**Government of Sindh**
**Sindh Public Procurement Regulatory Authority**

SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

**No.AD(Legal-II)SPPRA/RC-6/2018-19/ 197** **Karachi, dated 02 January, 2018**

To,

1. The Medical Superintendent,
   Dr. Ruth K.M. Pfau, Civil Hospital,
   **Karachi.**

2. Members, Review Committee
   Sindh Public Procurement Regulatory Authority
   **Karachi.**

3. Mr. Ghulam Asghar Pathan (Appellant),
   Griffin Chambers, Office Number 95-B, 8th Floor
   Farid Chambers, Abdullah Haroon Road,
   **Saddar, Karachi.**

**Subject:** **APPEAL FOR REVIEW COMMITTEE UNDER RULE-32 OF SINDH PUBLIC PROCUREMENT RULES 2010 (AMENDED 2017), ON THE APPEAL OF GRIFFIN CHAMBERS ON BEHALF OF M/S GREEN TOP PHARMA AGAINST THE TENDER FOR PROCUREMENT OF DRUGS/MEDICINES FOR FINANCIAL YEAR 2018 INVITED BY CIVIL HOSPITAL, KARACHI.**

The undersigned is directed to refer to the subject cited above and to enclose herewith the decision of the Review Committee of Sindh Public Procurement Regulatory Authority, held on **Thursday 13th December, 2018 at 11:00 am** and **Tuesday 18th December, 2018 at 12:00 pm** under the Chairmanship of Managing Director, SPPRA in Committee Room of Sindh Public Procurement Regulatory Authority, Barrack No. 8, Sindh Secretariat Block No.4-A, Court Road, Karachi for information and further necessary action.

**Assistant Director (Legal-II)**

***A copy is forwarded for information to:-***

- The Managing Director SPPRA, Karachi.
- The Incharge I.T Section, SPPRA Karachi, with the request to host the decision of Review Committee on SPPRA/PPMS Website.

Government of Sindh
Sindh Public Procurement Regulatory Authority

No.AD(Legal-II)SPPRA/RC-6/2018-19 Karachi, dated 21st December, 2018

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

(Appeal)
M/s Green Top Pharma
Versus
The Medical Superintendent, Dr. Ruth K.M. Pfau, Civil Hospital, Karachi

**Facts and background**

. M/s Griffin Chambers on behalf of M/S Green Top Pharma, hereinafter referred to as Appellant, filed an appeal before Review Committee under Rule-32 against rejection of their bid in item No,55 despite being 1st lowest in tender for Drugs/Medicines for financial year 2018-19, invited by Dr. Ruth K.M. Pfau, Civil Hospital, Karachi, hereinafter referred to as Procuring Agency. Earlier appellant had lodged a complaint with Complaint Redressal Committee of Procuring Agency against rejection of their bid and non –communication of such rejection. The Complaint Redressal Committee of Procuring Agency failed to decide the complaint within 07 days, hence under Rule-31(5) the same stands transferred to the Review Committee for its disposal in accordance with procedure laid down in Rule-32.

3. The NIT using Single Stage Two Envelop method was hosted on PPMS SPPRA website under I.D No.T00753-18-0004 on 25.07.2018 and bids were opened on 16.08.2018. The Bid Evaluation Report was also hosted on PPMS Website of SPPRA. The appellant participated in the said tender and his technical bid was declared non-responsive in items No-55. As such his finaicial bid was not considered. The appellant lodged a written complaint with the Complaint Redressal Committee of Procuring Agency on 01.11. 2018, but Complaint Redressal Committee (CRC) failed to address the grievances of appellant. Therefore, the appellant filed an appeal before Review Committee to decide the matter. Accordingly the date of the Review Committee was fixed on 13.12.2018, but could not concluded the proceeding as the appellant sought time for arguing on the reasons of his client dis-qualification provided by the Procuring Agency during the proceedings. The Review Committee held its second meeting on 18.12.2018 and heard the parties in details. Ample opportunity was provided to the appellant to present his case and to the Procuring Agency for defending its position.

**Appellant Version**

4. The appellant apprised the committee that his client M/s Green Top Pharma participated in the bidding process for the subject tender and submitted bids for 09 items, but not approved by the committee because of not being lowest. The Item No.55 was not considered by the procurement Committee for the reasons unknown to them despite being lowest. Therefore appellant had objection on item No.55, because the reason for rejection or anything else should be recorded in the minutes of meeting and the appellant was still not sure as to on what grounds the bid of his client was not accepted for item No.55.

