Decision of the Independent Review Body (IRB)

Description of Procurement: Construction of Fuel Retail Outlet and its associated facilities at Hurungpam, Mongar

Case reference number: IRB (2026-27)-03

IRB Members Present in the meeting:

1	Ms. Karma Yedon, Offtg. Director, DPP	Chairperson
2	Mr. Sonam Penjor, Director, DoMCIIP, MoICE	Member
3	Mr. Sonam Wangchuk, ED, CAB	Member

The parties and the Procurement under dispute are:

Applicant	Mr. Dhan Bdr Tiwari M/S D&B Construction Thimphu
Respondent	State Trading Corporation of Bhutan Limited Thimphu

Background & discussion in brief:

The IRB Secretariat has received the Application for review on 16 October 2026 alleging the tender decision dated 12 October 2026 (Letter of intent) for Construction of Fuel Retail Outlet and its associated facilities at Hurungpam, Mongar 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 2025. Thus the grievance was processed and submitted for proceedings. The IRB met on 27 October

2026 to review the grievance that had been lodged against STCBL in presence of the required quorum.

Claims as claimed by M/s D&B Construction:

M/s D & B Construction respectfully submits this grievance concerning the decision of the State Trading Corporation of Bhutan Limited (STCBL) to issue the Letter of Intent (LOI) to the H2 bidder for the tender titled "Construction of Fuel Retail Outlet and Its Associated Facilities at Hurungpam, Mongar," under Tender ID No. 27052 and Invitation Reference No. STCBL/MON-FRO/HRAD/2026/ 1487. As per the clarification provided by STCBL, our firm, M/s D & B Construction, was initially evaluated as the H1 bidder. However, following deliberations of the Board-Level Tender Committee, the contract was awarded to the H2 bidder, citing a financial difference of Nu. 1,243,529.05, considerations of cost-effectiveness and the company's financial interests, and the higher technical score of 99/100 obtained by H2.

We respectfully submit that the reasons provided require further examination to establish whether the final award decision was made strictly in accordance with the evaluation methodology, criteria, and procedures prescribed in the bidding documents and the Procurement Rules and Regulations 2025 (PRR 2025). In particular, we seek clarification on whether the tender documents expressly permitted the Tender Committee to depart from the initial H1 ranking on the grounds stated in its response, and whether the final award decision was supported by the prescribed evaluation criteria and a properly documented assessment. We further request examination of the evaluation and award process in light of Clause 204 of PRR 2025, concerning the responsibilities of the Tender Committee to review and approve the evaluation report and ensure the propriety and regularity of procurement procedures.

Our grievance is not based merely on the fact that another bidder was selected. Rather, it concerns whether the prescribed evaluation methodology was consistently applied and whether the decision to award the contract to H2 was justified in accordance with the applicable procurement framework.

We therefore request an independent and impartial review of the procurement proceedings and the reasons recorded for selecting H2 over H1.

The essence of this grievance is that M/s D & B Construction was initially ranked H1 in the evaluation of the above-mentioned tender, but STCBL subsequently decided to award the contract to the H2 bidder. In its written clarification, STCBL stated that the decision was based on a financial difference between Nu. 1,243,529.05, considerations of cost-effectiveness and the company's financial interests, and the H2 bidder's technical score of 99/100.

While we respect the authority of the Tender Committee to exercise its responsibilities under PRR 2025, we respectfully request verification that these considerations were consistent with the evaluation methodology and award criteria expressly stipulated in the bidding documents.
We request the competent review authority to examine the following matters:

1. *Whether M/s D & B Construction satisfied the mandatory technical, qualification, and responsiveness requirements of the tender.*
2. *Whether the tender documents permitted the use of the technical and financial evaluation methodology relied upon to select H2 over H1.*
3. *Whether the technical scores awarded to both bidders were calculated and applied in accordance with the prescribed criteria.*
4. *Whether the financial difference of Nu. 1,243,529.05 constituted a permissible and adequately documented basis for the award decision under the applicable procurement rules and bidding documents.*
5. *Whether the Tender Committee's deliberations and final decision were properly documented, with sufficient justification for departing from the initial H1 ranking.*
6. *Whether the decision complied with the applicable provisions of PRR 2025 and the prescribed procurement procedures.*

Accordingly, we respectfully request an independent review of the evaluation report, the Tender Committee's recorded deliberations and decision, and the basis for issuing the LOI to H2. If the review establishes that the award decision was inconsistent with the applicable procurement rules or bidding documents, we request that the competent authority grant appropriate corrective relief in accordance with the applicable procedures. We submit this grievance in good faith in the interest of fairness, transparency, accountability, and the proper application of public procurement rules.

Response as responded by STCBL

Yes, M/s D & B Construction, satisfied all the mandatory technical qualifications as per the requirement of the tender.

