

M/S G.M SIPIO LAW ASSOCIATE  
ADVOCATE HIGH COURT  
&  
LAW CONSULTANT  
REG. # 42(HC) JAMSHORO

0321-3064861

Opposite Amir complex National  
high way road Kotri, District  
Jamshoro (Sindh) Pakistan

Ref. 282 /2024

Dated :- 03 -12-2024

**On behalf of**  
**Mr. Adeel Taj**  
**R/o Hussainabad Hyderabad.**

To,

- 1) Government of Sindh  
Through Chief Secretary**  
Having office at Sindh Secretariat Karachi.
- 2) Secretary Education & Literacy Department**  
Having office at Sindh Secretariat Karachi.
- 3) Managing Director**  
Sindh Public Procurement Regulatory Authority (SPPRA)  
Having office at Karachi.
- 4) The Chairman,**  
Sindh Text Book Board, Jamshoro.
- 5) Mr. Taimur Ali Khaskheli**  
Chairman Procurement Committee  
Accounts Officer  
Sindh Text Book Board, Jamshoro.
- 6) Mr. Naresh Kumar**  
Member/Secretary Procurement Committee  
A.S.S Chemistry  
Sindh Text Book Board, Jamshoro.
- 7) Mr. Muhammad Imran**  
Member Procurement Committee Sindh Text Book Board  
Deputy Secretary  
Industries & Commerce Department.
- 8) Mr. Nabi bux**  
Member Procurement Committee Sindh Text Book Board  
Deputy Director  
(DCAR) Jamshoro.
- 9) Mr. Agha Jamshed Mangi**  
Member Procurement Committee Sindh Text Book Board  
Deputy Director (PDR)  
School Education & Literacy Department.



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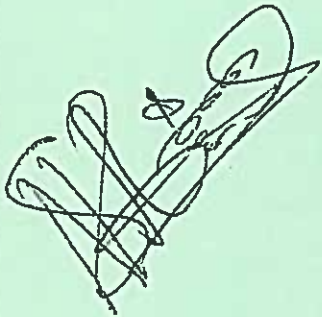
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**SUBJECT: LEGAL NOTICE AGAINST NIT EPADS-S-241180852 DATED: 8<sup>TH</sup> NOVEMBER, 2024 HOISTED ON PORTALSINDH.EPROCURE.GOV.PK AS WELL AS PUBLISHED IN VARIOUS NEWSPAPERS.**

Under the instructions of my above named client, I do hereby serve you with this legal notice as under:-

1. That my client is law abiding and peace loving citizen of Pakistan, he is residing above mentioned address along with his family within his rights, guaranteed under the constitution of Islamic Republic Pakistan 1973, and believe in this legal Maxim "Salus Populic Est Superema Lex" welfare of the people is the highest law.
2. This legal notice is hereby issued to inform you of the violation during the tendering processes conducted by the Sindh Text Book Board (STBB) is still going on. It has come to my attention that there are significant evidences of collusion, corruption, and discriminatory practices within the STBB tendering procedures. These practices raise serious concerns about the fairness and transparency of the procurement processes, which appear to be in direct violation of several provisions of the Sindh Public Procurement Rules (SPPRA), including but not limited to Rules 44, 4.2, 13, 46(2), 21, and 20. The integrity of the procurement process is paramount, and these violations undermine the principles of open competition and equal opportunity that are fundamental to public procurement. We request your immediate attention and resolution of this matter to avoid further legal action.
3. It is submitted that open competition is the cornerstone of public procurement, ensuring transparency, fairness, and value for money in the acquisition of goods, services, and works. By fostering a competitive environment, public procurement encourages a wide range of suppliers to participate, which leads to better quality and more innovative solutions at lower costs. This approach not only prevents monopolistic practices but also promotes equal opportunities for all potential bidders, thereby enhancing public trust and confidence in the procurement process. Ultimately, open competition drives efficiency and effectiveness in public spending, contributing to economic growth and development.
4. However, it is to submit with concerns that the procuring agency has given tailor made evaluation criteria, eligibility criteria, discriminatory conditions, restricted open competition, violated the basic principles of procurement. The procuring agency has tried its best to limit the



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procurement process in order to facilitate its chosen contractors. The very essence of the procurement process is that open competition shall prevail, but the procuring agency by illegal activities, discriminatory evaluation criteria has made the very essence void. The following details will be sufficient to prove that the awards will be given to chosen contractors only.

