



Appeal No. PPRA/AP-46/2024
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad
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ORDER

M/s Trace Engineering & Consultant

...the "Appellant"

Vs.

Hyderabad Electric Supply Company etc.

...the "Respondent"

Date of Hearing 24.10.2024 05.09.2024	Mr. M. Junaid Ashraf (Director, M/s Trace Engineering), Mr. Nasir Mahmood (Executive Director, M/s Trace Engineering) <p style="text-align: right;"><i>(On behalf of Appellant)</i></p> Mr. Arif Manzoor, (Assistant Manager, HESCO) <p style="text-align: right;"><i>(On behalf of Respondent)</i></p>
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APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
[AGAINST THE AWARD OF CONTRACT REGARDING HESCO TENDER
NO.1833/24, OPENED ON 30-04-2024, FOR THE SUPPLY OF 11KV
UNSWITCHED SHUNT CAPACITORS TO M/S SIDDIQUE SONS
ENGINEERING (PVT.) LTD., LAHORE]

The above mentioned learned representative(s) of the parties tendered appearance before the Appellate Committee and furnished their arguments at length.

2. At the outset of the hearing, the learned representative of the appellant i.e., M/s Trace Engineering & Consultant submitted that Water and Power Development Authority (WAPDA) advertised tender No.1833/24 for the supply of 11KV, Un-switched Shunt Capacitors 450 KVAR (3×150 KVAR), inviting interested parties to purchase local bidding documents. The

appellant participated in the bidding process as per the following schedule:

- **Method of procurement:** Single Stage One Envelope
- **Bid closing date & time:** 30-04-2024 at 11:00 hrs
- **Bid opening date & time:** 30-04-2024 at 11:30 hrs

3. The representative of the appellant also submitted that they submitted the required documents within the stipulated time and only two bidders participated. M/s Trace Engineering & Consultant, Lahore with the evaluated cost PKR 66.60 Million declared as the "Responsive & Most Advantageous Bidder." Whereas, M/s Siddique Sons Engineering (Pvt.) Ltd. Lahore emerged as second bidder with the evaluated cost PKR 70.60 Million and also declared "Responsive."

4. The representative of the appellant further submitted that the Final Evaluation Report was issued in accordance with Rule 35 of the Public Procurement Rules, 2004, ("PP Rules, 2004") with the signatures of Manager (Material Management), Hyderabad Electric Supply Company (the respondent), vide Endorsement No. 23403, dated 31.05.2024, with a copy to the Deputy Director, PPRA, Islamabad. The report declared the appellant as "Most Advantageous Bidder". Thereafter, a grievance petition was filed by M/s Siddique Sons Engineering (Pvt.) Ltd, Lahore, upon this, the Competent Authority of the respondent (HESCO) constituted a Grievance Redressal Committee (GRC). The appellant was invited to attend the GRC meeting on 03.07.2024 at 11:30 hrs in the office of General Manager (Technical), Convener GRC, via letter no. CEO/HESCO/GM-Tech/6060-65, dated 12.06.2024.

5. The representative of the appellant also submitted that their representative attended the meeting of GRC and submitted the documents before the committee for review, i.e. the

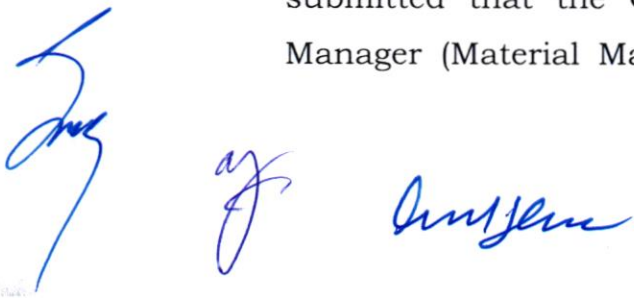


Handwritten signatures in blue ink, including a large signature on the left and two smaller ones below it.

