



Construction Grievance Redressal Guideline 2020

Construction Development Board
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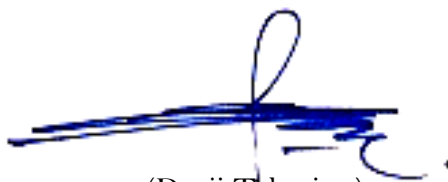
FOREWORD

Construction Development Board (CDB) as a central agency mandated for regulation and development of construction industry recognizes the importance to institute a mechanism to resolve issues and grievances not redressed by Procurement Rules and Regulations and other legal instruments.

The Construction Grievance Redressal Guideline 2020 will institute a formal mechanism with streamlined procedure to redress grievances amongst others misuse of CDB database, failure by construction firms to relieve their human resource, misuse of human resource documents by construction/consultancy firms and non-compliance to guidelines, circular and notifications issued by CDB for regulation or promotion of construction industry.

In pursuit of the above, Construction Development Board hereby adopts Construction Grievance Redressal Guideline 2020 on 9th July 2020.

Tashi Delek!



(Dorji Tshering)
Hon'ble Zhabtog Lyonpo
Chairperson, CDB

BACKGROUND

Construction industry contributes more than 16% to the Gross Domestic Product with various sectors playing significant role in gearing towards economic development.

The industry sees numerous transactions and interaction of people, economies and nations which often results into discrepancies. Referring the Annual Report (2018-2019) of CDB, the employment of Bhutanese indicated is still at a low 4.5% and 150 large and medium class contractors out of 514 were imposed sanctions. Further the report mentions 64.8% of 330 projects having time overrun and 53.33% with cost overrun. Nevertheless, as of 25th March 2020, Nu. 674.8 million was recovered from total Nu. 1007.1 million audit observations from the contractors.

With numerous agencies involved at various levels in the industry, the effort to achieve professionalism has always remained a challenge and with cropping up of numerous ethical issues, regulation of contractors and construction professionals is a stumbling block for any regulating agency.

Further, CDB has come across numerous cases of non-payment of wages forwarded by Ministry of Labour and Human Resources, probable forgery and tempering of documents, misuse of academic transcripts and documents of engineers of construction/consultancy firms, non-payment by contractor to sub-contractor, negligence by engineers of procuring agencies in uploading data in CDB database, misuse of CDB database, non-compliance to circular and notifications issued for regulation or promotion of construction industry etc. which require a standard procedure or a formal mechanism with proper terms of reference for resolving such issues hereafter.

In pursuant to section 2.3.1 & 6.3.5 of Procurement Rules and Regulation 2019 and clause 1.5.6.2, 1.5.6.3 & 1.5.6.6 of CDB Manual 2007, Construction Development Board hereby formulates the Construction Grievance Redressal Guideline 2020 as follows:

1. Definitions

1.1. 'Relevant stakeholder' shall mean and include:

- 1.1.1. Contractor, consultant or construction professional;
- 1.1.2. Procuring agency or CDB; or
- 1.1.3. Any person aggrieved by acts in due course of execution of procurement activities including compliance monitoring.

1.2. 'Misuse of data' shall mean:

- 1.2.1. Misuse of data available in e –Tool, Ci-Net and Contractor Registration and Performance system by those individuals or officials who has access to these data as determined by the members of forum constituted under clause 3 of this Guideline; or

- 1.2.2. Intentional wrongly interpretation of the data published by CDB.

1.3. 'Expert' shall mean individual who has subject matter knowledge and experience in technology, law or policy any other aspects relevant to the matter in issue.

1.4. 'Concerned authorities' shall mean government authorities, agencies or institutions mandated by law, executive order

any other legal instrument to enforce the substantive matter of the decision of members of the Forum.

1.5. 'Certain period' shall mean a period of time decided by the members of the Forum based on severity of each grievance but not more than 12 months.

1.6. 'Published' shall mean making known to the third person or an unauthorized person.

2. Objective

This Guideline aims to:

- 2.1. Constitute a 'Construction Grievance Redressal Forum' by relevant officials of CDB Secretariat;
- 2.2. Institutionalize a standard procedure or a formal mechanism to redress grievances in construction industry not mentioned as mandate of any agency by law;
- 2.3. Facilitate forwarding the disputes to relevant institutions after preliminary inquiry; and
- 2.4. Act as Appellate body for grievances resulting from services rendered by the Secretariat.

3. Composition of Construction Grievance Redressal Forum

- 3.1. The forum shall comprise of the following:
 - 3.1.1 Chairperson (Director of Construction Development Board);
 - 3.1.2 Member (Head, Construction Regulatory Division, CDB);
 - 3.1.3 Member (Head, Construction Service Division, CDB);
 - 3.1.4 Member (Head, Human Resource Services, CDB); and
 - 3.1.5 Forum Secretary (Legal Officer, CDB);

- 3.2 Forum at all times shall compose of not less than 2/3rd Majority to decide any issue; and
- 3.3 Presence of the chairperson is necessary to convene meetings of the forum.

