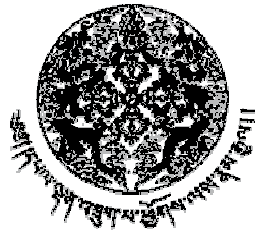


བོཾ་བསྐྱེད་གོང་འཕེལ་བཀོད་ཚོགས། འབས་ཉལ་ལྷན་ཁག། དཔལ་ལྷན་འབྲུག་གཞུང་།

ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF WORKS & HUMAN SETTLEMENT
CONSTRUCTION DEVELOPMENT BOARD
THIMPHU: BHUTAN

“Towards Quality Infrastructures”



Agenda for the 54th Meeting of Construction Development Board

Agenda for the 54th meeting of Construction Development Board

Date : 14th June 2010
Time : 10.30AM
Venue : MoW&HS Conference Hall

- Agenda 1: Adoption of agenda
- Agenda 2: Approval of the Minutes of the 53rd CDB Meeting
- Agenda 3: Follow up actions taken on the decisions of 53rd Board Meeting
- Agenda 4: Up-gradation Cases (endorsement)
- Agenda 5: Suspension of Construction Firms
- Agenda 6: Re-registration of deregistered Contractors
- Agenda 7: Registration of Non Bhutanese Construction Firms
- Agenda 8: Registration and Qualification of Bidders
- Agenda 9: Family members holding construction licenses
- Agenda 10: Any other points

Agenda 1: Adoption of Agenda

Agenda 2: Endorsement of the Minutes of the 53rd CDB Meeting

Agenda 3: Follow up Actions on decisions of the 52nd Board Meeting

a. Ownership transfer of M/s. Environment Friendly Construction (CDB# 1964) to M/s. Bhutan Real Estate Private Limited

The 53rd Meeting of the Board kindly approved in principle the conversion of sole proprietorship of the above firm into an Incorporated Company. The Board however instructed the Secretariat to check fulfillment of criteria and accordingly proceed with the registration of company.

The firm has fulfilled the requirement and upon according the kind approval of the Hon'ble Chairman CDB registration as incorporated company is issued.

b. Breach of Contract by M/s. Bhutan Builders & M/s. Mindu Tshering Construction: Khangkhu Middle Secondary School, at Paro

The 53rd Meeting of Board kindly noted:

- i) that the bidding documents wherein Mr. Mindu Tshering was made the Project Manger was submitted before the circular MoW&HS/CDB-2/kg/2005-06/245 dated 26th August 2005 was issued;
- ii) that withdrawal of Mindu from the project has taken unnecessarily long time and
- iii) that the Dzongkhag Administration has taken no action even after issuance of circular

Decided to issue a warning both letter to the construction firms. The board also agreed that stringent actions would be taken on the two firms if they were found involved in similar activities, henceforth.

Accordingly, the CDB Secretariat issued warning letters vide letter no. MoWHS/CDB-4/2009-10/512 dated February 4, 2010 to above firms, as directed by the Board.

Agenda 4: Up-gradation/ Down-gradation Cases

Up-gradation / down-gradation cases of the following firms were accorded approval by the Hon'ble Chairman since the 53rd meeting of the Board. Endorsement of board is sought for all the up-gradation approvals above class C - in line with the decisions of 52nd meeting of CDB and those of down-gradation, as well:

Sl. No	Construction Firm	Up-gradation of Class	Category of Works
1	M/s Rinzin Construction (2118)	Class C - B	(W3)
2	M/s Neten Construction(1708)	Class C - B	(W1 & W3)
3	M/s Rigsum Gonpa Construction (2581)	Class D - C	(W4)

4	M/s Indo Construction (3236)	Class D - C	(W3)
5	M/s KNP Construction (3895)	Class D - C	(W1 & W3) Direct Entry

Sl. No	Construction Firm	Downgraded	Category of Works	Remarks
1	M/s. Rimpong Construction (1501)	Class C - D	(W3)	Non-fulfillment of minimum criteria: - Engineer - Track Record
2	M/s. Tsherings Const. Works (1861)	Class C - D	(W1, W3 & W4)	Non-fulfillment of minimum criteria: - Engineer and as per firm request on 05/01/2010
3	M/s. Peagadly Construction (2203)	Class C - D	(W1 & W3)	Non-fulfillment of minimum criteria: - Engineer - Track Record - Equipments
4	M/s. Rabsell Construction (2235)	Class A - C Class A - B Class C - D	(W1) (W3) (W4)	Non-fulfillment of minimum criteria: - Track Record - Engineer
5	M/s. Bidung Yargay Construction (2347)	Class C - D	(W1 & W3)	Non-fulfillment of minimum criteria: - Track Record - Engineer
6	M/s. Dhendup Construction (2470)	Class A - C Class C - D	(W1 & W3) (W4)	Non-fulfillment of minimum criteria: - Track Record - Engineer
7	M/s. Druk Kunzang Construction (4060)	Class B - C	(W3)	Non-fulfillment of minimum criteria: - Submission of Completion report before completion of work.

