



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-3057/2021-22/0857

Karachi, dated the 01st March, 2022

To,

The Executive Engineer,
Nasir Division,
Irrigation & Power Department,
HYDERABAD.

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 NPI Construction V/s Executive Engineer, Nasir Division Hyderabad, held on 17.02.2022, It is farther stated that Committee has rejected appeal submitted by the Appellant M/s NPI Construction & Engineering.


ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. The Secretary to Government of Sindh, Irrigation & Power Department.
2. The Superintending Engineer, Irrigation & Power Department Hyderabad.
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 Appellant.



GOVERNMENT OF SINDH

SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

No.AD (L-II) SPPRA/CMS-3057/2020-21

Karachi, dated the 23rd February, 2022

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

Decision of the Review Committee Meeting Held on 22.02.2022

Appellant	M/s NPI Construction and Engineering
Procuring Agency	Xen Nasser Division Hyderabad (Irrigation & Power Department).
PPMS ID #	T01554-21-0003
Reference No.	TC/G-55/2001 dated 19-11-2021
Appeal Received in Authority Dated	17.2.2022
Complaint of the Appellant Addressed to the Superintendent Engineer Rohri Canal Circle Nasir Division Hyderabad (Chairman Complaint Redressal Committee)	Dated:08.02.2022
Dated of Posting Notice Inviting Tender	00 = 22-11-2021
And Corrigendum	1 = 23-11-2021
Corrigendum II	2 = 09-12-2021
Date of Opening of Bids First	10.12.2021
Second Opening	25.12.2021
Date of Posting Bid Evaluation Report	01-01-2022
Date of Posting Contract Documents	Posted on 26.1.2022
SPPRA Observations communicated on	26.1.2022 on contract documents
Estimated Cost of NIT Total	622 Million
Total works in NIT	One work
Appellant Related work	Work of NIT
Issue involved	Disqualification of the bidder Opening of Financial Bids illegally

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Complaint of the bidder:-

1. The appellant submitted that procuring agency forged the tendering process by changing the documents. The appellant complained that the attendance sheet of the bidders showed that total 11 (Eleven) bidders had participated for the instant NIT. Whereas, later on attendance sheet was uploaded on SPPRA with BER web site wherein only 07 bidders have been shown. The appellant presented the attendance sheet which had been signed by 11 (Eleven) bidders.
2. The bidder further submitted that seven bidders eligibility / qualification report was directly uploaded on SPPRA site without notifying them in writing, which the bidder consider is against the SPP Rules. The appellant contended that the procuring agency had not sent any letter for his disqualification.
3. The bidder also informed that the reason of disqualification of NPI in the report is not true. NPI had provided all the required documents of experience and past performance in the technical proposal. Replying to a question regarding the experience of irrigation related works, the appellant submitted that he is an experienced government contractor and possess vast experience in construction of building and roads/highways.
4. The also informed that on 30-12-2021 procuring agency had opened financial bid of the bidders whose bids were announced as technically qualified. Surprisingly, it had been noticed by the appellant that his financial bid also had been opened by the procuring agency. Whereas, NPI was declared disqualified by the procuring agency. The appellant was asked how he had come to know that his bid was opened. The appellant submitted that he had assumed that his bid had been opened because the procuring agency had not returned his sealed financial bid.
5. The bidder also submitted that had not withdrawn his bid security.
6. The bidder also clarified that he had approached Complaint Redressal Committee and Review Committee after the award of contract because the procuring agency had not intimated the BER timely and he was waiting for intimation of Bid Evaluation Report. Later on, he came to know that the procuring agency had announced the Bid Evaluation Report and illegally awarded the contract.
7. The appellant submitted that the procuring agency shall prove the experience and eligibility of other qualified bidders.




The procuring agency's Version:-

1. The procuring agency submitted that the bidder was disqualified because the bidder could not meet the required eligibility criteria such as:
Experience and Past performance at least for last six years in executing and completing at least 2 assignments of similar nature was mandatory but the bidder could not submit the required experience
2. The procuring agency submitted that the appellant was informed about his disqualification and letter was sent to the appellant via TCS courier mail services at office address of Karachi. The committee got verified the TCS receipt and it was noted that the letter was returned to the procuring agency due to incomplete address and also the procuring agency had written wrong phone number on the TCS envelope.
3. The procuring agency also informed that only seven bidders had participated in the bidding process. The procuring agency denied the allegation of forgery during procurement proceedings but unable to prove the list of 11 bidders forged.
4. The procuring agency also submitted that the financial bid of the appellant was kept unopened and presented the unopened. The Review Committee noted that the financial bid of the appellant was kept unopened and the same was not opened.
5. The procuring agency submitted that there was no mala-fide intention of the procuring agency in the process of opening.
6. The procuring agency submitted that the bids were evaluated in accordance with the evaluation criteria mentioned in the bidding documents and NIT.
7. The procuring agency contended that the appeal was not maintainable under the SPP Rules 2010(amended up-to-date).The procuring agency submitted that the appellant approached Complaint Redressal Committee and Review Committee after the award of contract whereas the bidder was required to approach the CRC prior to the award of Contract under the Rule 31(1) of the SPP Rules 2010(amended up-to-date).

Observations of the Review Committee:-

1. The Review Committee observed that the procuring agency had evaluated the bids in accordance with the evaluation Criteria mentioned in the bidding documents in terms of the Rule 41 (1) and 46(2) of the SPP Rules.
2. The Review Committee observed that the appellant could not submit the required documents such as past experience. Hence, he was disqualified by the procurement committee. The appellant could not prove the submission of such required documents in the bidding documents.



3. The Review Committee also observed that the procuring agency had intimated the disqualification to the bidder through TCS but the letter was returned un-received because the procuring agency had not written complete and proper address and phone number on the envelope. Writing incomplete address and phone number showed the mala-fide intention of the procuring agency.
4. The Review Committee also noted that prima facie it appears that the procuring agency had changed the attendance sheet which also shows mala-fide intention.
5. The Review Committee also observed that the procuring agency failed to intimate the BER to the appellant in writing timely.
6. The Review Committee also noted that the appellant's financial bid was kept unopened.


Decision of the Review Committee

Given the proceedings, findings, observations and after due deliberation, in exercise of power conferred by the Rule 32(7)(a) of the SPP Rules, the Review Committee rejects the appeal as the appellant could not prove any violation of the rules during the procurement process.

2. The Review Committee also decided to refer the matter to the Secretary Irrigation and power department to take action against the officials of the procuring agency who have been found in voved in the gross procedure lapses during the procurement process.



Member
(Manzoor Ahmed Memon)
Member SPPRA Board



Member
(Munir Ahmed Shaikh)
Independent Professional



Member
(G. Muhiuddin Asim)
Representative of P & D Board ,P&
Development Department Karachi



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