



Appeal No. PPRA/AP-49/2024
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 Techlogix Pakistan (Pvt.) Limited

...the "Appellant"

Vs.

Zarai Taraqati Bank Limited (ZTBL) etc.

...the "Respondent"

Date of Hearing(s)	
03.12.2024 13.11.2024	<p><i>Mr. Saadullah Tahir, Advocate, Mr. Junaid A. Chohan, Advocate, Mr. M. Aashil Faish, V.P</i></p> <p style="text-align: right;">(On behalf of the Appellant)</p> <p><i>Mr. Waseem Majid Malik, Head Legal (ZTBL), Mr. Zeeshan Mazhar, Mr. Javed Iqbal, Advisor IT (ZTBL), Mr. Haseeb Akhtar, Mr. Zahid Mehmood Bhatti, Ms. Tahira Rashid</i></p> <p style="text-align: right;">(On behalf of the Respondent)</p>

**APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
AGAINST DECISION OF THE GRC [ACQUISITION & IMPLEMENTATION OF
CORE BANKING SYSTEM (CBS) PLATFORM – TENDER NO. ZTBL-06-2024]**

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

2. At the very outset of hearing, the learned counsel of the Appellant i.e., M/s Techlogix Pakistan (Pvt.) Limited submitted that that the Respondent i.e., Zarai Taraqati Bank Limited (ZTBL) advertised a tender for acquisition and

implementation of core banking system (CBS) platform (Tender No.ZTBL-06-2024) and the appellant participated in the said bidding process. Thereafter, the respondent called a pre-bid meeting with all the prospective bidders and discussed the scope of work (SOW) in detail. The respondent's answers to the queries raised by the prospective bidders lead to the fact, that on the basis of lessons learnt in the previous scrapped bidding of CBS, the respondent had decided that certain modules mentioned in the RFP were not to be included in the CBS and these excluded modules include Treasury, AML, Pool Management etc.

3. The counsel of the appellant also submitted that the respondent (ZTBL) while evaluating the bids awarded weightages to the reports which are to be generated by the aforesaid excluded modules and this being contrary to the clarifications made in the pre-bid meeting. Resultantly, the appellant submitted a grievance petition on 02.08.2024. The said grievance petition was to be examined by the Grievance Redressal Committee (GRC) and decided on 12.08.2024. Being aggrieved by the order / decision dated 12.08.2024 of the GRC of the Zarai Taraqati Bank Limited (ZTBL / the Respondent), the appellant filed the instant appeal.

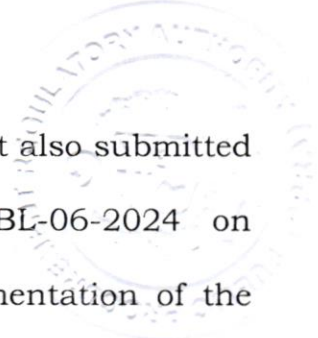
4. On the other hand, at the first instance, learned counsel of the respondent i.e., Zarai Taraqati Bank Limited (ZTBL) submitted that the appeal in question is not



maintainable in its current form and liable to be dismissed as the Appellant has presented baseless and frivolous grounds.

5. The learned representative of the respondent submitted that the appellant has falsely accused the Answering Respondent of mis- procurement which is an attempt to mislead this Authority, despite having received a lower score compared to two other bidders. This appeal seems to be an effort to unjustly attain benefit at the expense of the answering respondent and is maliciously aimed at delaying the procurement process. It is noteworthy that Respondent Bank met the mandatory requirements of the TOR/RFP, resulting in a declaration of technical responsiveness. The assertions made by the appellant are unsupported by evidence and lacking cogent reasoning, thus warranting the dismissal of the Appeal. It was further submitted that the respondent has followed a clear and transparent procedure for procuring the Acquisition and Implementation of the Core Banking System (CBS) Platform for all potential vendors, conducting the process based on the principles of justice, equity, and fairness.

6. The representative of the respondent also submitted that ZTBL published a Tender No. ZTBL-06-2024 on 11.05.2024, for the Acquisition and Implementation of the Core Banking System (CBS) Platform. In accordance with Rule 29 of the Public Procurement Rules, 2004, the respondent



(ZTBL) prepared a bid document as well as evaluation criteria and the same was published on the PPRA EPAD System. The Notices were also published in newspapers as well as on the Authority's and ZTBL's websites. Thereafter, a pre-bid meeting was held on 20.05.2024, to address any bidder queries. During this meeting, bidders sought clarifications which were duly answered. However, it did not necessitate any amendments or revisions to the bidding documents / RFP or evaluation criteria. Later on, the respondent published the minutes of the pre-bid meeting on the PPRA EPAD System on 30.05.2024, for all bidders. Moreover, contrary to the complainant's claims, no changes were made to the scope of work or the evaluation criteria, and thus the RFP document did not require any modifications. No bidder including appellant raised any queries or objections regarding the published pre-bid meeting minutes or the bidding documents / RFP. Consequently, after the opening of technical bids, the respondent evaluated all bids in accordance with Rule 30 of the Public Procurement Rules, 2004 and with the prescribed evaluation criteria and terms and condition outlined in the bidding documents / RFP for this project.

