



28 June 2010

Director Procurement (Sector P-3)
Ministry of Defence Production,
Sectt. No II, Adamjee Road,
Rawalpindi
Fax 052-5516307 Tel: 052-9271468

**Sub: Complaint on the violation of Public Procurement Rules, 2004 in the procurement of
Personal/Vehicle Access Control and Parametric Surveillance System**

Dear Sir,

Transparency International Pakistan has not received Director Procurement response on the complaint sent on 23 June 2010.

However a press release by Naval Headquarters appeared in NEWS International on 25 June 2010, clarifying your response.

The press release as published in the news paper clarifies that;

"The Naval Headquarters in a press release clarified that the news appeared in the print media highlighting the violation of the Public Procurement Rules was completely baseless and purposely fabricated to malign the Pakistan Navy by few irresponsible elements.

As requirement was operational immediate and highly classified due to prevailing security environment around defence installations, therefore, the tender was not uploaded on PPRA website.

It is pertinent to highlight that PPRA Rules allow processing of all operational immediate requirements without going into open tendering procedure. The rules further allow that urgent requirements can be processed even without giving 15 days notice which is otherwise followed for all routine tenders.

It is relevant to mention that requirement of a classified sensitive security equipment for Pakistan Navy was processed on limited and spot tendering basis as authorized vide PPRA Rule 42(d) and was processed by Directorate of Procurement (Navy)."

TI Pakistan clarification of Navy Press Release.

1. This is to state that TI Pakistan received a couple of complaint on procurements by Pakistan Navy, but has not received any complaint of violation of Public Procurement Rules 2004 by Pakistan Army or Pakistan Air Force.

2. Regarding Pakistan Armed Forces respect, TIP views are crystal clear, that Pakistan armed forces are the best in the World. We would like to quote from one of TIP's letters written on 5 September 2009 to General Ashfaq Parvaiz Keyani, Chief of Army Staff,

Transparency International Pakistan congratulates Pakistan Army, which under your sincere, exceptionally professional leadership, has proved the world that Pakistan Armed Forces are the best. Under your impeccable command, what you have accomplished by elimination of



terrorists in Swat in two months, is what USA and NAO forces failed to achieve in 8 years in Iraq or Afghanistan. You have made Pakistan a proud nation again.

The 2 year movement of restoration of Judiciary, its restoration on 16th March 2009, and the good governance steps the Judiciary has taken like declaring to make Judiciary Zero Tolerance against Corruption, New Judicial Policy and declaration of PCO 2007 unconstitutional has also raised Pakistan International Image.

Sir, your efforts to bring transparency in armed forces administration in general, and procurement in particular are also being acclaimed nationally as well as internationally.

However, there is still lot to be achieved in procurements by Armed Forces. The handling of funds by DP Division, and DHA needs your special attention, as there are many reports of violation of Public Procurement Rules 2004 in procurement made by DP Division, and in all the three DHAs. TI Pakistan do not want Pakistan Armed Forces to get bad name due to any irregularities and violation of Public Procurement Rules 2004.

Corruption is a cancer, and corruption by Armed Forces officers endangers the very existence of the Country. This may result in the procurement of sub standards arms due to conflict of interest, and for personal gains over the national cause by a few individual

3. We do agree that in case the procurement is a highly classified requirement, PPRA has a procedure in Rule No 14, under which the proposed procurement is exempted from public advertisement, if it is related to national security and its publication could jeopardize national security objectives.

But application of this rule shall be read by you in conjunction with same Rules 14, para 1, which says, **"However under following circumstances deviation from the requirement is permissible with the prior approval of the Authority"**

Kindly provide the prior approval of PPRA, which is a mandatory requirement under the rule quoted above, and Pakistan Navy has also been reminded by MD PPRA vide PPRA letter No. E. 2.16/DD-II/PPRA/2009 dated 19 June 2009.

Rule 42 (d) does allow negotiated tendering, but rule is very clear on what circumstances this rule is allowed.

42(d) negotiated tendering -

A procuring agency may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. This procedure shall only be used when, - unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:

If Navy stand is accepted that this procurement is an urgency, and therefore 15 days time limit for advertisement is not applicable, Navy shall also note that this exemption is not without conditions, and the circumstances invoked to justify extreme urgency must not be attributable to Navy.

TIP would like to points out that the procurement is related to Personal/Vehicle Access Control and Parametric Surveillance System, which has to be declared as extreme urgency by Pakistan Navy, and the cause shall not be due to delay on the part of Pakistan Navy,, to avail exemption from the time limit.

