MSDP

Municipal Services Delivery Program
P & D Department, Government of Sindh

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MINUTES OF MEETING OF COMPLAINT REDRESSAL COMMITTEE OF SINDH MUNICIPAL SERVICES DELIVERY PROGRAM (MSDP)
TENDER OF REHABILITATION WORK OF EXISTING WATER SUPPLY LAGOONS
(CONTRACT PACKAGE WS-18)
HELD ON 20TH MAY 2020 AT 11:30 AM

Two complaints lodged by M/s. Indus Construction Company and M/s. Engineering Links International against NIT Ref: PMU/MSDP/P&DD/VT/2019-2020 dated 17th December, 2019. (Tender of Rehabilitation Work of Existing Water Supply Lagoons (Contract Package WS-18)). Initially the CRC meeting was scheduled on 19th March 2020 but the same was postponed due to Covid – 19 Lock Down announced by Government of Sindh.

2. On relaxation of Lock Down, CRC meeting was held on 20th May, 2020 at 11:30am, under the chairmanship of Program Director MSDP, with two other members (Mr. Aziz Mustafa Sheikh; Representative of AG Sindh) and (Mr. Wasif Nazeer; Member PEC).

3. For the sake of transparency, the MSDP requested M/s. Indus Construction Company and M/s. Engineering Link International to depute well conversant representative in support of their lodged complaint. In this regard, a representative of M/s. Indus Construction Company appeared before the committee whereas representative of M/s. Engineering Links International did not appear. However Mr. Khadim Hussain partner M/s. ELI verbally intimated through call to MSDP office informing his inability for participation in the scheduled meeting and concurred that CRC meeting may take decision in accordance to the record position and decision taken may be communicated to the firm.

4. The CRC meeting minutely had gone through all bidding documents and discussed each observation in detail. The crux of the observations raised by two firms, record position, and discussion made during CRC meeting and decision taken, taken thereof is submitted as under in juxta position:

Sr. No	Name of Firm with Observations	Record Position	CRC Discussion	Decision taken by CRC members
1	**M/s. Indus Construction Company**			
i.	Complained that they are registered with SRB since last several years and also	The Firm attached BRB, whereas, the requirement was	The CRC checked all bidding documents minutely and found that BRB Certificate was attached inside the bid document, whereas	Having gone through compliant of M/s Indus Construction Company, record position of

	registered with BRB, and they have attached both certificates whereas on the divider paper it is also written that FBR, SRB, BRB certificates are attached but deliberately their SRB certificates was removed to declare them as ineligible and favor the company of choice. They have also mentioned that if certificate was not attached how their bid was accepted at the time of opening.	SRB which was not found attached.	the required SRB certificate was not part of the Bidding Document. More ever, the committee had also noticed that the firm submitted bidding documents without paging numbers. The Complaint of M/s. Indus Construction Company pertaining to detachment of SRB certificate from bidding document was found no merit. Even, the CRC placed original bidding documents before the representative of M/s. Indus Construction Company to identify if any such certificate is detached/removed from their submitted papers. The representative of the firm did not make satisfied to the committee and acknowledged that the firm did not write paging number on their submitted bids. Hence, the CRC observed that during procurement committee meeting, it was not possible to get removed such certificate from the bidding document in presence of Procurement Specialist, PMU – MSDP, representative of PP&H section P&DD, representative of Director Finance PMU-MSDP, representative of PHED, representative of Local Government Department, Representative of USAID, Representative of Municipal Committee	Procurement Committee, deliberation/ observation of CRC, the committee unanimously decided to uphold the decision of the procurement committee.

Jacobabad and a representative of M/s. RCC Consultant.

The CRC also negated the version of M/s. Indus Construction Company that their document was deliberately removed to facilitate the company of choice. In this regard it was placed before the record that Pre-Bid meeting was held on 31st December, 2019 to address the grievances of the participating firms and to ensure the floated tender should be awarded transparently. During the Pre-Bid Meeting following 8 firms attended the meeting:

1. M/S Engineering Links International
2. M/S K- Power
3. M/s. Al- Mansoor/ AJM JV
4. M/s. Biztech International
5. M/s. Rajput Traders
6. M/s. Imran Co.
7. M/s. Fine Solutions
8. M/s. Tamzeer Construction Co.

