F. No. PPRA/AP-72/2026
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad
<><><>

ORDER

M/s MAK Pumps Company (Pvt.) Ltd.

...the "Appellant"

Vs.

The Chief Commissionerate for Afghan Refugees & Others

...the "Respondents"

Date of Hearing **10.11.2026**	Mr. Nouman Khan Kundi (Advocate), Syed M. Imran ***(On behalf of Appellant)*** Engr. M. Arif (Project Director), Ms. Tehmeena Furqan (Sr. Engr. NESPAK), Mr. M. Adnan Rashid (M/o KA, GB & SAFRON), Mr. Ahmed Ali (M/s Sustainable Energy) ***(On behalf of Respondents)***

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004 AGAINST RESPONDENT'S FOR DISMISSING THE APPELLANT COMPLAINT DATED 16.10.2026, REGARDING ILLEGAL DIS-QULIFICATION IN THE PRE-QUALIFICATION EVALUATION PROCESS, AND AGAINST ILLEGAL AWARD OF MARKS AND SHORTLISTING OF UN-QUALIFIED FIRMS. FURTHERMORE, TO CANCEL / STOP ALL THE ON GOING PROCEEDINGS TILL THE DECISION OF INSTANT CASE.

The Authority received the titled Appeal on 22.10.2026, filed by M/s Cititek (Pvt.) Ltd. (the "Appellant") under Rule 48(7) of the Public Procurement Rules, 2004 (the "PP Rules, 2004"). On the date fixed for hearing, the learned

counsel and representatives of the Appellant as well as the Respondents appeared before the Appellate Committee (the "Committee").

2. At the outset, learned counsel for the **Appellant i.e., M/s MAK Pumps Company (Pvt.) Ltd.** submitted that the Respondent No. 1 issued a Pre-Qualification Document (PQD) for Solarization Works in the Education, Health, Water Supply, Irrigation and Renewable Energy Sectors in four provinces under the Hosting Community Support Program. Being fully eligible and possessing the requisite qualifications, experience and equipment capabilities, the Appellant participated in the pre-qualification process in accordance with the prescribed requirements.

3. The counsel for the Appellant also submitted that they had fulfilled all mandatory requirements and submitted the requisite supporting documents. However, it was disqualified through the Technical Evaluation Report solely on the ground of non-submission of an equipment affidavit and was also awarded zero marks under the heads of *Experience Record–In-Hand Projects* and *Equipment Capabilities*, without proper consideration of the documents submitted with its application.

4. The counsel for the Appellant further submitted that Clause 2.3.2(A)(e) of the PQD required an affidavit regarding non-blacklisting on stamp paper, duly executed by the authorized signatory within the current month of submission. No separate affidavit for each undertaking or statement was prescribed. Accordingly, the Appellant submitted an affidavit dated 16.06.2026, duly attested by the Oath Commissioner, along with its equipment undertaking executed on stamp paper.

5. The counsel for the Appellant also added that, being aggrieved, the Appellant filed a grievance dated 28.09.2026, seeking reconsideration of its equipment undertaking, detailed equipment particulars and ongoing / in-hand projects. However, the GRC, through its decision dated 16.10.2026, dismissed the grievance and introduced additional requirements for submitting separate stamp papers for non-blacklisting and equipment undertakings, as well as a specific affidavit containing details of equipment owned and available with the firm, although no such requirements were prescribed in the original PQD.

6. The counsel for the Appellant also submitted that they had already furnished complete equipment particulars, marked the relevant *OWNED* columns and submitted the requisite undertaking. In this regard, Column No. 14 of the Checklist expressly required an undertaking that the *"equipment listed in the pre-qualification document will be made available for the said project."* Therefore, its disqualification on the ground that the undertaking stated *"will be available"* instead of *"is available"* was misconceived, inconsistent with the bidding documents and based on an excessively technical interpretation of the prescribed requirement.

