



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY
AUTHORITY



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

Karachi, dated 03 May 2021

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

REVIEW APPEAL

M/S Muhammad Iqbal Shaikh (Appellant)

VS

The Water & Sanitation Agency Hyderabad (Procuring Agency)

(NIT#T00861-20-0006 Dated 24.12.2020)

The appellant, M/S Muhammad Iqbal Shaikh lodged a complaint to the Chairman Complaint Redressal Committee vide letter No. Ref 503 dated 26.02.2021 against NIT#T00861-20-0006 Dated 24.12.2020 floated by the Water & Sanitation Agency (WASA), Hyderabad” the procuring agency”. The bidder claimed that the procuring agency has tempered the financial proposal of his firm, recommended for award of contract to an inexperienced bidder, did not verify the documents submitted by the bidder who has been recommended for award and did not open the financial bids at the given time.

2. Therein according to the appellant his complaint was taken up by the Complaint Redressal Committee but could not decide the matter accordingly. The bidder was dissatisfied with the indecisiveness of the Complaint Redressal Committee and raised concerns on the working of the CRC. Thereafter, the appellant approached the Review Committee vide letter dated 16.03.2021 that was received in this Authority on 17.3.2021. The appellant submitted that the CRC failed to decide the matter and requested that the Review Committee shall hear and decide the matter accordingly.

3. Consequently, the appellant’s appeal was enlisted by the Review Committee for hearing in the meeting of the Review Committee as the appellant had submitted an appeal, along with the supporting documents and review appeal fee as required under rules.

4. Accordingly, the appellant’s case was taken up by the Review Committee for hearing in its meeting scheduled on 01.04.2021 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 matter 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*⁴. The meeting was not attended by the procuring agency. Therefore, the appellant's case was again taken up by the Review Committee for hearing in its meetings scheduled on **15.04.2021 & 3.5.2021 at 11.00 a.m.**

5. In compliance, Mr.Saleem ud Din Managing Director, WASA Hyderabad and S.M. Lakho, Consultant WASA, being the representatives of the *procuring agency* whereas; Mr. Muhammad Iqbal Shaikh and Mr. Assadullah Soomro as '*the appellant*' 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 matter of blacklisting in question before the committee.

The appellant's Version

7. The bidder submitted that WASA invited tenders vide NIT dated **15.12.2021** in which on the basis of technical and financial capabilities the bidder participated in the subject NIT and submitted the Technical and Financial Bids on dated: 19-01-2020. The date for opening of bids was fixed through corrigendum.

8. The bidder claimed that the subjected bid was invited on single stage one envelope procedure which means both technical and financial bids shall be opened at same day and same time as per schedule in the presence of all bidders as per SPP Rules, 2010. But at the time of bid opening **the technical bid was opened only** and Financial bid was not opened and the same was retained by procuring agency. The bidder also informed that, after 05:00 PM, the meeting was over with announcement that all bidders will be informed for financial bid opening but on the next day the bidder got surprised when he came to know through some reliable sources that the Procuring Agency had opened financial bid at late night on (12:00 AM).

9. The bidder also challenged that the method of Single stage Single envelope adopted by the procuring agency is against the rules. The bidder also claimed that the works are of complex and innovative nature therefore bids were required to be called on **Single Stage Two Envelope Bidding Procedure** instead of Single Stage One Envelope bidding procedure.

⁴ 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.

10. The bidder assumed that in the presence of their beloved/favorite contractors ,the procuring agency managed the Financial Bid by opening of appellant's Financial bid envelope in his absence and saw his rates which the bidder seems as clear violation of SPPRA Rules and illegal act.

11. The bidder claimed that there is enough evidence to prove that his financial bid has been tampered as narrated below:

- i. According to the bidder the tampered rate mentioned in BER as our rate is
19.882% Rs.497,864,090.31/-
- ii. The Actual quoted rate of our firm is 19.9999%.
Rs.497,129,100.00/-
- iii. The Quoted rate of their Beloved/recommended Contractor
As per BER is 20.000% Rs.497,128,800.59/-
Difference: Rs.299.41/-

12. The bidder believes that the difference in figures clearly shows that it can only be possible by tempering with his financial bid and viewing his quoted rate secretly.