During the Pre-Bid meeting, 16 points of quires were raised by different participating firms and the same were replied accordingly and the working of pre-bid meeting was also documented by issuing official minutes of meeting. These minutes of meetings are available on http://msdp.pos.pk/

ii.	That in eligibility criteria at clause 3.1.4, it is clearly written that we have to submit the Auditor's balance sheet for the year 2015-2016, 2016-17, 2017-18. They have also mentioned that three years reports were attached with their tender showing Average of 294.30 Million.	Auditors Balance Sheet was required up to 2018-2019 whereas, the firm only provided up to 2017-2018.	The CRC while going through the bidding document, noticed that at Form A-2 (General Experience record) provide annual turnover as under a) Fiscal Year 2015-2016 b) Fiscal Year 2016-2017 c) Fiscal Year 2017-2018 The committee was also on consensus that M/s. Indus Construction Company in its grievance highlighted as under, ***"That in eligibility criteria at clause 3.1.4, it is clearly written that we have to submit the Auditor's balance sheet for the year 2015-2016, 2016-17, 2017-18. They have also mentioned that three years reports were attached with their tender showing Average of 294.30 Million."*** On the basis of record position, it was observed by the committee that this aspect was overlooked by the procurement committee inadvertently. Otherwise, M/s.	Considering the factual record position, the committee endorsed the grievance of M/s. Indus Construction Company and found the firm eligible in terms of financial required turnover.

			Indus Construction Company fulfills the Annual Turn Over.	
iii.	That the Integrity Pact Performa was signed and stamped by us however as per SPPRA Rules 89 it is to be signed at the time of Agreement with Contract Agreement.	This document was found attached but the same is not duly signed. This document is only signed in the sequence to other documents of the bidding documents, whereas the firm should have signed it on the proper place of signature. The Integrity Pact is blank.	The CRC committee examined the contents of complaints of M/s. Indus Construction Company at length as well as the decision taken by procurement committee. The version taken by M/s. Indus Construction Company that the firm has signed Integrity Pact Certificate, however the bidding document submitted by the firm provided that the firm in fact signed each paper of the budding document along with stamping. Similarly the Integrity Pact Certificate was also signed by the firm in sequence at the bottom of the certificate. This Integrity Pact was found blank and it was not signed properly at proper place. Moreover at Page 20 of bidding document (Vol A1) Technical Offer at serial number IB-35(Integrity Pact, SPPRA Rule 89 provides: ***"The bidder shall sign and stamp the Integrity Pact provided at Appendix-L to the bidding documents for all Provincial/Local Government procurement contracts exceeding***	The committee after detailed discussion and critical examination of the record endorsed the decision of procurement committee is as per the eligibility criteria, the filled Integrity Pact was not found.

			Rupees ten million. Failure to provide such Integrity Pact shall make the bidder non-responsive"	
2	**M/s. Engineering Links International**			
i.	That at serial #4, the annual Turn Over of last three years. M/s. ELI have already successfully completed more than 100million works without any mobilization advance and credit line for MSDP. This shows the strength of financial capability of our firm M/s. ELI have already qualified and successfully completed the project of approximately 125Million EM-11 with MSDP.	M/s. ELI failed to meet mandatory requirement at Sr. 4 I.e. "Average Annual Turnover of last Three Years (Minimum Rs. 100 million)." The audited reports submitted by their firm shows their annual firm revenue for **2019, 2018, 2017** as **Rs. 69.97 million, Rs. 54.61 million and Rs. 48.47 million** respectively which **averages to Rs. 57.68 million annually**, which is less than **mandatory requirement of Rs. 100 million average annual turnover.**	The committee reviewed the grievance of M/s. Engineering Link International exhaustively as well as the working of procurement committee. The committee reached to the conclusion that the Audited Reports submitted by the firm shows that their Annual Firm Revenue for **2019, 2018, 2017** as **Rs. 69.97 million, Rs. 54.61 million and Rs. 48.47 million** respectively which **averages to Rs. 57.68 million annually**, which is less than **mandatory requirement of Rs. 100 million average annual turnover.**	The CRC unanimously decided that the decision of the procurement committee is valid and unchanged and accordingly regretted the grievance of the firm.
ii.	That at serial #6, "Execution of at least (01) projects of similar nature during last 10 years". The statement is	The experience attached by the firm was not found similar to the required experience. On objection by the firm, matter	During the meeting, the CRC noticed that M/s. Engineering Links International has only made reliance the experience of construction of Semi Pacca Tanks at Thull	The committee unanimously agreed to the decision of the procurement committee and