### **DISCRIMINATORY EVALUATION CRITERIA**

It is very important to note that only bidder who meet the following tough criteria can qualify for the bidding process.

Income Tax Deducted	7 Million
Working Capital	60 Million
Available Cash Balance in Bank	60 Million
Printing and Binding Amounting to	60 Million
Relevant Experience with STBB	60 Million
Publication years	10 years
Experience of Publication in Sindhi language	8 years
ISO Certification	Yes
Quality Assurance	Yes
Employees Registered with EOBI	10-15
Contract workers	10-15
Warehouse	6000 Cubic Meters
Owned Machines	25 to 30 Million machines
Alternate Power Solution	100 KVA
Nine color Machines	Ownership documents
Four automatic Folding machines	Ownership documents
5 Clamp Machines	Ownership documents
Wire stitch Machines	8 stations
Knife Trimmer Machines	

5. The qualification criteria on the whole are not only difficult but also discriminatory and limiting. The criteria of the procuring agency are against the rule 44 of the SPP Rules. The Rule 44 is reproduced below.

**"RULE 44 DISCRIMINATORY AND DIFFICULT CONDITIONS.** - Save as otherwise provided, no procuring agency shall introduce any condition which discriminates among bidders. In ascertaining the discriminatory nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related".

Rule 44 of the Sindh Public Procurement Rules (SPPRA) prohibits procuring agencies from introducing any condition that discriminates among

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bidders. To determine whether a condition is discriminatory, the rule directs consideration of the ordinary practices of the relevant trade, manufacturing, construction, or service industry.

In essence, a condition is considered difficult if it:

- **Discriminates among bidders:** It gives an unfair advantage to certain bidders while disadvantaging others.
- **Deviates from ordinary industry practices:** It imposes requirements that are not commonly practiced or expected in the relevant industry.
- **Creates unnecessary barriers to entry:** It makes it difficult for potential bidders to participate in the procurement process.

Ultimately, the determination of whether a condition is discriminatory or difficult depends on a case-by-case analysis and consideration of the specific circumstances of the procurement.

6. Furthermore, the Rule 21A provides that the procuring agency shall formulate appropriate and unambiguous evaluation criteria. The rule 21A is reproduced below

**[21-A. EVALUATION CRITERIA. - The Procuring agencies shall formulate as appropriate evaluation criterion, listing all the relevant information against which a bid is to be evaluated and criteria of such evaluation shall form an integral part of the bidding documents. The failure to provide a clear and unambiguous evaluation criterion in the bidding documents shall amount to mis-procurement.]**

The said Rule makes clear that the evaluation criteria shall be appropriate and it shall be clear and unambiguous. In the essence the following points shall be met

- Appropriate**
- Clear**
- Unambiguous**

7. Furthermore, the Rule 4 of the SPP Rules provides the principles of the procurement. The rule is produced as under:

**PRINCIPLES OF PROCUREMENTS, - While procuring goods, works or services, procuring agencies shall ensure that procurements are conducted in a fair and transparent manner and the object of procurement brings value for money to the agency and the procurement process is efficient and economical.**

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The said rules provide four principles to be followed by the every procuring agency during the procurement which are

- a. **Fairness**
- b. **Transparency**
- c. **Economy**
- d. **Value for money**
- e. **Efficiency**

8. Furthermore, the open competitive bidding is described under Rule 2 of the SPP Rules which is as under

**(aa) "Open Competitive Bidding" means a fair and transparent specified procedure defined under these Rules, advertised in the prescribed manner, leading to the award of a contract whereby all interested persons, firms, companies or organizations may bid for the contract and includes both National and International Competitive Biddings:**

That said rules requires that the open competitiveness of the bidding will be decided if it allows the participation of all interested bidders or not. Furthermore, it requires that the procedure shall be fair and transparent.

These rules basically outline the principles of the procurement process, evaluation criteria and principles of open competitive bidding. From the bare perusal it appears that the procurement of books by the procuring agency violates the very essence of the SPP Rules. It would be appropriate to judge each and every aspect of the evaluation criteria to reach the reasonable and impartial judgment about the evaluation criteria of the procuring agency whether it is in conformity with rules or not.

