



F. No. PPRA/AP-54/2026
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 Rafiq & Brothers Enterprises

...the "Appellant"

Vs.

National Institute of Health (NIH), Islamabad & Others

...the "Respondents"

Date of Hearing	Mr. Rafiq Khan <i>(On behalf of Appellant)</i>
31.08.2026	Mr. Arfat Ahmed, Mr. M. Abdul Ahad Aziz <i>(On behalf of Respondent i.e., NIH)</i>

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004 AGAINST THE ILLEGAL TECHNICAL DISQUALIFICATION OF THE APPELLANT, THE FAILURE OF THE GRIEVANCE REDRESSAL COMMITTEE TO DECIDE THE APPELLANT'S STATUTORY GRIEVANCE, AND THE CONSEQUENTIAL PROCUREMENT PROCEEDINGS RELATING TO TENDER NO. P27770 TITLED, REPLACEMENT OF SUI GAS LINES INSTALLED AT NATIONAL INSTITUTE OF HEALTH, ISLAMABAD.

The Authority received the titled Appeal on 07.08.2026, filed under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to the parties wherein it was directed to appear in person or through their nominated representatives or Counsel before the Authority on 31.08.2026 before the Appellate Committee in the Committee Room of this Authority.

2. On the said date of hearing (31.08.2026), the above-mentioned learned representatives of the parties appeared before the

Committee and presented their arguments at length. The Respondent provided written arguments to the Committee.

3. The representative of the Appellant submitted that The Respondent No. 1 invited bids through EPADS for Tender No. P27770 titled "Replacement of Sui Gas Lines Installed at National Institute of Health, Islamabad." The Appellant participated in the tender after fulfilling all mandatory eligibility and technical requirements. Despite complete compliance with the bidding documents, the Appellant was illegally declared technically non-responsive without assigning any lawful reason. Immediately thereafter, the Appellant invoked the statutory remedy by filing a grievance before Respondent No. 5 i.e., the Grievance Redressal Committee on 02.07.2026. Only one hearing was conducted. Thereafter, the proceedings were deliberately stalled without any lawful reason. The Respondents have failed to decide the grievance within a reasonable time and have rendered the statutory remedy illusory.
4. The representative of the Appellant further submitted that the Applicant is an experienced contractor possessing the requisite technical expertise, manpower and resources for execution of the subject work. The Applicant submitted its bid through EPADS strictly in accordance with the bidding documents within the prescribed time. The Applicant complied with all mandatory requirements, eligibility conditions and technical criteria prescribed in the bidding documents and submitted all documents required for technical evaluation. That despite complete compliance, Respondent No.1 illegally and arbitrarily declared the Applicant technically ineligible/non-responsive without assigning any lawful or sustainable reason. That immediately after knowing about the technical disqualification, the Applicant submitted a detailed representation dated 29.06.2026 before the Technical Evaluation Committee

requesting reconsideration of the decision. However, despite the lapse of considerable time, the said representation has neither been decided nor has any speaking order been communicated to the Applicant.

5. Further submitted that the Applicant has, therefore, exhausted the internal remedy available before the Procuring Agency and is constrained to invoke the jurisdiction of this Honorable Grievance Redressal Committee under Rule 48 of the Public Procurement Rules, 2004. That while the Applicant has been illegally disqualified, Respondent Nos. 2 and 3 have been declared technically qualified despite not fulfilling the mandatory eligibility conditions/criteria contained in the bidding documents. That the bidding documents prescribe SNGPL-approved Welder Certification as a mandatory eligibility requirement for execution of the subject work. The Procuring Agency was legally bound to enforce this condition uniformly upon all participating bidders. That the Applicant has reliable information and bona fide believes that Respondent Nos. 2 and 3 do not possess the requisite SNGPL-approved welder certification and had previously been declared ineligible by Sui Northern Gas Pipelines Limited (SNGPL) on account of non-compliance with the said requirement.

