



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2262/2020-21/5676 Karachi, dated the 15th April, 2020

To,

Director Procurement,
University Of Sufism & Modern Science,
Bhit Shah /Matiari.

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 Dr Alvi & Associates V/s University Of Sufism & Modern Science, held on 31.03.2021, for taking further necessary action in compliance of referred decision, under intimation to this Authority, at the earliest.


ASSISTANT DIRECTOR (LEGAL-II)

A copy is forwarded for information and necessary action to:

1. The Secretary to Government of Sindh, University Board Department Karachi.
2. Vice Chancellor, University Of Sufism & Modern Science Bhit Shah /Matiari.
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-2260/2020-21 *sc 7A*

Karachi, dated 14th, April 2021

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

REVIEW APPEAL

DR. Alvi & Associates

VS

The Deputy Registrar University of Sufism & Modern Sciences Bhitshah / Matiari

(NIT#T01400-20-0002 Dated 19.1.2021)

The appellant, **DR. ALVI & ASSOCIATES** lodged a complaint to the Chairman Complaint Redressal Committee of University of Sufism & Modern Sciences Bhit shah (**the procuring agency**) vide letter NO.DAA-BUSMC-12/2021 against "Request for Proposal" invited by the University for the procurement of Consultancy Services for establishment of University of Sufism & Modern Sciences Bhit shah vide SPPRA-PPMS NIT#T01400-20-0002 Dated 19.1.2021. The appellant submitted that the procuring agency has not evaluated the bids as per the criteria provided in the RFP Document and did not announce the technical evaluation result before financial opening.

2. Therein the appellant's complaint was taken up by the Complaint Redressal Committee and decided the matter accordingly. The bidder was not satisfied with the decision of the Complaint Redressal Committee and submitted Review Appeal before the Review Committee vide letter dated **12.03.2021**. The appellant also raised objection on the composition of the CRC that CRC is not as per Rule-31 of SPP Rules, 2010.

3. Accordingly, the appellant's case was taken up by the Review Committee for hearing in its meeting scheduled on **31.03.2021 at 11.00 a.m.** The Authority issued notices to the parties concerned to appear in person or depute an authorized representative, well conversant with the instant procurement along with relevant documents and evidence, if any, before the Committee on the scheduled date, time and venue to present and/ or defend the case in terms of Rules-32(6), (8) & (10) *ibid*¹.

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¹ On receipt of appeal, along with all requisite information and documents, the Chairperson shall convene meeting of the Review Committee within seven working days. It shall be mandatory for the appellant and the head of procuring agency or his nominee not below the rank of BS-19 to appear before the Review Committee and when called and produce documents, if required. The Review Committee shall hear the parties and announce its decision within ten working days of submission of appeal. However, in case of delay, reasons thereof shall be recorded in writing.


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REVIEW COMMITTEE'S PROCEEDINGS

6. The Chairperson of the 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 matter before the committee.

The Appellant's Version

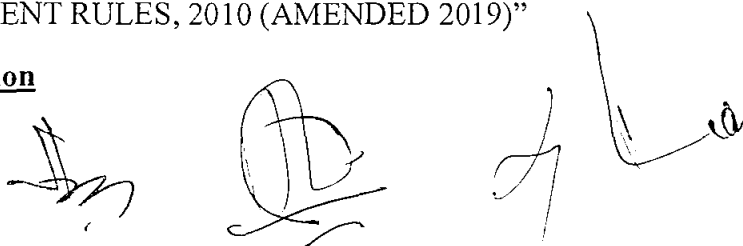
7. Dr. A. Q. Alvi, representative of M/S DR ALVI & ASSOCIATES, informed that his firm submitted its Technical and Financial Proposal in response to the EOI floated by the Procuring Agency for "Establishment of University of Sufism & Modern Science Bhit Shah".
8. He claimed that his firm was not declared successful by the Consultant Selection Committee (CSC) by giving wrong remarks. He also informed the Committee that the Procuring Agency asked registration with PEC and PCATP as mandatory requirement for short listing which are available with the appellant but his firm was not declared successful. Whereas, the firms who do not possess both certificates were qualified and one of them was declared successful for the reason best known to the PA.
9. The bidder contended that prior to opening of Financial Proposal; the PA did not announce Technical Score of each of the applicant consultant firms. In spite of his request in the regard for disclosure of Technical Score, PA ended up with the statement that *out of ten applicant firms, six firms stand qualified for opening of the Financial Proposals.*
10. The bidder claimed that the mode / method of selection changed from "QUALITY AND COST BASED SELECTION METHOD" to LEAST COST SELECTION METHOD.
11. The bidder contended that in contradiction to rules and terms and conditions, the firm (namely M/S NAQVI & SIDDIQUI ASSOIATES), which is not registered with Pakistan Engineering Council has been recommended as selected consultants by the Selection Committee.
12. The bidder stated that PA has completed the technical & financial Bid Evaluation along with combined Evaluation on 04-04-2021, wherein no breakup of marks were given for specified requirements such as evaluation of qualifications & experience of professionals involved, Approach & Methodology proposed etc have been shown in the report. Combined evaluation of the specified requirements running into three places of decimal are shown, whereas marks for specified requirements in the RFP were either in whole numbers or whole plus half numbers. This Act of Selection Committee was vicious and