While judging the criteria, all the rules and regulations shall be discussed however four rules shall form the basis of the discussion. The criteria for the judgment as per these four rules mentioned above is summarized below

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Rule	Important Criteria and Principles Obtained	Understanding
44	a) <b>Discriminates Among Bidders</b> b) <b>Deviates from Ordinary Industry Practices</b> c) <b>Creates Unnecessary Barriers to Entry</b>	Yes or No
21A	a. <b>Appropriate</b> b. <b>Clear</b> c. <b>Unambiguous</b>	Yes or No
4	a. <b>Fairness</b> b. <b>Transparency</b> c. <b>Economy</b> d. <b>Value for money</b> e. <b>Efficiency</b>	Yes or No
2	a. <b>Allows participation</b> b. <b>Procedures are followed with Transparency and fairness</b>	Yes or No

9. **Financial and Legal Strength**

Under the head of Financial and Legal Strength, the procuring agency has required four sub criteria. In order to meet the requirement of 70% overall score and 60% score in each section, the bidder shall have the following capacities.

<b>Income Tax Deducted</b>	<b>7 Million</b>
<b>Available Cash Balance in Bank</b>	<b>60 Million</b>

**A. Income Tax Deducted at least 7 Million**

The procuring agency has asked for the proof of payment of 7 million income tax which is difficult for the business setup especially the business have been affected by increase in wage of labor, energy prices and to name a few. Even if a bidder is otherwise qualified and has not been able to earn profits due financial issues prevailing in the country cannot be discriminated on such basis.

**B. Available Cash Balance in Bank 60 Million for 30 days**

The requirement of maintaining a minimum cash balance of 60 million in the bank for 30 days is a highly restrictive condition that limits the participation of businesses or those with limited financial resources, thereby reducing competition. This condition is discriminatory under Rule 44 of the SPP Rules, which prohibits conditions that unfairly discriminate among bidders.

Businesses generally prioritize investing their capital to generate returns and drive growth rather than maintaining large cash balances. Idle cash does not generate income and can even lose value over time due to inflation. Therefore, businesses tend to allocate their funds to productive activities such

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as expanding operations, acquiring assets, or investing in research and development. However, maintaining a certain level of liquidity is essential to meet short-term obligations and capitalize on unexpected opportunities. Hence, to meet short-term obligations and capitalize on unexpected opportunities none of the businessman will keep 6 Crores in the bank as an idle amount.

Furthermore, it is usually seen that mobilization amount is given by the procuring agencies to meet day to day expenses. Hence, availability of huge amount of cash is difficult, unfair and limiting.

**10. Experience and past performance on similar assignments and quality assurance mechanism**

That under this the procuring agency has required six requirements. In order to pass these criteria, the bidder shall have to meet the following requirements.

<b>Relevant Experience of publishing text books in Urdu and Sindhi Language in 3 years</b>	<b>60 Million</b>
<b>Experience with STBB</b>	<b>10 years</b>
<b>Publication years</b>	<b>10 years</b>
<b>Experience of Publication in Sindhi Language</b>	<b>8 years</b>
<b>ISO Certification</b>	<b>Yes</b>
<b>Quality Assurance</b>	<b>Yes</b>

**A. Relevant Experience of publishing text books in Urdu and Sindhi Language in 3 years 60 Million**

That specified experience requirements, particularly the 60 million rupees worth of experience in publishing Urdu and Sindhi language textbooks in three years, are highly restrictive and could potentially limit competition. Such stringent criteria may exclude smaller, emerging publishers who might offer innovative solutions and competitive pricing. Additionally, the emphasis on specific experience in Urdu and Sindhi languages could inadvertently discriminate against publishers with expertise in other languages or subject areas, limiting the pool of potential bidders. These requirements hinder the promotion of diversity and innovation in the publishing industry.

**B. Text books in Urdu and Sindhi Language**

That firstly, the word text book is difficult and discriminatory. The procuring agency has misunderstood the concept of relevant experience as described under Rules. The relevance in the publication is not the language but the following issues are seen in relevance for publication

- a) **Editorial experience:** Experience in editing, proofreading, and copyediting manuscripts.

