



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2971/2021-22/ *C923*

Karachi, dated the 16th March, 2022

To,

The Chief Executive Officer,
Sindh Health Insurance Limited,
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 Health Econnex Pvt Limited V/s Sindh Insurance Limited, held on 08.03.2022, for taking further necessary action under intimation to this Authority, at the earliest.

[Signature]
ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. Mr. Nadeem Akhtar, (Head of Procurement Committee), CFO & Company Secretary (EVP) Sindh Insurance Limited.
2. 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)
3. The PS to the Chairman / Members Review Committee.
4. The Appellant.



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2. 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)**
3. The PS to Managing Director, SPPRA Karachi.
4. ~~The Staff Officer to the Chairman /~~ Members Review Committee.
5. The Appellant.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



No.AD (L-II) SPPRA/CMS-2971/2020-21

Karachi, dated the, 14th March, 2022

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

Decision of the Review Committee held on 08.03.2022

Appellant	M/s Health Econnex (PVT) Limited
Procuring Agency	Sindh Insurance Limited
PPMS ID #	T00013-21-0012
Reference No.	NIT SIL8HO/TPA/2021
Appeal Received in Authority Dated	04.03.2022
Complaint of the Appellant Addressed to the Committee Head Complaint Redressal Committee, Sindh Insurance Ltd.	Dated:24.02.2022
Dated of Posting Notice Inviting Tender	24-12-2021
Date of Opening of Bids Technical Opening	11.1.2022
Date of Opening of Bids Financial Opening	18.01.2022
Date of Posting Bid Evaluation Report	22.01.2022
Date of Posting Contract Documents	Not Posted up-to 14.03.2022
SPPRA Observations communicated on	29.12.2021

1. This Review Appeal has been preferred by M/s Health Econnex (PVT) Limited hereinafter referred as "the Appellant" against the decision of the Complaint Redressal Committee of the procuring agency, "Sindh Insurance Limited (9999-Others)" hereinafter referred as "the procuring agency", in terms of Rule 32(1) of the SPP Rules.

Back Ground of the appeal:-

2. The appeal was earlier filed by the appellant before the Review Committee. The Review Committee remanded back the matter to the CRC to decide as per rules. The operative part of the decision is reproduced as under:

Given the proceedings, findings/observations especially @ 6 to 12 and after due deliberation, the Review Committee decided to remand back the matter to the Complaint Redressal committee which shall decide the matter as per rules by affording fair opportunity of hearing and defense to the appellant within 15 (fifteen) days. Needless to mention that the observations made in this decision are of tentative in nature which shall not in any manner influence the decision of the CRC in deciding the matter on merits as per rules.

3. The matter was heard and decided by the Complaint Redressal Committee and decided that there was no violation of rules during the procurement process. The operative Para of the decision is reproduced as under:

Given the proceedings, findings/observations especially @ 6 to 12 and after due deliberation, CRC found there has been no violation of SPPRA Rules made by the procuring agency/committee.

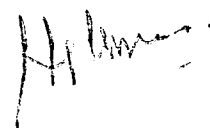
4. Thereafter the appellant requested the Review Committee to review the decision of the Complaint Redressal Committee in the instant matter.

The appellant's Version:-

1. The appellant submitted that the Complaint Redressal Committee failed to satisfy the complaint of the appellant and did not consider his reservations, objections, apprehensions and contentions.
2. The appellant submitted that the Procuring Agency cancelled the Notice Inviting Tenders, in accordance with Rule 23 of the SPP Rules as there was a material infirmity or ambiguity in the bidding documents, which could not be addressed without modifying the contents of bidding document. The appellant contended that the Rule 25 did not apply on the instant as the procuring agency had cancelled the bids in terms of Rule 23. Hence the appellant contended that the procuring agency was required to justify the causes of the cancellation of bids as the immunity provided by Rule 25 did not apply in the instant matter.
3. The appellant also contended that the procuring agency failed to formulate an appropriate evaluation criterion. The Procuring Agency included the basic eligibility criteria/ Mandatory qualifications in the scoring criteria which the appellant considered inappropriate, inaccurate un-called for against rules proceeding.
4. The appellant also contended that the evaluation criteria must relate to the subject matter of procurement and it must be objective and quantifiable. It was also contended that the procuring agency did not give due weightage to the experience, financial capability and past performance.
5. The appellant contended that the changes in the Evaluation Criteria in order to support particular bidder.

The Procuring agency's Version:-

1. The procuring agency contended that the instant appeal was not maintainable as the Review Appeal of the appellant was already considered and decided by the Review Committee wherein the matter was remanded back to the CRC for deciding the matter. It was contended that as per SPP Rules the decision of the Review Committee was binding and final and Re-Review was not allowed under SPP Rules.
2. The procuring agency reiterated that the cancellation of the tender was the discretionary power of the procuring which had been conferred by the SPP Rules and the procuring agency was under no obligation to justify the reason of cancellation even though the reasons for the cancellation Notice provided the reason for the cancellation of bids.
3. The Procuring agency clarified that the procurement committee formulated an appropriate evaluation criterion, listing all the relevant information against which a bid was to be evaluated and criteria of such evaluation was formed an integral part of the bidding documents. The Procuring agency contended that Evaluation Criteria was clear and there was no any ambiguity in the evaluation criteria mentioned in the bidding documents.



