



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-464/2019-20 / 10733

Karachi, dated the 9th October, 2019

To,

The Secretary to Government of Sindh,
Livestock & Fisheries Department,
Karachi.

Subject: DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY (APPEAL LODGED BY M/S SINDH RURAL PARTNERS ORGANIZATION, MIRPURKHAS VERSUS ACCELERATED ACTION PLAN FOR REDUCTION OF STUNTING AND MALNUTRITION IN SINDH – LIVESTOCK COMPONENTN).

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 Director General, Livestock Department Sindh, Hyderabad.
2. The Provincial Program Coordinator, Accelerated Action Plan (Livestock Sector), Karachi.
3. The Deputy Secretary (Staff) to Chief Secretary Sindh, Karachi.
4. ✓ 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.]
5. The Staff Officer to the Chairman Review Committee/ Managing Director SPPRA/ Review Committee Members (all).
6. M/s 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-464/2019-20

Karachi, dated the October, 2019

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

(Appeal)

M/s Sindh Rural Partners Organization, Mirpurkhas

Versus

Accelerated Action Plan for Reduction of Stunting and Malnutrition in Sindh (Livestock Component)

(NIT ID # E00915-17-0001 dated 02.04.2019)

Facts and background

The appellant, M/s Sindh Rural Partners Organization, Mirpurkhas, lodged a complaint (vide letter dated 18.05.2019) addressed to the Director General, Livestock & Fisheries Department, Government of Sindh, Hyderabad, against the NIT # PPC/AAP/LS/RFP/2019 dated 30.03.2019 floated by the Provincial Program Coordinator, Accelerated Action Plan for Reduction of Stunting and Malnutrition in Sindh (Livestock Component), Karachi (the procuring agency) for hiring of awareness capacity building and training services.

2. Subsequently, the appellant (vide letter dated 19.06.2019) lodged an appeal to the Sindh Public Procurement Regulatory Authority stating that the procuring agency had failed to communicate them reasons for their disqualification and they had concerns over the points awarded to them under technical evaluation. In this regard, they lodged an online complaint through PPMS website on 27.05.2019 as well as submitted another written complaint to the Director General Livestock but the procuring agency had failed to decide their matter through Complaint Redressal Committee (CRC). Hence, the appellant requested the Authority to review the instant bidding process to decide their case in a transparent manner.

3. In turn, the Authority vide letter dated 28.06.2019, followed by reminders dated 04.07.2019 & 15.07.2019, addressed to the Director General, Livestock & Fisheries Department – copy endorsed to the Secretary Livestock & Fisheries as well as procuring agency for necessary action – to furnish the decision of CRC against the complaint lodged by the appellant in terms of Rule-31 of SPP Rules, 2010 (Amended 2019); however, the procuring agency failed to respond. Thereafter, the Authority vide another letter dated 02.08.2019 advised the procuring agency to update the current status of the bid security submitted by the appellant for proceeding the matter in terms of Rule-32 of SPP Rules, 2010; however, the procuring agency again failed to furnish any response.

4. Resultantly, the appellant's matter was taken up by the Authority's Review Committee for hearing in its meeting scheduled on 11.09.2019 and then rescheduled on 18.09.2019 & 25.09.2019 at 12.00 p.m. Notices, in this regard, were issued to the parties concerned (vide this Authority's letters dated 26.08.2019, 05.09.2019, and 17.09.2019, respectively) to appear before the Committee on scheduled dated, time, and venue¹. In compliance, Dr. Nazeer Hussain Kalhoro, Provincial Program Coordinator, Accelerated Action Plan – Livestock Sector (representative of the procuring agency) and Mr. Farooq

¹ Meeting was rescheduled due to the certain engagements of the Authority's Review Committee members.

