



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



MoF/DNP/GPPMD-21/2021-22/ 119

4 August 2021

The Proprietor  
M/s Sangay Lhamo Construction  
Samdrup Jongkhar

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

Sir,

The IRB Secretariat had received your Application for review on 7 July 2021 pertaining to tender ID No. 8429 dated 3 June 2021 for "*Construction of ICT at Barzor School*" published through eGP System.

Having accepted for review of your appeal the IRB met virtually on 30 July 2021 at 10:00 AM to review your application that had been lodged against the Samdrup Jongkhar Dzongkhag Administration.

The IRB after considering the facts and evidence submitted by the parties and having duly conducted the virtual hearing hereby issues the decision enclosed herewith. The decision of the IRB is confined to the issues raised in the Application for Review by M/s Sangay Lhamo Construction and responses from the Samdrup Jongkhar Dzongkhag Administration.

Yours Sincerely,

(Kesang Deki)

Interim Chairperson

**Independent Review Body**

Copy to:

1. Dasho Dzongdag, Dzongkhag Administration, Samdrup Jongkhar.



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

Case name: "Construction of ICT at Barzor School"

Case Reference Number: MoF/DNP/GPPMD/IRB-21/2021-22/ 01

**This Independent Review Body consists of:**

Ms. Kesang Deki, Director General, DNP	Interim Chairperson
Mr. Tshering Yonten, General Secretary, CAB	Member
Mr. Karma Sonam, Director, CDB	Member
Mr. Karma P Dorji, Director, DoHPS, MoEA	Member

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

<b>Applicant</b>	Mr. Sonam Dorji M/s Sangay Lhamo Construction Samdrup Jongkhar
<b>Respondent</b>	Dzongkhag Administration Samdrup Jongkhar
<b>Brief Description of Procurement</b>	Tender ID 8429 dated 3 June 2021 for Construction of ICT at Barzor School

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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རྒྱལ་ཡོངས་གཞུང་ཚན་ལས་ཁུངས་། དངུལ་རྩིས་ལྷན་ཁག།

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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. On the allegation of issuance of letter of intent to forth lowest bidder despite M/s Sangay Lhamo Construction being the lowest bidder and the Tender Committee introducing APS Rating to determine the lowest evaluated bid.

IRB finds that the APS rating as the main evaluation criterion was introduced by the Tender Committee during the 14th Dzongkhag Tender Committee held on 23 June 2021. This evaluation criteria was not specified in the bidding documents.

Clause 5.4.4.1 of the Procurement Rules and Regulations (PRR) 2019 states that *such methods and factors as specified in the bidding documents shall only be used in actual evaluation and not some other methods or criteria. Introduction of methods and factors not mentioned in the bidding documents would be considered unfair and shall be prohibited.*

While the Tender Committee had applied the APS requirement in the best interest of the construction of the ICT facilities at Barzor School, such requirement should be specified in the bidding documents or at least inform all bidders during the tender opening time so as to ensure fairness and transparency while carrying out the procurement process.

2. The rates quoted by the complaint, as confirmed by both complainant and the respondent, were found reasonable and workable and no concerns were raised whatsoever at the time of evaluation and by the Tender Committee. Therefore, the complainant was prejudiced on unreasonable grounds.
3. Given the above infractions of the provisions of the Procurement Rules and Regulations of the RGOB by the Respondent observed by the IRB, the IRB decides to nullify the award of contract and terminate the procurement process in the present case and directs the Respondent for re-evaluation as per the criterias set in the bidding documents.
4. As per Clause 61 of the Rules of Procedures of the Independent Review Body, The decision of the Independent Review Body shall be final and binding. If the decision of the






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Independent Review Body is not acceptable, an appeal may be made to the Court only on a question of law within 10 days from the issuance of the decision. In such a case, any concession granted by the Review Body shall stand withdrawn.

Date: 4 August 2021

<p><u>Interim Chairperson</u></p> 	<p><u>Member</u></p> 
<p><u>Member</u></p> 	<p><u>Member</u></p> 