7. The representative of the respondent further submitted that, in response to said tender, five vendors submitted their proposals. The bidders including appellant have submitted the "Letter of Bid-Technical proposal", therein

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they have submitted the declaration that they have examined and have no reservation on bidding document / RFP. To ensure transparency, the respondent forwarded the technical bids to a third party hired for evaluation. Further, the respondent invited all participating bidders to make a 'live' demonstration of their proposed software systems confirming the availability of 29 selected functionalities. The Demo for the functionalities were selected by the respondent to ascertain the credibility of the responses of the bidders as all bidders had responded as 'Available' against all these 29 functionalities. The holding of demonstration session for selected functionalities which had been discussed in the Pre bid meeting was communicated to all bidders through email on 26.06.2024. As per the announced schedule, the 'live' demos commenced on 01.07.2024 and a full day was allocated to each bidder. The Demo results certified that few selected features were wrongly marked by few bidders under the category of "available". Therefore, same were corrected in the demo with the agreement of bidders by counter signing the demo results by the bidders at the end of each session. The results of demo session were shared with all bidders through email. The appellant also participated in this process without raising any objections. Thereafter third party completed the technical evaluation process and the results of the technical evaluation were announced on PPRA-EPADS on 29.07.2024.



8. The representative of the respondent further submitted that the appellant subsequently filed an appeal before the GRC after the announcement of the technical evaluation report. In this case, the appellant filed their grievance on 02.08.2024, with the office of the Convener GRC at respondent (ZTBL) Head Office. In response to the grievance, the respondent GRC ordered the suspension of the procurement process as per Rule 48(4) of the Public Procurement Rules, 2004. After reviewing the available records, the GRC issued a hearing notice for the appellant to present their case in person on 06.08.2024. However, the appellant communicated their inability to attend the hearing on that date. The appellant eventually appeared before the GRC on 12.08.2024. After a thorough hearing and evaluation of the appellant's grievance, the GRC recorded its findings in a report on the same day, i.e., 12.08.2024, which was the final day of the 10-day period specified under Rule 48(6) of the Public Procurement Rules, 2004 and the findings were duly communicated to the appellant and uploaded on EPADS.

9. The representative of the respondent further argued that the second grievance letter from the appellant received on 12.08.2024, was deemed time-barred, as it was submitted on the 10th day following the announcement of the technical evaluation report. Consequently, it was found to be non-tenable under Rule 48(3) of the Public Procurement Rules,

2004. The GRC formally communicated this finding regarding the second complaint in a letter to the appellant on 19.08.2024, with a copy sent to PPRA. Additionally, the GRC did not find the second complaint uploaded on the EPADS. The GRC responded promptly to both of the appellant's grievances. Furthermore, the appellant did not appear on the initially scheduled date for the hearing, instead delaying their attendance until 12.08.2024, which was the last day for the GRC to address the grievances under Rule 48(6) of the Public Procurement Rules, 2004, the respondent GRC had suspended the procurement process on 02.08.2024, upon receiving the first complaint from the appellant and made efforts to conduct the hearing as quickly as possible. Moreover, in light of the grievance letter and to ensure the transparency, the respondent did not opened the financial bids to date.

10. The representative of the respondent also submitted that the GRC, after considering all the facts on record and upholding the principles of natural justice, was issued a decision that should be sustainable in the eyes of the law. Moreover, the appellant did not raise any objection at any stage of the procurement process till announcement of technical evaluation report. However, after the announcement of the technical evaluation results, in which they ranked third, the appellant is attempting to raise objections related to earlier




stages. Such actions are not permissible at later stage under the law. Raising objections to the RFP and evaluation process at this belated stage may undermine the transparency of the procurement process, as it could be perceived as an afterthought and an attempt to influence the outcome of the technical evaluation. At the last, further submitted that the appellant has raised new points that were not presented in its grievance submitted before GRC, and is therefore estopped from raising such objections at this stage, hence request for dismissal of the instant appeal.

11. After perusal of record, it reveals that RFP document was designed to ascertain the capabilities of the bidder with regard to 1933 requirements to establish a Core Banking System (CBS) platform in ZTBL. Moreover, perusal of minutes of pre-bid meeting dated 20.05.2024, transpired that the respondent in response to the queries raised by the appellant, stated that the Treasury, AML, Pool Management Modules will not be considered as RFP requirements in the technical evaluation but, in their response to the Committee, they stated that they required 1933 functionalities in the CBS, irrespective of the fact whether they will be covered through Treasury, AML, Pool Management modules or not. Therefore, the Committee is of the view that there is ambiguity in evaluation criteria with regard to the provision of 1933 requirements, with or without the Treasury, AML, Pool


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Management modules. In accordance with the Public Procurement Rules, 2004, the procuring agency is under obligation to formulate an unambiguous criteria, therefore, the respondent is advised to revise the evaluation criteria by removing all ambiguities in their RFP documents and evaluate strictly in accordance with the criteria prescribed in the RFP documents.

12. In view of above, the instant appeal is hereby disposed of with the direction to the respondent (ZTBL) to invoke Rule 33 and Rule 34 of the Public Procurement Rules, 2004, by removing anomalies in the RFP documents so that, the fairness and 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.