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- b) **Book design and production:** Experience in designing book layouts, formatting text, and overseeing the production process.
- c) **Content development:** Experience in developing and writing educational content, including textbooks.
- d) **Copyright and licensing:** Understanding of copyright laws and licensing agreements related to educational materials.
- e) **Printing and distribution:** Experience in working with printers and distributors to ensure timely and efficient delivery of books.
- f) **Quality assurance:** Experience in implementing quality control measures to ensure the accuracy and quality of textbooks.
- g) **Market research:** Understanding of market trends and the needs of students and educators.
- h) **Financial management:** Experience in managing budgets and controlling costs associated with book production and distribution.

While specific experience in publishing Urdu and Sindhi language textbooks can be valuable, it is important to consider other relevant experiences that demonstrate a candidate's ability to produce high-quality textbooks. A focus on core competencies such as editorial skills, content development, and project management can be equally important.

**C. Text Books vs Other Books**

That specified experience requirement, focusing solely on textbook publishing in specific languages, is discriminatory. It would potentially exclude publishers with experience in related fields like general publishing, educational content development, or production of other printed materials. This narrow focus might limit competition and hinder innovation, as it would exclude publishers who could offer innovative solutions and competitive pricing.

**D. Experience with Sindh Text Book Board 10 years**

That 10-year experience requirement with the STBB is discriminatory as it limits competition from qualified international publishers who might lack specific STBB experience but possess valuable expertise and innovation. This could hinder the introduction of new ideas and competitive pricing. What if a bidder has worked with other provincial governments and what If a bidder has worked with private sector and has worked with other national governments (in case of international competitive bidding). Therefore, the specific experience requirement is nothing but to exclude the potential bidders.

**E. Publication Experience 10 years**

That SPP Rule requires 3 years relevant experience and generally it is seen sufficient but the procuring agency has gone beyond the limits and has asked for 10 years' experience which is clearly unjustifiable.



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**F. Experience of publication in Sindhi language 8 years**

That requirement of 8 years of experience in publishing books in Sindhi language is a highly discriminatory condition, especially if the bidding process also includes the publication of books in other languages, such as English and Urdu. This requirement limits the pool of potential bidders, it would exclude the publishers with expertise in other languages or subject areas. It is essential to ensure that the bidding criteria are fair and inclusive, allowing all qualified bidders to participate, regardless of their specific language expertise. Had the procuring agency's official would have used common sense and reason, they would have come to know that their cumulative Urdu and English publication is more than or Equal to Sindhi language then why the condition has been imposed for Sindhi language.

**G. Evidence/Certificate for registration of employees with EOBI of payment paid slip attached.**

That requirement to provide evidence/certificates for EOBI registration and payment slips imposes additional administrative burdens on potential bidders. Such requirements may be considered discriminatory and restrictive in terms of international trade law, as they can limit the pool of eligible bidders, especially for foreign companies. Additionally, these requirements may create barriers to entry for international enterprises, hindering competition and potentially leading to higher prices. Furthermore, the procuring agency has not understood the situation that why should an international bidder have certificates with EOBI of Pakistan. The same can be not be held.

**H. Evidence/Contract order along with their monthly stipend details be provided**

That condition also does not make sense. Many companies and enterprises outsource the employee and services without hiring the employees on contract basis. This can be seen in the government entities that they hire services of third party in order to complete the task. Hence,

**I. Ownership of Machines**

That ownership of machines is not a mandatory requirement for the bidding process. Bidders can fulfill the equipment requirements by renting or leasing the necessary machinery, ensuring they meet the project specifications without the need for outright ownership. This approach promotes inclusivity and allows a wider range of participants to compete, fostering a more competitive and fair procurement environment. The principle guidelines of the SPPRA are that even machinery on rental basis is sufficient. However, the procuring agency has required for the ownership document. Such condition is difficult and discriminatory.

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11. **70% Marks Criteria**

That procuring agency has mentioned that the bidder shall secure 70% marks to qualify technical bids. The decision to set a 70% minimum score for technical evaluation, in the context of rigorous criteria, raises concerns that the Procurement Authority is intentionally limiting competition. This high threshold surely would disqualify qualified bidders, narrowing the pool of potential candidates and potentially favoring certain pre-selected entities. The historical participation and qualification rates in this procuring agency's tenders suggest a pattern of limited competition. This raise concerns that difficult and discriminatory technical criteria is intentionally designed to favor specific bidders and deter potential participants, potentially compromising the principles of fair and open competition.