6. Further submitted that if Respondent Nos. 2 and 3 indeed lacked the mandatory qualification, their declaration as technically responsive constitutes a patent violation of the bidding documents, rules and regulations, which renders the entire technical evaluation legally unsustainable. That a Procuring Agency cannot selectively relax mandatory eligibility requirements for one bidder while strictly enforcing them against another. Such unequal treatment violates the settled principles of transparency, fairness, equality and competitive procurement embodied in the Public Procurement Rules, 2004. That the impugned evaluation has resulted in hostile

discrimination against the Applicant. The Applicant, despite satisfying the prescribed criteria, has been excluded from the procurement process whereas bidders allegedly lacking a mandatory qualification have been allowed to proceed further. That the Procuring Agency is legally bound by its own bidding documents, rules and regulations, and cannot disregard or dilute mandatory eligibility conditions during evaluation. That unless the impugned evaluation is reviewed, the Applicant shall suffer irreparable financial loss and injury to its valuable commercial rights, whereas no prejudice shall be caused to the Respondents if a fresh technical evaluation is conducted strictly in accordance with law. That Respondent No. 1, without deciding the Applicant's representation/grievance, proceeded to finalize the procurement process and declared Respondent Nos. 2 and 3 as successful bidders. Such action is illegal, arbitrary and contrary to the principles of transparency, fairness and due process under the Public Procurement Rules, 2004. The procurement process ought not to have been finalized before the Applicant's grievance was duly considered and decided.

GROUND

- I. The technical disqualification of the Appellant is illegal and unsupported by the bidding documents.
- II. The failure of the Grievance Redressal Committee to decide the grievance amounts to failure to perform its statutory duty.
- III. The procurement process could not lawfully proceed without an effective decision on the pending grievance.
- IV. Respondent Nos. 2 and 3 have been unlawfully favored despite their failure to satisfy mandatory eligibility requirements.
- V. The impugned actions violate the principles of transparency, fairness, equal treatment and competitive

bidding embodied in the Public Procurement Rules, 2004.

7. The representative of the Respondent No. 1 (NIH) submitted that the Appeal is not maintainable. The Appellant was declared technically non-responsive on account of its own default, namely its failure to submit its bid in original/hard form in the Purchase & Procurement Department of the Respondent Institute as mandatorily required by Clause 27 of the Bidding Documents. A bidder who has not complied with a mandatory, publicly disclosed and pre-accepted condition of the tender acquires no vested or enforceable right in the procurement process and is therefore not a person "aggrieved" within the contemplation of Rule 48 of the Public Procurement Rules, 2004.
8. Further submitted that the Appellant has not approached this forum with clean hands: The Appellant has misrepresented and suppressed the material fact of its non-submission of the bid in hard form, and has instead asserted full compliance with the Bidding Documents. Suppression of a material fact is by itself sufficient to non-suit the Appellant. That the Appellant is estopped by its own conduct: The Appellant purchased the Bidding Documents from the Finance Division of the Respondent Institute in terms of Clause 2, and thereafter signed and stamped the terms and conditions of the tender in terms of Clause 21, thereby unconditionally accepting the entire tender documents including Clause 27. Having accepted those terms in writing, the Appellant cannot now approbate and reprobate, or seek to be excused from a condition it expressly undertook to observe.
9. Further submitted that the Appellant never challenged Clause 27 at the appropriate stage: At no point between the issuance of the Bidding Documents and the deadline for submission of bids did the Appellant raise any objection to, or seek any

clarification of, Clause 27. Having participated in the process on those very terms without any objection, the Appellant has waived and acquiesced in the condition and cannot be permitted to assail it only after being declared non-responsive.

10. Further submitted that the Appellant was declared technically non-responsive for the reason that it failed to submit, in hard form and within the prescribed time, the bid documents required to be submitted along with the bid in the Purchase & Procurement Department of the National Institute of Health, Islamabad. The declaration was made by the duly constituted Bid Evaluation Committee, and the reason therefor was recorded and communicated. That Clause 27 of the Bidding Documents expressly and in mandatory terms provides as under:

"All firms are directed to quote their bids/rates on online portal EPADS 2.0 as well as original bid/rates must be submitted in hard form in Purchase and procurement department, otherwise bid will not be entertained. Constructor must be registered with PPRA EPADS portal (new version 2.0)."