No, there are no clauses on the Bidding documents which permit the select H2 over H1, solely based on the financial differences.

The technical scores awarded to both bidders were calculated and applied in accordance with the prescribed criteria.

The decision was from the Board Level Tender Committee, just on the basis of financial differences and higher technical scores of the H2 bidder and good past performance.

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Significant Financial Difference: The financial difference between the H1 and H2 bidders amounts to Nu. 1,243,529.05/-. The Committee considered this difference significant from the perspective of the Company's financial interests and overall cost-effectiveness. The financial implications were carefully considered to ensure prudent utilization of the Company's resources and better value for money.

Past Experience and Performance: The Committee considered the H2 bidder's previous experience in executing similar projects, including its demonstrated capacity to undertake and complete works of a comparable nature.

Strong Technical Evaluation: The H2 bidder obtained a high technical score, that is 99/100, reflecting its technical competence and capacity to meet the project requirements, as assessed under the applicable evaluation criteria.

Timely Completion of Previous Projects: The Committee also considered the H2 bidder's record of timely delivery and completion of previous projects, which provides an important basis for assessing its ability to execute the proposed work within the stipulated contractual period. The above considerations were deliberated upon with due regard to the Company's financial interests, implementation requirements, and the need to achieve value for money.

The Committee's decision is guided by Chapter 9, Clause 204, of the Procurement Rules and Regulations (PRR) 2025, particularly the following provisions:

Clause 204(4): Mandates the Tender Committee to review and approve the Tender Evaluation Report and satisfy itself that the evaluation has been carried out in a timely manner and with due regard to the propriety and regularity of the procedures. Clause 204(8): Empowers the Tender Committee to review and approve procurement activities at any stage of the procurement cycle in accordance with the procedures and methods specified under the PRR 2025. Clause 204(10): Requires the Committee's decision to be recorded in writing and based on a majority decision, with any minority decision maintained on record. Clause 204(13): Recognizes the Tender Committee as the competent authority to make procurement decisions beyond the provisions of the PRR 2025, provided due diligence is exercised and the decision is based on sound judgment. Such decisions must be duly justified and aligned with integrity, transparency, fairness, best value for money, national interest, accountability, and procurement objectives.

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:

1. The IRB notes that STCBL acknowledged that M/s D&B Construction satisfied the mandatory technical requirements and that the bidding documents did not provide for selecting H2 over H1 solely on the basis of financial difference. STCBL further stated that the decision was based on H2's higher technical score, past performance, and financial considerations.

   Rule 92 of the PRR 2025 requires evaluation to be conducted strictly in accordance with the criteria prescribed in the bidding documents and prohibits the introduction of unprescribed methods or factors. ITB Clause 28(1) further requires evaluation through the e-Tool system in accordance with the Evaluation Guidelines for Procurement of Works (Above Nu. 5 Million) 2025.

   The IRB notes that the evaluation was required to be conducted in accordance with the evaluation criteria and parameters prescribed in the bidding documents. If additional criteria or considerations were considered necessary to address financial implications, technical performance, or other project-specific concerns, these should have been incorporated into the bidding documents at the tender preparation stage and communicated to all prospective bidders, rather than introduced or relied upon during evaluation or award.

2. The IRB acknowledges that STCBL's intention in selecting H2 was to safeguard the financial interests of the Corporation and promote value for money. While financial implications are an important consideration in public procurement, they cannot, on their own, justify departing from the prescribed evaluation criteria or the established evaluation outcome. Where concerns arise regarding affordability or financial viability, the Procuring Agency must address them through the applicable provisions and procedures provided under the bidding documents and procurement rules, including any applicable negotiation or alternative procurement arrangements, where permissible.

3. The IRB acknowledges that STCBL's intention in selecting H2 was to safeguard the best interests of the project, taking into consideration the financial difference, higher technical score, and past performance. While these considerations may have been intended to promote value for money and effective project implementation, the relevant evaluation criteria and methodology were required to be established in the bidding documents prior to evaluation. The IRB finds that, notwithstanding the intended objective, the decision to select H2 based on considerations not demonstrated to be part of the prescribed evaluation criteria failed to align with the broader objectives of Rule 204 of the PRR 2025, including fairness, transparency, accountability, and compliance with established procurement procedures. Therefore, the objective of serving the project's best interests cannot justify departing from the prescribed evaluation criteria and methodology.

4. Having considered the application for review and the response submitted by STCBL, the IRB hereby decides that the application for review submitted by M/s D&B Construction is upheld. Accordingly, STCBL's decision to select H2 is set aside, and the matter is referred back to STCBL for review.

5. Pursuant 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, 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. Sonam Penjor, Member	**Mr. Sonam Wangchuk, Member**
Mrs. Karma Yedon, Chairperson	

Dated: 28 October 2026