



**Decision of the Independent Review Body (IRB)**

- Description of Procurement : Expansion and Blacktopping of Sherubling Road  
Case reference number : MoF/DPP/PMDD(15)/2024-25/07

**IRB Members Present:**

1	Mrs. Rinzin Lhamo, Director, DPP, MoF	Chairperson
2	Mr. Karma Dupchuk, DG, DoID, MoIT	Member
3	Mr. Sonam Penjor, Director, DoMCIIP, MoICE	Member
4	Mr. Sonam Wangchuk, CED, CAB	Member
5	Mr. Chandra B. Chhetri, SG, BCCI	Member

**The parties and the Procurement under dispute are:**

Applicant	Issup Construction Private Limited
Respondent	Dzongkhag Administration, Trongsa

**Background & discussion in brief:**

The IRB secretariat received the application for review on February 19, 2025 requesting to review whether the issuance of LoI was in compliance with the PRR 2023. 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 and Procedures 2023. Thus the grievance was processed and submitted for proceedings. The IRB met on March 7, 2025 to review the grievance that has been lodged against Dzongkhag Administration, Trongsa in presence of the required quorum.



**Claims as claimed by Issup Construction:**

"We would like to formally appeal against the decision made in response to our grievance (716) regarding tender 20377 for the "Expansion and Blacktopping of Sherubling Road." We are not satisfied with the response provided by the Dzongkhag Administration, Trongsa, and seek further clarification on the matter.

Specifically, we request your review to determine whether the issuance of LoI for this project was in compliance with the PRR2023.

According to PRR2023, the pre-bid meeting is not mandatory for works valued below 50 million, as outlined in Section II of the SBD, the BDS, ITB Clause 8.2, and section VII SCC, which does not include disqualification of bidders for not attending the pre-bid meeting.

Further, we would like clarification on why M/s. Sonam Construction, a medium-class registered firm, was allowed to attend the pre-bid meeting. In contrast, only M/s. Blue Heaven Construction Pvt Ltd attended the pre-bid meeting. As per PRR2023, a minimum of three bidders is required for the bid evaluation."

**Response as responded by Trongsa Dzongkhag Administration:**

- a. Attendance of pre-bid meeting- Chapter 5 of PRR-2023 Clause 5.1.5.1 (c) provisioned conduct of pre-bid meeting and the procuring agency specifically amended/ mentioned in Section II of Standard Bidding Document (SBD), Bidding Data Sheet (BDS). ITB Clause 8.2 and Section VII SCC, Clause GCC for mandatory requirement of the bidders to attend the pre-bid meeting and bid submission without attendance of pre-bid shall not be considered for further evaluation.
- b. Special case discussed in pre-bid meeting- Of the several agendas discussed and deliberated, encouragement of compliance was one of the objectives of the pre-bid meeting, wherein the bidders were informed and reiterated the mandatory requirement of attending the pre-bid meeting as spelled in the BDS and SCC of the SBD. They were also informed that the non compliance to any mandatory requirement of the tender as per SBD and pre-bid minutes of the meeting minute shall consider the bid to be non-responsiveness/non-compliant bids and disqualify for detailed evaluation.
- c. Collusive and Fraudulent practice- We assured that the tender evaluation and award was carried out transparently, with due consideration given to all the bids submitted.
- d. Adherence to PRR 2023- The selection was conducted in accordance with the established procurement guidelines, ensuring transparency, fairness and competitiveness. All the bids were evaluated based on the pre-defined criteria, including technical capability, financial offer, and compliance with project requirements.



- e. *Consideration of financial saving- Financial proposals of the all bids were thoroughly reviewed and the work intended to be awarded to the lowest/ best evaluated bids (LEB/BEB) and not to be the lowest quoted/offered bids (LQB/LOB). The decision to consider financial savings was made to ensure optimal utilization of resources without compromising on quality and requirement of the project.*
- f. *Opening of bids beyond those who attended the pre-bid meeting- Although M/s Sonam Construction and M/s Blue Heaven construction Pvt. Ltd attended the pre-bid meeting on the same day (same batch), their participation was for different packages of works as per their eligibility of class. M/s Sonam construction being a medium class registered firm did not participate for this work which is for large class contractors.*

