



**GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY**



NO.AD(L-II)/SPPRA/CMS-193/2018-19

Karachi, dated the June, 2019

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

**(Appeal)**

*M/s Limton Innovative Systems*

*Versus*

*Dow University of Health Sciences*

**(NIT ID # T00852-18-0006 dated 12.01.2019)**

**Facts and background**

M/s Limton Innovative Systems, Karachi (hereinafter referred to as the appellant) lodged a complaint vide letter dated 19.03.2019 to Sindh Public Procurement Regulatory Authority (hereinafter referred to as the Authority) against the NIT # DUHS/DP/2019/66 dated 11.01.2019 floated by Director Procurement, Dow University of Health Sciences (Ojha Campus), Karachi (hereinafter referred to as the procuring agency) for procurement of 'attendance management system with equipment & ancillaries'. In turn, the Authority vide letter dated 03.04.2019 forwarded the matter to the procuring agency's complaints redressal committee (CRC) with an advice to redress the appellant's grievances and furnish its decision to this Authority within stipulated time period of seven days as specified under Rule-31 of SPP Rules, 2010 (Amended 2019).

2. Subsequently, the appellant vide letter dated 12.04.2019 stated that the procuring agency's CRC had failed to decide their matter; hence, the Authority should take up the next level of action. Resultantly, the appellant's matter was taken up by the Authority's Review Committee for hearing in its meeting scheduled on 02.05.2019 at 03.30 p.m. and notices, in this connection, 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, Syed Shafqat Hussain, Director Procurement, and Syed Sohāib Shams, Chief Information Officer, Dow University of Health Sciences, Karachi (representatives of the procuring agency) and Mr. Saood ur Rehman, Proprietor, M/s Limton Innovative Systems (representative of the appellant) appeared before the Review Committee.

**Review Committee Proceedings**

3. At the outset of the meeting, 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 appellants to present their case/ version on the instant procurement before the committee.

**Appellants' Version**

4. Mr. Saood ur Rehman (representative of the appellant) while arguing his appeal apprised the Committee that:

- Prior to instant procurement's tender, the procuring agency floated NIT for procurement of two servers and biometric machines whereby they observed products' specification was biased and favoring to a particular brand; nevertheless, they participated in that tender but missed to mention only brand name against server, by mistake on their own part. Resultantly, the procuring agency disqualified them in that tender by giving reasons that server brand name was not mentioned in their bid, though the procuring agency could seek their clarification before disqualification when they quoted items with required specification; they raised concerns against their disqualification and the procuring agency later on cancelled that tender.

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*[Handwritten signatures]*

- The chair noted that it was responsibility of the appellant to quote complete specification with brand name for ease of the procuring agency to evaluate the bid; whereas, Syed Adil Gilani (Member of Review Committee) noted that the procuring agency could have sought clarification from the bidder in terms of Rule-43(2) of SPP Rules, 2010 (Amended 2019).
- Under the instant procurement, the procuring agency was procuring 350 biometric machines where two firms/ bidders, including them and the other one M/s Reliable Security Systems Pvt. Ltd. [appellant's competitor], submitted bids that were opened on 29.01.2019. While opening of bids [technical], they observed that M/s Reliable was unable to qualify under technical evaluation due to submission of catalogue containing multiple models/ specifications, rather than offering specific model as per required specification given in the bid documents. During opening of the bids, their competitor verbally informed the procuring agency to choose any model/ specification from the given catalogue; whereas, they were disqualified in the earlier tender due to non-mentioning only brand name of server. Spontaneously, they raised concerns against submission of multiple models by their competitor but the procuring agency's tender committee did not respond against it;
- While opening of bids [financial], the procuring agency informed that their competitor had offered multiple/ alternative bids that were found technically responsive by the procurement committee. They observed that their competitor quoted model AC2200H against item # 1 [biometric reader], which was non-compliant to the specification [item's description] mentioned in bid documents at 4.1 (card reader – device must support 125KHz EM card and 13.56MHz smart card). This was also verified by their competitor's principal firm that the quoted item will support only one card at a time; whereas, the procuring agency required this item having compatibility with both card readers at once.
- The procuring agency did not mention complete specification entailing the required cable quantification and installation locations for the item listed at Sr. # 13 [installation & commissioning] of bid documents, against which their competitor quoted bid as PKR 1,130,000/- that were around 80% lower as compared to the bid PKR 5,480,500 quoted by them. They included all items, including 52,000 running feet cabling as disclosed by the procuring agency at the time of survey, with superior quality [3M brand] and compliant solution; however, the procuring agency accepted the bid of their competitor having lower quality as compared to their solution and technical parameters defined in the bidding documents;
  - ◆ Syed Adil Gilani asked the appellant whether normal quality cabling could be used under this project or not;
    - The appellant admitted that normal quality cabling could also work but they believed the higher quality cabling would reduce chances for defects and rework, especially when the procuring agency was investing around PKR 35 million on a project with best quality machines. Due to offering higher quality cabling, their bid was found as higher as compared to their competitor.

