



12<sup>th</sup> April, 2017

TL17/1204/1C

Managing Director,  
Karachi Water & Sewerage Board,  
Karachi.

**Sub: Illegal Award of Unsolicited Contract against SPPRA Act, Rs. 25.5 Billion Karachi Water Supply Project, known as K-IV, to the Frontier Works Organization (FWO) And Revised cost increased by 40%, to Rs. 35 Billion, causing loss to Exchequer of over Rs. 9 billion.**

Dear Sir,

Transparency International Pakistan refers to the letters sent to MD on the above quoted subject vide No. TL16/3003/1A dated 30<sup>th</sup> March 2016, and TL16/1705/ 1A, dated 14<sup>th</sup> May 2016 **on the Illegal Award of Unsolicited Contract against SPPRA Act** , at cost of Rs. 25.5 Billion Karachi Water Supply Project, K-IV, to the Frontier Works Organization (FWO) **Annex-A & B.**

Violation of following SPPRA Rules were reported;

**Transparency International Pakistan Observations**

1. The exemption accorded for direct contracting for all **K-IV Works Contract** with M/s **FWO** by the Government of Sindh, with approval of 13 above mentioned POHs is **illegal and void ab-intio**, as under Clause 21 (1) and (2) the exemption can only be given for **Goods and related Services (Objects)**.
2. MD should note that there is no provision of SPPRA Law of exemption from application of Sindh Public Procurement (Amended) Act 2013 for **Works Contracts**, and K-IV packages are all Works Contracts.
3. **This illegal exemption comes under SPPRA Rule 2 Corruption and corrupt practices.** Rule 2 , sub rule (q) (ii) "Collusive Practice" means any arrangement between two or more parties to the procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency to **establish prices at artificial, noncompetitive levels** for any wrongful gain;

Transparency International Pakistan also warned vide para 6 of the letter dated 30.3.2016, that **"It is feared that this project may cost more than Rs. 35 billion and FWO will use its connections to get extra cost from KWSB"**.

Unfortunately no remedial action was taken by KWSB nor by the Chief Minister Sindh.

It is reported today that Mr. Muhammad Ramzan Awan, Secretary Local Government, has informed press that FWO has informed that the Cost of K-IV will increased by 40% to Rs 34 billion, against the awarded cost of Rs 25.5 billion, approved in PC-1 **Annex-C.**

The explanation given to the press by Mr. Muhammad Ramzan Awan, Secretary Local Government and the Project Director has accepted that the cost of project was artificially kept lower, as ECNEC.



would not have approved the PC-I. And that the single tender opened for the Mechanical works by FWO are costing Rs. 18 Billion.

Moreover, on 2<sup>nd</sup> April, following news was published in which it was reported that the Director General of the Frontier Works Organization (FWO), Lt Gen Mohammad Afzal in a meeting with CM Sindh has committed to complete that Project in Rs. 25 Billion. **Annex-D**

*CM Shah said this while speaking to the director general of the Frontier Works Organisation (FWO), Lt Gen Mohammad Afzal, who called on him leading a delegation at CM House. Local Government Minister Jam Khan assisted the chief minister during the meeting.*

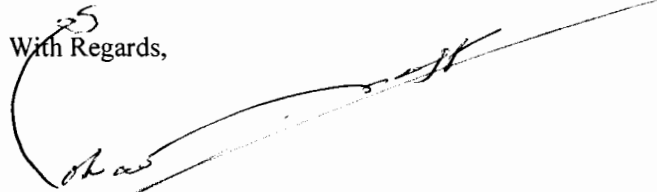
*The FWO DG said work on Rs25 billion phase I of the K-IV project was in progress in which all possible effort had been made to complete it by the scheduled time. He said phase II of the project, which mainly featured mechanical and electrical works, would be begun later.*

*Chief Minister Shah said the Sindh government had to release a total of Rs12.5bn — half of the total cost — against which Rs6bn had been allocated during the current fiscal year. He said the provincial government had released Rs3bn while the remaining funds were also being released on priority.*

