



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-542/2019-20/0732

Karachi, dated the 8th October, 2019

To,

The Chairman,
Municipal Committee,
Tando Allahyar.

Subject: DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY (APPEAL LODGED BY M/S NAWAB & SONS CONSTRUCTION SERVICES HYDERABAD VERSUS MUNICIPAL COMMITTEE TANDO ALLAHYAR).

The undersigned is directed to refer to the subject cited above and to enclose a copy of the Authority's Review Committee decision taken in its meeting on 25th September, 2019 for your information and further necessary action under intimation to this Authority, at the earliest.


ASSISTANT DIRECTOR (LEGAL-II)

A copy along with enclosures/ decision is forwarded for information to:

1. The Secretary to Govt. of Sindh, Local Government Department, Karachi.
2. The Director Local Government, Hyderabad.
3. The Deputy Secretary (Staff) to Chief Secretary Sindh, Karachi.
4. The Chief Municipal Officer, Municipal Committee Tando Allahyar.
5. ✓ The Assistant Director (I.T), SPPRA [with an advice to post the Authority's Review Committee decision on website in terms of Rule-32(11) of SPP Rules, 2010.]
6. The Staff Officer to the Chairman Review Committee/ Managing Director SPPRA/ Review Committee Members (all).
7. M/s Nawab & Sons Construction Services, House # C-147, Block-3, Phase-1 near Markazi Jamia Masjid Qasimabad, Hyderabad Sindh Rural Partners Organization, H # 15, Block 18, Satellite Town, Mirpurkhas.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-542/2019-20

Karachi, dated the October, 2019

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

(Appeal)

M/s Nawab & Sons Construction Services, Hyderabad

Versus

Municipal Committee, Tando Allahyar

(NIT ID # T01348-18-0003 dated 04.07.2019)

Facts and background

The appellant, M/s Nawab & Sons Construction Services, Government Contractor Hyderabad, lodged a complaint (vide letter dated 23.07.2019) addressed to the Chairman, Municipal Committee Tando Allahyar/ Chairman Complains Redressal Committee (CRC) and copy endorsed to the Sindh Public Procurement Regulatory Authority and others – for necessary action – against the NIT # MC/TA Yar/518/2019 dated 04.07.2019 floated by the Chairman, Municipal Committee Tando Allahyar (hereinafter referred to as the procuring agency) for procurement of sixty (60) works. In turn, the Authority vide letter dated 02.08.2019 also forwarded the appellant's matter to the procuring agency's CRC with an advice to redress the grievances and furnish its decision to the appellant as well as this Authority within stipulated time period as specified under Rule-31(5) of SPP Rules, 2010 (Amended 2019).

2. Subsequently, the appellant (vide letter dated 31.07.2019) lodged an appeal to this Authority stating that they lodged a complaint to the procuring agency's CRC that was received/ delivered by the authorities through courier service [TCS] on 24.07.2019 but they refused to receive their envelope and the shipper/ appellant received back their envelope on 26.07.2019¹; therefore, the appellant requested the Authority to place their case before the Review Committee to decide the same in terms of Rule-32 of SPP Rules, 2010.

3. Resultantly, the appellant's matter was taken up by the Authority's Review Committee for hearing in its meeting scheduled on 28.08.2019 at 01.30 p.m. and notices, in this regard, were issued to the parties concerned (vide this Authority's letters dated 21.08.2019) to appear before the Committee on scheduled dated, time, and venue. In compliance, Mr. Ghulam Sarwar Rahpota, Chief Municipal Officer, Municipal Committee Tando Allahyar (representative of the procuring agency) appeared before the Committee's meeting; whereas, the appellant failed to appear/ attend the meeting, due to which the Committee decided to provide an opportunity to the appellant to appear in next meeting of the committee for defending their position.

