

राजस्थान सरकार  
जल संसाधन विभाग

राजस्थान लोक उपापन मे पारदर्शिता अधिनियम 2012 एवं नियम 2013 ( बिन्दु संख्या 83)  
के अन्तर्गत दायर अपील संख्या 26/2018-19

M/s Regal Construction Co. (JV), Faridkot (Punjab)

बनाम

मुख्य अभियन्ता, जल संसाधन उत्तर, हनुमानगढ़

मुख्य अभियन्ता, जल संसाधन उत्तर, हनुमानगढ़ के द्वारा Renovation and Modernization of Sangeeta disty. from RD 0.000 to 99.000 निविदा आमन्त्रित की गई।

निविदा की तकनीकी बिड में मूल्यांकन समिति द्वारा लिये गये निर्णय के संदर्भ में M/s Regal Construction Co. (JV), Faridkot (Punjab) द्वारा राजस्थान लोक उपापन मे पारदर्शिता अधिनियम 2012 एवं नियम 2013 के अन्तर्गत अद्योहस्ताक्षरकर्ता (प्रथम अपील प्राधिकारी प्रमुख शासन सचिव, जल संसाधन, राजस्थान, जयपुर) के समक्ष अपील दायर की एवं नियमानुसार डिमाण्ड ड्राफ्ट नम्बर 256769 दिनांक 27.04.2018 से राशि रू. 2,500/- फीस जमा करवाई गई।

अपील को नियमानुसार अपील संख्या 26/2018-19 पर दर्ज कर मुख्य अभियन्ता, जल संसाधन उत्तर, हनुमानगढ़ (उपापन संस्था) तथा M/s Regal Construction Co. (JV), Faridkot (Punjab) (अपीलार्थी) को अपना पक्ष रखने के लिये नोटिस संख्या एफ. 2(45)एस/आई/सेल/2018/2175-2176 दिनांक 21.05.2018 जारी कर दिनांक 25.05.2018 को सांय 03.00 बजे अद्योहस्ताक्षरकर्ता के कक्ष में उपस्थित होने का समय नियत किया गया।

निर्धारित दिनांक 25.05.2018 को अपीलार्थी की तरफ से श्री राजिन्द्र सिंह उपस्थित हुए एवं उपापन संस्था की ओर से श्री के.एल. जाखड़, मुख्य अभियन्ता, जल संसाधन उत्तर, हनुमानगढ़ उपस्थित हुए। अपीलार्थी की तरफ से अपनी लिखित अपील के साथ-साथ अपना विस्तृत मौखिक पक्ष रखा गया। उपापन संस्था की तरफ से मुख्य अभियन्ता, जल संसाधन उत्तर, हनुमानगढ़ द्वारा अपील में उठाये गये बिन्दुओं एवं निविदा के संबंध में लिखित प्रतिवेदन प्रस्तुत किया तथा साथ ही मौखिक बहस की गई।

**Grounds of the Appeal raised by the Appellant :-**

Our bid has been declared Non-Responsive in technical evaluation for non uploading the experience certificate regarding carrying out the work against work order 221EEA dated 04.02.2011. In this regard it is submitted that the said work experience certificate was available at Page No. 52 of our bid documents. Therefore it is clear that our firm has been wrongly declared Non-Responsive. We have submitted request to re-examine our bid as we have attached the requisite work done certificate. Thereafter, department W.R.D. has issued letter No. 904 dated 20.04.2018 for confirmation of the experience certificate. The issuing authority Municipal Corporation Ludhiana has verified



the experience certificate and providing the demanded information vide letter No. 8317 dated 24.04.2018. The allotment amount of such work is Rs. 21.77 Cr. and the work has been completed to the tune of Rs. 20.96 Cr., more than 90% work has been completed. As per RFB Pg. 61 (Point 4.1(a)) substantially completed (i.e. 80% or more) will be considered as eligible experience. Therefore, our work done/experience certificate should be considered against required experience.

We submit in your honour that we fulfill the eligibility criteria as stated above, therefore our technical bid should be declared Responsive and our financial bid shall be opened.

