

REPORT OF GRIEVANCE REDRESSAL COMMITTEE ON THE GRIEVANCES FILED BY MR. MUHAMMAD IMRAN MASOOD, AUTHORIZED REPRESENTATIVE OF M/s. VITAL STAR PRIVATE LIMITED, LAHORE ON TENDER PROCESS AND BID OPENING OF OPERATION AND MAINTENANCE SERVICES FOR METRO RAIL TRANSIT SYSTEM ON THE ORANGE LINE IN LAHORE (ALI TOWN TO DERA GUJRAN)

A tender was floated for Operation and Maintenance Services for Metro Rail Transit System on the Orange Line in Lahore (Ali Town to Dera Gujran) by the Punjab Masstransit Authority. Two (2) bidders M/s. NORINCO-GMG-DAEWOO, Joint Venture and M/s. CRCCI-VS-SM-BM Joint Venture participated in the tender. M/s. NORINCO-GMG-DAEWOO, Joint Venture emerged as the lowest evaluated bidder.

2. Punjab Masstransit Authority constituted the following Grievance Redressal Committee for Operations and Maintenance Services of Orange Line Metro Train Project under Rule 67 of Punjab Procurement Rules, 2014: -

- | | |
|---|----------|
| I. Deputy Secretary (Dev)Transport Department | Convener |
| II. Senior Transport Planner, Transport Planning Unit | Member |
| III. Chief (Transport), Planning & Development Deptt. | Member |

3. Mr. Muhammad Imran Masood, representative of Vital Star Pvt. Ltd. Lahore, a partner of the Joint Venture of M/s. CRCCI-VS-SM-BM filed grievance to Punjab Masstransit Authority over the bidding process of Operation and Maintenance Services for Metro Rail Transit System on the Orange Line under Rule 67 (2) of Punjab Procurement Rules, 2014. General Manager (Operations) Punjab Masstransit Authority forwarded the letter of Mr. Muhammad Imran Masood to Grievance Redressal Committee vide letter No. PMA-OL-TNDA-OPS/10 dated 06-11-2019.

4. Grievance Redressal Committee (GRC) conducted the proceedings under Rule 67 of Punjab Procurement Rules, 2014. The following parties were summoned to appear before GRC vide letters dated 13.11.2019, 15.11.2019 and 22.11.2019 for submission of their stance /reply: -

- i. The General Manager Operations/
Chairman Tender Evaluation Committee and other members,
Punjab Masstransit Authority.
- ii. Mr. Guo Kaiyong,
Authorised Representative of NORINCO-GMG-DAEWOO,
Joint Venture, Commercial Plaza 76-D, DHA Phase-12/EME, Sector,
Multan Road, Lahore.



- iii. Mr. Muhammad Imran Masood,
Business Development Director,
M/s Vital Star (Pvt.) Ltd. 1st Floor PAAF Building,
7-D Kashmir Edgerton Road, Lahore.
 - iv. Mr. Wang Lei,
Executive Managing Director (Pakistan),
China Railway Construction Corporation (International) Limited and
Authorized Representative of CRCCI-VS-SM-BM Joint Venture,
House 3, Street 2, F-8/3, Islamabad.
5. In response following persons appeared before the GRC: -
- i. Mr. Muhammad Imran Masood,
Authorized Representative of Vital Star Pvt. Ltd. Lahore.
 - ii. Mr. Iftikharuddin Riaz, Barrister, ASC
on behalf of M/s Vital Star Pvt. Ltd. Lahore.
 - iii. Mr. Arif Baig on behalf of M/s Vital Star Pvt. Ltd. Lahore.
 - iv. Mr. Guo Kaiyong, Authorised Representative of NORINCO-GMG-
DAEWOO, Joint Venture
 - v. Mr. Tang Pengcheng, Project Manager, M/s NORINCO International
Ltd.
 - vi. Mr. Zhu Cong, M/s NORINCO International Ltd.
 - vii. Mr. Che Weixing, M/s NORINCO International Ltd.
 - viii. Mr. Wang, Weiwei, CRCCI-VS-SM-BM, Joint Venture.
 - ix. Mr. Faisal Zaffar, Advocate / Legal Advisor, M/s. NORINCO-GMG-
DAEWOO
 - x. Mr. Muhammad Ozair Shah, General Manager Operations, PMA
 - xi. Mr. Rizwan Aziz, PMA
 - xii. Mr. Muhammad Adil Mumtaz, PMA
6. M/s. NORINCO-GMG-DAEWOO, Joint Venture submitted the reply and stated that the grievance is not lodged by the bidder of the tender process; hence the complaint is liable to be summarily rejected being filed by an incompetent person/ Company.
7. Punjab Masstransit Authority also submitted their response. General Manager (Operations)/ Chairman Technical Evaluation Committee (TEC) informed that authorized representative of M/s. CRCCI-VS-SM-BM Joint Venture had intimated that China Railway Construction Corporation (International) Limited is not aware about the issuance of grievance letter submitted by M/s Vital Star Pvt. Limited.
8. Mr. Wang Lei, Authorized Representative of CRCCI vide letter No. LHE/TND/20190004 dated 19.11.2019 submitted to the Grievance Redressal

