



**Government of Sindh**  
**Sindh Public Procurement Regulatory Authority**



No. DD (HRF&CB)/SPPRA/22-23/0938

Karachi, dated 7<sup>th</sup> April, 2023

- |                                                                                   |        |                                                                                |        |
|-----------------------------------------------------------------------------------|--------|--------------------------------------------------------------------------------|--------|
| • The Chairman,<br>Planning & Development Board,<br>Government of Sindh, Karachi. | Member | • Mr. Ghanwar Ali Isran,<br>Member Provincial Assembly of<br>Sindh             | Member |
| • The Secretary (GA),<br>SGA&C Department,<br>Government of Sindh, Karachi.       | Member | • Syed Adil Gilani,<br>Representative of TI Pakistan,<br>Karachi.              | Member |
| • The Secretary,<br>Finance Department,<br>Government of Sindh, Karachi.          | Member | • President,<br>Karachi Chamber of Commerce &<br>Industries                    | Member |
| • The Secretary,<br>Works & Services Department,<br>Government of Sindh, Karachi. | Member | • Mr. Manzoor Ahmed Memon,<br>Professional in Management &<br>Financial Sector | Member |
| • The Secretary,<br>Law Department,<br>Government of Sindh, Karachi.              | Member | • Dr. Saeed Ahmed,<br>Member from the Civil Society                            | Member |
| • The Secretary,<br>Irrigation Department,<br>Government of Sindh, Karachi        | Member | • Mr. Tanzeel Pirzada,<br>Member from the Civil Society                        | Member |
| • The Secretary,<br>I.T Department,<br>Government of Sindh, Karachi               | Member | • Engr. Arif Osmani,<br>Nominee of PEC                                         | Member |

**SUBJECT: MINUTES OF 38<sup>th</sup> MEETING OF THE BOARD OF DIRECTORS OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY (SPPRA)**

I am directed to refer to the subject cited above and to enclose herewith minutes of 38<sup>th</sup> meeting of the Board of Directors, Sindh Public Procurement Regulatory Authority (SPPRA) held on Tuesday 31<sup>st</sup> January, 2023 duly approved by the Chairman, SPPRA Board for your kind information and perusal please.

  
(Muhammad Ayub Ali Khan)  
Deputy Director (HRF&CB)

CC to:

1. The PS to Chief Secretary, Sindh / Vice Chairman, SPPRA Board.
2. The PS to Chairman SPPRA Board.

**MINUTES OF 38<sup>th</sup> MEETING OF BOARD OF DIRECTORS OF SINDH PUBLIC  
PROCUREMENT REGULATORY AUTHORITY**

The 38<sup>th</sup> meeting of Board of Directors of Sindh Public Procurement Regulatory Authority (SPPRA) was held on Tuesday, 31<sup>st</sup> January, 2023 at 3:00 PM under the Chairmanship of Mr. Mukesh Kumar Chawla, Chairman, SPPRA Board / Minister Excise, Taxation & Narcotics Control Department, Food Department and Parliamentary Affairs in the Committee Room of the office of DG Excise, Taxation and Narcotics Control Department, I.I. Chundrigarh Road, Karachi. (Attendance sheet at Annexure-I).

The meeting started with the recitation from the Holy Quran. Thereafter, the Chair welcomed all the participants and requested Managing Director, SPPRA to present the agenda of the meeting.

**NOTE:** Draft minutes were circulated among the Members for input as decided in the meeting and the same have been incorporated in the minutes.

**Agenda Item No. 1**

**CONFIRMATION OF MINUTES OF 37<sup>th</sup> MEETING OF THE BOARD**

The Managing Director, SPPRA placed the minutes of 37<sup>th</sup> meeting of the Board, duly approved by the Chairman SPPRA Board, and circulated them amongst the members for confirmation.

