

DECISION OF COMPLAINT REDRESAL COMMITTEE (CRC)
BOARD OF GOVERNORS FOR ESTABLISHMENT OF CADET COLLEGE
JACOBABAD

Complaint dated 23 SEP 2022, Received on 23 Sep 2022 of M/S RELIANT TRADE LINK

ORDER DATE: 04.10.2022
HEARING DATE: 03.10.2022

1. As per record, the Complainant has moved a Complaint dated 23 September 2022, booked via TCS Consignment no. 55003790514 on 27 September 2022 received on 23 September 2022, under Rule 31 of SPP Rules 2010. Subsequently, a Hearing Notice dated 30 September 2022 was issued to the Complainant for his appearance on Monday the October 3rd, 2022.

2. The facts leading to this Complaint revolve around a grievance of the Complainant that the Request for Proposal for Prequalification (RFP) / Contractors' Prequalification Documents (hereinafter referred as 'Pre-Q Documents') issued by the Procuring Agency under Rule 28 of SPPR, 2010 was only for C3 Category Contractors, whereas, the Tender Notice advertised on 30 August 2022 was for contractors of C1 Category only. Furthermore, allegations were made with respect to fairness of the procurement proceedings.

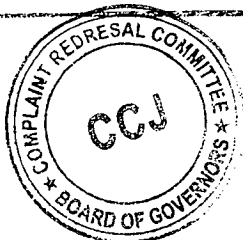
3. The Complainant and his legal advisor were heard at length and careful consideration was given to the contents of Complaint as well as Complainant's verbal arguments. Whereas, the Project Director was also present and heard in detail as a respondent.

4. Arguments and contents of the Complaint are not reproduced for the sake of brevity.

5. After carefully going through the record and hearing both the parties. The findings of the Committee along with the reasons are as follows: -

- a. That the Complainant himself paid the cost and received the Request for Proposal for Prequalification (RFP) / Contractors' Prequalification Documents (hereinafter referred as 'Pre-Q Documents') issued by the Procuring Agency under Rule 28 of SPPR, 2010, mentioning all precise details/requirements of the project and qualifications criteria for contractors as per the Advertisement. That the Pre-Q Documents is a list of a documents which has to be issued to the interested prequalifying applicants under Rule 28 of SPPR, 2010 which is received by them upon paying a cost. The purpose of the same is to instruct the applicants on applying procedure / required documents and to acquaint them with the requirements / qualification of contractors and the purported nature of project. The Pre-Q Documents submitted under the said Rule shall take precedence over any document and advertisement.

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- b. That the Pre-Q Documents clearly mention in Clause 3.3.1 that applicants interested in prequalification shall be of C3 category or above. Therefore, the assertion of the Complainant that the contract was only for C3 Category and it was changed to C1 on the personal whims of the Project Director is without force. Hence, rejected. The Complainant cannot deny the fact that he did not know that the applicants interested for prequalification were supposed to be of C3 category or above as he himself received the Pre-Q documents under Rule 28 of SPPR, 2010 and submitted under his own signatures and stamp. The said clause is enclosed as follow:

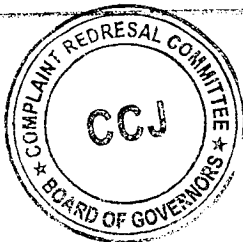
"3.3.1 Registration with Pakistan Engineering Council in Category C-3 or above and at least in specialization codes CE-10, CE-09, EE-11, EE-02, ME-01, ME-02 and BC-03(ii). The contractor should enclose PEC Registration Certificate, valid for the current year."

- c. That after the closure of prequalifying stage several contractors prequalified in C1, C2 & C3 category after evaluation, including the Complainant who was in C3. But, the complainant neither raised query under clause 2.7 of Pre- Q Document nor complained at any relevant forum.
- d. That the Pre-Q Documents provided a Draft **Application for Prequalification** in Annexure-A required to be filled by applicants. The said Application for Prequalification was submitted by Complainant under his own signatures and stamped. Under Clause 5(b)(i) of the said Application, the Procuring Agency reserves the right to amend the scope and value of any contract in such event, bids will only be called from prequalified bidders who meet the revised requirements. Therefore, since it was signed by the Complainant himself he cannot deny the fact/ authority even if there is any amendment in scope or value of any contract under this project. The said clause is enclosed as follow: -

