



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-729/2019-20/1185

Karachi, dated the 04th December, 2019

To,

- The Chairman,
Town Committee Daulatpur,
District Shaheed Benazirabad.
- M/s Nawab & Sons Construction Services,
Government Contractor,
House # P-133, Pir Juman Shah,
1st Family Line, Victor School Road,
Jacobabad.

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

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision taken in its meeting on 27th November, 2019 for your information and further necessary action, please.

04/12/2019
ASSISTANT DIRECTOR (LEGAL-II)

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

1. The Secretary to Government of Sindh, Local Government Department, Karachi.
2. The Deputy Secretary (Staff) to Chief Secretary Sindh, Karachi.
3. The Town Officer, Town Committee Daulatpur, District Shaheed Benazirabad.
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).



GOVERNMENT OF SINDH
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NO.AD(L-II)/SPPRA/CMS-729/2019-20

Karachi, dated the December, 2019

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

(Appeal)

M/s Nawab & Sons Construction Services

Versus

Town Committee Daulatpur

(NIT ID # T01536-19-0002 dated 10.10.2019)

Facts and background

The appellant, M/s Nawab & Sons Construction Services, Government Contractor Jacobabad, lodged a complaint (vide letter bearing No.NSCS/HYD/2019/496 dated 28.10.2019) addressed to the Chairman, Town Committee Daulatpur/ Chairman Complaint Redressal Committee (CRC) and copy endorsed to this Authority and others – for taking necessary action – against the NIT # TC/DP/428/2019 dated 10.10.2019 floated by Town Officer, Town Committee Daulatpur, District Shaheed Benazirabad ‘the procuring agency’ for procurement of nineteen (19) works related to the providing and installation of R.O plants and construction of concrete blocks etc.¹ In turn, the Authority vide letter dated 11.11.2019 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). It was also advised to the procuring agency to award contracts after decision of the CRC and in case of failure of the CRC to decide the complaint, the procuring agency shall not award the contract until the expiry of appeal period or the final adjudication by the Review Committee in terms of Rule-31(6) and Proviso of Rule-31(7) of SPP Rules, 2010.

2. Subsequently, the appellant (vide letter bearing No.NSCS/HYD/2019/501 dated 07.11.2019) preferred an appeal, along with review appeal fee², before this Authority stating that they submitted a complaint to the procuring agency’s CRC through courier service (TCS) on 30.10.2019 and same was received by the authorities concerned on 31.10.2019; albeit the CRC had failed to decide the matter within stipulated time period; therefore, the appellant requested the Authority to place their matter before the Authority’s Review Committee in terms of Rule-31(5) read with Rule-32 of SP Rules, 2010³. In response, the Authority vide letter dated 14.11.2019 advised the appellant to submit remaining amount of review appeal fee, which was submitted by the appellant through pay order dated 14.11.2019. Simultaneously, the Chairman CRC (vide letter bearing No.TC/DP/480/2019 dated 14.11.2019) furnished the procurement committee’s report to this Authority whereby it was held that the procuring agency received the appellant’s bids through courier service on 25.10.2019 at 01.30 p.m. i.e. after deadline for submission of bids; therefore, the bids were not entertained in terms of Rule-24 of SPP Rules, 2010⁴.

3. Resultantly, the appellant’s matter was taken up by the Authority’s Review Committee for hearing in its meeting scheduled on 27.11.2019 at 10.00 a.m. and notices, in this regard, were issued to the parties concerned vide this Authority’s letter dated 18.11.2019 to appear before the Committee on

¹ Detailed description/ nature of these works can be accessed through instant procurement’s NIT and bid documents available on the PPMS website at ID # T01536-49-0002 [<https://ppms.pprasindh.gov.pk/PPMS/public/portal/notice-inviting-tender>]

² SPPRA’s Office Order No.Dir(A&F) /SPPRA/18-19/0325 dated 26.07.2019

³ TCS Tracking ID # 306027741636 dated 30.10.2019 revealed that the CRC received the delivery on 31.10.2019 at 12.20 p.m.

