



OFFICE OF THE SUPERINTENDING ENGINEER ROHRI CANAL CIRCLE HYDERABAD
PHONE NO. 9200278 FAX NO. 9200277.

To,

The Managing Director,
Sindh Public Procurement Regularity Authority, ✓
Karachi.

No: AC/G-55/ 277 of 2022, Hyderabad Dated. 13 / 01 / 2022.

SUBJECT: COMPLAINT AGAINST PROCURING AGENCY EXECUTIVE ENGINEER ROHRI DIVISION KANDIARO ON ILLEGAL PROCUREMENT BY VIOLATING SPPRA RULES FOR NOT OPENING FINANCIAL PROPOSAL OPENLY BY MIS-USING AUTHORITY POWERS. REQUEST TO CANCEL THE NIT FOR THE ILLEGAL TENDERING PROCESS.

Reference:- Complaint received from M/s Abdul Hafeez Kolachi, Government Contractor & General Order on Dated. 06.01.2022.

A meeting of Complaint Redressal Committee (CRC) as per SPPRA Rule 31(3) regarding subjected complaint was held on **10.01.2022 @ 03:00 P.M** at Rohri Canal Circle Office Hyderabad for redressal of subjected complaint and Chaired by the Superintending Engineer Rohri Canal Circle Hyderabad Chairman (CRC) and participated by Mr. Irfan Ahmed Memon Civil Engineer (Independent Professional) Member, Divisional Accounts Officer Rohri Division Kandiaro (Member), Executive Engineer Rohri Division Kandiaro and complainant Mr. Abdul Hafeez Kolachi Government Contractor.

After hearing the grievances of complainant and replies of Executive Engineer Rohri Division Kandiaro (Procuring Agency) as well as scrutiny of the relevant record and going through the facts, the CRC has announced the decision.

In this regards, the Minutes of meeting / Decision of CRC is submitted herewith as per SPPRA Rule 31(5) (1) for favour of kind perusal and further necessary action.

D.A / As above

SUPERINTENDING ENGINEER /
CHAIRMAN CRC ROHRI CANAL
CIRCLE HYDERABAD

Copy forwarded with compliments for favour of kind information to:-

1. The Secretary to Government of Sindh Irrigation Department Karachi.
2. The Chief Engineer Sukkur Barrage Left Bank Region Sukkur.
3. The Divisional Accounts Officer Rohri Division Kandiaro (Member CRC).
4. Mr. Irfan Ahmed Memon Civil Engineer (Independent Professional nominated for Sukkur Barrage Left Bank Region Sukkur (Member CRC).
5. The Executive Engineer, Rohri Division Kandiaro for information.
6. M/s Abdul Hafeez Kolachi, Government Contractor & General Order Supplier, Suit No. 21, Kareem Plaza Block-08, Sector 03, Sukkur Township, Sukkur Mobile No: 0316-3624724 & 0311-1931888 for information.

SUPERINTENDING ENGINEER /
CHAIRMAN CRC ROHRI CANAL
CIRCLE HYDERABAD

SPPRA INWARD DIARY

NO: 23/8
DATED: 17/1/22

Please put
for CRC
decision Host
SPPRA Website
AD (Cv)
Below
18/1

MINUTES OF MEETING OF COMPLAINT REDRESSAL COMMITTEE (CRC) FOR REDRESSAL OF THE COMPLAINT LODGED BY M/S ABDUL HAFEEZ KOLACHI GOVERNMENT CONTRACTOR & GENERAL ORDER SUPPLIER.

SUBJECT: - COMPLAINT AGAINST BELOW MENTIONED PROCURING AGENCY FOR ADOPTING SINGLE STAGE TWO ENVELOPE BIDDING PROCEDURE IN SIMPLE AND STANDARD NATURE WORKS BY VIOLATING SPP RULES AND REGULATIONS WITH MALAFIDE INTENSION AND MISUSE OF EXECUTION POWERS REQUEST TO DECLARE SINGLE STAGE TWO ENVELOPES IS ILLEGAL AND VIOLATION OF RULE 45(1), 47(1) OF SPP 2010, AND DIRECT THE PROCURING TO RECTIFY WITH CORRIGENDUM AND ADOPT THE BIDDING PROCEDURE AS SINGLE STAGE SINGLE ENVELOPE IN TENDERS.