12. **Owned premises in Sindh province**

That procuring agency's requirement for owned premises in Sindh Province creates an unnecessary barrier to competition. This condition disproportionately favors established businesses with significant financial resources and real estate holdings, while excluding smaller enterprises and newcomers to the market. This limitation restricts competition, potentially leading to higher prices and reduced quality of services. The procuring agency should reconsider this restrictive requirement to promote fair competition, encourage innovation, and ultimately benefit the public interest.

13. **Violation of International Law**

That requirement of owning premises in Sindh province potentially violate WTO principles of non-discrimination and national treatment. It limits market access for foreign businesses, hindering competition and reducing the number of potential suppliers or service providers. Additionally, such a requirement will be seen as a technical barrier to trade, creating unnecessary obstacles for foreign businesses. While the specific implications depend on the exact implementation, this condition will be challenged under WTO rules.

14. **Joint venture is not allowed**

That prohibition of joint ventures in SPP Rule 44 can be a significant barrier to competition. By preventing entities from combining their strengths and resources, this rule clearly limits the inclusion of qualified bidders, leading to higher costs and lower quality outcomes. Joint ventures often bring together complementary expertise, financial capacity, and operational efficiency, which is crucial for executing complex projects. Restricting this option hinders innovation and limits the public sector's ability to access the best possible solutions. This requirement shows the intention of the procuring agency it has decided to limit the doors of potential and interested bidders.

Joint ventures are a widely accepted and encouraged practice internationally. They allow for the pooling of resources, expertise, and risk,

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leading to more competitive bids, innovative solutions, and ultimately, better outcomes for public procurement projects by restricting joint ventures, the SPP Rules 44 may limit the potential pool of qualified bidders, potentially leading to higher costs and lower quality outcomes. To align with international best practices and promote fair competition, it is recommended to reconsider this restriction and allow joint ventures under appropriate conditions and safeguards.

15. **Sub-Contracting is not allowed**

That the procuring agency has mentioned that:

**The Supplier is not allowed to sublet or subcontract any part of the printing and binding work of textbooks. All this work must be performed in the successful bidder's own printing press. If the Supplier sublets any part of the work, it will be considered a breach of contract, and the contract will be terminated immediately, and the performance security will be forfeited.**

The condition prohibiting subletting or subcontracting of printing and binding work is particularly restrictive, especially in the context of international bidding. This requirement limits the pool of potential bidders, as it excludes experienced international printers who rely on specialized subcontractors or strategic partnerships to optimize their operations. By imposing such a stringent condition, the procuring agency misses out on opportunities to leverage global expertise and competitive pricing. **It's worth noting that many international institutions, such as the World Bank and the Asian Development Bank, allow for subcontracting and have detailed guidelines in place to ensure transparency, accountability, and fair competition. Such guidelines often include provisions for capacity building, performance monitoring, and dispute resolution mechanisms.** Contrary to it the procuring agency has mentioned that the sub-contracting is not allowed.

16. **More than two bids are not allowed**

That decision to limit bids to only two packages out of 28 significantly restricts competition. This arbitrary limitation excludes qualified bidders, stifles innovation, and reduces the potential for cost-effective and efficient solutions. Such a restriction does not align with the principles of fair and open competition, as enshrined in public procurement regulations, and does lead to suboptimal outcomes for the public interest. This condition of the procuring agency is self-contradictory with the conditions framed by the procuring agency.

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17. **Even ink Shall be Imported**

That condition mandating the importation of ink is not only unreasonable but also counterproductive for a populous country like Pakistan. Such a stipulation not only disregards the potential of local ink manufacturers but also undermines the government's efforts to promote domestic industries. It is imperative to consider the economic benefits of supporting local production, including job creation, skill development, and increased tax revenue. Moreover, imposing such restrictive conditions could lead to higher procurement costs and potential delays in project execution. It is essential to re-evaluate this requirement and prioritize the use of locally sourced products, fostering a self-reliant economy. The procuring agency shall describe its standards but shall not put the condition of the imported items.

18. **International bidding allowed but countries not mentioned**

That while the procuring agency has declared international bidding, the absence of specific country eligibility criteria limits effective competition. This ambiguity deters potential bidders from countries that might be well-suited to participate, reducing the pool of qualified participants and leading to suboptimal outcomes. To foster true international competition, it is essential to clearly define the eligible countries or regions to ensure a level playing field for all potential bidders.

