



No. PPRA/AP-49/2025
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 China Construction Third Engineering Bureau Group Corporation Ltd.
(CCTEB) – Frontier Works Organization (FWO) – Zeeruk International (Pvt.)
Ltd. (Joint Venture)

...the “Appellant”

Vs.

Capital Development Authority (CDA), etc..

...the “Respondents”

Date of Hearing 12.01.2026	<p><i>Barrister Yousaf Khosa, Barrister M. Zainul Abideen, Engr. Waqas Khan (Contracts Manager), Mr. Zhu Tianoriong</i></p> <p>(On behalf of Appellant)</p> <p><i>Mr. Khalid Asif (DG), Mr. Nasir Jamil Butt (Director P&CA), Qazi M. Omar (PD), Mr. Iftikhar Ahmed Baber (JMCC)</i></p> <p>(On behalf of Respondent)</p>
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APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004

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

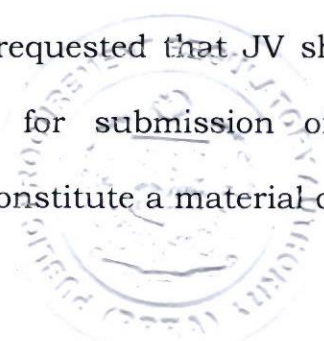
2. At the very outset, the representative of the Appellant submitted that the Capital Development Authority (CDA), the Procuring Agency issued the pre-qualification documents for the Pre-qualification of EPC Contractors for Jinnah Medical Complex and Research Centre, Islamabad. Further submitted that CDA critically applied the wrong pre-qualification documents and evaluation criteria when evaluating the pre-qualification applications, including an express reference to a non-existent "clause 21.1 of Instructions to Consultants". Moreover, CDA pre-qualified "Consulting Firms" instead of EPC Contractors. Furthermore, CDA applied Section 4.0 of the PQD and identified three grounds of non-responsiveness. All three grounds involved a misapplication of mandatory requirements, primarily due to CDAs failure to apply PPRA Rule 31 to seek clarifications for curable omissions. These failure render CDAs evaluation inconsistent with the PQD, Addendum No. 1, and PPRA Rules 29, 30, 31, and 48, and hence, defective and invalid. Moreover, the GRC upheld the determination of the Evaluation Committee.

3. The representative of the Appellant further submitted that CCTEB-FWO-ZEERUK JV, the Appellant, submitted the pre-qualification document (PQD) for the pre-qualification of Jinnah Medical Complex and Research Centre, Islamabad on 08-07-2025. The document was uploaded on e-PADS as required by the procuring agency. Further submitted that the CDA issued its Technical Evaluation Report on 14-10-2025,

and detailed report on 17-10-2025, vide which CCTEB-FWO-ZEERUL JV was termed as Disqualified based on:

- i. Undertakings on non-blacklisting & litigation history of one of the non-lead members of the JV were missing from the document;
- ii. Few codes were missing;
- iii. Tax clearance certificate was not attached by all JV.

4. The representative of the Appellant further submitted that in accordance with PPRA Rule 48 (7), THE CCTEB-FWO-ZEERUK JV submitted grievance to the CDA Grievance Redressal Committee through E-PADS, vide which it was highlighted that the pages (undertakings) which were missing from the submitted PQD was a mere clerical mistake and an inadvertent oversight, which resulted in the pages left behind while screening. Asserted that the undertakings in question were prepared on judicial stamp papers of registry dated before the deadline for submission of PQD, which is the testament to the fact that these were not left behind on purpose; Highlighted that under PPRA Rules 31(1) the JV shall have been called upon by CDA for clarification on the subject matter; mentioned that the Lead Member has already submitted all requisite documentation required for proving qualification both technically & financially; requested that JV shall be allowed under PPRA Rule 31(1) for submission of the missing documents which do not constitute a material change.



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5. Further submitted that the CDA Grievance Redressal Committee responded to the grievances submitted by CCTEB-FWO-ZEERUK and it was stated that based on the opinions of the member of the Committee and interpretation of PPRA Rules 22 & 31, the request of the JV is denied, and the JV stands "Disqualified".

6. Further added that a basic and integral part of the pre-qualification invitation is the "Evaluation Criteria". Rule 29 of the Public Procurement Rules, 2004, states:

"Procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement."

The PQD issued by CDA did contain the evaluation criteria, although confusingly dispersed across different sections of the PQD.

