

BEFORE THE GILGIT-BALTISTAN PROCUREMENT REGULATORY AUTHORITY
(GB-PPRA)

Appeal No. Admin-10/2024

M/S SHAH JAHAN ASSOCIATES & BUILDERS (JV) AA CONSTRUCTION
COMPANY PVT LTD.

.....Appellant

Versus

GRIEVANCES REDRESSAL COMMITTEE (GRC)

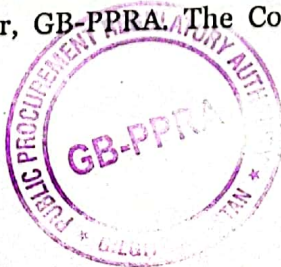
1. Eng. Iqbal Hussain
Chairman Grievance Redressal Committee
2. Eng Abdul Waheed
Member Grievance Redressal Committee.
3. Eng. Behroz Ali
Member Grievance Redressal Committee

.....Respondents

A. Appeal Proceedings:

1. This Appeal has been filed under Section 51(7) of the Gilgit-Baltistan Public Procurement Rules, 2022, by M/S Shah Jahan Associates & Builders (JV) AA Pvt. Ltd., through their legal representative (hereinafter referred to as the "Appellant"). The Appellant challenges the decision made by the Grievance Redressal Committee of the Works Department, constituted to address complaints arising during the procurement process for the project titled "**Construction of Offices and Residential Buildings for the GB Board of Revenue**". The Respondents in this matter are as mentioned above.
2. Upon receiving the Appeal under Section 51(7) of the Gilgit-Baltistan Public Procurement Rules, 2022, the matter was admitted for regular hearing. Subsequently, the Managing Director of GB-PPRA constituted the following Procurement Review Committee under his chairmanship, in accordance with Rule 52(1) of the GB PP Rules, 2022:
 - i. Managing Director GB-PPRA (as Chairman GB-PPRA)
 - ii. Deputy Director GB PPRA (as Member)
 - iii. Deputy Director (Works) Gilgit Development Authority (as Member)
 - iv. Member Economist Planner CMIT (as Member).
3. Notices were issued to all parties, directing the Appellant and Respondents to appear before the Managing Director, GB-PPRA, in person or through legal representation, along with the relevant records, on **November 13, 2024, at 2:00 PM.**
4. On the scheduled date and time, the Appellant and Respondents appeared before the Procurement Review Committee in the office of the Managing Director, GB-PPRA. The Committee conducted a comprehensive hearing,

(Zahid Ali)
Deputy Director
GB-PPRA



ensuring the Appellant was provided ample opportunity to present their case. The available records, including the Appeal memo, Bid Documents of the Procuring Agency, and Technical Proposals submitted by the qualified bidders and the Appellant, were thoroughly reviewed and deliberated upon.

B. Background:

5. The key facts of the Appeal are summarized as follows:

i. A project titled "*Construction of Offices and Residential Buildings for the GB Board of Revenue*", with an estimated cost of Rs. 85.436 million, was advertised on January 2, 2024, with a closing/bid opening date on January 25, 2024. A total of 41 bidders participated, of which 30 were declared responsive, while 11 were declared non-responsive.

ii. Two bidders, **M/S Karakurum** and **M/S Javeed Afandi**, filed an appeal before the Grievance Redressal Committee (GRC), challenging the evaluation process. The GRC, apart from declaring these two bidders non-responsive on technical grounds, found some other significant discrepancies and faults in the bid evaluation report. The GRC submitted their report to Secretary/PAO of department with recommendations to review technical bid evaluation on the basis of discrepancies vide letter bearing No. SE-HN/Dev/GRC/2023-24 dated 16th May, 2024. Consequently, by approval of PAO, bids of the bidders were re-evaluated and report thereof submitted to PAO vide letter No. SE-HN/GRC-re-eval/2023-24/556 dated 12th June, 2024. During which the current Appellant, who had initially declared responsive by Procurement committee, was subsequently disqualified. Aggrieved by this decision, the Appellant filed an Appeal before the Procurement Review Committee (PRC) under Rule 51(7) of the Gilgit-Baltistan Public Procurement Rules, 2022.

C. Findings of Procurement Committee (PRC):

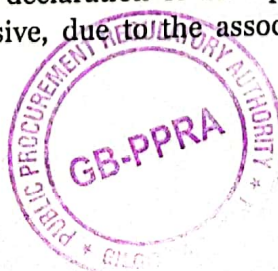
6. The Procurement Review Committee (PRC), heard the pro and contra arguments advanced by the parties at length and selected the following point for consideration and proceedings in the appeal:

a. Whether Qualification of the Lead Partner Despite Associate Partner's Non-Eligibility can be considered as technically responsive for the under consideration bidding process or otherwise:

i. Perusal of documentary evidence the PRC observed that the as per sub-clause (i)(a) of 3.3.1 OF BIDDING DOCUMENTS THE Procuring Agency mentioned SPECIFIED that lead partner shall meet not less than 50% of all qualifying criteria similarly at (ii)(a) of 3.3.1 of bidding document each partners shall meet not less than 25% of all qualifying criteria. Likewise, at serial # 7(a) of the tender policy of Communication & Works Departments GB lead partner and associate partners have to meet eligibility criteria of 50% & 25% respectively.

The PRC finds that the declaration of the Appellant viz MS Shah Jahan (JV) AA Builders as non-responsive, due to the associate partner's failure to meet the


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Deputy Director
GB-PPRA



eligibility criteria, is consistent with sub-clause (i)(ii)(a) of 3.3.1 and serial 7(a) of tender policy of The Communication and Works Department GB. This explicitly requires that in joint venture, each partner must independently satisfy the eligibility criteria specified in the bidding documents. As the associate partner failed to meet these criteria, the bid is rendered non-compliant, and its disqualification is justified under the conditions enshrined in bidding documents and as per approved policy.

- iii. The PRC determined that the lead partner's qualification alone cannot independently qualify, as above referred criteria explicitly requires that the eligibility and qualification of a joint venture be collectively assessed, with non-compliance by any partner resulting in the disqualification of the entire consortium. The conditions/policy do not permit partial qualification in such cases. Consequently, the JV cannot be deemed qualified if the associate partner fails to meet the eligibility criteria.

D. Decision of the Procurement Review Committee (PRC):

7. Based on the above findings, the PRC concludes as follows:

- i. The eligibility of a consortium or joint venture cannot be determined solely on the lead partner's compliance; all members must independently meet the criteria.
- ii. The Appeal lacks merit and is dismissed. The GRC's decision vide letter bearing SE-HN/GRC-re-eval/2023-14/556 dated 12th June, 2024 to declare the Appellant MS Shah Jahan (JV) AA Builders non-responsive is consistent pre-qualification criteria mentioned at (i)(ii)3.3.1(a) of 3.3 of bidding documents and also enshrined in serial 7(a) of the tender policy of the Communication & Works Departments GB. **Hence the decision made by GRC is in accordance with the conditions laid down in bidding document and tender policy of Communication & Works Department GB and accordingly uphold the decision of GRC held on 10th June, 2024 & conveyed to PAO on 12th June, 2024.**

Announced

Gilgit, Dated 16th December, 2024.

(SD)
(Abdul Hameed)
Deputy Director GB PPRA
(Member)

(SD)
(Mazhar Sohail)
Deputy Director (Works) GDA
(Member)

(SD)
(Sirtaj)
Member Economist
Planner CMIT
(Member)

(SD)
(Aziz Ahmed Jamali)
Managing Director GB-PPRA
(Chairman)


(Zahid Ali)
Deputy Director
GB-PPRA

