



Independent Review Panel

Decision No.15/26

In the matter of:

Resiglas Co. Ltd

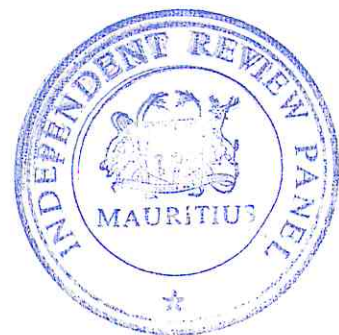
(Applicant)

v/s

Central Electricity Board

(Respondent)

(Cause No. 24/26/IRP)



Decision

A. History of the case

On 10 December 2025, the Respondent (Central Electricity Board) invited for bids through open advertised bidding method on the Government e-Procurement System for the Procurement of Meter Box for Direct Connect Single and three Phase meters Eproc Ref: OAB-TD-2025-9613 (ITB 10310)-CEB/IFB/2025/10310.

The closing date for submission of bids was scheduled for 2 February 2026.

Three (3) bids were received. The Applicant (Resiglas Co. Ltd) was one of the bidders.

B. Evaluation

A Bid Evaluation Committee (BEC) was set up to evaluate the bids received and to identify the lowest evaluated substantially responsive bid.

C. Notification of Award

On 23 June 2026, the Respondent informed the Applicant that an evaluation of the bids received had been carried out and that its bid had not been retained for award. Particulars of the successful bidder are as given below:

Description	Name & Address of Selected Bidder	Total Price Excl. VAT (MUR)
Procurement of Meter Box for Direct Connect Single and Three Phase Smart Meters	J. Annauth Construction Ltd Royal Road Eau Coulee Curepipe	36,700,000.00

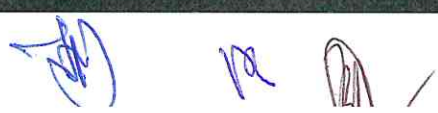
D. Challenge

On 24 June 2026, the Applicant challenged the procurement proceedings under Regulation 48 of the Public Procurement Regulations 2008 on the following grounds: -

- (a) *The tender was structured exclusively for locally manufactured goods, and a bid for imported goods is non-responsive and non-compliant;*
- (b) *RCL is entitled to a mandatory 30% Margin of Preference as a non-SME local manufacturer, which, if applied, renders our bid the lowest evaluated bid; and*
- (c) *J Annauth does not meet the mandatory qualification requirements for a manufacturer of meter boxes, including ISO 9001:2015 certification, five (5) years' manufacturing experience, and the Guaranteed Particulars.*

E. Reply to Challenge

On 25 June 2026, the Respondent, in reply to the challenge of the Applicant, stated that:



1. Pursuant to Directives Nos. 49 and 58A (Section 7(b) of the Public Procurement Act 2006), issued by the Procurement Policy Office, "locally manufactured goods" are defined as goods which are mined, grown, cultivated, produced, manufactured, processed or assembled in Mauritius, with at least 25% local inputs, and which comply with Price Schedule E1. The selected bidder for award satisfies the criteria for locally manufactured goods.
2. Please note that Resiglas Co Ltd has neither applied for the Margin of Preference nor submitted the required breakdown of the Cost Structure for Local Value Calculation per product. Accordingly, Resiglas Co Ltd is not eligible for Margin of Preference.
3. We wish to inform you that the procurement process was conducted in accordance with the provisions of the Bidding Document and applicable laws and regulations. The selected bidder for award satisfies the requirements of the bidding document.

F. Grounds for Review

On 01 July 2026, the Applicant seized the Independent Review Panel for review on the following grounds:

Ground 1: The tender was structured exclusively for locally manufactured goods, and a bid for imported goods is non-responsive and non-compliant;

Ground 2: RCL is entitled to a mandatory 30% Margin of Preference as a non-SME local manufacturer, which, if applied, renders our bid the lowest evaluated bid; and

Ground 3: J Annauth does not meet the mandatory qualification requirements for a manufacturer of meter boxes, including ISO 9001:2015 certification, five (5) years' manufacturing experience, and the Guaranteed Particulars.

