



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-20/2018-19

Karachi, dated the May, 2019

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

**(Appeal)**

*M/s Pride Construction & Engineering  
Versus  
Education Works, District East Karachi*

**NIT IDs # T01210-18-0001 dated 13.12.2018  
T01210-18-0002 dated 04.01.2019**

**Facts and background**

In compliance of the orders passed by the Honorable High Court of Sindh, Karachi, during hearing of Constitutional Petition No.D-1457 of 2019 on 25.04.2019 to decide the matter lodged by M/s Pride Construction & Engineering (hereinafter referred to as the appellant) against Education Works, District East Karachi (hereinafter referred to as the procuring agency), a meeting of the Review Committee of Sindh Public Procurement Regulatory Authority (hereinafter referred to as the Authority) was convened under the chairmanship of Managing Director SPPRA in accordance with Rule-32 of SPP Rules, 2010 (Amended Up to date).

2. Accordingly, the Authority vide letter dated 29.04.2019 issued notices to the concerned parties for appearing before the Review Committee on 02.05.2019 at 03.00 p.m. in Committee Room of SPPRA, Barrack No.8, Sindh Secretariat Block-4A, Court Road, Karachi. In compliance, Syed Ali Asghar Shah, Superintending Engineer, Education Works Circle, Karachi (representative of the procuring agency) and Mr. Zia-ul-Islam, Proprietor M/s Pride Construction & Engineering (representative of the appellant) appeared before the Review Committee.

**Review Committee Proceedings**

3. The Chairperson of the Review Committee welcomed all the participants of the meeting and introduced the members of the Review Committee. The chair enlightened the forum that the instant matter had been referred by the Honorable High Court of Sindh, Karachi, with directions to decide the matter within ten (10) days after providing ample opportunity of hearing to the petitioner [appellant] as well as procuring agency. Then, the chair asked the appellant to present his case/ version on the instant procurement before the committee.

**Appellant's Version**

4. Mr. Zia-ul-Islam (representative of the appellant) while arguing his appeal apprised the Committee that:

- They participated in the bidding process through submitting bids along with requisite documents by hand to the procuring agency on the scheduled [last] date for submission and opening of bids. Surprisingly, when the procuring agency announced the bid evaluation

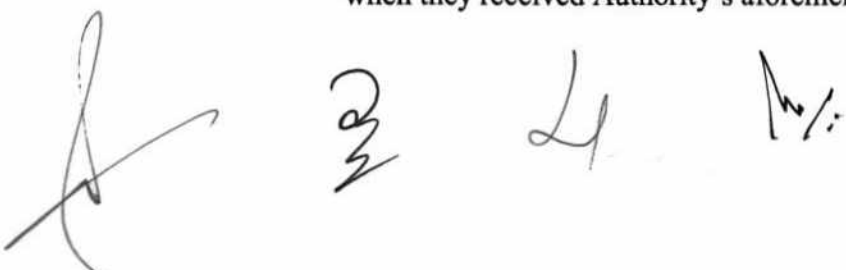
results, they were marked as absent [tender sold but not received] despite submission of bids to the procuring agency;

- Syed Adil Gilani (Member of the Review Committee) asked the appellant whether they were present there in the procuring agency office during opening of bids;
  - The appellant stated that they were present there in the procuring agency office during opening of bids and their bids were found as the lowest among other bidders.
- Before opening of the bids, the procuring agency had verbally informed that the contracts would be awarded to M/s Mehboob Builders to whom the procuring agency awarded earlier contracts, nevertheless, they purchased bid documents and participated in the bidding process through submitting requisite documents along with bid security [the appellant presented the copies of documents along with bid securities submitted in form of pay orders];
- Contrary to the above, M/s Anwar Ahmad Construction Company and M/s Farah Electric Services [representatives of both firms were present in the meeting] who did not even participate in the bidding process but their bids were mentioned in the bid evaluation reports as second lowest bidders under bid evaluation reports [NIT ID # T01210-18-0001 & 2, respectively] posted by the procuring agency on the Authority's PPMS website on 04.02.2019. Both bidders in this regard had also submitted their written statements to the Authority on 06.03.2019;
- The procuring agency had clearly disguised and misused the authority by non-incorporating their bids in the bid evaluation reports in violation of procurement principles and rules. Their bid security was still laying with the procuring agency, which had not called any meeting to resolve their grievances as lodged vide appellant's letter dated 16.02.2019. Moreover, Mr. Irfan Shaikh, Tender Clerk of the procuring agency had informed them that the bid documents submitted by the bidders were placed with the Executive Engineer of the procuring agency.