4. The Press release of Pakistan Navy has not clarified about objections of TIP on three different instructions in the bidding document, the General Condition, clause 11, Terms of payment states 60% on delivery of equipment, and 40% on final acceptance after tests and trials. But in Clause 23, terms of payment is 20% when the performance guarantee is supplied, 60% when equipment is delivered, and 20%



on final acceptance after tests and trials. And in bid documents it is also stated that the terms of payment is negotiable.

5. Director Procurement (Sector P-3) Ministry of Defence Production. For Pakistan Navy has advertised following Seven (7) procurements, available on PPRA website, which all are with tender submission times much less than 15 days. These procurement are normal and routine procurements, and urgency of curtailing time limit of 15 days seems strange.

No. 925007/R-909/330035 JERSEY BLACK RIBBED PATTERN SIZE 32 INCH OFFICER & CPO/SAILORS Adv date 25.5.2010, opening date 4.6.2010, Tender No.310689, H/F D/F System, Adv date 20.5.2010, opening date 2.6.2010, Tender NO.330506, Milk Powder, Adv date 17.5.2010, opening date 28.5.2010, Tender No 987039/R-905/320743, MOUNT RESILIENT RUBBER, Adv date 17.5.2010, opening date 28.5.2010, Tender No. DICP/087103/R-1005/320781, STARAINER ELEMENT, Adv date 17.5.2010, opening date 28.5.2010, Tender No. DICP/E-I/IND-001115/R-1005/340779, PLASTIC SHEET LAMINATED COLOUR :WHITE SIZE : 8' X 4' X 0.60 MM, Adv date 17.5.2010, opening date 27.5.2010, Tender No. 952003/R-101/320197, TROLLEY MONTED MOBILE AIR COOLED DIESE GENERATOR SET 500 KW, 50Hz FREQUENCY WITH ACOUSTIC CANOPY, Adv date 17.5.2010, opening date 28.5.2010

Kindly provide clarification for these procurements for the violation of Rule No 13.

Following clarification that tenders were opened one day before the tender opening date is not acceptable under PPRA Rules.

Pakistan Navy tender for surveillance system was scheduled for opening on 18 June, 2010. Shortly before tender opening time, two firms requested for issuance of tender documents and extension in tender opening date. While the firms' request was being considered for approval or otherwise, the reps of firms available in tender room objected to any further extension hence reps of all firms present in the tender room were informed that the actual date of tender opening which was 18 June, 2010, will be followed by the procurement agency. The tender was then opened on the scheduled date as previously announced in presence of the reps of participating firms and members of the tender board

TI Pakistan agrees that the tender documents does include "Integrity pact", and regret for this oversight.

Kindly note that TI Pakistan's aim is only to make this Country a Rule of Law compliant Country.

With regards,

Syed Adil Gilani,
Chairman,

Copies forwarded for information and necessary action to;

1. Chairman, Public Accounts Committee, Islamabad.
2. Admiral Noman Bashir, Chief of Naval Staff, Naval Headquarters, Islamabad
3. Registrar, Supreme Court of Pakistan, Islamabad
4. Auditor General Pakistan, Islamabad
5. Chairman, NAB, Islamabad,
6. Managing Director, PPRA, Islamabad



No. F. 2 (6)/DD-III/PPRA/2009
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)
F. B. C. BUILDING, SECTOR G-5/2

Hafeez ur Rehman

Managing Director

Islamabad, the 19th June, 2009

Subject: - EXEMPTION FROM OPERATION OF PUBLIC PROCUREMENT RULES – 2004 AND CONDONATION OF VIOLATIONS OF THESE RULES

My dear

Public Procurement Regulatory Authority has been receiving numerous requests from different Ministries / Division / Departments seeking exemption from operation of Public Procurement Rules 2004. Section 21 of the PPRA Ordinance, 2002 reads :-

*"The Authority may, for reasons to be recorded in writing, recommend to the **Federal Government** that the procurement of an object or class of objects **in the national interest** be exempted from the operation of this Ordinance or any rule or regulation made thereunder or any other law regulating public procurement and the **Federal Government** on such recommendations shall exempt the aforesaid objects or class of objects from the operation of the laws and rules and regulations made thereunder".*

2. Please note that all procuring agencies in case of ex-ante (before the event) (repeat ex-ante) exemptions required under unavoidable circumstances must clearly mention that **national interest** (repeat "**national interest**") is being safeguarded through proposed exemption. The request without explicit mention of this aspect would not be entertained.

3. It is further mentioned that neither PPRA Ordinance, 2002 nor Public Procurement Rules 2004 vest any power in this Authority to condone deviations from Public Procurement Rules 2004, PPRA will be constrained not to process such requests of ex-post-facto approvals / condonations.

With best regards,

Yours sincerely,

(HAFEEZ UR REHMAN)

All Federal Secretaries