism	TCB	9/11/2009	Track 2 (Sector)
2	Health	MoH	9/12/2009	Track 1 (Public Services)
3	G2C	Project	19/5/2010	Track 1 (Public Services)
4	School Education & DAHE	MoE	17/2/2010	Track 1 (Public Services)
5	Tertiary Education	RUB	17/2/2010	Track 1 (Public Services)
6	Vocational training	MoLHR	17/2/2010	Track 1 (Public Services)
7	Agriculture	MoAF	9/9/2010	Track 2 (Sector)
8	Construction	MoWHS	9/9/2010	Track 2 (Sector)
9	ICT	MoIC	9/9/2010	Track 2 (Sector)
10	Culture	MoEA & MoHCA	29/4/2011	Track 2 (Sector)

Deficiencies and lapses

The review showed various flaws in its engagement as discussed below:

1. *The Contract Agreement drawn did not clearly establish the deliverables and outputs from the Consultant.*
 - a) The deliverables identified in **Appendix II (Description of Services)** of the Contract Agreement was not adequately quantified. The outputs sought from the consultants were not clearly defined.
 - b) There was no time-frame established for completion of each deliverable.
 - c) The contract also failed to identify performance indicators for each deliverable, in relation to national performance indicators, except for a deliverable that agreed on propelling Bhutan to the top 50 nations in the "Ease of doing business index of the World Bank".

- d) Therefore, the vagueness in establishing the deliverables and lack of performance indicators against each deliverable had impaired gauging the extent of achievement of commitments of the Consultant.
- e) The RAA did not receive any response from the GNHC despite providing adequate time.

2. *There was inadequate oversight over contract administration*

- a) Appendix B of the Contract Agreement required the Consultant to submit report every three months and the draft final report to be submitted within first week of the 23rd month. However, the required reports were not submitted by the Consultant, impairing effective monitoring of the contract.
- b) The only report prepared by the Consultant was the presentations made on the diagnostic and implementation stages of the project which were later consolidated as "Performance Compacts". Without the reports and proper documentation of the activities carried out by the Consultant, it had impeded effective supervision and also impaired verification and ascertainment of the extent of achievement of the commitments.
- c) The agreement did not specify relevant clauses on the liability of the consultant in the event of breach of contract terms and conditions.
- d) The status of progress of consultancy works and implementation of compacts were not made available with the GNHC as the same was not produced the Audit.
- e) The RAA did not receive any response from the GNHC despite providing adequate time.

3. *Performance Measures/outcome of compacts were not defined clearly*

- a) It was observed that many Key Performance Measures/Outcome identified in the Compacts were not clearly defined.
- b) It appeared that no proper assessment of the agencies was conducted by the Consultant to identify appropriate outcomes for the agencies resulting in list of outcomes in the Compact that do not add any value to the system.
- c) As a case in point, some of the outcomes like, "Minimum percentage of students supported by the government", "% Employability within three months of graduation", "Schools above 70% on GNH Index", "% of schools covered by the new holistic education method", "% of students being funded by loans", etc. indicated the outcomes were listed in the Compact without adequate assessment and proper study on the relevance, feasibility and effectiveness of the outcomes.

- d) The Compacts also did not identify strategy to achieve the targets or outcomes in many cases.
- e) It was observed that many charters were either modified or its commitment period extended to next plan. Some of the under-achieved initiatives are:
- The Government-to-Citizen (G2C) services were initially targeted for all 205 Gewogs and in 15 Ministries/agencies by 2013 through establishment of Community Information Centres (CICs). However, the revised plan indicated establishment of only 185 CICs (131 online and 54 offline).
 - Many activities were either deferred or the target activities were revised as exhibited below:

Therefore, it appeared that the charters/initiatives identified were not properly assessed and quantified.

