

**RULES AND PROCEDURES
OF THE
INDEPENDENT REVIEW BODY**



ROYAL GOVERNMENT OF BHUTAN

MINISTRY OF FINANCE

FEBRUARY, 2015

PREFACE

The Procurement Rules and Regulations, 2009(hereinafter referred as PRR) provides that any supplier, contractor or service provider who has or is likely to suffer, loss or injury resulting from an alleged breach of the PRR is entitled to seek review by submitting a written application for review.

The PRR requires that the Ministry of Finance (MoF) shall establish an Independent Review Body for the purposes of conducting review where procuring agency has not delivered a decision within the timeline specified, or the complainant is not satisfied with its decision.

The scope of review shall be limited to procurement decisions up to the award stage of procurement process and/or where the contract has not been concluded.

Therefore, in exercise of the power granted by section 104 of the Public Finance Act of Bhutan 2007 and Chapter VIII of the PRR, the Ministry of Finance hereby issues this Rules and Procedures of Independent Review Body. The Rules provides for procedures to support and administer the operations of the Independent Review Body.

Those wishing to submit comments or questions on these Rules and Procedure or to obtain additional information on procurement can contact:

Public Procurement Policy Division
Ministry of Finance
Telephone +975-02-336962
Fax +975-02-336961
www.pppd.gov.bt



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ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF FINANCE
TASHICHHO DZONG



MoF/PPPD-02/2014-2015/ 144

June 16, 2015

NOTIFICATION

As per the Chapter VIII of the Procurement Rules and Regulations 2009, Ministry of Finance hereby establishes an Independent Review Body (IRB) composed of seven members from following Ministries/Agencies:

1. Mr.Choiten Wangchuk, Director General, Department of Public Accounts, Ministry of Finance;
2. Mr. Rinchen Dorji, Director, Intellectual Property Division, Ministry of Economic Affairs;
3. Mr.Tenzin, Director, Department of Engineering Services, Ministry of Works and Human Settlements;
4. Mr.Tirtha Raj Gurung, Executive Engineer, Construction Development Board;
5. The General Secretary, Construction Association of Bhutan;
6. Mr.Kesang Wangdi, Deputy Secretary General, Bhutan Chamber of Commerce; and
7. Mr.Tashi Gyalpo, Chief Attorney, Office of Attorney General

The Public Procurement Policy Division shall serve as the Secretariat to the IRB. Therefore, any supplier, contractor or service provider who has or likely to suffer, loss or injury resulting due to violation of the procurement rules may initiate a review procedure in accordance with the provisions in the relevant standard bidding documents issued by Ministry of Finance.

The review procedure shall be brought promptly and in any event within the prescribed time in the relevant standard bidding documents or procurement rules and regulations 2009 where no specific provisions is provided in the standard bidding documents. The scope of review shall be limited to procurement decisions up to the award stage of procurement process and/or where the contract has not been concluded. The IRB shall function as per the Rules of Procedures of IRB, February 2015, a copy of which can be found and downloaded from the website www.pppd.gov.bt.

This notification shall supersede the earlier notification No. MoF/PPPD-08/3010/2011/467 dated June 15, 2012.

The above shall come into effect with immediate effect. For further clarification, please contact the Public Procurement Policy Division, Ministry of Finance at 02-336962.

[Lam Dorji]
Finance Secretary

Copy:

1. All Ministries/Autonomous Agencies/Departments/Dzongkhags/Gewogs for kind information.
2. The IRB Members

Public Procurement Policy Division
Post Box No: 116 Phone No: 02-336962, Fax No: 02-336961

