



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



MoF/DNP/PMDD-21/2021-22/

31 May 2022

The Managing Director  
Soenam Mebar Construction Pvt. Ltd.  
Thimphu

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

Sir,

The IRB Secretariat had received your Application for review on 30 March 2022 pertaining to tender ID- 11072 dated 8 December 2021 for ***“Construction of G+1 Storied Organic Centre Building at Paro”*** published through e-GP system.

Having accepted for review of your appeal the IRB met virtually on 27 May 2022 to review your application that had been lodged against the Department of Agriculture, MoAF.

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 issue raised in the Application for Review by Soenam Mebar Construction Pvt. Ltd. and responses from DOA, MoAF.

Yours Sincerely,

(Karma Wangdi)  
Interim Chairperson

**Independent Review Body**

Copy to:

1. The Chief Engineer, Engineering Division, Department of Agriculture





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

**Case name: Construction of G+1 Storied Organic Centre Building at Paro**

**Case Reference Number: MoF/DNP/PMDD/IRB-21/2021-22/06**

**This Independent Review Body consists of:**

Mr. Karma Wangdi, Offtg. DG, DNP, MOF	Interim Chairperson
Mr. Tshering Yonten, General Secretary, CAB	Member
Mr. Karma P Dorji, Director, DoHPS, MoEA	Member
Mr. Karma Dupchuk, Director, DES, MoWHS	Member

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

<b>Applicant</b>	Mr. Jigme Lhendup Managing Director Soenam Mebar Construction Pvt. Ltd
<b>Respondent</b>	Department of Agriculture Ministry of Agriculture and Forestry
<b>Brief Description of Procurement</b>	Tender ID No. 11072 for the Construction of G+1 Storied Organic Centre Building at Paro

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. IRB is of the view that while there is no specific requirement in the evaluation criteria for the Evaluation Committee to cross-check if they are permanent employees of the company, the Evaluation Committee has carried out due diligence on their part to ensure the evaluation was carried out effectively. In addition **Clause 6(ii) (e) of the Terms and Conditions for e-Zotin User 2017** published by Construction Development Board (CDB) *imposes the responsibility on e-tool users to validate the HR and equipment during the evaluation process*. Upon punching of CID number of the employee in the e-Tool for checking if they are engaged, the system automatically also pulls out information that they are the permanent employee of the particular company, therefore in this case, the Respondents has gone further to scrutinize and accordingly check if relevant documents were submitted or not.
2. During the course of the evaluation, the Evaluation Committee has gone on to seek justification from the applicant as to why the contract agreements were submitted even though concerned HR are registered as regular employees in the CDB database and also to submit TDS, HC and PF. As per the definition of Historical Documents in **Procurement Rules and Regulations (PRR) 2019 Clause 1.1.3.1(28)** historical documents are defined *as supporting documents such as the Trade License, CDB License, Tax Clearance certificate and any other such documents as required by the SBDs as a part of eligibility criteria. This does not include documents required for evaluation of bids*.

Therefore, IRB observes that documents like TDS, HC and PF which are required for evaluation of bids and that have score bearing in the evaluation do not fall under the purview of historical documents and cannot ask the bidder to submit if missing at the time of evaluation.

3. The IRB also finds that the HR were clearly reflected as employees of Soenam Mebar Construction Pvt. Ltd. and the lapses on part of the Applicant not updating in the HR file of office as submitted in the application cannot be accepted as a valid justification. Furthermore, in the documents submitted by the Respondents, an email from CDB has

*bw*

*[Signature]*

*[Signature]*

*[Signature]*





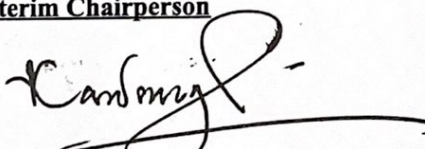


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confirmed that Ms. Rinchen Lhaden was an employee of the Applicant since 01/01/2020, Ms. Pema Selden was an employee since 20/03/2019 and Ms. Sonam Choki was an employee since 20/08/2019. **Clause 6 (v) (d) & (e) Terms and Conditions for e-Zotin user 2017** published by CDB, *imposes the responsibility on contractors to maintain the update list of employee and equipment and update correct information.* IRB is of the opinion that it was the responsibility of the Applicant to ensure that the correct information was updated so as to avoid any such complications; if at all the employees were to be committed as contract employees, information should have been accordingly updated with CDB.

4. Therefore, the IRB concludes that the Respondent has not violated procurement norms that would warrant nullification of award of contract.
5. As part of the advisory, IRB directed the Secretariat to inform CDB to send a reminder to all the contractors that the onus falls on the contractors to ensure that the details of equipment and HR is updated in the e-Tool on a timely basis to ensure accurate information in the system.
6. 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 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: 31 May 2022**

<b><u>Interim Chairperson</u></b> 	<b><u>Member</u></b> 
<b><u>Member</u></b> 	<b><u>Member</u></b> 