



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-3390/2021-22/ 0934

Karachi, dated the 27<sup>th</sup> March, 2023

To,

The Secretary to Government of Sindh,  
Public Health Engineering and Rural Development Department,  
Government of Sindh,  
Karachi.

The Chief Engineer (Dev/Om),  
Public Health Engineering Division,  
Government of Sindh,  
QAMBAR SHAHDADKOT.

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 Muhammad Iqbal Shaikh V/s Executive Engineer, Public Health Engineering Division, Qambar Shahdadt Kot held on 21.03.2023 for taking further necessary action.

*[Signature]*  
27/3/2023  
ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. The Executive Engineer, Public Health Engineering Division Qambar Shahdadt Kot.
2. 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)
3. The Staff Officer to the Chairman / Members Review Committee.
4. The Appellant.



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY  
AUTHORITY



No.AD(L-II)SPPRA/CMS-3390/22-230934

Karachi, dated the 27<sup>th</sup> March, 2023

**DECISION OF THE REVIEW COMMITTEE HELD ON 21.03.2023**

M/s Muhammad Iqbal Shaikh & Co (Appellant)

V/S

XEN Public Health Engineering Department, Kambar @ Shahdadt (Procuring Agency)

A meeting of Review Committee of SPPRA was held on 21<sup>st</sup> March, 2023 under Chairmanship of MD SPPRA to dispose of the appeal lodged by M/s Muhammad Iqbal Shaikh & Co. (the Complainant) against NIT No. AB/TC/423/ 2022 Dated 28-03-2022 of PHED, Kambar @ Shahdadt (the Procuring Agency) in compliance of the Order of the Honourable High Court of Sindh, Larkano, in CP NO. 988/2022. Details of the case is as under;

|   |   |
|---|---|
| Appellant   | M/s Muhammad Iqbal Shaikh & Co.   |
| Procuring Agency                                      | The Executive Engineer, Public Health Engineering Division, Kambar @ Shahdadt.  |
| SPPRA - PPMS ID #                                     | T00966-21-0006  |
| NIT Reference No.                                     | AB/TC/423/ 2022 Dated 28-03-2022  |
| Date of Posting Notice Inviting Tender                | 02.04.2022  |
| Date of Opening of Bids                               | 19.04.2022  |
| Date of Posting Bid Evaluation Report                 | 11.08.2022  |
| Date of Posting Contract Documents                    | Yet not posted on SPPRA website   |
| Review Appeal received in Authority                   | 17.08.2023  |
| Reason for delay in the decision of the Review Appeal | Due to completion of tenure of Two private Members from SPPRA Board the Review Committee was incomplete, hence meetings were not convened. Now the Board has nominated Members for RC under Rule 32 (3) of the SPP Rules, 2010 and accordingly the meeting of the Committee was convened to dispose of the Review Appeal. |

The Meeting started with recitation of verses from the Holy Quran. The Chair welcomed the participants and briefed about the meeting. The Appellant and representatives of the Procuring Agency were asked to explain their view one by one regarding the issue. The version of both parties are mentioned below;



| The Appellant's Version   | The procuring Agency's Version   |
|---|--|
| The Appellant submitted that he had submitted the bids for all the four works mentioned in NIT and signed the attendance sheet along with other bidders.  | The Procuring Agency agreed that the appellant participated and submitted his bid in all four works and assented that the appellant had signed attendance sheet.   |
| The Appellant also complained that the procuring agency had delayed in announcement of the results of bid evaluation. The appellant submitted that he had requested to the procuring agency and also to the Chairman CRC on 1.08.2022 for the announcement of the results of bid evaluation and award of the contract to the successful bidder. Consequently, Chairman CRC issued directions vide letter dated 2.8.2022 to the XEN, PHED (procuring agency) for the completion of the procurement process in a transparent manner as per SPP Rules. | The Procuring Agency submitted that the bid evaluation process was delayed due to local body election.   |
| The Appellant also complained that the procuring agency had not requested in writing to them to extend the bid validity period as per Rule-38 of the SPP Rules, 2010, therefore, such action was considered by the bidder against the rules.  | Representatives of the Procuring Agency explained that the procuring agency had got approval of extension of bid validity period from the competent authority till 31.8.2022. The PA also informed that after obtaining such approval, the procuring agency had requested in writing to all participated bidders to extend the bid validity period as per Rule-38 of the SPP Rules, 2010. However, the procuring agency failed to prove that the appellant had received this letter and submitted his willingness to extend the bid validity period. |
| The Appellant submitted that procuring agency opened financial bids secretly without announcement of Technical Evaluation result. It was also argued that the procuring agency had not shown name of his firm in Technical and Financial Bid Evaluation Report uploaded on SPPRA Website.   | The procuring agency submitted that bids had been opened publicly at a time, date and venue announced and communicated to the successful bidders in advance. As the appellant was disqualified in technical evaluation therefore, his financial proposal was not opened.   |
| The Appellant submitted that even if the procuring agency had disqualified his firm, it was obligatory upon the procuring to communicate the result to the bidders stating the reasons for rejection/ disqualification.   | The procuring agency failed to prove that they had communicated the result of disqualification to the appellant.   |

