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

Decision of the Independent Review Body (IRB)

Description of Procurement: Construction of Box-cut Bypass from Tsachu Top-Jigmecholing (Ch. 9.2 - 19.314 km), Package II. (Tender ID- 21529)

Case reference number: MoF/DPP/PMDD(15)/2025-26/06

IRB Members Present:

1	Mr. Karma Dupchuk, DG, DoID, MoIT	Acting Chairperson
2	Mr. Sonam Wangchuk, ED, CAB	Member
3	Mr. Chandra Chhetri, SG, BCCI	Member
4	Mr. Choki Drakpa, Offtg. Director, OAG	Member
5	Mr. Leki Tshering, Offtg. Director, DPP	Member

The parties and the Procurement under dispute are:

Applicant	Mr. Dorji Penjor Chief Executive Officer M/s Chimmi RD Construction Pvt. Ltd Thimphu
Respondent	Department of Surface Transport, Ministry of Infrastructure and Transport Thimphu

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Background & discussion in brief:

The IRB Secretariat has received the Application for review on 20 October 2025 alleging the tender decision dated 14 October 2025 (Letter of intent) for "Construction of Box-cut Bypass from Tsachu Top - Jigmecholing (Ch. 9.2 - 19.314 km), Package II" 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 3 November 2025 to review the grievance that has been lodged against DoST in presence of the required quorum.

Claims as claimed by Chimmi RD Construction Pvt. Ltd:

1. Appeal for Correction Based on Factual Inaccuracy in e-GP System (Score Deducted: 2/20)

Our bid was penalized because a completed project was incorrectly classified as "ongoing" in the e-GP system.

- *Project: Construction of River Projection Wall at Pangrizampa*
- *Fact: The project was officially completed and handed over to Thimphu Thromde on August 12, 2025. The handing-over document is attached for your verification.*
- *Impact: This data inaccuracy has led to the misclassification of our proposed OHS personnel as "currently engaged," resulting in an unjust loss of score.*

This is a clear case of an evaluation being based on erroneous data. The e-GP system, a tool meant to ensure transparency, has in this instance created unfair disadvantages due to outdated information. This may be due to migration of the e-GP system which is well known to the evaluation team as the evaluator has asked all the bidders to extend the bid validity citing the issue with the e-GP system.

Request:

We humbly request the Independent Review Body to direct the evaluation committee to:

- Verify the true "completed" status of the project directly with Thimphu Thromde of e-tool databases whether this is updated in the system or not prior to data migration.*



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

b) *Re-evaluation our bid and reinstate the rightful score for our OHS personnel based on verified, accurate information.*

2. Appeal for Clarification and Interpretation of Personnel Commitment Criteria (Score Deducted: 9/20)

A significant score was deducted for our submission regarding proposed key personnel on contract. The evaluation team's interpretation of the required documentation is both procedurally impractical and legally unfounded at the pre-award stage.

Our Position is as follows:

- *CAB- Endorsed Contact as Primary Proof of Commitment: The contract Agreement, endorsed by the Construction Association of Bhutan (CAB), is the industry-standard and legally binding document that proves an individual's exclusive commitment to our project. This directly satisfied the core intent of the evaluation criteria: to ensure the availability and commitment of skilled manpower.*
- *Practical and legal Impossibility of Pre-Employment Documentation: It is commercially unviable and legally premature to formally employ personnel and enroll them in Provident Fund (PF) or Tax Deduction at Source (TDS) for a project we have not yet won. A formal employer-employee relationship, which triggers statutory obligations, can only be established after contract award. Our submitted contract logically stipulates that final remuneration is contingent upon winning the bid.*
- *Clause 6 is a Post-Award Compliance Requirement: We maintain that the requirement for PF/TDS documents under Clause 6 is a demonstration of future compliance for active employees, not a pre-award submission requirement for proposed personnel. To prove our company's compliance capability, we had submitted our company's PF Registration and salary TDS records for existing staff whom we have committed to the project, demonstrating our established systems and commitment to statutory obligations.*
- *Retroactive Application of a New Notification: The evaluation appears to have been influenced by Notification No. MoF/FS-05/2025-26/DPP/242, dated September 18, 2025. Our bid for Tender No. 21529 was submitted prior to this date. Applying new guidelines retroactively to submitted bid violates fundamental principles of fairness and legal predictability. If the original evaluation guidelines were clear, the issuance of a clarifying notification after our bid submission only underscores the need for a fair re-evaluation under the rules that were force at the time of bidding.*

Request: *We respectfully request the Independent Review Body to:*

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

- Issue a clarification affirming that a CAB-endorsed contract is a valid and primary proof of pre-award commitment for personnel on contract.*
- Rules that new procurement notifications cannot be applied retroactively to bids submitted before their issuance.*
- Direct a re-evaluation of our bid for Tender No. 21529 based on this clarified and correct interpretation of the rules.*

We believe that addressing these issues is crucial not only for our bid but for upholding the integrity and fairness of the procurement process for all bidders. Thank you for your time and consideration of this important matter. We are prepared to provide any further documentation or clarification as required.

