



M/S ABDUL HAFEEZ KOLACHI

GOVERNMENT CONTRACTOR & GENERAL ORDER SUPPLIER

Reference: AHK/SUP/158

Office Address: House No: A/39 Sector R-5
KDA Scheme 45 Gulshan-e-Maymar Karachi

Date: 20/11/24

BEFORE CHAIRMAN COMPLAINT REDRESSAL COMMITTEE
COMPLAINT UNDER RULE 31 OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY

To

The Worthy Secretary,
Transport & Mass Transit Department,
Government of Sindh.
(Chairman Complaint Redressal Committee)

SUBJECT:

COMPLAINT AGAINST BELOW MENTIONED PROCURING AGENCY FOR ADOPTING SINGLE STAGE TWO ENVELOPE BIDDING PROCEDURE IN SIMPLE AND STANDARD NATURE WORKS BY VIOLATING SPP RULES AND REGULATIONS WITH MALAFIDE INTENTION AND MISUSE OF EXECUTION POWERS REQUEST TO DECLARE SINGLE STAGE TWO ENVELOPE IS ILLEGAL AND VIOLATION OF RULE 46(1),47(1) OF SPP 2010. AND DIRECT THE PROCURING TO CANCEL THE NIT AND RE-INVITE THE SAME BY ADOPTING THE BIDDING PROCEDURE AS SINGLE STAGE SINGLE ENVELOPE.

PROCURING AGENCIES NAMES AND NIT NUMBERS AS.

1. THE SINDH MASS TRANSIT AUTHORITY GOVERNMENT OF SINDH.

REFERENCE: NIT No. INF-KRY/3550/24

The Applicant respectfully submits that:-

1. The Applicant is a professional government contractor and dully registered with Pakistan Engineering Council. The above Procuring agency has called the above mentioned NIT and adopted the bidding procedure as single stage two envelopes by violating rule 46(1) and 47(1) of SPP, because the works mentioned in NIT fall under the ambit of single stage one envelope. However the undersigned being interested bidder has concerned on procuring method hence you are requested to call CRC meeting under rule 31 of SPP and redress my grievance according to law. Further stated that SPPRA has also made same observation on similar Nature of Education and Literacy Department which clearly support my contention of the application and Complaint.

The Rules and regulation are mentioned as under:-

Rule: 46. PROCEDURES OF OPEN COMPETITIVE BIDDING - Save as otherwise provided in these rules, the following procedures shall be permissible for open

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competitive bidding; (1) Single Stage – One Envelope Procedure (a) Notice Inviting Tenders and bidding documents of this method shall contain the following eligibility criteria; (i) relevant experience; (ii) turn-over of at least last three years; (iii) registration with Income Tax, Sales Tax and Pakistan Engineering Council (where applicable); (iv) any other factor deemed to be relevant by the procuring agency subject to provision of Rule 44; (b) each bid shall comprise one single envelope containing the financial proposal and required information mentioned at clause (a) above; (c) all bids received shall be opened and evaluated in the manner prescribed in the Notice Inviting Tenders or bidding document.

Rule: 47. Conditions for Use of Various Procedures (1) Single Stage One Envelope Bidding Procedure shall be used as the standard bidding procedure for procurement of goods, works and services of simple and routine nature and where no technical complexity or innovation is involved;

Rules and regulation of works 2013

Regulations: 7.9.5 Conditions for use of various Procedures Rule 47 (merits and demerits). (1) Single stage one envelope bidding procedure: When procurement is of simple and standard nature and scope/specifications are well defined, then this is main competitive bidding procedure. But due to ban on enlistment/registration of contractors with procuring agencies, every bidder without registration of PEC is allowed to participate for bids costing less than Rs 2.5 million. In this case procuring agencies are allowed to ask/verify certain details/information from them to ascertain their capabilities to fulfill the contract in question. The responsiveness of bidder is determined by verifying the required documents in the following manners:- (i) before opening the financial proposal; (ii) after opening the financial proposal (Post-Qualification method) But issuance of bidding documents must not be linked with verification of documents.