COMPLAINT PROCESS FLOW CHART

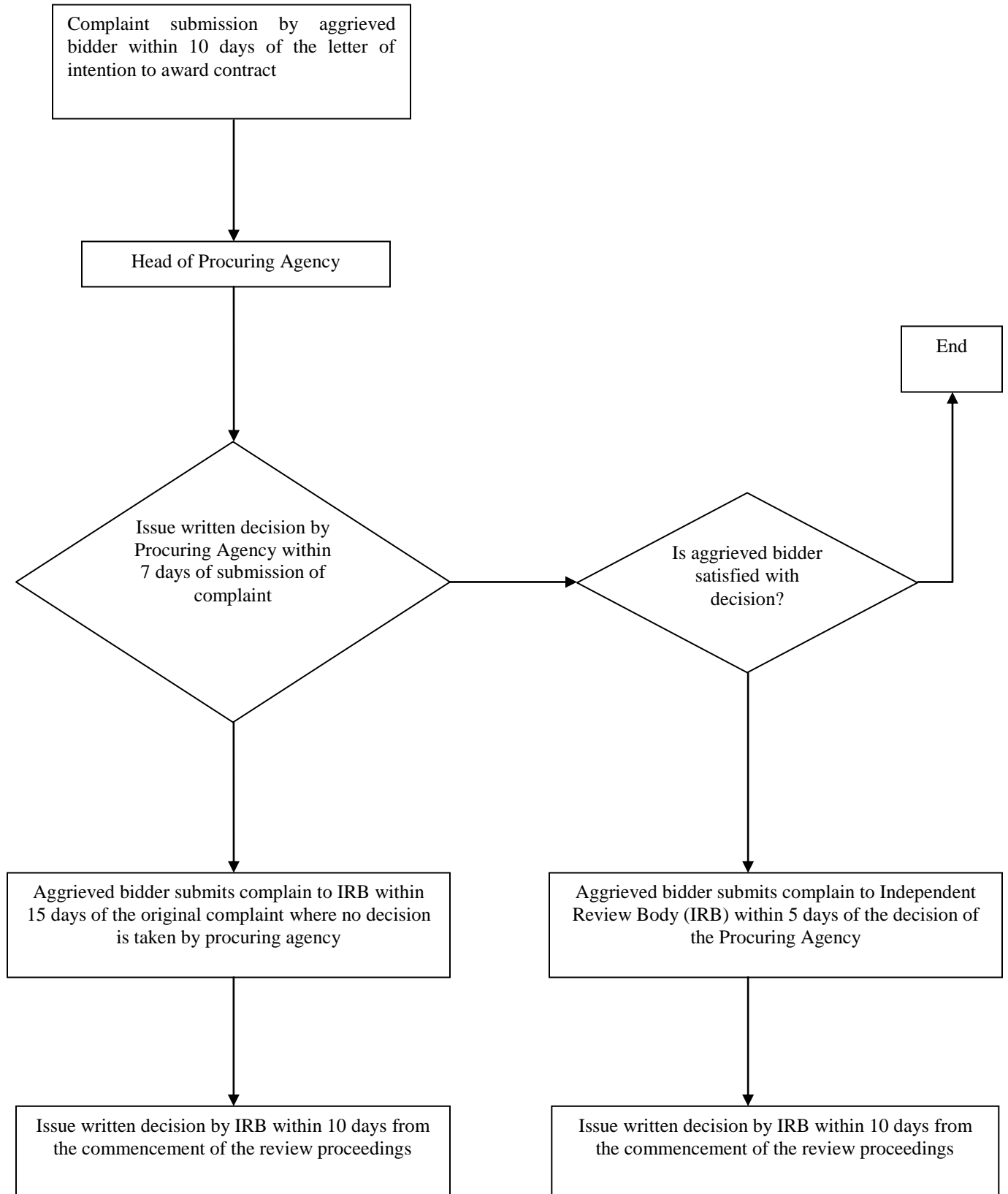


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CHAPTER I-GENERAL PROVISIONS

Scope and Purpose

1. The Ministry of Finance (MoF) hereby issues this “*Rules and procedures of the Independent Review Body*” for the purpose of establishing detailed rules and procedures for the operation of Independent Review Body to guarantee the right of any bidder prescribed by the Procurement Rules & Regulations.
2. These rules provide for the constitution, procedures and operation of the Independent Review Body.
3. These procedures apply to Applications for Review submitted to the Independent Review Body where procuring agency has not delivered the decision within the time specified after the submission of complaint, or the complainant is not satisfied with the decision of procuring agency.

Effectiveness

4. This “*Rules and Procedures of the Independent Review Body*” shall become effective from February, 2015.

Definitions

5. For the purpose of this Rules the following definitions shall apply:
 - I. “*Independent Review Body*” refers to the panel appointed by the Ministry of Finance for the purposes of providing independent review of Applications for Review submitted by bidders who alleged to suffer damages due to a violation of the PRR/standard bidding documents/standard request for proposal and its related document issued by Ministry of Finance, Bhutan.
 - II. “*Applicant*” refers to the bidder who is a participant in a specific procurement proceeding and who, aggrieved by an alleged violation of PRR/Standard Bidding Documents/Standard Request for Proposal and its related documents, submits an Application for Review to the *Independent Review Body*.
 - III. “*Application for Review*” or “*Application*” refers to the application of the bidder submitted to the Independent Review Body seeking review against the decision of, or the failure to decide within required time by the procuring entity of the original complaint.
 - IV. “*Expert*” refers to any independent experts appointed by the Independent Review Body.
 - V. “*Form*” refers to prescribed Forms for use by the Applicant, the Respondent, the Secretariat, and other parties in the review procedure.
 - VI. “*PRR*” means the Procurement Rules and Regulation 2009(or as amended in future) of Ministry of Finance, Bhutan on Public Procurement.

