



24th February, 2014

Mr Habibullah Khan Khattak,
Secretary,
Minister of Ports & Shipping,
Secretariat Block D,
Islamabad

Sub: Complaint of violation of PPRA Rules in Tendering of Rs 5 Billion Road Project on
Mai Kolachi = Reminder 1

Dear Sir,

Transparency International Pakistan refers to TIP comments dated 7-2-2014 on the clarifications given by KPT in its letter dated 4-2-2014, which has not been responded by KPT.

This is to be noted that KPT breaking the law by not abiding with PPRA Rule No 16, which does not allow KPT who has conducted the prequalification under Rule No 15, and did not qualify M/s MAL, nor any JV with name of MAL/ Zahir Khan & Brother. According to the PPRA rule **only those suppliers or contractors who have been pre-qualified shall be entitled to participate further in the procurement proceedings.**

PPRA 16. Pre-qualification process.- (3) The procuring agency shall promptly notify each supplier or contractor submitting an application to pre-qualify whether or not it has been pre-qualified and shall make available to any person directly involved in the pre-qualification process, upon request, the names of all suppliers or contractors who have been pre-qualified. Only suppliers or contractors who have been pre-qualified shall be entitled to participate further in the procurement proceedings.

KPT and Consultant has also violated following PEC Rule, mandatory under PPRA Regulations 2008.

According to Pakistan Engineering Council Standard Procedure for Evaluation of Bids for Procurement of Works March 2009, Section 3.4, (b), eligibility, If prequalification has taken place, only bids from prequalified bidders can be considered and the juridic entities of the prequalified bidders may not be modified in the submission of bids.



This is to state that article 19-A makes the right to access of information pertaining to a public authority a fundamental rights, Justice Syed Mansoor Ali Shah in his landmark judgment *Ataullah Malik v. Federation of Pakistan* laid down the following:

“Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-a empowers the civil society of this country to seek information from public institutions and hold them answerable”. PLD 2010 Lahore 605

The Secretary for implementing rule of law, requested to take action against for acts the officers responsible for processing the Tender to be awarded to a Non Qualified JV. PPRA Rule No 2(f), defines this act as **Collusive Practice** under PPRA Rule 2(f) corrupt and fraudulent practice, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the procuring agencies of the benefits of free and open competition.

TI Pakistan is striving to have transparency in procedures and Rule of Law in Pakistan, which is the only way to eliminate corruption and have good governance in country.

Regards,

Sohail Muzaffar
Chairman

Copies forwarded for information and appropriate action under the mandate vested, to,

1. Secretary to the Prime Minister, PM House, Islamabad
2. Chairman, Public Accounts Committee, Islamabad,
3. Chairman, NAB, Islamabad.
4. Minister of Ports & Shipping, Islamabad,
5. Registrar, Supreme Court Pakistan, Islamabad.
6. Managing Director PPRA, Islamabad.