



Appeal No. PPRA/AP-48/2024
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 Galli & Cassina S.P.A Italy

...the "Appellant"

Vs.

Sui Northern Gas Pipelines Limited (SNGPL) etc.

...the "Respondent"

Date of Hearing 07.11.2024	<p>Mr. Imran Yousaf Khan Niazi (Advocate), Ms. Mehmona Qureshi (Advocate), Mr. Adil Rashid, Mr. Faheem Hassan (Chief Operating Officer) on behalf of M/s T.H. Syed & M/s Galli & Cassina.</p> <p style="text-align: right;">(On behalf of Appellant)</p> <p>Mr. Nabeel Ishtiaq (Deputy Chief Officer Procurement), Mr. Umar Sharif (Advocate / SNGPL), Mr. Zaheer Iqbal (DEC) on behalf of SNGPL.</p> <p>Mr. M. Usman (Chief Executive) on behalf of M/s I.A Engineering,</p> <p style="text-align: right;">(On behalf of Respondent(s))</p>
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APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004

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

2. At the outset of the hearing, the learned counsel of the appellant i.e., M/s Galli & Cassina S.P.A Italy submitted that the appellant is a registered and trusted supplier of gas meters, plug valves, ball valves, coating material, filtration & process

equipment, calibration solutions and hot tapping systems and appellant's company is serving the gas transmission companies including SNGPL since the year 1982. Besides this, appellant's company is also maintaining and upgrading the meter manufacturing plant at SSGCL and pipeline coating facility owned by Sui Northern Gas Pipelines Limited (SNGPL / the respondent).

3. The counsel of the appellant also submitted that M/s T.H. Syed participated in the tender for supply of plug valves (Ref No.SN-4607/24) on behalf of the appellant (i.e. M/s Galli & Cassina SPA Italy) vide authority letter dated 19.04.2024. In the said tender, advertised by the respondent, following bidders participated in the bid proceedings:-

- (i) T.H. Syed / Galli & Cassina, Italy (all items)
- (ii) Pakmaco / Serck Audco, UK (all items)
- (iii) I.A. Engineering, Lahore / Arfulu, Spain (quoted items 1,3-5, 7-9 & 11-12)
- (iv) Al-Tariq Traders, Karachi / CDB Engineering, Italy (quoted items 1, 2, 6-7 & 9-12)

4. The counsel of the appellant further submitted that the total value of the tender for supply of plug valves was fixed by the respondent as Rs.419,320,000/- and bid bond value was fixed as 2% i.e., Rs.8,386,400/-. The schedule of requirement of plug valves and shipment required at Karachi was as under:-

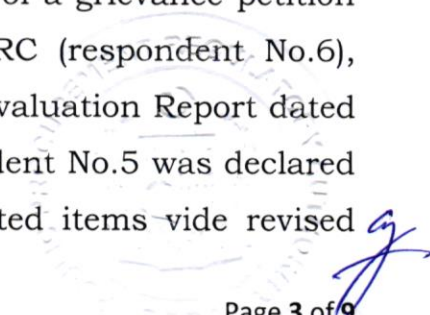
Sr.#	Description	Qty (Nos)	Bid Bond Amount (Rs.)
	Plug Valve, SE, CL-600		
1	1" Dia	227	862,600.00
2	2" Dia	3	28,800.000
	Plug Valve, FE, RTJ, CL-600 with Locking Device		
3	12" Dia	12	1,068,00.00
4	16" Dia	2	290,000.00
	Plug Valve, FE, RTJ, CL-600		

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5	12" Dia	27	2,403,000.00
6	4" Dia	50	675,000.00
7	8" Dia	26	1,040,000.00
8	16" Dia	6	822,000.00
9	6" Dia	2	50,000.00
	Plug Valve, CL-600 WE		
10	4" Dia	47	611,000.00
11	8" Dia	12	456,000.00
	Plug Valve, RTJ, CL-600 with Locking Device		
12	8" Dia	2	80,000.00
	Total		8,386,400.00

5. The counsel of the appellant further added that the subject tender was published as an emergent requirement by the respondent with a delivery timeline of only 08 weeks. The technical opening was announced on 23.04.2024, wherein, M/s I.A Engineering & Services (Pvt.) Ltd., Lahore (Respondent No.5) was declared as "Non Responsive" against all the above quoted items by the respondent vide letter No.PUR-43(SN-4607/24) dated 27.05.2024, whereas the appellant was declared as responsive for all the tender items. It is pertinent to mention here that earlier, the said bidder i.e. M/s I.A Engineering & Services (Pvt.) Ltd., Lahore (Respondent No.5) was declared technically non-compliant and non-responsive time and again by the respondent / SNGPL due to numerous technical deficiencies observed in the plug valves produced by Respondent No.5 based on the history of previous tenders.