*While we appreciate your participation in the tender process and understand your concern, we assure you that due process was followed, and the decision to issue the LoI to M/s. Blue Heaven Pvt. Ltd was made in the best interest of the project and in full compliance with the applicable regulations.*

**Decision:**

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 and Procedures 2023, the Independent Review Body hereby delivers the following decisions:

In accordance with Clause 60 of the IRB Rules and Procedure 2023, the IRB hereby renders the following decision based on the evidences available:

1. The Applicant has submitted that, under the Procurement Rules and Regulations (PRR) 2023, a pre-bid meeting is not mandatory for works valued below Nu. 50 million. However, the IRB finds that this provision has been misinterpreted by the Applicant. While it is true that conducting a pre-bid meeting is mandatory for projects exceeding Nu. 50 million, for projects below this threshold, the decision to hold a pre-bid meeting is at the discretion of the procuring agency, based on the nature and complexity of the procurement.
2. The Applicant also raised concerns regarding why M/s. Sonam Construction, a medium-class registered firm, was permitted to attend the pre-bid meeting. In response, the IRB conducted a thorough review of all relevant documents in the e-GP system. Upon examining the Minutes of the Pre-bid Meeting, it was found that M/s. Sonam Construction participated in the meeting because it was conducted for three other projects that were specifically designated for medium-class contractors, where the pre-bid meeting was a








mandatory requirement for those works as well. Therefore, their attendance was not for this particular tender, as doubted by the Applicant.

3. The Applicant has also submitted that, under PRR 2023, a minimum of three bidders is required for bid evaluation. However, the IRB would like to clarify that PRR Clause 5.3.2.5 explicitly states *"For open tender, lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid if the bid was satisfactorily advertised and the prices are reasonable in comparison to market values."* Therefore, the requirement for a minimum of three bidders has been wrongly understood by the Applicant, and a bidding process may still be considered valid if it meets the criteria outlined in PRR Clause 5.3.2.5.
4. While Clause 8.6 of the Instructions to Bidders (ITB) explicitly states that failure to attend the pre-bid meeting shall not serve as grounds for disqualification, the necessity of conducting a pre-bid meeting in this particular instance was duly warranted, given the specific nature and complexity of the project. Moreover, the requirement for such a meeting was unambiguously outlined and communicated within the bidding documents and approved by the Head of the Procuring Agency, thereby ensuring that all prospective bidders were adequately informed of this procedural necessity.
5. During the IRB virtual hearing, the Applicant acknowledged being aware of the conditions set forth in the bidding documents. However, no clarification was sought prior to the submission of bids. The Applicant had ample opportunity to raise any concerns but failed to do so within the designated timeframe. All relevant information regarding the pre-bid meeting was made available before the submission deadline. It was the responsibility of the Applicant to seek clarification on any bidding-related documents or issues beforehand, which was not exercised. Additionally, by signing the Bid Form prior to submission, the Applicant expressly agreed to the terms and conditions stipulated in the bidding documents.
6. Taking cognizance of the submissions made by the Applicant and the responses provided by the Respondent, and in line with the above review and justifications, the IRB concludes that the Respondent has not violated any procurement norms that would warrant the nullification of the contract award. Accordingly, the IRB upholds the decision of the Respondent and affirms that the procurement process may proceed as planned.
7. In accordance with Clause 63 of the IRB Rules and Procedure 2023, this decision is final and binding. If the decision is not accepted, an appeal may be made to the Court only on a question of law. In such a case, any concessions granted by the IRB shall stand



withdrawn.

8. The IRB would also like to remind the Respondent to take note of the concerns raised during the IRB meeting. Addressing these concerns will help ensure greater transparency and compliance in future tenders and help prevent unwarranted disputes in subsequent procurement processes.

<p><b><u>Mr. Karma Dupchuk, Member</u></b></p> 	<p><b><u>Mr. Sonam Penjor, Member</u></b></p> 
<p><b><u>Mr. Chandra B. Chhetri, Member</u></b></p> 	<p><b><u>Mr. Sonam Wangchuk, Member</u></b></p> 
<p><b><u>Mrs. Rinzin Lhamo, Chairperson</u></b></p> 	

Dated: 10 March 2025