Committee that CRCCI have not issued the letter with reference number JV/TND/R2019008 dated 29-10-2019 and they were not aware about the issuance of letter. CRCCI have no intension to proceed GRC procedure on the tender process and bid opening of the Orange Line Project. CRCCI further stated that they accept the tender evaluation result and have no objection for any decision on mentioned subject. Authorized representative of M/s. CRCCI was again summoned to appear before the GRC on 22-11-2019 to record their stance. In response, M/s. CRCCI submitted their written reply vide letter no. LHE/TND/200190005 dated 21-11-2019 and reiterated their earlier stance.

9. During the hearing proceedings, Mr. Imran Masood representing Vital Star contented that;

- a. Violation of ITB directions and Punjab Procurement Rules, 2014 has been observed during the opening of financial bids.
- b. Representative of M/s. NORINCO-GMG-DAEWOO JV used digital device during tender opening meeting, which is violation of ITB Clause 16.3.
- c. The procuring agency did not follow the advice of MD PPRA regarding conducting two stage bidding process.
- d. Due care was not warranted by PMA to address allegations levelled by them against Daewoo Bus Service, Pakistan and written advice was also not sought from PPRA and Law Department on the issues raised by them.
- e. Representative of M/s. CRCCI-VS-SM-BM Joint Venture was harassed and threatened during bid opening process which is violation and subversion of transparent bidding processes.
- f. One member of second JV i.e. M/s. Daewoo does not meet the basic qualification criteria on many of the said terms of both PPRA and ITB and may not be declared as the lowest evaluated bidder.
- g. Legal and codal formalities were not met in cancellation of earlier bid and project was re-tendered with malafide intentions as the scope of work was amended.

He prayed that;

- i. Daewoo's JV is disqualified.
- ii. Given the facts provided in the complaint, their last bid is restored and accepted.



iii. The project is retendered.

10. On the other hand, M/s. Norinco-GMG-Daewoo, Joint venture contended that the grievances are liable to be summarily rejected being filled by incompetent person/company. As, Mr. Imran Masood is representative of M/s Vital Star who is not authorized to file grievance independently without the consent of other JV partners who are major share holders of JV. Furthermore M/s. CRCCI (China Railway Construction Corporation (International) Limited) is not aware about the issuance of grievance letter submitted by M/s Vital Star Pvt. Limited. They prayed summarily rejection of the grievance petition.

11. GM (Operations), PMA/ Chairman TEC submitted vide letter No. PMA-TD-OPS/167 dated 12-11-2019 that bidding process was conducted in fair manner and completed according to Punjab Procurement Rules, 2014 and no violations have been made/ observed during tendering process and all necessary steps have been followed to ensure transparency, fair competition and value for money. He further, submitted that the project was re-tendered after observing all legal and codal formalities. The objection of re-tendering the project cannot be raised at such belated stage by the complainant.

12. **Findings of GRC:**

Parties heard record perused.