was done with intent to hide individual marks scored by each Consultant for different specified requirements. Scores running into three places of decimals are viciously done to match with score obtained by each consultant in their respective financial Proposals. The whole idea is to maliciously increase the score of Technical Evaluation of Firms of the Selection of Firms of choices (s) of the selection Committee. This Act of Selection Committee, which ought to be neutral in evaluation process is highly suspicious & such legally questionable.

13. The bidder also submitted that dissatisfied with recommendations of the Selection Committee, the firm lodged complaint with PA against the recommendations of the Selection Committee, which is headed by Vice Chancellor of the university. The PA constituted Grievances Redressal Committee headed by the Vice Chancellor of the University, against whom we had lodged complaint for wrong doing in the rightful selection process of consultants for the required consultancy assignment.
14. The firm further submitted that subsequently, his firm was asked by the PA to appear before the Grievances Redressal Committee on 05-03-2021. The firm also contended that before appearing in the said committee proceedings, they had informed the PA, in writing received by the University at 10:30 A.M. on 05-03-2021, of illegal act of Vice Chancellor of the University to be head of the Grievance Redressal Committee, thereby the vice Chancellor of the University paid no heed to the CONFLICT OF INTEREST INVOLVED. He added that his firm had also challenged the nomination of two other members on the Complaint Redressal Committee but no action was taken by the PA and convened meeting with CRC constituted in violation of SPP Rules.
15. The firm also submitted that despite the fact that the University received their protest letter at 10:30 A.M. on 05-03-2021, and the fact that proceedings of the CRC started at 11:50 A.M. on 05-03-2021, the CRC apparently did not deliberate on our protest letter which challenged legality of the constitution of the CRC as well as the proceedings of CRC meeting, because no discussion is recorded in the minutes of the CRC meeting on our letter challenging legality of both the constitution of the CRC as well as proceedings of the CRC
16. The firm also claimed that observations made by PA in respect of their Complaint are in appropriate / untrue / based on afterthought / invalid interpretation etc.
17. The appellant requested the Review Committee for justice and fair play in the entire matter in accordance with "SINDH PUBLIC PROCUREMENT ACT, 2009 WITH PUBLIC PROCUREMENT RULES, 2010 (AMENDED 2019)"

The Procuring Agency's version



18. The Procuring agency explained that 10 firms were short listed according to a predetermined criteria mentioned in the Request for Expression of Interest. The procuring agency also submitted that firms were short listed taking into consideration the essential factors like qualification, experience; financial capability; and others requirements as mentioned in the RFP document.
19. The procuring agency submitted that Technical proposals of the prequalified firms were opened publicly and the same were evaluated in accordance with the criteria mentioned in the RFP documents and 6 out of 10 firms were qualified technically which were asked to participate in financial bid opening whereas the remaining disqualified firms were informed regarding their disqualification.
20. The procuring agency also submitted that the financial bid opening was held publicly and all the qualified firms were informed regarding financial opening in advance.
21. The procuring agency also contended that as the method of the selection was Quality and Cost Based Selection therefore, combined Technical and Financial Score was announced and the firm securing highest combined score was declared as successful by the CSC. The combined (Technical & Financial) Scoring as under:

S.N. O	Name of firms of bidder	Technical Score 80%	Cost offered by the bidder (Millions)	Financial Score 20%	Combined Technical and financial Score	Ranking	remarks
01	M/S Naqvi and Siddiqui	63.824	16.2686	19.977	83.801	1 st lowest	
02	M/S ESS.I.AAR	61.968	16.5	19.692	81.66	2 nd lowest	
03	M/S DR Alvi & Associated	61.340	16.25	20	81.340	3 rd Lowest	
04	M/S Master Consultant Eng:(Pvt) Ltd	57.80	16.786	19.34	77.14		
05	M/S young Associates	56.248	18.2244	17.57	73.818		
06	M/S IDG (Pvt) Ltd.	60	22.83	11.901	71.901		

22. The procuring agency also submitted that complete process was done in accordance with the SPP Rules and terms and conditions mentioned in the bidding documents.