"5(b)(i) Amend the scope and value of any contract under this project; in such event bids will only be called from prequalified bidders who meet the revised requirements;"

- e. That, thereafter, a Notice Inviting Tenders dated 30 August 2022 was advertised calling for bids from those contractors who qualified in C1 category only in the abovementioned pre-qualifying stage because in the first phase the contract work was amounting to PKR. 1051.93 Million (above 1 Billion). That it is important to mention here that as per the requirements of Pakistan Engineering Council (PEC) the contract work above 1 Billion can only be done by C1 category contractors. That's why only C1 category contractors were called to submit financial and technical bid. Nonetheless, this is being done in the first phase only, whereas, in other phases of construction contracts for C3 and C2 category contractors

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will follow and bids be called for that as per requirement and decision taken if required.

- f. That the Complainant cannot dictate the amount and scope of the project as per his whims and wishes which is only the scope of Procuring Agency.
- g. That after the Notice inviting Tenders dated 30 August 2022 was advertised. Three (3) Contractors of C1 category (who had already pre-qualified) submitted their bids out of which the one with lowest cost and best expertise be selected. The record sufficiently shows whoever is selected will be selected after fair competition. Therefore, the grievance of the Complainant with respect to the fairness in bidding process is baseless and frivolous.
- h. That the Complaint of 'Reliant Trade Link' is not maintainable under SPP RULES 2010 as the Complainant is **Not an Aggrieved Bidder** as he has never submitted a 'Bid' as per the definition of 'Bid' under Rule 2(1)(b) in order to be able to seek a remedy before the Complaint Redressal Committee under Rule 31 where only 'Aggrieved Bidders' who have submitted a financial bid can file a Complaint. Hence, the Complaint is liable to be dismissed on this reason alone. The definition of 'Bid' and 'Bidder' is enclosed below:

"Rule 2(1)(b): "Bid" means a tender, or an offer by a person, consultant, firm, company or an organization expressing willingness to undertake a specified task at a price, in response to an invitation by a Procuring Agency;"

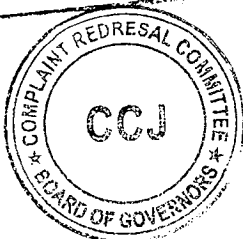
"Rule 2(1)(f) "Bidder" means a person or entity submitting a bid;"

"Rule 31(3) Any bidder being aggrieved by any act or decision of the procuring agency during procurement proceedings may lodge a written complaint after the decision causing the grievance has been announced;"

- i. That the procedural anomalies raised in complaint, as per the understanding/ knowledge of Complainant, were found already addressed by Procuring Agency which include infirmities generated by SPPRA as per the record produced.
- j. During the course of proceedings, it was found that the complainant had sufficient time to raise objections or queries since hosting of Pre-Qualification Report on SPPRA Website on 31-12- 2021 as this provision was given in clause 2.7 of Pre- Q Documents obtained by Procuring Agency. But the complainant could not justify with plausible reasons.

Having checked and verified the record, the allegations as mentioned in the Subject Title of the complaint were not proved by Complainant rather

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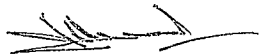


procedural queries (as per knowledge/ understanding of complainant) were found discussed in entire body of complaint.

6. In view of the above reasons, the Complaint is found to be misconceived and misleading as a result of complainant's own misreading of Pre-Q Documents (received and signed by himself) issued by the Procuring Agency under Rule 28 of SPPR, 2010 for prequalification of contractors mentioning all precise details/requirements of the project and qualifications criteria for contractors specifically mentioning C3 and above. Therefore, the Complaint is dismissed being false, frivolous and meritless.



CHAIRMAN COMPLAINT REDRESSAL COMMITTEE
Brigadier/ Commander 205 Brigade
Headquarters 16 Division Pano Aqil Cantonment



REPRESENTATIVE OF AG OFFICE
District Accounts Officer
Jacobabad



INDEPENDENT MEMBER (RELEVANT FIELD)
Lieutenant Colonel Pak Army
Headquarters 16 Division Pano Aqil Cantonment

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