Response as responded by DoST:

This is in response to the appeal submitted by M/S Chimmi RD Construction Pvt. Ltd. Dated 20/10/2025 regarding the evaluation outcome of Tender No. 21529 (Construction of Boxcut Bypass Road, Package II). The bidder raised two issues concerning (i) deduction of marks for human resources due to system inaccuracy and (ii) interpretation of personnel commitment documentation.

1. Alleged Deduction of HR Points Due to System Inaccuracy

The applicant claimed that 2 points under the HR component (out of 20) were wrongly deducted due to inaccuracy in the e-TOOL system following data migration from the e-GP platform. The applicant attributed the error to the system migration process, which allegedly reverted some completed works back to "ongoing" status.

The Tender Evaluation Committee (TEC) acknowledges that, following the e-TOOL migration, similar discrepancies where completed works appeared as ongoing. In light of this the PMDD had issued multiple notifications to all PA and contractors instructing them to review and verify their work data in the new system. Despite this, when the TEC verified the HR and equipment status in the e-TOOL system, the proposed HR was found to be engaged elsewhere at the time of evaluation (copy of engagement attracted as Annexure).

The TEC would like to clarify that the evaluation was carried out strictly based on the data available in the e-TOOL system and relied solely on system-generated information. Therefore, the TEC believes that it was the responsibility of the applicant and the concerned employer to ensure that the work completion was timely updated in the e-TOOL System. Therefore, it is established that there is no substantial merit in revisiting and revising the evaluation outcome.

2. Personnel Commitment Documentation.



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Ministry of Finance
Royal Government of Bhutan
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3. The applicant further argued that submission of CAB-endorsed contract agreements should suffice as proof of personnel commitment and that PF/TDS documents are post-award compliance requirements. They also alleged that a Ministry of Finance (MoF) notification dated 18 September 2025 was applied retroactively.

As per the Evaluation and Qualification Criteria (Clause 2.2(d)) available in the bidding document, the following were mandatory for evaluation:

- CAB-endorsed contract agreements for all hired personnel (Clause 5): and
- PF/TDS or payroll records for all committed personnel with monthly gross income Nu. 25,000 (Clause 6).

Both documents are required at the evaluation stage to validate the authenticity and availability of the proposed personnel. The cited MoF notification merely reiterated existing provisions under Clause 6 and did not introduce any new marks for absence of PF/TDS documentation that was consistent throughout the evaluation process and within the evaluation framework.

Conclusion and Prayer

In view of the above, the Procuring Agency found that the appeal made by M/S Chimmi RD Construction Private Limited holds no merits as the evaluation was carried out strictly as provisioned in the bidding document.

Therefore, the Procuring Agency respectfully prays that the Independent Review Body uphold the evaluation results and dismiss the appeal as lacking sufficient grounds to alter the outcome.

The Agency further prays that, if deemed necessary, the IRB may direct PMDD to continue strengthening system data integrity measures to avoid similar issues arising from system migrations in the future.

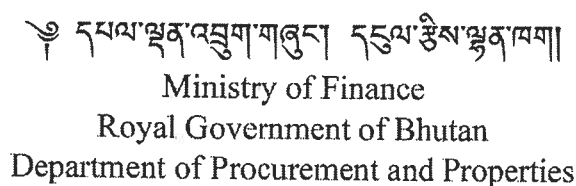
Decision:

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 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. IRB upon scrutinization has found that the work completion status for this equipment was updated in the old eTOOL system, 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 update in the new system was made only at a later point. The

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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.

2. On the allegation of interpretation of Personnel Commitment Criteria, the same concerns have been raised in the Application for Review put forward by Hi-Tech Construction Pvt Ltd. The Independent Review Body (IRB) here would like to highlight that the *Evaluation and Qualification Criteria* in the Bidding Documents explicitly require the submission of the following: “*Copies of Provident Fund Account Documents for all personnel, or payrolls, or copies of the monthly remittance schedule of Health Contribution and Tax Deducted at Source for all personnel committed with a monthly gross income of Nu. 25,000 and above.*” This provision clearly establishes that the requirement applies to **all personnel** not distinguishing between regular and contract employees.