13. The bidder submitted that the recommended bidder has not technically qualified. He assumed that the **M/S Tamzeer's submitted technical bid** was forged and fabricated with false documents i.e. M/s Temzeer Construction Company has been established in 2017 and the work orders attached in the Company Profile are from 2013-2020. The bidder questioned that without establishment of a Firm how he got awarded work order?

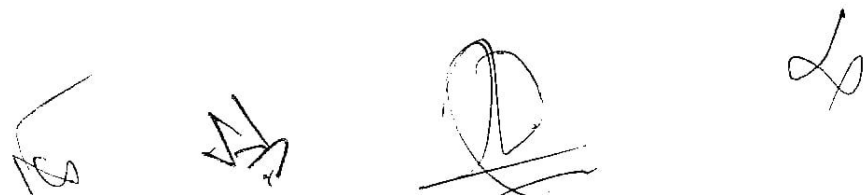
14. The bidder further contended that the Procuring Agency accepted the bid and technically qualified the bidder M/s Tamzeer Construction Company without verification of fake work orders submitted with bid.

15. The bidder submitted that it is mandatory to get the work orders verified but unfortunately the procuring agency did not care about rules and regulations and blamed that the procuring agency only needs money for corruption.

16. The bidder further claimed that the contractor has already been disqualified for the same work/NIT invited by WASA in November 2020 for not fulfilling the eligibility criteria of similar nature work experience.

17. The bidder also submitted that the financial bid was scheduled to be opened on dated : **19-01-2020** but same was not done on the same day and after one month and Six days Fraudulently bid evaluation report was hoisted on SPPRA website.

18. The bidder claimed that the Procuring Agency/Addl: Managing Director WASA Chairman Procurement Committee made fraudulence during opening of Financial Bid jointly with help of Contractor Mr. Shahid Arain owner of M/s Tamzeer Construction company who is a Government officer as Superintendent in Board of Revenue runs the firm illegally against Government Employment Rules, and other managed the tender as "**Mis-Procurement** " means



public Procurement is contravention of any Provision of Sindh Public Procurement At,2010 any rule, regulation, order or instruction made there under or any other law in respect thereof, or relating to, public procurement.

19. The bidder further submitted that he lodged a complaint vide letter No.503 Dated: 26-02-2021 with the competent forum of complaint redressal Committee (CRC) and meeting of CRC was convened on 09-03-2021. During the meeting, the firm informed all the grievances one by one to the Managing Director WASA/Chairman Redressal Committee.

20. The bidder submitted that as such complaint to the CRC was lodged on 26-02-2021 and meeting CRC was summoned on 09-03-2021 but the decision was not announced till the filing of appeal.

21. The bidder submitted that according to sub-Rule-5 of Rule-31 of the SPPRA Rules, 2019 clearly states the **the Complaint Redressal Committee shall announce its decision within seven days and intimate the same to the bidder and Authority within three days. If the Committee fails to arrive at the decision within seven days, the complaint shall be transferred to the Review Committee which shall dispute of the complaint in accordance with the procedure laid down in rule 31 if the aggrieved bidder files the review appeal within ten(10) days of such transfer.**

22. The bidder submitted that being aggrieved he filed the Review Appeal.

23. The bidder was asked whether his representative was present at the time of bid opening or not? The bidder submitted that his representative was present on the day of bid opening and bids were opened at late night 12:00 A.M.

24. The bidder was asked whether he had participated in earlier tender floated by the procuring agency. The appellant submitted that he had participated in the earlier tender and submitted that in that tender also M/S Tamzeer Construction Company was declared lowest.

The Procuring Agency's Version

25. The procuring agency submitted that the tenders were called and the procuring agency was provided clear authorization and delegation of powers for procurement and the tender was initiated for the procurements after the approval of the competent authority.

26. The procuring agency admitted that NIT called on 27.11.2020, was cancelled by the procuring agency and the same were re-invited afresh with fresh terms and conditions.

27. The procuring agency further submitted that the procuring agency, re-invited same NIT and the re-invited NIT advertisement appeared in three widely circulated leading dailies of English, Urdu and Sindhi languages and the same was also hoisted on PPMS website.

