



Tel: 042-99205593
Tel: 042-99204572
Tel: 042-36284773
Exe: 042-36284774

**GOVERNMENT OF THE PUNJAB
PUNJAB PROCUREMENT REGULATORY AUTHORITY
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT**

304-T, 3rd Floor Al-Falah Building, The Mall Lahore.
Dated Lahore, the 31st December, 2020

ORDER

No. L&M(PPRA)1-45(G)2020/BL/236 M/s. Awami Systems Technologies (Pvt) Ltd Office No. 3, 1st Floor MB City Mall Plaza, I-8 Markaz Islamabad (hereinafter called "firm/representer") in terms of Rule 21 (4) of Punjab Procurement Rules 2014 amended to date (PPR-14) has filed a representation against the order of blacklisting passed by Director Planning & Evaluation Livestock & Dairy Development Department, Punjab 16-Cooper Road, Lahore (hereinafter called "procuring agency/respondent") vide order bearing No. 526-31 dated 11.08.2020 (hereinafter called "impugned order") whereby the representer has been blacklisted for a period of three (03) years.

2. Brief facts giving rise to the instant representation are that a contract for procurement of hosting, system maintenance, data base management, handling, trouble shooting for ICT based system titled "Strengthening of Performance Management System (SPMS) 9211" was awarded on 11.08.2018 by the procuring agency to representer/firm for the year 2018-19 which expired on 30.06.2019. The firm/representer was under an obligation to hand over all the receivables of SPMS 9211 including all the relevant data, source code, data base architecture design, UAN Code 08000-9211, short Code *9211#, software of SPMS 9211 etc. to the procuring agency under **clause 4.3** of the contract agreement but the

firm/representer failed (as per stance of the procuring agency) to provide/hand over all receivables under ibid clause of the contract agreement which had expired on 30.06.2019. Resultantly, the procuring agency issued a show cause notice No. 425 dated 01.07.2020 with the direction that all receivables should be handed over within 07 days, otherwise the firm/representer shall be blacklisted and pending bills will be cleared after handing over all receivables to the procuring agency. The personal hearing was also conducted on 27.07.2020 but the firm failed to hand over the receivables and eventually, the procuring agency blacklisted the firm for a period of three (03) years and hence the instant representation.

3. Both the parties in order to provide an opportunity of personal hearing were issued notice through the subpoena dated 15.10.2020, with the direction to attend the office of the Managing Director PPRA on 19.10.2020 to decide the matter as per law, the moot point that is failure on the part of representer/firm to deliver the receivables was discussed in detail. Mr. Imtiaz Ahmed Khan Chief Executive Officer appeared on behalf of M/s. Awami System Technologies and stated that the procuring agency did not made the payment for the months of May 2019, June 2019, July 2019, August 2019 and September 2019 (upto 24.09.2019) and therefore representer firm is constrained to deliver the receivables to the procuring agency. Dr. Muhammad Ashraf (Director Planning & Evaluation) and Dr. Azhar Nazir appeared on behalf of the procuring agency and responded that agreement for the said services was till 30.06.2019, therefore procuring agency is constrained to make the payments for the month of July 2019, August 2019 and September 2019 (upto 24.09.2019). After hearing the preliminary arguments of both the parties and perusing the available record the competent authority passed the following

directions as an interim order vide letter bearing No. L&M(PPRA)1-45(G)2020/BL/236/2198 dated 21.10.2020 (direction letter dated 21.10.2020):-

- i) that representer firm shall handover all the receivables to the entire satisfaction of the procuring agency in accordance with clause 4.3 of the contract agreement; within 10 days of receipt of this letter.
- ii) that representer of the procuring agency agreed to make the pending payments for the services rendered by the representer firm till 30.06.2019 in accordance with contract agreement.
- iii) that both the procuring agency and representer firm shall submit reports in this regard (**latest by 05.11.2020**) indicating that handing over and taking over of receivables has been duly completed in accordance with clause 4.3 of the contract agreement.
- iv) final and conclusive order shall be passed by the Competent Authority on the receipt of the aforementioned both reports."

4. On 05.11.2020 the procuring agency vide its letter bearing No. 758 dated 05.11.2020 stated that in compliance to directions vide letter dated 21.10.2020 a committee of technical officer of the procuring agency and PITB was constituted for taking over the receivables from representer/firm in fully functional mode. The committee visited office of representer/firm on 03.11.2020 and representer/firm offered the committee to take over data in portable hard drive and evaluate its functionality at its own but the committee did not agree with offer and apprehended that offered material could be a scrap only and useless without proper testing/verification its utility and sanctity. The representer/firm instead of handing over fully functional system alongwith all receivables took another stance that it requires six months to fully handover the system in operational mode and for this transition period the procuring agency will pay the operational charges to the firm. The procuring agency requested PPRA to direct the representer/firm to fulfill its commitment and comply the directions passed vide letter dated 21.10.2020 on its assurance and hand over all the receivables in 100% working conditions.