7. The representative of the Appellant further averred that in para 9 of the Technical Evaluation Report, the Technical Evaluation Committee stated the criteria that was used for the purposes of evaluation, and it clearly states that "Criteria for Bid Evaluation as per clause 21.1 of Instructions to Consultants". Moreover, within the Technical Evaluation Report, the Evaluation Committee listed the technically

responsive "Consulting Firms" instead of pre-qualified EPC Contractors. This shows that CDA actually pre-qualified Consulting Firms instead of EPC Contractors. Further submitted that clause 21.1 is non-existent in the PQD issued for the subject procurement. This evaluation criteria referred to in the Technical Evaluation Report is not found anywhere in the pre-qualification documents issued by the CDA. Moreover, no reference was found to the evaluation criteria clauses in the actual PQD (Section 3 & 4). It appears that CDAs Evaluation Report wrongfully relies on Consultancy Procurement evaluation criteria. This constitutes a material violation of Rule 30(1) of the Public Procurement Rules, 2004, which states:

"All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in sub-clause (iv) of clause (c) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents."

Further submitted that the evaluation procedure followed by the Procuring Agency is substantially and materially defective at its core, in violation of the Public Procurement Rules, 2004, and is void of any legal and contractual basis.

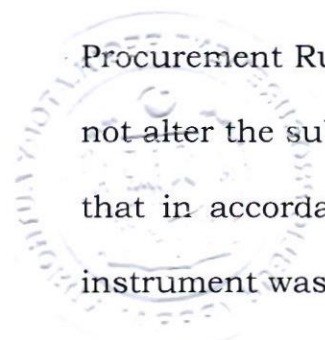
8. The representative of the Appellant submitted that the JV submitted that all substantive PQD requirements, and the cited deficiencies do not justify declaring the Application non-responsive. Further added, JV had initiated the formal PEC code application process well before the PQ submission

deadline of July 08, 2025. Further contended that even during the pre-bid meeting, it was clarified that possession of these codes would be required at the EPC stage; not at the PQ stage.

9. The representative of the Appellant further contended that the required undertakings were validly executed and submitted by the Lead Partner. The PQD does not expressly require separate non-performance or non-blacklisting undertakings from each JV member; Sr. No. 8 and 9 of Section 4 imposes no such obligation. The remark "Not attached by all JV" inaccurately implies complete and total non-compliance, even though the Lead Partner's undertaking was on record. Disqualifying the Application for not submitting redundant individual undertakings is an overly strict interpretation. Further added that the stamped undertakings were legally obtained before July 08, 2025 deadline. The procuring agency can independently verify that none of the JV members has any record of non-performance or blacklisting, conforming that the omission was neither intentional nor advantageous to the Applicant. Further averred that the PQD and PPRA Rules permit the procuring agency to seek clarifications, particularly where the Lead Partners declaration was already provided and the omission is non-material. Under Rule 31(1) of the Public Procurement Rules, 2004, requesting such clarification would not alter the substance of the Application. Further highlighted that in accordance with the Stamp Act, 1899, the stamped instrument was validly issued before the deadline.

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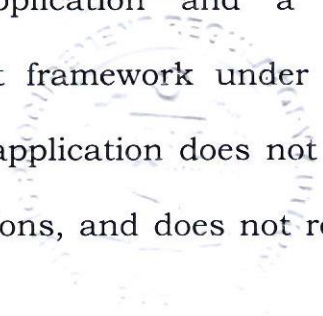
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10. The representative of the Appellant submitted that the attached document demonstrating the active taxpayer and tax clearance certificate status of CCTEB and ZEERUK, and the tax-exempt status of FWO. Adequately establishes the JV members tax compliance. A tax clearance certificate under Section 145 of the Income Tax Ordinance, 2001 applies only to individuals permanently leaving Pakistan and is not relevant to this pre-qualification.

11. The representative of the Appellant further added by way of rejoinder that the impugned action of the Respondent (CDA), does not arise from any deficiency in the Appellant's technical, financial, or managerial capability. At no stage has CDA recorded any finding that the Appellant lacks the ability to perform the subject works. Rather, the Appellant's exclusion is the result of a fundamental misapplication of the Public Procurement Regulatory Authority Ordinance, 2002 and the Public Procurement Rules, 2004, whereby CDA unlawfully treated a pre-qualification exercise as if it were a bid evaluation, applied inapplicable bid-stage standards, and rejected the Appellant on hyper-technical, curable, and non-material grounds. Further added that the legal distinction between a pre-qualification application and a bid is foundational to the procurement framework under the PP Rules, 2004. A pre-qualification application does not involve price, does not crystallize obligations, and does not result in

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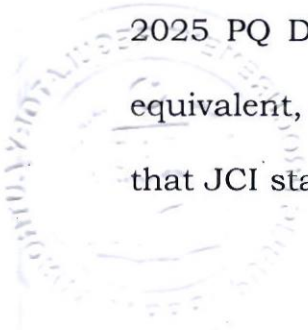
award. Its sole purpose is to determine eligibility to participate further in the procurement process.