- VII. “SBD/SRFP” means the Standard Bidding Documents for procurement of Goods or Works/Standard Request for Proposal for Consulting Services.
- VIII. “*Decision*” refers to the conclusion drawn by the Independent Review Body in a review procedure.
- IX. “*PPPD*” means the Public Procurement Policy Division established under Ministry of Finance.
- X. “*Power of Attorney*” refers to written authorisation by the *Applicant or Respondent* authorising their representations.
- XI. “*Register of Applications for Review*” or “*Register*” refers to the register maintained by the Secretariat for registration of applications and associated documents of the procedure through which the review procedure of the Independent Review Body is organised and recorded.
- XII. “*Reply of the Respondent*” or “*Reply*” refers to the written reply and supporting documents received from the Respondent in prescribed Form in response to the notification received from the Secretariat regarding registration of a valid Application for Review.
- XIII. “*Respondent*” refers to the procuring entity against whom the Application for Review has been made by a bidder who is a participant in a procurement proceeding conducted by the procuring entity.
- XIV. “*Secretariat*” means the Public Procurement Policy Division serving as secretariat to the Independent Review Body.
- XV. “*Bidder*” means an eligible individual or legal entity that participates in a competitive procedure defined by PRR

CHAPTER II – THE SECRETARAIT

Organization

6. The PPPD shall be the secretariat for carrying out the functions associated with the organization and procedures of the Independent Review Body, as set out in these rules and Procedures of the Independent Review Body.

Functions

7. The business of the Independent Review Body and all clerical matters arising out of the conduct of procedure under these rules and procedures shall be carried out by the Secretariat operated by the PPPD. All Applications for Review shall be addressed to the Independent Review Body at the Secretariat unless otherwise specified.
 - (1) The Secretariat shall be responsible for:
 - I. keeping up to date the Register of Applications for Review;
 - II. maintaining the files of Applications for Review and for keeping them fully up to date;
 - III. organizing the work of the Independent Review Body and carrying out of all clerical and logistical requirements of the procedure;
 - IV. informing the applicant and other parties of all arrangements made under the authority of the Independent Review Body including, but not limited to, the form and manner of the procedure, the date of hearings, etc;
 - V. drawing up minutes of meetings of the Independent Review Body and recording hearings, witness statements and Decisions of the Independent Review Body;
 - VI. carrying out any other instruction of the Independent Review Body related to the review procedure;
 - VII. receiving the fees payable on submission of applications for review;
 - VIII. distributing the Decision of the Independent Review Body to the parties and the PPPD;
 - IX. ensuring the publication of the Decision of the Independent Review Body, as prescribed;
 - X. maintaining records of all procedures and Decisions;
 - XI. Monitor and follow up on the implementation of Decision of the Independent Review Body

The Register of Applications for Review

8. The Register of Applications for Review, to be maintained by the Secretariat shall be the main instrument through which the review procedure shall be organised and recorded. In particular:
 - I. The Register shall be maintained in paper form and the pages of the register shall be numbered in advance.
 - II. A copy of the Register may be kept in electronic form but the paper form shall be authentic.
 - III. The procedural documents in Applications referred to the Independent Review Body, including documents lodged by the parties and documents served by the Secretariat, shall be entered in the Register and maintained in separate files opened for each Application.
 - IV. Entries in the Register shall be made chronologically in the sequence in which the documents to be registered are lodged and they shall be numbered consecutively.
 - V. When an Application is registered, it shall be assigned a case reference number giving as serial number followed by a mention of the year. Applications shall be referred to by their case reference numbers and this number shall be used to identify all subsequent registrations pertaining to that Application.
 - VI. Procedural documents shall be registered as soon as they are lodged at the Secretariat. Documents drawn up by the Independent Review Body or by the Secretariat shall be registered on the day of issue.
 - VII. The entry in the register shall contain the information necessary for identifying the document and in particular it shall contain the date of registration, the reference number of the Application to which it refers, the nature of the document, and the date of the document.
 - VIII. The registration number of every document shall be noted on its first page. A note of the registration shall be stamped on the original of every document.

