



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-1762/2020-21/

Karachi, dated the 31st December, 2020

To,

Director Procurement,
Dow University Hospital,
KARACHI.

Subject: DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY.

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision (M/s Medequips (S.M.C) V/s Dow University Hospital Karachi, held on 23.12.2020, for taking further necessary action in compliance of referred decision, under intimation to this Authority, at the earliest.

DEPUTY DIRECTOR (LEGAL)

A copy is forwarded for information and necessary action to:

1. The Secretary to Government of Sindh, Health Department.
2. Vice Chancellor, Dow University Hospital Karachi.
3. Assistant director (I.T), SPPRA (with advice to post the decision on the Authority's website in terms of Rule-32(11) of SPP Rules, 2010)
4. The Staff Officer to the Chairman / Members Review Committee.
5. The Appellants.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-215/2018-19 ¹⁷⁶² /1791 Karachi, dated 27th December, 2020

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

(APPEAL)

M/s Medequips (Pvt.) Ltd., Karachi

Versus

Dow University Hospital, Karachi

(NIT ID # T00582-20-0001 dated 24.09.2020)

FACTS AND BACKGROUND

M/s Medequips Pakistan, Karachi lodged a complaint vide letter dated, 27.11.2020 in Sindh Public Procurement Regulatory Authority against the NIT # T0058-20-0001 dated 24.09.2020 floated for 'Procurement of Medical Equipment for Sindh Infectious Diseases Hospital & Research Centre at NIPA Karachi by the Director Procurement, Dow University Karachi.

2. In this regard it is stated that M/s Medequips Pakistan, Karachi had lodged a complaint in the Authority with the same plea/reservations on 28-09-2020. In return the Authority's (vide letter dated, 08.10.2020) forwarded the complaint to the procuring agency with an advice to redress the appellant's grievances/reservations relating to the content of bidding document of instant procurement and advised the procuring agency to take appropriate action in the referred matter as per rules.

3. Thereafter, the appellant vide letter dated 27.11.2020 informed the Authority that the procuring agency's CRC did not call any meeting to resolve his grievances despite lapse of stipulated time period; therefore, the matter might be placed before Review committee which is the appropriate forum to resolve his matter in accordance with SPP Rules. In turn, the Authority vide letter dated 21.12.2020 issued notices to concerned parties for appearing before Review Committee on 23.12.2020 at 11 a.m.

4. In compliance Mr. S. Shafqat Hussain (Director Procurement) *'representatives of the procuring agency'* and Mr. Shaikh Danish Javid representative of the appellant appeared before the Committee.

REVIEW COMMITTEE PROCEEDINGS

5. The Chairperson of the Review Committee commenced the meeting by welcoming all the participants of the meeting. Then, the chair asked the appellant to present the case/ version over the instant procurement issues/ grievances.

APPELLANT'S VERSION

6. Mr. Shaikh Danish Javaid (representative of the appellant) while arguing his appeal apprised the Committee that:

7. They participated under instant procurement, NIT # T0058-20-0001 dated 24.09.2020, Procurement of Medical Equipment/for Sindh infectious Diseases Hospital & research Centre at NIPA under Dow university of Health **Sciences**, Karachi. He alleged that Specifications are not generalized which shows that the PA intends to support a specific vender/firm. However, "he added that for healthy competition, specifications should be made generalized".

8. Mr. Shaikh apprised the Committee that Specs of instant NIT items i-e, CT Scan Machine, Generator & Detector, Console Computer and softwares are not generalized and ambiguous which shows that these are unlawfull to favor any specific firm/vender, which is not in the interest of institute and public.

9. Representative of the Appellant further informed that they had approached the Procuring Agency's CRC for redressal their Complaint but CRC failed to decide their matter and did not respond to them.

10. The chair asked the appellant why he did not wait till the announcement of the bid evaluation report as it is not finalized yet, moreover the Procuring agency has not declared you disqualified. However, the appellant can approach the Review committee after announcement of the bid evaluation report in case of his dissatisfaction.

11. The appellant stated before the review committee that due to the serious and unjustified reservations in the instant NIT's specifications, the appellant decided/ considered the Review Committee the best and appropriate forum for redressal of their grievances.

12. The chair further asked the appellant to justify their claim/allegation made by them against the PA to favor any particular firm by stating the name of that contractor/firm/vendor but he failed to point out/reveal the name of any specific firm.

