



# TRANSPARENCY INTERNATIONAL-PAKISTAN

2<sup>nd</sup> October, 2014

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Mr. Babar Yaqoob Fateh Muhammad,  
Federal Secretary,  
Minister of Ports & Shipping,  
Government of Pakistan,  
Secretariat Block D,  
Islamabad.

**Subject: Violation of PPRA Ordinance and Public Procurement Rules 2014 in  
inviting tender of Four tugs of 75 tons -85 tons bollard pull, and  
also debarring China, jeopardizing the Chinese investment of US \$ 35 B in  
Pakistan**

Dear Sir,

Transparency International Pakistan has received a complaint that PQA is deliberately trying to cause default in its Contractual following obligation as provided in Article 3.14 of the LNG Terminal Implementation Agreement executed with EETPL on 22-6-2014.

*3.14. PQA shall be responsible ... ..*

*3.14.1 Make available a minimum of four (4) tugs suitable for safely handling LMGCs within Port Qasim.*

PQA started procurement process of the 4 Tugs, worth US \$ 60 Million to US\$ 80 Million, in **July 2014**, but debarred Chinese Tug Manufacturers to bid. TI Pakistan sent a letter highlighting following objection to PQA on 19th July, 2014.

*PQA committing violation of PPRA Ordinance and Public Procurement Rules 2014 in inviting tender of Four tugs of 75 tons-85 tons bollard pull, and also debarring Chinese manufacturers of Tugboats, jeopardizing MoU signed between Pakistan-China for Chinese investment of US \$ 35 Billion, which is a direct effort to fail present government policies of attracting foreign investments, specially from China.*

The collusive role in the tender detailed below was also pointed out.

*That this procurement comprises of tender for three different mode of supply, i.e. Supply of 4 Tug sin 5 months ( date of tender opening 26-8-2014, and award on contract 2 months ), operation and maintenance of 4 tugs for 3 years, and supply and manning 4 tugs old tugs of upto 2005 make, for 6 month period from 1 April 2015 to 31 Sept 2015. No evaluation criteria can be prepared for the three items to be quoted in one tender.*

*That the above conditions which are in violation of PPRA Rules, appears to be tailor-made for a pre selected party, which is a collusion by PQA.*



Unfortunately PQA did not respond to TIP and the Ministry also failed to take corrective measures, though many reminders were also sent.

It is reported by a complainant that PQA has canceled the tender, and delayed the tender opening further, under influence of a tug supplier, who is arranging to supply these four on 5 years rental basis.

PQA has been depending on rental tugs and last year also two tugs from Glob Marine, whose agent is some Mr. Imran., 45&65 Ton Bullard Pull, ( which are operating in PQA since last 4 years) have been hired from the same supplier at US \$6.6 Million/2 year, i.e. Rs 680 Million.

These tugs if not supplied to M/s EETPL in March 2015, ( when the Terminal Operation commences as per SSGCL Operation and Service Agreement dated 29-4-2014, a penalty of about US \$ 11-13 million per month will be paid to M/s EETPL by Pakistan Government for which PSO has given M/s EETPL a sovereign guarantee.

It is reported that PQA and an agent are trying to bring a situation of urgency, so that PQA can hire the 4 Tugs under PPRRA Rule 42, Alternative methods of procurements, Sub Rule (iii), for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met.

Kindly note that the monthly rental of 4 LNG Tugs, 80 Tons Bollard pull may cost PQA US \$ 10-11 M/year. And for 5 year Contract the value of the contract may amount to **Rs 5-6 Billion**. TIP fears that this may become another case of mis procurement similar to Hiring of Helicopters for 5 years by PQA on **Rs 9 Billion** in 2013, which was also objected by TIP, and after NAB intervened, the contract was cancelled. NAB inquiry is still pending in that case.

The Secretary is requested to examine the complaint, and if found correct, direct PQA to immediately invite the tender on Single Stage one Envelop Procedure, and allow China and manufacturers of all other countries, excluding those with which govt has banned trade, and issue addendum accordingly.

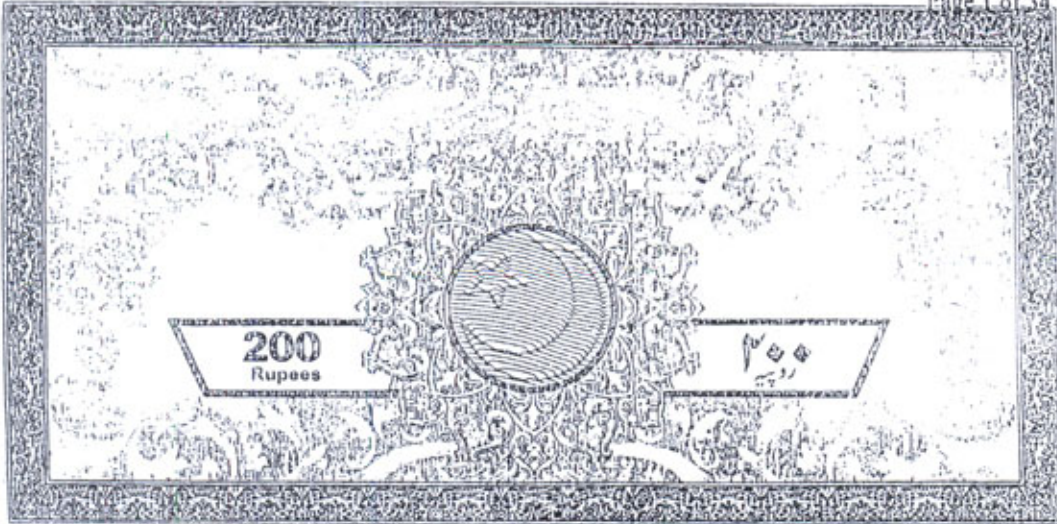
Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Sohail Muzaffar  
Chairman