**TI Pakistan observation is that when the complete contract was awarded at Rs 25.5 billion to the FWO in February 2016, and contract agreement was signed in June 2016, there is no provision to cause loss to exchequer of over Rs. 9 billion by approving increase in the Contract Price of FWO of Project by 40%.**

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Sohail Muzaffar  
Chairman

Copies forwarded for the action under rules to immediate address this major illegal act granting exemption from SPPRA , in order to have good governance in Pakistan;

1. Secretary to Prime Minister, PM House, Islamabad.
2. Governor Sindh , Governor House, Karachi.
3. Chief Minister, Sindh, Karachi.
4. Chief Justice, Sindh High Court, Karachi.
5. DG, NAB, Karachi.
6. Chief Secretary Sindh, Karachi.
7. MD, SPPRA, Karachi.
8. MD, PPRA, Islamabad.
9. Registrar Supreme Court of Pakistan.



**TRANSPARENCY  
INTERNATIONAL-PAKISTAN**

Annex - A

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority, Karachi.  
Tel: (92-21)-35390408, 35390409, Fax: 35390410  
E-mail: ti.pakistan@gmail.com  
Website: www.transparency.org.pk

30<sup>th</sup> March 2016

TL16/3003/1A

Managing Director,  
Karachi Water & Sewerage Board,  
Karachi.

Sub: Illegal Award of Unsolicited Contract of Rs. 25.5 Billion Karachi Water Supply Project, known as K-1V, to the Frontier Works Organization (FWO).

Dear Sir,

Transparency International Pakistan refers to the orders given by the Chief Minister on 23<sup>rd</sup> March, 2016 to award 'Unsolicited Contract of Rs 25.5 billion Karachi Water Supply Project, known as K-1V, to the Frontier Works Organization (FWO)', exempting application of SPPRA Rules in **National Interest**, under Section 21 (2) of Sindh Public Procurement Act 2009 (Amended in 2013).

The observations of Transparency International Pakistan were sent to the CM and copied to you on 15.2.2016.

The excuse taken by the CM to award this contract through Direct Contracting is that he has declared Karachi Water Crises and Law and Order as Emergency.

TI Pakistan observations;

1. Section 21 (2) of Sindh Public Procurement Act 2009 (Amended in 2013) is applicable only for National Interest, and Water Crises in Karachi is as bad as Electric Crises, which are due to in efficient measure by government.
2. The Project is delayed due to KWSB's own inefficient working, as the Consultancy Contract was awarded over 1-1/4 years ago.
3. Supreme Court of Pakistan has rejected the excuse of Electric Crises in RPP cases, and cancelled all RPP Contracts which were awarded on Direct Contracting basis, and the Ministers and officers who committed the illegal act are now facing 12 references in NAB Court.
4. The Act in many cases has been declared illegal by the Supreme Court of Pakistan viz. in CP 53 of 2007 and CP 83 of 2012 in case of Services Tribunal Act 1973. Even Sindh Emergency Procurement Act 2014, Sindh Act No 11 of 2014, giving exemption from SPPRA for 1 year, has not been used as in APC Case Supreme Court had declared award of unsolicited Contract as illegal.
5. How can GoS and FWO make an agreement on fixed cost of Rs. 25 billion, based on PC-I prepared in 2012. There is no parallel example of such contract.
6. It is feared that this project may cost more than Rs. 35 billion and FWO will use its connections to get extra cost from KWSB.
7. FWO has no experience of pumping station, intake and cross drainage structures, etc. which will cost about 50% of the project, and are highly technical works.
8. M/s FWO itself being a procuring agency, are bound to award sub-contracts under procedures defined in PPRA Rules.



9. The 50% funds are provided by Federal Government, which are to be spent under PPRA Rules.
10. Funds are also being provided to Green Line Metro by Federal Government, and all tendering in that project are also being awarded under PPRA.

