



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2925/2021-22/0600

Karachi, dated the 14<sup>th</sup> January, 2022

To,

The Secretary,  
Health Department,  
Government of Sindh,  
**KARACHI.**

**Subject: DECISION OF THE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY.**

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision (M/s Denim International V/s National Institute of Child Health (NICH) Karachi, held on 30.12.2021, for taking further necessary action under intimation to this Authority, at the earliest.

DEPUTY DIRECTOR (Legal)

**A copy is forwarded for information and necessary action to:**

1. The Medical Superintendent Concerned/ Incharge of Health Institution concerned.
2. The Executive Director National Institute of Child Health (NICH) Karachi.
3. Assistant director (I.T), SPPRA (with advice to post the decision on the Authority's website in terms of Rule-32(11) of SPP Rules, 2010)
4. The Staff Officer to the Chairman / Members Review Committee.
5. The Appellants.



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



No.AD (L-II)SPPRA/CMS- /2020-21

Karachi, dated the <sup>6/1/22</sup> January, 2022

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

**Decision of the Review Committee**

Date of meeting	30.12.2021
Appellant	M/s Denim International
Procuring Agency	Executive Director National Institute of Child Health Karachi.
Review Appeal received on	22.12.2021
SPPRA NIT ID No.	T 00983-21-0004
NIT Uploaded on	25.10.2021
Description of NIT	Tender for purchase of Liquid Medical Oxygen, Compressed Medical Oxygen and Nitrous oxide Gas for NICH for the year 2021-22
Bid Opening date	09.11.2021
Bid Evaluation Report Hosted on SPPRA Website	02.12.2021
Contract Agreement date	08.12.2021
Contract Documents uploaded on SPPRA Website	29.12.2021

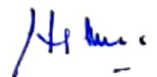
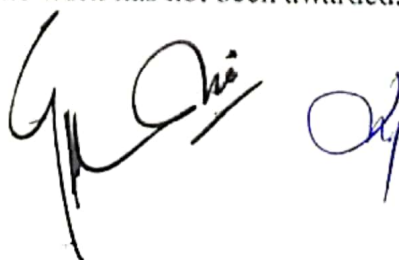
**The Appellant's Version**

1. The appellant submitted that the procuring agency had disqualified his firm due to lack of considerable experience with the Government Hospital. The appellant submitted that this reason for the disqualification is not maintainable because his firm has been providing supply of Liquid Oxygen to the renowned Hospitals in Pakistan especially Liaqat University Hospital Hyderabad.
2. The appellant also informed that his firm has sufficient experience with other hospitals such as National Medical Centre, Qatar Hospital, Altammsh Hospital, Zia ud Din and South City Hospital.

3. The appellant also submitted that the procuring agency had not communicated the reasons of disqualification as required under rule 45 of SPP Rules.
4. The appellant also informed that the procuring agency had inserted difficult conditions which caused discrimination among the bidder and these difficult conditions restricted the competition in the bidding process.
5. The appellant also contend that the procuring agency had not intimated the Bid Evaluation Report and later on he had come to know by seeing the BER on PPMS website.

### The Procuring Agency's version

1. The procuring agency submitted that the bidder was disqualified because the bidder had not submitted mandatory requirement and he could not meet the eligibility criteria. The procuring agency maintained that the bidder does not have sufficient experience nor has supplying, manufacturing capacity. It was also contended that the appellant had not submitted experience documents in the bid that he had submitted.
2. The procuring agency also contended that the appellant does not have required transportation and installation capacity.
3. The procuring agency submitted that the results of bid evaluation in the form of a report were announced where in reasons for acceptance or rejection of bids were clearly mentioned and the report was also hoisted on website of the Authority. It was contended that the appellant was well aware about rejection of his bid.
4. The procuring agency agreed that the bid evaluation report was not intimated to all the bidders individually at least three (3) working days prior to the award of contract. However, it was made public by hoisting on Authority's website.
5. The procuring agency informed that NICH has to deal with the emergency situation every time. Critically ill patients require oxygen administration immediately and continuously. Therefore, it was necessary to insert such condition that only efficient, capable, eligible and sound contractors may be selected that may meet the emergency requirements of the procuring agency.
6. The procuring agency contended that the appeal is not maintainable under SPP Rules because the appellant had filed the complaint after the award of contract whereas he was allowed to file complaint prior to the award of contract.
7. The procuring agency informed that the work has not been awarded.