4. The procuring agency submitted that the Evaluation criteria was formulated in accordance with the nature of work, objectives of the procuring agency, requirements of the procuring agency with an aim to increase participation, motivate open competition ,achieve efficiency, procure the services on least cost and encourage transparency and fairness.
5. The procuring agency contended that valid registration with SECP was sufficient to prove for any bidder that he could accomplish the task of the procuring agency. It was also contended that no any company is registered by SECP unless such company meets the fit and proper criteria and fulfills such terms and conditions as specified for particular trade, business, work any other. In short, the procuring agency was of the view that valid registration with SECP was enough to prove the capability of any company.
6. The procuring agency vehemently denied any kind of mala-fide and ulterior favor or disfavor to any bidder during the procurement process.

Observations of the Review Committee:-

1. The Review Committee observed that the procuring agency failed to include fair, transparent, to the point and appropriate evaluation criteria in procurement process for proper and clear competition.
2. The Evaluation Criteria framed by the Procuring Agency is reproduced as under:

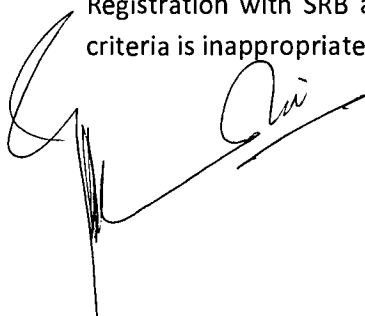
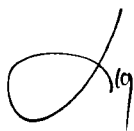
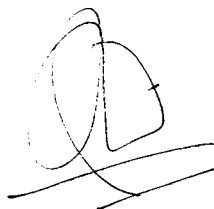
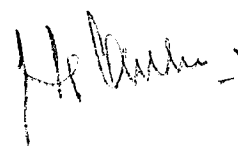
S. No	Descriptions	Total Marks	Marks Obtained	Remarks	Mandatory Evidence As Annexures
1	Should have existing Third Party Administration of Health Insurance Premium Portfolio	10		Rs. 100 Million & above	Statement of Premium Portfolio as Annexure-A
		07		Rs. 50 Million & above	
		05		Rs. 10 Million & above	
2	Number of Corporate / Group Third Party Administration of Health Insurance Clients	10		08 & above	Clientele List as Annexure-B
		07		05 & above	
		05		02 & above	
03	Experience in the field of Third Party Administration of Health Insurance	05		08 years & above	NTN/Valid License issued by SECP As Annexure-C
		03		05 years & above	
		02		02 years & above	
04	Average Yearly Turnover of Last 03 years	05		Rs. 15 Million & above	Accounts of Last 3 years as Annexure-D
		03		Rs. 10 Million & above	
		02		Rs. 05 Million & above	
05	Hospital on Panel All over Pakistan	15		200 & above	List of Hospital as Annexure-E
		10		150 & above	
		07		100 & above	
06	Numbers of Doctors	10		04 & above	List of Doctors as Annexure-F
		07		02 & above	

		05		01	
07	24 Hours Hotline & Call Centre Facility	15		Both	List of Numbers as Annexure-G
		10		Any one	
08	Registration with FBR	05		Yes	Registration Certificate As Annexure-H
		0		No	
09	Registration with SRB	05		Yes	Registration Certificate as Annexure-I
		0		No	
10	Paid up Capital	10		Rs. 10 Million & above	Accounts As Annexure-J
		05		Rs. 05 Million & above	
11	Valid TPA License from SECP	10		Yes	Valid License As Annexure-K
		0		No	
Total Marks		100		Qualified / Disqualified	

3. Rule 21(A) states the formulation of Evaluation Criteria during the procurement process. It would be appropriate to reproduce Rule 21(A) which is as follows:

21(A). [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 criteria in the bidding documents shall amount to mis-procurement.

4. The above mentioned rule makes clear that the procuring agency was required to formulate an **appropriate criterion** which must include relevant information and the criteria must be clear and unambiguous. **In the instant matter, the procuring agency awarded score for basic eligibility criteria which is inappropriate in accordance with the procurement laws.**
5. The Eligibility means that the bidder meets basic general and specific requirements established either for that particular trade or business i.e. Valid NTN,SRB registration, ISO Certification, incorporation certificate or registration with relevant professional statutory body, in the instant case valid registration with SECP along with others.
6. The procuring agency awarded marks for basic eligibility criteria such as Registration with FBR, Registration with SRB and Valid TPA License from SECP etc. Awarding marks for these basic eligibility criteria is inappropriate, irrational, unreasonable and uncalled for.

Decision of the Review Committee

Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(7)(f) of the SPP Rules, the Review Committee decided to direct the procuring agency to terminate the procurement proceedings as the procurement contract has not been signed.



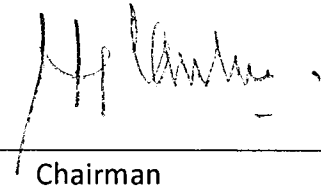
Member
(Manzoor Ahmed Memon)
Member SPPRA Board



Member
(Munir Ahmed Shaikh)
Independent Professional



Member
(G. Muhluddin Asim)
Representative of P & D Board ,P& D
Department Karachi



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