Mr. Nisar Hussain Abro, Addl. Secretary (B&E), Finance Department drew the attention of Chair towards the minutes of previous meeting, wherein, the point of view of Finance Department was not recorded. He said that in the last meeting, it was pointed out that Finance Department had released 100% allocation of Rs. 150.00 Million in last financial year along with additional funds of Rs. 10.00 Million. However, expenditure incurred was reported around Rs. 166.00 Million which is beyond the revised allocation of Rs. 160.00 Million. He sought clarification for the expenditure in excess. As per policy, receipts were required to be deposited into designated account of Government and not utilized for other purposes. Similarly, for current financial year there is an allocation of Rs. 150.00 Million, and SPPRA may approach Finance Department for any budgetary enhancement, for consideration as per policy, as the forum cannot enhance budget.

In this respect, it is clarified that as per Section 9(1) of SPP Act, 2009, there shall be a fund to be known as the SPPRA fund which shall vest in the Authority and shall be utilized by the Authority to meet the charges in connection with its functions under this Act. Moreover, Section 9(2) of the Act defines that the "Fund" shall be comprising such sums as Government may allocate in annual

budget, grants, income from investment and all other sums. Moreover, Section 10 of the Act explains the purpose of expenditure of funds which includes payment of any expenditure, lawfully incurred by the Authority, relating to remuneration of its members, employees, advisors and consultants, purchasing or hiring equipment etc. Further, as per Section 8(7)(b) of SPP Act, 2009, the Managing Director have powers and responsibility to exercise, in respect of the Authority, such other management administration and financial powers as deemed appropriate by the Authority. In the light of these legal provisions, the amount utilized beyond the released amount was in accordance with the provision of SPPRA Act.

The Chair, however, directed MD-SPPRA to ensure the compliance of policies of Finance Department, as well as SPP Act, 2009.

MD-SPPRA informed the Members that following agenda item, regarding amendment in Appendix-A of SPPRA APT Regulations, 2020 was placed in 37<sup>th</sup> Meeting of the Board at No.17(1) but was not discussed at length. However, with the approval of Worthy Chairman of the Board, the same was made part of the Minutes. She placed the agenda again before the Board for post facto approval.

Name of the Post with BPS	Method of appointment (Existing)	Method of Appointment (Proposed)	Justification
Procurement Specialist (BS-19)	By initial appointment	(i) Fifty percent by promotion from amongst the officers working in the Authority, having at least twelve years related experience in BS-17 and above on seniority - cum-fitness; and (ii) 50% by initial appointment	In order to provide career path to the officers of the Authority to higher grades.

Mr. Manzoor Ahmed Memon re-confirmed the consent of the Chairman for insertion of the agenda in the minutes. The Chair endorsed that the agenda was incorporated in minutes with his approval and the matter was again placed before the Members for threadbare discussion. The Members were apprised that by the said amendment, fresh avenues for promotion and career planning for the staff of the Authority would be possible, as otherwise, they would be trapped in dead end jobs. The Chair further added that since it was staff related issue, he would personally visit the SPPRA office and once satisfied, necessary amendments would be approved. Other Members also authorized the Chair to grant approval if he deemed so fit.

Syed Adil Gilani raised objection that input from Members was not obtained before issuance of the minutes of the meeting and other Members also seconded his view. Accordingly, following procedure was discussed for the issuance of minutes of the meeting:

- Draft minutes of the meeting to be submitted to the Chairman, SPPRA Board.
- After approval of the Chairman, the minutes would be circulated amongst members for their input, if any.
- The minutes, after incorporating the input, would again be submitted to the Chairman, SPPRA Board for final approval.
- Then the same shall be submitted to members for their signature on each page of the minutes.
- Once all Members sign each page of the minutes, the same would be issued and circulated amongst all Members.

While draft minutes were circulated among the Members for their input, Syed Adil Gilani, representative of TI Pakistan, opined that agenda regarding amendment in SPPRA APT Regulations, as mentioned in the draft minutes, was not discussed and requested that the same may be placed in next meeting of the Board. Mr. Manzoor A. Memon, renowned professional from Management and financial sector and Mr. Arif Osmani, nominee of PEC seconded the opinion of Syed Adil Gilani. These Members also sought to delete the first two points from the procedure for approval of minutes. Mr. Tanzil Pirzada, Member from Civil Society opined that APT Regulations were not approved by the Board. He suggested that a committee may be constituted to investigate as to who has changed the minutes of meeting, the procedure of taking the post from the purview of SGA&CD. He also opined that new proposed changes in recruitment may also be checked.