**Procuring Entity's Reply:-**

As per clause 4.2(a) of Section III of bid documents, the qualification criteria of not less than Rs. 849.00 lakh for experience of successfully, satisfactorily and substantially completed similar work was required. Against which the bidder M/s. Regal Construction Co. (JV) uploaded the copy of Work Order No. G-33/221EEA dt. 04.02.2011 for work "Remodelling of storm water channel from Guruduwara Dukhniwaran Sahib to Dhokean Mohalla" of Rs. 21.77 Crore alongwith Certificate no. 375/EEA dt. 20.10.2016 stating that the Contractor executed the work of Rs. 20.96 Crore against the said Work Order. Due to oversight on the part of evaluation committee, this certificate (dt. 20.10.2016) was deemed to have not been uploaded with bid documents and on this ground the Technical part Bid of this Bidder considered non responsive by the evaluation committee. In view of letter dt. 20.04.2018 submitted by M/s. Regal Construction Co. (JV) the documents uploaded by this Bidder were reviewed and the certificate treating not uploaded was found to be uploaded at page no. 52 of bid documents. While reviewing this certificate it was noticed that the certificate did not contain particulars regarding work completed or in progress/year wise execution of key quantities etc. The concerned authority (Municipal Corporation Ludhiana (Punjab)) was asked to furnish the said detail vide this office letter no. F.2/Acctts/N/904 dt. 20.04.2018. In response, Municipal Corporation, Ludhiana vide his letter no. 8317 dt. 20.04.2018 providing yearwise executed key quantities (i.e Earth work, Cement Concrete etc.) mentioned that the work is still in progress.

Here it is pertinent to mention that:

(i) The stipulated completion period for this work was 15 months but the work is still incomplete inspite of elapsing of 87 months. The firm has not been able to complete the work even consuming more than 6 times period which proves that the performance of M/s Kabir Infra Private Limited, Ludhiana ( Joint Venture member ) is too poor and deserve to be disqualified under clause no. 4.2(d) Section-III of bid documents.

(ii) Secondly, for similar nature of work, the Bidder should have experience of construction of Canal Works like Canal Lining, Canal VRB, DRB or Structures like Weir, Dam etc. whereas the experience certificate attached by the Bidder is of "Remodelling of Storm water channel of Municipal Corporation" which can not be considered similar nature of work due to size and does not demonstrate required volume, number or rate of production of key activity.

In view of above facts the appeal of M/S Regal Construction Co. (JV) is liable for rejection.

**Decision**

An application was submitted by M/s Regal Construction Co. (JV) with the request that they fulfill the eligibility criteria therefore their technical bid should be declared responsive and their financial bid be opened.



The appellant and representative of the procuring entity submitted their arguments during the hearing.

The ground of the appeal filed by the appellant is that their bid has been declared non-responsive in technical evaluation for non uploading the experience certificate regarding carrying out the work against work order 221EEA dated 04.02.2011. However, the said work experience certificate was available at Page No. 52 of their bid documents. Therefore their firm has been wrongly declared non-responsive. On submission of request by appellant to re-examine their bid, W.R.D. has verified the experience certificate from issuing authority Municipal Corporation Ludhiana. Appellant submitted that more than 90% work has been completed and as per RFB Pg. 61 (Point 4.1(a)) substantially completed (i.e. 80% or more) will be considered as eligible experience. Therefore, their work done/experience certificate should be considered against required experience. Their technical bid should be declared responsive and their financial bid shall be opened.

The representative of the procuring entity Chief Engineer, Water Resources North, Hanumangarh submitted that due to oversight on the part of evaluation committee, this certificate (dt. 20.10.2016) was deemed to have not been uploaded with bid documents and on this ground the technical part Bid of this bidder considered non responsive by the evaluation committee. The certificate treating not uploaded was found to be uploaded at page no. 52 of bid document.

Chief Engineer, Water Resources North Hanumangarh further submitted that while reveiwng this certificate it was noticed that the performance of M/s Kabir Infra Private Limited, Ludhiana (Joint Venture member) is too poor and deserve to be disqualified under clause no. 4.2(d) Section-III of bid documents. Secondly, for similar nature of work, the Bidder should have experience of construction of Canal Works like Canal Lining, Canal VRB, DRB or Structures like Weir, Dam etc. whereas the experience certificate attached by the Bidder is of "Remodelling of Storm water channel of Municipal Corporation" which can not be considered simillar nature of work. In view of above facts the appeal of M/S Regal Construction Co. (JV) is liable for rejection.

Since, procuring entity Chief Engineer, Water Resources North, Hanumangarh accepted that certificate treating not uploaded was found to be uploaded at page no. 52 of bid document, therefore this appeal is allowed. However, the Chief Engineer, WR North Hanumangarh submission that on the basis of evaluation of this certificate, the appeal is liable to be rejection, cannot be accepted as this is not the part of the appeal. Hence the procuring entity is directed to evaluate the certificate at their level.

Date: 30.05.2018



(Shikhar Agrawal)  
First Appellate Officer &  
Principal Secretary,  
Water Resources, Rajasthan