7. The counsel for the Appellant further added that, in compliance with Clause 2.3.2(B.3) of the PQD, it had furnished complete equipment details, including the number of kits, descriptions, manufacturers, capacities, current locations and sources. The Appellant marked the equipment as *OWNED*, declared quantities exceeding the prescribed requirements and also submitted supporting photographs. Likewise, it furnished relevant experience details along with contracts, agreements and other supporting documents establishing its ongoing contractual commitments. Therefore, the award of zero marks under the heads of *Equipment*

Capabilities and *In-Hand Projects* was arbitrary and contrary to the prescribed evaluation criteria.

8. The counsel for the Appellant further argued and referred the Clause 19 of the PQD, titled *Clarification of Applications*, which empowered the Procuring Agency to seek clarification regarding any ambiguity or discrepancy in the submitted documents. It was contended that the alleged discrepancy in the wording of the equipment undertaking was minor and readily clarifiable. Instead of disqualifying the Appellant, the Procuring Agency ought to have sought clarification under the said clause, particularly when the Appellant had already furnished equipment particulars and ownership declarations.

9. The counsel for the Appellant also added and challenged the technical qualification of Respondent Nos. 4 (Sustainable Energy Associates, Pvt. Ltd.) and 5 (Vector Engineering & Services Pvt. Ltd), contending that their average annual turnovers were PKR 67.16 million and PKR 38.69 million, respectively, against the mandatory minimum requirement of PKR 250 million. It was submitted that the Procuring Agency was bound to apply the prescribed financial eligibility criteria uniformly and could not relax or selectively disregard a mandatory requirement in favour of particular bidders. Accordingly, the Appellant sought fresh scrutiny of their financial eligibility through verification of their audited financial statements and applicable turnover calculations.

10. The counsel for the Appellant further contended that the GRC, while dismissing its grievance on 16.10.2026, failed to address material objections regarding the award of zero marks for ongoing / in-hand projects, the interpretation of Column No. 14 of the Checklist, the applicability of Clause 19, the additional affidavit and separate stamp-paper

requirements, and the financial eligibility of Respondent Nos. 4 and 5. Consequently, the impugned decision was non-speaking, incomplete and legally unsustainable.

11. The counsel for the Appellant also submitted that their disqualification, despite fulfilment of the prescribed requirements, and the qualification of Respondent Nos. 4 and 5 despite their alleged failure to meet the mandatory financial criteria, demonstrated discriminatory and inconsistent application of the PQD. It was further submitted that any alleged discrepancy in its application was merely technical and did not constitute material non-compliance warranting disqualification. The entire evaluation process, therefore, required reconsideration in accordance with the published criteria and principles of transparency, fairness and equal treatment of bidders.

12. In view of the foregoing, the Appellant prayed that the appeal be accepted and its technical bid be declared responsive; the technical pre-qualification of Respondent Nos. 4 and 5 be reviewed with particular reference to the minimum average annual turnover requirement of PKR 250 million; appropriate marks be awarded to the Appellant under the heads of *Equipment Capabilities* and *In-Hand Projects* and verified FBR turnover records of Respondent Nos. 4 and 5 be requisitioned. The Appellant further sought declaration of the GRC's decision dated 16.10.2026 and the impugned actions of the Procuring Agency as illegal, unlawful and contrary to the PQD, principles of natural justice, transparency, fairness and accountability, along with any other relief deemed appropriate by the Authority.

13. On the other side, learned representative of the **Respondent No. 1 i.e., the Chief Commissionerate for Afghan Refugees (CCAR)** submitted that the instant appeal

filed by M/s MAK Pumps Company (Pvt.) Ltd. ("the Appellant") is misconceived, as it seeks to reopen the evaluation merely due to disagreement with the assessment of its application and unsubstantiated allegations against other applicants. The Respondent relied upon the Pre-qualification Document ("PQD"), applications received, evaluation record and GRC decision dated 16.10.2026, and denied all allegations contrary to the official procurement record, requiring the Appellant to substantiate its claims through relevant PQD clauses and contemporaneous documents.

