དཔལ་ལྡན་འབྲུག་གཞུང་།
རྒྱལ་ཡོངས་གཞུང་ཚན་ལས་ཁུངས། དངུལ་རྩིས་ལྷན་ཁག།
ROYAL GOVERNMENT OF BHUTAN
DEPARTMENT OF NATIONAL PROPERTIES, MINISTRY OF FINANCE

MoF/DNP/GPPMD-21/19-20/ 1158

27 March 2020

The Proprietor(s)
Scientifica Bhutan Suppliers
Paro

Subject: Decision of Independent Review Body

Sir,

The Independent Review Body had received your Application for review ***for Supply of Fat Extraction System*** *on* 10 March 2020.

The Independent Review Body met on 23 March 2020 to review the application that had been lodged against Bhutan Agriculture and Food Regulatory Authority (BAFRA)

The IRB after considering the facts and evidence submitted by the parties, hereby issues the decision as enclosed herewith. The decision of the IRB is confined to the issues raised in the Application for Review by Bidders and responses from BAFRA.

Yours sincerely,

(Phub Rinzin)
Chairperson
Independent Review Body

Copy to:

1. Director General, BAFRA, Thimphu

Decision of Independent Review body

Case name: ***Supply of Fat Extraction System***

Case Reference Number: ***MoF/DNP/GPPMD/IRB-21/2019-20/ 10***

This Independent Review Body consists of:

Mr. Phub Rinzin, Director, CDB	Chairperson
Mr. Kinley T. Wangchuk, DG, DIP, MoEA	Member
Mr. Karma Dupchuk, Director, DES, MOWHS	Member
Mr. Tshering Dorji, Director, DPA, MOF	Member
Mr. Chandra B. Chhetri, Dy. SG, BCCI	Member

The parties and procurement under dispute are:

Applicant	Scientifica Bhutan Suppliers
Respondent	Bhutan Agriculture and Food Regulatory Authority (BAFRA)
Brief Description of Procurement	***Supply of Fat Extraction System***

Having duly conducted the review after hearing the evidences of all 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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In accordance with Clause 58 of the Rules of Procedures of the Independent Review Body of 2015, the IRB observes and decides that:

1. On the allegation of non-compliance of Technical Specification no. 2 by the Respondents, which states that *"the system should comply with standard methods such as Soxhlet, Hot Extraction or Twisselmann extraction with interchangeable glass assemblies for later conversion to another extraction method.*

   The IRB is of the view that the technical specification does not mandatorily specify that the system should comply with all three standard extraction methods. It states that the system should comply with standard methods "such as" soxhlet, hot extraction "or" twisselmann extraction. Therefore, the list provided is not exhaustive and restrictive. Further, as a bidder, in case there were any perplexities in the bidding documents, the bidder had the option to seek clarification in accordance with the clarification clause before the submission of bids.

2. With regard to the allegation on technical specification no.7 which states that "*the solvency of greater than 90% and minimal solvent exposure to ensure safe and environmentally friendly extraction purpose"* and on how VELP SER 158/6 guarantees solvency greater than 90%. Having reviewed all documents, IRB finds that as per the brochure and documents submitted by VELP SER 156/8, it clearly states that the solvency recovery is >90%. Therefore, IRB finds no connotation in the allegation made since both systems provide solvency of greater than 90% as per the documents submitted by the bidders.

3. On the allegation of Technical Specification no. 8 which states that *"Optional analyte protection sensor to prevent deterioration of heat sensitive analytes"* and whether VELP SER 158/6 have optional analyte sensors for health sensitive analytes. IRB has reviewed the technical compliance report submitted by the bidder and BUCHI provides optional analyte sensors to monitor the heat sensitive samples while VELP SER 158/6 submitted that analyte protection sensor comes as a default for safety reasons. Therefore, IRB here finds no specific basis for allegation.

4. The allegation of Technical Specification no. 9 which states that *"Option to use glass sample tube with frit so that I can be reused"* and how VELP SER 158/6 ensures solvent re-usage. IRB finds that this allegation can be linked with allegation no.2 since both the units can recover greater than 90% of the solvent, this requirement can be met for both the units.

5. With regard to supply of hydrolysis system/unit by the Complainant, since this was not a requirement in the price schedule or in any of the bidding terms and conditions, IRB finds that this allegation need not be reviewed further.

6. However, BAFRA while preparing tendering documents should ensure that Technical Specifications are broad and not restrictive. This is to ensure fair and equal access to all the bidders without compromising competition.

7. The IRB after reviewing all the documents finds that the evaluation was carried out exercising due diligence after studying documents submitted by the bidders. Although the equipment from two bidders had their own unique features, both the equipment as per the available technical specifications, serve the main purpose of extracting fat from food samples and determining total fat content as indicated in technical specifications no. 1.

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8. In line with the above justifications, Respondents have not violated procurement norms that would warrant nullification of the award of contract. Therefore, the IRB decides that the decision of the Respondent stands valid.

9. As per Clause 61 of the Rules of Procedures of the Independent Review Body, The decision of Independent Review Body shall be final and binding. If the decision of the Independent Review Body is not acceptable, an appeal may be made to the Court only on a question of law. In such a case, any concession granted by the Review Body shall stand withdrawn.

Date: 27 March 2020

Chairperson	**Member**	
Member	**Member**	**Member**

Director
Department of Public Accounts
Ministry of Finance
Thimphu : Bhutan

Director
Department of Engineering Services
Ministry of Works and Human Settlement
Thimphu

27/3/
Dy. Secretary General
Bhutan Chamber of Commerce & Industry
Thimphu : Bhutan