Agenda 5: Suspension of Construction Firms

It is to apprise that based on ACC's findings, CDB has taken disciplinary action of the following construction firms:

1. M/s. Sophel Construction, CDB Registration No. 1790 (Class C) and M/s. Dorji Construction, CDB Registration No. 2507 (Class C)

The firms were reportedly involved in fronting/subletting during execution of six classroom and head teacher quarter at Tshangkha Lower Secondary School as per ACC letter no. ACC/ID/Case-18)/2010/181 dated 1st February 2010.

Upon according approval from the Hon'ble Chairman vide note sheet no. MoWHS/CDB-08/cdt/2009-2010/585 dated 2nd March 2010; the Secretariat suspended the above firms for a period of one year with effect from 16th March 2010 to 15th March 2011, based on CDB Manual 2007.

2. M/s. Kuenwang Engineering Works, CDB Registration No. 2937 (Class C) and M/s. Rongka Construction, CDB Registration No. 3321 (Class C)

The firms were reportedly involved in fronting/subletting during procuring of 64-bedded hostel and six classroom blocks at Dagana Higher School. As per ACC letter

no. ACC/ID/(Case-18)2009/2010/180 dated 1st February 2010, the following were the findings:

- The contract of 64 bedded hostel and six classroom block at Dagana Higher Secondary School was awarded to M/s. Kuenwang Engineering Works in January 2009. M/s. Kuenwang Engineering Works is a Class C contract firm owned by Namgay Dorji with CDB No. 2937.
- The contract was executed by M/s. Rongka Construction, a Class C contract firm owned by Dorji Phuntsho with CDB No. 3321.
- Namgay Dorji has issued the letter of authorization ONGJJS/KEW/08/40 dated 18th November 2008 authorizing Dorji Phuntsho to bid for the contract of 64 bedded hostels and six classroom blocks at Dagana Higher Secondary School in the name of M/s. Kuenwang Engineering Works.
- Based on the aforementioned letter of authorization, Dorji Phuntsho has independently completed all formalities required from the procurement process till the completion of the contract in the name of M/s. Kuenwang Engineering Works.

Therefore, upon according approval of the Hon'ble Chairman vide note sheet no. MoWHS/CDB-08/cdt/2009-2010/586 dated 2nd March 2010; the Secretariat has suspended M/s. Kuenwang Engineering Works for the period of two years with effect from 16th March 2010 to 15th March 2012 and M/s. Rongka Construction for an indefinite period.

3. M/s. N.T.C Construction, CDB Registration No. 1903 (Class C)

The firm was involved in misrepresentation of documents as per letter received from HQ IMTRAT, Haa. After further examination and confirmation by the Secretariat the firm has been suspended for a period of one year with effect from 16th March 2010 to 15th March 2011. Approval of the Hon'ble Chairman was accorded vide note sheet no. MoWHS/CDB-08/cdt/2009-2010/583 dated 10th March 2010.

4. M/s. Samphel Construction, CDB Registration No. 2880 (Class C)

The firm was involved in the submission of three forged work completion certificates, namely, FD/CIVIL/2008/02/295 dated 10th June 2008, Kh-12/2005-2006/ dated 15th November 2006 and KH-13/2005-2006/dated 10th May 2006 to procure the following works:

- Six unit classroom at Pangna Community Primary School, Drujeygang Gewog under Dagana Dzongkhag;
- RNR Office at Bumdeling Gewog under Trashiyangtse Dzongkhag; and
- Three unit classroom at Chakidemi Community Primary School under Trashiyangtse Dzongkhag.

As per ACC letter no. ACC/ID/Case-18 (2009)/371 dated 16th March 2010 the proprietor of the firm has accepted the commission of forgery offences under section 296 of the Penal Code of Bhutan 2004. The case is being forwarded to the court. Hence suspension for indefinite period is recommended.

5. **M/s. Rongka Construction – deregistered**

It is to apprise that M/s. Rongka Construction was suspended for an indefinite period for undertaking works in the name of M/s. Kuenwang Engineering Works. However, the Secretariat while further verifying his files, it was observed that he had submitted forged documents to the Secretariat and got his firm upgraded from Class D to C in May 2009. Although, CDB manual stipulates ‘**indefinite suspension**’ as the highest disciplinary action that can be taken, given his repeated offence the firm was deregistered from CDB data base altogether in consultation with the ACC. The proprietor will therefore not be allowed to join construction business in future.

6. **M/s. Global Builders (CDB#3471) and M/s. Tobden Construction (CDB#2233)**

The Secretariat vide letter No. ACC/ID/FS-04/10/475 dt. 8/4/10 was informed by the Commissioner, ACC that the construction of Wall for Dungsum Cement Project, Nganglam was carried out by Mr. Chencho Gyeltshen, Proprietor of M/s. Global Builders (Class D) from 26/10/09 to 9/2/2010. Mr. Chencho was authorized by M/s. Tobden Construction (Class C) to whom the work was awarded.

