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29th January 2024

ORDER OF THE GRIEVANCE REDRESSAL COMMITTEE

Through this Order, the Grievance Redressal Committee ("GRC") constituted by the Pakistan Cricket Board (PCB) will dispose of the grievance raised by the consortium of ARY Communications Limited and Innovative Production Group FZE with respect to its technical disqualification in the tender process conducted by the PCB for production services for the Pakistan Super League (PSL) tournaments scheduled in 2024 and 2025.

Prior to setting out the findings of the GRC, the relevant facts necessary for the disposal of the case are summarized below.

Factual Background

1. The PCB floated an Invitation to Tender dated 17th December 2023 (the "ITT") inviting bids from production companies for the production of matches in the PSL tournaments scheduled for 2024 and 2025.
2. The procurement modality used in the tender was single stage two envelope procedure with bidders being required to submit separate technical and financial proposals. The financial proposals were to be submitted electronically in a password protected file at the same time as the technical proposals.
3. The technical proposals would be considered first and those bidders who were technically qualified by the Bid Committee constituted by PCB for this tender would be communicated the date and time for opening of the financial proposals, at which time the technically qualified bidders would provide the passwords for their financial proposals. The financial proposals of bidders who were not technically qualified would not be opened or considered.
4. The technical evaluation criteria were set forth in the ITT and the technical proposal of each bidder was to be marked on the basis of a points scheme. Those bidders who obtained a minimum 126 marks out of a maximum total of 180 marks would be declared technically qualified and would be eligible to proceed to the next stage of opening of financial proposals and evaluation thereof.

5. The ITT was amended three times by the Bid Committee i.e. on 11th January 2024, 16th January 2024 (pursuant to certain queries raised by bidders) and 19th January 2024 and the amendments were duly communicated to all entities that had acquired the ITT.

6. The final version of the ITT stipulated that the bid submission deadline was 2:30 pm on 19th January 2024 and that technical proposals would be opened at 3:00 pm.

7. A total of three bids (consisting of separate technical proposal and separate password protected financial proposal) were received by the PCB. The names of the bidders are listed below:

- (i) Consortium of Trans Group FZE, NEP Singapore Pte Ltd., and Trans Production and Technologies LLP;
- (ii) Consortium of Tower Sports (Pvt.) Limited and Sunset + Vine;
- (iii) Consortium of ARY Communications Limited and Innovative Production Group FZE.

Bid Evaluation

8. The technical proposals of the three bidders mentioned above were evaluated by the Bid Committee constituted by the PCB by awarding marks to each bidder against each evaluation criteria mentioned in the ITT. Pursuant to this exercise, the final result of technical evaluation was as follows:

- (i) Consortium of Trans Group FZE, NEP Singapore Pte Ltd., and Trans Production and Technologies LLP – Total marks: 171 – technically qualified;
- (ii) Consortium of Tower Sports (Pvt.) Limited and Sunset + Vine - Total marks: 145 – technically qualified; and
- (iii) Consortium of ARY Communications Limited and Innovative Production Group FZE – Total marks: 112 – technically disqualified.

9. The above results were uploaded on to the PCB website on in the form of a Bid Evaluation Report on 22nd January 2024.

Grievance of Consortium of ARY Communications Limited and Innovative Production Group FZE

10. Through an email dated 24th January 2024, the consortium of ARY Communications Limited and Innovative Production Group FZE (the “ARY Consortium”) lodged its grievance against its technical disqualification by the Bid Committee. The email (written by Mr. Imran Ahmed Khan – Senior Vice President of A-Sports) stated, *inter alia*, that “we have strong apprehensions about the manner in which our Technical Proposal was marked and we strongly feel that a fair assessment of our Technical Proposal would have resulted in our technical qualification”.

11. Following receipt of the email, the competent authority constituted the following GRC to hear and consider the complaint of the ARY Consortium:

- (i) Mr. Shah Khawar, Election Commissioner/Chairman PCB (Chairman);

(ii) Mr. Usman Waheed, Director Marketing (Member);

(iii) Mr. Bilal Raza, Director Legal/Litigation (Member).

In addition, Mr. Zaki Rahman, Partner in FGE Ebrahim Hosain (external legal counsel of PCB) was co-opted as an observer.

Proceedings of GRC

12. The proceedings of the GRC were held at the office of the Chairman PCB at 3:00 pm on 26th January 2024. Mr. Imran Ahmed Khan attended the proceedings in person on behalf of the ARY Consortium. Other representatives of the ARY Consortium joined through video conference including Mr. Jarjees Seja, CEO of ARY Digital Network and Mr. Anil Mohan of Innovative Production Group FZE.