Corruption in the procurement Process by managing evaluation criteria

19. **Manipulation of Evaluation Criteria**

That it is to inform you that the manipulation of evaluation criteria in the procurement process constitutes corruption. Such actions undermine the integrity of the procurement system, leading to unfair advantages and compromising the principles of transparency and fairness. Immediate corrective measures are required to ensure compliance with ethical standards and legal regulations. The international standards clearly speak that such activities fall in the category of corruption. UNODC United Nations Office on Drugs and Crimes clearly mention that such activities constitute corruption. The operative para is reproduced below;

**"Finally, owing to discretion allowed in the process of designing the evaluation criteria, a public official may improperly exercise his power to decide what firms to invite to tender by designing evaluation criteria that favour a particular company, or by manipulating the process to award a contract to a preferred firm Soreide, 2002"**

Hence, it is clear that the procuring agency has committed the act of corruption by giving difficult condition and manipulated evaluation criteria.

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**20. Double and uncertain requirements for the Bid Security**

That procuring agency has required bid security in the form of Pay order as well as in the form of call deposit. At one place, the procuring agency has required that bid security shall be in the form of pay order and on the other the PA has required that the bid security shall be in the form of call deposit. Such self-contradictory statements violate SPP Rules and Regulation which require that the manner of payment of bid security shall be specified.

<b><u>Bid Security in the shape of pay order</u></b>	<b><u>Bid security in the form call deposit</u></b>
a Pay Order or Bank Draft worth 5% of the total quoted bid amount in favor of the Sindh Textbook Board. This instrument must be issued by a scheduled bank in Pakistan	a bid security of 5% of the total quoted bid amount in the form of a Pay Order, Bank Draft, or CDR issued by a scheduled bank in Pakistan, payable to the Sindh Textbook Board.

That third place the procuring agency has mentioned that "Bidders must submit a photocopy of their bid security Pay Order (without showing the amount) along with their Technical Proposal. The Technical Proposal must provide valid evidence against each clause of the SBD's technical evaluation criteria. The STBB will evaluate the Technical Proposal based on these criteria."

In this situation the bidding process shall remain uncertain and unclear and will cause problems for the bidders.

**21. Use of Standard Bidding Document of Works for the Procurement of Goods and Services**

That, Bidding documents show that document relates to works instead of goods and services, the procuring agency has used, the use of terminology associated with "works" in the bidding documents, when the procurement is for goods and services, is inconsistent with the Public Procurement Regulatory Authority (PPRA) Rules. This discrepancy can lead to confusion and potential misinterpretation of the requirements, which may negatively impact the bidding process and the quality of procurement outcomes. It is essential to ensure that the bidding documents accurately reflect the nature of the procurement to avoid any legal and procedural complications.

**22. Country of Origin**

That procuring agency's statement regarding the origin of goods and services being limited to eligible source countries, without explicitly specifying these countries, creates uncertainty and potential limitations for bidders. This lack of clarity deters potential participants, particularly international bidders, who may be unsure about their eligibility to participate. To ensure fair and open competition, it is crucial to clearly define the eligible source countries, providing transparency and enabling potential bidders to assess their eligibility and prepare their bids accordingly.

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**23. Lowest evaluated vs Most Advantageous**

That Procuring agency has mentioned bids shall be lowest evaluated and on the other hand It has mentioned that most advantageous bid shall be accepted. The contradictory bidding criteria, where the Procurement Authority (PA) specifies both "lowest evaluated bid" and "most advantageous bid," creates ambiguity and potential for selective evaluation. This inconsistency could lead to subjective decision-making, undermining the principles of fair and transparent competition. To ensure a clear and objective evaluation process, the PA should either clarify its preferred criterion or adopt a consistent approach that aligns with procurement best practices.

**24. Best evaluated Unclear**

That furthermore, the Procurement Authority's has mentioned that the best evaluated bid shall be accepted. The Procurement Authority's (PA) statement that the "best evaluated bid" will be accepted is ambiguous. While this approach can potentially lead to a more holistic evaluation, the PA has not clarified the specific criteria or weightings that will be used to determine the "best" bid.

This lack of clarity raises concerns about potential subjectivity and bias in the evaluation process. To ensure transparency, fairness, and accountability, the PA should clearly outline the evaluation criteria, including the relative importance of price, technical merit, quality, and other relevant factors. This will provide bidders with a clear understanding of the evaluation process and enable them to tailor their proposals accordingly.