⁴ Bids shall be submitted on the place, date and time and the manner specified in the tender notice and bidding documents and any bid submitted late due to any reason whatsoever, shall not be considered by the procurement committee

[Handwritten signatures]

scheduled date, time, and venue. In compliance, Mr. Ghulam Nabi Dahri, Town Officer, Town Committee Daultapur 'representative of the procuring agency' and Mr. Taj Muhammad Soomro, Proprietor, M/s Nawab & Sons Construction Services 'representative of the appellant' appeared before the Committee's meeting.

Review Committee Proceedings

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

Appellant's Version

5. Mr. Taj Muhammad Soomro 'representative of the appellant' apprised the Committee of appellant's submission of bids along with requisite documents, through mail on 24.10.2019, under instant procurement's NIT works⁵ listed at Sr. # 14, 15 & 16 that were received by the procuring agency on 25.10.2019 at 10.45 a.m. – before deadline for submission of bids scheduled up to 25.10.2019 at 12.00 p.m.⁶ The appellant deputed/ authorized their representative to the procuring agency's office to witness opening of the bids who found the procurement committee's members, except the Town Officer, as absent; the appellant's representative also observed the procuring agency was managing bidding process in such a way to award the contracts on the basis of common draw system. The appellant's representative requested the procuring agency to place tender box or cabinet and then open the bids in a transparent manner; however, the procuring agency did not observe compliance of the procurement rules in letter and spirit. Subsequently, they lodged a complaint, also forwarded by the Authority, to the CRC and thereafter the procuring agency stopped bidding process.

Procuring Agency's Version

6. Mr. Ghulam Nabi Dahri, Town Officer, Town Committee Daultapur 'representative of the procuring agency' clarified that the procuring agency received the appellant's bids through courier service (TCS) on 25.10.2019 at 01.30 p.m. i.e. after lapse of one and half hour of the deadline for submission of bids, therefore, the bids were not considered by the procuring agency. Subsequently, the appellant submitted a complaint along with TCS tracking report, which showed the appellant's bids (envelope) were received by Mr. Imran (who is neither an employee nor known to the procuring agency) at 10.30 a.m. Contrary to it, the TCS Office Daultapur has endorsed/ verified the appellant's envelope was received by Mr. Zameer, Clerk Town Committee Daultapur, on 25.10.2019 at 01.30 a.m. Secondly, the appellant did not submit tender fee along with their bids that were submitted/ quoted on the bidding documents downloaded from the Authority's website⁷.

- The appellant affirmed that they did not submit tender fee along with their bids to the procuring agency, on the rationale that bids submitted/ quoted on the bid documents downloaded from the Authority's website were not required by the bidder to pay tender fee along with the bid;
 - ◆ The Review Committee held that the appellant was required to submit the bids along with tender fee PKR 500.00 for each quoted bid/ work in terms of Rule-24(2) of SPP Rules, 2010, which expressly provides that 'the bidders may submit bids on the bidding documents issued by the procuring agency or downloaded from the Authority's website along with tender fee if any by mail or by hand.'

⁵ ibid.

⁶ TCS Tracking ID # 55002525978 revealed the shipper/ appellant's envelope (bids) was received by the consignee/ procuring agency (Mr. Imran) on 25.10.2019 at 10.45 a.m.; whereas, the deadline for submission of bids in the NIT was mentioned up to 25.10.2019 – 12.00 p.m.

⁷ ibid.




Review Committee Remarks

7. After hearing parties at length and perusal of the available record, the Review Committee observed that the appellant has voluntarily affirmed to have submitted bids without tender fee that was suffice for the procuring agency to render the appellant as disqualified in terms of Rule-24(2) read in conjunction with Rules-2(1)(v), 2(1)(w) and 49 of SPP Rules, 2010 and condition # 5 of the NIT's eligibility criteria⁸.

Review Committee Decision

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




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



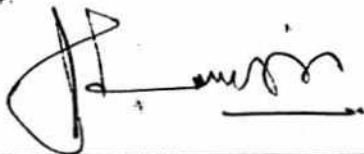
(Member)
Assadullah Soomro
Private Member
SPPRA Board

(Not Present)

(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

⁸ Eligibility Condition # 5: The application shall accompany of tender fee (non-refundable) as shown against each work for purchase of bidding documents separately during office hours from the office of the Town Officer, Town Committee Daultapur.