In the Islamabad High Court's Judgment, Para 29, the award of unsolicited contracts under Prime Minister's directive, to another armed forces contracting company National Logistic Cell worth over Rs. 5 Billion, which were declared illegal. 'Quoted below is the Para 29':

*29. In view of the above discussion, Writ Petition Nos.3387, 3724/2012 and 582/2013 are allowed. I declare that assigning of work to Respondent No. 5 i.e NLC is illegal, unconstitutional, besides the PPRA Ordinance 2002 and PPRA Rules 2004, dictums laid down by the august Supreme Court, offensive to the universally accepted principle of fairness, honesty, transparency, openness and is result of colourable exercise of authority, irrelevant considerations, a naked corruption, polluted mannerism, offensive to public ex-chequer and an infringement to constitutionally guaranteed fundamental rights. It is also declared that assigning of work to NLC is glaring example of discrimination, favouritism, nepotism, ulterior motives and stinking approach to advance personal agenda*

*The assigning of work to NLC is declared to be cancelled with the direction that NLC shall return all amount received vide cheque Nos.B836966, B850167 and B853844 for execution of the projects within one week of the receipt of the order.*

*The procuring agency i.e Pak PWD may initiate the procedure afresh strictly in accordance with the PPRA Ordinance, 2002 and PPRA Rules, 2004 and by following the dictums laid down on the point of Public Procurement by the Hon'ble Supreme Court of Pakistan and may complete its process within one month.*

*It is further directed that copies of this judgment be sent to Chairman NAB for initiating proceedings against all those persons involved in big scam, including the then Prime Minister, his Principal Secretary, Secretary Ministry of Housing & Works and all the official of Pak PWD who abetted, aided and executed the illegal orders issued on behalf of the then Prime Minister and officials of NLC, who remained involved in obtaining assigning of work of development projects.*

In another famous RPP case in HRC 7734-G/09 on 30 March 2012, the Supreme Court of Pakistan declared all RPP unsolicited Contracts as illegal and void, and NAB was directed to file references against all responsible.

On the submission of Shahid Hamid that RPP to M/s Walters Power was awarded under Direct Procurement, Rule 42 (c) (v) in case of an emergency, the SC Judgment at S. No. 34 & 35, has declared that Rule 42 (c) is not applicable in RPP Contracts awarded in 2006 and 2009 and this Judgment has upheld perpetuity of PPRA Ordinance 2002 and PPRA 2004.

*35. A perusal of the above rule suggests that the provision for direct procurement without following procedure of fair competition was not applicable in the case of unsolicited proposal for RPPs.*

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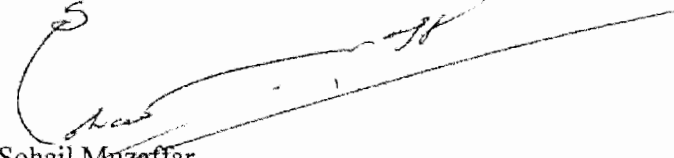
The Supreme Court in the same Judgement has also stated that;

*Suffice it to say, that since the ECC enjoys Constitutional status, one of its functions is to review from time to time the energy requirements, its effects and production and investment. Essentially, ECC is bound to act in accordance with the law of the land and the Rules. Thus, in presence of PEPPRA Rules, it was incumbent upon the Minister and the Secretary, Water and Power as well as other functionaries not to have put up such a case before the ECC in violation of the PEPPRA rules. In the summary dated 17.3.2009, it has not been mentioned that without following PEPPRA rules, unsolicited projects cannot be allowed.*

The Managing Director is requested to read and act on the Islamabad High Court and Supreme Court of Pakistan Judgments, due to which two ex PMs, and three Ex Ministers are facing NAB References for committing Corruption charges under NAO 1999, Article 9.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,



Sohail Muzaffar  
Chairman

Copies forwarded for the action under rules to immediate address this major act of contempt of court, in order to have good governance in Pakistan;

1. Chief Justice, Sindh High Court, Karachi
2. DG, NAB, Karachi.
3. Chief Secretary Sindh, Karachi.
4. MD, SPPRA, Karachi.
5. MD, PPRA, Islamabad.



