



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

**Description of Procurement:** Retrofitting Establishment and accessible structure in School (SJPS).

**Case reference number** : MoF/DPP/PMDD(15)/2024-25/09

#### IRB Members Present:

1	Mr. Chandra B. Chhetri, SG, BCCI	<del>Interim Chairperson</del> Member
2	Mr. Choki Drakpa, Chief Attorney, OAG	Member <del>Interim Chairperson</del>
3	Mr. Leki Tshering, Offtg. Director, DPP	Member

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

Applicant	Mr. Sherub Loday, Druk Home Builder
Respondent	Thromde Administration, Samdrup Jongkhar

#### Background & discussion in brief:

The IRB Secretariat has received the application for review on 13 April 2025 alleging the tender decision dated 9 April 2025 (Letter of intent) for "Retrofitting Establishment and accessible structure in School (SJPS) 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 and Procedures 2023. Thus the grievance was processed and submitted for proceedings. The IRB met on 1 May 2025 to review the grievance that has been lodged against the Respondent in presence of the required quorum.

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**Claims as claimed by Druk Home Builder:**

*I would like to state that I received the letter no. SJT/ID/05/2024-2025/2023 dated April 8th, 2025, received via email on 9<sup>th</sup> April, 2025 and also response in the e-GP system, regarding the cancellation of my grievance. I understand that the reason cited for this cancellation is the presence of two "work in hand" entries in the e-Tool system during the evaluation period of March 18th to 24th, 2025.*

*However, I must strongly contest this reason, as one of the listed projects, specifically **"Construction of Inclusive Toilet at SJPS,"** falls under the purview of the same agency and was, in fact, completed well before the evaluation period. To clarify, please consider the following timeline for project **"Construction of Inclusive Toilet at SJPS"**:*

- 1. The work was completed, and the completion report was submitted on December 26th, 2024.*
- 2. The handing-taking committee conducted a site visit on January 10th, 2025, and instructed minor rectifications.*
- 3. Upon completion of these minor rectifications, the rectification completion report was submitted on January 23rd, 2025.*
- 4. The committee revisited the site on February 12th, 2025.*
- 5. The final bill was submitted on February 24th, 2025, and remains unsettled to date.*

*Given the aforementioned details, I am not convinced that the reflection of project **"Construction of Inclusive Toilet at SJPS"** as "work in hand" in the e-Tool system should be held against my firm. The project was completed in a timely manner, and the delay in updating its status within the e-Tool system is beyond my control. Had I possessed the necessary access to update the e-Tool system myself, I would have ensured its timely and accurate reflection of the project's completion.*

*Furthermore, I find it perplexing that my firm was disqualified when the concerned agency is fully aware that the work on project **"Construction of Inclusive Toilet at SJPS"** was completed on schedule. Despite fulfilling all my contractual obligations diligently, I have been unfairly penalized and deprived of a rightfully earned contract due to what appears to be a lapse in the timely updating of your own agency's e-Tool system.*

*Therefore, I respectfully request a thorough review of this matter. I should not be held responsible for the "work in hand" status of a project that was completed on time, particularly when the delay in updating the system lies with the procuring agency itself. I urge you to reconsider my disqualification in light of these circumstances.*



**Response as responded by Samdrup Jongkhar Thromde Administration:**

*This tender was invited through an open tender method in the eGP system. The evaluation procedures for this tender were conducted through an online system (eTool & eGP) between March 18-24, 2025. M/s Druk Holmes Builder had submitted the lowest bid (L1) with quoted amount of Nu. 2,595,200.00, however eTool report revealed that the firm had two works in hand during the award phase.*

*The eTool system does not allow to award the work to the firm having two works in hand. Given the circumstances surrounding the lowest bidder, the Thromde tender committee decided to award the contract to the second lowest evaluated bidder (L2), M/s SCT Construction with a quoted amount of Nu. 2,595,323.66. This decision reflects a commitment to ensuring that the contractor can adequately manage their workload and meet project deadlines.GP.*

**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. IRB observes that the evaluation period was from 18–24 March 2025, during which time the Applicant had two “works in hand” in the e-Tool system.
2. Although physical works may have been completed, the contractual closure including final measurements and submission of analyzed rates for electrical works for items which were not in the BOQ was incomplete as of the evaluation period.
3. The submission of analyzed rates on 27 March 2025, after the evaluation window, confirms that project closure had not been achieved in time. This delay was attributable to the Applicant's own inaction in responding promptly to the Site Engineer's request for joint measurement.



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

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4. In line with ITB 35.1, the Procuring Agency was justified in disqualifying the bid on the grounds that the bidder had not met the eligibility threshold for ongoing works at the time of evaluation.
5. The grievance submitted by M/s Druk Home Builder is dismissed as being without sufficient merit. The Procuring Agency's decision to disqualify the Applicant due to exceeding the "work in hand" ceiling, as determined by system-based evaluation during the prescribed period, is upheld. The IRB concludes that the delay in project closure was caused by the Applicant's failure to respond in a timely manner to joint measurement notices and submission requirements.
6. In pursuance to Clause 63 of the IRB Rules and Procedure 2023, 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. Chandra B. Chhetri, Member**

**Mr. Leki Tshering, Member**

**Mr. Choki Drakpa, Interim Chairperson**

**Dated: 8 May 2025**