13. The representatives of the ARY Consortium expressed their reservations regarding the marks awarded to them against various evaluation criteria in terms of the requirements of the ITT. After hearing the submissions of the representatives and after careful perusal of the record, the GRC has reached the conclusions set forth below.

Findings of the GRC

14. In the "Technology" portion of the evaluation criteria, there is a five mark component relating to demonstration of two or more examples of proven technological or programing/editorial innovation in production of sports events. The Bid Committee had not awarded any marks to the ARY Consortium; however, on review, it was found that five separate examples were documented and shared by the ARY Consortium. Accordingly, the GRC grants five marks to the ARY Consortium in respect of the said component.

15. In the "Technology" portion of the evaluation criteria, there is a twenty mark component relating to evaluation of technical partner/equipment provider. The Bid Committee had awarded five marks (good) to the ARY Consortium's proposed technical partner/equipment provider. Deduction of marks appeared to be on the basis that the proposed equipment provider did not have sufficient experience of producing leading cricket and sporting events or of multiple kits production; however, upon review of the list of such events provided by the ARY Consortium, the GRC is of the view that fifteen marks (very good) were merited. As for lack of evidence of multi kits production experience, it may be noted that the specific evaluation criteria did not require that such experience was necessary. Accordingly, the GRC grants an additional ten marks to the ARY Consortium to take the total marks to fifteen for the said component.

16. There is a component in the evaluation criteria relating to graphics development, which is reproduced below for ready reference:

"Graphics (20)

The Bidder has previously developed/created Graphics for Test Nation Tournaments and ICC Sanctioned Leagues around the World in the last 5 years

- Graphics created for more than 10 Tournaments (10 points)
- Graphics created for 5-10 Tournaments (5 points)
- Graphics created for less than 5 Tournaments (3 points)".

It appears that the Bid Committee initially found itself unable to determine the number of tournaments for which graphics had been created by the ARY Consortium on the basis of material provided in the technical proposal, and therefore rightly sought a clarification in this regard from the ARY Consortium. The clarification was provided by ARY Consortium which showed that graphics had been created for a total of twelve tournaments, which would merit full marks (i.e. ten points) on this component; however, only five marks were given. The reason provided by the Bid Committee was that the clarification was not provided within the time limit requested by the Bid Committee; however, upon review of the email correspondence, it appears that the Bid Committee had allowed the ARY Consortium until 4:00 pm on 22nd January 2024 to fully document its case. ARY Consortium had provided the requisite satisfactory clarification at 2:05 pm and therefore the GRC is of the view that the clarification ought to have been accepted by the Bid Committee. Moreover, the correspondence took place over the weekend when businesses are closed and information gathering is hampered and this was also a relevant factor in any alleged delay. In light of the foregoing, the GRC is inclined to grant an additional five marks taking the total marks for this component to ten.

17. The ITT contains a "crisis management" component with a maximum score of fifteen. The criteria are reproduced below:

"Proven track record of crisis management in bilateral events or PSL (organised by the PCB) or any other major bilateral series or cricket league organized by a major ICC member. If the example is of a cricket board other than the PCB then a relevant reference must be provided detailing the level of crisis management.

- i) *Excellent – 15 points*
- ii) *Satisfactory – 10 points*
- iii) *Unsatisfactory – 0 points"*

The Bid Committee had awarded ten marks to the ARY Consortium against this component. However, upon review, the GRC is of the view that crisis management examples provided by the ARY Consortium are worthy of meriting the full fifteen points. The ARY Consortium shared numerous documented examples of different types of crisis management expertise across various geographies. Moreover, an International Cricket Board's certificate was also provided for crisis management (during Covid-19) as required by the ITT. Accordingly, the score of the ARY Consortium in respect of this component is increased to fifteen points.

18. In the "Production Quality" portion of the evaluation criteria, one of the components is "Sound Quality" with a maximum of six points, to be adjudged on the basis of a show reel provided by bidders. Three marks had been awarded to the ARY Consortium on this component. However, upon review, the GRC is of the opinion that the sound quality of the show reel provided was at par with the other bidders and the full six points are merited. Accordingly, the marks awarded to the ARY Consortium in respect of the said component are increased to six.

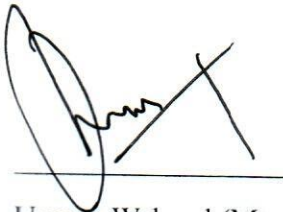
19. Other than the evaluation components discussed above, the GRC is of the view that the marking of the technical proposal by the Bid Committee is justified and in accordance with the terms of the ITT.

Conclusion

20. In light of the discussion and revision of marks set out above, the total marks awarded to the ARY Consortium are hereby revised and increased to 140 and the grievance petition of ARY Consortium is disposed of accordingly.



Shah Khawar (Chairman)



Usman Waheed (Member)



Bilal Raza (Member)