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Department of Procurement and Properties
Ministry of Finance
Royal Government of Bhutan

BHUTAN
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Decision of the Independent Review Body (IRB)

Description of Procurement : **Improvement of Dzongkhag Road (Gangtey)**

Case reference number : **MoF/DPP/PMDD(15)/2025-26/04**

IRB Members Present:

1	Ms. Rinzin Lhamo, Director, DPP	Chairperson
2	Mr. Karma Dupchuk, Director General, DoID, MoIT	Member
3	Ms. Dago Zangmo, Director, BCTA	Member
4	Mr. Sonam Penjor, Director, DoMCIIP, MoICE	Member
5	Mr. Chandra Chhetri, SG, BCCI	Member

The parties and the Procurement under dispute are:

Applicant	Mr. Sangay Norbu Proprietor Lhendup Norbu Construction Thimphu
Respondent	Regional Office, Lobesa Department of Surface Transport, Ministry of Infrastructure and Transport

Background & discussion in brief:

The IRB Secretariat has received the Application for review on 10 October 2025 alleging the tender decision dated 6 October 2025 (Letter of intent) for **Improvement of Dzongkhag Road (Gangtey)** published through the e-GP system was unjust and not satisfied with the response provided by the Respondent. The application was received through the e-GP and the processes for grievance till payment of grievance fee was facilitated through the system.

The application was verified by the Secretariat and found in compliance with IRB Rules 2025. Thus the grievance was processed and submitted for proceedings. The IRB met on 17 October 2025 to review the grievance that has been lodged against DoST in presence of the required quorum.

Claims as claimed by Lhendup Norbu Construction:

Observation of Letter of Intent Issued to Bidder with Higher than Mean Average Bid Value as per opening result:
It was conveyed that the Best Evaluated Bidder would be the one whose quoted price is closest to, but lower than, the mean average bid value of all the responsive bids. However, the contract was awarded to a bidder whose quoted amount is higher than the mean average bid value as per the opening result, which appears inconsistent with the stated evaluation principle. This deviation from the declared methodology raises concerns on the transparency and fairness of the evaluation process. We therefore request the Independent Review Body to kindly verify whether the evaluation adhered to the communicated criteria.

Misinterpretation of Equipment Engagement Status (Tipper Truck BP-1-A4722):
It was noted in the evaluation remarks that our Tipper Truck BP-1-A4722 was engaged in another project. In this regard, we would like to clarify that the said project was successfully completed in June 2025, and the official handing-taking certificate was duly issued by the concerned authority. The relevant office has also updated the system status as 'work completed', but the equipment continued to appear as "engaged", likely due to a technical or administrative lag in system synchronization. This situation was entirely beyond our control, and it is respectfully submitted that our bid should not be disadvantaged due to a system- generated error despite having met all requirements.

Erroneous Classification of Equipment (Vibratory Roller BP-1-A2646):
The evaluation report indicates that our Vibratory Roller BP-1-A2646 was shown as an "Excavator" in the system. However, we had submitted the Bluebook and valid insurance

documents, both of which clearly specify the equipment type as a Vibratory Road Roller. This appears to be a data entry or system-level error, not an omission or fault from our side. Penalizing our firm based on this incorrect classification,despite authentic documentation, does not reflect an equitable assessment. Hence the evaluation committee is equally responsible to verify ground reality.

Ambiguity Regarding Endorsement of Lease Agreements by CAB:

The evaluation also raised observations concerning lease agreements for hired machinery and human resources not being endorsed by the Construction Association of Bhutan (CAB). We wish to bring to the kind attention of the IRB that this requirement has been inconsistently applied across procuring agencies. Certain agencies have issued amendments explicitly stating that lease agreements for hiring of vehicles, machinery, and human resources need not be endorsed by CAB, while others continue to mandate such endorsement. This inconsistency has created uncertainty and confusion among bidders, including our firm, as to the binding nature of this requirement. Therefore, we kindly request the IRB to review this issue and provide a clear directive or interpretation to ensure uniformity and fairness in future tender evaluations/ submission.

Request for Re-evaluation:

In view of the above submissions, we respectfully request the Independent Review Body to:

1. *Reassess our bid evaluation in line with the communicated methodology;*
2. *Verify the status and classification of the cited equipment with relevant authorities;*
3. *Consider the documentary evidence we submitted in good faith; and*
4. *Issue necessary directives to ensure consistency and fairness regarding CAB endorsement requirements.*

Response as responded by DoST:

The mean bid value at the time of the tender opening will not necessarily remain the same after the bid evaluation process. This is because some bidders may not qualify technically, while others may be declared non-responsive during the preliminary evaluation stage. Consequently, the mean value changes and accordingly, the best evaluated bidder may also differ from the one indicated at the opening stage.

The tripper Truck BP-1-A4722 was found to be engaged under WORK ID: R0-T/2024-2029/19. The TEC decided to verify the final results in the eTOOL system on 3rd October 2025, prior to the tender award scheduled for 6 October 2025. The system-generated data on 3rd October clearly indicated that the said equipment was engaged.

As per the Contract Clause under Access to Adequate Equipment (2): "In case the equipment is owned, submission of Registration Certificate and Insurance Copes is not required. The bidder shall provide only the type of equipment and registration number". Accordingly, the TEC entered the provided registration number into the eTOOL system. However, the system generated the record for Vibratory Roller BP-1-A 2646 as Volvo Excavator, as shown in Figure 2 (attached).