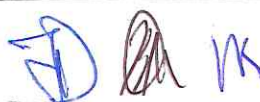
G. The Hearing

The Hearing was held on 22 July 2026. There is on record a Statement of Case filed by the Applicant and a Statement of Defence filed by the Respondent.

Both the Applicant and the Respondent were represented by counsel. Messrs S. Dabee and A. Kim Currun appeared for the Applicant, instructed by Mr Koenig, Senior Attorney, who was represented on the day by Mr Chang Kai, Attorney. Mr Z.H. Rajani acted for the Respondent.

Mr S. Pougnet, Operations Director, deposed as witness for the Applicant, whilst Mr B. Radha, Ag. Manager, deposed as witness for the Respondent. Mr Radha had also served as Chairperson of the Bid Evaluation Committee ("BEC") for this procurement exercise. The witnesses were tendered for cross-examination.

The parties and J. Annauth Construction Ltd ("J. Annauth"), the successful bidder, thereafter provided written submissions.



H. Findings

Ground 1: The tender was structured exclusively for locally manufactured goods, and a bid for imported goods is non-responsive and non-compliant

Under Ground 1, the central issue is whether the bid submitted by J. Annauth under Price Schedule E1 complied with the mandatory requirement that the goods offered qualify as locally manufactured goods.

(i) The Goods required under the Bidding Documents

The procurement concerned the supply of 40,000 meter boxes for direct-connect single-phase and three-phase smart meters.

The Bidding Documents described the meter box as comprising a moulded base or box and a sliding cover or door. The bidder had to provide cable glands, an earth-connection terminal and the fittings required for the installation of the completed box, including five stainless-steel bolts, which were to be delivered separately. The completed box was further required to bear the prescribed identifying marks, including the Respondent's logo, the contract and lot references, the manufacturer's name, the serial number, the product name and the Respondent's material code.

(ii) Meaning of 'Locally Manufactured Goods'

It is not disputed that Price Schedule E1 applied exclusively to locally manufactured goods.

Directives Nos. 49 and 58A, issued by the PPO pursuant to section 7(b) of the Public Procurement Act 2006 ("the Act"), define locally manufactured goods as follows: *"'Locally Manufactured Goods' means goods which are mined, grown, cultivated, produced, manufactured, processed or assembled in Mauritius with at least 25 percent of local inputs."*

The Directives also prescribe the methodology for determining whether the minimum threshold of 25 per cent local inputs has been met. They provide for the use of a Cost Structure for Value Added Calculation per Product template ("the Cost Structure template"), in which the bidder must set out the imported inputs and the allowable local costs forming part of the ex-factory cost of the finished product. The percentage of local inputs is calculated by deducting the cost of imported inputs from the ex-factory cost and expressing the resulting amount as a percentage of the ex-factory cost. The completed Cost Structure template must be certified by a certified accountant.

The Directives further prescribe rules governing the costs which may be included in the calculation and the manner in which those costs are to be valued ("the rules"). Imported materials are to be valued at their c.i.f. value accepted by the Customs authorities on clearance for home consumption or temporary admission at the time of the last relevant importation into Mauritius. Where the imported materials were not imported by the manufacturer, the applicable value is their delivery cost at the factory, excluding customs duties and charges of equivalent effect.

Local materials are valued at their delivery price at the factory. Direct labour, direct factory expenses and factory overheads may be included only to the extent that they are attributable to the production, manufacture, processing or assembly of the goods. Administration expenses, selling expenses, distribution expenses incurred after the goods have left the factory, and finance charges relating to working capital must be excluded.

