



དཔལ་ལྷན་འབྲུག་གཞུང་།
མཆོག་གི་དང་གཞུང་ཆས་ལས་ཁུངས་། དངུལ་རྩིས་ལྷན་ཁག་།

ROYAL GOVERNMENT OF BHUTAN

DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

MoF/DPP/PMDD-15/2022-2023/944

3rd November 2022

The CEO
M's KD Builders Pvt Ltd
Trashigang
Bhutan
Phone no. 17911147
Email – kdbpling@gmail.com

Subject: Decision of Independent Review Body (IRB) for Case Ref. No. IRB(02)/2022-23

Sir,

The IRB Secretariat has received your Application for review dated 22/10/2022 alleging the tender decision dated 21/10/2022 (Letter of Intent) for *'Widening and Blacktopping of Tshergom -Korlung PNH and Approach Road to Duksum along with Permanent Works'* published through e-GP system.

After review and acceptance of your Application for review, the IRB met on 31/10/2022 at 10:00 AM to review your application that has been lodged against the Trashigang Regional Office, Department of Roads, MoWHS.

The IRB after considering the facts and evidence submitted by the parties and having duly conducted the proceeding hereby issues the decision enclosed herewith. The decision of the IRB is confined to the issues raised in the Application for Review by the Claimant and response by the Respondent.

Yours Sincerely,

(Rinchen Wangdi)

Chairperson

Independent Review Body

Copy to:

- Director General, DoR, MoWHS.
- Chief Engineer, Trashigang Regional Office, DoR, MoWHS.



དཔལ་ལྷན་འབྲུག་གཞུང་།
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ROYAL GOVERNMENT OF BHUTAN

DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

FORM 6 – Decision of Independent Review Body

Case name: Widening and Blacktopping of Tshergom -Korlung PNH and Approach Road to Duksum along with Permanent Works

Case Ref. No.: IRB(02)/2022-23

Independent Review Body member present:

1	Mr. Rinchen Wangdi, Director, DPP, MoF	Chairperson
2	Ms. Sonam Deki, Offtg. Director, DoS, MoEA	Member
3	Mr. Tsheirng Yonten, Executive Director, CAB	Member

The parties and the procurement under dispute are:

Applicant	Mr. Kuenley Tenzin CEO M/s KD Builders Pvt Ltd Trashigang Phone no. 17911147
Respondent	Trashigang Regional Office Department of Roads MoWHS
Brief Description of Procurement	Widening and Blacktopping of Tshergom -Korlung PNH and Approach Road to Duksum along with Permanent Works

Having duly conducted the review of documents and evidences (*Exhibit I to XIII*) submitted by both the parties in an equal and fair manner and having concluded the proceedings and complied with the provisions of the Rules and Procedures of Independent Review Body, the Independent Review Body hereby delivers the following decision:



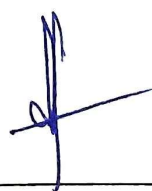


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ROYAL GOVERNMENT OF BHUTAN

DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

1. In accordance with Clause 58, 59 & 60 of the Rules of Procedures of the IRB 2015, the IRB renders the following decision:
 - (i) Based on the evidences available, IRB hereby decides to dismiss the complaint received from the Bidder as the Bidder failed to seek clarification during the Clarification period which was from Tender publication date to end of clarification period (14/09/2022 5:30 PM – 29/09/2022 4PM). Such failure deems to be bidder's consent to the contents of the bidding documents which clearly provided the exclusion based on pending arbitral or litigation proceedings;
 - (ii) IRB hereby instructs the Trashigang Regional Office, Department of Roads, MoWHS to hence forth avoid exclusion of bidders having pending arbitral proceedings as arbitration mechanisms are an agreed platform by the parties to resolve difference between parties amicably which is substantially different from pending litigation; and
 - (iii) IRB hereby instructs the Trashigang Regional Office, Department of Roads, MoWHS to avoid insertion of additional clauses or amendments of ITB and GCC with insertion of additional clause in BDS.
2. In pursuant to 61, the decision of IRB is final and binding and of the decision is not acceptable, then an appeal may be made to the court of law.

<u>Chairperson</u>	
<u>Member</u> Sonam Delu CHRO, MoCA	
<u>Member</u> Tshering Yonten	

Dated: 3rd November 2022