



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-2767/2021-22/0680

Karachi, dated the 31st January, 2022

To,

The Executive Engineer,
Public Health Engineering Division-1,
Government of Sindh,
LARKANO.

Subject: DECISION OF 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 Sufi Enterprises V/s Executive Engineer, Public Health Engineering Division-1, Larkano) held on 20.01.2022, for your information and further necessary action, under intimation to this Authority, at the earliest.


ASSISTANT DIRECTOR (Legal-II)

A copy is forwarded for information and necessary action to:

1. The Secretary to Government of Sindh, Public Health Engineering & Rural Development Department Karachi, Sindh.
2. The Chief Engineer, (Dev/O&M), (Concerned) Public Health Engineering Division Sukkur.
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/Complainants.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



No.AD (L-II) SPPRA/CMS-2767/2020-21

Karachi, dated the, 20th January, 2022

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

Decision of the Review Committee held on 20.01.2022

Date(s) of meeting(s)	20.01.2022
Appellant	M/s Sufi Enterprises
Procuring Agency	The Executive Engineer Public Health Engineering Division-1 Larkano.
Appeal received on	09.12.2021(vide letter dated 06.12.2021)
CRC filed on	30.10.2021
NIT PPMS ID	T00916-20-0001
NIT Reference No	AB/TC/5910, DT: 07/05/2021
NIT Posted on	12.05.2021
Bid opening date	27.05.2021
Bid Evaluation Report	Various BER's were hoisted First 29.10.2021 Last 21.11.2021
Contract documents	Not posted up-to the meeting of the Review Committee

1. This appeal has been preferred by the appellant M/S Sufi Enterprises hereinafter referred as "Appellant" in terms of Rule 31(5) against the procuring agency "XEN Public Health Eng Division-I Larkano (Public health Engineering Department)" hereinafter referred as the "procuring agency". The appellant was called by the Review Committee for ascertaining the maintainability of appeal. The appellant could not appear before the Review Committee. The Review Committee unanimously decided to dispose of the appeal Ex-parte.

Findings of the Review Committee

1. The basic question involved is the maintainability of the instant appeal. Whether the appeal is time barred or not under SPP rules?
2. The Rule 31(5) & 32(1) provide the time limit for any bidder to approach the Review Committee.

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Rule 31(5)

The complaint redressal committee shall announce its decision within seven days and intimate the same to the bidder and the Authority within three working days. If the committee fails to arrive at the decision within seven days, the complaint shall stand transferred to the Review Committee which shall dispose of the complaint in accordance with the procedure laid down in rule 32, 32 (If the aggrieved bidder files the review appeal within ten (10) days of such transfer,]

Rule 32(1)

A bidder not satisfied with decision of the procuring agency's complaints redressal committee may lodge an appeal to the Review Committee (within ten (10) days of announcement of the decision) provided that he has not withdrawn the bid security, if any, deposited by him.

3. From reading and analysis of the rules mentioned supra, it is evident that there are two ways to approach the Review Committee-by transfer or dissatisfaction from CRC decision. One of the way-approaching by transfer-is to approach the Review Committee in case the Complaint Redressal Committee fails to arrive at the decision within 7 of the receipt of the complaint. In this case, the appeal stands transferred to the Review Committee which is authorized to dispose of the complaint provided that the aggrieved bidder files the review appeal within ten (10) days of such transfer.
4. Another way to approach the Review Committee is after the announcement of the decision of Complaint Redressal Committee. In this case also the complainant is required to approach the Review Committee within ten (10) days of the announcement of the decision.
5. It may be noted that in either of the cases whether failure of CRC to decide the matter or dissatisfaction of the bidder from CRC decision, the bidder was required to approach the Review Committee within 10 days. In accordance with the rules, any appeal received after 10 days' time shall not be maintainable. In the instant matter, the bidder was not successful to approach the right forum at right time. He approached the Compliant Redressal Committee on 30.10.2021 but the compliant Redressal Committee failed to arrive at the decision within seven (7) days. Resultantly, the appellant approached to the review Committee on 09.12.2021 (vide letter dated 06.12.2021) after the lapse of about thirty nine days (39) days which is not considerable allowed as per SPP Rules.
6. The above discussion is summarized in the table below.

Way of Approaching the Review Committee	Condition	Time limitation	In Appellant's case
By Transfer Rule 31(5)	If the CRC fails to arrive at the decision	Within 10 days of the transfer of appeal	The complainant filed complaint on 30.10.2021.



	If the aggrieved bidder files the Review Appeal within ten days of such transfer		The CRC failed to arrive at the decision within seven days (7). The appeal transferred on 7.11.2021. The appellant filed appeal after 32(<u>thirty two</u>) days of the transfer of appeal.
Dissatisfaction From the Decision of the Complaint Redressal Committee Rule 32	If CRC announces its decision and the complainant is dissatisfied If the complainant lodges appeal within ten days of the announcement of decision.		

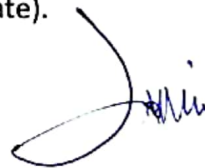
7. The above discussion is sufficient to prove that the appeal is time barred under SPP Rules.

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 being time barred under the SPP Rules 2010(amended up-to-date).



Member
(Manzoor Ahmed Memon)
Member SPPRA Board



Member
(Munir Ahmed Shaikh)
Independent Professional



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



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