The Cost Structure template and the rules were expressly incorporated into the Bidding Documents. It was accordingly common ground that they constituted the prescribed methodology for determining whether goods offered under Price Schedule E1 qualified as locally manufactured goods.

(iii) The parties' respective cases under Ground 1

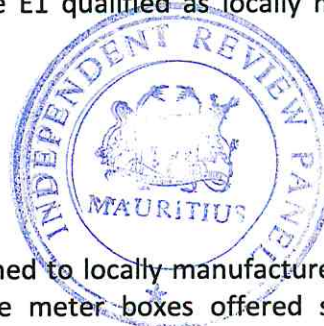
The Applicant's case was that the procurement was confined to locally manufactured goods and that the successful bidder had not established that the meter boxes offered satisfied that requirement.

The Applicant relied in particular upon the nature of the finished product and the limited work which, on its case, remained to be performed after the principal components had been imported. During the hearing, its representative demonstrated the fitting together of the principal parts of a meter box, namely the box, the sliding door and the fittings, all of which, under J. Annauth's proposal, were to be manufactured in China. The Applicant submitted that the exercise was brief and straightforward and that the local assembly relied upon by the successful bidder could not reasonably account for at least 25 per cent of the ex-factory cost of the finished meter box.

The Applicant contrasted that process with its own method of production. Its representative explained that the Applicant imported raw materials, produced the moulding compound locally, moulded the base and cover under heat and pressure, and thereafter carried out the finishing, fitting and testing of the completed enclosure. The Applicant relied upon that evidence to illustrate the distinction between manufacturing the principal components locally and importing those components for subsequent assembly.

The Applicant further contended that the Respondent had not established the prescribed value of the imported inputs. It submitted that the relevant methodology required an ascertainable c.i.f. value accepted by the Customs authorities, or the alternative valuation permitted by the rules, and that no sufficient basis for the imported-input value had been identified.

It was also the Applicant's case that the Respondent could not simply rely upon the fact that the Cost Structure had been certified by an accountant. The BEC was required to examine the underlying breakdown and satisfy itself that the claimed costs were genuine, properly quantified and allowable under the Bidding Documents. The Applicant relied upon ***RSL Security Services Ltd v Ministry of Agro-Industry, Food Security, Blue Economy and Fisheries, Decision No. 10/26***, in support of the proposition that a public body must scrutinise a cost breakdown rather than accept it at face value.



The Respondent's case was that Ground 1 proceeded from an unduly narrow understanding of locally manufactured goods. It submitted that the applicable definition expressly includes goods assembled in Mauritius and that it was therefore immaterial that the principal parts or components originated overseas, provided that the completed goods contained the prescribed minimum percentage of local inputs.

The Respondent relied upon the Cost Structure submitted with the bid, which was certified by a certified accountant and stated that the minimum local-input requirement had been met. The Respondent accordingly contended that the successful bidder was entitled to use Price Schedule E1 and that its bid was responsive to the requirement for locally manufactured goods. It further submitted that the Applicant had not produced evidence establishing that the finished meter boxes would be imported as completed products.

(iv) Analysis of the Cost Structure submitted by J. Annauth

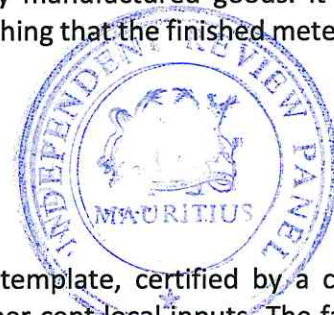
The successful bidder submitted a completed Cost Structure template, certified by a certified accountant, which stated that the goods offered contained 26 per cent local inputs. The fact that the Cost Structure bore an accountant's certification was relevant but not determinative, as the Panel will explain below.

It was common ground that the principal components of the meter box were to be manufactured overseas and that J. Annauth's claim to local manufacture depended upon the activities and inputs to be undertaken or added in Mauritius.