11. The clause is couched in imperative and prohibitory language. The use of the words "are directed", "must be submitted" and, in particular, the negative stipulation "otherwise bid will not be entertained", admits of no discretion whatsoever in the Respondent. It is settled that where a provision prescribes the doing of an act in a particular manner and simultaneously prescribes the consequence of non-compliance, the provision is mandatory and the prescribed consequence must follow. Despite this express and unambiguous requirement, the Appellant failed to submit its complete bid in hard form. The Appellant's participation was therefore confined to the online portal alone, which is only one of the two cumulative and not alternative requirements of Clause 27.

12. That Clause 20 of the Bidding Documents provides as under:

"The sealed envelope should be marked and 'Tender for Replacement of Sui Gas Lines installed at National Institute of Health, Islamabad' on the left corner of the envelope and put in the relevant tender box placed in the office of the Director Purchase and Procurement, National Institute of Health, Chak Shahzad, Islamabad."

13. This clause independently confirms the position stated in Para 1 and 2 above: the Bidding Documents contemplated a physical, sealed bid, marked in a prescribed manner and deposited in a designated tender box at a designated office. Clause 20 prescribes the manner and place of physical submission; Clause 27 prescribes the obligation to submit physically and the consequence of failing to do so. The two clauses form part of one integrated scheme and must be read together.

14. Further submitted that Clause 21 of the Bidding Documents provides that "The terms and conditions of the tender, duly accepted/signed by the bidder must also be attached with the quotation", which further reinforces the position taken in Paras 1 to 3 above, inasmuch as the "quotation" with which the signed terms were to be "attached" could only be the physical bid required by Clauses 20 and 27. That the Appellant purchased the Bidding Documents from the Finance Division of the Respondent Institute in terms of Clause 2 thereof, and thereafter returned the very same Bidding Documents bearing its signature and stamp on the terms and conditions, as required by Clause 21. The Appellant was therefore in undisputed possession and full knowledge of every clause of the Bidding Documents, including Clause 27, well before the deadline for submission of bids. That the Appellant, having thus acknowledged and acted upon Clauses 2 and 21 of the Bidding Documents by submitting the signed and stamped documents in token of its unconditional acceptance of all terms

and conditions of the tender, failed to comply with Clause 27 of the self-same Bidding Documents, which required the submission of the complete and original bid in hard form in the Purchase & Procurement Department of the Respondent Institute. The Appellant's acceptance of the terms and its breach of them relate to one and the same document.

15. Further submitted that the Appellant has thus sought to act upon the Bidding Documents on a "pick and choose" basis, complying with those clauses that suited it and disregarding those that did not, notwithstanding that all such clauses were accepted by it in writing under its signature and stamp. The terms and conditions of a tender constitute an indivisible whole; a bidder is not at liberty to sever them and claim the benefit of the ones it has observed while escaping the consequence of the ones it has breached.
16. Further submitted that the Appellant has misrepresented the facts by asserting before this forum that it had fully complied with the requirements of the Bidding Documents, whereas the record of the Respondent including the tender box record, the bid opening minutes and the attendance of the bid opening proceedings duly signed by the representatives of the bidders present establishes that no complete bid in hard form was received from the Appellant and one other bidder "M/s Tech World Enterprises" which also has been rejected for the same reason.
17. Further submitted that the Respondent has acted, at every stage, in accordance with the Bidding Documents and the Public Procurement Rules, 2004, and has applied the same standard uniformly to every participating bidder. That the requirement of Clause 27 is neither discriminatory nor difficult within the meaning of Rule 32 of the Public Procurement Rules, 2004. It is a condition of general application, notified in

advance to all prospective bidders, consistent with ordinary trade practice, and serves the legitimate purpose of enabling verification of the original signed and stamped bid documents and of preserving the integrity of the process against any failure or dispute concerning the electronic portal.

18. Further submitted that Rule 4 of the Public Procurement Rules, 2004, obliges a procuring agency to conduct procurement in a fair and transparent manner. Fairness runs to all bidders, not to the defaulting bidder alone. Relaxing Clause 27 for the Appellant would be manifestly unfair to those bidders who incurred the cost and effort of complying with it. That Rule 29 of the said Rules makes the evaluation criteria an integral part of the Bidding Documents, and Rule 30 mandates that bids "shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents". The Respondent was therefore under a statutory obligation to apply Clause 27 as written; it possessed no residuary discretion to overlook it. As per PPRA rules, NIH framed ToRs of the tender that included technical and financial requirements. The tender documents were also uploaded on EPADS and as per PPRA rule 48(1), any objection/grievance on the terms and conditions of the tender has to be submitted before opening of bids but no firm raised any objection before opening of the bid.