4. Functions and Powers

The forum shall:

- 4.1 Facilitate redressal of grievances of non-payment of wages in construction industry.
- 4.2 Resolve issues of contractors or consultants failing to release construction professionals from their profile despite repeated request by the concerned construction professional.
- 4.3 Resolve issues of misuse of data available in CDB database.
- 4.4 Redress non-compliance to guidelines, circulars, notifications and other legal instruments approved by CDB.
- 4.5 Facilitate resolution of issues in construction industry which are not mentioned as mandates of any relevant institution.
- 4.6 Facilitate preliminary inquiry of issues of document tempering or forgery in construction industry.
- 4.7 Facilitate proper inquiry and forwarding of disputes to relevant institutions mandated by relevant law.
- 4.8 Declare conflict of interest and refrain from participating in case of any interest.
- 4.9 Provide the due opportunity of being heard to all concerned as far as practicable.
- 4.10 Decide based on evidences produced before the forum.
- 4.11 Allow any aggrieved party to appeal before court of law on the decisions issued by the forum.
- 4.12 Issue recommendations to relevant institutions to prevent future occurrence of such issues.
- 4.13 Facilitation, resolution and forwarding of disputes shall be in compliance to Construction Grievance Redressal Guideline approved by the chairperson of CDB.

5. Duties of relevant stakeholders

- 5.1 A construction professional or sub-contractor shall report the grievances of non-payment of wages by contractor or consultants upon reasonable efforts.
- 5.2 A construction professional shall report the grievances of contractors or consultants failing to release construction professionals from their profile despite repeated request by the concerned construction professional.
- 5.3 Procuring agency or official of CDB shall report the grievances of misuse of data available in CDB database by any concerned having access to the data.
- 5.4 Procuring agency, official of CDB or any other third party impacted by the guidelines, circulars, notifications and other legal instruments issued by CDB shall report the non-compliance to these legal instruments.
- 5.5 Reporting of grievances shall be in accordance to clause 7 of this guideline.

6. Appointment of member and expert

- 6.1 The chairperson and permanent members including forum secretary shall be appointed with written order from the chairperson of CDB.
- 6.2 The Forum shall function from the date of appointment mentioned in the office order issued under seal and sign of the chairperson of CDB.
- 6.3 The chairperson of the forum reserves right to appoint expert (s) to the forum based on the complexity of grievances received.

7. Procedure

7.1 Reporting of grievances

- 7.1.1 Grievances mentioned in clause 4 and 5 of this guideline shall be reported in writing to the forum secretary appointed under clause 6 of this guideline within 30 days of occurrence of the grievances; or

- ## 7.2 Meetings of the forum

- ### 7.3 Appointment of expert of the forum

- 7.1.8 The chairperson of the forum shall appoint expert or experts based on the complexity of the grievance within 7 days after first meeting of the forum.
- 7.1.9 The expert appointed shall provide his/her statement in writing and participate if required in second meeting of forum to clarify his/her statement if required.
- 7.1.10 The clarification and responses mentioned in clause 7.2.2 and 7.2.3 and statement of expert if any, shall be deliberated in second meeting of the forum.

- 7.1.11 The statement of expert is not binding on the forum but shall be subject to deliberation during forum meeting.

7.4 Decision of the forum

- 7.1.12 The forum shall decide a grievance based on evidences gathered in clause 7.2 and 7.3 of this Guideline and referring clause 3.2 of this Guideline.
- 7.1.13 The forum shall issue a written reasoned decision signed by all the members present with copy to all concerned parties, concerned official of CDB, other agencies or any other for effective enforcement of the decision.
- 7.1.14 The dissenting opinion of member (s) of a forum if any shall be recorded in writing.
- 7.1.15 The forum shall impose administrative sanctions provided in clause 10 of this Guideline.

7.5 Appeal against decision of the forum

- 7.1.16 The person aggrieved by the decision of the forum may appeal to court of law within 10 days from the date of the decision.

8. Enforcement of the decision

- 8.1 Concerned authorities, firms or individual shall enforce the decision of the forum within a reasonable time with a written report of enforcement to the chairperson of the forum.

9. Confidentiality

- 9.1 Withstanding clause 7.3, 7.4 and 8 of this guideline, the Members and other officials having access to the information of grievances mentioned in clause 4 and 5 of this guideline:
- 9.1.1 Shall maintain confidentiality of the matters and be personally responsible if the

confidential information is published negligently or intentionally and thereafter causes damages; and

- 9.1.2 May not be responsible if confidential information are published despite reasonable efforts to prevent it.

10. Administrative sanctions

- 10.1 Reprimand and instruct the firm to relief a construction professional within 1 month's from the date of reprimand letter if the firm fails to relief him/her despite written request.
- 10.2 A construction professional shall be removed by CDB from the profile of a firm upon failure to relieve him/her within one month's reprimanded period.
- 10.3 Reprimand and remind the firm to pay the agreed amount to sub-contractor registered with CDB or construction professional within reasonable time from the date of receipt of complaint.
- 10.4 Reprimand officials or individuals having access to CDB database for misuse of the data available in this system.
- 10.5 Suspend the construction/consultancy firms for certain period for repeated misuse of the data available in CDB database by the official working in that firm.
- 10.6 Reprimand all concerned for not complying for the first time with the guidelines, circulars, notifications and other legal instruments issued and published by CDB.
- 10.7 Firms not complying repeatedly with the guidelines, circulars, notifications and other legal instruments issued and published by CDB shall be suspended for a certain period.
- 10.8 Construction professionals not complying repeatedly with the guidelines, circulars, notifications and other legal instruments issued and published by CDB shall be de-registered.

- 10.9 If the sanctions are provided in other legal instrument, the committee must apply that sanctions as far as the application do not breach jurisdiction of other institutions.
- 10.10 If sanctions are not provided in other legal instruments, clause 10.1 to 10.8 shall apply.

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