The Panel does not consider it appropriate to reproduce J. Annauth's Cost Structure. However, the Panel finds that the Cost Structure contained categories which, by their description, combined activities of a potentially productive character with activities which appeared administrative, logistical, financial or related to distribution in nature. Other entries required verification of their relationship with, and allocation to, the proposed assembly operation. Those entries did not, on the face of the Cost Structure, establish whether the costs claimed were admissible in full, whether productive and non-productive elements required segregation, or whether the amounts were properly attributable to the proposed assembly operation.

A distinct issue also arises in relation to the valuation of the imported inputs. The rules required imported materials to be valued by reference to the c.i.f. value accepted by the Customs authorities at the time of the last relevant importation into Mauritius. Where the materials were not imported by the manufacturer, the alternative basis was their delivery cost at the factory, excluding customs duties and charges of equivalent effect.

The oral evidence established that there had been no prior importation of the components proposed for the performance of the contract, apart from the components used for the sample. No evidence was identified, however, that the importation of the sample produced a Customs-accepted c.i.f. value which was used, or was capable of being used, as the prescribed valuation basis for the components required to perform the contract. No such Customs-accepted value was identified in the bid or before the BEC. The bid also did not identify the application of the alternative



factory-delivery basis or contain objective material substantiating the imported-input figure by reference to that basis. The prescribed basis upon which the imported inputs had been valued was therefore not established.

Those matters were material and required closer examination. The percentage claimed was only marginally above the mandatory threshold of 25 per cent. An error in the valuation of the imported inputs, or the exclusion, segregation or reclassification of a material local-cost entry, was therefore capable of determining whether the requirement had been met.

In those circumstances, the BEC was required to examine whether the imported inputs had been valued on a basis prescribed by the rules and whether the costs claimed as local inputs were allowable, properly classified, adequately supported and reasonably attributable to the proposed assembly operation. It was required, in particular, to determine whether the composite entries were admissible in full, required segregation or ought to be excluded.

The evidence and documents do not establish that the BEC carried out that examination. They do not establish that the BEC identified which prescribed valuation basis had been applied to the imported inputs, considered whether the alternative factory-delivery basis was applicable, examined objective material substantiating the imported-input figure or sought clarification of the basis upon which that figure had been calculated. The evidence and documents also do not establish that the BEC verified the material local-cost entries, determined whether composite entries required segregation, examined whether the costs were properly attributable to the proposed assembly operation or excluded costs which were not allowable under the rules.

Mr Radha stated that the BEC, with the assistance of the Respondent's accountant, had checked and verified the Cost Structure and the calculation contained in it. However, his evidence did not establish the nature or extent of that verification. When questioned about the prescribed basis for valuing the imported inputs, he relied repeatedly upon the fact that the Cost Structure had been certified by a certified accountant. He did not identify any Customs-accepted c.i.f. value, explain the application of the alternative factory-delivery basis or identify objective material by which the imported-input figure had been verified.

His evidence likewise did not establish that the material local-cost entries had been examined to determine whether they were allowable, properly classified and attributable to the proposed assembly operation, or whether composite entries required segregation. A general assertion that the Cost Structure and its calculation had been checked did not demonstrate that the prescribed valuation and costing methodology had been applied. On the evidence, the certification remained the principal basis upon which the figures were accepted.



The Panel reiterates the principle stated in ***RSL Security Services Ltd v Ministry of Agro-Industry, Food Security, Blue Economy and Fisheries, Decision No. 10/26***. In that case, the Panel held that a BEC could not rely upon a mere undertaking and ought to examine the relevant cost breakdown more closely. The same principle applies where compliance with a mandatory requirement depends upon a costing certified by an accountant. The certification could not displace the BEC's duty to determine whether the prescribed methodology had in fact been complied with.

The Panel considers that those failures were not minor deficiencies. They concerned the very basis upon which the successful bidder was treated as satisfying a mandatory condition governing its entitlement to bid under Price Schedule E1.

