



Government of Sindh
Sindh Public Procurement Regulatory Authority



No. AD(Legal)/RC/SPPRA/SRB/18 658

Karachi, dated 31-08-2018

BEFORE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY
UNDER RULE-32 OF SPP RULES 2010

(Appeal)

M/s Vision Security Clifton Karachi.

Versus

Chairman, Sindh Revenue Board, Karachi

Facts: M/S Vision Security Clifton Karachi preferred an appeal on 30-05-2018 before this Authority against the decision of CRC vide SRB's letter NO.SRB/DC (Admin)/OS/CRC/308384/2018 dated 14th May, 2018. The appellant stated in its appeal it had lodged a complaint to the Chairman Sindh Revenue Board, Karachi (Chairman of Complaint Redressal Committee CRC) on 7-05-2018 and 10-05-2018 highlighting the tailor-made specification for the international Tender published in the newspaper on 10th April 2018 and hosted on SPPRA website with NIT ID T00629-17-0001 for the procurement of Online Fiscal Point of Sale Integration with Tax System and Allied Services.

The complaint to CRC for Redressal of grievance was dismissed on the ground that the complainant firm was not a bidder to the above said procurement. The CRC did not dilate upon the objections raised by the complainant on giving tailor-made specifications in the bidding documents which restrict competition. The Complainant being dissatisfied with the decision of CRC referred the matter to Review Committee for Redressal of grievance. The matter was taken up under Rule-32(5) of SPPRA Rule 2010.

Accordingly, notices were issued to the Parties for appearing before the Review committee and after two adjournments the matter was fixed for hearing on 02-08-2018. M/S Naveed, Projector Coordinator & Mr. Ali Sher, Legal representative (from Appellant side) and Mr. Muhammad Ali, DC (Admin) SRB (from PA Side) appeared before the Review Committee.

Mr. Naveed, the representative of Appellant, while arguing his appeal apprised the committee that the Procuring Agency floated the tender in question through Newspapers and SPPRA website with 10th May, 2018 as closing date for Submission of Bids. The appellant stated that the specifications prescribed in the bidding documents were overwhelmingly in favor of a particular company i.e. GENECO citing several examples from the bidding documents, therefore he approached the Procuring Agency with the request for making the specification

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general/generic in order to have fair competition. He further argued that instead of making the Specifications fair and neutral, PA ignored the complaint and denied to consider it. He further added that tailor-made technical specification have restricted fair competition due to which no bidder except the one whose product specification were mentioned in the bidding documents took part in the bidding. He was of the view that this was the only reason that the only bidder had participated in the bid. The Appellant further apprised the committee that the same tender was earlier floated by the SRB and at that time it was pointed out by him with proof that in the bidding document technical specifications were prepared for M/S GENECO, a company based in Serbia, upon which the tender in question was canceled by the PA but the same specifications have been given in the instant tender after deleting the evidence from the bidding document. He further added that M/S GENECO is not the only company in the world that provides the solution of this type.

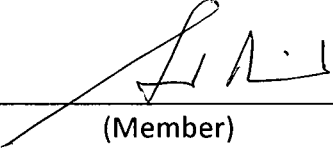
The DC (Admin) SRB while responding to queries raised by the Review Committee regarding the technical specification of the subject tender clarified that the technical specification for the tender in question are flexible to allow all bidders from around the world. He further clarified that the product Specification of GENECO was mentioned in specification as an example. It is transpired that the particular product/system as required by the SRB is being procured for the first time in the Province of Sindh. He further explained that the system/product is being used by a few countries in the world and there is no manufacturer in Pakistan for such product. He also clarified that the SRB had responded (106) One hundred and Six queries raised by different interested bidders in the pre-bid meeting including the queries raised by appellant and the apprehensions of Appellant are totally based on assumption/conjectures/surmises. Mr. Muhammad Ali, DC Admin also mentioned that the appellant is not a bidder as he did not participate in the bidding process, hence, CRC unanimously decided that it did not fall under the SPPRA Rule-31 and as well as SPPRA Rule-32

After hearing the parties at length and perusing the technical specification and nature of the said procurement, the Review Committee observed that the contention of CRC that the complainant was not a bidder, therefore his complaint was not maintainable at CRC level, is incorrect as it was admitted by PA that the complainant had obtained bidding documents after paying prescribed tender fee but he did not submit his bid due to serious reservations on tailor-made product specifications which would ultimately result in his disqualification on technical grounds. The premise of the Appellant seems logical as no other company except M/S GENECO participated in the bidding process fearing technical disqualification. In view of the above, the Review Committee is of the opinion that it would be more appropriate and in the public interest to make this procurement more transparent and fair. It is interesting to note that there were 106 (one hundred six) queries/ complaints received by PA but only one Bidder had participated in the bid whereas the Estimated Cost is approx. 6 to 8 million US \$ dollars. Since there is a single bidder, compliance of Rule-48 by PA would not be possible as this is one of its kind procurement ironically accepting to the documents presented by PA showing 106 queries and their replies, the PA has mentioned them as "Queries by Bidders" which negates the stance of CRC that complainant is not a bidder.

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Decision:

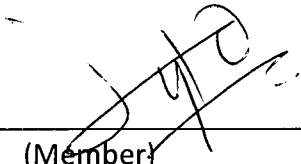
In view of the above discussion, the Review Committee unanimously decided that the Procuring Agency shall terminate the instant procurement proceedings in terms of Rule-32(7)(f) of SPP Ru'es 2010 and to re-invite the tender for the sake of transparency and in the best interest of public. This time Procuring Agency will make sure that product specifications are generic and general in nature attracting wider competition.



(Member)
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Member Transparency International
Private Member SPPRA Board




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Asadullah Soomro
Private Member
SPPRA Board



(Member)
Zahid Iqbal
Nominee of Director General Audit Sindh



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Rehan Abdullah
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Management Specialist
(Independent Professional)



(Chairman)
Muhammad Aslam Ghauri
Managing Director
Sindh Public Procurement Regulatory Authority