Without a clear and objective evaluation framework, the "best evaluated bid" criterion is open to interpretation, leading to arbitrary decisions and disputes.

25. That procuring agency has failed provide the clear and unambiguous evaluation criteria. Sometimes it mentions that the lowest evaluated bid shall be accepted and sometime most advantageous or best evaluated. Surprisingly, the PA has mentioned that the evaluation criteria for the bid include not only the price but also factors such as delivery schedule, payment terms, component costs, after-sales services, operating and maintenance costs, and equipment performance. The specific criteria may vary depending on the requirements outlined in the Bid Data Sheet and Technical Specifications. The 25.3 is mentioned below

That rule 25.3 Procuring agency's evaluation of a bid will take into account, in addition to the bid price quoted in accordance with ITB Clause 11.2, one or more of the following factors as specified in the Bid Data Sheet, and quantified in ITB Clause 25.4:

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- (a) incidental costs
- (b) delivery schedule offered in the bid;
- (c) deviations in payment schedule from that specified in the Special Conditions of Contract;
- (d) the cost of components, mandatory spare parts, and service;
- (e) the availability Procuring agency of spare parts and after-sales services for the equipment offered in the bid;
- (f) the projected operating and maintenance costs during the life of the equipment;
- (g) the performance and productivity of the equipment offered; and/or
- (h) other specific criteria indicated in the

**26. Bid Data Sheet and/or in the Technical Specifications**

That evaluation criteria outlined in ITB Clause 25.3 are primarily designed for the procurement of complex equipment or machinery, where factors such as delivery schedules, maintenance costs, and performance are crucial considerations. These criteria are not directly applicable to the procurement of books, which are generally standardized products with well-defined specifications and pricing. Therefore, the use of such a complex evaluation framework for book procurement is unnecessary and could complicate the process without adding significant value.

**27. Modifications**

That procuring agency has mentioned that:

**The Procuring Agency can modify the Contract by issuing a written order to the Supplier. These changes must be within the general scope of the Contract and can include:**

- **Changes to Drawings, Designs, or Specifications for Goods Specifically Manufactured for the Procuring Agency.**
- **Changes to the Method of Shipment or Packing.**
- **Changes to the Place of Delivery.**
- **Changes to the Services Provided by the Supplier.**

**28. These changes are made pursuant to General Contract condition (GCC) Clause 31.**

That inclusion of GCC, which governs change orders, in the bidding documents for book procurement is both unnecessary and potentially harmful. This clause, primarily intended for complex contracts involving specialized goods or services, introduces unnecessary complexity and ambiguity into a straightforward procurement process. By allowing for changes to specifications,

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delivery terms, or services, the clause can create uncertainty and risk for bidders, potentially leading to disputes and delays. Moreover, it could discourage potential bidders, particularly smaller businesses, who may be hesitant to participate in a process that allows for significant changes after the contract is awarded. To ensure a transparent and efficient procurement process, the PA should carefully review the relevant clauses and remove any provisions that are not directly applicable to the procurement of books.

**29. Clause 14.3 making complications and ambiguities in the bidding documents**

The procuring agency has mentioned clause 14.3 namely "Goods Eligibility and Conformity to the bidding documents". Such clause has nothing do with the procurement of books and services thereupon. Such clauses are infirmities in the bidding documents leading to ambiguities and uncertainties in the bidding process.

**30. 13(3) Self- Contradictory statement of the procuring agency**

That procuring agency has mentioned in the bidding documents that "(c) that, in the case of a Bidder not doing business within the Procuring agency's country, the Bidder is or will be (if awarded the contract) represented by an Agent in that country equipped, and able to carry out the Supplier's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and"

This statement of the procuring agency is self-contradictory. At one place it has mentioned that the business shall have owned premises in Pakistan on the other hand it has mentioned that **the "Bidder not doing business within the Procuring agency's country, the Bidder is or will be (if awarded the contract) represented by an Agent"** These statements make the bidding document a self-contradictory making it ambiguous.

