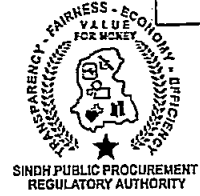




GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/F.B.ENT./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 F.B. Enterprises

Versus

Provincial Buildings Division, Sukkur

(NIT ID # T00660-18-0001 dated 22.11.2018)

**Facts and background**

M/s F.B. Enterprises, Hyderabad (hereinafter referred to as the appellant) lodged a complaint vide letter dated 17.12.2018 to Sindh Public Procurement Regulatory Authority (hereinafter referred to as the Authority) against the NIT # TC/G-55/1461/2018 dated 07.11.2018 floated for procurement of works by the Executive Engineer, Provincial Buildings Division, Sukkur (hereinafter referred to as the procuring agency). The Authority vide letter dated 07.01.2019 forwarded the matter to the procuring agency with an advice to redress the appellant's grievances through its complaint redressal committee within seven days and furnish the decision on complaint to the appellant as well as this Authority within three working days in accordance with Rule-31 of SPP Rules, 2010 (Amended Up to date)

2. Subsequently, the appellant lodged an appeal vide letter dated 17.01.2019 to the Review Committee of this Authority on the grounds that the procuring agency had failed to arrive at the decision within stipulated time period of seven days, therefore, the complaint stood transferred to the Review Committee in terms of Rule-31(5) read in conjunction with Rule-32 of SPP Rules, 2010 (Amended Up to date).

3. On receipt of the above appeal, the Authority vide letters dated 24.01.2019 issued notices to the concerned parties for appearing before the Review Committee on 29.01.2019 at 12.30 p.m. In compliance, Mr. Farooq Ali, Proprietor (representative of the appellant) appeared before the committee meeting; whereas, representative of the procuring agency did not appear in the meeting, *due to which the committee decided to provide an opportunity to the procuring agency to appear in next meeting of the committee for defending its position.*

4. Pursuant to the committee's above decision, the Authority vide letters dated 01.02.2019 re-issued notices to the concerned parties for appearing before the Review Committee on 06.02.2019 at 01.00 p.m. In response, Mr. Naveed Shaikh, Manager (representative of the

appellant) appeared before the Review Committee; whereas, the representative of the procuring agency again remained absent to attend the meeting.

### Review Committee Proceedings

5. It was observed that the procuring agency was given two chances for appearance before the Review Committee to present their version and defend the case but the procuring agency failed to do so; therefore, the committee unanimously agreed to give opportunity to the appellant – who appeared twice before the committee – to present their case/ version.

### Appellant's Version

6. Mr. Naveed Shaikh (representative of the appellant) while arguing his appeal apprised the Committee that:

- They approached the procuring agency to submit their bids – along with requisite documents and bid security – in the morning of the scheduled date i.e. 27.11.2018 for submission and opening of bids and waited there up to 2.00 p.m. but the procuring agency did not place any tender box to submit/ drop the bids; moreover, the chairman and members of the procurement committee were also absent during bid submission and opening process; resultantly on the same date, they approached the Superintending Engineer, Building Circle, Sukkur, who informed that he joined the office last day; therefore, advised to approach the concerned Engineer;
- The procuring agency did not follow basic principles – fairness, transparency, and openness – of public procurement as required under Rule-4 of SPP Rules, 2010; bid documents were issued, received and opened on favoritism basis through tempering bid rates as well as award of contracts were made in a secrete manner rather than ensuring open competition in the bidding process as required under SPP Rules;
- They lodged a complaint vide letter dated 10.12.2018 to the procuring agency's complaint redressal committee; simultaneously, the Authority vide letter dated 07.01.2019 also forwarded their complaint but the procuring agency's complaint redressal committee did not pay any heed towards their complaint and awarded contracts to blue-eyed contractors, which can be verified from the procurement record;

### Review Committee Observations

7. After hearing the appellant version and checking procurement record available on the Authority's PPMS website, the Review Committee observed that:-

- The procuring agency failed to rectify following observations/ infirmities – before opening of bids - as already communicated by the Authority through PPMS website on 23.11.2018 against the NIT ID # T00660-18-0001 dated 22.11.2018:
  - The NIT published in newspapers on 10.11.2018 and posted along with bid documents on the Authority's PPMS website on 22.11.2018 i.e only five days

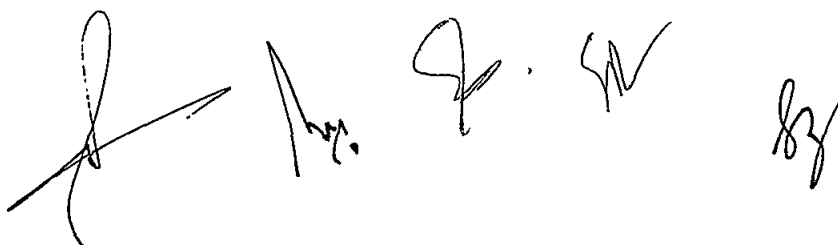
before opening of the bids that were scheduled/ opened on 27.11.2018. The procuring agency was required to post NIT as well as bid documents on the Authority's website on the first date of issuance/ publication of NIT in newspapers in order to cover minimum response time of fifteen (15) days as well as offering opportunity to the prospective bidders to download the documents from the Authority's website and participate in the bidding process to ensure wider competition among bidders as per Rule-21(4) & 24(2) read in conjunction with Rule-18 & 2(1)(eee) of SPP Rules, 2010 (Amended Up to date);

- The evaluation criteria at Sr. # ii to v – reproduced below – of the NIT was unclear/ ambiguous, which leads to mis-procurement in terms of Rule-21(A) of SPP Rules, 2010 (Amended Up to date) that stipulates *'the procuring agency 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 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.'* It is unable to verify how the procuring agency gauged bidders' qualification by using these parameters:

- Bio-data of Engineers and Technical Staff working with the firm;
- Documentary evidence of works executed/ works in progress and of satisfactory completion of works by the employers;
- List of works certificate in progress, indicating cost of each work and copy of letter of award of work;
- List of machinery and equipment available with documentary evidence of its ownership certificate of bank showing credit worthiness along with bank statement;


- Duration for completion of works in the bid data sheet of bid documents was mentioned as 06 months in numeric format and 24 months in words format;

- The procuring agency 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 as required under Rule-31(5) of SPP Rules (Amended Up to date);
- The procuring agency failed to decide the complainant's grievance 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 (Amended Up to date);
- The procuring agency was 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 failed to defend the case despite availing two chances;




## Review Committee Decision

8. In light of the above observations, as mentioned under para-7, and after 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).



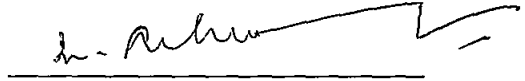
(Member)  
Saad Rashid  
Private Member SPPRA Board  
Representative Transparency International



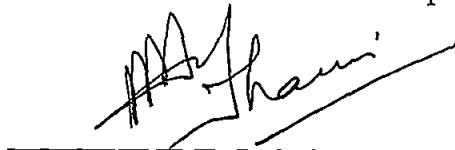
(Member)  
Asadullah Soomro  
Private Member  
SPPRA Board



(Member)  
Shoaib Zafar  
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