19. Further submitted that it is a settled principle that where a statute or a binding instrument requires an act to be done in a particular manner and prescribes the consequence of default, the act must be done in that manner or not at all. Clause 27 both prescribes the manner (hard form, in the Purchase & Procurement Department) and the consequence ("bid will not be entertained"). That a bidder who has signed and stamped the terms and conditions of a tender is bound by them, and is estopped from resisting the very consequence for which it has

contracted. A party cannot approbate and reprobate in respect of one and the same instrument.

20. Further submitted that the Appellant, having neither objected to Clause 27 before the deadline for submission of bids nor sought any clarification in respect thereof, has waived any right to impugn it thereafter. An objection to the terms of a tender must be raised before participation; it cannot be kept in reserve as an insurance against an adverse evaluation. That no mala fide, bias, collusion, favoritism or extraneous consideration has been pleaded or established against the Respondent or any member of its Bid Evaluation Committee. In the absence of such an allegation, duly particularized and supported, the technical evaluation carried out by the competent Committee is not liable to be disturbed. That the interference sought by the Appellant would prejudice the institute's interest, delay a procurement relating to the replacement of Sui gas lines at a public health institution.

21. The representative of the Respondent further submitted that no objection was raised by the Appellant at the time of signing of the terms and conditions. Furthermore, the Appellant failed to submit a complete physical bid in the prescribed form and manner. Consequently, the bid was liable to be rejected and was accordingly not entertained.

22. Clause 27 of the Bidding Documents expressly and mandatorily stipulates as follows:

"All firms are directed to quote their bids/rates on online portal EPADS 2.0 as well as original bid/rates must be submitted in hard form in Purchase and Procurement Department, otherwise bid will not be entertained. Constructor must be registered with PPRA EPADS portal (new version 2.0)."

23. The aforesaid clause imposes a mandatory requirement upon all participating bidders to submit their bids/rates through the

EPADS 2.0 online portal as well as to furnish the original bid/rates in hard copy before the Purchase and Procurement Department. Non-compliance with either of the prescribed requirements renders the bid liable to rejection and disentitles the bidder from consideration in the procurement process.

24. The learned representative of the Respondent, i.e. National Institutes of Health (NIH), submitted that a new Grievance Redressal Committee ("GRC") has been constituted vide Office Order dated 27.08.2026, in accordance with Rule 48(1) of the Public Procurement Rules, 2004, for the purpose of examining and adjudicating grievances/complaints preferred by bidders in relation to procurement proceedings.
25. The instant Appeal No. PPRA/AP-54/2026 has been preferred by the Appellant under the relevant provisions of the Public Procurement Rules, 2004, assailing its declaration as technically non-responsive in respect of Tender No. P27770, titled "Replacement of Sui Gas Lines Installed at National Institute of Health, Islamabad", floated by Respondent No.1, National Institutes of Health (NIH), Islamabad.
26. 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.

27. 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 shall 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.

28. Clause 27 of the Bidding Documents expressly and in mandatory terms provides as under:

"All firms are directed to quote their bids/rates on online portal EPADS 2.0 as well as original bid/rates must be submitted in hard form in Purchase and procurement department, otherwise bid will not be entertained. Constructor must be registered with PPRA EPADS portal (new version 2.0)."

29. The Appellate Committee has heard the learned representatives of the parties and have carefully considered the submissions advanced.

30. It is an admitted position that the subject procurement is governed by the terms and conditions contained in the bidding documents and that the Appellant was declared technically non-responsive by the Procuring Agency. It is also apparent from the record/submissions that the Appellant had raised a grievance concerning its technical disqualification and that the said grievance has not yet attained final adjudication by the Grievance Redressal Committee of the Procuring Agency.