However, other Members / representatives agreed on the draft minutes, circulated amongst them. Hence, as per Section 7(5) of SPP Act, 2009 the decision of the Board has been taken by the majority of its members, in attendance.

**Decision:**

*The majority of the Members of the Board (5 out of 9 Members presented in the meeting excluding representatives) decided as under;*

*The minutes of 37<sup>th</sup> meeting of the Board held on 14.12.2022 and 15.12.2022 has been approved with directions to MD-SPPRA to ensure the compliance of policies of Finance Department as well as SPP Act, 2009. The Board further*

*authorized Chairman SPPRA to issue necessary directions to MD SPPRA for amendment in Appendix-A of SPPRA Employees APT Regulations 2020 regarding method of appointment for the post of Procurement Specialist (BS-19) as proposed, subject to the Chairman's visit to SPPRA office and his consequent decision, as he may deem fit".*

*The members also seconded the procedure for the approval of the minutes of its meetings.*

**NOTE:**

On 1<sup>st</sup> February, 2023, the Chairman, SPPRA Board, along with Mr. Ghanwer Ali Khan Isran, MPA / Member SPPRA Board, visited SPPRA office and discussed staff related issues at length. MD SPPRA explained that the post of "Procurement Specialist" is a non cadre post and required to be filled as per APT Regulations. She further explained that as per SPPRA Employees APT Regulations the post was required to be filled through initial appointment. However, once the amendment in SPPRA Employees APT Regulations 2020 was approved, the SPPRA staff who have reached promotional stage would be promoted and it would set the ball rolling for promotion process of SPPRA employees. This would benefit of the Authority in the long run as the staff posted by SGA&CD usually gets itself transferred at any worthwhile opportunity which impedes the smooth working of the Authority. Mr. Ghanwar Ali Khan Isran seconded the view point of MD SPPRA and supported the proposed amendment in the regulations.

*The Chair granted approval for amendment in SPPRA APT Regulations as proposed in the Meeting and also directed MD SPPRA to initiate the process of promotion of staff of the Authority.*

**Agenda Item No. 2**

**AMENDMENTS IN SPP RULES, 2010 TO ALLOW DIRECT CONTRACTING WITH INTERNATIONAL FINANCIAL INSTITUTIONS OR MULTILATERAL DEVELOPMENT BANKS FOR THE DEVELOPMENT OF PPP PROJECTS**

MD SPPRA apprised the Members of the Board that SGA&CD (vide letter No. SO(B)/SGA&CD/-10-29/2022-23 dated 18<sup>th</sup> January, 2023) forwarded a Summary to Chief Minister Sindh, moved by Finance Department, regarding amendments / insertion in Rule-86 of the SPP Rules, 2010 to allow Direct Contracting with International Financial Institutions or



Multilateral Development Banks for the development of PPP Projects for necessary recommendations. The proposed insertion in Rule-86 was as under:

**"86. Hiring of International Financial Institutions.** (1) Notwithstanding anything contained in these rules, including Part-III (Procuring Consulting Services), a procuring agency may engage International Financial Institutions or Multilateral Development Banks on a direct contract basis for provision of consultancy or transaction advisory service in relation to public-private partnership projects, subject to the approval of the Public Private Partnership Board of such contract, including financial terms thereof, such as the amount retainer of milestone fee and the percentage or amount of success fee, as applicable, regardless, whether such fee is payable by the procuring agency or by winning bidder.

(2) The Procuring Agency, while seeking approval under sub-rule (1), shall submit a written confirmation of the interested International Financial Institution or Multilateral Development Bank to the Public Private Partnership Policy Board, to the effect that such Institution or Bank, as the case may be, is generally recognized with Pakistan being its member country.