23. Regarding the mandatory requirement of PEC and PCTAP, the representative of procuring agency explained that in the evaluation criteria 20 Marks were allocated for registration with PEC and /or PCTAP and it is not mandatory that firms who have both certification shall be eligible for further participation and marks were assigned to the firms accordingly i.e. 20 Marks were assigned to the firm if it have both certification and 10 marks assigned to the firm who have only one certification.
24. The Procuring agency denied any king of ambiguity and mala-fide intention in combined scoring and submitted that as all such referred information regarding break up of specified requirements were provided in the technical evaluation sheet. Regarding calculation of marks either decimals, it is clarified that it was just to give the actual securing marks by the consultants; hence the apprehension of the complainant is baseless.

Observations of the Review Committee

25. The Review Committee observed that the evaluation criteria provided by the procuring agency was not clear and unambiguous in the RFP documents. The evaluation Criteria given by the procuring agency is reproduced as under:

26. The evaluation of full technical proposal shall be based on following criteria

Description	Points
1. Experience & Past performance	7.5
2. Financial Capability	7.5
3. Proposed methodology(Delivery time required documents Including, Drawings, bill of quantities and tender documents	30
4. Understanding of the Assignment(execution plan i.e.after tender)	25
5. Specilaization(Specialized skills and access to Particular technology)	20
6. Quality Management	10

Total Points 100

27. The points earmarked for evaluation sub-criteria (Specialization) above for the suitability of of key staff are

Description/Items	Points
i. Academic and General Qualification	30%
ii. Professional Experience related to the Project	40%
iii. Access to Particular Technology	30%
Total Marks:	100%

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28. The Review Committee observed that the procuring agency has given an ambiguous evaluation criterion. At one hand, the procuring agency has given 30% weight to the Access to particular technology as in para 26 whereas on the other the procuring agency has given 10% Rating for the Access to particular technology as in para 27 above. Keeping in view of the criteria mentioned it may be understood that the Rating and Scoring for the sub-Criteria Access to Particular Technology seems self-contradictory. Hence, it is clear that the procuring agency failed to provide the clear and unambiguous evaluation criteria.

29. The committee also observed that as per Rule-21(A) of SPP Rules, 2010 providing clear and unambiguous Evaluation Criteria in the documents is mandatory and non provision of unambiguous criteria in the documents tantamount to mis-procurement. The Rule 21(A) reproduced that:

Evaluation Criteria- The procuring agencies shall formulate an appropriate evaluation criterion, listing all the relevant information against which a bid is to be evaluated and criteria of such evaluation shall form an integral part of the bidding documents. The failure to provide a clear and unambiguous evaluation criterion in the bidding documents shall amount to mis-procurement.

30. Syed Adil Gilani, member of the Review Committee pointed out that the procuring agency did not consider the requirements of University comprehensively while framing the Evaluation Criteria. The procuring agency has limited the Specialization of Engineer. One of the most important factor that has been missed the non-inclusion of Environmental Engineers in Specialization whereas Environmental engineers apply scientific and engineering principles to evaluate if there are likely to be any adverse impacts on the building and surroundings of structures. He was of the view that the procuring agency shall provide a comprehensive Evaluation Criteria keeping in view of the importance of University and long-term objectives of the University Of Sufism & Modern Sciences.

31. Regarding the composition of CRC, the Review Committee observed that Head of the CSC and CRC is the same i.e. Vice Chancellor of the University which is in violation of Rule 31(2) of SPP Rules, 2010.

32. Furthermore, it was also observed that the procuring agency was intimated through SPPRA observation conveyed through PPMS portal, to rectify the infirmities. However, the procuring agency was not successful in rectifying the same.



33. Syed Adil Gilani, member of the Review Committee, was of the view that a procuring agency shall adopt the principal method of selection while hiring consultancy services i.e. **Least Cost Selection Method** as per Rule 72(1) of SPP Rules, 2010 for assignments of standard or routine nature where well-established practices and standards exist..

34. The Committee further observed that the University is newly established and facing challenges particularly in the area of staff. The Committee recommended that serious measure should be taken by the management to strengthen the University.

Decision of the Review Committee

35. Given the proceedings, findings, observations and after due deliberation and with the consent of the Procuring Agency, in exercise of power conferred by the Rule 32(g) of SPP Rules, 2010, Review Committee directs the procuring agency to terminate the procurement proceedings, as the procurement process was not as per SPP Rules, 2010. The procuring agency may initiate the entire process afresh by observing rules and regulation accordingly.

(Member)

Syed Adil Gilani
Private Member SPPRA Board
Representative Transparency International

(Member)

Chief Engr@Haji Parpio
Independent Professional

(Member)

Manzoor Ahmed Memon
Member SPPRA Board

(Chairman)

Riaz Hussain Soomro
Managing Director Sindh Public Procurement
Regulatory Authority