6. The counsel of the appellant argued that initially, the financial opening of the tender was scheduled for 07.06.2024, however, vide email of Respondent (SNGPL) dated 05.06.2024, the appellant was informed that opening date of financial proposal has been postponed in a result of a grievance petition filed by Respondent No.5 before the GRC (respondent No.6), against the above-mentioned Technical Evaluation Report dated 27.05.2024. As a result whereof, Respondent No.5 was declared as technically compliant for all the quoted items vide revised



Technical Evaluation Report dated 31.07.2024. Moreover, financial bids were also opened on 09.08.2024 as announced by the respondent (SNGPL).

7. At the last, the counsel of the appellant further submitted that, on 02.08.2024 against issuance of revised technical evaluation report dated 31.07.2024, the appellant also filed an application before the respondent No. 02 (GM Procurement, SNGPL), wherein, it was requested to place the matter before GRC of SNGPL, which was never responded, hence the appellant filed this appeal.

8. On the other hand learned counsel of the respondent i.e., Sui Northern Gas Pipelines Limited (SNGPL) denied all the assertions made by the appellant and submitted that one of the respondent in the titled appeal i.e., M/s I.A. Engineering Services (Pvt.) Ltd, Lahore invoked the GRC as per Rule 48 of the Public Procurement Rules, 2004 ("PP Rules, 2004"). As per Rule-31 PP Rules, GRC after due deliberation advised bidder to furnish the sale references to re-evaluate the technical evaluation. Moreover, it is relevant to mention that original Technical Literature submitted by the bidder for the quoted manufacturer i.e., M/s. I.A. Engineering along-with their technical bid has been found to be compliant with the tendered technical specifications.

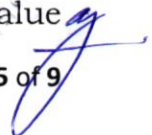
9. The counsel of the respondent (SNGPL) also submitted that the bidder was advised to submit model / figure numbers of the offered valves, however, bidder stated that informative system used to designate the valves has been changed. However, the offered valves have same design as Fire Tested valve and no designation/model numbers have been defined. Non-conformance against post qualification Clause 3.2 (c). Non-conformance against Clause 2.5 and 5.7 of tendered technical specifications requiring Electro-less Nickle Plating (ENP) and PTFE Treatment of Stems. Performance Reports

required for establishing post qualification were not received from the claimed end users (M/s. TZK AERO, Russia and M/s. PDVSA, Venezuela).

10. The counsel of the respondent (SNGPL) further submitted that Fire Safe Certificate of the quoted manufacturer for 6" diameter ANSI Class 600 was issued in Jan 2021 and is therefore deficient against Clause 15.1 of tendered technical specifications for 6" and above Plug Valves requiring Fire-safe qualified valves to be in natural gas service for a minimum period of three years. Moreover, submitted that all valves shall meet the fire safe requirement of API 6FA 2018 for fire test valves from Cl. 150 through Class 600 and a valid Certificate to that effect shall be furnished. Fire-Safe qualified valves must be proven in natural gas service for a minimum period of three years.

11. The counsel of the respondent further added that non-conformance against Clause 4.1 of tendered technical specifications requiring Venturi pattern 12" Plug Valves. Fire Safe Test Certificates (dated 07.09.2020) showing Plug surface is not PTFE coated as required by Clause 2.2 of tendered technical specifications. Moreover, stem surface is not PTFE coated as required by clause 5.7 of tendered technical specifications. Moreover, Fire Safe Test Certificates (dated 14.09.2021) showing that the fire safe qualified valves are not proven in natural gas service for a minimum period of three years.

12. On the other side, the representative of the respondent no. 05 i.e., M/s I.A Engineering & Services (Pvt.) Ltd., Lahore submitted that as bidder they exercised their right under Rule 48 of the PP Rules, 2004 by requesting Grievance Redressal Committee (GRC) of SNGPL within 07 days to review after having received the reasons of rejection. GRC exercised their legal powers under the said PP Rule and revised the technical evaluation based on merit and invited competition to bring value



for money in true spirit. By inviting competition, SNGPL saved 57 million PKR.

13. The representative of the respondent no. 05 also submitted that the first technical evaluation dated 27.05.2024 was not ignored, in fact it has been reviewed by GRC under Rule 48 PP Rule, 2004. They filed complaint against first technical evaluation, hence, GRC suspended procurement proceedings under Rule 48(4) PP Rules, 2004. Further submitted that GRC meeting held on Friday, 21.06.2024 and our company advised to give bifurcation / break up of references with respect to quantity of each size and class sold in each year, within 03 working days, our company submitted this information on Tuesday, 25.06.2024.