Chair and other Members sought clarification from the representatives of Public Private Partnership Unit, Finance Department for insertion of new Rule for Direct Contracting with IFIs. Mr. Amanullah Bhatti, Director PPP Unit explained that Government of Pakistan has recently amended the Public Private Partnership Authority Act, 2017 by inserting a new section enabling direct hiring of IFIs as transaction advisors for certain PPP Projects. He further explained that this agenda was also placed before the PPP Policy Board in its 38<sup>th</sup> meeting held on 26.10.2022 wherein the PPP Policy Board acknowledged the need for a legal framework enabling direct engagement of IFIs for transaction advisory services through an amendment in SPP Rules, 2010.

Mr. Asif Ikram, Secretary IT Department, stated that if direct contracting was allowed to IFIs, then there was possibility that firms might charge high prices as compared to competitive bidding rates. He further commented that Rule-86 of the SPP Rules, 2010 was deleted vide SGA&CD Notification dated 13.10.2017 hence, this should be inserted at some other appropriate place.

Syed Adil Gilani, Representative of TI Pakistan endorsed the view of Secretary IT and advised that IFIs must be hired through open competitive bidding process. He further added that in Federal Government, a separate Authority ie Public Private Partnership Authority is regulating the PPP Project whereas, in Government of Sindh, PPP Project are being regulated by SPP Rules, 2010, containing a comprehensive chapter for PPP Projects.

Mr. Manzoor Ahmed Memon, Member from Management & Financial Sector on SPPRA Board endorsed the opinion of Secretary IT and Syed Adil Gilani.

Dr. Saeed Ahmed, Member from Civil Society, added following remarks which were circulated among all Members in the meeting:

“Rule-86 in the SPP Rules, 2010 as proposed will override all of the remaining provision of Rule-1 to 85 of the SPP Rules, 2010. It means SPP Rules, 2010 shall be ineffective / inoperative because of proposed insertion in Rule-86, which is against the purpose of the SPP Act, 2009 as it is enacted for regulating public procurement of goods, services and works in public sector. It is settled principles of law that Rules may not be framed beyond the purpose and scope of the Act and Rules are always framed to carry out the purpose of the act. Section 21 of the SPP Act, 2009 provides that Government shall have the power to grant exemption to procurement of an object or class of objects in the national interest from the operation of this Act or any other law or rules or regulations made thereunder regulating public procurement. Therefore, proposed insertion in Rules is nothing but to exercise such powers which are vested rights of Government as provided under section 21 of SPP Act, 2009. He suggested that in order to achieve the propose Section 18, the Sindh Public Private Partnership Act, 2010 may be amended accordingly by the Sindh Provincial Assembly. It is pertinent to mention that such provision for PPP Projects is inserted by Government of Pakistan, through Act of parliament”.

**Decision:**

*The Board, after threadbare discussions, concluded if the proposed amendment is approved, then it will open floodgates for procuring agencies to hire services of IFIs through direct contracting without open competitive bidding which is against the spirit of the SPP Rules, 2010 as it is enacted for regulating public procurement of goods, services and works in public interest. Besides, it is a settled principle of law that Rules may not be framed beyond the purpose and scope of the Act and Rules are always framed to carry out the purpose of the act. The proposed insertion in the SPP Rules, 2010 gives the right to the Procuring Agencies to exercise such powers which is the vested right of Government, as provided under Section 21(1) of SPP Act, 2009.*

*However, it was further decided that the matter shall be referred to the Provincial Cabinet for deliberations in the light of observations of SPPRA Board as mentioned above.*

### Agenda Item No. 3

#### AMENDMENT IN SPPRA REGULATIONS FOR PROCUREMENT OF WORKS

MD SPPRA apprised that the Board in its 37<sup>th</sup> Meeting constituted a committee to review the amendments proposed in Clause 2.16 and 7.9 of the SPPRA Regulations for Works.