Forms

9. The Forms to be used in the review procedure include, but are not limited to the Forms annexed to this rules of procedures in the following Annexes:

Annex 1: Form-01 Application for Review to Independent Review Body

Annex 2: Form-02 Rejection of the Application for Review

Annex 3: Form-03 Notice to the Respondent

Annex 4: Form-04 Reply of the Respondent

Annex 5: Form-05 Confidentiality and Declaration of Interest

Annex 6: Form-06 Decision of the Independent Review Body

10. These Forms shall be supplemented or amended by the Secretariat as required. Any amendment or supplemental Forms shall be made available in the same manner as the original Forms annexed hereto.
11. Copies of all relevant Forms to be used under these provisions shall be available for collection at the office of the Secretariat and shall also be placed on the PPPD website. A copy of such Forms shall be sent to all interested parties upon request.

CHAPTER III – THE INDEPENDENT REVIEW BODY

Constitution of Independent review body

12. The purpose of the Independent Review Body is to provide a mechanism to ensure independent decisions in respect of Applications for Review brought by bidders for alleged breaches of the provisions of the PRR/SBDs/SRFP. To this end, the Ministry of Finance shall appoint an Independent Review Body comprising of appropriately qualified and impartial experts as members of the committee.
13. The Independent Review Body shall consist of seven (7) members to ensure sufficient choice and breadth of experience, which shall reflect the various fields and sectors of procurement specialization.
14. The Independent Review Body may invite membership of subject matter specialist as it may deem appropriate
15. The Independent Review Body shall be composed of seven members from following agencies besides the independent experts appointed by the Body who shall become the adhoc member for that particular sitting:
 - i. An officer of position of Director and above from the Ministry of Works and Human Settlement;
 - ii. An officer of position of Director and above from the Ministry of Economic Affairs;
 - iii. An officer of Position of Director and above from the Ministry of Finance;
 - iv. Chief Executive Officer of the Construction Development Board as established;
 - v. Secretary General or an equivalent senior officer of the Contractors' Association of Bhutan;
 - vi. Secretary General or an equivalent senior officer of the Bhutan Chamber of Commerce and Industry; and
 - vii. Attorney General or an equivalent or a senior officer of the Office of Attorney General

Functions of Independent Review Body

16. Following submission of an Application for Review for purpose of providing an Decision on the issues in the disputes, the Independent Review Body shall ensure:
 - i. No members have conflict of interest pertaining to issues to be discussed and refrain from participation in the specific meetings if any. The confidentiality and Declaration of interest form-05 annexed to this rules and procedures shall be signed in every meeting by each member.

- II. Conduct the review in accordance with the provisions of the *Procurement Rules and Regulations and procedures* of this manual.
 - III. Ensure at all times equality and fairness between the parties.
 - IV. Deliver the Decision of the Review using the prescribed Form of Decision in a timely fashion subject to article 57 of these rules within ten (10) days from the commencement of the review proceedings. The Decision of the Independent Review Body shall be confined to the issues raised in the Application for Review and Reply of the Respondent.
17. Unless the Independent Review Body dismisses the complaint as being frivolous in the disposal of appeal may take either any or in combination thereof of the following decisions, as deemed appropriate:
- I. make a declaration with regard to the legal rules or principles which apply to the subject matter of the proceedings;
 - II. annul in whole or in part any unlawful act or decision of the procuring agency, which may involve removal of any unlawful technical or other specifications;
 - III. prohibit the procuring agency from acting unlawfully, from making an unlawful decision or from following an unlawful procedure;
 - IV. order the termination of the procurement procedure;
18. Until a ruling is issued concerning the complaint, the Independent Review Body may also order the suspension of the procurement procedure on the merits of the claim where:
- I. the complainant demonstrates a prima facie case, such that it is more likely than not that he will succeed in his claim; and
 - II. the complainant is likely to suffer irreparable harm in the absence of a suspension; and
 - III. the grant of the suspension would not cause disproportionate harm to the public interest, the procuring agency or to other suppliers and contractors.
19. If the facts disclose a potential issue of corruption, the independent review body shall immediately refer the case to the Anti Corruption Commission
20. If the decision of the Independent Review Body is not acceptable then an appeal may be made to the Court. In such a case, any concession granted by the Review Body shall stand withdrawn.

Removal of committee members

21. The Committee members may be removed by the Chairman upon the decision of the Committee only in the following circumstances:

- I. death or ill-health;
- II. conduct unbecoming of the Committee members;
- III. breach by the member of the obligations contained in this manual;
- IV. In case of nominated members, completion of the period of nomination or withdrawal of the nomination. In case of appointed members completion of the period of appointment.

