



29th May, 2009

Lt Gen (R) Shahid Siddiq Tirmizey,
HI (M)),
Secretary, Defence Production Division,
Ministry of Defence,
Islamabad

National Corruption Perception Survey (NCPS) 2009

Dear Sir,

The refers to the our telephonic discussions held with the Additional Secretary, Major General Tariq Saleem Malik, on 28th May 2009 on the applicability of Public Procurement Rule No 47 on DP Division procurements. The discussions were held on TIP letters dated 20th March 2009.

The Rule No. 47, is Public access and transparency, as soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public. This rule has been made for the transparency in the evaluation, and also for public declaration of the Contract Agreement, and the rates on which Contracts have been awarded.

TI Pakistan was informed by the Additional Secretary that DP Division has been given exemption from application of Rule No. 47. The Additional Secretary was clarified by us that PPRA Ordinance and Public Procurement Rules 2004 does not allow any one to accord blanket and unchecked exemption to any procuring agency from application of Public Procurement Rules 2004, and that if any such blanket approval was or is given to MOD, it is in violation of the Rules.

However, the PPRA Board in its 6th meeting, held on 12 February 2008 did consider such requests of MOD and MODP, but did not accord blanket exemption. The exemption requests was considered under provision of Rule No. 14, which is quoted below.

14. Exceptions.-

*It shall be mandatory for all procuring agencies to advertise all procurement requirements exceeding prescribed financial limit which is applicable under sub-clause (i) of clause (b) of rule 42. However under following circumstances deviation from the requirement is permissible with the prior approval of the Authority,-

(a) the proposed procurement is related to national security and its publication could jeopardize national security objectives;

The PPRA Board decision taken in its meeting of 12 February 2008 is reproduced below.

**Point. B EXEMPTION TO THE PROCUREMES BY DEFENCE
DIVISION AND DEFENCE PRODUCTION DIVISION FROM
APPLICATION OF PUBLIC PROCUREMENT RULES, 2004**



12. While discussing the issue of applicability of Public Procurement Rules, 2004 to Ministry of Defence / Defence Production Division, it was pointed out that Ministries and their autonomous bodies and attached department should not be granted blanket exemption, rather, the exemption should be object/procurement specific. Hence, the Board decided the following:-

"The Procurement of object required for Defence purposes by the Ministry of Defence and Ministry of Defence Production will be exempted from the applicability of from the applicability of the PPRA Ordinance, 2002 and the Public Procurement Rules, 2004 Provided as follows:

- (i) Only such object will be exempted for which the principal accounting officer of the concerned Ministry has certified that these are sensitive in nature, required for Defence purpose and their procurement under the PPRA Ordinance, 2002 and Public Procurement Rules, 2004 will not be in the national interest.
- (ii) The procurement of objects by the autonomous bodies, attached departments and other organization under the administrative control of these Ministries, which are nether sensitive nor required for Defence purposes shall continue to be governed by the PPRA Ordinance 2002 and Public Procurement Rules 2004."

Accordingly, PPRA Board has allowed exemption to Ministry of Defence and Ministry of Defence Production for only those procurement for which the principal accounting officer of the concerned Ministry (I.e. Secretary of the Ministry) has to certify in each procurement, that the procurement is sensitive in nature, required for Defence purpose and their procurement under the PPRA Ordinance, 2002 and Public Procurement Rules, 2004 will not be in the national interest.

TI Pakistan request that conformation of implementation of Rule No 47 may be sent to TI Pakistan in response to our letter dated 20th March 2009, and the reminder sent this week.

Yours Sincerely,

Syed Adil Gilani
Chairman,
Transparency International Pakistan

Copy forwarded for the information of;

- 1.Chairman Public Accounts Committee, National Assembly, Islamabad
- 2.Chairman PPRA, Islamabad.