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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)/2025-26/05

**IRB Members Present:**

1	Mr. Karma Dupchuk, DG, DoID, MoIT	Acting Chairperson
2	Mr. Sonam Wangchuk, ED, CAB	Member
3	Mr. Chandra B. 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. Tshewang Norbu Chief Executive Officer Hi-Tech Company Pvt. Ltd Punakha
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 17 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 IRB 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 the presence of the required quorum.

**Claims as claimed by Hi-Tech Company Pvt. Ltd:**

*"Accordingly, we have submitted the documents for all the personnel which have been hired as per the above clause endorsed from CAB.*

- 1. Since our personnel have been recently hired on contract, we have no provisions to produce the pay slip/PF/TDS documents and the bidding documents also don't specify such requirements for recently recruited personnel.*
- 2. Of late when we have already submitted the tender on 11<sup>th</sup> sept 2025, there was a notification on 18<sup>th</sup> sept 2025 from MOF for change (as attached) in the e-tool/PRR/SBD the requirement of such documents for recently recruited personals on contract, which have unfairly mis led the evaluation team to object our documents due to the timing of the notification posted tender submission.*
- 3. Also, the winning bidder have been issued an intend of award for two works simultaneously within the same department and have not considered for double engagement of resources, effects of bidding capacity when the two works are simultaneously evaluated at the same time, which the department usually does all contract prior to award, creating a room for favoritism/unfairness in competition bidding process. (Intent of award issued for tender id no. 21972 dated 10/10/2025).*
- 4. It has come to our notice that the evaluations of tenders have been unsatisfactory, with the unclear and inconsistent changes in procurement rules issued intermittently. These frequent and unpredictable modifications have created significant confusion among*

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*private contractors, leading to inadvertent misappropriation or submission of documents that do not meet the dynamic requirements.*

5. *Such an uncertain environment hampers fair competition and transparency, and ultimately affects the integrity of procurement procedures. We believe that these circumstances are unfair and compromise the credibility of the process.*

*Appeal to IRB - We as a 2<sup>nd</sup> best evaluated bidder we hereby appeal your kind office to kindly review our identified issues that we believe warrant reconsiderations for acceptance of our submitted documents with the following concerns regarding the bidding the process:*

1. *We kindly request the IRB to consider our original submission as it was made, or alternatively, to allow us to resubmit for reevaluation, since the evaluation criteria in section 2.2 (5) explicitly mention that contract agreements endorsed form CAB are sufficient, and there was no requirement at the time of submission for pay slips, PF, or TDS documents for newly hired personnel. Also, the changes announced by MOF on 18<sup>th</sup> September 2025, after the bid submission, introduced new requirements which were not part of the original bidding conditions. This late notification should not penalize our bid, especially since it impacts personnel who were recruited before this change.*
2. *Furthermore, we seek your consideration regarding the potential double engagement of resources, impact on bidding capacity when two projects are being evaluated simultaneously within the same department. We believe that all concerned officials are aware of this situation, and it may influence the fairness of the evaluation process.*
3. *Additionally, we would like to highlight the lack of explicit evaluation criteria related to certain documentation requirements, particularly concerning recently recruited personnel. Therefore, we respectfully request the opportunity to resubmit any necessary documents or clarifications needed to demonstrate compliance.*

*We affirm that our submission was made in full accordance with the established guidelines. We appreciate your understanding and fairness in ensuring an impartial review that maintains the integrity of the procurement process. We are prepared to provide any supplementary information or documents as required. Thank you very much for your attention to this matter. We look forward to a prompt and just resolution".*

**Response from DoST, MoIT (Quote - Unquote)**

1. **Requirements of Pay slip/PF/ TDS**

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*The appellant has contended that they have fulfilled the requirements stipulated under Evaluation Criteria, Section 2.2 (5). However, it is the bidder's sole responsibility to thoroughly review and comprehend all provisions of the bidding document and to prepare their submission accordingly. In this instance, the bidder failed to take into account all conditions outlined in the Evaluation Criteria, resulting in the omission of the required pay slip/PF/TDS documents in their bid.*

*Furthermore, Evaluation Criteria, Section 2.2 (6) explicitly states that bidders must submit: "Copies of Provident Fund Account documents for all personnel, or payrolls, or copies of monthly remittance schedules of Health Contribution and Tax Deducted at source for all personnel committed with a monthly gross income of Nu. 25,000 and more."*

*This requirement was clearly defined and publicly available as part of the bidding documents, leaving no room for ambiguity or misinterpretation. Accordingly, any submission that does not comply with the above requirement could not be considered during evaluation. The tender Evaluation Committee (TEC) acted in strict adherence to the stipulated criteria to ensure consistency, transparency and fairness in the evaluation process.*

## *2. Clarification on the MOF Notification dated 18 th September 2025*

*The tendering question was published and opened prior to the issuance of the Ministry of Finance's notification dated September 18, 2025. The evaluation and qualification requirements were already clearly defined in the bidding documents, which all bidders were expected to study and comply with. Accordingly, the evaluation was carried out strictly based on the stated criteria requiring the "Copies of Provident Fund Account documents for all personnel, or payrolls, or copies of all monthly remittance schedules of Health Contribution and Tax Deducted at Source for all personnel committed with a monthly gross income of Nu. 25000 and more." Which clearly indicates the requirement of payroll/monthly remittance /HC TDS irrespective of Hired/ Regular employee. Therefore, the subsequent notification issued by the Ministry of Finance does not have any bearing of this tender.*

