

No. F.6(20)/DD-I/PPRA/PSEB/09  
GOVERNMENT OF PAKISTAN  
**PUBLIC PROCUREMENT REGULATORY AUTHORITY**  
(CABINET DIVISION)

<><><>

Islamabad, the 4<sup>th</sup> June, 2010

**From :** **Asif Khan**  
Deputy Director – I  
Ph : 9203314

**To :** **Syed Adil Gilani**  
Chairman,  
Transparency International – Pakistan,  
8-C, 2<sup>nd</sup> Floor, Khayaban-e-Ittehad,  
Phase VII, Defence Housing Authority,  
Karachi

**Subject : -** **VIOLATION OF PUBLIC PROCUREMENT RULES, 2004 REQUEST FOR PROPOSAL FOR HIRING OF CONSULTANTS FOR "DESIGNING PORTAL, COMPANY DIRECTORY & INDUSTRY VERTICALS COVERAGE"**

Reference Transparency International, Pakistan's letter dated 21<sup>st</sup> May, 2010 addressed to Pakistan Software Export Board (PSEB) on the above subject and copy endorsed to this Authority.

2. The Authority appreciate interest of the Transparency International, Pakistan in the implementation of Public Procurement Rules, 2004. However a need is felt to prescribe a few issues for better understanding of the provisions of these Rules.

- i) Procuring agencies may devise an evaluation criteria on the basis of weightage assigned to technical and financial aspects of the bid, specially for consultancy assignments. This is well understood procedure and Rule 36 (b) of the Public Procurement Rules, 2004 clearly indicate towards it. In case no such provision exist in evaluation criteria procuring agencies would be bound to procure from the bidder offering lowest cost among technically responsive bids. However, in this scenario a procuring agency may loose a very good solution, may be, on cost of a very small amount. In this case violation of any Rule is not involved. Rule 36 (b) (ix) states "the bid found to be the lowest evaluated bid shall be accepted". Here too the lowest evaluated bid is required to be accepted not "lowest bid". However, in case where procuring agency, due to any reason including nature of the procurement, decide to treat all the technically responsive bids equal they could do so as well through the appropriate evaluation criteria.
- ii) Rule 36 (b) of the Public Procurement Rules, 2004 allow the procuring agencies to return the financial bids of the technically non-responsive bids without being opened. As it is allowed under the Rule the question of illegalities of not considering the financial proposal of technically non-responsive bids does not arise.

Contd.... (P-2)

- iii) The lowest evaluated bid has been defined under Rule 2 (h) of the Public Procurement Rules, 2004 as a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document and having lowest evaluated cost. Here too, it could be deemed to be accepted as "lowest evaluated" not "lowest bid" as opined by the Transparency International, Pakistan.



(Asif Khan)  
Deputy Director - I

CC:

Director International Marketing, Pakistan Software Export Board,  
2<sup>nd</sup> Floor, Evacuee Trust Building, F-5/1, Agha Khan Raod,  
Islamabad