14. The representative of the Respondent (CCAR) also submitted that, Note (ii) under Clause B.3 of the PQD expressly required an undertaking confirming the "Availability of the mentioned Equipment" to establish the Appellant's technical capability. However, the affidavit titled "No-Litigation, No Bankruptcy, No-Blacklisting and Equipment Undertaking" submitted by the Appellant contained no specific or detailed equipment list, while the accompanying photographs could not be correlated with any equipment declaration, hence, the availability of the requisite equipment could not be independently verified.

15. The representative of the Respondent (CCAR) further submitted that the requirement under Note (ii) of Clause B.3 remained unfulfilled and that the evaluation was conducted strictly in accordance with the PQD. The CCAR Procurement Committee subsequently re-evaluated the application and finalized the Pre-qualification Evaluation Report, which was endorsed by the GRC. Moreover, Rules 29 and 30(1) of the Public Procurement Rules, 2004, require evaluation in accordance with clear, unambiguous and disclosed criteria. Since the equipment availability requirement was expressly incorporated in Note (ii) of Clause B.3, no additional, undisclosed or extraneous criterion was applied. The mere

consolidation of the equipment undertaking with other declarations in one affidavit was not determinative, rather its substantive contents were required to satisfy the prescribed requirement.

16. The representative of the Respondent (CCAR) further argued that a declaration stating that equipment "will be made available" constitutes a commitment regarding future availability and is not equivalent to confirming that the equipment "is available with the firm", as required under the PQD. Accordingly, the Appellant failed to establish compliance with the prescribed technical capability requirement, and its evaluation was neither arbitrary nor discriminatory. Furthermore, the appeal appeared to be an attempt to cause undue delay in a time-sensitive public project, particularly when very limited time remained for its completion. Any unnecessary delay would jeopardize the project's results and deliverables, while the development funds allocated thereto were strictly time-bound and could not be withheld for a prolonged period, hence, requested for dismissal of the instant appeal.

17. On the other hand, learned representative of the **Respondent No. 2 i.e., Ministry of Kashmir Affairs, Gilgit-Baltistan and SAFRON** submitted that the grievance filed by the Appellant before GRC was devoid of merit, as the GRC's decision is in accordance with the Public Procurement Rules. Moreover, instead of furnishing the prescribed affidavit(s), the Appellant submitted a single generalised stamp paper combining undertakings regarding non-blacklisting, non-bankruptcy and equipment, stating that the equipment *"WILL"* be made available, which established only future intent rather than present availability or ownership. Further, the submitted photographs, lacking geotagging, location details and proof of ownership, could not substitute the mandatory

documentary requirements. The conditional and future-oriented undertaking constituted a material deviation. Therefore, the appeal in hand may kindly be dismissed and the GRC decision dated 14.10.2026 upheld in the interest of justice and transparent public procurement.

18. On the other side, learned representative of the **Respondent No. 4 i.e., Sustainable Energy Associates Pvt. Ltd.** submitted that the Appellant's allegation regarding the alleged average annual turnover of Rs. 67.16 million is based on the income tax returns of Respondent No. 4, whereas Clause B.4(a) of Pre-Qualification Document No. 0156-PQD-SW (HCSP) expressly requires submission of audited financial statements for the preceding three years, duly certified by Chartered Accountants. The said clause does not prescribe income tax returns or FBR records for turnover assessment. Accordingly, the Appellant cannot introduce an additional evaluation criterion contrary to the published bidding documents, particularly when it itself objects to additional documentary requirements. The Appellant cannot approbate and reprobate by demanding strict application of the prescribed criteria for itself while seeking a different standard for Respondent No. 4.