14<sup>th</sup> May 2016

TL16/1705/1A

Managing Director,  
Karachi Water & Sewerage Board,  
Karachi.

Sub: **Illegal Award of Unsolicited Contract against SPPRA Act, Rs. 25.5 Billion Karachi Water Supply Project, known as K-IV, to the Frontier Works Organization (FWO), FWO admission 12.12.2015 that unsolicited contract can not awarded in PPRA Rules**

Dear Sir,

Transparency International Pakistan refers to the letter sent to MD on the above quoted subject vide No. TL16/3003/1A dated 30 March 2016, **on the Illegal Award of Unsolicited Contract against SPPRA Act**, and TL16/3103/1A dated 31.3.2016 on the Rs. 25.5 Billion Karachi Water Supply Project, K-IV, to the Frontier Works Organization (FWO).

This is to inform the Managing Director KWSB that in a recent corruption complaint on a Motorway Project on the allegation of not awarding contract to FWO by collusion in the Award of Karachi Lahore Motorway Project to M/s China Railway 20 Bureau and ZKB of Pakistan at a cost of Rs148.654bn causing loss of Rs 14 Billion, FWO has issued a press release on 12.12.2015, in which **FWO itself has admitted that its unsolicited proposal (Tender) could not be entertained by NHA due to PPRA Rules. (Annex-A)**

**Rawalpindi December 12:-** *The official of Frontier Works Organization (FWO) has clarified a news item published in some section of the press on 12 Dec 2015, regarding the NHA has awarded a contract of Rs 148 Billion to a Pakistan - China Joint Venture Firm for building a 230 Km section of the Karachi - Lahore Motorway amid allegations of irregularities. FWO is annoyed after its bid was rejected despite submitting what it claims the lowest bid of Rs 134 Billion.*

*The FWO officials in a press release said, "It is clarified that FWO does not have any reservation on tendering process of NHA because FWO did not participate in the bidding process due to none fulfilling the pre-requisites. However after the opening of bid, FWO offered unsolicited proposal which NHA could not entertain due to PAPRA rules and procedures.*

*Col Zafar Iqbal  
Manager Media (FWO)  
Mob:0300-5803117*

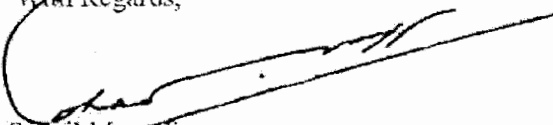
<http://www.fwo.com.pk/news-info/latest-news/416-press-release-fwo-clarification-motorway-project>



The Managing Director is requested to act in accordance with the provisions of the Sindh Public Procurement ( Amended) Act 2013 and SPPRA Rules 2010, and also keep in record the FWO admission that unsolicited contracts can not be awarded under PPRA Rules, and invite open tenders of K-IV Projects, in order to avoid allegations of mis procurement and allegation of Corruption and corrupt practices against the 13 public office holders who approved the illegal exemption in the meeting held on 11.2.2016.

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With Regards,

  
Sohail Muzaffar

Chairman

Copies forwarded for the action under rules to immediate address this major illegal act granting exemption from SPPRA , in order to have good governance in Pakistan;

1. Secretary to Prime Minister, PM House, Islamabad,
2. Governor Sindh , Governor House, Karachi,
3. Chief Justice, Sindh High Court, Karachi
4. DG, NAB, Karachi.
5. Chief Secretary Sindh, Karachi.
6. Minister of Finance, Karachi
7. Minister of Information, Karachi,
8. Secretary Finance, Karachi,
9. Secretary, LD Deptt, Karachi,
10. Syed Asif Haider Shah, Commissioner Karachi,
11. Chief PP&H P&D Deptt, Karachi
12. MD, SPPRA, Karachi.
13. MD, PPRA, Islamabad.
14. Registrar Supreme Court of Pakistan

