OFFICE OF THE
EXECUTIVE ENGINEER PROVINCIAL HIGHWAY DIVISION MIRPURKHAS

No. TC/G-55/ 1790 / of 2023
Mirpurkhas Dated: 18/10/2023

To,

The Managing Director,
Sindh Public Procurement Regulatory Authority,
Block No 8 Sindh Secretariat - 4A, Court Road,
Karachi.

Subject: **REQUEST FOR HOISTING COMPLAINT REDRESSAL COMMITTEE DECISION ON SPPRA-PPMS WEBSITE.**

Please find enclosed herewith decision of CRC meeting which was conducted on 21-02-2023 at 01:00pm as per Rule **31** of SPPRA Rules, 2010 under chairmanship of Superintending Engineer, Provincial Highway Circle, Mirpurkhas on complaint of M/S **M.Alam Baloch**, Government Contractor against undersigned officer.

It is also to convey that the complainant sent the complaint vide his letter No MAB/DAY/2023/025 dated 17-09-2023 which was received through TCS on 19-09-2023 (online tracking slip is attached). The bid was hoisted on website on 12-09-2023. The CRC meeting was conducted on 21-09-2023 after receipt of complaint and issued its decision on 25-09-2023, which was subsequently couriered to the complainant on 27-09-2023 and received by him on 28-09-2023 (online tracking slip is attached). Hence, it is clear from the evidential facts that despite passing three days of time, the CRC meeting was conducted immediately after receipt of complaint and in accordance with Rule **31 (5)** of SPPRA Rules,

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2010, the committee announced its decision within seven (07) days and conveyed the same to the complainant (online tracking slip is attached, reflecting the recipient name as "Alam") and to the Assistant Director (Legal –II), SPPRA within three (03) working days.

Therefore, it is requested to hoist the decision of CRC meeting on SPPRA-PPMS website in compliance of Rule 31 of SPPRA Rules, 2010.

Executive Engineer
Provincial Highway Division
Mirpurkhas

Copy is forwarded to:

1. The Secretary, Work & Services Department Government of Sindh Karachi for information.
2. The Chief Engineer Highway's Sindh Hyderabad for information.
3. The Superintending Engineer Provincial Highway Circle Mirpurkhas for information.

Executive Engineer
Provincial Highway Division
Mirpurkhas

OFFICE OF THE SUPERINTENDING ENGINEER
PROVINCIAL HIGHWAY CIRCLE MIRPURKHAS

BEFORE COMPLAINT REDRESSAL COMMITTEE UNDER RULE NO: 31 OF SPPRA RULES 2010

A meeting of Complaint Redressal Committee was held on 21-09-2023 at 1:00 PM in office of the Superintending Engineer, Provincial Highway Circle, Mirpurkhas / Chairman Compliant Redressal Committee in connection with complaint made by M/s. Muhammad Alam Baloch, Government Contractor against Executive Engineer, Provincial Highways Division Mirpurkhas.

The following members attended the meeting:-

01.	**Mr. Shafique Ahmed Nizamani,** Superintending Engineer, Provincial Highway Circle, Mirpurkhas	**Chairman**
02.	**Mr. Inamuddin,** Divisional Accounts Officer, Provincial Buildings Division, Mirpurkhas, (Representative of Accountant General Sindh)	**Member**
03.	**Mr. Hareesh Vankwani,** Project Manager Construction Co, (Independent)	**Member**

The meeting started with the name of Almighty Allah. The chair welcomed to all the participants and informed that the basic purpose of the meeting was to go through allegations leveled by M/s. Muhammad Alam Baloch, Government Contractor in connection with complaint against Executive Engineer, Provincial Highways Division Mirpurkhas vide NIT No. TC/G-55/1121, dated 03-07-2023, respectively and replies of the Executive Engineer concerned in his defence duly supported with relevant documents.

FACTS AND BACKGROUNDS:-

M/s. Muhammad Alam Baloch sent complaint vide No. MAB/DAY/2023/025, dated 17-09-2023 received through TCS on 19-09-2023 at 11:18 AM. It would not be out of place to mention here that the date of Complaint Redressal Committee was fixed immediately in order to ensure timely redressal of the grievances of the complainant. The complainant has leveled the following allegations;

1. As per Attendance Sheet of Technical bid opening by the Procuring Agency and signed by the Contractors there were total seven (07) participants in both works 4 in Work no. 1 and 3 in Work no. 2. (Copy of Attendance Sheet attached)
2. The Procuring Agency XEN Highways Division Mirpurkhas issued a Notification vide No. TC/G-55/1567, dated 11-09-2023, in which the applicant had been declared "Not Qualified" in the Technical Evaluation by the Procurement Committee as on dated 08-09-2023, under Rule 46(2) (e) of SPP Rules, 2010, which shows malpractice and malafide intention of the Procuring Agency in the Technical Evaluation.
3. The Procuring Agency / XEN wants to award these works to their favourite and specified person already managed by him through illegal way on the basis of huge bribe and do not want to conduct instant procurement in fair and transparent manner in terms of Rule-4 of SPP Rules, 2010 (Amended in 2019).
4. The unsigned Bidding documents uploaded at the website by Procuring Agency / XEN Provincial Highways Division Mirpurkhas which is clear violation of Rule-24 (2) of Sindh Public Procurement Rules, 2010.
5. The Procuring Agency has absolutely failed to rectify the observations raised by SPPRA-PPMS on its website dated 10.07.2023 which were required to be rectified prior to opening of bids, for which the Chairman (CRC) may take its notice and proceed against the Procuring Agency as per law.