Chairman of the Independent Review Body

22. The Committee Chair shall be elected by the members of the Committee who shall be impartial and objective.
23. The Committee Chair shall direct the work of the Committee; shall represent the committee in all administrative matters and shall preside at all sessions of the Committee
24. The Committee Chair shall designate an acting Committee Chair in the event of his or her absence from office.

Tenure of Members

25. The Committee members shall serve for a term of three years, whose term shall commence from the date of their appointment. There shall not be any bar on re-nomination of a member on expiry of the term as a nominated member.

Independence of Experts

26. The Independent Review Body may invite subject matter specialist as it may deem appropriate
27. Every Expert appointed to the Independent Review Body must be and must remain independent of the parties to the dispute.
28. No Expert having a conflict of interest or a beneficial interest in the case under consideration shall sit as an Expert in that case.
29. The Expert member shall become adhoc member for that particular sitting.

CHAPTER IV – PROCEDURE FOR SUBMISSION OF THE APPLICATION FOR REVIEW

Submission of the Application for Review

30. Any bidder wishing to submit an Application for Review shall submit the application to the Independent Review Body through the Secretariat.
31. The Application shall be submitted within the following time limits:
- I. Within five (5) days of the decision of the Employer, or where no such decision has been taken, within fifteen (15) days of the original complaint period.
32. The Application shall be submitted with following:
- I. a completed Application for Review in prescribed Form-01, Annex 1;
 - II. copies of any documentary evidence relied upon in support of the claim set out in the application; and
 - III. Where the request is made by an agent of the bidder, an appropriate power of attorney.
 - IV. Registration Fee of Nu.5,000(five thousand) per application
33. Any Application for Review submitted by the Applicant shall contain information and submission on at least the following:
- I. details of the procurement proceedings to which the application relates;
 - II. details of the provisions of the PRR/SDBs/SRFP which is alleged to have been breached; and
 - III. an explanation of how the provision allegedly has been breached.

Receipt and Registration

34. The Secretariat shall immediately verify that the Application is in the prescribed Form and in conformity with the provisions of this rules and procedures. In particular, it shall verify that copies of any documentary evidence relied upon in support of the claim set out in the Application are attached and that where the Application is made by a representative of the Applicant, an appropriate power of attorney is attached.
35. Where the Secretariat is satisfied that the application is in conformity with the provisions of this rules and procedures, it shall record the receipt of the application in the Register of Applications for Review and assign it a case reference number.

36. The Secretariat shall reject any Application found not to be in the prescribed Form and in conformity with provisions of this rules and procedures and shall inform the Applicant of the rejection in the prescribed Form together with a statement of the reasons for rejection as soon as practicable.
37. An Application for Review found to be in order after scrutiny shall be admitted for review by the Independent Review Body.

Notification to the Respondent

38. Upon recording and registration of the application for review, the Secretariat shall immediately notify the Respondent against whom the Application for Review has been made. The notice shall be in prescribed Form (Form-03 in annexure) and shall include a complete copy of the Application.
39. Such notification shall ordinarily take place at the latest the day following the submission of the Application.

Reply of the Respondent

40. Within three (3) days of the receipt of the notification from the Secretariat, the Respondent shall submit to the Secretariat a written Reply in prescribed Form (Form-04) together with copies of any documentary evidence relied upon in support of the Reply.
41. Where the Respondent fails to submit a Reply within the specified time limit, the Independent Review Body shall, if it is satisfied that the Application for Review was duly served on the Respondent and the Respondent has failed to submit the Reply without good cause, have power to proceed with its deliberations on the basis of the evidence before it as if such proceedings had been conducted in the presence of all parties.
42. The failure to submit the Reply within the specified period shall not prevent the conduct of the procedure of the Independent Review Body and the Respondent will remain bound by any Decision of the Independent Review Body.