**31. Recurring selection of the same bidders for STBB**

That recurring selection of the same bidders for STBB contracts raises concerns about potential collusion and corruption. This pattern suggests that the bidding process is not entirely fair and transparent, with certain bidders having an unfair advantage. Such practices undermine the principles of competitive bidding, leading to higher costs, lower quality, and reduced public value. The recurring selection of the same bidders for STBB contracts, coupled with the presence of tailor-made, difficult evaluation criteria, raises concerns about potential collusion and corruption. These criteria, often designed to favor specific bidders, limit competition and undermine the principles of fair and transparent procurement. This practice leads to higher costs, lower quality, and



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reduced public value. It is imperative to conduct thorough investigations and implement stricter oversight mechanisms to ensure fair and transparent procurement processes.

32. **Violation of rule 14**

That rule 14 of the SPP Rules requires that the procuring agency provide clear authorization prior to the bidding process. The rule 14 is reproduced below

**" Rule 14. APPROVAL MECHANISM. - All procuring agencies shall provide clear authorization and delegation of powers for different categories of procurement and shall only initiate procurements once approval of the competent authorities concerned has been accorded".**

The procuring agency has not uploaded any document which may prove that the procurement committee has been allowed for the procurement of the procuring agency which amounts to the violation rule 14 of the SPP Rules.

33. **Violation of Rule 7 and 8**

That Rule 7 of the SPP Rules describe that the procuring agency shall get approval of the Head of department i.e Secretary SELD for the formation of the procurement committee. However, the procurement committee has not uploaded the relevant approval of the Secretary SELD. Which is violation of Rule 7 of the SPP Rules.

34. **Violation of Rule 31 of the SPP Rules**

That Rule 31 of the SPP Rules require that the procuring agency shall constitute the complaint redressal committee for the redressal of the complaints of the bidders during the procurement process. However, the procuring agency has been failed to constitute such committee. Such actions are tantamount to mis-procurement.

35. **Application of Rule 23(2)**

That these infirmities are such that these cannot be rectified and in such situation Rule 23(2) is applied which is reproduced below;

**Procuring Agency shall re-issue the Notice Inviting Tenders, in accordance with Rules 17 and 18, if it is convinced that there is a material infirmity or ambiguity in the bidding documents, which cannot be addressed without modifying the contents of bidding documents.**

M/S G.M SIPIO LAW ASSOCIATE  
ADVOCATE HIGH COURT  
&  
LAW CONSULTANT  
REG. # 42(HC) JAMSHORO

0321-3064861

Opposite Amir complex National  
high way road Kotri, District  
Jamshoro (Sindh) Pakistan

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36. Keeping in view of the above, the procuring agency is advised to:-

1. **Cancel the bidding process of above mentioned NIT.**
2. **Re-invite the bids afresh and while re-issuing tenders, the procuring agency shall change the specificatcions and other contents of bidding documents, making them appropriate and complying with SPPRA rule 2, 4, 13 & 44.**
3. **Provide equal opportunities to all bidders.**
4. **Investigate into the past collusion and corrupt practices in the procurement process of the STBB.**
5. **Procuring agency shall investigate into the past tenders and shall ensure that monopoly of bidders is not maintained in the STBB.**
6. **Ensure the compliance with the international treaties and agreements.**

37. **CONCLUSION:-**

In the light of above facts and circumstances, i call upon to you through this legal notice to take immediate steps to rectify the aforementioned issues. Failure to comply with these legal recruitments, procedures and violations as per SPPRA rules within 7 days, it is clearly instructions of my above named client to initiate legal proceedings against you before the Competent Court of Law on your fully cost.

  
(Noor-ul-Amin Sipio)  
Advocate High Court

**Copy submitted for information and necessary action to:**

- The Honorable Prime Minister of Pakistan,  
Prime Minister Secretariat, Islamabad.
- The Principal Secretary, to the Chief Minister of Sindh, Karachi.
- The Secretary Planning & Development Department (P&D) Karachi.
- The Chairman Chief Minister Inspection Team (CMIT), Karachi.
- The Chairman Enquiries & Anticorruption Establishment Sindh, Karachi.
- The Executive Director, Transparency International Pakistan, Karachi.
- The Chief Executive Officer/Director News Geo News Karachi.
- The Chief Executive Officer/Director News 92 News Karachi.
- The Chief Executive Officer/Director News Sama News Karachi.
- The Chief Executive Officer/Director News KTN News Karachi.
- The Chief Executive Officer/Director News Sindh TV News Karachi.
- Master File.