Before going into the merits of the grievance petition, firstly the Grievance Redressal Committee deliberated on the issue of maintainability of this grievance petition. The bid was submitted by Joint Venture of CRCCI-VS-SM-BM and Vital Star is a component of the Joint Venture. However, Power of Attorney executed by Vital Star reflects that for the purposes of this Joint Venture Mr. Wang Li Executive Managing Director of CRCCI (China Railway Construction Company (International) Limited) was designated as the attorney for the bid and the matters, incidental thereto. It was a joint move and any component cannot go adrift. He is divested of any valid authority to file such petition, in isolation of the other three partners which hold major stakes and shares. Further Mr. Wang Lie authorized representative of CRCCI vide letter No. LHE/T&D/20190004 dated 19.11.2019 informed to GRC that he was not aware of this grievance petition and have no intention to proceed before GRC as they have accepted the tender evaluation result and have no objection for any decision. In these circumstances' grievance propelled by Mr. Imran Masood representative of M/s. Vital Star is not proceedable.



13. However, besides the issue of maintainability of the grievance, the Grievance Redressal Committee also evaluated the grievance on merits and found that, the violation of ITB directions were observed as verified by TEC during the opening of the financial bid meeting held on 24.10.2019. The person who used mobile phone during bid opening was not authorized representative of the JV. The bids were opened publicly as provided in Punjab Procurement Rules, 2014, therefore violation of ITB directions cannot be associated with JV Norinco-GMG- Daewoo. The bidding process was completed according to Punjab Procurement Rules, 2014 and sanctity of Financial Bid remained intact. The GRC concluded that use of mobile phone was noted after announcement of Financial Bid Prices of both parties. The use of mobile phone caused no substantial impact on health of bidding process and principles of transparency and fair competition were not breached.

14. GRC deliberated upon the claim of Mr. Imran Masood of M/s. Vital Star that advice of MD PPRA was not followed in the re-tendering process and concluded that procuring agency has diligently adhered to Punjab Procurement Rules, 2014. Single stage two envelope bidding procedure is a recommended process for procurement of services. As far as revision of scope of project is concerned, this was done in a fair and transparent manner by the Procuring Agency.

15. The objections raised by Mr. Imran Masood that M/s. Daewoo does not meet the eligibility criteria were thoroughly deliberated by TEC in its fourth and fifth meeting held on 17.10.2019 and 24.10.2019 and decided that objections are not tenable. The complainant did not provide any documentary evidence in support of the claim; hence GRC noted that claim is unmerited and without supportive documentary evidence.

16. Several objections were presented before GRC about previous tender opened on 21-02-2019 and re-tendering process opening made on 20-08-2019. It is considered opinion of all members of GRC that these grievances are time-barred and do not fall within the jurisdiction/ mandate of GRC. Furthermore, M/s. CRCCI-VS-SM-BM Joint Venture participated in the current tender process after accepting results of the previous tender. Hence, the rule of estoppel debars the petitioner from raising these objections at such belated stage.

17. Grievance Redressal Committee decided to solicit an advice from the Law and Parliamentary Affairs Department on the maintainability of the grievance



submitted by M/s Vital Star Pvt. Ltd. Law and Parliamentary Affairs Department vide letter No. OP:15-19/2015 (P) dated 20.11.2019 furnished the following advice: -

"that the instant reference arose, consequent upon the grievance petition, filed by one Imran Masood, Authorized representative of Vital Star (Pvt Ltd), Lahore. The bid was made by Joint Venture of CRCCI-VS-SM-BM and Vital Star is a component. However, Power of Attorney executed by Vital Star reflects that for the purposes of this joint venture Mr. Wang Li Executive Managing Director of CRCCI (China Railway Construction Company (International) Limited) was designated as the attorney for the bid and the matters, incidental thereto. It was a joint move and any component cannot go adrift. They are to swim and sink as joint venture. The grievance, propelled by Imran Masood, is not proceedable, in the circumstances. He is divested of any valid authority to file such petition, in isolation of the other three partners which hold major stakes and shares."

18. In view of the above facts and observations made herein, the Grievance Redressal Committee did not find any illegality or procedural lapse committed by the procuring agency. Hence, the grievance filed by Mr. Imran Masood, representative of M/s. Vital Star is unanimously rejected being devoid of any merits and filed by unauthorized person/company.



(Dr. Waseem Akram)
Senior Transport Planner (TPU),
Transport Department, Member



(Muhammad Imran)
Chief (Transport), Planning &
Development Department, Member



(Ishtiaq Ahmad Butt)
Deputy Secretary (Development)
Transport Department/Convener