### **Procuring Agency's Version**

5. Syed Ali Asghar Shah, Superintending Engineer (representative of the procuring agency) while responding to queries raised by the Review Committee clarified that:

- The appellant neither submitted their bids to the procuring agency nor signed the attendance sheet during opening of the bids. They could solemnly affirm that the appellant was not present there in the procuring agency office during the opening of the bids. Only three bidders participated in the bidding process whose evaluation was carried out and later on bid evaluation reports comprising bidders' qualification reports, attendance sheets, and minutes of the meetings were posted on the Authority's PPMS website on 04.02.2019 and work orders were issued to the lowest evaluated bidder on 14.02.2019.
  - The chair asked the procuring agency about the actions taken in pursuance of the appellant's complaint forwarded by this Authority vide letter dated 28.02.2019 with directions to redress the grievances of appellant through CRC in terms of Rule-31 of SPP Rules, 2010 (Amended Up to date);
    - The procuring agency stated that they did not place the appellant's matter in CRC as the appellant had already approached the Honorable High Court when they received Authority's aforementioned letter.



- The chair pointed out that it was the primary responsibility of the procuring agency's CRC to redress the appellant's grievances prior to award of contract and announce its decision within seven days in terms of Rule-31(5) of SPP Rules, 2010 (Amended Up to date); the Honorable Court did not stop the procuring agency's CRC for doing so.
- Syed Adil Gilani asked the procuring agency to clarify for the second lowest bidder, who had not submitted their bids under the instant procurements;
  - The procuring agency stated that the second lowest bidders submitted their bids and were also present during opening of bids; their bid securities submitted with the bids were released later on by the procuring agency.

### Review Committee Observations

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

- The appellant claimed to have submitted their bids to the procuring agency while the procuring agency did not accept so. Contrary, second lowest evaluated bidders [M/s Anwar Ahmed Construction Company and M/s Farah Electric Services] denied to have submitted their bids under instant procurements to the procuring agency while the procuring agency was affirmed that they submitted their bids and were present in the procuring agency office during opening of the bids, which could be verified from the bidders' attendance sheet;
- The procuring agency had failed to produce the bids submitted by M/s Anwar Ahmed Construction Company and M/s Farah Electric Services, which have been shown as second lowest evaluated bidders in the bid evaluation reports;
- The representatives of M/s Anwar Ahmed Construction Company and M/s Farah Electric Services claimed that their signatures in the bid submitted and on bidders' attendance sheet were forged and they had not participated in the instant bidding processes;
- The procuring agency should have verified the pay orders from the bidders' issuance bank before proceeding for award of contract;
- The appellant was required to lodge their complaint to the procuring agency's CRC prior to award of contract in terms of Rules-31 & 45 of SPP Rules, 2010 (Amended Up to date); however, in the instant case, the appellant lodged their complaint to the procuring agency's CRC after twelve days of announcement of bid evaluation report, when the procuring agency already awarded the contract;
- The bidders' attendance sheets posted on the Authority's website showed participation of six (6) bidders; whereas the bid evaluation reports highlighted participation of only three (3) bidders that was a clear evidence of procuring agency's manipulation in award of contract.

### Review Committee Decision

7. In light of the observation as mentioned under para-6, and after due deliberation, Review Committee unanimously decides the appellant's matter as time barred and on procuring agency's part it falls under '*corrupt and fraudulent practices*' as defined under Rule-2(1)(q) of SPP Rules, 2010 (Amended 2019). Moreover, the Review Committee unanimously declares the said procurement as **Mis-Procurement** in the light of SPP Rule-32(7)(g) and decides to refer the matter to the Competent Authority for initiating disciplinary proceedings against the officer(s)/ official(s) responsible for mis-

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procurement and also decides 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 2019).



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(Member)  
Syed Adil Gilani  
Private Member SPPRA Board  
Representative Transparency International



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(Member)  
Asadullah Soomro  
Private Member  
SPPRA Board

- Not Present -


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(Member)  
Nominee of Director General Audit Sindh



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(Member)  
Engineer Sadia Jabeen Asim  
Senior Civil Engineer,  
H.E.J. Institute, University of Karachi  
Independent Professional



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