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21st May 2010

Director International Marketing,
Pakistan Software Export Board,
2nd Floor, Evacuee Trust Building,
F-5/1, Agfa Khan Road,
Islamabad

Tel: 051 9204074 ; Fax 051 9204075

Subject: Violation of Public Procurement Rules, 2004 Request for Proposal for Hiring of
Consultants for "Designing Portal, Company Directory & Industry Verticals Coverage
Your reply No 4(421)/PSEB/2010-1382 dated 18 may 2010

Dear Sir,

Transparency International Pakistan refers to your letter No 4(421)/PSEB/2010-1382 dated 18 may 2010 No 4(421)/PSEB/2010-1382 dated 18 May 2010.

The response quoting discussion held with PPRA officers, and that they have confirmed in the discussion that PSEB has not violated rules in the said procurement is not substantiated with any letter of PPRA.

It may be noted that the lowest evaluated bid has been clearly defined as having the lowest evaluated cost in Public Procurement Rule 2 (b), which do not required any interpretation.

*(b) "lowest evaluated bid" means,-
a bid most closely conforming to evaluation criteria and other conditions
specified in the bidding document; and having lowest evaluated cost;*

In order to amend this rule for Consultants , PPRA in 2006 prepared Public Procurement Regulations for Procurement of Consultancy Services, which is posted on PPRA website, and are not approved since last 4 years, as TI Pakistan has raised serious objections on these draft rules, which negate the whole concept of Transparent Procurement. In these draft rules, PPRA under Rule 9 (4) has tried to changed the definition of lowest bid as:

*" The bidder whose technical and financial proposal is the most
advantageous shall be ranked highest and his bid shall be treated as lowest
evaluated bid".*

This draft amendment not yet approved by PPRA Board, itself proves that the definition lowest bid in Rule 2 (b) means the responsive bid with the lowest evaluated cost.

The method prescribed by PSEB that final evaluation would be carried out on the basis of composite score comprising 60% weightage for technical and 40% for financial factors is violation of Rule No 36 (b) which is quoted by SMEDA as the Method of Evaluation.



This method states that after the evaluation and approval of the technical proposal the procuring agency, shall at a time within the bid validity period, publicly open the financial proposals of the technically accepted bids only and the financial proposal of bids found technically non-responsive shall be returned un-opened to the respective bidders; and the bid found to be the lowest evaluated bid shall be accepted.

When according to the PPRA Rules, the financial proposal of bids found technically non-responsive are to be returned unopened to bidders, how can the evaluation of financial proposal be done?

Transparency International Pakistan request PSEB TO cancel and re-invite the tender and make all its procurement Transparent, and in accordance with the requirements of Public Procurement Rules 2004 prepare Tender Documents required under Rule 23, including the evaluation criteria.

We quote the Supreme Court order given on 28th April 2010, in the case of award of multibillion dollar LNG contract to GDF-Suez, in which the **SC has announced that it is the duty of the Court to ensure the application of Public Procurement Rules 2004.**

The above information is forwarded for the purpose to avoid the mis-procurement charge under Rule No 50, and to re- invite the Expression of Interest, which shall be based on the procedures prescribed by Public Procurement Rules, 2004

With Regards,

Syed Aamir Gilani
Chairman

Copy forwarded for the information and appropriate action on the violation,

1. Chairman Public Accounts Committee, Islamabad
2. Auditor General Pakistan, Islamabad
3. Registrar, Supreme court of Pakistan
4. Managing Director PPRA , Islamabad
5. Chairman, PSEB, Islamabad