	totally incorrect. The work order of "Construction of Semi Pacca Tanks at Thull Jacobabad" for PHED at Thull Jacobabad along with other similar works are also attached with drawings and photographs of work in progress on embankments, dewatering, excavation and maintaining the level and slopes.	was referred to RCC Consultant that also endorsed the same view point.	Jacobabad, whereas, the required experience as per the bidding document was: a) ***Experience of de-silting, weed cutting of lagoon type work.*** b) ***Experience of embankment works.*** The Contract in question was of Rs. 200million whereas the M/s. ELI did not have a similar experience of mega projects. The reliance of the firm at the construction of Semi Pacca tank at Thull Jacobabad is of small nature. The procuring agency has absolute authority to safe guard the exchequer by awarding work of mega in nature to that firm which possess absolute experience of executing such mega projects successfully. During the meeting the CRC was also apprised that the grievance of M/s. ELI regarding non acceptance of the firms experience was also shared with M/s. RCC Consultants engaged by MSDP to review the grievance of the firm on technical grounds wither the firm possessed such experience for executing the work of Rs. 200million as well as for financial soundness. The consulting firm vide letter dated 22nd Feb, 2020 submitted specific comments:	considered it as valid and unchanged.

			"Firstly M/s. ELI failed to meet mandatory requirement at Sr.04 i.e. "Average Annual Turnover of last Three Tears (Minimum Rs. 100 million)." The audited reports submitted by their firm shows their annual firm revenue 2019, 2018, 2017 as Rs. 69.97 million, Rs. 54.61 million and Rs. 48.47 million respectively which averages to Rs. 57.68 million annually, which is less than mandatory requirement of Rs. 100 million average annual turnover. *Thus above single ground is enough to declare their bid non-responsive and it is not worth discussing further issues such as weather construction of Semi Pacca Storage Tank of Rs. 35 million is similar to Lagoons of about 40 acres area costing more than Rs. 200 million (Contracts of Similar Nature & Complexity Form A5 that was left blank by M/s ELI)or that any extract from uploaded "Minutes of Technical Evaluation of Contract Packages SL-01, EM-17 & WS-18" on MSDP website sent to M/s ELI needed any further signature or not."*	
iii.	That the four works (i.e. WW-07, WW-08, WW-09 & WW-10) were cancelled	PMU, just after uploading the Bid Evaluation Report found some typographical error due	This aspect of M/s. Engineering Links International was also discussed in detail by the CRC and found that there is no relevance	The CRC after due deliberation reached to the conclusion that there is no relevance of this

	by the procurement agency and placed on SPPRA web site. Adopting Fraudulent Practice these four works are awarded to the firms who did not had "Valid PEC Certificate" when tenders were on the day of technical bid opening i.e. 22-08-2019. Now it is informed to us that three out of four works are awarded and hosted on the SPPRA website.	to which as per guidelines given by SPPRA the same were canceled and re-uploaded on the website on the same time, within the specific allowable time limit.	of this grievance of the present tender in question. The grievance of M/s. ELI pertained to WW07, WW08, WW09 & WW10 which was already responded by the procuring committee/ agency describing that there was a typographical error and the same was addressed as per SPPRA guidelines.	particular grievance with the present tender in question. Hence the committee endorsed the decision of procurement committee accordingly.

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

(Mr. Aziz Mustafa Sheikh)
Member Div A.O (Rep of A.G Sindh)
(Member CRC)

(Engr. Wasif Nazar Siddiqui)
Director Atif Nazar (Pvt) Ltd.
Member-ACEP, Member PEC
(Member CRC)

(Mr. Mustafa Jamal Kazi)
Program Director
MSDP
(Chairman CRC)