The RAA did not receive any response from the GNHC despite providing adequate time

4. *Targets not aligned to goals of tenth five year plan*

- a) As against the objective of generating substantial portion of the 90,000 jobs required in the Tenth Plan as provided in the Contract Agreement signed between the Government and the Consultant, the ABSD initiatives targeted creating only 30,000 jobs.
- b) Without clarity in target setting and alignment of targets with the overall government's target of reducing unemployment rate to 2.5% in 2013, the contribution of the ABSD initiatives towards lowering unemployment rate cannot be ascertained.

Sl. No.	Initiatives	Sectors	Targets	Revised Targets
1	Federal corporative	Agriculture	5	1
2	Farmers group	Agriculture	500	300
3	One stop shop	Agriculture	50	25
4	Construction of Irrigation Channel	Agriculture	125 Km	97.45Km
5	Renovation of Irrigation Channel	Agriculture	278 Km	Deferred to 11th Plan
6	Establishment of CICs	G2C	205	185
7	Irrigation Master-plan	Agriculture	Not started	Deferred to 11th Plan
8	Organic brand and certification	Agriculture	Not started	Deferred to 11th Plan
9	Contract farming	Agriculture	5000 ha.	1416 ha.
10	Hospital Operations and Cost Efficiency	Healthcare	Financial saving	streamline procurement procedure and rationalize drug requirements
11	ICT-Demand Creation	ICT	Setting-up 3 BPO and 3 DC	Strengthening operation of existing companies like Shaun Companies and Scan cafe at the IT Park.

- c) It is reported that the unemployment rate had reduced from 4.2% in 2008 to 2.1% in 2012. However, the youth's unemployment rate has been reported to be at 7.3%.²
- d) The RAA did not receive any response from the GNHC despite providing adequate time

5. Unjustified attribution of national savings to consultants

- a) The government explored opportunities for reducing the cost of construction materials (such as bitumen and steel) by consolidating and obtaining quantity discounts from suppliers, using innovative methods in the packaging and transportation of materials, and substituting existing variants of various materials with new ones that allow reduction of the quantities required.
- b) Through such initiatives, the Government reported savings of Nu.108 million on account of reduced bitumen costs and the substitutions of Fe500 over Fe415 grade of steel. The savings were attributed as the outcome of the McKinsey & Co.
- c) It was observed that the saving of Nu. 108 million reported as the contribution of the Consultant was expected saving computed based on estimated requirement of bitumen and steel and certain other assumptions. However, the actual outcome was yet to be ascertained.
- d) The Consultant estimated savings of 7%- 9% on the cost of steel on the premise that Fe500 steel enabled a cost reduction of about 20% in the total quantity required at only ~5% higher price.
- e) The price and quantities for Fe500 were assumed to ascertain the savings of substitutions as follows:

Procurement of bitumen:

$$Savings = (DoT's\ Approved\ Rate) - (Rate\ offered\ by\ Oil\ Companies) \times Total\ Ordered\ Qty.$$

Procurement of steel Fe500:

$$Savings = (Qty.Fe415 \times Price_{Fe415}) - (Qty.Fe500 \times Price_{Fe500})$$

6. CIC initiatives were not effective as most Community Information Centre (CICs) were not used

- a) Out of 100 CICs established in Gewogs, only 23 online CICs cater the services to the public.
- b) The RAA's review of 23 CICs showed total applications of 1,938 only from the time of establishments of the Centre till date.

² Source: Fifth Annual Report to the Tenth Session of the First Parliament, State of the Nation, 2013

- c) Five CICs did not process any application, and ten CICs processed on average of 1 to 100 applications in a year.
- d) It was found that these CICs were established without pre-requisites such as optical internet services, manpower resulting in under utilization of facilities.
- e) The interview with the local communities or public indicated that many of them were not aware of the facilities.
- f) Therefore, the intended objectives of the CICs remained largely not met, thus indicating ineffectiveness of the programme.
- g) The RAA did not receive any response from the GNHC despite providing adequate time