Proceedings of Review Committee:







Chairperson of RC / MD-SPPRA asked the appellant that why he had not approached to the Chairman CRC after announcement of Bid Evaluation Report (BER) on SPPRA Website wherein he came to know that his name had not been shown in Technical and Financial Evaluation Report.

The appellant replied that he had already submitted an application to Chairman CRC / Chief Engineer on 1.8.2022, but no CRC was convened on his application. However, he received a reply from XEN PHED on 2 August 2022, informing him that the evaluation is in process due to verification of documents according to criteria, and that Technical and Financial bids will be evaluated on merit basis as per SPPRA Rules very soon. But on 15<sup>th</sup> August 2022, when he visited SPPRA website, he noticed that Technical and Financial Evaluation Reports were uploaded on 11.8.2022 on SPPRA Website and his four bids were not shown in Technical Evaluation Reports as well as in Financial Evaluation Reports, and therefore; he wrote Review Appeal to MD SPPRA on 17.8.2022 under Rule-32 of the SPP Rules 2010.

MD explained to the appellant that in his application to CRC, he has not shown any grievance regarding procurement process but had requested to Chief Engineer, PHED who is also Chairman CRC, to look into the matter personally for early completion of evaluation process and award the contract to the successful bidder as per rules. In response, Chief Engineer directed the Procuring Agency (XEN, PHED Kambar) to complete the process as per Laws and Rules. Hence, the request of the appellant is addressed. She also added that this request of the complainant is not considered as complaint under Rule-31 of the SPP Rules, 2010 hence logically his appeal is not liable to be heard in this forum as the Review Committee shall dispose of the review appeal of the aggrieved bidder who is not satisfied with the decision of the CRC whereas in the instant case the appellant directly approached RC which is not as per Rule-32 of the SPP Rules, 2010. However, Mr. Manzoor Memon and S. Adil Gilani were of the opinion that since the matter has been referred from the Honorable High Court therefore, RC should review the case and announce its decision. However, with consensus of all members the review appeal was heard.

During meeting the Technical Evaluation Reports of four works from the record of Procuring Agency were examined by the Committee Members and observed that these four Technical Evaluation Reports were undated and comprised of only bidders whose financial bids were opened on 5<sup>th</sup> August 2022 whereas, bids of other bidders participated in the bidding process including the bids of the complainant were technically not evaluated at all, and in the Financial Evaluation Reports, it was mentioned that Tenders were sold only to those bidders who were technically qualified. The Members asked from the representatives of PA to clarify, the XEN PHED replied that he was recently posted in the division, and unaware as to why these incomplete Technical Evaluation Reports were prepared.

The Committee also scrutinized the letters dated 18.7.2022 issued by XEN PHED in response to the letter dated 06.07.2022, and it was observed that the PA informed to the appellant that the bid evaluation is under

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process and the delay is occurred due to the local body election. The PA also informed that when the evaluation will be completed the same will be informed to the appellant.

The Committee also scrutinized the letter dated 1.8.2022 sent by appellant to the Chief Engineer, subsequent letter of Chief Engineer dated 02.08.2023 to the XEN whereby he had advised to XEN to complete the process as per law.

The Committee found that after the receipt of advisory letter of Chief Engineer dated 02.08.2023, the procuring agency wrote a letter dated 02.08.2023 to the appellant wherein XEN PHED again informed the complainant that the evaluation is in process due to verification of documents. However, one day before i.e. 1.8.2022 XEN PHED vide letter No. AB/TC/1208 of 2022 invited to XEN Highways Division, Member of the Procurement Committee to attend the meeting of opening of financial bid to be opened on 5.8.2022 which means that Technical Evaluation were completed earlier in July 2022.