Qualification Criteria from the Bidding Documents, under which the appellant was declared the “Most Advantageous Bidder” and a letter from Lahore Electric Supply Company (LESCO), No. 4598- 4623/DEV/Proc/CourtCase/PMU, dated 14.05.2024, addressed to all DISCOs and NTDC, notifying that M/s Siddique Sons Engineering (Pvt.) Ltd. Lahore, was a non-performer, resulting in a loss of PKR 1174 million to LESCO. Moreover, the appellant also submitted some documents before the GRC for review, a letter No.CE(Dev)/HESCO/M(P), dated, 09.02.2024 of the respondent (HESCO), addressed to M/s Siddique Sons Engineering (Pvt.) Ltd, Lahore, regarding Show Cause Notice for “FAILURE TO DELIVER CAPACITOR BANK 7.2 MVAR & 4.8 MVAR 11KV CAPACITOR CELL 200KVAR, CAPACITOR FUSE 50K AGAINST HESCO TENDER NO. PMU-46/21-22 (LOT-II) OPENED ON 06.11.2021”, in order to support their stance and presented the clear picture of the whole scenario before the GRC of the respondent to meet the ends of justice.

6. The representative of the appellant further argued that they were not provided sufficient time to present their case before the GRC, contrary to principles of natural justice. The GRC appeared to be in undue haste to conclude the proceedings. The GRC’s decision was announced through respondent’s letter no. HESCO/MMM/OS/1785-89, dated 29.07.2024, wherein, the grievances filed by M/s Siddique Sons Engineering (Pvt.) Ltd, Lahore, were accepted and the Petitioner was declared non-responsive as per BDS Clause 14 & 18. Moreover, M/s Siddique Sons Engineering (Pvt.) Ltd., Lahore, was declared the “Responsive & Most Advantageous Bidder” and recommended for the award of the contract.

7. At the last, the representative of the appellant further submitted that the GRC decision letter was signed by the Manager (Material Management), of the respondent (HESCO),



instead of the General Manager (Technical), Convener GRC, which tantamount to biasness and procedural impropriety, hence filed the instant appeal.

8. On the other hand, on Committee's Call, no one appeared on behalf of the respondent i.e., Hyderabad Electric Supply Company (HESCO) on the day of hearing i.e., 24.10.2024. However, the learned representative of the respondent (HESCO) appeared on the last date of hearing i.e., 05.09.2024 and submitted that M/s Siddique Sons Engineering (Pvt.) Limited Lahore and the appellant i.e., M/s Trace Engineering & Consultant Lahore offered their bids against tender No. 1833/24 opened on 30.04.2024 for the supply of 11kV Shunt Capacitor 450kAVR (3 x 150kAVR) with Hanger. After that, the respondent's Bid Evaluation Committee submitted its evaluation report to Manager (MM) letter No.CE/(Dev.)/PMU/HESCO/Hyd/OS/4020-25 dated 29.05.2024. Further submitted that M/s Siddique Sons Engineering (Pvt.) Ltd Lahore and the appellant were declared as responsive bidders. Whereas, the Bid Evaluation Committee recommended M/s Trace Engineering & Consultant Lahore as the Most Advantageous Bidder.

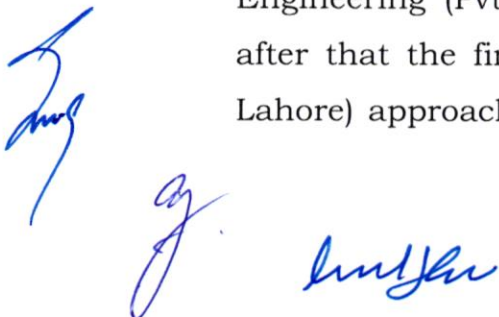
9. The representative of the respondent also submitted that the final evaluation report as per the PPRA prescribed proforma was announced on PPRA & the respondent websites vide Endst. No.23403 dated 31.05.2024. Thereafter, M/s Siddique Sons Engineering (Pvt.) Ltd. filed its grievances to the respondent against the Bid Evaluation Report vide letter No. SSE/HESCO/1833/GR/M3/01 dated 06.06.2024. They raised one observation regarding the evaluation report and stated that as per bidding documents section "Bid Data Sheet (BDS)" clause 18 (13.3 (d)) which clearly states that, "the bidder will have to provide evidence of at least two purchase orders of similar item(s). Failure to provide evidence may result in the non-

qualification of the bidder". Since, the tenderer (1.2. M/s Trace Engineering & Consultant Lahore) has never supplied the subject mentioned material to any DISCOS / HESCO so the declaration of M/s Trace Engineering & Consultant, Lahore as responsive bidder in above mentioned evaluation report is against the bidding document clause.