Hayat, Program Manager, Sindh Rural Partners Organization (representative of the appellant) appeared before 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. Farooq Hayat (representative of the appellant) apprised the Committee that they had concerns over the marks awarded to them by the procuring agency under technical evaluation. In this regard, they approached the procuring agency's CRC on 18.05.2019, which failed to redress their grievances. Under PC-I, it was mentioned that the preference for award of work, under instant procurement, would be given to the firm that executes the work for social mobilization, which they are already carrying out in 24 districts. Despite that the procuring agency disqualified them under technical evaluation by awarding unsatisfactory marks under following sub-criteria:

- The procuring agency awarded them zero marks under key professional staff² [Livestock Management Specialists; Livestock Disease Management Specialist; Nutrition (Human) Specialist] on the grounds that these professionals had been working with the University of Sindh. The appellant had signed an MoU, before submission of the bid, with the University of Sindh on provision of technical support under this assignment and copy of such MoU was also enclosed with their proposal submitted to the procuring agency;
- The procuring agency awarded them five (5) marks under experience (specific experience of the consultant relevant to the assignment within last 10 years) when they had already completed thirteen (13) projects.

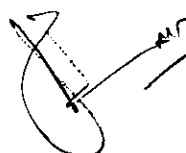
7. Mr. Farooq Hayat also raised concern that the bidder M/s SAFWCO, which was the only technically qualified firm under instant procurement, offered/ quoted bid as PKR 371.562 million against the estimated cost of work PKR 330 million.

Procuring Agency's Version

8. Dr. Nazeer Hussain Kalhor (representative of the procuring agency) clarified before the Review Committee that:

- The project (accelerated action plan for reduction of stunting and malnutrition in Sindh) is being implemented by eight departments under the Government of Sindh as per its strategy. Livestock Department is playing its role under different components including: social mobilization and formation of livestock community organizations or village based organization; livestock management and enhanced productivity awareness program to poor and small livestock owners (targeted beneficiaries: 265,000 families) in addition to nutrition sensitive and access to diversified animal origin food awareness to reduce stunting; vaccination and drenching to the livestock of poor households for food security, public health and enhanced animal productivity; building livestock assets to poorest households without livestock pregnant women with children and nutrition deprived communities; and establishing cold chain for vaccine/ medicine supply and storage to reach target communities etc.;

² Key professional staff qualification and competence for the assignment



- The procuring agency had already awarded one component of social mobilization to the appellant and for the second component (capacity building and training that was being carried out under instant procurement), they solicited bids in an open and transparent manner in accordance with Quality & Cost Based Selection method (with weightage of 80-20 under technical & financial evaluation, respectively) after seeking advice/ guidance of the Authority wherein twelve (12) firms obtained bid documents but only two (2) firms including: M/s SAFWCO JV M/s Institute of Rural Management (consortium); and M/s Sindh Rural Partners Organization (appellant) participated;
- The appellant had been disqualified in technical evaluation as they obtained only 54.5 marks out of 100; whereas, the required marks for qualification under technical evaluation were 75 as mentioned under the criteria of bid documents. After announcement of the technical evaluation results, the appellant started to raise pressure on the procuring agency through various channels. Resultantly, the procuring agency advised the appellant to visit the procuring agency's office to check bid documents, submitted by them as well as other bidder, and evaluation reports finalized by the Consultant Selection Committee (CSC) or approach the procuring agency's CRC i.e. Secretary Livestock & Fisheries Department³; however, the appellant did not officially approach them nor the CRC for redressal of grievances but they lodged an online complaint through PPMS website on 27.05.2019 against the NIT ID # T00915-17-0001 and another complaint to the Director General Livestock, who was neither the Chairman nor the member of the CRC;
 - ◆ Syed Adil Gilani (Member of Review Committee) endorsed that the appellant was required to approach the procuring agency's CRC when they had any grievances.

10. While clarifying the allegations leveled by the appellant, Dr. Nazeer Hussain Kalhoro (representative of the procuring agency) stated that:

- Rule-63 of SPP Rules, 2010 read with ITC Clause # 3.2 of RFP documents provides that '*government officials and civil servants may be hired as consultant only if: they are on leave of absence without pay; they are not being hired by the agency they were working for, six months prior to going on leave; and their employment would not give rise to any conflict of interest.*' The key staffs proposed by the appellant were regular employees of Government of Sindh and serving with the Sindh University or Livestock Department, which also confirmed the procuring agency that these employees have been working with them;
- The appellant was required to sign MoU with the Registrar of University, who is deemed to have an authorization to sign such document;
- The procuring agency allocated only one (1) mark for each completed project, with two months period or more, under relevant assignment. The appellant completed only five (5) relevant projects; hence, they were awarded five (5) marks;
- The appellant had been disqualified under technical evaluation in two stages i.e. at experience level that required 70% marks to qualify, which stood as 7 out of 10, but the appellant obtained only 5 marks; and total marks level that required 75 marks to qualify but the appellant obtained only 54.5 marks;

³ This communication took place between the procuring agency and appellant through whatsapp numbers as claimed with the snapshot by the representative of the procuring agency;

- The estimated cost of PC-I was PKR 661 million as approved two years earlier and while initiating this tender, they had available budget of PKR 330 million; hence, they reduced the scope of work from 48 to 26 months⁴;
 - ◆ The Committee pointed out that the procuring agency should furnish compliance against Rule-48 of SPP Rules, 2010, which provides that *'even when only one bid submitted, the bidding process may be considered valid, if the bid was advertised in accordance with rules, and prices are comparable to PC-I cost or financial estimates or the prices or rates of the last awarded contract or the market prices.'*
 - The procuring agency assured that they would furnish compliance against the above rule by using one option of bid comparison as per its prerogative.
 - ◆ While clarifying query, raised by the Committee, related to participation of only two bidders under instant procurement, the procuring agency expressed that the other firms that obtained bid documents were also willing to participate subject to relaxation of bid security, which the procuring agency could not relax as per governed rules.

Review Committee Observations

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

- The procuring agency was required to post instant procurement's NIT under *'Notice Inviting Tenders Section'* rather than *'EOI/ Prequalification Section'* of the Authority's PPMS website;
- The procuring agency was required to respond to this Authority's letters dated 28.06.2019, followed by reminders dated 04.07.2019 & 15.07.2019;
- The procuring agency was required to post copies of CRC notification on the Authority's PPMS website for the sake of transparency and to enable the aggrieved bidders to lodge their complaint to that committee during procurement process in terms of Rule-31(3) of SPP Rules, 2010, but the procuring agency failed to do so;
- The procuring agency was required to post bid evaluation report on the Authority's website at least three (3) working days prior to the award of contract. However, in the instant case, procuring agency posted bid evaluation report on the Authority's website on 23.05.2019 (Thursday) and awarded the contract on 27.05.2019 (Monday) i.e. after waiting two working days of posting the report⁵; hence, said rules violated;
- The procuring agency is required to furnish compliance/ justification for acceptance of single bid in terms of Rule-48 of SPP Rules, 2010; *and it failed to produce documents in the meeting or telecon.*
- The procuring agency was required to post contract documents – contract evaluation report; form of contract and letter of award; and bill of quantities or schedule of requirement – on the Authority's website within fifteen (15) days of signing of contract in terms of Rule-50 read in conjunction with Rule-10 of SPP Rules, 2010. In the instant case, the procuring agency signed contract on 31.05.2019; however, said documents were not posted on the Authority's PPMS website; hence, these rules were also violated.

⁴ Activities and deliverables remained unchanged but number of man hours reduced. The procuring agency further clarified that the component is being carried out from the regular budget;

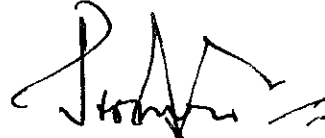
⁵ Evaluation report was also posted incorrectly under 'prequalification report' section rather than 'bid evaluation report' section of the PPMS website.

Review Committee Decision

12. In the light of the above observations and violations of Rules as mentioned under para-11, and after due deliberation, the Review Committee unanimously declares the said procurement as **Mis-Procurement** in light of SPP Rule-32(7)(g) read 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

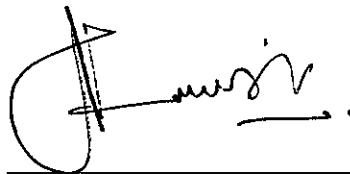


(Member)
Asadullah Soomro
Private Member
SPPRA Board



(Member)
Nominee of Director General Audit Sindh

(Member/ 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