7. *Non achievement of targets within timeframe*

- a) The targets set in the performance compacts were intended to accelerate the growth and development of the Bhutanese economy and improve efficiency and effectiveness of government services, generate substantial employment and enable and manage change to ensure real and sustainable impacts.
- b) However, not all targets proposed through the ABSD were achieved as per the timeline provided in the performance compacts which could potentially threaten the achievement of the project's objectives.
- c) From the available performance indicator for an agreed deliverable – “to propel Bhutan to top 50 nations in the Ease of doing Business index of the World Bank”, the ranking of Bhutan had plummeted from 119th in 2008 to 148th in 2013³ from among 185 countries (Latest ranking 141 in 2014 among 189 countries).
- d) This indicated that one of the important objective of the ABSD consultancy of propelling Bhutan to top 50 nations in the ease of doing business as per the World Bank's Index was not achieved. This also implied that the target was either not realistic or the mechanism to achieve the target was not well defined.
- e) Such instances of unimplemented charters and unaccomplished targets are an indication that proper studies on feasibility, resources requirements, applicability etc. were not carried out by the consultants.
- f) A few of examples of sector-wise non and under achievements are provided as in the box below:

³ Source: *Doing Business 2013*, World Bank

BOX FIVE: *Instances of sector wise non –achievement and under-achievement of targets*

Agriculture sector

The Ministry of Agriculture and Forests (MoAF), to enhance rice productivity, had identified five clusters in various Dzongkhags and targeted 8,500 hectares as the area to be covered under rice commercialization. In contrast, the MoAF had only been able to achieve 4,529.1 hectares constituting about 53.28% of the intended target as of November 2012. With less than a year for the completion of the project, the achievement of 8,500 hectares under the rice commercialization remains in grave danger of not being completed thereby defeating the intention of internal food security.

- a) Development of Irrigation Master Plan, was dropped because the work which was outsourced to Jain Irrigation, India were found not competent enough. They did not have required expertise in irrigation field but rather they specialized in manufacturing pipes. Since the McKinsey & Co. had introduced Jain Irrigation to MoAF, it was an indication that the consultants had not carried out appropriate studies on the company before proposing the same. Such lapses from the consultants had not only wasted some resources but also led to non-accomplishment of the intended objectives and targets indicating under-performance.
- b) Forest Resource Assessment- The consultants had proposed activities without proper scrutiny and assessment on their feasibility and the availability of resources resulting in some of the proposals being dropped from the performance compacts. This activity has been dropped from the ABSD program given the scope of the task and also due to the inability to mobilize resources for the activity. Such activities are also an indication of inadequacies on the part of the consultants in recommending the sources of funding for the programs.

G2C Services

Lack of adequate awareness programs has hampered the success of the G2C services as the public still rely on the normal procedures to get their work done. Some of the procedures are also very tedious and people resort to the earlier system of using the post. Most of the rural people are not aware of all the services that can be availed from the G2C service centres and some operators being Dzongkha teachers are unable to use the system properly as it is in English.

Royal University of Bhutan

Unrealistic planning on the number of programmes to be implemented led to twelve programmes not being implemented as scheduled. There were also addition of four new programmes and the plan on the total number of programmes which were to be implemented (during 2009-2013) had to be reworked for a more realistic and practical plan. This shows that the research and groundwork carried out by the consultants were not adequate in recommending result-based activities. The turn of events suggests that the Royal University of Bhutan is implementing its activities on a trial-and-error methodology suggesting the ineffectiveness of the consultants.

PART IV: RECOMMENDATIONS

The lapses and deficiencies observed in the procurement, planning and management of consultancy services and causes thereof as discussed in the preceding paragraphs require attention of the Royal Government of Bhutan. With the expenditure of almost an average of Ngultrum one billion incurred annually, aggregating to Nu. 4,594.15 million in last five years (2007-2012) on acquiring the consultancy services, it is imperative for the government to revisit policy intents and bring appropriate changes in the Procurement Rules and Regulations for improved management of consultancy services by the procuring agencies and facilitate them to obtain value for money in engagement of the Consultants.