5. During the meeting the appellant asked some questions from Procuring Agency, which are reproduced as under with the reply of Procuring Agency.

| Sr. No. | Question of Appellant | Answer by the Procuring Agency |
|---|---|---|
| 1. | How many members are there in the Procurement Committee? | There are 07 members in the Procurement Committee. |
| 2. | Who is the Chairman of Procurement Committee? | Dr. Toufiq Ahmed, Medical Superintendent was the Chairman of Procurement Committee. |
| 3. | Is the Professor who made objection / dis-qualified him member of Procurement Committee? | Yes |
| 4. | Is the reason for dis-qualification produced before all the members of Procurement Committee? | Yes |
| 5. | Is Evaluation Report produced before the Review Committee | It is available / hosted on PPMS website of SPPRA and also provided on demand of SPPRA |
| 6. | Is detailed ground for dis-qualification available on website? | No |
| 7. | Are the Technical Reasons for dis-qualification available with BER. | No |

**Procuring Agency Version:-**

6. Dr. Muhammad Sabir Memon, Medical Superintendent, Dr. Ruth K.M. Pfau, Civil Hospital, Karachi representing the procuring agency apprised the Review Committee that the financial bid for item No.55 in respect of Ms/ Green Top Pharma (Appellant) was not considered, because it was rejected on technical ground by the Procurement Committee as the samples produced before the Procurement Committee were found sub-standard and of low quality. Procuring Agency also produced the opinion of Professor of Surgery, Surgical Unit-V, who was also the member of Procurement Committee as a reason for dis-qualification of the appellant, which reproduced as under:-

> **"With reference to the Grievance of M/s Green Top Pharma against tender of Drugs/Medicine, for the year 2018-19 regarding item No.55 (Insulin needle), the item was rejected in the technical because of low quality of the said item as compared to others submitted in the tender. The suction of plunger mechanism was not effective because of low quality and needle was prone to bend at the attachment to the barrel, which would have broken in patients with slightly thick skin. This would have put patients safety at risk" (Annexure-I).**

7. Regarding the decision of Complaint Redressal Committee (CRC) Procuring Agency apprised the Review Committee that same was constituted centrally with Secretary Health as its Chairman. The application of the appellant was received late and same was forwarded to the Chairman Complaint Redressal Committee for its disposal, but CRC could not hold meeting and the complaint could not be disposed off.

**Review Committee observations:-**

8. After hearing the parties at length and opinion of the independent member the Review Committee observed that:-

- Procuring Agency followed **Rule-46 (2)** of SPP Rules 2010 by inviting bids on single stage two envelope bidding procedure.
- Procuring Agency also produced the samples of all bidders including the sample of appellant for item No.55, which was examined by the members of Review Committee. The independent Professional alongwith a technical expert being the technical member of the Review Committee informed that the sample item is sub-standard and of low quality and should not be used on human body and corroborated the decision of procurement committee.
- The appellant's complaint first part was non-communication of the reasons for rejection the bid for item No.55, which was provided to the appellant.
- The samples of the Appellant's product produced by the Procuring Agency were also found sub-standard and of low quality by Review Committee on the advise of the independent member alongwith his technical expert.
- The contention of the appellant that he was the lowest bidder for item No.55 is incorrect as his financial bid was not included in the Comparative Statement for being technically disqualified. In terms of Rule-46(2)(j) "bid found to be lowest evaluated or best evaluated bid shall be accepted". There is a difference between lowest bid and lowest evaluated bid as defined in Rule-2(v) & (w) of SPP Rules, 2010 (amended 2017).

**Decision:-**

9. After detailed deliberations, the Review Committee unanimously decided that the appeal of the appellant is rejected on the grounds of expert opinion of Professor Sajida Qureshi, Professor of Surgery and verification of independent member of the Review Committee.

(Member)
Engineer Saad Rashid
Representative of Transparency
International Pakistan
Member on SSPRA Board

(Member)
Asadullah Soomro
Member SPPRA Board

Member
Dr. Saadat Ahmed Memon
Director Procurement
Sindh Employees Social Security Institute.
(Independent Professional)

(Member)
Mr. Shoaib Zaffar
Assistant Audit Officer
Nominee of Director General Audit
Sindh

(Chairman)
Muhammad Aslam Ghauri
Managing Director
Sindh Public Procurement Regulatory Authority

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24.11.2018


# SAJIDA QURESHI FCPS, FRCS

**Professor of Surgery**

Department of Surgery Unit-V, DOW Medical College & Dr. Ruth K.M Pfau, Civil Hospital, Karachi. **Phone:** 021-99215709 **Ext:** 3021 Baba-e-Urdu Road, Karachi-74200, Pakistan, **Email:** sajida.qureshi@duhs.edu.pk


23rd November, 2018

Medical Superintendent

Dr. Ruth K M Pfau, Civil Hospital Karachi.

Reference No: MS/DRKMP-CHK/2018-19/13792, Dated: 22-11-2018.

Dear Sir,

With reference to the Grievance of M/s. Green Top Pharma against tender of Drugs/Medicine, for the year 2018-19 regarding items No 55 (insulin needle). The item was rejected in the technical because of the low quality of the said item as compared to others submitted in the tender. The suction & plunger mechanism was not effective because of low quality and the needle was prone to bend at the attachment to the barrel which would have broken in patients with slightly thick skin. This would have put patients safety at risk.

Sajida Qureshi
Professor of Surgery
Surgical Unit-V
DMC & CHK.