In addition to above, the complainant provided another statement on 21-09-2023 before Complaint Redressal Committee wherein further allegations were also leveled by him as under:-

6. Executive Engineer, Provincial Highway Division, Mirpurkhas must write the complainant to furnish documents to complete his incomplete profile before disqualifying him directly. According to complainant it is a violation SPPRA Rules.
7. The criteria of qualification and disqualification are not mentioned in the mentioned NIT by the Procuring Agency.
8. The Procuring Agency has removed original certificate submitted by the complainant to make him dis-qualify.
9. All the requisite information / documents mentioned in the NIT along with brochure were submitted to the Procuring Agency but not considered on merit.
10. The Executive Engineer, Provincial Highways Division, Mirpurkhas wants to award the contracts at his own sweet will contractors on high rates instead of bid offered by the complainant which is the lowest.

EXECUTIVE ENGINEER VERSION:

Mr. Abdullah Shaikh, Executive Engineer, Provincial Highways Division, Mirpurkhas informed the committee that as per Rule No. 45"...**The report shall be hoisted on website of the authority and that of the procuring agency if its website exists and intimated to all the bidders at least three (03) working days prior to the award of contract**". However, being aggrieved by the decision of the Procuring Agency

regarding dis-qualification, the contractor should immediately seek relief through Complaint Redressal Committee within three days of time. The letter of disqualification was issued to the Contractor vide Procuring Agency's office Notification No. TC/G-55/1567 dated 11.09.2023, whereas his written complaint vide letter no. MAB/Day/2023/0025 dated 17.09.2023 was received to the Office of Chairman Complaint Redressal Office on 19-09-2023.

Executive Engineer, Provincial Highways Division, Mirpurkhas briefed the forum that all the infirmities raised by the SPPRA were rectified by the Procuring Agency timely and replies along with all the relevant documents of all the observations of SPPRA-PPMS portal were responded on 02.09.2023 far before the uploading time of BER of work to which was complainant aggrieved off.

It was claimed by the complainant that Procuring Agency has removed the original undertaking certificates. In response, it was briefed that the Contractor had attached old and photocopy of undertaking certificates, however as per NIT criteria it is required to attached recent and original undertaking certificates on stamp paper duly certified by the rotary public. On allegation of being removed the original by the Procuring Agency, it was briefed that one can remove the original certificate but cannot attached the Photostat-certificate of the same person which was issued and signed in October, 2022 which was found attached in the brochure. Therefore, the said allegation is bogus and based on malafide intention to make the procurement process suspicious.

The complainant raised the question that Procuring Agency must inform the complainant about incomplete documents and must asked him to furnish the same. However, asking for any alteration in any substance submitted by the bidder during technical evaluation is gross violation of Rule **43** and **46(2)(f)** of SPPRA Rules 2010 (Amended in 2019) re-produced as under :-

Rule 43: "No bidder shall be allowed to alter or modify his bid after expiry of deadline for the receipt of the bids. Provided that the procuring agency may ask the bidders for clarifications needed to evaluate the bids but shall not permit any bidders to change any substance..."

Rule 46(2)(f) "no amendments in the technical proposal shall be permitted during the technical evaluation."

Furthermore, it was conveyed by the XEN that criteria for qualification and disqualification of bidder was explicitly mentioned in point 04 clause-03 of the

advertisement for Notice Inviting Tenders and subsequently the reasons for qualification / disqualification of each bidder was mentioned in Bidder Qualification Report (BQR) which was hoisted on SPPRA website on 12-09-2023 as per SPPRA rule No. **45**.

Moreover, it was briefed that the evaluation of all the Technical Proposals was made in accordance with Rules No. **42** and **46 (2) (e)** of SPPRA Rules 2010 (Amended in 2019) and no contract is awarded on the basis of sweet and will of the Procuring Agency, but it is awarded on the basis of merit and bid to be found *Most Advantageous Bid.*

COMPLAINANT REDRESSAL COMMITTEE FINDINGS:

After hearing the complainant as well as Procuring Agency and going through the documents provided, it was found that allegations leveled by the complainant in his complaint were not based on the facts. The complainant was failed to substantiate the proofs required to validate his allegations. Additionally, all the allegations raised by him was answered satisfactorily by the Procuring Agency with documentary evidences and in line with relevant rule of SPPRA Rules 2010 (Amended 2019).

COMPLAINT REDRESSAL COMMITTEE DECISION:

After hearing the arguments of Executive Engineer, Provincial Highway Division, Mirpurkhas and the Complainant, the Members of Complaint Redressal Committee unanimously decided that the decision of the Procurement Committee to disqualify M/s. Muhammad Alam Baloch (Complainant) was based on merit and according to SPPRA Rules 2010, hence the complaint of the complainant was dismissed.

The meeting ended with a vote of thanks from and to the chair.

(Mr. Hareesh Vankvani)
Project Manager
Construction Co, (Independent)
Member

(Inamuddin)
Divisional Accounts Officer
Representative of A.G Sindh Karachi
Member

(Mr. Shafique Ahmed Nizamani)
Superintending Engineer
Provincial Highway Circle
Mirpurkhas
Chairman