Records in CDB reveal that the ownership of M/s Tobden Construction is transferred to his step daughter Ms. Tshering Pelden on 19th March 2010. (*The proprietor of M/s. Global Builders – Mr. Chencho Gyeltshen is husband of Ms. Tshering Pelden*). It was also seen that the CDB registration of M/s Global Builders was cancelled on the 18th March 2010, on request by the proprietor. As per CDB norms, transfer of ownership is permissible within immediate family members.

Accordingly, taking into account that i) M/s Global Builders no longer existed to enable us to take action ii) ownership of M/s Tobden Construction was transferred in the name of new proprietor (Niece) iii) letter of authorization was issued within the same family, a warning letter was issued to M/s. Tobden Construction. In response to the warning letter issued on the 21st April 2010, the new Proprietor on the 22nd April 2010 informed that the lapse was due to ignorance of the rules.

However, on 27th April 2010, another letter was received from the Commissioner forwarding documents pertaining to procurement of Panbang Dungkhag Court Construction. Based on the documents forwarded, the Proprietor M/s. Tobden Construction had authorized Mr. Chencho Gyeltshen on 18th August 2009 for another work. As learnt from the Court, the work was awarded to M/s. Tobden Construction and the contractor was due to commence the work.

The Court was advised to cancel the work awarded to M/s. Tobden Construction. Whether or not to suspend the firm was kept decided considering the fact that i) the new proprietor was already issued warning and work cancelled ii) that the authorization was issued within same family iii) the two firms belonged to different classes and iv) that fronting in its strictest sense has not taken place. Based on the advice of the CDB, the works awarded was cancelled by the court. The contractor vide her letter of 17th May 2010 informed that actions taken on her new firm was too stringent and requested for a considered view.

Agenda 6: Re-registration of deregistered Contractors

Many a time, it is observed that the contractors who were once deregistered for various reasons re-apply for new CDB registration. In the absence of clear cut directives, CDB in the past re-issued CDB registration. However, of late the numbers of new applicants has increased considerably. The Secretariat therefore would like to propose that a contractor once deregistered should be barred from availing a new CDB registration. This is to discourage unhealthy practices in procurement of works and to extend our services to serious individuals only.

Agenda 7: Registration of non Bhutanese Construction firms

With the increase in number of Mega Projects in 10th Five Year Plan, it is noticed that there is a sharp rise in the number of foreign construction firms participating in the procurement of works. As of now, the CDB has not been able to register foreign construction firms due to lack of a clear policy decision.

The Secretariat feels further discussion and a directive is required in this regard.

Agenda 8: Registration and Qualification of Bidders

Is to submit that as per Procurement Rules and Regulations 2009: **'2.1.4 Exclusion of Bidders'** state that a bidder shall be excluded from participating in a procurement procedure under the following circumstances:

- a. He is insolvent or is in receivership or is a bankrupt or is in the process of being wound up; or have entered into an arrangement with creditors; or*
- b. His affairs are being administered by a court, judicial officer or by an appointed liquidator; or*
- c. He has suspended business; or is in any analogous situation arising from similar procedures under the laws and regulations of the country of establishment; or*
- d. He has been found guilty of professional misconduct by a recognized tribunal or professional body; or*
- e. He has not fulfilled obligations with regard to the payment of taxes, social security or other payments due in accordance with the laws of the country in which he is established or of the Kingdom of Bhutan; or*
- f. He is debarred from participation in public procurements by any competent authority as per law.*

For example, the recent case has been M/s. K. Gangri Construction, CDB Registration No. 2724 (Class B) with Samdrup Jongkhar Dzongkhag Administration where the verdict was passed by the Court on 3rd May 2010 in connection with the construction of Gelongkhar-Minjuwoong farm road construction in Jomotshangkha Dungkhag. The Court ordered M/s. K. Gangri Construction to pay a fine of Nu. 559,000 for breach of contract terms.

M/s. K. Gangri Construction had issued Samdrup Jongkhar Dzongkhag administration last December for termination of its contract. The construction firm was awarded the two-year farm road project in February 2007. Out of 13.7 km stretch, only 3.7 km was construction. The contract was terminated last year because of delay in implementation of the work.

Similarly, the construction industry has seen a number of firms that the Court has convicted in the past. CDB registration were canceled only where the court verdict specified so or otherwise suspended where the board so decided for certain period. In light of above, it is submitted that the Board kindly deliberate and direct the Secretariat as how to deal such cases in future.

Agenda 9: Family members holding different construction licenses

This issue of whether different family members in the same house/census could each have a CDB registration was discussed in the past. The Board's decision then was a unanimous one and which is of fundamental right of every citizen to own a license if he/she desired.

However, this system of issuing license, based on individual rights, has not had the desired impact of the growth of industry.

Agenda 10: Any other points