A meeting of Complaint Redressal Committee (CRC) as per SPPRA Rule 31(3) regarding subjected complaint was held on 10.01.2022 @ 03:00 P.M at Rohri Canal Circle Office Hyderabad for redressal of complaint. The meeting was chaired by the Superintending Engineer Rohri Canal Circle Hyderabad Chairman (CRC) and participated by Mr. Irfan Ahmed Memon Civil Engineer (Independent Professional) Member, Divisional Accounts Officer Rohri Division Kandiaro (Member), Executive Engineer Rohri Division Kandiaro and complainant M/s. Abdul Hafeez Kolachi Government Contractor.

GROUND OF THE COMPLAINT APPLICATION

1/- The applicant is a professional government contractor and duly registered with Pakistan Engineering Council in C-1 category. The above Procuring agency has called the above mentioned NIT's and adopted the bidding procedure as single stage two envelope by violating Rule 46(1) and 47(1) of SPP, because the works mentioned in NIT fall under the ambit of single stage one envelope. However I being interest bidder has concerned on procuring method I moved application under Rule 23 to XEN for justification as per SPP rules but unfortunately Procuring agencies are not interested to reply any letter because as per Rule 23 of SPP that they bound to reply within 03 days hence, after passing time I have remedy to approach you as per rules, hence you are requested to call CRC meeting under Rule 31 of SPP and redress my grievances according to law. Further stated that SPPRA has also made same observation on NIT which clearly support my contention of the application and complaint.

The rules and regulation are mentioned as under:-

46. PROCEDURES OF OPEN COMPETITIVE BIDDING – Save as otherwise provided in these rules, the following procedures shall be permissible for open competitive bidding; (1) Single Stage – One Envelope Procedure (a) Notice Inviting Tenders and bidding documents of this method shall contain the following eligibility criteria; (i) relevant experience; (ii) turn-over of at least three years; (iii) registration with Income Tax, Sales Tax and Pakistan Engineering Council (where applicable); (iv) any other factor deemed to be relevant by the procuring agency subject to provision of Rule 44; (b) each bid shall comprise one single envelope containing the financial proposal and required information mentioned at clause (a) above; (c) all bids received shall be opened and evaluated in the manner prescribed in the Notice inviting Tenders or bidding document.

47. **CONDITION FOR USE OF VARIOUS PROCEDURES** – (1) Single Stage One Envelope Bidding Procedure shall be used as the standard bidding procedure for procurement of goods, works and services of simple and routine nature and where no technical complexity or innovation is involved:

RULES AND REGULATION OF WORKS 2013

7.9.5 **Condition for use of various Procedures Rule 47 (merits and demerits).**
(1) Single Stage one envelope bidding procedure: When procurement is of simple and standard nature and scope / specifications are well defined, then this is main competitive bidding procedure. But due to ban on enlistment / registration of contractors with procuring agencies, every bidder without registration of PEC is allowed to participate for bids costing less than Rs. 2.5 million. In this case procuring agencies are allowed to ask/verify certain details / information from them to ascertain their capabilities to fulfill the contract in question. The responsiveness of bidder is determined by verifying the required documents in the following manners"- (i) before opening the financial proposal; (ii) after opening the financial proposal (Post-Qualification method) but issuance of bidding documents must not be linked with verification of documents.

Disadvantages of single stage two envelope in following para in their regulation for procurement of works 2013.

(2) Single Stage tow envelope bidding procedure; The purpose of introducing this procedures was obviate any pressure to consider non-confirming attractive bids or bidders and this system theoretically assured a perfect evaluation. This shall be used when bids are to be evaluated on technical / qualification and financial grounds and price is taken into account after technical/qualification evaluation which determines the eligibility of bidders by verifying the documents and analyzing the Guidelines / Regulations for Procurement of Works (Bid Opening, Evaluation and Award of Contract) Sindh Public Procurement Regulatory Authority (SPPRA) Page 42 technical proposals received in response to evaluation criteria mentioned in NIT and bidding documents. **However the procedure suffers from serious disadvantages: (i) delay in opening of financial proposal, and longer the delay less is the perceived integrity; (ii) tender conditions and technical specifications may be deliberately or otherwise skewed in favour of some bidders; (iii) approving authority and auditors are prevented from knowing the additional price paid for a trivial or minor or unnecessary or avoidable requirement, as financial proposals of non-responsive bidders is returned unopened.**

2/- The procuring agencies intentionally violated the SPP rules and denied the merits and transparency in public procurements for their own benefits because after opening of technical envelope procuring agency use tactics to take withdraw from participated contractor and used other illegal tactics in tender and they kept financial envelope for 90 days without any reason.