19. The representative of the Respondent No. 4 also submitted that Clause B.4(b) provides marks for annual turnover during any of the last three years, awarding 12.5 marks for turnover exceeding Rs. 500 million and 6.25 marks for turnover between Rs. 250 million and Rs. 500 million. It neither prescribes an average turnover calculation nor treats Rs. 250 million as a mandatory disqualification threshold. Furthermore, Clause B.4(c) allocates 12.5 marks for liquid assets exceeding Rs. 150 million and 6.25 marks for assets between Rs. 75 million and Rs. 150 million. Under Clause 2.3.1, an applicant must secure at least 50% marks in each

category, in addition to fulfilling mandatory requirements, on a Pass / Fail basis. Thus, the passing requirement for financial soundness is 12.5 out of 25 marks. FBR registration and Active Taxpayer status are separately prescribed under Clauses 2.3.2 A(c) and A(d), which the said Respondent duly fulfilled, however, FBR turnover is nowhere prescribed as a financial evaluation criterion.

20. The representative of the Respondent No. 4 further submitted that audited financial statements for the years ended 31.12.2023, 31.12.2024 and 31.12.2025, reflecting audited Revenue / Work Done of Rs. 496,556,293 (Rs. 496.56 million), Rs. 556,143,048 (Rs. 556.14 million) and Rs. 750,793,115 (Rs. 750.79 million), respectively. These figures are reflected in the audited Profit and Loss Accounts at pages 39, 49 and 61 of the submitted financial documents and are corroborated by comparative figures in subsequent audited accounts. The respective total assets were Rs. 253,449,398, Rs. 298,770,228 and Rs. 474,032,235. Accordingly, its turnover for 2024 and 2025 independently exceeds Rs. 500 million, entitling it to maximum 12.5 marks under Clause B.4(b), which alone fulfils the passing requirement for Financial Soundness. Moreover, its audited balance sheet as at 31.12.2025 reflected cash and cash equivalents of Rs. 287,773,947, current assets of Rs. 439,031,035 and working capital of Rs. 432,932,426, exceeding the maximum liquid-assets slab of Rs. 150 million under Clause B.4(c). Even if the Appellant's incorrect averaging method is applied, the average audited turnover is Rs. 601.16 million, while the lowest annual turnover is Rs. 496.56 million.

21. The representative of the Respondent No. 4 also added that the Appellant's objection is based on an incorrect source, calculation method and interpretation of the financial criteria. Income tax returns are fiscal declarations for tax

assessment under the Income Tax Ordinance, 2001, whereas audited financial statements reflect the revenue / work done of an enterprise and are the documents expressly prescribed under Clause B.4. The Appellant has also incorrectly converted the Rs. 250 million marks slab into a mandatory disqualification threshold, although qualification is determined under Clause 2.3.1 through fulfilment of mandatory requirements and achievement of 50% marks in each category. No relaxation or preferential treatment was extended to Respondent No. 4, rather the Procuring Agency applied the published criteria uniformly. The Appellant's request for verification of FBR turnover of Respondents No. 4 and 5 is, therefore, an unwarranted inquiry into material irrelevant to the prescribed financial evaluation.

22. The representative of the Respondent No. 4 also submitted that the income tax returns of said Respondent produced by the Appellant before this Authority are confidential fiscal documents, which were neither provided to the Appellant nor authorised to be obtained, copied or produced by the Answering Respondent. The same were placed on record without its consent, authority or knowledge, apparently through an unauthorised disclosure and the Appellant has not disclosed their source. Section 216(1) of the Income Tax Ordinance, 2001 protects the confidentiality of particulars contained in tax returns, subject to the statutory exceptions under Section 216(3), which do not extend to competing bidders in procurement proceedings. Section 216(2) also restricts any court or authority from requiring production of such returns except as provided under the Ordinance. Unauthorized disclosure attracts penal consequences under Sections 198 and 199, including the prescribed fines and imprisonment. Reliance is also placed upon the observations of the Honourable Supreme Court in

the Justice Qazi Faez Isa case regarding statutory confidentiality of tax information.

