

No. F. 1(158)/DD-II/PPRA/2011
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)
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Islamabad, the dated 26th November, 2011

SUBJECT: VIOLATION OF PUBLIC PROCUREMENT RULES 2004,
SECRETARY PROJECTS & PLANNING DHA LAHORE
REQUEST FOR PROPOSAL DHA CINEMA.

Reference Public Procurement Regulatory Authority's letter No. Nil dated 28.10.2011 on the above noted subject.

2. Your request was forwarded to Defence Housing Authority (DHA), Lahore Cantt for disposal under Rule – 48 of Public Procurement Rule, 2004. The comments of Procuring Agency are enclosed for kind consideration as it may be deemed appropriate.


(Naeem Ahmed)
Deputy Director-II

Syed Adil Gilani,
Advisor,
Transparency International- Pakistan,
5 C, 2nd Floor,
Khayaban-e-Ittehad, Phase VII,
DHA,
Karachi.



Defence Housing Authority

Office Complex

Sector A-11, Phase I, Lahore Cantt

Telephone: 042-35691390,

35743462-4 Extn 810

No.710 /25/

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24 Nov 2011

To: Mr. Naeem Ahmed
Deputy Director-II, Government of Pakistan
Public Procurement Regulatory Authority,
(CABINET DIVISION) Islamabad.

Subject: **VIOLATION OF PPR, 2004 SECRETARY PROJECTS & PLANNING DHA
LAHORE REQUEST FOR PROPOSAL DHA CINEMA**

Dear Sir,

This is with reference to your letter no. F.1 (158)/DD-II/PPRA dated 06.10.2011

1. We have examined the Complaint / letter dated 03.10.2011 forwarded to you by Mr. Syed Adil Gilani, Advisor Transparency International Pakistan regarding advertisement dated 02.10.2011 for soliciting proposals / applications from the persons interested to engage into the management of DHA Cinema.

2. The contents of the complaint / letter are misconceived and denied. It is apparent that said complaint / letter appears to be a result of misconceived and erroneous reading/ understanding of advertisement dated 02.10.2011. The advertisement for all intent and purposes was merely an invitation, addressed to all the concerned persons.

3. The purpose of the Advertisement dated 02.10. 2011 was to invite / encourage interested persons to come forward and submit proposals (alongwith supporting documents) for management of DHA cinema. The whole idea was to gauge the potential of the parties and identify few best / competitive parties. Needless to mention that submission of request for proposals would follow multiple steps/actions in the process of identifying competitive proposal, which steps includes comparison and in-depth scrutiny of proposals, pre-contractual discussions / negotiations / meetings / interactive sessions before making final selection.

4. It is also pertinent to mention that Public Procurement Rules, 2004 are not applicable to DHA in letter and spirit. Since DHA is the Authority established in terms of the Chief Executive Order No.26/2002 (DHA Order 2002), which is autonomously and financially independent. The Authority manages and holds its fund and utilizes it for

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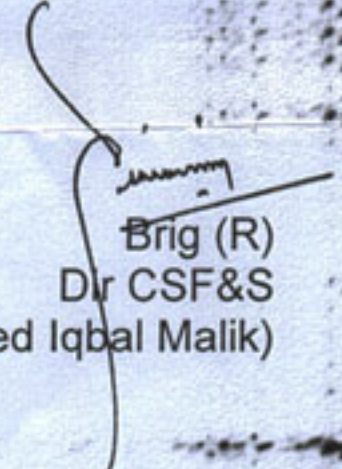
carrying out its functions under the DHA Order 2002. To advocate our contention reference is made to the definition of the terms "Public Fund" and "Public Procurement" in Public Procurement Rules, 2004:-

- a. **2(k) Public fund.** "Public Fund" means the Federal Consolidated Fund and the Public Account of the Federation and includes funds of enterprises which are owned or controlled by the Federal Government."
- b. **2(l) Public Procurement.** "Public procurement" means acquisition of goods, services or construction of any works financed wholly or partly out of the Public Fund, unless excluded otherwise by the Federal Government."

5. It is clear and obvious that the fund of the Authority is not Public Fund hence any procurement by it also does not fall within the ambit of the term "Public Procurement". Nevertheless we as an Authority follow and adopt exhaustive measures / steps / actions while engaging in any activity of procurement of goods/ services and awarding of civil contracts for ensuring transparency, openness in its affairs and leave no stone unturned to give fair opportunity to all (competent and having requisite finesse / skills and ability) by encouraging competitiveness.

6. We take this opportunity to mention that advertisement dated 02.10.2011 was misunderstood and misconstrued. DHA management intended to appoint a Manager (under the Management Agreement) to run, operate and manage the affairs of DHA Cinema. Even otherwise aforesaid arrangement is diametrically different from contracts / assignments of civil works or Procurement agreements.

7. In brief the applicability of the Public Procurement Rules, 2004 and allegations in the complaint / letter are disputed and denied. DHA as an Authority is conscious of its obligations / responsibilities and ensures transparency / fairness in its affairs / works. In view of the aforesaid information there is no occasion for entertaining complaint / letter, which merits rejection / dismissal.


Brig (R)
Dir CSF&S
(Javed Iqbal Malik)