



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-127/2018-19

Karachi, dated the May, 2019

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

(Appeal)

*M/s J.K & Co.*

*Versus*

*Culture & Sports Department, Karachi Metropolitan Corporation*

(NIT ID # T00725-18-0005 dated 17.11.2018)

**Facts and background**

M/s J.K & Co., Karachi (hereinafter referred to as the appellant) lodged a complaint vide letter dated 18.01.2019 addressed to the Senior Director, Culture & Sports Department, Karachi Metropolitan Corporation, Karachi (hereinafter referred to as the procuring agency) against the NIT # KMC/C&S/SR.DIR/956/2018 dated 07.11.2018 floated for procurement of work 'Sr. # 2: Providing and fixing of diesel generator sets with feeding cables control panels at KMC Sports Complex, Women Sports Complex at Karachi Zoo'. Subsequently, the appellant vide letters dated 11.02.2019 & 27.03.2019 lodged another complaint to Sindh Public Procurement Regulatory Authority (hereinafter referred to as the Authority), which forwarded the matter vide letter dated 02.04.2019 to the procuring agency with an advice to furnish the decision of complaints redressal committee (CRC) in terms of Rule-31 of SPP Rules, 2010 (Amended 2019); however, the procuring agency did not furnish any response.

2. Thereafter, the appellant vide letter dated 10.04.2019 requested the Authority to place their matter before the Review Committee in terms of Rule-31(5) read in conjunction with Rule-32 of SPP Rules, 2010 (Amended 2019). In turn, the Authority vide letter dated 15.04.2019 advised the procuring agency to confirm as to whether the appellant had withdrawn its bid security or not as required under Rule-32(1) of SPP Rules, 2010 (Amended 2019); however, the procuring agency failed to respond, once again.

3. Accordingly, the appellant's matter was taken up by the Authority's Review Committee for hearing in its meeting scheduled on 02.05.2019 at 01.00 p.m. In this connection, notices were issued to the concerned parties vide this Authority's letter dated 29.04.2019 for appearing before the committee on scheduled date, time and venue. In compliance, Mr. Khursheed Ahmed Shah, Director (C&S), Karachi Metropolitan Corporation (representative of the procuring agency) and Mr. Samad Khan, Proprietor M/s J.K & Co. (representative of the appellant) appeared before the Review Committee.

**Review Committee Proceedings**

4. The Chairperson of the Review Committee welcomed all the participants of the meeting and introduced the members of the Review Committee. Then, the chair asked the appellant to present his case/ version on the instant procurement before the committee.

**Appellant's Version**

5. Mr. Nazar Khan (representative of the appellant) while arguing his appeal apprised the Committee that they quoted bid against NIT work at Sr. # 2 as PKR 19,896,910/- and found/ announced as the lowest among other bidders at the time of opening of bids. Subsequent to the opening/ announcement of financial bids, the procuring agency informed that they would share the bid evaluation report among all the bidders after conducting scrutiny [bidders' eligibility] of their submitted bids.

However, when the procuring agency posted bid evaluation report on the Authority's PPMS website then their bid was mentioned as PKR 24,495,910/- and the procuring agency awarded the contract to M/s Mass Developers, which offered bid as PKR 22,996,910/-. They quoted a correct amount while submitting bid to the procuring agency and the amount mentioned by the procuring agency in the bid evaluation report was totally wrong.

- Syed Adil Gilani (Member of Review Committee) pointed out that there was a difference between lowest evaluated bid and lowest submitted bid as defined under Rule-2(1)(v) & (w) of SPP Rules, 2010 (Amended 2019), which provides that 'Lowest Evaluated Bid means a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document, having lowest evaluated cost; and Lowest Submitted Bid means the lowest price quoted in a bid, which is otherwise not substantially responsive.'
- On scrutiny of the bid documents produced by the procuring agency, it transpired that the appellant had quoted bid for two units of item/ job # 6 of bid documents on lump-sum basis, without quoting rate per item causing ambiguity in their bid price.