31. The Appellate Committee observed that the Respondent has relied upon Clause 27 of the Bidding Documents, which specifically requires submission of the bid through EPADS 2.0

as well as submission of the original bid/rates in hard form before the Purchase & Procurement Department, with the express stipulation that otherwise the bid would not be entertained.

32. The Appellate Committee is of the view that, at this stage, it would neither be appropriate nor legally expedient for this Appellate Forum to render a final determination on the disputed factual and technical questions when the Appellant's grievance is still pending before the competent Grievance Redressal Committee of the Procuring Agency.

33. The Respondent No.1 has also informed the Appellate Committee that a new Grievance Redressal Committee has been constituted vide Office Order dated 27.08.2026 in terms of Rule 48(1) of the Public Procurement Rules, 2004. The constitution of the new GRC provides an appropriate statutory forum for examination of the Appellant's grievance in the first instance.

34. The purpose of the grievance redressal mechanism is to ensure that a bidder raising a grievance against any action or decision of the Procuring Agency is afforded a fair and meaningful opportunity of hearing and that the grievance is considered and decided by the competent forum in accordance with law. At the same time, the Procuring Agency is required to act strictly in accordance with the bidding documents and the applicable provisions of the Public Procurement Rules, 2004.

35. In the circumstances, the Appellate Committee deem it appropriate to refrain from expressing any conclusive opinion on the merits. The issues raised by the Appellant, including its alleged compliance with the bidding requirements, the applicability and effect of Clauses 20, 21 and 27 of the Bidding Documents, and the allegations concerning the eligibility of

Respondent Nos. 2 and 3, are therefore left open for consideration by the competent GRC.

36. The GRC shall independently examine the matter on the basis of the procurement record and the applicable law and shall not treat any observation contained in this order, other than the directions issued herein, as an expression of opinion on the ultimate merits of the grievance.

37. For the foregoing reasons, the instant Appeal is disposed of, without adjudication of the merits of the respective claims of the parties, with the following directions:

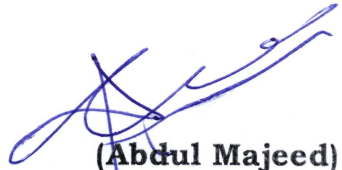
- 1) The Grievance Redressal Committee of Respondent No.1, National Institutes of Health (NIH), Islamabad, constituted vide Office Order dated 27.08.2026 under Rule 48(1) of the Public Procurement Rules, 2004, shall take up the grievance/complaint of the Appellant for consideration.
- 2) The GRC shall afford the Appellant a proper and meaningful opportunity of hearing and shall also provide the concerned Respondents/other affected bidders, where necessary, an opportunity to place their respective positions on record.
- 3) The GRC shall examine the Appellant's grievance in the light of the complete procurement record, bidding documents, technical evaluation report, relevant correspondence and the applicable provisions of the Public Procurement Rules, 2004.
- 4) The GRC shall specifically examine and determine, in accordance with law, the objections raised by the Appellant concerning its technical disqualification, including the requirement contained in Clause 27 of the Bidding Documents, as well as the Appellant's allegations regarding compliance with the prescribed eligibility/technical requirements by Respondent Nos. 2 and 3.
- 5) After affording due opportunity of hearing to the concerned parties, the GRC shall pass a reasoned and speaking order,

determining whether the grievance of the Appellant has any merit and, if so, what relief, if any, is legally warranted.

- 6) The GRC shall endeavour to decide the grievance expeditiously and in accordance with law, preferably within a period of ten days from the date of receipt of a certified copy of this order.
- 7) Nothing contained in this order shall be construed as an expression of opinion by this Appellate Forum on the merits of the Appellant's grievance or the defence raised by the Respondent. All questions of fact and law are left open for determination by the GRC in accordance with the applicable law and bidding documents.

38. With the above directions, the Appeal stands *disposed of*.


(Dr. Muhammad Aslam Waseem)
Director General (Legal)
(Member)


(Abdul Majeed)
Sr. Specialist (M&E)
(Member)


(Hasnat Ahmed Qureshi)
Managing Director (PPRA)
(Chairman of the Committee)

Dated: 3rd September, 2026

Each page of the order has been signed by all members of the Committee. The order comprises fifteen (15) pages.