5. In order to evaluate and decide the matter as per law both the parties were again summoned and provided opportunity of personal hearing on 03.12.2020 through the subpoena dated 26.11.2020 with the direction to attend the office of the Managing Director PPRA. Mr. Imtiaz Ahmed Khan Chief Executive Officer appeared on behalf of M/s. Awami System Technologies and Dr. Muhammad Ashraft (Director P&E), Mr. Hassan Khalid and Salman Amin appeared on behalf of procuring agency and modus operandi of handing over of "SPMS 9211 system" from representer/firm to procuring agency was discussed in detail. Provisional Acceptance Certificate was signed between the representer/firm and procuring agency during the course of personal hearing confirming that representer/firm has delivered a hard disk containing source code and all historical data which will help to replicate the system in its functional state on servers. It was also established that source code alongwith data has neither been checked nor verified as it has not been installed on server yet. It was also consented by both the parties that upon successful completion of said tasks, a final acceptance certificate shall be issued in the name of representer/firm. Mr. Imtiaz CEO of representer/firm further requested that since firm has handed over the said system through hard disk therefore, the order of blacklisting may be set asided, upon which Director P&E has suggested that until entire satisfaction in handing/taking over the process, the decision of removing the said firm from blacklisting may be kept pending. The following consensus were also made during the course of personal hearing:-

- i) As proposed by representer and agreed by procuring agency, a provisional acceptance certificate will be issued on the receipt of a hard disk from the vendor. This provisional acceptance certificate will eventually be replaced to satisfactory certificate by procuring agency based upon verification of deliverables/receivables by PITB latest by

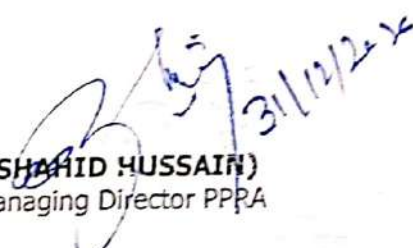
3rd January 2021. However, functional verification will be conducted by procuring agency within the same timelines in coordination with PITB.

- ii) The Chair (Managing Director PPRA) appreciated the good and helping gesture displayed by the representer/firm to assist and cooperate with PITB and procuring agency for any technical query till the entire satisfaction within the given timeline. However, if any technical/functional verification issue arises even beyond the given timeline the representer/firm shall provide all possible cooperation for another three weeks beyond 3rd January 2021.
- iii) Alongwith this handing/taking over PITB, on behalf of procuring agency shall write to representer/firm for issuance of NOC for transfer of UAN (0800-09211) & Short Code (9211) from PTA to assigned in the letter. The representer/firm accepted and agreed to support in this regard.
- iv) PITB will inform to representer/firm of any requirement with a copy to PPRA and procuring agency.
- v) Based on proceedings, MD PPRA observed that procuring agency will immediately process the pending payments after 3rd January 2021 but after satisfactorily receiving the receivables and issuance of satisfactory certificate as agreed above.

6. Allowing for the above and since handing over and taking over of the receivables has been taken place and provisional acceptance certificate has also been signed by the procuring agency and representer/firm on 03.12.2020 therefore, I **Shahid Hussain** Managing Director, Punjab Procurement Regulatory Authority in exercise of the power conferred under Rule 21(4) of PPR-14 read with Section 17-A (3) of Punjab Procurement Regulatory Authority Act, 2009, hereby accept the representation and **set aside** the impugned order passed by the Director Planning &

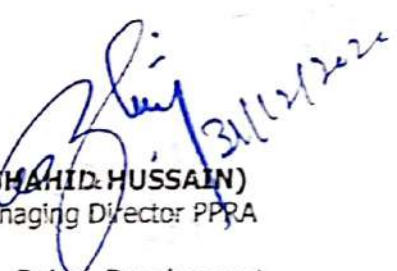
Evaluation Livestock & Dairy Development Department (procuring agency) with the direction to the procuring agency that pending payment of May 2019 and June 2019 of representer/firm shall be made after taking over all "SPMS 9211 system" and successful running alongwith NOC issued by PITB. As for as the matter of pending payment of reaming period i.e. month of July 2019, August 2019 and September 2019 (as claimed by the representer/firm) is concerned representer/firm is directed to approach the relevant forum for the settlement of its claim.

7. Any party aggrieved from this order may file a representation before chairman PPRA/Chief Secretary Punjab within thirty days under rule 21 (5) of PPR-14.


(SHAHID HUSSAIN)
Managing Director PPRA

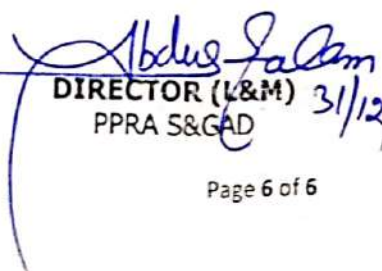
CERTIFICATE

It is certified that instant order consists of six (6) pages without cutting each of which has been read, corrected and signed by me.


(SHAHID HUSSAIN)
Managing Director PPRA

CC:

1. The Secretary Govt. of the Punjab Livestock & Dairy Development Department Lahore.
2. The Director Planning & Evaluation Directorate of Planning & Evaluation Livestock & Dairy Development Department, Lahore.
3. M/s. Awami Systems Technologies (Pvt) Ltd Office No. 3, 1st Floor MB City Mall Plaza, I-8 Markaz Islamabad.
4. PA to MD PPRA.
5. Office copy.


DIRECTOR (L&M) 31/12/XX
PPRA S&GAD

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