The Committee held its meeting and reviewed the Regulations proposed for amendments. Recommendations of the Committee were placed before the Board for consideration and approval of the Board;

Regulation Clause #	Existing Clause	Proposed Clause
2.16	(i) <b>Experience and past performance:</b>  Experience as prime contractor in the execution of at least one to three projects within the last five years:  (a) Of similar nature and complexity comparable to the proposed contract(s).	<b>Experience and past performance:</b>  Experience in similar nature of work(s) executed during the last five years:  i. At least one similar nature of work having minimum cost 80% of the estimated cost of the work; or ii. At least two similar nature works each having minimum cost 50% of the estimated cost.
7.9(i)	Experience in similar works	
2.16	(iv) <b>Financial</b> – Documentary evidence of financial position, e.g. a bank statement or audited accounts of the last two to three years. Annual turnover for construction be either equal or twice the estimated cost of project.	<b>Financial –</b>  Average Annual Financial Turn-over not less than equivalent cost of the scheme/project during last five years.
7.9(i)	iii. <b>Annual Turnover</b> (not less than bid cost)	

#### Decision:

*"The Board unanimously approved the amendments in Clause 2.16 and 7.9(i) of SPPRA Regulations for procurement of works as recommended by the Committee".*



## Additional Agenda Item

MD, SPPRA, with the permission of Chair, placed following additional agenda items before the Board.

### Additional Agenda item 1:

#### AMENDMENTS IN THE SSP RULES, 2010:

MD SPPRA informed the Board Members that SPPRA is going to launch e-procurement system in the province, but before that, it is necessary to amend the Rules accordingly. The Board was therefore requested to approve the following insertion in the SPP Rules, 2010 pertaining to e-procurement and enabling the procuring agencies to pilot e-procurement system as per the Rules:

Rule No.	Existing	Proposed
2 (r-i) : Definition	New insertion	<b>e-Procurement</b> means use of information and communication technologies or digital or electronic means for procurement process.
24(2): Submission of Bids	The Bidder may submit bids on the bidding documents issued by the procuring agency or downloaded from the Authority's website along with tender fee, if any, by mail or by hand.	The Bidder may submit bids on the bidding documents issued by the procuring agency or downloaded from the Authority's website along with tender fee, if any, by mail or by hand.  Provided that in case of advertisement of procurement opportunities through e-Procurement, the bids shall be submitted through designated e-procurement system.

#### Decision:

*"The Board unanimously approved the amendments in Rule 2(r-i) and 24(2) of the SPP Rules, 2010 as proposed".*

**Additional Agenda Item No. 2**

**NOMINATION OF TWO MEMBERS OF REVIEW COMMITTEE UNDER RULE-32(2) (C) OF THE SPP RULES, 2010**

MD SPPRA apprised that as per Rule-32(2)(c) of the SPP Rules, 2010, Review Committee shall comprise "Two private members represented on SPPRA Board". Further, as per Rule 32(3) of the Rules "the private members shall be selected by the SPPRA Board for a period not exceeding two years".

She informed the Members that SPPRA Board in its 33<sup>rd</sup> meeting held on 7<sup>th</sup> May 2019 has nominated Syed Adil Gilani, representative of TI Pakistan and in its 34<sup>th</sup> meeting held on 23<sup>rd</sup> September, 2020 has nominated Mr. Manzoor A. Memon, as Members of Review Committee for a period of two years. Accordingly, two years period of both private members of the Board as Member of Review Committee has been completed. Hence, the composition of Review Committee is incomplete thus unable to perform its functions.

In order to complete the composition of the Review Committee and to dispose of the Review Appeals in accordance with the SPP Rules, 2010, it was proposed that two Members for Review Committee may be nominated among the private Members on SPPRA Board.

The Chair proposed that the Members previously nominated by the Board for Review Committee may continue till nomination of new Members by the Board. All other Members endorsed the proposal of the Chair.

While circulating the draft minutes for input, some Members / representatives inquired that this agenda was neither part of the Working Paper nor discussed during the meeting, however, it was informally discussed between Syed Adil Gilani and Chairman at the end of the meeting whereas, as per Rule 32(3), private members shall be selected by the SPPRA Board. However, no observation from any Member in writing has been received.

**Decision:**

***"The Board unanimously decided that Syed Adil Gilani and Mr. Manzoor A. Memon, who were previously nominated by the Board as Members for Review Committee under Rule-32(2)(C) read with Rule-32(3) of the SPP Rules, 2010, shall continue till nomination of new Members by the Board"***

The meeting ended with a vote of thanks to and from the Chair.