Therefore, to aid the government in ensuring that procurement of consultancy services is carried out most economically, efficiently and effectively and to optimize the value of partnership between government and consultants for mutual benefits, the RAA recommends the following course of actions:

4.1. *There should be clear legal and policy framework for procurement of consultancy services*

Most issues regarding the procurement of consultancy services are related to having inadequate legal and policy framework. Procuring agencies engage the services of consultants even when the works could be carried out by the agency itself or through the central technical agencies.

It has, therefore, become very important for the government to come out with proper legal and policy framework to assist procurement of consultancy services. The policies should, amongst others, contain when and why consultancy services should be procured. The legal and policy framework would form the basis of agencies to verify if consultants would really be required.

4.2. *The government should issue clear guidelines on procurement of consultancy services*

Lack of comprehensive guidelines on procurement of consultancy services have been impeding value for money in the procurement of consultancy services besides giving rise to scope for inconsistencies, lapses and inappropriate practices. In many cases, procurements of consultancy services are carried out without even identifying and indicating the deliverables of the consultants.

Some countries have issued detailed guidelines on procurement of consultancy services to ensure that public money spent represent value for money. The government should develop and issue clear guidelines to the agencies to assist the procurement of consultancy services. The guidelines would encompass the issues related to accountability, value-for-money, circumstances when consultancy services should be procured, procedural requirements that are necessary to

ensure that public resources are used in the most economic, effective and efficient manner.

4.3. *The government agencies should conduct need assessment to identify the actual requirement of consultancy services*

The engagement of consultancy firms is appropriate only when the knowledge, skills, or expertise required to carry out the task at hand is not available within the organization. Agencies should conduct appropriate need analysis to identify whether the work warrants the involvement of consultants and whether the consultancy firms can provide services according to the requirements of the agency. The need assessment should also take into account the possibility of availing expertise from other government agencies.

Therefore, the agencies should prepare a detailed procurement plan to avail the services of the consultants most judiciously. The procurement plan should contain details of the need analysis, nature of work, expertise requirements, time and scope for consultancy work and the complexity of the task. With the help of the procurement plan, agencies can identify the best consultancy firms eligible to carry out the task. It will also provide insights to whether the agency can conduct the task at a more economical, efficient and effective manner using its own internal resources. Procuring agencies should ensure that the services required are of the nature and skill that can be best performed through engaging consultants and cannot otherwise be carried out by available in house expertise or hiring expertise from other sources and will provide value for money to the government.

4.4. *The government should encourage procurement practice that promotes competition and provides value for money*

The procurement of consultancy services should be done inviting open bids from the potential consultants as appropriate. Competition encourages consultants to offer greater value for money to the clients. However, the procuring agencies should choose the most appropriate form of competition given the value and nature of the contract and the number of bidders expected. It should be diligently followed through systematic and fair evaluation process.

The procurement process and the quality of tenders may be improved by communicating better and earlier with consultants. Some studies indicated that dialogue with potential consultants before any competition is important because, at the tender stage, it is generally too late for consultants to suggest to develop alternative approach which could improve value for money⁴. This should, however, not be inconsistent with the PRR and SRF providing undue competitive advantage to some over others.

⁴ 'Central government's use of consultancy services', Audit Scotland, 2009

4.5. *The TOR should be comprehensive and complete in all material respects*

Many issues relating to inadequacies in the terms of reference drawn with the consultants were observed which had resulted into delivery of poor quality of services, additional costs, disputes, non-performance, wastages thereby impeding value for money from consultancy services. The terms of reference should be detailed and comprehensive enough to include all important aspects of proposed assignment.

Some important provisions such as, Non-performance clause, specific payment clauses, penalty clauses etc. should form the essential part of the contract document. The ToR should describe the expected deliverables, personnel specifications, expertise, approach and methodology, work plan, reporting requirements and their timings. The ToR should also clearly define the objectives, goals and scope of the assignment. The document will provide the basis for the monitoring and evaluation of the work carried out by the consultants.