CHAPTER V– PROCEDURE FOR REVIEW

Start of Review Procedure

43. The Secretariat shall register the commencement of the review procedure in the Register of Applications for Review.
44. The Secretariat shall register all documents attached to the Application for Review and the Reply of the Respondent, assigning a sequential registration number to each document.
45. The Independent Review Body shall, taking into account the nature of the case, determine the time and place of its meetings and any hearing it intends to hold. In particular, determinations shall be made and communicated to the parties in respect of:
 - (a) additional evidence and witnesses to be called;
 - (b) the decision on whether or not to hold a hearing;
 - (c) the place, date and time of hearing, if any; and
 - (d) the manner of the procedure.
46. When no hearing is requested by the Applicant, the Independent Review Body may, if satisfied that it can reach a definitive opinion on the basis of the terms of reference and without hearing the parties, proceed with review of the documents on record for determination and issue its Decision in the absence of a hearing.
47. If a hearing is requested by the Applicant, or if the Independent Review Body determines to conduct a hearing even if no request for hearing is made by the Applicant, the Secretariat shall in accordance with the instructions issued by the Independent Review Body issue notice of hearing to both parties ensuring that all parties have been provided with copies of the Application and Reply. In determining the manner of procedure and time of the hearing, the Independent Review Body shall give sufficient consideration to preventing the delay of the proceedings.
48. The Independent Review Body shall take all decisions by a majority of the members present and, in the event of a tie, the Chairman shall have the deciding vote.
49. A minimum of three member quorum shall constitute the full Committee.

Representation

50. A party may appear in person or may be represented by such other person as shall be recognised by the Independent Review Body as suitable for the purposes of such representation.
51. The document authorizing the representation ("*power of attorney*") together with the details specified in form-01 and form-04 should be provided.

Hearing

52. The hearing shall take place in the manner provided for by the Independent Review Body.
53. If one of the parties, despite having received notice of the hearing, fails to appear, the Independent Review Body, if it is satisfied that the notice was received and the party is absent without good cause, shall proceed with the proceedings which shall be deemed to have been conducted in the presence of all parties.

Evidence

54. All relevant documentary evidence relied upon by the parties in support of their claims and replies shall be put before the Independent Review Body in the Forms form-01 and form-04.
55. Subsequent documentary evidence shall be admitted only where, in the opinion of the Independent Review Body, it is relevant and only with its consent.
56. The Independent Review Body may, at its discretion, request the submission of further documentary evidence from the parties or request the presence of other witnesses or expert witnesses.

Conclusion of the Proceedings

57. The Independent Review Body shall, when it is satisfied that all contentions and evidence of the parties have been submitted, but not later than ten (10) days conclude the proceedings.

CHAPTER VI – DECISION OF THE INDEPENDENT REVIEW BODY

Decision

58. The Independent Review Body shall deliver its Decision on the Application for Review within ten (10) days from the commencement of the review proceedings.
59. The Decision of the Independent Review Body shall be confined to the issues raised in the Application for Review and Reply of the Respondent.
60. The Decision shall be decided by a majority of the Independent Review Body and shall be formulated in accordance with prescribed Form (Form-06 in annexure).

CHAPTER VII: EFFECT OF DECISION

Finality

61. The decision of Independent Review Body shall be final and binding. If the decision of the Independent Review Body is not acceptable then an appeal may be made to the Court only on a question of law. In such a case, any concession granted by the Review Body shall stand withdrawn.

Dissemination of Decision

62. The Secretariat shall immediately notify the Respondent, the Applicant and such other public agency or persons as the Committee chair may determine.

Publicity of Decisions

63. The Secretariat shall produce a summary of each Decision which shall include the basic facts, reasoning and findings of the Independent Review Body.

64. The Secretariat shall publish such a summary on the website of the PPPD.

65. The Secretariat shall maintain copies of the full text of each Decision.

CHAPTER VIII: FINANCIAL MANAGEMENT FOR INDEPENDENT REVIEW BODY

Payments and Deposits

66. The amount of registration fee shall be determined by the Secretariat in Consultation with relevant agencies.

Expenditure and Budget

67. The expenditure towards meeting all the expenses of Independent Review Body and Secretariat of the Independent Review Body shall be met from the PPPD Budget and shall be governed by Financial Rules & Regulations of RGoB for applicable payment procedures.

Annexes

Annex 1: Form-01 Application for Review to Independent Review Body

Annex 2: Form-02 Rejection of the Application for Review

Annex 3: Form-03 Notice to the Respondent

Annex 4: Form-04 Reply of the Respondent

Annex 5: Form-05 Confidentiality and Declaration of Interest

Annex 6: Form-06 Decision of the Independent Review Body

FORM – 01: APPLICATION FOR REVIEW TO INDEPENDENT REVIEW BODY

| | | |
|----|--|---|
| 1. | Applicant (Person or Firm submitting the Application for Review) | |
| | (i) Name of the Applicant (ii) Passport/Citizenship ID # | : : |
| | (iii) Address of the Applicant | : Tel : Fax : Email : |
| | (iv) Name of authorized representative of the Applicant <i>(attach power of attorney)</i> | : Address: Tel : Fax : Email : |
| 2. | Respondent (Procuring Entity towards whom the Application is made) | |
| | (i) Name of the Respondent (ii) Passport/Citizenship ID # | : : |
| | (iii) Address of the Respondent | : Tel : Fax : Email : |
| | (iv) Name of authorized representative of the Respondent <i>(attach power of attorney)</i> | : Address : Tel : Fax : Email : |
| 3. | Details of Procurement Procedure | |
| | (i) Procurement Reference Number (ii) Brief description of Goods / Works / Services under procurement | : : |

