



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY
AUTHORITY



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

Karachi, dated 3rd May, 2021

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

REVIEW APPEAL

M/S Lab Link Enterprises

VS

The Section Officer PMI Cell Health Department, Government of Sindh, Karachi.

NIT ID Number T00911-20-0001 Dated: 23-07-2020

Facts and Background

The appellant **M/s Lab Link Enterprises** lodged a complaint to the Secretary Health Department, Government of Sindh Karachi (copy endorsed to this Authority and others for necessary action) against NIT ID Number T00911-20-0001 Dated: 23-07-2020 floated by the Section Officer PMI Cell Health Department, Government of Sindh Karachi '*the procuring agency*' for the procurement of **various medical supplies**.

2. The appellant therein complained that the procuring agency did not accept the bid of the appellant. Furthermore, he submitted that the procuring agency accommodated a company which did not meet the mandatory requirement.

3. Thereafter, the bidder approached the Honorable High Court of Sindh at Karachi. The Honorable High Court of Sindh @ Karachi had been pleased to pass the following order in Suit NO Nill (-1111) of 2020 dated 22.04.2021:

Issue summons and notices to the Defendants as well as Advocate General Sindh by all modes except publication for 29.4.2021. In the mean time, Defendant No.4 the Review Committee may decide the appeal within parameters of its jurisdiction and Rules.

4. In compliance to the Honorable court order, accordingly, the appellants' case was taken up by the Review Committee for hearing in its meeting scheduled on **03.05.2021 at 11.00 a.m.**, and in this regard, the Authority issued notices to the parties concerned to appear in person, or depute authorized representative, well conversant with the procurement in question,

along with the 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.

5. In compliance, Mr. Farhan Hussain Section Officer PM&I, Cell '*the procuring agency's representative*', attended the meeting and appellant Mr. Izhar Hussain, Director Lab Links appeared before the Review Committee.

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 procurement before the committee.

Appellant's Version

7. The appellant submitted that the procuring agency awarded the contract to the firm which did not meet the mandatory qualification.

8. The appellant also submitted that the procuring agency has accommodated the favorite bidders by changing the Evaluation Criteria.

9. The appellant also claimed that the procuring agency has not considered the valid points for the procurement of Hepatitis B&C medicines.

10. The complainant also claimed that the bidder who has been technically given highest points is importing raw material from Chinese Company whose certification is questionable.

11. The bidder also complained that the procuring agency did not comply with the decision of the Review Committee dated 16.3.2021 and illegally signed the contract with the bidders on 19th April 2021 whereas the Review Committee had already decided the instant procurement as mis-procurement.

12. The aggrieved bidder also submitted that the procuring agency should not have proceeded after the Decision of the Review Committee.

The procuring agency's version

13. The procuring agency denied any addition in the Contract list of 2020-21 after the decision of the Review Committee. The representative of the procuring agency clarified that the list was issued by Central Procurement Committee and no any addition was done in the Rate contract list after its issuance.

14. The representative of the procuring agency contended that the bidder's application is time barred as he was required to submit complaint within time. Furthermore, the procuring agency contended that the Review Appeal is also time barred because the bidder did not approach the Review Committee within time period of 10 days.

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 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.



15. The representative of the procuring agency submitted that the court order clarifies that the Review Committee may decide the matter in accordance with law and according to the Rules. He further submitted that the Review Appeal must be dismissed as it is time barred because the bidder approached the Review Committee after the lapse of about 135 days.

16. The procuring agency submitted that all the contractors were already declared as successful after the detailed Technical and Financial Evaluation. However, Many items were withheld due to complaints received from the bidder.

17. The procuring agency submitted that list of Drugs/ Medicines, Surgical Sundries/Disposable items/Surgical Sutures, Dental Material, X-ray films, was approved by the Central procurement Committee.

18. The procuring agency also submitted that all the tenders were evaluated in accordance with the Criteria mentioned in the bidding documents.

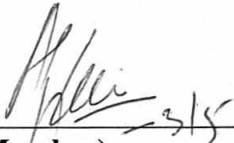
19. The procuring agency denied any kind of mismanagement in the evaluation of tender items.

20. *Review Committee reiterated its decision of 16.3.2021, i.e. EBS Method*
Decision of the Review Committee *issued by PA was illegal.*

19. After hearing the parties, the Review Committee decided that :

I. The decision of the Review Committee dated 16.3.2021 in the same NIT in appeal (Easa Business Group vs Section Officer PMI Health Department) wherein the Review Committee has declared the instant procurement as mis-procurement is continued for this appeal. *(copy enclosed)*

II. The procuring agency was required to stop the issuance of approval of award of contracts of the remaining items, and after the decision of the Review Committee dated 16.3.2021. However, the Procuring Agency approved the list of remaining items to award contracts vide its letter NO.SO (PM&I)2-1/2-2020-21/CPC(main) Karachi dated the 19th April (List attached) which is against the decision of the Review Committee.




(Member)

Syed Adil Gilani
Member SPPRA Board




(Member)

Manzoor Ahmed Memon
Member SPPRA Board



(Member)

Chief Engr. (Rtd.) Haji Parpio
Independent Professional



(Chairman)

Aijaz Ahmed Memon
Managing Director, SPPRA