The deficiencies were not confined, however, to the manner in which the BEC conducted the evaluation. The Panel's own examination of the Cost Structure does not reveal a sufficient evidential and methodological foundation capable of resolving the matters identified above. The Cost Structure did not itself establish the prescribed valuation basis for the imported inputs or demonstrate that the material costs claimed as local inputs were allowable, properly classified and attributable to the proposed assembly operation.

For those reasons, the Panel finds that the Respondent did not have a sufficient basis upon which to conclude that the goods offered by the successful bidder contained at least 25 per cent allowable local inputs. More fundamentally, the bid as submitted did not establish, by application of the prescribed methodology, that the mandatory threshold had been met. The Cost Structure was materially lacking in the evidential and methodological foundation required to demonstrate that the goods qualified as locally manufactured goods within the meaning of the Bidding Documents.

Ground 1 is accordingly upheld.

Grounds 2 and 3

In view of the Panel's determination of Ground 1, no useful purpose would be served by deciding Grounds 2 and 3.

Ground 2 concerns the Applicant's contention that it was entitled to the application of a margin of preference. That issue arises at the comparative evaluation stage between bids which are otherwise eligible and substantially responsive. Since J. Annauth's bid did not establish compliance with the mandatory requirement applicable to Price Schedule E1, a determination of Ground 2 would not affect the disposal of the application.

Ground 3 concerns the post-qualification of J. Annauth. Post-qualification is undertaken in relation to the lowest evaluated substantially responsive bidder. Since J. Annauth's bid did not establish compliance with the mandatory local-input requirement, it is unnecessary to determine the separate post-qualification matters raised under Ground 3.



The Panel accordingly makes no determination on Grounds 2 and 3.



I. Conclusion

Having upheld Ground 1, it remains for the Panel to determine the appropriate remedy in the circumstances.

The Panel has considered whether the matter could be remitted to the Respondent for a re-evaluation of J. Annauth's bid, with such clarification as might be considered necessary.

The difficulty, however, is not merely that the BEC failed to seek an explanation of an otherwise sufficiently supported Cost Structure. The Panel has found that the Cost Structure was substantially lacking in the evidential and methodological foundation required to establish compliance with the mandatory local-input threshold. That deficiency was material, particularly because the Cost Structure stated a percentage of 26 per cent, only one percentage point above the mandatory threshold.

The figures were also prospective estimates since the proposed importation and assembly operation had not yet taken place. They were not based upon completed transactions or costs actually incurred in performing the proposed contract. The prospective character of the figures did not, by itself, render them incapable of being relied upon. It did, however, make it necessary for the bidder to provide sufficient contemporaneous and objectively verifiable material against which the estimates could be assessed by reference to the methodology prescribed in the Bidding Documents. The Panel has found that such a foundation was materially lacking.

Section 37(1) of the Act permits a public body to seek clarification from a bidder during the examination of bids in order to facilitate evaluation. It expressly provides, however, that the public body shall neither ask nor permit a bidder to change the price or substance of its bid. The power of clarification is thus ancillary to the examination of the bid as submitted. It may be used to explain an ambiguity, reconcile information already contained in the bid or confirm an objectively ascertainable fact. The Panel does not consider that section 37(1) provides a general power to cure substantial gaps in the evidence required to establish compliance with a mandatory condition.

Section 37(9) further requires every bid to be evaluated according to the criteria and methodology set out in the Bidding Documents. The burden therefore rested upon J. Annauth to submit a Cost Structure which demonstrated, by application of the prescribed methodology, that the minimum local-input threshold had been met.

In the present case, the rules prescribed in some detail how the percentage of local inputs was to be calculated, which costs could be included or excluded and how imported inputs were to be valued. A bidder completing the Cost Structure could therefore reasonably be expected to carry out, and provide a sufficient foundation for, an analysis aligned with those rules. Certification of the Cost Structure template by an accountant did not displace that obligation or render the underlying figures self-proving.