| | | | |
|----|---|---|---|
| | (iii) Publication of the announcement for the procurement (date, media, etc.) | : | |
| | (iv) Bid / Proposal submission deadline date and time | : | |
| | (v) Bid / Proposal opening date and time | : | |
| 4. | The Basis of the Application | | |
| | (i) It is alleged that the Procuring Entity has breached the following provisions of the Procurement Rules and Regulations and/or Standard Bidding Documents/Standard Request for Proposals of Ministry of Finance and other related instruments: | | |
| | | | |
| | (ii) The violation came to our knowledge on (date): | | |
| | | | |
| | (iii) The essence of the allegation is: | | |
| | | | |
| 5. | Claim | | |
| | (i) This Application is a claim for | : | <input type="checkbox"/> annulment or modification of actions and/or decisions <input type="checkbox"/> re-tendering <input type="checkbox"/> Any other |
| | (ii) Request for Hearing (if any) | : | <input type="checkbox"/> The Applicant requests for a Hearing. Or <input type="checkbox"/> The Applicant considers that a |

| | | | |
|-------|--|---|--|
| | | | Hearing is not necessary. |
| | (iii) A complaint was made to the Respondent directly on (date) | : | |
| 6. | Evidence | | |
| | (i) This Claim is accompanied by: | : | <input type="checkbox"/> a copy of the procurement notice <input type="checkbox"/> a copy of the decision of the procuring entity dated _____ <input type="checkbox"/> other evidence (list below) |
| 7. | Statement of Adherence | | |
| | I/we hereby declare that the above information is true and accurate to the best of my/our knowledge and belief and that I/we accept the Manual of Procedure for Procurement Appeal and Review in its entirety and undertake to carry out the Decision of the Independent Review Body faithfully and without delay. | | |
| Date: | | (Signature of the Applicant or the Agent) <i>Please affix legal stamps</i> | |

FOR OFFICIAL USE ONLY:

1. Verification

Yes No

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Request received in correct form |
| <input type="checkbox"/> | <input type="checkbox"/> | Procurement Notice enclosed |
| <input type="checkbox"/> | <input type="checkbox"/> | Evidence enclosed |
| <input type="checkbox"/> | <input type="checkbox"/> | Power of attorney enclosed, where appropriate |

| | | |
|--------------|-------------|--|
| Verified by: | Signature : | |
| | Name : | |
| | Date : | |

2. Action

- Record receipt and assign case reference number
- If not compliance with the provisions of this rules, recommend for rejection
- Where verified:
 - Record receipt and assign case number
 - Admit for review and put up for review by Independent Review Body.
 - Issue Notice to the Respondent along with the Form for Reply of the Respondent.

| | | |
|------------------|-------------|--|
| Action taken by: | Signature : | |
| | Name : | |
| | Date : | |

FORM – 02: REJECTION OF APPLICATION FOR REVIEW

To

_____,
_____,
_____,
_____.

(the Applicant)

Subject: Rejection of the Application for Review

Please refer to the following Application for Review submitted by you:

Date of Submission :
Respondent (Procuring Entity) :
Procurement Reference Number :
Brief Description of Procurement :

Your Application is rejected due to following reasons:

Member Secretary
Independent Review Body

FORM – 03: NOTICE TO THE RESPONDENT

To

(the Respondent)

Case Reference Number :

Date of Issue :

Subject: Notice seeking Reply of the Respondent

Please find attached a copy of the verified Application for Review, submitted by the Applicant to the Independent Review Body in respect of the procurement indicated therein. The basis of the claim is also set out in the Application.

You are requested to complete and return the attached Form-05 within three (3) days of the date of issue.

