



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2971/2021-22/0735

Karachi, dated the 09th February, 2022

To,

The Chief Executive Officer,
Sindh Insurance Limited,
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 Health Econnex Pvt Limited V/s Sindh Insurance Limited, held on 27.01.2022, 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. Mr. Nadeem Akhtar, (Head of Procurement Committee), CFO & Company Secretary (EVP) Sindh Insurance Limited.
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-2971/2020-21

Karachi, dated 2nd February, 2022

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

Decision of the Review Committee held on 27.1.2022

Date of the meeting (s)	27.1.2022
Appellant	M/S Health Conex (PVT) Limited
Procuring Agency	Sindh Insurance Limited (9999-Others)
PPMS ID #	T00013-21-0012
Reference No.	NIT SIL8HO/TPA/2021
Appeal Received in Authority Dated	20.1.2022
Complaint of the Appellant Addressed to the Committee Head Complaint Redressal Committee, Sindh Insurance Ltd.	Dated: 10-01-2022
Dated of Posting Notice Inviting Tender	0 = 24-12-2021
Date of Opening of Bids Technical Opening	11.1.2022
Date of Opening of Bids Financial Opening	18.01.2022
Date of Posting Bid Evaluation Report	22.01.2022
Date of Posting Contract Documents	Not Posted up-to 25.1.2022
SPPRA Observations communicated on	29.12.2021

Appellant's Version	Procuring agency's Version	SPP Rule Position
<p>The appellant submitted that the he had been working with the procuring agency for many years and there was no question on his company's performance.</p>	<p>The procuring agency submitted that the SPP Rules 2010(amended-up-to-date) require that the public procurement may be done through open competitive bidding process. Therefore, tender was floated to procure the services on open competitive bidding process.</p>	
<p>The appellant also contended that the procuring agency had cancelled the tender thrice and subtly tried to change the evaluation criteria in order to accommodate the favored company.</p>	<p>The procuring agency submitted that the previous tenders were cancelled because complaints were filed against such tenders. Furthermore, the procuring agency clarified that the procurement process was cancelled by invoking the rule 25 of the SPP Rules 2010(amended up-to-date).The said rule authorizes the procuring agency to cancel the procurement process at any time prior to the acceptance of bids.</p> <p>It was also contended that according to said rule procuring agency was not required to justify such grounds.</p> <p>The procuring agency also contended that the Review Committee, in terms of rule 33, has also been restrained</p>	<p>The Committee observed that the procuring agency had cancelled the bids in terms of Rule 25 of the SPP Rule.</p> <p>The Review committee also observed that the rule 25(4) clearly states that the procuring agency was not required to justify the grounds of the cancellation of the procurement process.</p> <p><u>25(4) The procuring agency shall, upon request by any of the bidders, communicate to such bidder, grounds for the cancellation of bidding process, but is not required to justify such grounds.</u></p> <p>The Review Committee also observed that the Rule 33 of the SPP Rules has restrained the Review Committee from reviewing the decision of the Procuring agency regarding the cancellation of bidding process.</p> <p><u>33. Matters Not Subject to Appeal or Review – The following actions of</u></p>



	to review the decision of cancellation by the procuring agency.	<p><u>the procuring agency shall not be subject to the appeal or review:</u></p> <p>(1) <u>Selection method adopted by the procurement committee;</u></p> <p>(2) <u>Decision by the procuring agency under Rule 25 to cancel the bidding process.</u></p>
The appellant submitted that the procuring agency had called the bids without conducting prequalification of the bidders and had not observed the due diligence while calling the bids.	The procuring agency submitted that the bids were called on Single Stage Envelope as per Rule 46(2) of the SPP Rules and submitted that the decision of calling the bids on Single Stage Two Envelope was taken by the competent Authority. The procuring agency clarified that the due diligence was observed during the complete procurement process.	<p>The committee observed that the SPP Rule 27 has allowed the procuring agency to call for prequalification in certain condition. The prequalification is not mandatory for the procuring agency.</p> <p>1. 27. Pre-qualification of Suppliers and Contractors:</p> <p><u>1.A procuring agency, may engage in pre-qualification of bidders in the following cases</u></p> <p>a. in case of contracts for large and complex works and services related to, in which there are high costs of preparing detailed bids;</p> <p>b.in the contracts to be let under turnkey, design and build, or management contract;</p> <p>c. in case of expensive and technically complex equipment and works with a view to ensuring that invitations to bid are extended only to those who have adequate capabilities,</p>