10. The representative of the respondent further submitted that the respondent's GRC (HESCO) provided ample opportunity of hearing to the appellant regarding the said grievance filed by M/s Siddique Sons Engineering and recommended the followings:

- a. The grievances filed by M/s Siddique Sons Engineering Pvt. Ltd Lahore are accepted as genuine and true in the light of bidding document.
- b. M/s Trace Engineering & Consultant Lahore is declared as non-responsive.
- c. M/s Siddique Sons Engineering (Pvt.) Ltd, Lahore is declared as responsive & Most Advantageous Bidder and recommended for award of contract.

11. The representative of the respondent further argued on a point that perhaps M/s Siddique Sons Engineering (Pvt.) Ltd. has blacklisted by Lahore Electric Supply Company (LESCO), there against, LESCO has not finalized any action against M/s Siddique Sons Engineering (Pvt.) Ltd, Lahore. In the absence of any action the responsive bidder cannot be declared as non-responsive and till date LESCO has not taken any action against M/s Siddique Sons Engineering (Pvt.) Ltd. regarding debarment or blacklisting. The representative further submitted that the respondent issued the Show Cause Notice to M/s Siddique Sons Engineering (Pvt.) Ltd. regarding the blacklisting proceedings, after that the firm (M/s Siddique Sons Engineering (Pvt.) Ltd. Lahore) approached the Honourable Senior Civil Judge District



Lahore and the court vide its order dated 22.06.024 granted stay (interim relief) on the said matter.

12. The representative of the respondent also submitted and pointed out that the letter for meeting of GRC was issued on 12.06.2024 and the meeting was fixed on 03.07.2024 which clearly shows that sufficient time was granted to the appellant and other bidder. Furthermore, the appellant did not raise any concern / objection of not affording sufficient time. The respondent has neither any biasness against the appellant nor any procedural impropriety in announcing the decision of the GRC. The GRC had submitted its report / recommendation to the concerned procuring section i.e., Manager Material Management for further approval from the Competent Authority i.e., CEO HESCO and after the approval, the decision of the GRC was communicated to the concerned bidders, hence request for dismissal of the instant appeal.

13. After perusal of all available record and arguments made by both the parties, the Appellate Committee ("the Committee") observed that all the procuring agencies are under obligation to carry out the procurement process through e-Pak Acquisition and Disposal System (EPADS) under Rule 7A of the Public Procurement Rules, 2004 and the Regulations made thereunder i.e. e-Pak Procurement Regulations, 2023. However, in the instant case, the respondent (HESCO) conducted the said procurement process manually, which is contrary to the abovementioned Rule & Regulation.


14. The Committee further observed that numerous violations are also made in the said procurement process, therefore, it is recommended that the respondent (HESCO) must improve the technical criteria and opt the right method / mode of procurement for such huge and technical procurement




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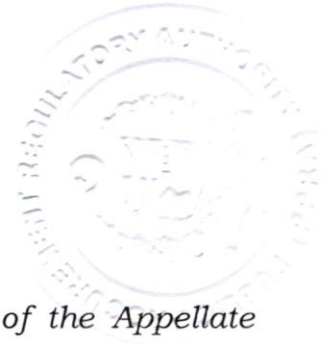
to ensure that the procurements are conducted in a fair and transparent manner.

15. In view of the above, the Committee advised that the respondent (HESCO) may re-initiate the whole bidding process through e-Procurement System i.e., EPADS. Therefore, the instant appeal is **disposed of** accordingly.


(Dr. Muhammad Aslam Waseem)
Director General (Legal)
(Member)


(Sheikh Afzaal Raza)
Director (M&E)
(Member)


(Hasnat Ahmad Qureshi)
Managing Director (PPRA)
(Chairman of the Committee)



Each page of the order has been signed by all members of the Appellate Committee. The order comprises of seven (07) pages.