### Procuring Agency's Version

5. Syed Shafqat Hussain and Syed Sohaib Shams (representatives of the procuring agency) while responding to queries raised by the Review Committee clarified that:

- The procuring agency solicited bids under instant procurement through Single Stage Two Envelope bidding procedure in terms of Rule-46(2) of SPP Rules, 2010 in order to undertake the technical evaluation before taking price into the consideration. The procuring agency conducted proper market research and adopted industry's best practices while developing products' specification in the earlier as well as instant procurement process;
  - ◆ The chair and Syed Adil Gilani asked procuring agency for particular reason for undertaking afore-mentioned procurement method rather than adopting Single Stage One Envelope bidding procedure;

- The procuring agency stated that there were various models available in market for the products they were procuring and normally when the bidder once announced as lowest [Single Stage One Envelope] then they deem themselves to be awarded contract irrespective of their eligibility and products' other technical aspects; resultantly, the method, if incorporated under such procurements, might have increased probability for number of complaints for them;
- ◆ Syed Adil Gilani noted that the complaints were even arising while following Single Stage Two Envelope bidding procedure and the procuring agency's justification to adopt said bidding procedure was inappropriate; hence, the procuring agency, in future, shall ensure to adopt Single Stage One Envelope bidding procedure for procurement of simple and routine nature where no technical complexity or innovation is required in terms of Rule-47(1) of SPP Rules, 2010 (Amended 2019). He further noted that specification of products must be general and should not be inclined towards a difficult condition or to favor a particular brand;
- The procuring agency allowed bidders to quote alternative bids under Instructions to Bidders Clause # 15, which provided that '*if any bidder elects to submit alternative proposal(s), complete information on the alternative items including all data relating to technical specifications shall be given as per table [given at page # 8 of bid documents].*' M/s Reliable Security offered alternative bids [two options]; out of those two bids, one [technical bid] was accepted and the other one rejected due to non-conformance of item # 1 specification as compared to the specification given in bid documents<sup>1</sup>.
- Prior to submission of bids, the procuring agency called bidders, including the appellant, for an extensive survey so as all the bidders could seek information about cabling and items [biometric machines] installation sites etc. During the survey, they clarified various queries as raised by both bidders;
- The procuring admitted that M/s Reliable Security Systems Pvt. Ltd. submitted catalogue along with their technical bids wherein items quoted were clearly marked with specification<sup>2</sup>. During the opening of financial bids, the procuring agency observed that the appellant offered bid against item # 13 [installation & commissioning – cabling] as PKR 5,480,500/- whereas M/s Reliable quoted bid as PKR 1,130,000/-. Both bidders offered cabling quality with different specification conforming bid document's requirement.
- ◆ Syed Adil Gilani asked the procuring agency why did they not mention cabling specification and quantity in the bid documents despite re-tendering the NIT;
  - The procuring agency stated that cabling quantity was linked with the survey and both bidders were provided complete information as well as equal opportunity for site visit, prior to submission of bids. During the survey, the procuring agency informed bidders that complete cabling with standard quality and installation costs, to be incurred under the project, be incorporated in their bid.

6. The representatives of the procuring agency while responding to the queries raised by the appellant, related to the technical specification of items quoted by their competitor, clarified that:

- **Item # 1 – Biometric Reader:** They asked the bidder(s) to quote this item, which must support 125KHz EM card and 13.56MHz smart card and the appellant's competitor offered the specification accordingly as verified by their principal firm. *It was nowhere mentioned under the specification that the item should support both cards at once, as the procuring agency would implement only one system at once depending on their requirement [campus wise];*
  - ◆ The chair endorsed that it was prerogative of the procuring agency to assess their own requirement and incorporate the same in bid documents; simultaneous support for both cards was not mentioned as inferred from the given specification of item.

<sup>1</sup> As verified from the technical evaluation report posted on PPMS website at ID # BE00582-18-0006-1 on 18.03.2019

<sup>2</sup> The procuring agency presented original copy of brochure showing alternative bids, submitted by M/s Reliable Security Systems Pvt. Ltd. along with their technical proposal, to the Authority's Review Committee, which found quoted products were marked and duly signed by the bidder in the catalogue.


## Review Committee Observations/ Remarks

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


- The procuring agency re-invited the bids under instant procurement; hence, word “re-tendering” along with method of procurement was required to be mentioned in the published NIT;
- The procuring agency should ensure to adopt Single Stage One Envelope bidding procedure for procurement of goods of simple and routine nature where no technical complexity or innovation is involved in terms of Rule-47(1) of SPP Rules, 2010 (Amended 2019);
  - ◆ The procuring agency shall record aforementioned observations for compliance in upcoming tenders;
- It was prerogative of the procuring agency to permit bidders to offer alternative bids, provided that such condition was given in bid documents in terms of Rule-41(5) of SPP Rules, 2010 (Amended 2019). The procuring agency explicitly mentioned under Instruction to Bidders Clause # 15 of instant procurement’s bid documents that bidders may offer alternative bids;
- The appellant could request for clarification from the procuring agency on the content, including items’ specification, of the bidding documents in writing and the procuring agency was bound to respond to such queries in writing within three calendar days in terms of Rule-23(1) of SPP Rules, 2010 (Amended 2019); however, the appellant did not ask for any clarification, which reveals that the appellant was absolutely well aware about the content and terms and conditions of the bid documents while submitting their bid.


## Review Committee Decision

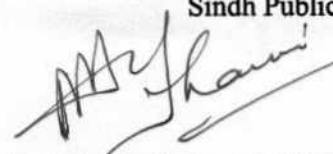
8. In light of the above observation/ remarks, as under para-7, and after due deliberation, the Review Committee unanimously decides to reject the reference/ appeal lodged by the appellant in the light of SPP Rule-32(7)(a) of SPP Rules, 2010 (Amended 2019).

  
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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

  
\_\_\_\_\_  
(Member)  
Nominee of Director General Audit Sindh

  
\_\_\_\_\_  
(Member)  
Khalid Mehmood Soormo  
Former Managing Director  
Sindh Public Procurement Regulatory Authority

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