Copies forwarded for the action under rules to address this manipulation by PQA;

1. Secretary to Prime Minister, Islamabad,
2. Chairman, NAB, Islamabad.
3. Minister, P&S, Islamabad
4. MD, PPRRA, Islamabad.
5. Registrar SC, Islamabad.



MAKEL A. SHERIFF JENDON 20 JUN 2014

*Handwritten signature/initials*

IMPLEMENTATION AGREEMENT FOR ESTABLISHMENT OF LNG TERMINAL

PQA SECRETARIAT  
DEPT. NO. 1730  
DATE: 24/6/14

This Agreement is made on this 23<sup>rd</sup> day of June 2014

BETWEEN

1) Port Qasim Authority, established under the Port Qasim Authority Act, 1973 (Act XLIII of 1973) and having its headquarters at Port Muhammad Bin Qasim, Karachi (hereinafter referred to as "PQA" which expression shall include its successors in interest and assigns) of the one part.

AND

2) Engro Elengy Terminal (Private) Limited a Company incorporated under the Law of Pakistan having its registered office at 8th Floor, The Harbor Building Front, HC-3, Marine Drive, Block 4, Clifton, Karachi 75600 (hereinafter referred to as "EETPL" and/or the "Company" which expression shall include its successors in interest and assigns) of the second part;

WHEREAS:

A. The Company through its Sponsor Elengy Terminal Pakistan Limited ("ETPL") has been selected to provide and perform LNG Services to Sui Southern Gas Company Limited ("SSGC") by establishing LNG Terminal in Port Qasim Authority following an open competitive tender (Tender Enquiry No. ISGS/Proc/TE-FTLNG/2013 held by Inter State Gas System (Private) Limited ("ISGS") on behalf of the Government of Pakistan) as a Fast Track LNG Project; and



*Handwritten signature/initials*

Regulatory Authority (OGRA) and Sindh Environment Protection Agency (SEPA). The Company during the process of construction of the Terminal and later on during the operation of the Terminal will comply with all Laws of Pakistan as well as rules and by-laws framed by PQA consistent with the notified statutory standards including international Maritime Organization (IMO) and International Marine Dangerous Goods (IMDG) Regulations related to the protection of the environment and to discharge from the premises of any trash or other effluent.

- 3.8. Within 120 (one hundred and twenty) days the Company shall have submitted to PQA a Financing Plan describing the financial structure of the Project, proposed sources and amount of both debt and equity and the schedule upon which financing shall be secured.
- 3.9. The Company shall adopt all measures necessary to prevent hazards to human safety and health, property and to the environment that may arise from any activity concerning the construction operation or maintenance of all or any part of the Terminal.
- 3.10. Neither the rights stipulated in Article 3.1 nor any right or privileges offered hereby, except as provided in Article 12.2, shall be assigned or transferred by the Company without the prior consent of PQA which consent shall not be unreasonably withheld.
- 3.11. The Company shall not amend or supplement any document approved by PQA without the consent of PQA.
- 3.12. PQA without disturbance/interruption of other shipping traffic and navigation activity shall arrange passage, berthing, sailing and shifting of ships carrying LNG to be handled at the Terminal strictly on first come first basis subject to PQA operational exigencies. However; sequence of berthing of ships calling at the Terminal will be as per Terminal's operating policy.
- 3.13. Subject to any event or circumstances or combination of event or circumstances beyond the reasonable control of PQA, PQA shall be responsible for providing safe movement to and from the berth at the Jetty for all vessels.
- 3.14. PQA shall be responsible for the provision of all necessary pilotage, tugs and mooring launches at PQA Charges for LNG terminals. PQA shall promptly remove all obstructions for hazards to navigation from the Navigation Channel and the Turning Basins. Further PQA shall complete the following one month prior to Completion Date.
- 3.14.1 Make available a minimum of four (4) tugs suitable for safely handling LNGCs within Port Qasim.
- 3.14.2 PQA shall provide at its cost four (4) pilots and four (4) tug masters for initial familiarization / training to handle LNGC/FSRU vessels. This is to be carried out on the real time simulator. For Full Mission Ship Simulator (FMSS including emergencies scenarios ) PQA shall undertake familiarization / training of other pilots and tug masters for handling LNGC / FSRU vessels at PQA cost.
- 3.14.3 Prepare navigational aids, and other measures, to make the channel ready and operational.