As per SBD Clauses, bidders are required to submit the following: Access to Equipment (3): "In case of hiring of equipment, a copy of lease agreement with details of owner and registration number certified by CAB specific to the tender". Access to Adequate Key Personnel (5): "Copies of Contract agreements with all personnel hired on contract by the contractor, endorsed by the CAB". Therefore, the TEC evaluated all submissions in line with these stipulated requirements.

Decisions:

Having duly conducted the review of documents and evidences submitted by both the parties in an equal and fair manner having concluded the proceedings and complied with the provisions of the IRB Rules 2025, the Independent Review Body hereby delivers the following decisions:

In accordance with Clause 54 of the IRB Rules 2025, the IRB hereby renders the following decision based on the evidences available:

1. The Applicant has alleged that the Letter of Intent was issued to the Bidder with higher than Mean Average Bid Value as per opening result. The IRB here would like to clarify that the Opening Report alone does not form the basis for determining the Average Bid. As per the Instruction to Bidders (ITB) Clause 29 (2) *"If the Procuring Agency determines that the bid offered by the bidder is 20% below or above the Agency estimate, the Procuring Agency shall eliminate the bid"*. Also, according to the Section III- Evaluation and Qualification criteria- those bidders who fail to obtain a score of at least 70 points out of 100 in technical evaluation are disqualified for the next stage of evaluation. Based on these two clauses in the bidding documents, the Average Bid Price is calculated by considering only those bids that fall within the ±20% range of the Agency's estimate and that have been declared technically qualified. Hence, not all participating bidders are included in the computation of the Average Bid Price. In this particular tender, only eight out of the twelve participating bidders met the qualification criteria and were therefore taken into account in determining the Average Bid Price.

2. On the submission of misinterpretation of Equipment Engagement Status (Tipper Truck BP-1-A4722), IRB upon scrutinization has found that the work completion status for this equipment was updated in the old eTOOL system by the Procuring Agency on 8 August 2025, however the same was not reflected in the new eTOOL system because the last data migration to the new system had occurred on 31 July 2025. The request for update in the new system was only sent on 3 October 2025 by the Procuring Agency via email from Ms.

Ratna Kumari Sanyasi, Construction Division, DoST Thimphu.

The Notification issued by the Ministry of Finance on 19 June 2025 vide Notification no. MoF/FS-04/2024-25/DPP/1070 clearly stated that "for ongoing works where tenders were published prior to 26 June 2025, evaluation may continue using the existing eTOOL system. However, all tenders published on or after 1 July shall be evaluated using the new eTOOL system." requiring Agencies to use the new system after 1 July 2025. To avoid complications at a later point, an Email was further sent again to all eTOOL users (including Ms. Ratna Kumari Sanyasi) stating that the "*Works Completion status has to be updated in the new eTOOL system and not the old eTOOL system, otherwise the data will not be reflected in the new eTOOL system because the data migration to the new system was done on 31st July 2025 (so completion status after this date in old eTOOL will not be reflected in new system data). We request agencies to update this information immediately and if you all can't find the tender, you can share the APS forms to pmdd@mof.gov.bt. If you are still facing issues, write to us at pmdd@mof.gov.bt. Please kindly disseminate the information to all relevant officials.*"

Despite this reminder, the Procuring Agency had sent us the Email for completion status update only on 3 October, by then, the Respondent had already completed the evaluation process. Equal responsibility vest on the bidders to follow-up, the Section III- Evaluation and Qualification criteria imposes equal responsibility on the bidder stating that "*The bidder shall be responsible to update information in eTOOL/CiNET pertaining to similar work experience, bid capacity, APS*" which is equivalent to following up on the completion status and release of equipments. Therefore, this was no fault of the Evaluation Committee, because the evaluation was based on the data available in the eTOOL system.

3. On the allegation of Erroneous Classification of Equipment (Vibratory Roller BP-1-A2646). IRB acknowledges that this had resulted because of system migration issues in the eTOOL system and the eRALIS system. The Evaluation Committee had solely based on the data pulled from the eTOOL system which showed that the equipment was an excavator and not a roller. Accordingly, the Evaluation Committee had acted as per the Evaluation and Qualification Criteria- *Access to Adequate Equipment (2): "In case the equipment is owned, submission of Registration Certificate and Insurance Copes is not required. The bidder shall provide only the type of equipment and registration number".*

4. On the last submission made pertaining to the Ambiguity Regarding Endorsement of Lease Agreements by CAB, IRB after reviewing the bidding documents is of the view that the requirement for supporting documents has been clearly specified in the Bid Data Sheet.

vary from one project to another and from one Agency to another. It remains the bidders responsibility to read through the terms and conditions of the bid and ensure full compliance with the conditions set forth in the bidding documents. Any non-compliance would be sufficient grounds for non-award of scoring. The IRB has also crosschecked and observed that this requirement of CAB endorsement has been uniformly applied across all the bidders at the time of evaluation.

5. In view of the foregoing findings and the IRB acknowledging that the issue in question arose due to system error and recognizing that the bidder should not be held accountable or disadvantaged as a result of circumstances beyond their control hereby nullifies the contract award decision. Consequently, the Respondent is directed to initiate a re-evaluation process for the concerned work.

6. In pursuance to Clause 56 of the IRB Rules 2025, the decision of the IRB shall be final and binding and if the decision is not accepted, then an appeal may be made to the Court only on a question of law. In such a case, any concession granted by the IRB shall stand withdrawn.

Mr. Sonam Penjor, Member	**Mr. Karma Dupchuk, Member**
Ms. Dago Zangmo, Member	**Mr. Chandra Chhetri, Member**
Ms. Rinzin Lhamo, Chairperson	

Dated: 20 October 2025