The deficiencies identified by the Panel are accordingly neither minor nor capable of being cured by the simple verification of a fact or document. They concern substantial gaps in the evidential and methodological basis upon which J. Annauth calculated the mandatory percentage. Seeking clarification in those circumstances would require J. Annauth to provide, after the closing date, the supporting foundation which the bid itself materially lacked.

Such an exercise would extend section 37(1) beyond its proper purpose. Clarification may facilitate the evaluation of information sufficiently contained in the bid as submitted. It cannot be used to create, after the closing date, the substantial evidential foundation upon which compliance with a mandatory requirement depends. The Panel accordingly finds that the deficiencies identified are not appropriately remediable through clarification under section 37(1).

In its written submissions, the Applicant maintained its prayers for a finding that J. Annauth did not satisfy the conditions of the procurement, for the setting aside of the decision selecting J. Annauth for the award, and for the contract to be awarded to the Applicant.

Under section 45(10) of the Act, the Panel may prohibit the continuation of an incorrect procedure, recommend the annulment of the decision under review and recommend a re-evaluation of the bids or a review of the decision for an award on specified grounds. Regulation 58 requires a decision made pursuant to section 45 to form part of the record of the procurement proceedings. Regulation 59 requires the public body promptly to notify the Panel and the Policy Office of the action taken in response to the Panel's decision. The Panel does not, however, itself assume the statutory functions of the Respondent or the BEC by evaluating the Applicant's bid or making the award. Under section 40(1), the award must be made by the public body to the bidder which submitted the lowest evaluated substantially responsive bid and which meets the qualification criteria specified in the Bidding Documents.

The Panel cannot therefore accede to the Applicant's prayer that the contract be awarded directly to it. The Applicant's bid remains subject to examination, evaluation and, where applicable, post-qualification in accordance with the Act and the Bidding Documents.

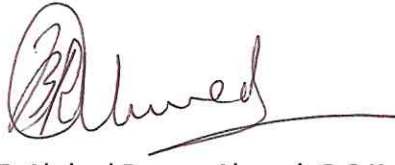
The appropriate remedy is therefore to recommend the annulment of the decision selecting J. Annauth and a review of the decision for an award on the specified ground that J. Annauth's bid, as submitted, did not establish compliance with the mandatory requirement applicable to Price Schedule E1. The Respondent must thereafter proceed to consider the Applicant's bid in accordance with the Act and the Bidding Documents. The Applicant's bid must be examined for completeness and substantial responsiveness under section 37. If it is found to be the lowest evaluated substantially responsive bid, its qualifications must be checked in accordance with section 38. An award may be made only if the requirements of section 40 are satisfied.

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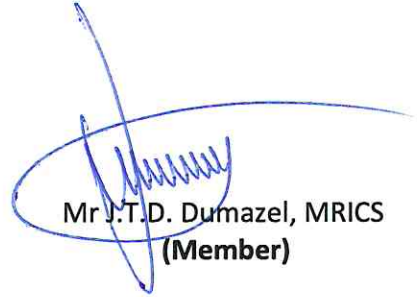
The Panel, acting pursuant to sections 45(10)(b) and (c) of the Act, therefore recommends the annulment of the Respondent's decision selecting J. Annauth Construction Ltd for the award of the contract. The Panel further recommends a review of the decision for an award on the ground that J. Annauth's bid, as submitted, did not establish compliance with the mandatory requirement applicable to Price Schedule E1, and that the Respondent proceed to consider the Applicant's bid in accordance with the Act and the Bidding Documents, including its substantial responsiveness and, where applicable, its post-qualification.



Mr V. J. Reddi
(Chairperson)



Mrs B.F. Abdool Raman Ahmed, O.S.K
(Member)



Mr J.T.D. Dumazel, MRICS
(Member)

Dated: 30 July 2026