**Syed Adil Gilani** said that XEN PHED vide letter dated 2.8.2022 has deliberately mis-informed the appellant that "bidding process is incomplete due to verification of documents according to criteria and Technical and Financial Evaluation will be evaluating on merit basis as per SPPRA Rules very soon", which is contradictory to each other as at one side PA invited Members for financial bid opening and on the other side informed appellant that technical evaluation is under process. Such conduct of the procuring agency reveals the mis-statement on the evaluation to the complainant and falls under Collusive Practices as defined under Rule-2(q)(ii) of the SPP Rules, 2010.

Further, it has also been observed that Procuring Agency has not mentioned the details of all participated bidders and their reason for disqualification in Technical Evaluation Report which were not evaluated at all. This is against Rule-45 of the SPP Rules, 2010 as it is mandatory to mention names of all participated bidders in evaluation report and specify the reason for rejection.

**Mr. Manzoor A. Memon** opined that Chief Engineer, head of the unit and Chairman CRC failed to perform his duties in either capacity. He simply issued a letter to PA to proceed as per rules. Neither enquire about the delay, proper criterion of bid validity period, Bid Evaluation Committee (BEC) meeting, its decision / minutes disqualification of bidder with reasons and proper intimation to bidder nor called in CRC meeting being head of CRC. He further added that there is a clear violation about the process of Bid Evaluation Committee process and financial evaluation through PA's own letters dated 18.7.2022, 1.8.2020 and 2.8.2022. He also said that PA failed to follow the required procedure for the extension in bid validity period rather there is no mention when and how much time period extended. He observed that PA failed to prove the holding of Bid Evaluation Com meeting, its decisions and bidder was never intimated about his disqualification.

**Observations of the Review Committee: -**

1. The Review Committee observed that the PA had not requested in writing to the appellant and other bidders to extend the bid validity period which is violation of Rule 37(3) of the SPP Rules.





2. The Review Committee observed that the procuring agency failed to technically evaluate all participated bidders and also not intimate the Bid Evaluation Report to all bidders as required under Rule-45 of the SPP Rules 2010.
3. The Review Committee also observed that the PA disqualified the appellant without reasons and did not afford opportunity to the appellant to seek relief through the mechanism of grievance Redressal, as provided under the rules.
4. The Review Committee also observed that the procuring agency vide letter 02.08.2022 informed to the appellant that technical and financial evaluation was under-process whereas, technical evaluation was completed before 1.8.2022 and XEN PHED invited Member Procurement Committee to attend meeting on 05.08.2022 regarding opening of financial proposals.

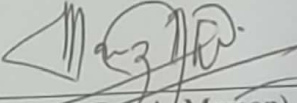
**Decision:**

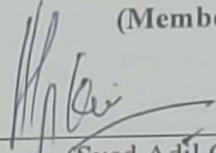
The Review Committee after proceedings, findings, observations and due deliberation, in exercise of statutory powers conferred upon it under Rule 32(7)(g) ibid read with Sub-Section (1) of Section-2 of SPP Act 2009 decided as under:

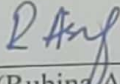
- I) declares the instant Procurement as Mis-Procurement.
- II) refer the matter to the Competent Authority i.e Secretary Public Health Engineering and Rural Development Department for initiation of disciplinary proceedings against the officials of the procuring agency responsible for the Mis-procurement.
- III) Order the payment of compensation by the officer(s) responsible for mis-procurement for cost incurred by the bidder on preparation of bid.
- IV) The matter shall be referred to Enquiries and Anti-corruption establishment for in-depth detail enquiry and action against the officials / officers responsible in this Mis-procurement and loss to the exchequer shall be recovered.

  
\_\_\_\_\_  
(Khair Muhammad Kalwar)  
Special Secretary  
P&D Department Government of Sindh  
**(Member)**

  
\_\_\_\_\_  
(Engr. Syed Muhammad Shakaib)  
Independent Professional  
**(Member)**

  
\_\_\_\_\_  
(Manzoor A. Memon)  
Member SPPRA Board  
**(Member)**

  
\_\_\_\_\_  
(Syed Adil Gilani)  
Member SPPRA Board  
**(Member)**

  
\_\_\_\_\_  
(Rubina Asif)  
Managing Director, SPPRA  
**(Chairperson)**