



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2696/2021-22/ 4088

Karachi, dated the 23<sup>rd</sup> December, 2021

To,

The Secretary,  
Works & Services Department,  
Government of Sindh,  
**KARACHI.**

**Subject: DECISION OF THE 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 Abdul Hafeez Kolachi & Permanand & Company V/s Executive Engineer, Highway Division Matiari, held on 14.12.2021, for taking further necessary action under intimation to this Authority, at the earliest.

  
ASSISTANT DIRECTOR (Legal-II)

**A copy is forwarded for information and necessary action to:**

1. The Superintendent Engineer, (Works & Services) Department Matiari.
2. The Executive Engineer, Highway Division 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-2696/2020-21

Karachi, dated the , December, 2021

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

M/s Abdul Hafeez Kolachi & M/s Permanand and Company

Vs

Executive Engineer Highways Division Matiari

PPMS NIT NO T00615-21-0001

Decision of the Review Committee held on 14.12.2021

Date(s) of meeting(s)	14.12.2021		
Appellant	<u>Abdul Hafeez Kolachi &amp; M/S Permamand and Company</u>		
Procuring Agency	<u>Executive Engineer Highways Division Matiari</u>		
Appeal received on	02.9.2021 Abdul Hafeez Kolachi 14.09.2021 <i>Permanand</i>		
Reasons for the delay in decision of the Review Committee in terms of rule 32(10)	Many complaints were pending before the Review Committee because the working of the committee was kept in abeyance due to the non-availability of one member of the Review Committee.		
S. No.	Appellant's Version	Procuring Agency's Version	Remarks/SPP Rules/Regulations
01.	<p>The appellant M/s Permanand and Company stated that he had sent the bid through Courier Service and the same had been received by the procuring agency.</p> <p>The appellant showed the delivery report of the bid in PA's office obtained from courier company tracking system, before the deadline of submission of bids.</p>	<p>The procuring agency informed that the bids were opened but the bidder did not participate in the bidding process.</p>	<p>Rule 41(3) &amp; (4) Of SPP Rules 2010, are reproduced below 41(3).The bids shall be opened within one hour of the deadline for submission of bids; 41(4).All bids shall be opened publicly in the presence of all the bidders, or their <i>representatives</i>, who</p>

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			may choose to be present in person, at the time and place announced in the invitation to bid.
02.	The appellant M/s Permanand and M/s Abdul Hafeez Kolachi also informed that the procurement committee was not present at the time of bid opening.	The P.A claimed that minutes of bid opening meeting and attendance sheet signed by the bidders are evident that the appellants had not participated in the bidding process and the bids were opened publicly on 18.08.2021.	The procuring agency failed to satisfy the Review Committee that the bids were opened publicly.
03.	The appellants claimed that they had documentary proof to establish that the bids were not opened publicly.	The procuring denied such proof and submitted that such proof had been manipulated.	The Committee was satisfied with the proof of the appellants and held that the procuring agency had failed to open the bids publicly.
04.	The procuring agency did not resolve the complaints and preceding the procurement process, the P.A issued Bid Evaluation Report which was illegal.	The procuring agency claimed that the bidder had not participated in the bidding process. Therefore, they were not intending bidders.	
<b>Status of Work</b>			
05.		Responding to a question regarding award of work, the Procuring Agency	

		<p>informed that the procurement contract had been signed as yet.</p> <p>In response to the question regarding the non-compliance of observation of Authority uploaded on PPMS, the Procuring Agency was unable to give any satisfactory reply.</p>	
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**Findings of the Committee:-**

1. The Review Committee observed that the Procuring Agency failed to open the bid of the bidder that was received at the office of the procuring agency and had violated SPP Rule 41, and 4.
2. It was noted that the Procuring Agency failed to open the bids publicly.
3. The Review Committee observed that the procuring agency signed the contract even knowing that the appeals of the appellants were pending before the Review Committee. Such signing of the contract is against the SPP Rule 31(7) which reads as under;

**Provided that in case of failure of the Complaint Redressal Committee to decide the complaint; the procuring agency shall not award the contract, [until the expiry of appeal period or the final adjudication by the Review Committee.]**

4. It was noted that as per Rule 50 of SPP Rules, 2010, contract documents were required to be uploaded on PPMS –SPPRA Website within fifteen days of signing of contract. Work orders were issued on 6.9.2021 & Contract Documents were uploaded on PPMS/SPPRA website on 18.11.2021 i.e. after lapse of 71-days whereas as per Rule-50 Procuring Agency was required to upload Contract Documents within 15-days of award of contract. Hence Rule-50 has been violated
5. It was also observed that the Procuring Agency had not complied with the observations issued by the Authority on PPMS website.
06. The procuring agency failed to complete the procurement process in a transparent manner.

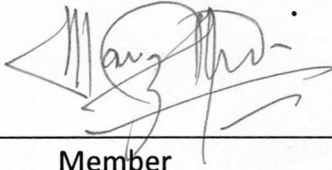




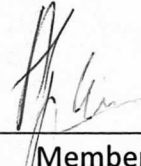
**Decision of the Review Committee:**

Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(7) (g), the Review Committee:

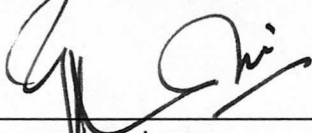
1. Declares the **procurement of all works of the NIT** as Mis-Procurement (Work & Services)
2. Decide to refer the matter to the Competent Authority i.e. Secretary ~~Irrigation & Power~~ Department Karachi for initiation of disciplinary action against the official(s) of the procuring agency responsible for Mis-procurement
3. The Department shall recover any loss or damage incurred by it on account of its corrupt business practices and pay compensation to Government of Sindh (GoS) in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by Contractor as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form, from (GoS) due to Mis-procurement under integrity pact.



Member  
(Manzoor Ahmed Memon)  
Member SPPRA Board



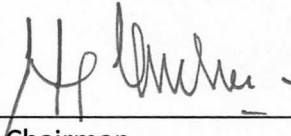
Member  
(Syed Adil Gilani)  
Transparency International Pakistan



Member  
(G Mohi-Uddin Asim)  
Representative of P & D Board ,P&D  
Department Karachi



Member  
(Munir Ahmed Shaikh)  
Independent Professional



Chairman  
(Abdul Haleem Shaikh)  
Managing Director  
(Sindh Public Procurement Regulatory Authority)