



དཔལ་ལྷན་འབྲུག་གཞུང་།  
མཁོ་སྒྲུབ་དང་གཞུང་ཆས་ལས་བྱེད་སྒྲུབ་ཁྲིམས་ལྷན་ཁག་།  
ROYAL GOVERNMENT OF BHUTAN

DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

MoF/DPP/PMDD-15/2022-2023/ 943

3<sup>rd</sup> November 2022

The CEO  
M/s KD Builders Pvt Ltd  
Trashigang  
Bhutan  
Phone no. 17911147  
Email – [kdbpling@gmail.com](mailto:kdbpling@gmail.com)

**Subject: Decision of Independent Review Body (IRB) for Case Ref. No. IRB(03)/2022-23**

Sir,

The IRB Secretariat has received your Application for review dated 21/10/2022 alleging the tender decision dated 19/10/2022 (Letter of Intent) for '*Blacktopping of Farm roads under Norbugang and Chhokhorling Gewog (8.42km)*' 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 Samdrup Jongkhar 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, Samdrup Jongkhar Regional Office, DoR, MoWHS.



དཔལ་ལྷན་འབྲུག་གཞུང་།  
མཁོ་སྒྲིབ་དང་གཞུང་ཆས་ལས་ཁུངས་། དངུལ་རྩིས་ལྷན་ཁག།

ROYAL GOVERNMENT OF BHUTAN  
DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

**FORM 6 – Decision of Independent Review Body**

**Case name:** Blacktopping of Farm roads under Norbugang and Chhokhorling Gewog (8.42km)

**Case Ref. No.:** IRB(03)/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	Samdrup Jongkhar Regional Office Department of Roads MoWHS
Brief Description of Procurement	Blacktopping of Farm roads under Norbugang and Chhokhorling Gewog (8.42km)

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:








དཔལ་ལྷན་འབྲུག་གཞུང་།  
མཁོ་སྒྲུབ་དང་གཞུང་ཆས་ལས་བྱེད་སྤེལ་དང་དཔལ་ལྷན་ཁག།

ROYAL GOVERNMENT OF BHUTAN

DEPARTMENT OF PROCUREMENT AND PROPERTIES, MINISTRY OF FINANCE

1. In accordance with Clause 58 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 (23/08/2022 10AM – 07/09/2022 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 Samdrup Jongkhar 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 Samdrup Jongkhar 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.

<b><u>Mr. Rinchen Wangdi, Chairperson</u></b>	
<b><u>Ms. Sonam Deki, Member</u></b>	
<b><u>Mr. Tshering Yonten, Member</u></b>	

**Dated: 3<sup>rd</sup> November 2022**