The IRB acknowledges that there was a lack of clarity in the earlier version of the bidding documents, which subsequently led to the issuance of a clarification notification by the Ministry of Finance on 18 September 2025. However, upon review of the evaluation documents submitted by the bidder, the IRB has found that the

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

evaluation was conducted uniformly across all bidders based on the provisions contained in the bidding documents and documents submitted by the bidders, and not on the basis of the notification.

The clarity on the document submission requirement irrespective of whether an employee is a regular or on contract, was also clearly specified in point no. 6 of the Notification issued by Construction Association of Bhutan on 30 July 2025 vide letter no. CAB/ADM-01/2025/1369 which was primarily issued to inform and remind the contractors of the changes in PRR & SDB 2025 towards submission of responsive bids.

Furthermore, the IRB also recognises that the applicant had to share an equal responsibility to thoroughly review and understand all terms and conditions of the tender documents. While ambiguities may have existed, the Applicant did not seek any clarification during the bidding period, despite having the opportunity to do so. The applicant acknowledged being aware of the conditions set forth in the bidding documents and the interpretation issues therein during the IRB hearing. However, no clarification was sought prior to the submission of bids. 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.

However, the IRB, upon verification of the contract agreements and supporting documents submitted by the winning bidder (Wangs Pvt. Ltd.) observed the following: the winning bidder submitted contract agreements for hired personnel with the condition that they would be recruited to execute the work if the contract is awarded. Contrarily, the bidder had already submitted pay slips under the name of Wangs Pvt. Ltd prior to the award of the work, raising serious concerns regarding the authenticity of these documents. Moreover, the pay slips lack dates or other verifiable details to substantiate their genuineness. This discrepancy indicates a contradiction between the contract agreement and the supporting documents provided by the bidder.

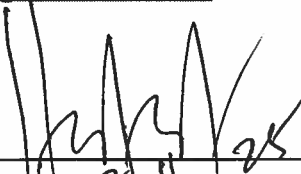
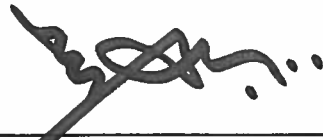
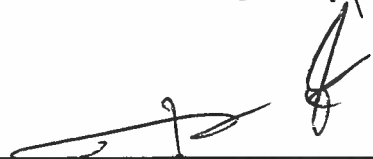

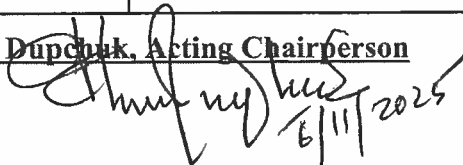
3. In view of the foregoing findings, firstly having determined that the supporting documents submitted by the winning bidder for the contract employees fails to comply with the stipulated document requirements and it clearly does not conform to the intent and substance of the relevant clause which therefore tantamount to the falsification of documents. In addition, the Procuring Agency has not exercised the requisite due diligence in issuing Letter of Intent for two works simultaneously within the same Department. Therefore, the Independent Review Body (IRB) hereby nullifies the award

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

decision. Accordingly, the Respondent is directed to undertake a re-evaluation strictly in accordance with the provisions of the bidding documents. The re-evaluation shall be solely carried out on the contract documents and the supporting documents submitted by the winning bidder and considering the impact of the earlier award made to the same firm to ensure accurate reflection of resource engagement and bid capacity.

4. 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.
5. *The IRB directs the Department of Procurement and Properties (DPP), Ministry of Finance, to review and propose appropriate revisions to the PRR/ SBDs and upgrades to the eTOOL system to introduce checks for duplication of resources and to provide procedural clarity on sequencing of awards where a bidder is recommended for multiple tenders simultaneously. Going forward the IRB also directs DPP to revisit the document requirement for Contract employees.*

<p><u>Mr. Sonam Wangchuk, Member</u></p> 	<p><u>Mr. Chandra Chhetri, Member</u></p> 
<p><u>Mr. Choki Drakpa, Member</u></p> 	<p><u>Mr. Leki Tshering, Member</u></p> 
<p><u>Mr. Karma Dupchuk, Acting Chairperson</u></p> 	

Dated: 6 November 2025