4.6. *The procuring agencies should conduct proper supervision and monitoring of the works carried out by the consultants*

Lack of supervision and monitoring of the works of the consultants had resulted in poor quality of services, delays, non-performance, wastages and additional costs. To ensure that the works carried out through consultancy services are on time and as required in the ToR, the procuring agencies should conduct regular monitoring of the work. Without appropriate monitoring procedures in place, it will be difficult for the agency to identify flaws, delays, compliance with contractual obligations and force majeure on timely basis and make necessary interventions.

Monitoring the works of the consultants is necessary to ensure that the quality, quantity, timeliness and scope of the work are adequately observed. The procuring agency will also be able to identify whether the payment claims made by the consultants are legitimate, and avoid extravagant expenditures.

4.7. *The basis of fixing consultancy fees should be reviewed and rationalized*

Existing procurement rules provide for lump-sum and time-based contract methods for procuring consultancy services. While some followed lump-sum and time-based contract methods, many adopted percentage based contract which was not provided for in the PRR, 2009. However, to what extent the fee paid to consultants is related to their efforts and actual costs is not identified and ascertained. The fees paid are mostly linked to the project estimates/costs rather than the costs actually incurred by the consultants. The existing fee structure seems to be generally very high and there is also no system of setting maximum limit for consultancy fees. Huge amounts of supervision charges were paid for the extended duration of the project, even more than twice the amount of original fee.

In absence of maximum ceiling on supervision charges, there is possibility of prolonging and delaying completion of actual construction works at the expense of the procuring agencies.

The payment of consultancy fees as a percentage of the estimated cost of the project provides opportunities for the consultants to inflate the estimation to ensure that the benefits accrued from the project to the consultant is high. There is a need to review the existing fee structure and rationalize the same to render it more reflective of the cost of providing services by the consultants.

4.8. Award of design and drawings and supervision contracts to same consultant should be reviewed

Despite stipulations in Clause 7.2 of PRR 2009 to avoid engagement of same consultant with conflicting roles, this important aspect is overlooked. The award of preparation of design and drawing work of a project and supervision of works to the same consultant leaves room for conflict of interest. The defects in the design and drawing may be deliberately concealed by the supervision consultant which may lead to compromising the quality of works. Moreover, the loopholes and flaws may be deliberately kept with a view to benefit during implementation stage by engaging in collusive practices. Therefore, it should be reviewed and appropriate practices and procedures put in place to avoid such conflicts of interest.

4.9. The procuring agencies should encourage transfer of knowledge and skills from the consultants to staff

The transfer of know-how is one of the key benefits that may be derived from consultancy services. However, there have been no real initiatives on the part of procuring agencies to reap the benefits of knowhow or specialized expertise. Transfer of knowhow is not emphasized by the procuring agencies even if there is potential for such skills transfer. Procurement rules also do not encourage such practice and require for such stipulations only if the specific objective of consultancy services is transfer of knowledge and training.

The procuring agencies should identify the transfer of knowledge and skills as one of the deliverables and stipulate it clearly at the tendering stage itself. The agencies should encourage and create conducive environment for the internal staff to take advantage of opportunities to learn new skills from the consultants. It may at times be not necessary or practical for staff to become fully proficient in a consultant's area of expertise, but acquiring some level of understanding could improve how staff implements the consultants' work effectively. Therefore, the agencies should identify set of staff and work exclusively with the consultants and learn from them. Such modus operandi would strengthen the in-house capacity and may achieve value addition through consultancy works. Transfer of knowledge and skills would reduce the requirements of employing the consultants

paying huge costs for the same purpose time and again. The benefits of staff-consultant partnership working also include, (i) greater assurance as the work of the consultant is subject to continual review, and (ii) better understanding of the issues (for the consultant) and of the solution (for staff).