*Furthermore, if the bidder had any uncertainty or confusion regarding the interpretation of any clause prior to the bid submission, it was their responsibility to seek clarification through the e-GP system or via the official email address provided in the bidding documents. However, no such clarification was sought by the bidder prior to bid submission. Raising this issue only after the tender opening and evaluation demonstrates a lack of due diligence and bidder negligence, rather than any procedural lapse on the part of the Procuring Agency.*

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### 3. Award of Multiple Works

*The Evaluation of works must be conducted strictly using the e-tool system. However, the system records bidder resource engagement only after the contract is signed and the award button is activated in the e-tool, making it technically impossible to detect duplication of resources across concurrent tenders during the evaluation stage. Furthermore, verifying duplication of bidder resources is not feasible when various regional offices of the department conduct tendering and evaluation simultaneously with different evaluation teams, especially if a bidder participates in multiple tenders. Similar situations may occur across different agencies, making cross-verification of resource duplication practically impossible.*

*In view of the above circumstances, it is not feasible to sequence or coordinate the awarding of works across different agencies and regional offices of the department. Furthermore, If the DLTC and MLTC were to sequence and award works for all tenders floated by the Department, it would inevitably delay the overall procurement process. This is because the sequencing could only be done after the cash contract is finalized and the bidder's resources are locked in the system, given that the same bidder often participates in multiple tenders simultaneously.*

*Moreover, the PRR 2025 does not mandate any sequencing procedure for awarding multiple works. Additionally, the e-tool system neither records bidder resource engagement until the award button is activated nor restricts the evaluation of bids or allocation of points for resources committed in other tenders. Hence, sequencing and awarding of works becomes impractical when multiple tenders are processed simultaneously. Considering the above points, the Ministry-Level Tender Committee (MLTC) deliberated on the matter and proceeded with awarding the work.*

### Conclusion and prayer

*In light of the above clarifications, it is evident that the evaluation of Tender ID: 21529 was carried out in strict conformity with the provisions of the bidding documents and the applicable procurement rules and regulations.*

*Accordingly, the appeal lodged by M/s Hi-Tech Company Pvt. Ltd. Lacks merit both in fact and in procedure, and there are no grounds to warrant a revision or annulment of the tender evaluation outcome. In view of the foregoing, we humbly pray that the IRB kindly dismiss the appeal submitted by the appellant and upload the decision of the Tender Evaluation Committee and the Ministry-level Tender Committee as fair, valid and full compliance with the existing procurement norms and practices.*



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**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. The applicant has stated that, since their personnel were recently engaged on a contractual basis, they are unable to provide pay slips/ Health Contribution/ Provident Fund (PF) and Tax Deducted at Source (TDS) documents, further claiming that such requirements were not specified in the bidding documents. 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 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





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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. Such an act is tantamount to falsification of documents, as it involves the deliberate submission of information or records that are inconsistent with or contrary to the actual facts.

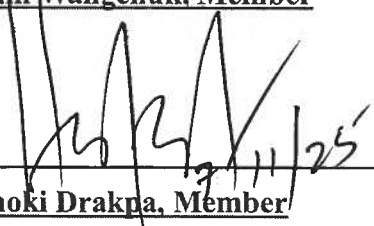
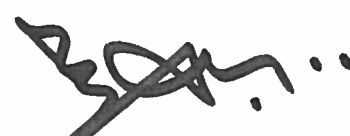
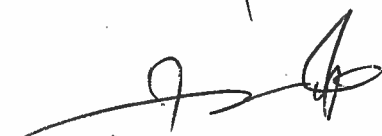
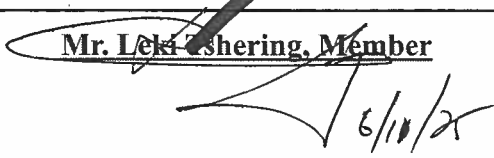
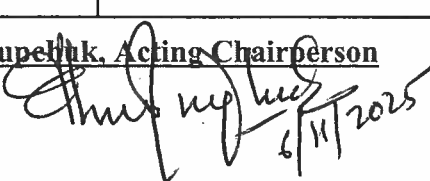
2. The Applicant has also submitted that Letter of Intent was issued for two works simultaneously within the same Department. IRB is of the stand that awarding multiple tenders to the same bidder simultaneously, without verifying potential overlap or double engagement of Human Resources and Equipment, directly undermines fairness and competition. Even if the eTOOL does not automatically detect such duplication, the Procuring Agency retains the responsibility to exercise due diligence and ensure that resources proposed for different tenders are realistically available. Furthermore, there are precedents in the past under the Department whereby award decisions for the other bid were only made after one of the work was awarded, mainly to avoid duplication.
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 decision. Accordingly, the Respondent is directed to undertake a re-evaluation strictly in accordance



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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.*

<u>Mr. Sonam Wangchuk, Member</u>  6/11/25	<u>Mr. Chandra Chhetri, Member</u> 
<u>Mr. Choki Drakpa, Member</u> 	<u>Mr. Leki Tshering, Member</u>  6/10/25
<u>Mr. Karma Dupeluk, Acting Chairperson</u>  6/11/2025	

Dated: 6 November 2025