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རྒྱལ་ཡོངས་གཞི་རྒྱུ་ཆས་ལས་ཁུངས་། དངུལ་རྩིས་ལྷན་ཁག།  
ROYAL GOVERNMENT OF BHUTAN  
DEPARTMENT OF NATIONAL PROPERTIES, MINISTRY OF FINANCE



MoF/DNP/GPPMD-21/2020-21/ 473

25 November 2020

The Managing Director  
M/s Issup Construction Pvt. Ltd  
Punakha

**Subject: Decision of Independent Review Body (IRB)**

Sir,

The Independent Review Body had received your Application for review for “**Black Topping of Chazam- Duksum PNH FY 2020-2021 (4 KM), Trashigang**” on 6<sup>th</sup> November 2020.

The Independent Review Body (IRB) met on 16<sup>th</sup> and 23<sup>rd</sup> November 2020 to review the application that had been lodged against the Department of Roads, Ministry of Works and Human Settlement.

The IRB after considering the facts and evidence submitted by the parties and having asked for additional information, hereby issues the decision enclosed herewith. The decision of the IRB is confined to the issues raised in the Application for Review by Bidders and responses from the DoR, MoWHS.

Yours Sincerely,

(Phub Rinzin)  
Chairperson  
**Independent Review Body**

Copy to:

1. The Chief Engineer, Construction Division, DoR, MoWHS



**Form 6- Decision of Independent Review body**

**Case name:** *Black Topping of Chazam- Duksum PNH FY 2020-2021 (4 KM), Trashigang*

**Case Reference Number:** *MoF/DNP/GPPMD/IRB-21/2020-21/ 02*

**This Independent Review Body consists of:**

Mr. Phub Rinzin, Director, CDB	Chairperson
Ms. Kesang Deki, Director General, DNP	Member
Mr. Karma Dupchuk, Director, DES, MOWHS	Member
Mr. Tshering Yonten, General Secretary, CAB	Member
Mr. Chandra B. Chhetri, Dy. SG, BCCI	Member

**The parties and procurement under dispute are:**

<b>Applicant</b>	M/s Issup Construction Pvt. Ltd, Punakha
<b>Respondent</b>	Construction Division, Department of Roads, MoWHS
<b>Brief Description of Procurement</b>	Black Topping of Chazam- Duksum PNH FY 2020-2021 (4 KM), Trashigang

Having duly conducted the review of documents and evidences 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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In accordance with Clause 58 of the Rules of Procedures of the Independent Review Body of 2015, the IRB issues the following decision:

1. The allegation that the letter of intent was sent through email and not through the e-GP system. The IRB finds that the existing e-GP system does not allow award to the next lowest evaluated bidder, in case the first lowest bidder does not qualify or if the procuring agency selects another bidder apart from the lowest evaluated bidder and hence the letter of intent was sent through email. Therefore, IRB finds this allegation baseless.
2. The applicant submits that tender was awarded to M/s K.D Builder Pvt Ltd despite having 5 works in hand. The IRB having reviewed the documents submitted by both the parties found that Respondent had checked the work-in-hand information before the final result was presented to the award committee. The work in hand information was firstly checked in the e-TOOL system and having found to have 5 works in hand, had sought information from any one of the procuring agencies listed in the CDB website. The Respondent made an inquiry of work status "Construction of staff quarter, landscaping and site development work" at Sherubtse College, Kanglung and the college provided a work completion certificate and the same was presented to the DLTC before making the decision to award the work. Therefore, the Respondent had exercised due diligence in carrying out the evaluation process and decision was based on the submission made by Sherubtse College.
3. On the allegation of the time gap of 10 days providing enough time to manage the completion of the balance work, IRB having reviewed the documents finds that the decision to award the work was made on 20 October 2020 and not on 30th October 2020 based on the completion certificate of works issued on 20th October 2020 by Sherubtse College and the award decision had been taken on the same day upon instructing the Regional Office to issue the letter of intent after the APS (Average Performance Score) is updated on the CDB website. Subsequently, the letter of intent was issued on 30 October after the APS was updated by the procuring agency on 29th October 2020.
4. The Respondent has not violated procurement norms that would warrant nullification of award of contract.



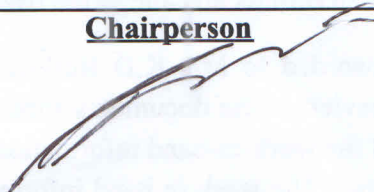
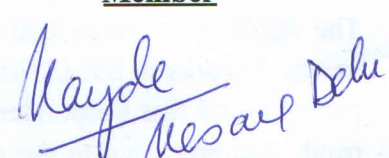
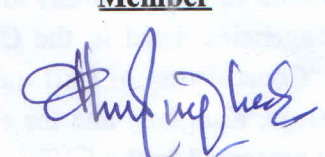
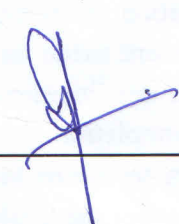

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5. As per Clause 61 of the Rules of Procedures of the Independent Review Body, The decision of Independent Review Body shall be final and binding. If the decision of the Independent Review Body is not acceptable, an appeal may be made to the Court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

Date: 25 November 2020

<b><u>Chairperson</u></b> 	<b><u>Member</u></b> 
<b><u>Member</u></b> 	<b><u>Member</u></b> 
<b><u>Member</u></b>  Dy. Secretary General Bhutan Chamber of Commerce & Industry Thimphu : Bhutan	