(_____)
Member Secretary
Independent Review Body

FORM – 04: REPLY OF THE RESPONDENT

| | | |
|---|---|--|
| 1. | Respondent (Procuring Entity) | |
| | (i) Name of the Respondent | : |
| | (ii) Passport/Citizenship ID# | : |
| | (ii) Address of the Respondent | : |
| | | Tel : Fax : Email : |
| (iii) Name of authorized representative of the Respondent (attach power of attorney) | : | Address : Tel : Fax : Email : |
| 2. | Details of Procurement Procedure | |
| | (i) Procurement Reference Number | : |
| | (ii) Brief description of Goods / Works / Services under procurement | : |
| | (iii) Publication of the announcement for the procurement (date, media, etc.) | : |
| | (iv) Bid / Proposal submission deadline date and time | : |
| | (v) Bid / Proposal opening date and time | : |
| | (vi) Current stage of procurement | : |
| 3. | Application for Review pertaining to the procurement submitted to the Respondent, if any | |
| | (i) Was an Application for Review submitted by the Applicant (bidder) to the Respondent? | : |
| | (ii) If yes, give date of submission | : |
| | (iii) Was a decision taken by the Respondent and conveyed to the Applicant? | : |
| | | Yes / No. Yes / No. |

| | | | |
|----|--|---|---|
| | (iv) If yes, give date of decision | | |
| | (v) Provide summary of the decision on the Application for Review submitted to the Respondent. | | |
| 5. | Reply to the allegation in the Application for Review | | |
| | | | |
| .6 | Claim | | |
| | (i) This Reply is a claim for | : | <input type="checkbox"/> dismissal of the Application for Review <input type="checkbox"/> any other action (please specify) |
| | (ii) Request for Hearing (if any) | : | <input type="checkbox"/> The Respondent requests for a Hearing. Or <input type="checkbox"/> The Respondent considers that a Hearing is not necessary. |
| 7. | Evidence | | |
| | (i) This Claim is accompanied by (list documents submitted with the Reply of the Respondent): | : | |
| 8. | Statement of Adherence | | |
| | I/we hereby declare that the above information is true and accurate to the best of my/our knowledge and belief and that I/we accept the Procedure for Appeal and Review in its entirety and undertake to carry out the Decision of the Independent Review Body faithfully and without delay. | | |
| | | | |
| | Date: | (Signature of the Respondent or the Agent) <i>Affix Legal Stamps</i> | |
| | | | |

FOR OFFICIAL USE:

1. Verification

Yes No

- Reply received in prescribed form
- Reply received within prescribed time
- Evidence enclosed
- Power of attorney enclosed, where appropriate

| | | |
|--------------|-------------|--|
| Verified by: | Signature : | |
| | Name : | |
| | Date : | |

2. Action

- Record receipt and registration
- Verify reply and its attachments / documents
- Where verified:
 - Notify parties / applicants
 - Call for meeting of Independent Review Body

| | | |
|------------------|-------------|--|
| Action taken by: | Signature : | |
| | Name : | |
| | Date : | |

FORM – 05: CONFIDENTIALITY AND DECLARATION OF INTEREST

I, ----- (*name of the member of IRB*) hereby:

1. Declare that:

- i. I am and will be independent of the parties to this appeal for review;
- ii. I have no beneficial interest in this review

2. Undertake to carry out this review expeditiously, impartially and in good faith

3. Undertake to keep all information disclosed to me during the review proceedings whether written or oral private and confidential during and after the proceedings.

(Name & Signature)

Date:

FORM – 06: DECISION OF INDEPENDENT REVIEW BODY

Case Reference :
Number

This Independent Review Body consists of:

| | | |
|----|--|--------------|
| 1. | | Chairman |
| 2. | | Member |
| 3. | | Member |
| 4 | | Member |
| 5 | | Member |
| 6 | | Member |
| 7 | | Member |
| 8 | | Adhoc Member |

The parties and procurement under dispute are:

| | |
|-----------------------------------|--|
| Applicant: | |
| Respondent: | |
| Procurement Reference Number: | |
| Brief Description of Procurement: | |

Having duly conducted the review (*after hearing the evidence of all parties in an equal and fair manner and having concluded the proceedings*) and otherwise complied with the provisions of the Procurement Rules and Regulations and Procedure for Procurement Appeal and Review, the Independent Review Body hereby delivers the following Decision:

| |
|--|
| |
|--|

Date:

| | | |
|--------------------------|------------------------------|------------------------|
| 1. Signature of Chairman | 2. Signature of Member | 3. Signature of Member |
| 4. Signature of Member | 5. Signature of Member | 6. Signature of Member |
| 7. Signature of Member | 8. Signature of Adhoc Member | |