12. The representative further contended that concepts such as “technical responsiveness”, “non-responsiveness”, or “technical rejection” are legally alien to pre-qualification. These concepts arise only after bids are submitted pursuant to a tender and are evaluated under bid-stage rules. Further added that a pre-qualification application may only result in one of two lawful outcomes: the applicant is either qualified or not qualified.

13. The representative of the Appellant further submitted that in the initial pre-qualification exercise initiated in July 2024, CDA adopted a strict gold standard by requiring hospital experience compliant strictly with Joint Commission International (JCI) standards. JCI accreditation is the global bench mark for healthcare quality and patient safety. Its rigor is such that only four hospitals in Pakistan presently meet this standard. Under this uncompromised criterion, the Appellant was substantively the only compliant entity. Further added that to broaden participation, CDA consciously diluted this substantive requirement through Addendum No. 1 to the May, 2025 PQ Documents by accepting JC accredited hospital or equivalent, expressly justifying this relaxation on the ground that JCI standards are not followed in certain jurisdictions.

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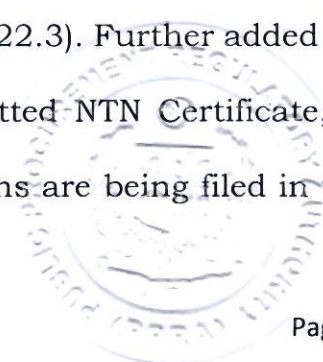
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14. The representative of the Appellant further submitted that Rule 17 of the Public Procurement Rules, 2004 empowers CDA to seek information where there are credible doubts regarding capacity. Instead of invoking this safeguard, CDA summarily rejected the Appellant for clerical and scanning omissions, reflecting arbitrary exercise of discretion. Further added that all JV partners are Active Taxpayers, evidenced by ATL documentation. FWO enjoys tax-exempt status. The FBR does not issue tax clearance certificates, rendering the condition discriminatory and impossible to fulfil, in violation of Rule 32 of the Public Procurement Rules, 2004. Further highlighted that in the present case, CDA has not disputed nor could it that the Appellant satisfied all substantive criteria under Rule 15 of the Public Procurement Rules, 2004. The Appellant experience, financial strength, personnel equipment, and managerial capacity were not questioned.

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15. The representative of the Appellant further averred that regarding the Alleged Tax Clearance Certificate, it was confirmed by CDA during the hearing that they have not received tax clearance certificate from anyone. Instead CDA submitted that some of the applicant's local partner (only) had submitted their proof of filing of tax return (issued by FBR under Section 114.1, 114.4 and 122.3). Further added that the JV Appellant had already submitted NTN Certificate, it goes without saying that annual returns are being filed in terms of the Income Tax Ordinance.

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16. The representative of the Respondent (CDA) submitted that Appeal is frivolous, superficial, baseless without solid grounds and concrete evidence. The pre-qualification process has been carried out in accordance with PPRA Rules and Regulations through E-PADS. The description of Rule 15 and 16 of the Public Procurement Rules, 2004, is reproduced as under:

Rule 15: A procuring agency, prior to the floating of tenders, invitation to proposals or offers in procurement proceedings, may engage in pre-qualification of bidders in case of services, civil works, turnkey projects and in case of procurement of expensive and technically complex equipment to ensure that only technically and financially capable firms having adequate managerial capability are invited to submit bids. Such pre-qualification shall solely be based upon the ability of the interested parties to perform that particular work satisfactorily.

(2) A procuring agency while engaging in pre-qualification may take into consideration the following factors, namely: -

- a) relevant experience and past performance;*
- b) capabilities with respect to personnel, equipment, and plant;*
- c) financial position;*
- d) appropriate managerial capability; and*
- e) any other factor that a procuring agency may deem relevant, not inconsistent with these rules.*

16. Pre-qualification process. -



(1) The procuring agency engaging in pre-qualification shall announce, in the pre-qualification documents, all information required for pre-qualification including instructions for preparation and submission of the pre-qualification documents, evaluation criteria, list of documentary evidence required by suppliers or contractors to demonstrate their respective qualifications and any other information that the procuring agency deems necessary for pre-qualification.

(2) The procuring agency shall provide a set of pre-qualification documents to any supplier or contractor, on request and subject to payment of price, if any.

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Explanation. - For the purposes of this sub-rule price means the cost of printing and providing the documents only.

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(3) The procuring agency shall promptly notify each supplier or contractor submitting an application to pre-qualify whether or not it has been pre-qualified and shall make available to any person directly involved in the pre-qualification process, upon request, the names of all suppliers or contractors who have been pre-qualified. Only suppliers or contractors who have been pre-qualified shall be entitled to participate further in the procurement proceedings.

(4) The procuring agency shall communicate to those suppliers or contractors who have not been pre-qualified the reasons for not pre-qualifying them.