23. The representative of the Respondent No. 4 also submitted that the Appellant should be directed to disclose on affidavit the source from which and authority under which it obtained the confidential tax returns of Respondent No. 4. Their procurement and production without consent, if established as unauthorized, attracts the consequences prescribed under the law. The said returns, including every figure derived therefrom and the alleged turnover of Rs. 67.16 million, are liable to be excluded and expunged from the record, and the Appellant restrained from further using, copying or disseminating them. The matter may also be referred to FBR for investigation and appropriate action under Sections 198 and 199 of the Income Tax Ordinance, 2001, besides initiation / recommendation of proceedings against the Appellant in accordance with law, including debarment proceedings, if warranted.

24. At the last, the representative of the Respondent No. 4 further submitted that the Appeal in hand, relating to the Appellant's incorporation, registrations, pre-qualification application, equipment affidavit, disqualification, zero marks, grievance dated 28.09.2026 and GRC decision dated 16.10.2026, are not admitted for want of knowledge, except to the extent borne out by the official record, as the said Respondent was not involved in the Appellant's evaluation. Therefore, in view of the foregoing, it is respectfully prayed that the Appeal, insofar as it concerns Respondent No. 4, be dismissed.

25. It is pertinent to mention that, despite due service of notice of hearing, no one appeared on behalf of **Respondent No. 5, i.e., M/s Vector Engineering & Services (Pvt.) Ltd.**,

nor did the said Respondent submit any written reply or comments in response to the instant appeal. Accordingly, the Committee decided to proceed ex-parte against the said Respondent.

26. After perusal of all available record and arguments rendered by the all the parties, the Appellate Committee ("the Committee") observed that the principal controversy concerns the interpretation of equipment availability requirements, award of marks under the heads of Equipment Capabilities and In-Hand Projects, and financial eligibility of Respondent Nos. 4 and 5. The Procuring Agency was obligated to evaluate all applications strictly in accordance with the criteria and requirements expressly stipulated in the PQD.

27. At the first instance, the Committee observed that the Appellant submitted an affidavit dated 16.06.2026, duly attested by the Oath Commissioner, along with its equipment undertaking. However, the Procuring Agency subsequently insisted upon separate stamp papers and additional affidavits for non-blacklisting and equipment availability, although no such separate requirement was expressly prescribed in Clause 2.3.2(A)(e) of the PQD. The Committee is of the view that the consolidation of different declarations in one affidavit could not, by itself, constitute a valid ground for disqualification, provided the prescribed substantive requirements had been fulfilled.

28. The Committee also observed that, regarding equipment availability, the Column No. 14 of the Checklist required an undertaking that the *"equipment listed in the pre-qualification document will be made available for the said project."* The Appellant claims to have furnished complete equipment particulars, marked the relevant columns as *OWNED*, declared the requisite quantities and submitted

supporting photographs. In these circumstances, treating the expression *"will be made available"* as non-compliant merely because it did not state *"is available"* appears inconsistent with the express wording of the PQD. The equipment undertaking was required to be examined collectively with the equipment particulars and ownership declarations rather than in isolation.

29. The Committee further observed that the Procuring Agency failed to satisfactorily demonstrate that the equipment details, including quantities, manufacturers, capacities, locations and sources, along with supporting photographs, were properly examined against the prescribed requirements. Moreover, where any ambiguity or discrepancy existed in the submitted documents, the Procuring Agency ought to have considered seeking clarification under Clause 19 of the PQD, provided that such clarification did not involve material alteration of the original application.