28. The procuring agency argued that the bid submission and bid opening was carried out in a transparent manner as per rules. The bids were opened within one hour of the deadline for submission of bids. The procuring agency submitted that all bids were opened publicly in the

presence of all the bidders, or their representatives at the time and place announced in the invitation to bid.

29. The procuring agency further submitted that the procurement committee read aloud the name of the bidder and total amount of each bid. All bidders signed an attendance sheet which may be perused by the record and the same is available at PPMS website. The official chairing of the procurement committee encircled the rates and all the members of procurement committee signed each and every page of financial proposal of bidders. The procuring agency submitted that the procurement committee issued the minutes of the opening of the tenders and the same are available at PPMS website. The procuring agency submitted the appellant was present at the time of bid opening and did not raise any objections at the time of financial bid opening.

30. The procuring agency further clarified that the bids were evaluated in accordance with the terms and conditions and eligibility criteria mentioned in NIT and bidding documents.

31. The procuring agency submitted that out of 9 bids received 05 bids were rejected and among 4 received bids M/S Tamzeer Construction was declared lowest and the procurement Committee recommended that M/S Tamzeer may be awarded the contract.

32. The procuring agency further submitted that after the announcement of BER when the bidder was not successful, the appellant submitted application for CRC.

33. The procuring agency further submitted that the complete process has been completed in accordance with the rules.

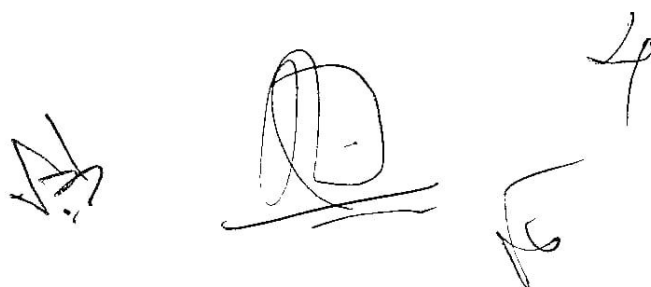
34. The Procuring agency denied any king of ambiguity and mala-fide intention in the complete process of procurement.

35. In reply to a question asked regarding the cancellation of NIT, the procuring agency submitted that due to delay in CRC, the earlier NIT was cancelled.

36. To a question asked regarding change in terms and conditions of NIT, the procuring agency submitted that it was done in order to enhance competition, motivate bidders and enlarge the participation of bidders.

37. The procuring agency clarified that the work orders of M/S Tamzeer construction were not verified as the requirement of the procuring agency had fulfilled because the bidder has 550 million works with WASA itself. Therefore, the procuring agency did not get the other work orders verified.

38. The procuring agency was asked whether contract has been awarded or not? The procuring agency submitted that contract has not been awarded.



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39. The tender clerk of the procuring agency admitted that on 19.1.2021 officials were sitting till 12:00 A.M late night however the bids were opened on the time mentioned in NIT. He also told to the Review Committee that the bidder also witnessed the opening of bids.

40. The procuring agency denied any kind of illegal favor to any of the bidder in the complete process of procurement.

41. The procuring agency was asked why the NIT did not contain the eligibility condition of turn over for last three years. The procuring agency replied that condition of Rs.375 million work orders was inserted instead of turnover of last three years.

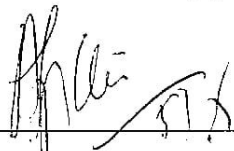
Observations of the Review Committee

42. The committee observed that the procuring agency did not observe the rules in calling the bids on Single Stage One Envelope bidding procedure and failed to ask Annual Financial Turnover of last three years as required under Rule-46 (a)(ii)

Decision of the Review Committee

43. Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(g),decides that

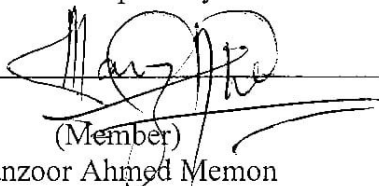
- I. The procuring agency has violated the Rule 46(1)(a)(ii) of the SPP Rules.
- II. The procuring agency shall terminate the procurement proceedings.
- III. The procuring agency shall initiate the process afresh by observing rules and regulation accordingly.



(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)
Aijaz Ahmed Memon
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