In response to grievances submitted by the complainant in application, as well as stated in CRC, the Executive Engineer Rohri Division Kandiaro (Procuring Agency) replied as under:-

That SPPRA-2010 Rule 46(1) & 47(1) **Single Stage-One Envelope Procedure** does not pertain with this NIT as these are works of technical nature and Rule 47 (1) is for routine works whereas Rule 46(2) & 47(2) **Single Stage Two Envelope Bidding Procedure** pertains to this NIT as this rule shall be used for goods 3[works] and services where the bids are to be evaluated on technical and financial grounds and price is taken into account after technical evaluation". The complainant has alleged that violation of Rule No. 23 of SPPRA Rules 2010 has been made, whereas, in Rule No. 23 it is mentioned that an interested bidder who has obtained bidding documents may request for clarification of contents of the bidding document but neither he purchased the bidding document nor sought clarification of contents.

This N.I.T consists of three different types of works i.e. *C.C Lining of channel, Construction of Pre-stressed Road Bridge and Stone Pitching along Rohri Main Canal*, all these works are of technical nature and need highly technical expertise, as these are hydraulic structures of most technical and sensitive nature, which involves use of high tech instruments, tools and machinery as well as proper monitoring and supervision by highly technical and skilled Engineers and supervisors Any lapse or negligence during construction can cause several breaches and heavy loss to Government as well as public property,. This is work of very special technical nature. Hence single stage two envelope bidding procedure was adopted as per SPPRA Guidelines.

Hence, there is no violation of Rule 46(1) & 47(2). However, clarification / justification in connection with observations raised on PPMS has already been given and also uploaded on SPPRA Website as per Rule 23 of SPPRA Rules 2010.

As per SPPRA Rule 2010 Rule 46 Para-2 (c) "**initially only envelope marked Technical Proposal**" shall be opened. Hence the as per schedule "**Technical Proposal / Bids**" dropped by the contractors were opened 17.12.2021. whereas the sealed financial proposal were kept in custody as per Rule 46 Para-2(d) and will be opened of only technically qualified contractor / firms as per Rule 46 Para-2 (g).

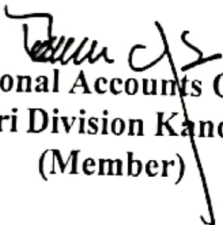
The Executive Engineer Rohri Division Kandiaro stated that Financial Proposals of *Technically Qualified* bidders who have participated on package No: 01 A.D.P Scheme No: 1196/2021-22 & Package No: (i) A.D.P Scheme No: 1204/2021-22 only have been opened 04.01.2022 by the Procurement Committee in presence of the bidders or their authorized representatives and bid evaluation reports have been hoisted on SPPRA Website as per Rule 45(1). The complainant has participated for Package No: (ii) A.D.P Scheme No: 1204 / 2021-22 and the evaluation of Technical Proposals of this package is not yet completed, as the verification of work orders of schemes of similar nature completed by contractors is still awaited. Moreover, after completion of evaluation of Technical Proposals, the Financial Proposals of technically qualified contractors will be opened as SPPRA Rules 46(2)(g). Thereafter the bid found to be the most advantageous would be recommended to the competent authority for approval.

Conclusion of the Complaint Redressal Committee (CRC)

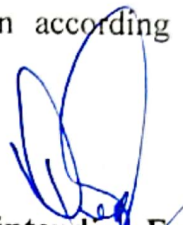
From the perusal of the facts explained by the Executive Engineer Rohri Division Kandiaro (Procuring Agency) as well as scrutinizing the relevant record, it was observed that evaluation of Technical Proposals in respect of Package No: (ii) A.D.P Scheme No: 1204 / 2021-22 "Constructing Stone Pitching along Rohri Main Canal from RD-287 to 291 IP Side and 287 to 289 NIP Side, 02 Nos: VRB along Dalipota Minor RD-05 & 15" is still in process and will be completed within Bid validity period i.e. 90 days as per SPPRA Rule No: 38 as assured by the Procuring Agency. Whereas, the Procuring Agency has adopted the procurement procedure according to Guidelines of SPPRA Rules-2010(Amended-2019) and no violation made.

Decision of Complaint Redressal Committee (CRC)

After going through the facts, the Complaint Redressal Committee (CRC) unanimously decided to dismiss the complaint and announces its decision according to Rule No. 31(5) of SPPRA Rule 2010 (Amended 2019).


Divisional Accounts Officer
Rohri Division Kandiaro
(Member)


Mr. Irfan Ahmed Memon
Civil Engineer (Independent
Professional) Member


Superintending Engineer /
Chairman CRC Rohri Canal
Circle Hyderabad