		competence and resources; d. in case of drugs and services of complex natured
The appellant contended that the procuring agency had inserted the lenient evaluation which paved the way for the incompetent and inexperienced bidders to participate and get the required score the technical qualification.	The procuring agency submitted that the evaluation criteria were formulated in accordance with the Rule 21(A) of the SPP Rules and no any discriminatory or difficult condition was inserted which could restrict the competition. The procuring agency submitted that no any	
The appellant submitted that the procuring agency has not required the required the minimum capability, competence and resources of the bidders relevant to performance of the particular assignment of third party administrative services.	The procuring agency submitted that the evaluation criteria were formulated as per the requirement and needs of the procuring agency. The procuring agency clarified that evaluation criteria serves the purpose of the procuring agency.	
The appellant complained that the procuring agency had provided score for the eligibility criteria such as on FBR Registration and SRB registration whereas in the evaluation the score is given for experience, financial capacity and	The procuring agency submitted that there was no ambiguity in the evaluation criteria and besides the bidder was required to get the clarification before the opening of bids. The procuring agency submitted the appellant's complaint at the time of bid opening was intended to hating the	

past performance.	procurement process,	
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Findings of the Review Committee

1. The Review Committee observed that the earlier tenders were cancelled by the procuring agency by invoking the Rule 25 of the SPP Rules. Therefore, the cancellation of earlier tenders could not be questioned by the Review Committee in terms of Rule 33.
2. The Review Committee also observed that the formulation of Evaluation Criteria is the Authority of the procuring agency in terms of Rule 21(A) of the SPP Rules.
3. The Review Committee also observed that the procuring agency having authored the tender documents is the best person to understand and appreciate its requirements and interpret its documents. The Review Committee and Authority have got nothing to with the tender documents, unless there is any ambiguity, difficult condition or discrimination among the bidders. It is also possible that any procuring agency may give an interpretation to the tender documents that is not acceptable to the bidders but that by itself is not a reason for interfering with the interpretation given by the any procuring agency.
4. The Review Committee also observed that the decision-making process in accepting or rejecting the bid should not be interfered with. Interference is permissible only if the decision-making process is arbitrary or irrational or against the of SPP rules.
5. The Review Committee also observed that the procuring agency called bids through competitive process, allowed all bidders to compete and evaluated the bids in terms of Rule 41 of the SPP Rules.
6. The Review Committee further observed that the second party M/S Crescent Care Ltd failed to submit the required information & documents as required under bid hence not fulfilled the required evaluation criteria.
7. The Committee observed that the bid was three times cancelled by the procuring agency at its own, by finding ambiguity in the bidding process.
8. Scoring Criteria was vague and a lot of compulsory requirement was included in the scoring criteria.
9. The procurement committee completely failed to justify the cancellation of tenders thrice and was quite reluctant to discuss the earlier three tenders. This also proves the incompetence and mala-fide intention of the procuring agency.
10. In all the four tenders, the selection criteria was changed again and again and secretly decreased the weightage of the key elements.
11. The procuring agency confused the experience/capacity with eligibility Criteria.
12. It was noticed that Complaint Redressal Committee meeting was not intentionally/deliberately called.



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Decision of the Review Committee

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Given the proceedings, findings/observations especially @/6 to 12 and after due deliberation, the Review Committee decided to remand back the matter to the Complaint Redressal committee which shall decide the matter as per rules by affording fair opportunity of hearing and defense to the appellant within 15 (fifteen) days. Needless to mention that the observations made in this decision are of tentative in nature which shall not in any manner influence the decision of the CRC in deciding the matter on merits as per rules.



Member
(Manzoor Ahmed Memon)
Member SPPRA Board



Member
(Munir Ahmed Shaikh)
Independent Professional



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



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