30. The Committee also noted that the Appellant was awarded zero marks under the heads of *Equipment Capabilities* and *Experience Record–In-Hand Projects*, despite its claim of having furnished equipment details, photographs, ongoing project particulars, contracts, agreements and supporting documents. The evaluation record does not sufficiently demonstrate the basis for awarding zero marks or how the submitted documents were assessed against the prescribed criteria. The Committee is, therefore, of the view that the said assessment requires fresh examination and a reasoned determination in accordance with the PQD.

31. The Committee further noted that the concerns regarding the financial eligibility of Respondent Nos. 4 and 5, and the Appellant's objection concerning the alleged minimum average annual turnover requirement of PKR 250 million, as

well as Respondent No. 4's contention that Clauses B.4(a), B.4(b) and B.4(c) prescribe assessment through audited financial statements, annual turnover and liquid assets, rather than an independent average-turnover disqualification threshold. The Committee observed that financial eligibility must be determined strictly in accordance with Clauses 2.3.1, B.4(a), B.4(b) and B.4(c) of the PQD. Accordingly, the audited financial statements and supporting documents of Respondent Nos. 4 and 5 require verification against the originally prescribed criteria, without introducing any additional requirement or extending any undue relaxation.

32. The Committee also considered Respondent No. 4's objection regarding the alleged unauthorised acquisition and production of its income tax returns and the confidentiality provisions of Section 216 of the Income Tax Ordinance, 2001. In this regard Respondent is at liberty to initiate appropriate proceedings against the Appellant, in accordance with the applicable laws, in respect of the alleged unauthorised acquisition and production of its income tax returns.

33. The Committee further observed that the GRC, while deciding the Appellant's grievance, failed to adequately address the material objections concerning the interpretation of Column No. 14, separate affidavit requirements, applicability of Clause 19, award of zero marks under the relevant technical heads and financial eligibility of Respondent Nos. 4 and 5. The impugned decision, therefore, does not sufficiently demonstrate proper application of mind to the material objections raised by the Appellant and is deficient in providing cogent reasons.

34. In view of the foregoing, the Committee is of the considered view that the Procuring Agency failed to adequately examine the Appellant's application in its entirety and adopted

an unduly restrictive interpretation of the equipment undertaking, while also imposing additional documentary requirements not expressly stipulated in the PQD. The failure to properly assess the supporting documents, consider clarification under Clause 19 and record reasons for awarding zero marks under the relevant technical heads renders the evaluation procedurally deficient.

35. The Committee further holds that the financial eligibility of Respondent Nos. 4 and 5 must be independently examined against the prescribed financial criteria, without discrimination or relaxation. The failure of the GRC to address the material objections raised by the Appellant through a reasoned decision further renders the impugned decision unsustainable. Accordingly, the Committee finds that the instant appeal has merits.

36. For what the reasons, observations and findings made above, the Appellate Committee hereby **allowed / accepted** the instant appeal filed under Rule 48(7) of the Public Procurement Rules, 2004. Consequently, the impugned GRC decision dated 16.10.2026, along with the consequential evaluation findings relating to the Appellant, is hereby set aside to the extent challenged in the instant appeal.

37. The Respondent No. 1 / the Procuring Agency is directed to conduct a fresh evaluation / reassessment of the Appellant's application strictly in accordance with the original PQD and the Public Procurement Rules, 2004, ensuring that the affidavit and equipment undertaking are examined in accordance with Clause 2.3.2(A)(e), Clause 2.3.2(B.3), Note (ii), and Column No. 14 of the Checklist, without imposing additional requirements for separate affidavits or stamp papers not prescribed in the original PQD. Furthermore, the marks under *Equipment Capabilities* and *Experience Record–*

In-Hand Projects shall be reassessed on the basis of the documents, contracts, agreements and supporting evidence submitted by the Appellant, with reasons duly recorded. The Procuring Agency shall ensure that the fresh evaluation is transparent, impartial, uniform and strictly based on the originally disclosed criteria.

(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: 18th November, 2026

Each page of the order has been signed by all members of the Committee. The order comprises sixteen (16) pages.