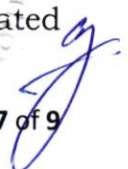
14. The representative of the respondent no. 05 further argued that M/s ARFLU S.A. SPAIN is most experienced and among world's largest suppliers of complete range of valves including the Plug Valves. M/s ARFLU holds API 6D License since 15.03.2010 for manufacturing these valves. API License is issued to the manufacturer having the capability of design, manufacture, assembly, documentation and testing for high pressure rating up to Class 2500, and respondent no. 05 already supplied 1,700 Class-150 valves to SNGPL. Moreover, our company provided sale references covering upto 36th Class 600 and 42" Class 150 in international market. This has been verified by SNGPL itself and our offer declared technically compliant. Further added that valves supplied to SNGPL are not from China facility. The respondent also supplied 1,700 valves which have been test witnessed and inspected by the third party in our Spanish factory and shipped from Bilbao Seaport.

15. The representative of the respondent no. 05 further argued and submitted that M/s ARFLU as EU company, are only submitted to EU regulation, in this case, there is a Spanish

Manufacturers Association (SERCOBE) who signed a supply agreement with Oil Industry pension, saving and staff welfare fund (OPF), owner of KANGAN in Iran. This was a project finance agreement. The main obligation for the client was sourcing from Spain. Under this umbrella, M/s ARFLU supplied Inverted Plug Valves to Iran. Moreover, it is relevant to mention that M/s ARFLU offer was not successful in tenders SN-4191/20, SND-2157/20, SN-4102/20 and SNT-2007/20 because the submitted bid documents were deficient which does not mean that the product itself was not in conformance with the tender requirement. Further added that the Appellant also claimed in their letter THS-10253 dated 07.08.2024 that it took 10 years for them to seek approval of plug valves over 16", so happened with M/s ARFLU as well. However, going by their self-contradictory logic they must also not have been approved until now. Hence, request for dismissal of the instant appeal.

16. During the hearing, the Committee inquired from the procuring agency about the current status of the instant procurement process. Upon this, the learned counsel of the respondent (SNGPL) apprised the Committee that the contract has been awarded to the Respondent No.5. From the other side, the counsel of the Appellant also highlighted that, despite multiple requests, the procuring agency did not provide any document upon which the evaluation of the Respondent No.5 was carried out.

17. After perusal of available record and arguments made by the all the parties, the Appellate Committee (the Committee) observed that the technical proposal was opened and announced on 23.04.2024, wherein, M/s I.A Engineering & Services (Pvt.) Ltd., Lahore (Respondent No.5) was declared as "Non Responsive" against all the above quoted items by the respondent vide letter No.PUR-43(SN-4607/24) dated



27.05.2024, whereas the appellant (M/s Galli & Cassina) was declared as responsive for all the tender items. The Committee further observed that, later on, a grievance petition through email dated 05.06.2024 was filed by the Respondent No.5 i.e., I.A. Engineering, before the GRC (respondent No.6), against the Technical Evaluation Report dated 27.05.2024. As a result whereof, the GRC advised the procuring agency to revisit the technical evaluation based on the updated documents / sales references as per requirement of tender terms. Resultantly, the Respondent No.5 was declared as technically compliant / responsive for all the quoted items vide revised Technical Evaluation Report dated 31.07.2024. Moreover, financial bids were also opened on 09.08.2024 as announced by the respondent (SNGPL).

18. Further, Clause 3.2 (b) 'General Terms' of the bidding documents states that, *"the bidder offering goods of foreign origin (outside Pakistan) shall furnish references (name and address and telex / telefax number / E-mail of at least five (5) end users outside manufacturers country to whom the bidder supplied / exported goods for the last five (5) years similar to those being offered in this tender..."*.

19. Furthermore, as per Rule 30(1) of the Public Procurement Rules, 2004, all bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents.


20. The Committee observed that the instant case, at first stage, the procuring agency overlooked the technical evaluation of the Respondent No.5 in accordance with the Rule 30(1) of the PP Rules, 2004 as well as Clause 3.2(b) of the bidding documents. Later on, by complying with the directions of the GRC of the procuring agency, the updated / detailed Sales References was reviewed by the evaluation committee and the

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same were found to be in line with the above-mentioned mandatory post qualification clause of the tender.

21. Moreover, the Committee is of the view that while evaluating the technical bids in the first instance, the procuring agency failed to adhere the technical evaluation of Respondent No.5 as per the above-mentioned clauses. Therefore, the said failure on the part of the procuring agency could not be shifted on the shoulders of the Respondent No.5.

22. In light of the above, the Committee is of the considered opinion that the decision of the GRC (Respondent No.6) is rightly justified. Hence, the Appeal in hand is hereby **dismissed** with the direction to the procuring agency (SNGPL) to make all the documents public and to provide the same to the Appellant in accordance with Rule 47 of the PP Rules, 2004, so, that the transparency may be ensured.


(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 nine (09) pages.