4.10. *The procuring agencies should conduct an evaluation upon completion of the consultancy services*

While regular supervision and monitoring is inevitable, it is always a good practice to evaluate the work on completion of the consultants' assignments to ensure it meets the business requirements and provides value for money. Without evaluating the work of consultants it is difficult to assess if value for money is obtained and there is limited opportunity to improve consultants' work in the future. The evaluation should also provide specific feedback on their work as assessment is often part of a wider project review. A systematic approach of performance rating/grading would also encourage consultants to provide better services to their clients and will aid procuring agencies in future selection of the consultant. The procuring agencies should formally document the final evaluations of performance of the consultants. The evaluation will answer the following:

- Were the deliverables acceptable?
- Were they produced on time?
- Did the outcome satisfy the objectives?
- Did the consultant do a good job of planning?
- Was the plan followed without significant deviation?
- Were the officials kept informed throughout the project?
- Was the expertise of the consultant reflected in the results?
- Did the output commensurate with the fees paid?

The evaluation will not only assess the performance of the consultant but also provide significant knowledge on the applicability of the product of the consultant.

4.11. *The process for issuing licenses to consultancy firms should be streamlined*

Many consultants do not hold requisite practicing certificates and knowledge and skills in respective fields. One of the issues associated with procurement of consultancy services is the lack of competent and professional consultancy firms in the market. The major setback is the licensing process which only requires an application, a copy of the Security Clearance and Citizenship Identity Card to obtain licenses for consultancy businesses.

It is therefore, necessary to streamline the licensing process and develop appropriate guidelines, rules and regulations on the requirements of a

consultancy firm with introduction of minimum requirements in terms of financial, technical and human resource capacities for establishing consultancy firms. These guidelines, rules and regulations will ensure that experienced, qualified and competent professional enter the market and are able to deliver up to the expectations of the procuring agencies. Subsequently, it will also improve on the services provided by the consultants and encourage economy, efficiency and effectiveness in the use of government resources on their engagement.

4.12. *The engagement of the consultants in hydropower sector should be governed by proper and comprehensive TORs*

The engagement of consultants in hydropower sector should be governed by proper and comprehensive terms of reference that would insure both parties from potential damages resulting from the breach of contract. The contract should cover adequate indemnity through appropriate penal provisions. This will encourage consultants to adopt best practices and deliver quality output in stipulated time. Since the preparation of Detailed Project Report (DPR) and estimates in the BOQ are some critical activities undertaken by the consultant having huge impact on the cost of the project, the contract should adequately address and ensure that DPR and estimates prepared are realistic. Inaccurate or shoddiness of such report or estimates results into escalating cost of the project through provisions of the items not in the BOQ or abnormal deviations in quantity paid at the analyzed rate which is generally higher than the BOQ rate. There should be a system of holding consultants liable for any major deviations. The impact of subsequent changes in construction methodology on project cost and completion time are usually enormous, as such it is only prudent that bankable DPR is prepared through adequate preliminary investigations and studies, consultations and deliberations.

There are very constructive comments offered by the management of Mangdechhu Hydroelectric Project Authority particularly on preparation of the DPR and accountability of consultant which should be taken in to account while reviewing this particular recommendation (*refer Appendix -IC*).

As is apparent from response provided, adequate time and resources are not allocated at present for preparation of DPR and carrying out necessary investigations which are very critical to ensure that DPRs prepared are realistic and accurate. This aspect needs due consideration of authorities concerned.

4.13. *The government should encourage developing in-house experts for preparation of DPR, drawings and designs for hydropower sector*

Since the hydropower is a single largest sector that engages the consultant from outside the country, and also because, the government has a long way to develop and harness its full potential of hydropower energy in the country, it is imperative for the government to carefully consider development of its in-house expertise for preparation of DPR and drawings and designs. Therefore, to materialize

development of its in-house experts, it should encourage active and cohesive staff-consultant partnership for effective knowledge and skills transfer in such high-value consulting activities. Lack of adequate technical capacity even to review the quality of DPR within the country and extent of dependence on outside agencies clearly demonstrate our vulnerability to potential technical, financial, social and environmental risks which the country can ill afford. Therefore, it is only prudent that the Government gradually develops adequate technical capacities at least to carry out technical review of the DPR prepared and presented to the Government and also consider closely involving in the preliminary investigations and preparation of the DPR. The Government should also consider developing capacity to carry out geo-technical investigations, other preliminary studies and preparation of DPR within the Hydro Power Sector in Bhutan (e.g., DGPC) to reduce undue dependence on outside consultants as well as effectively collaborate and engage in such activities of huge significance.