Disadvantages of single stage two envelope in following para in their Regulation for procurement of works 2013.

(2) Single stage two envelope bidding procedure: The purpose of introducing this procedure was to obviate any pressure to consider non-conforming attractive bids or bidders and this system theoretically assured a perfect evaluation. This shall be used when bids are to be evaluated on technical/qualification and financial grounds and price is taken into account after technical/qualification evaluation which determines the eligibility of bidders by

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verifying the documents and analyzing the Guidelines / Regulations For Procurement of Works (Bid Opening, Evaluation and Award of Contract) Sindh Public Procurement Regulatory Authority (SPPRA) Page 42 technical proposals received in response to evaluation criteria mentioned in NIT and bidding document. **However the procedure suffers from serious disadvantages: (i) delay in opening of financial proposal, and longer the delay less is the perceived integrity; (ii) tender conditions and technical specifications may be deliberately or otherwise skewed in favor of some bidders; (iii) approving authority and auditors are prevented from knowing the additional price paid for a trivial or minor or unnecessary or avoidable requirement, as financial proposals of non-responsive bidders is returned unopened.**

2. The procuring agencies intentionally violated the SPP rules and denied the merits and transparency in public procurements for their own benefits because after opening of technical envelope procuring agency used tactics to take withdraw from participated contractor and used other illegal tactics in tender and they kept financial envelope for 90 days without any reason.
3. That, the works mentioned in the instant NIT are of Construction of Bus lay-bays, Massage signs and parking areas, where no technical complex work is required despite of that the procuring agency has adopted the wrong and difficult procedure just to create hurdles in the fair and transparent bidding process.
4. That, the infirmities/observations was also imposed by the SPPRA (PPMS) assessment system when the NIT was hoisted by the above procuring agency but the same are not complied with yet which is totally against Rules and Regulations. The infirmities/observations are as under:-

In terms of Rule-47(1) Single Stage one Envelope bidding procedure shall be used as the standard bidding procedure for procurement of goods, works and services of simple and routine nature and where no technical complexity or innovation is involved. However, schemes mentioned in the NIT seems to be of simple and routine nature, but the procuring agency has used single stage two envelope procedure. Procuring agency is advised to furnish justification for the same.

iii Procuring agency has adopt "Single Stage two Envelope" Procedure, therefore, procuring agency is required to ensure compliance of following

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amendment in SPP Rules, 2010 made vide SGA&CD's notification No. SORI(SG&CD)2-30/2010 dated 11.08.2021 as under:-

Rule-2(x) "Most Advantageous Bid" means:-

- i) A Bid or proposal for the goods, works or services that after meeting the eligibility or qualification criteria, is found substantially responsive to the terms and conditions as set out in the bidding or request for proposals documents; and
- ii) Evaluated as the highest ranked bid or proposal on the basis of cost or quality or qualification or any combination thereof, as specified in the bidding documents or request for proposal documents which shall be in the conformity with the selection techniques to be issued by the Authority.

In view of the above Facts and Circumstances you are requested to call the CRC meeting for taking necessary action and direct the Procuring agency to change/Rectify the Bidding procedure of the NIT, from Single Stage Two Envelop to Single Stage Single Envelop through CORRIGENDUM, before the opening of the above NIT as per SPP Rules and Declare that the Simple Routine works are only to be procured through Single Stage Single Envelop Procedure bidding procedure and if the bidding process will go on with this wrong procedure then the above NIT will become as the case of Mis-Procurement.

(M/S ABDUL HAFEEZ KOLACHI)
Government Contractor

Copy for Information and necessary action:-

1. The Chief Secretary to Government of Sindh.
2. The Managing Director (SPPRA) Karachi.
3. The Managing Director, SMTA TMTD GoS.
4. The Managing Director Transparency International Pakistan.
5. The Master File.

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