<http://www.fwo.com.pk/news-info/latest-news/416-press-release-fwo-clarification-motorway-project>

**■ PRESS RELEASE FWO Clarification Motorway Project**

**Rawalpindi December 12:-** The official of Frontier Works Organization (FWO) has clarified a news item published in some section of the press on 12 Dec 2015, regarding the NHA has awarded a contract of Rs 148 Billion to a Pakistan - China Joint Venture Firm for building a 230 Km section of the Karachi - Lahore Motorway amid allegations of irregularities. FWO is annoyed after its bid was rejected despite submitting what it claims the lowest bid of Rs 134 Billion.

The FWO officials in a press release said, "It is clarified that FWO does not have any reservation on tendering process of NHA because FWO did not participate in the bidding process due to none fulfilling the pre-requisites. However after the opening of bid, FWO offered unsolicited proposal which NHA could not entertain due to PAPRA rules and procedures

Col Zafar Iqbal

Manager Media (FWO)

Mob:0300-5803117



## کے فور کی لاگت 28 سے بڑھ کر 134 ارب روپے ہونے کا خدشہ

کراچی (1) عٹاف رپورٹرز) کراچی کو پائی کی فراہمی کے اہم منصوبے نے فور کی لاگت 125 ارب روپے سے بڑھ کر 134 ارب روپے ہونے کا خدشہ پیدا ہو گیا۔ سیکرٹری ٹیکسٹائلز نے حکومت سندھ اور کے فور منصوبے کے پرنسپل اکاؤنٹنٹک انسر محمد رمضان اعوان نے بتایا کہ گزشتہ دنوں منصوبے کے ایکٹریکل اور کینڈیکل کاموں کا سگنل ٹینڈر اوپن کیا گیا جس میں ٹھیکیدار فرم نے پیپنگ اسٹیشنوں اور ٹلٹر پلانٹس وغیرہ کے کام 18 ارب روپے میں کرنے کا تخمینہ دیا ہے۔ جس پر میں انہیں ہدایت کی ہے کہ وہ پروپوزل بنا کر لائیں جیسے بائی فور مزید ایگزامن کے بعد ہی کوئی فیصلہ کیا جائے گا۔ واضح رہے کہ 260 ایم ڈی پانی کے منصوبے کے فور کے سول ورک کے پہلے سیکٹیج پر 12 جون 2016 کو ٹھیکیدار فرم کے ساتھ معاہدے پر دستخط ہوئے تھے جس میں 15 ارب 25 کروڑ 40 لاکھ روپے کی لاگت سے اسٹریکچر، کنال، کنورٹرز اور دیگر سول کام شامل تھے۔ سیکرٹری لوکل گورنمنٹ رمضان اعوان نے سگنل کو اپنے دفتر میں صحافیوں سے گفتگو کرتے ہوئے مزید بتایا کہ کے فور منصوبہ جس پر 25 فیصد کام ہوا ہے اس کی لاگت بڑھنے کے معاملے پر سندھ حکومت کے بعد وفاقی حکومت سے بھی بات کرنا پڑے گی کیونکہ اس پر بجلیٹ کے لیے پچاس فیصد کو مست سندھ اور پچاس فیصد رقم وفاقی حکومت کو ادا کرنا ہے ہم منصوبے کی لاگت میں اضافے کی قانونی سیکسٹی پہلوؤں کو دیکھ کر کوئی فیصلہ کر سکیں گے کیونکہ لاگت میں اگر 9 ارب روپے کا اضافہ ہوتا ہے تو یہ معمولی اضافہ نہیں ہے سیکرٹری لوکل گورنمنٹ نے کہا کہ میں نے پروبلیکٹ ڈائریکٹر سے پوچھا کہ آپ نے شروع میں ہی منصوبے کی اصل لاگت کیوں شامل نہیں کی جس پر ان کا کہنا تھا کہ زیادہ لاگت دکھانے سے منصوبے کی ایکٹ سے منظوری کے امکان کم ہو جاتے ہیں جس پر میں نے اعتراض کیا اور کہا یہ غلط ہے منصوبوں کی اصل رقم ہی بتانا چاہیے رمضان اعوان نے کہا پروبلیکٹ کے دونوں کمپونٹ پہلے 25 ارب کے تھے اب اگر 9 ارب روپے کا اضافہ ہوتا ہے سیکسٹی طور پر دیکھنا پڑے گا کہ کتنے کام اور چیزوں کا اضافہ ہے فائنل فیصلہ پلاننگ اینڈ ڈیولپمنٹ ڈیپارٹمنٹ اور وزیر اعلیٰ سندھ کریں گے جس کے بعد وفاق سے بات کی جائے گی کیونکہ پہلے منصوبے کی ٹوٹل کا سٹ 25 ارب روپے ہے جبکہ اس کے علاوہ 5 ارب روپے زمین کے حصول کے لیے حکومت سندھ نے ادا کئے ہیں۔ وزیر اعلیٰ سندھ پہلے ہی کہہ چکے ہیں کہ صرف سول ورک سے پائی نہیں آئے گا اس کے پیپنگ اسٹیشنوں کو وغیرہ کو بھی جلد مکمل کرنا ہو گا ایک سوال کے جواب میں سیکرٹری بلدیات نے کہا کہ منصوبے کے اصل مالک پیپنگ ڈائریکٹر وائر بورڈ ہیں انہیں منصوبے کو مستقل واج کرنا چاہیے میئر کراچی بھی کے فور کا دورہ کر سکتے ہیں اگر کوئی بھی منتخب کسی پبلک پروبلیکٹ کا دورہ کرتا ہے تو اس سے بہتری آتی ہے۔