### Procuring Agency's Version

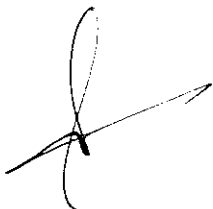
6. Mr. Khursheed Ahmed Shah (representative of the procuring agency) while responding to queries raised by the Review Committee clarified that the procuring agency disqualified the appellant on two grounds: i. the appellant quoted rates ten times more than the estimated cost against item # 6 of bid documents; and ii. the appellant quoted rate for single unit instead of two units against item # 6 of bid documents. The procuring agency had also mentioned in the bid evaluation report, posted on the Authority's website, that the bidder/ appellant quoted bid as [reproduced] '*PKR 19,896,910/- calculation mistake and actual amount comes to PKR 24,495,910/- for item # 6 the rate quoted is ridiculous and irrational with the engineer's estimate.*' Moreover, the appellant quoted bid for generator as PKR 2,500,000/-, which was far below the market rate or engineer's estimated cost of their branded generator.

- The chair asked the procuring agency whether they sought any clarification from the appellant regarding the arithmetic error;
  - The procuring agency stated that they sought the clarification from the appellant who verbally confirmed to supply the generator. The appellant deliberately quoted the bid in comparison [below] to the estimated cost given under PC-I without understanding existing market dynamics and inflation rate.
- Syed Adil Gilani asked the procuring agency about the current status of instant procurement;
  - The procuring agency stated that they awarded the contract to M/s Mass Development, the lowest evaluated bidder.
- The chair asked the procuring agency why this matter was not placed before CRC to redress the appellant's grievances;
  - The procuring agency stated that they had referred the appellant's matter to their CRC but due to unavailability of CRC members, they could not convene meeting.

### Review Committee Observations

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

- The appellant was required to properly fill their bid, as per format and other terms & conditions mentioned in the bid documents, to eliminate any chance of ambiguity for the procuring agency while evaluating and comparing the bids;
- The procuring agency was required to notify the appellant in writing for any arithmetic correction made and requested to agree the correction in writing; in case, the appellant had refused to accept

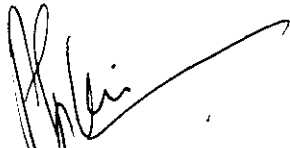


arithmetic corrections then the procuring agency could have disqualified the appellant in terms of Clauses 7.6(B)(c) and 7.6(B)(i)(2)(A)(xi) of SPPRA Regulations for Procurement of Works;

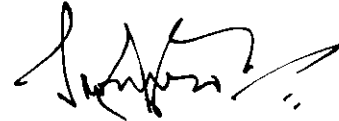
- The procuring agency could not use brand name with any product in the bid documents without mentioning the word 'or equivalent' in terms of Rule-13(1) of SPP Rules, 2010 (Amended 2019);
- The procuring agency was required to finalize and announce its CRC decision, against the complaint lodged by the appellant, within seven days and intimate the same to the appellant and Authority within three working days in terms of Rule-31(5) of SPP Rules, 2010 (Amended 2019);
- The procuring agency was required to award the contract after the decision of CRC in terms of Rule-31(6) of SPP Rules, 2010 (Amended 2019);
- The procuring agency was required to post contract documents – evaluation report; form of contract and letter of award; and bill of quantities – on the Authority's website within seven days of the award of contract in terms of Rule-50 read in conjunction with Rule-10 of SPP Rules, 2010 (Amended 2019);

### Review Committee Decision

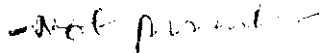
8. In light of the above observation and violation of rules and regulations as mentioned under para-7, and after due deliberation, Review Committee unanimously declares the said procurement as **Mis-Procurement** in the light of Rule-32(7)(g) of SPP Rules, 2010 (Amended 2019) read in conjunction with Section-2(i) of SPP Act, 2009 and decides to refer the matter to the Competent Authority for initiating disciplinary proceedings against the officer(s)/ official(s) responsible for mis-procurement in terms of Rule-32(A)(2) of SPP Rules, 2010 (Amended 2019).



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



(Member)  
Asadullah Soomro  
Private Member  
SPPRA Board



(Member)  
Nominee of Director General Audit Sindh



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



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