



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/RC(SCWA)/2018-19

Karachi, dated the March, 2019

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

(Appeal)

M/s Sindh Constructor Welfare Association

Versus

District Municipal Corporation – West Karachi

NIT ID # T00646-18-0010 dated 18.12.2018	(DMC WEST-SITE)
NIT ID # T00570-18-0008 dated 20.12.2018	(DMC WEST-BALDIA)
NIT ID # T00720-18-0005 dated 22.12.2018	(DMC WEST-ORANGI)
NIT ID # T00720-18-0006 dated 22.12.2018	(DMC WEST-ORANGI)

Facts and background

M/s Sindh Constructor Welfare Association, Karachi (hereinafter referred as the appellant) lodged an appeal vide letter dated 22.01.2019 to the Review Committee of Sindh Public Procurement Regulatory Authority (hereinafter referred as the Authority) against the irregularities, unlawful and illegitimate works advertised through above-referred NITs by District Municipal Corporation – West Karachi (hereinafter referred as the procuring agency).

2. On receipt of the appeal, this Authority issued notices vide letter dated 01.02.2019 to the concerned parties for appearance before the Review Committee on 06.02.2019 at 01.00 p.m. In compliance, Mr. Sahibzada Kamran (representative of the appellant) appeared before the Review Committee whereas the representative of the procuring agency failed to appear on scheduled date and time, due to which the committee unanimously decided to give a chance to the procuring agency to depute its representative to appear in next Review Committee meeting.

3. Subsequently, the Authority vide letter dated 15.02.2019 convened second meeting of the Review Committee on 20.02.2019 and issued notice to the concerned parties to appear along with complete record before the Review Committee. In compliance, Mr. Masooq Ali Rajper, Superintending Engineer, District Municipal Corporation – West Karachi (representative of the procuring agency) and Mr. Sahibzada Kamran, General Secretary, Sindh Constructors Welfare Association (representative of the appellant) appeared before the Review Committee.

Review Committee Proceedings

4. Chairperson of the Review Committee welcomed all the participants of the meeting and apprised the members that due to non-representation of the procuring agency in the last meeting, the Committee had to postpone and reschedule that meeting. Then, the chair advised the appellant to present his case/ version before the committee.

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Appellant's Version

5. Mr. Sahibzada Kamran (representative of the appellant) while arguing his appeal presented the case as under:

- The procuring agency initiated procurement process for five zones (Karachi West/ Orangi/ Site/ Baldia/ Keamari) through floating various NITs at once with 60-80 different works under each zone. The Schedule for issuance, submission and obtaining of bid documents under the NITs was same but venues for submission and opening of bids were different, which was unique case;
- When they approached the procuring agency, the concerned officers were found absent in the name of so called meeting and bidders were worried over the instant procurement process fairness and transparency;
- They filed complaint to the procuring agency's Complaint Redressal Committee (CRC) but the procuring agency was unaware about any CRC or its composition under SPP Rules. The procuring agency verbally replied that they will furnish their response later on, which was still awaited;
- Thereafter, they met with Mr. Imran Aslam, Municipal Commissioner and presented their grievances on overwhelming number of works at once and absence of all concerned officers of the procuring agency after floating NITs. Only one officer namely Mr. Zahid Fayaz, Executive Engineer, who remained present in the office of procuring agency and took decisions to award contracts on balloting basis without considering bidding process;
- The matter could also be verified from the instant procurement's bid evaluation reports, which showed participation of only three contractors in bidding process; whereas around eighty (80) contractors participated in the bidding process. A fair and transparent process would have resulted participation of at least 30-40 contractors among all works but the procuring agency in the instant case of procurement had awarded contracts to its blue-eyed contractors by taking advance commission 8-10% of contract value;
- The NITs published in newspapers were unable to be perused and the procuring agency did not issue bid documents to the contractors, which was also a violation of SPP Rules. SPPRA should have highlighted these observations to the procuring agency before posting of NITs and bid documents on the website.
 - ◆ In response, the Chairperson of Review Committee clarified the appellant that the NITs and bidding documents were posted/ uploaded on the SPPRA's PPMS website by the procuring agency itself; the Authority had no role to post any document after launching of Authority's PPMS website. Prospective bidders might download bid documents from the Authority's PPMS website and submitted the same along with bid documents fees to the procuring agency.