17. The representative of the Respondent (CDA) further averred that the CDA maintained the documents uploaded on E-PADS and evaluation criteria was observed during scrutiny

of the pre-qualification applications. While preparing PQ document, PEC Standard Procedure for pre-qualification of the Constructors and Rule 15 & 16 of the Public Procurement Rules, 2004, was followed. Further submitted that the complaint that CDA critically applied wrong pre-qualification documents and evaluation criteria when evaluating the pre-qualification applications, including an express reference to a non-existent clause 21.1 of Instructions to Consultants is incorrect/misinterpretation.

18. The representative of the Respondent further contended that the Procurement Evaluation Committee examined the submitted documents strictly as per evaluation criteria uploaded on E-PADS, therefore, clarification was not required. This act is in accordance with the PEC guidelines given in the SBD, which states:

"The employer may, at his discretion, ask any bidder for confirmation / submission of missing information to clarify its bid. However, the employer does not have an obligation to request any additional information or clarification with respect to missing or deficient information in a bid. The employer may reject any bid as non-responsive if found materially incomplete. Obscure, irregular or omitting any material information required to be submitted in accordance with the Bidding Documents."

19. The representative of the Respondent further submitted that the PQ document at page No. 14 (para 4.0 Evaluation Criteria) specifies that "The firms shall stand disqualified without fulfilment of mandatory eligibility. Further added, all applications were evaluated in accordance with the

evaluation criteria and other terms and conditions set forth in the prescribed bidding PQ document uploaded on E-PADS. Further added that serial no. 8 & 9 requirements of "Mandatory Eligibility" vide page 14 of Pre-qualification document were required to be furnished by the firm (each firm constituted into joint venture). Further highlighted that it cannot be construed that evaluation has been made other than the criteria given in the PQ Documents. The Technical Evaluation has been made in accordance with the evaluation criteria and other terms and conditions mentioned in the prescribed PQ Document uploaded on E-PADS, which is in accordance with Rule 30 of the Public Procurement Rules, 2004.

20. The representative of the Respondent further contended that in the detailed PQ Report, the mandatory requirements and status / remarks which resulted into "Technical non-responsiveness" are tabulated as under:

Sr. No.	MANDATORY REQUIREMENTS STATUS / REMARKS
01.	Specialized & Design Codes as per RFP CE-11, EE-11, BC-04, and 1204 missing.
02.	Undertaking that non-performance has never occurred, Not attached by all JV
03.	Undertaking of non-blacklisting, Not attached by all JV

Further submitted that in PQ Document at page No. 15, under Mandatory Eligibility at serial No. 8, it is mentioned that undertaking that non-performance has never occurred by the

firm during the past ten years. This undertaking shall be provided on PKR 1000/- non-Judicial stamp paper. Foreign Company to submit undertaking duly attested from their respective Ministry of Foreign Affairs and / or Embassy. In the description the word 'firm' means all firms establishing a Joint Venture. This requirement is binding on all partners of the JV which has not been fulfilled by CCTEB-FWO-ZEERUK JV. The integrity, capacity, and reliability of all JV partners collectively establish the suitability of the JV as a single bidding entity.

21. The Appellate Committee heard arguments of the Parties at length and perused all available record furnished by the Parties to the subject Appeal.

22. In terms of Rules 29 & 30 of the Public Procurement Rules, 2004, which is reproduced as under:

29. Evaluation criteria: -

"Procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement."

30. Evaluation of bids. -

"(1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as

provided for in sub-clause (iv) of clause (c) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.”

It is pertinent to mention that no deviation from the specifications, terms and conditions specified in the bidding documents & evaluation criteria is permissible. The procuring agency may proceed strictly in accordance with terms and conditions set forth in the bidding documents. All participants in the bidding process are bound by the terms and conditions of tender documents and cannot go beyond the purview and ambit of the tender documents.

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23. In accordance with Rule 31 “Clarification of bids” of the Public Procurement Rules, 2004, which is reproduced as under:

“No bidder shall be allowed to alter or modify his bid after the bids have been opened. However, the procuring agency may seek and accept clarifications to the bid that do not change the substance of the bid.”

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24. In the pre-qualification document, (para 4.0 Evaluation Criteria) under heading “Mandatory Eligibility” specifies that “The firms shall stand disqualified without fulfilment of mandatory eligibility.” The relevant clauses are reproduced in tabulated form as under:

Sr.No.	DESCRIPTION	ELIGIBILITY
02.	Relevant Specialization Codes CE-01 (I & ii), CE-02 (ii, vii & x), CE-09, CE-10, CE-11 (I, vii, ix), EE-01 to EE-06, EE11 (I, ii, iii, iv & vi), ME-	Mandatory

Ag.