13. He further stated that in this NIT, PA relax the terms and conditions as compared with previous years tenders of Sindh Government, just to favour the bidder. He also informed that eligibility criteria is also ambiguous and according to it, any firm without fulfilling the experience requirement can attain the minimum passing marks, required for qualification. PA has mentioned marks against the criterion and a qualifying marks but it was not mentioned that qualifying marks for each evaluation criterion were not mentioned.



PROCURING AGENCY'S VERSION

14. Mr. S. Shafqat Hussain (Director Procurement) '*representatives of the procuring agency*' while responding to queries raised by the Review Committee clarified by stating that:

- (a) The Procuring Agency has made generic specifications in the instant NIT which allows the widest possible competition as per SPP Rule-13(1). More over specifications have been made for efficient and effective results and in transparent manner and the only object of the instant procurement is to get better results within the financial resources but appellant in lieu of that has alleged that the specifications are made to favor any single firm /vender/contractor/supplier.
- (b) The representative of the PA further stated before the Review committee that the allegations made by the complainant regarding the specification of the items in the instant NIT are tailor made to favor any specific vender/firm are baseless / unjustified as complainant still couldn't reveal the name of specific vender and his complaint is before time as even bid evaluation process has not been announced/completed whereas the appellant is not yet disqualified.


15. Syed Adil Gilani (Member of Review Committee) asked the procuring agency that why the CRC failed to redress the appellant matter.

16. In response to the query raised by Syed Adil Gilani, the *representative of Procuring agency stated that the Procuring agency's CRC Chairman is Secretary Health and CRC letter was addressed to Secretary Health therefore the procuring agency is unaware as why CRC chairman did not call CRC meeting.*

17. Mr. Manzoor Ahmed Memon (Member of Review Committee) asked the procuring agency that why didn't PA respond the appellant's complaint regarding the clarification of specification of instant items in terms of Rule-23 (2) and what is the current status of the instant procurement process and not to proceed further on financial bids, till the decision of CRC is taken and communicated.

18. In response to the queries of Member, the representative of Procuring agency stated that PA has not received the complaint from appellant directly rather SPPRA forwarded the complaint to the procuring agency, in response to which clarification had been submitted to the SPPRA. Regarding the status of the procurement, the representative of procuring agency clarified that financial bids have not been opened and bid evaluation report is under process.

19. Syed Adil Gilani (Member of Review Committee) asked the procuring agency about the concrete reason for not publishing/announcing bid evaluation report. The procuring agency replied that the evaluation report is under process as and when it well be finalized the same will be announced/published/hoisted on the Authority 's website.



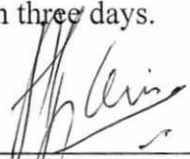
Review Committee Observations

20. After hearing the parties at length and perusal of the available record, the Review Committee observed that: -

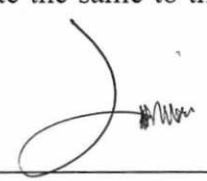
- The procuring agency failed to finalize and announce its CRC decision within seven days and intimate the same to the appellant and the Authority within three working days in terms of Rule-31(5) of SPP Rules, 2010 (Amended Up to date);
- The Review Committee noted that the procuring agency has not yet announced the bid evaluation report and not disqualified the appellant as yet, therefore, the appellant required to approach the Procuring Agency's CRC i.e, after the announcement of the bid evaluation report and prior to award of contract.
- The procuring agency couldn't impose any condition in bid documents that violates the SPP Rules.

Review Committee Decision

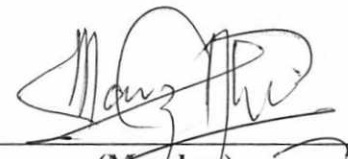
21. Given the foregoing findings and after due deliberation, the Review Committee unanimously decided that the Procuring Agency, Dow University Hospital, Karachi shall immediately place the complaint before the Procuring Agency's Complaint Redressal Committee, prior to opening of financial bids, as per Rule-31(4)(a) of SPP Rules, 2010, to redress the grievances of the bidder, within seven days, and intimate the same to the Bidder and the Authority within three days.




(Member)
Syed Adil Gilani
Private Member SPPRA Board
Representative Transparency International



(Member/ Independent Professional)
Engr. Munir Ahmed Shaikh
(Rtd.) Executive Engineer
Public Health Engineering Department
Government of Sindh



(Member)
Mr. Manzoor Ahmed Memon
Private Member SPPRA Board



(Chairman)
Mr. Riaz Hussain Soomro
Managing Director
Sindh Public Procurement Regulatory
Authority