## Findings of the Review Committee

8. The Review Committee observed that the procuring agency failed to intimate the Bid Evaluation Report to all bidders as required under Rule 45 of the SPP Rules 2010 (amended up-to-date). The Rule states that the Bid Evaluation Report shall be intimated to the all bidders three days prior to the award of the contract. The Rule 45 is reproduced as under:

**Rule-45: Announcement of Evaluation Reports** – *Procuring agencies shall announce the results of bid evaluation in the form of a report giving reasons for acceptance or rejection of bids. 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 (3) working days prior to the award of contract.*

9. In the instant matter, the procuring agency had not informed the bidder regarding the Bid Evaluation Report which is the violation of the Rule 45 of the SPP Rules 2010(amended up-to-date).

10. The Review Committee also observed that the procuring agency violated the Rule-44 of the SPP Rules, 2010 by inserting the unnecessary difficult conditions which restricted the open competition and also caused discrimination among the bidders. Consequently only two bidders had participated in the bidding process. The following conditions were considered to be restraining and discriminating

*I) Only those bidders can participate which have already experience of Liquid Medical Oxygen supplies and tan installation, operation, management, and after sale services especially during covid waves on National level.*

*II) Bidder must have five 05 years of market Experience in supplying Liquid Medical Oxygen preferably to the Covid base Hospitals on national level and Performance appreciation for the subject objective.*

11. The Review Committee observed that the procuring agency has uploaded the contract documents on 29.12.2021 which is evident that the contract has been signed and it was also observed that the procuring agency has misrepresented the facts which is the violation of the principles of transparency.

Four handwritten signatures in blue ink are visible at the bottom of the page. The signatures are stylized and appear to be written in a cursive or semi-cursive style. The first signature is on the far left, followed by a second, then a third, and a fourth on the far right. There is also a small, illegible mark or signature to the right of the fourth signature.

**View of Syed Adil Gilani, Member Review Committee:**

The decision on this procurement in the RC meeting based on violation of SPP Rules, specially Rule-45 as noted in Para 8 & 9, was to cancel the process and re-invite tenders. The PA informed that work order is not issued, and contract agreement is not signed. Now para 11 added in this decision is wrong and not based on facts which were also recorded. This procurement shall stand canceled and re-invited. ✕

**Majority Decision of the Review Committee:**

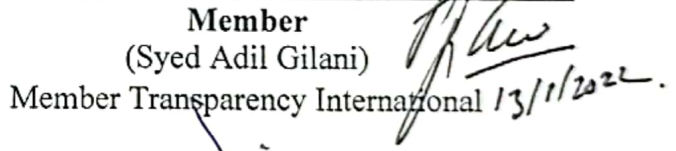
Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(7) (g), the Review Committee:

1. Declares instant **procurement of the complete NIT** as Mis-Procurement as the procuring agency has uploaded the contract documents on SPPRA Website on 29.12.2021 which is evident that the contract has been signed.
2. Decide to refer the matter to the Competent Authority i.e. Secretary Health Department Karachi for initiation of disciplinary action against the official(s) of the procuring agency responsible for Mis-procurement and against the officers who misrepresented the facts before the Review Committee.

*\* The recording confirms PA had in the meeting that on 7 Dec 2021 work order was issued, where as it was not issued on 7-12-2021.*



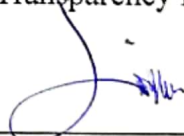
**Member**  
(Manzoor Ahmed Memon)  
Member SPPRA Board



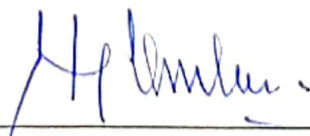
**Member**  
(Syed Adil Gilani)  
Member Transparency International 13/11/2022.



**(Member)**  
(G. Mohi-Uddin Asim)  
Representative of P&D Board  
P&D Department Karachi



**Member**  
(Munir Ahmed Shaikh)  
Independent Professional



**Chairman**  
(Abdul Haleem Shaikh)  
Managing Director  
Sindh Public Procurement Regulatory Authority