4.14. *The engagement of management consultancy should agree on measurable deliverables that would add value to the system*

Based on the issues noted in the engagement of McKinsey & Company for accelerating Bhutan's socio-economic development, the following recommendations are offered for implementing such projects in future:

- In projects of such magnitude and costs, the output to be delivered and impact to the economy should be clearly spelled out. The contract should include all deliverables and outputs required from the consultants in the contract document along with the feasible time frame to accomplish those deliverables. It is also necessary for contract document to identify performance indicators for measurement of each deliverable.
Outcome should be tangible, quantifiable and measurable and contribute towards achieving the objectives.
- Reporting should be made mandatory and strictly enforced to ensure that there is a proper trail of the activities carried out by the consultants. Without adequate reporting, assessment of the performance of the consultants and extent of achievement of deliverables would be rendered difficult.
- All such projects in future should be carried out with a proper cost-benefit analysis to ensure that the cost of procuring the consultancy services do not outweigh the benefits accrued from them. There must be quantifiable and tangible benefits, both short term and long term, and expected impacts from engaging consultants should be clearly identified and demonstrated. Therefore, it is always advisable to explore and evaluate various options and ensure that engagement of consultants is the best possible option and will provide value for money to the Government.

- The project should also be reviewed and evaluated to assess the impact made from implementing the recommendations provided by the Consultants. While it would benefit the government in the future to adopt those best practices observed since the implementation of the project, it would also be wise to stop pursuing those practices that yielded no benefits.

PART V: CONCLUSION

Consultancy services have huge potential in providing knowledge and skills that are not available within the public sector provided that services are acquired where absolutely necessary in areas where there is scope for value addition. In the backdrop of challenges relating to constraints of human resources faced by various public sector agencies, the engagement of consultancy services cannot be dispensed with but to optimize the value of such engagements and partnerships in driving our development goals.

The review done by the RAA on engagement of consultants by various sectors showed that the consultants are not used in most advantageous manner to realize value for money. The present practice of indiscriminate use of consultancy services without carrying out proper cost benefit analysis appeared to be a very costly affair and undermines the optimal use of in-house capacity. The inconsistent and varied practices that prevail mostly ensue from inadequate policy framework and comprehensive rules and guidelines on engagement and management of consultancy services in the public sector. The procedures are not comprehensively prescribed and are seen to be open ended in terms of its enforcement by procuring agencies. Thus, it had rendered numerous deficiencies and flaws impeding economy, efficiency and effectiveness in procurement and management of consultancy services in the public sector.

The issues highlighted in this Advisory Series were already reported through various individual audit reports in the past. Through this study, the RAA does not intend to advocate abolition of consultancy services in the public sector but to demonstrate the magnitude of the issues that are prevalent in the system. This is intended for initiating corrective actions on the system of procurement of consultancy services and not necessarily for initiating action against individual cases.

There exist a great opportunity to facilitate value added engagements by instituting proper policy and legal framework for procurement of consultancy services. The procuring agencies need to be mindful of its need and benefits. The engagement of consultants by the procuring agencies must be regulated through such mechanism that would essentially require them to ensure economy, efficiency and effectiveness in the use of consultancy services. The RAA has formulated series of recommendations for initiating corrective actions and addressing the flaws and deficiencies. It is advisable that government embraces a holistic and systematic approach to strengthen the consultancy management system and achieve value for money from engagement of consultants.