4. Pursuant to the Committee's above decision, the instant matter/ appeal was re-scheduled for hearing on 18.09.2019, and then 25.09.2019 at 12.00 p.m. and notices, in this regard, were issued to the parties concerned (vide this Authority's letters dated 05.09.2019 and 17.09.2019, respectively) for

¹ TCS Tracking ID # 2065580592 revealed that the consignee [Procuring agency's CRC] refused to receive delivery; though the Authority vide letter dated 02.08.2019 also forwarded the appellant's matter to the procuring agency's CRC for redressal of grievances in accordance with Rule-31 of SPP Rules; however, the procuring agency's CRC failed to furnish any response against it.

appearing before the Committee on scheduled dated, time, and venue². In compliance, Mr. Ghulam Sarwar Rahpota, Chief Municipal Officer, Municipal Committee Tando Allahyar (representative of the procuring agency) and Mr. Taj Muhammad Soomro, Proprietor, M/s Nawab & Sons Construction Services (appellant) appeared before the Committee.

Review Committee Proceedings

5. The Chairperson of the Review Committee commenced the meeting by welcoming all the participants of the meeting and introduced the members of the Review Committee. Then, the chair asked the appellant to present their case/ version on the instant procurement before the committee.

Appellant's Version

6. Mr. Taj Muhammad Soomro [appellant] apprised the Committee that they had participated under instant procurement's NIT works listed at Sr. # 36 & 58 [*construction of earth filling Ward # 13; and construction of CC block at Ghulam Rasool Thebo Street 3000 Sft.*] and submitted their bids to the procuring agency through courier service [TCS] on 20.07.2019 [*before two days of deadline for submission of bids*] in terms of Rule-24(2) of SPP Rules, 2010³. While approaching the procuring agency's office on 22.07.2019 to witness the opening of bids, they found many contractors [40-50 contractors] were present there but the Chairman of the Procurement Committee was not there. When they enquired the staff about the Procurement Committee's whereabouts, the staff advised them to wait there. Resultantly, they kept waiting till office closing hours but the procurement committee was absent and no notice [corrigendum] for extending the schedule of submission and opening of bids was issued. After a few days, the procuring agency returned their proposal [bid] through courier service [TCS]⁴. In turn, they approached the procuring agency's CRC to redress their grievances that also failed to call any meeting.

Procuring Agency's Version

7. Mr. Ghulam Sarwar Rahpota (representative of the procuring agency) clarified that the Procurement Committee members had to attend a meeting on 22.07.2019 in the office of Director Enquiries-III, Anti-Corruption Establishment Karachi; therefore, the procuring agency issued corrigendum on 07.07.2019 whereby the schedule for opening of bids was extended as on 07.08.2019. The procuring agency opened the bids publicly on 07.08.2019 in presence of representative of firms. *However, they have processed the matter for approval of the Chairman Municipal Committee Tando Allahyar to cancel instant procurement's NIT as the procuring agency received bids that were too below [more than 30%] the estimated cost of work.*

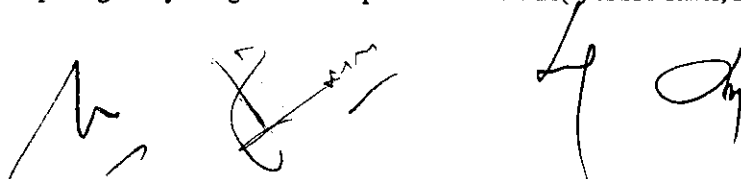
- Mr. Asadullah Soomro (Member of Review Committee) asked the procuring agency to confirm whether the corrigendum was posted on the Authority's PPMS website as required under Rule-21(2) of SPP Rules, 2010;
 - ◆ The procuring agency [representative] was unaware about posting of corrigendum on the Authority's website⁵.

² Meeting was rescheduled due to the certain engagements of the Authority's Review Committee member.

³ TCS Tracking ID # 2065580482 revealed that the appellant's envelope [bids] were received by the procuring agency on 22.07.2019 at 12.15 p.m.; whereas, the deadline for submission of bids was 22.07.2019 up to 02.00 p.m.

⁴ The appellant also presented original copies of envelopes to the Review Committee that were first acknowledged and then returned by the procuring agency to the appellant.

⁵ The procuring agency's procurement record, pertaining to the instant procurement's NIT, posted on the Authority's PPMS website does not show posting of any corrigendum as required under Rule-21(2) of SPP Rules, 2010.