Procuring Agency's Version

6. Mr. Masooque Ali Rajper, Superintending Engineer while responding to queries raised by the Review Committee clarified that:



- The procuring agency received one complaint from the appellant that was forwarded to the Executive Engineers for seeking their report. In response, the Executive Engineers totally denied all the allegations leveled by the appellant;
- The Review Committee asked what action had been taken in light of these reports whether any intimation of CRC decision was made to this Authority. Mr. Mashooque informed that they had constituted a CRC but its decision/ report had not been finalized yet due to the transfer of Mr. Imran Aslam, Municipal Commissioner;
- The Review Committee pointed-out that schedule for opening of bids under all NITs was same and Chairman as well as few members of the procurement committee who were responsible for carrying out opening and evaluation of bids were also same then how it was possible for them to ensure participation in all meetings (bid submission and opening) at different venues. Mr. Mashooque clarified that there was a difference of one hour in opening of bids under all NITs. The Review Committee again queried how it was possible for members to complete bid submission/ opening process at one place and then depart their office for next meeting at another venue in just an hour. Mr. Mashooque admitted that the bid submission and opening process should have been done by the procuring agency either in a centralized manner or on different dates but due to his leave – for performing Umrah – sub-ordinate offices (district zones) did not seek any feedback/ comments before issuing NITs.
- The Review Committee asked Mr. Mashooque to present the instant procurement's record before Committee as advised vide Authority's letters dated 01.02.2019 & 15.02.2019 but he failed to present any record on the grounds that he received intimation from higher-ups on 19.02.2019 to attend this meeting; therefore, additional time might be provided with an opportunity to be better prepared in next meeting.
- The Review Committee asked about the current status of the NITs. Mr. Mashooque explained that work orders had been issued to the contractors and physical work had been started against these schemes.

Review Committee Observations/ Comments

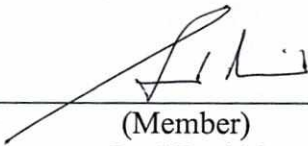
7. After hearing parties at length and perusal of the available record, the Review Committee observed that:-

- The procuring agency had failed to finalize and announce its CRC decision within seven days and intimate the same to the appellant and the Authority within three working days in terms of Rule-31(5) of SPP Rules;
- The procuring agency was required to decide the complainant's matter through its CRC prior to awarding contractors to the bidders/ contractors as required under Rule-31(6) and Proviso of Rule-31(7) of SPP Rules;
- The procuring agency has been communicated twice by this Authority to depute their representative (not below the rank of BS-19), well-conversant with the instant procurement case, along with complete record of the procurement so that the Review Committee could examine the case and take decision accordingly; however, the procuring

agency has failed to present procurement record before the Review Committee despite availing two chances; hence, time period to submit the record cannot be extended further.

Review Committee Decision


8. In light of the above observations, as mentioned under para-7, and due deliberation, the Review Committee unanimously declared the said procurement as **Mis-Procurement** in the light of SPP Rule-32(7)(g) and decided to refer the matter to the Competent Authority for initiating disciplinary proceedings against the officer(s)/ official(s) responsible for mis-procurement and also decided to refer the matter to the Sindh Enquiries & Anti-Corruption Establishment for initiating action against officers responsible/ involved in the instant procurement process, in terms of Rule-32(A)(2) of SPP Rules, 2010 (Amended Up to date).




(Member)
Saad Rashid
Private Member SPPRA Board
Representative Transparency International




(Member)
Asadullah Soomro
Private Member
SPPRA Board

For 

(Member)
Muhammad Atif Hussain
Nominee of Director General Audit Sindh



(Member)
Dr. Khalid Mehmood Soomro
Member Federal Ombudsman
Independent Professional



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