DAWN

## Murad urges Centre to help in timely completion of K-IV project

APR 02, 2017 09:57AM

**KARACHI:** Sindh Chief Minister Murad Ali Shah urged the federal government on Saturday to allocate its complete share for the K-IV project in the next budget to enable its completion within a year.

Mr Shah said the project was meant to be completed by the end of Feb 2018, which was why the provision of the federal government's component was vital.

CM Shah said this while speaking to the director general of the Frontier Works Organisation (FWO), Lt Gen Mohammad Afzal, who called on him leading a delegation at CM House. Local Government Minister Jam Khan assisted the chief minister during the meeting.

The FWO DG said work on Rs25 billion phase I of the K-IV project was in progress in which all possible effort had been made to complete it by the scheduled time. He said phase II of the project, which mainly featured mechanical and electrical works, would be begun later.

Chief Minister Shah said the Sindh government had to release a total of Rs12.5bn — half of the total cost — against which Rs6bn had been allocated during the current fiscal year. He said the provincial government had released Rs3bn while the remaining funds were also being released on priority.

Murad Ali Shah said his government would allocate the remaining Rs6.5bn of its share in the next fiscal, thus, it would be releasing what it was meant to invest for the project, which was vitally important for the increasing water needs of the growing population in the metropolis.

In the meantime, Mr Shah urged the federal government to replicate what the Sindh government had planned for the next financial year and allocate the remaining funds for the project as Islamabad should do according to the agreed financial planning for the scheme.

The meeting was told that at present the federal government had allocated Rs1bn for the current financial year against which it had released only Rs400 million.

CM Shah also reviewed progress on the Karachi-Thatta dual carriageway on which he was informed that work was in progress as per schedule.

He appreciated the pace of work and urged the local government minister to sign an agreement with the FWO for K-IV phase II so that mechanical and electrical works, which included installation of pumping stations, could begin in August.

“I want to see this project completed by Feb 2018 as it is extremely important for Karachi,” said the chief minister.

*Published in Dawn, April 2nd, 2017*