- The Chair asked the procuring agency to update the Authority regarding current status of instant procurement's NIT, upon which the procuring agency replied that they shall cancel the bidding process.
- The Committee asked the procuring agency as to how the envelope [bids] received from the appellant was returned after acknowledgement.
 - ◆ The procuring agency assured the Committee that they [procuring agency] would conduct an enquiry to probe into the matter and would take action against the responsible official/officer(s) who returned the envelope to the appellant. Such report would be communicated to the Authority once this investigation gets finalized.
- Subsequently, Mr. Asadullah Soomro advised the representative of the procuring agency to submit in writing the current status of the instant procurement;
 - ◆ The representative of the procuring agency submitted written statement as reproduced [excerpt] herewith 'I, Chief Municipal Committee Tando Allahyar, was present in Karachi on 22.07.2019 with regard to attend the meeting. The procuring agency opened the bids on 07.08.2019 against which M/s Nawab & Sons lodged complaint in the Authority and the same was heard by the Review Committee. The instant bidding process would be cancelled and re-invited.'

Review Committee Observations

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

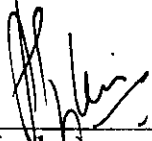
- It was responsibility of the procuring agency to adhere to the procurement rules, regulations, and instructions and to ensure that procurements are conducted in a fair and transparent manner and the object of procurement brings value for money to the agency and procurement process is efficient and economical in terms of Rule-4 of SPP Rules, 2010;
- The procuring agency failed to furnish compliance against the NIT observations as conveyed by this Authority through PPMS website on 02.08.2019⁶;
- The procuring agency was required to post the corrigendum, for extending the schedule of submission and opening of bids, on the Authority's PPMS website in terms of Rule-21(2) of SPP Rules, 2010;
- The procuring agency was required to constitute the CRC in accordance with Rules-31(1) & (2) of SPP Rules, 2010;
- The procuring agency's CRC was required to decide the complainants' grievances within seven days and intimate the same to the appellants as well as Authority within three working days in terms of Rule-31(5) of SPP Rules, 2010; but they failed to do so;
- The procuring agency was required to mention minimum amount of turnover of last three years under bidder's technical evaluation criteria in terms of Rule-46(2) of SPP Rules, 2010, read with Clause # 7.9.2 of the Authority's Procurement Regulation (Works); but they failed to comply with these requirement;

Review Committee Decision

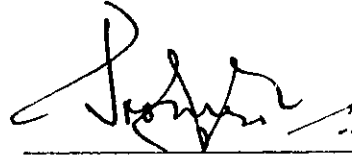
9. In light of the above observations and violations of Rules as mentioned under para-8 and the procuring agency's written consent to cancel and re-invite the bids, the Review Committee unanimously

⁶ These observations can be accessed under the comments section of NIT ID # T01348-18-0003 dated 04.07.19
[<https://ppms.pprasinhdh.gov.pk/PPMS/public/portal/notice-inviting-tender>]

decides that that the procurement's proceedings for all the works may be terminated in terms of Rule-32(7)(f) of SPP Rules, 2010, and fresh tenders be floated in terms of Rule-23(2) of SPP Rules, 2010 (Amended 2019).



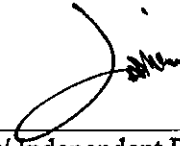
(Member)
Syed Adil Gilani
Private Member SPPRA Board
Representative Transparency International



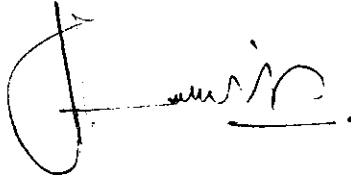
(Member)
Asadullah Soomro
Private Member
SPPRA Board

(Member)

Nominee of Director General Audit Sindh



(Member/ Independent Professional)
Engr. Munir Ahmed Shaikh
Retd. Executive Engineer
Public Health Engineering Department
Government of Sindh



(Chairman)
Abdul Rahim Sheikh
Managing Director
Sindh Public Procurement Regulatory Authority