



**TRANSPARENCY
INTERNATIONAL-PAKISTAN**

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28th May 2010

Mr. Sami ul Haq Khilji
Secretary / Chairman Railways
Block D Pak. Secretariat
Government of Pakistan,
Islamabad.

Sub: Allegation of Violation of Public Procurement Rules 2004 by Pakistan Railways in the
Tender for Procurement of 150 Locomotives

Dear Sir,

Transparency International Pakistan has received your reply of its letter date 14 May 2010 from S. Shahid Ahmed, General Manager (M&S) reference No. M&S/ 150/D.E. Loco. Dated 19 May 2010.

We draw your attention to news report published in Dawn on 28 May 2010 (copy enclosed), which contradicts you stand that the specifications are not prepared only one company , but General Motors are also qualified.

In the news report you have also clarified that PPRA has not objected on your procurement. We have already informed you in our 2nd letter that PPRA has sent serious objection to Pakistan Railways on 5 May 2010, and again on 27 May 2010 PPRA has categorically informed you that this procurement is not allowed under PPRA Rule 42.

We refer to the Supreme Court order given on 28th April 2010 in case of disputed award of multibillion dollar LNG contract to GDF-Suez, in which the SC has announced that "Here we may observe that it is duty of the court to ensure that the Public Procurement Regulatory Authority Ordinance 2002 read with the Public Procurement Rules 2004 are adhered strictly to exhibit transparency".

Transparency International Pakistan would again advice PR to comply with the PPRA Public Procurement Rules 2004 to avoid mis-procurement allegations in this and all tenders..

Your sincerely,


Syed Adil Gilani,
Chairman,

- Copies forwarded for the information of ;
- 1 Chairman, Public Accounts Committee, Islamabad.
 2. Auditor General Pakistan, Islamabad.
 3. Registrar Supreme Court of Pakistan, Islamabad
 4. MD, PPRA, Islamabad
 5. Chairman, NAB, Islamabad.

No.F.1(80)DD-BPPRA/2004
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)

Islamabad, the May 27, 2010

SUBJECT: ALLEGATION OF VIOLATION OF PUBLIC PROCUREMENT RULES, 2004 BY PAKISTAN RAILWAYS IN THE TENDER FOR PROCUREMENT OF 150 LOCOMOTIVES.

Reference Ministry of Railway's letter No.M&S/150/D.E.Loco, dated 19th May, 2010 and Transparency International-Pakistan's complaint, dated 12th May, 2010 and PPRA letter No.1(05)DD-M&IMP/PPRA/2010, dated 5th May, 2010 wherein violation of Rules 23(5) and Rule 24(1) were pointed out (copy enclosed).

2. Please note that Rule 42 d (ii) does not cover the said procurement and is in violation of Rule 24(1) which states "Procuring agencies shall allow all prospective bidders to participate in procuring procedure without regard to nationality, except in cases in which any procuring agency decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities in accordance with the policy of Federal Government". Kindly have this position clarified.

3. Please also note that this information is being called by PPRA under the powers vested in this Authority under Section 5(2)(i) of Public Procurement Regulatory Authority Ordinance, 2002.


(NAEEM AHMED)
Deputy Director-II

Mr. S. Shahid Ahmed,
General Manager/M&S,
Ministry of Railway
Islamabad.

cc: Syed Adil Gilani, Transparency International
Pakistan Karachi

**GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)**

G.O.C-3

No. 01105/00-M&MPPRA/2010

Islamabad, dt: 05 May, 2010

OFFICE MEMORANDUM

Subject: PUBLIC PROCUREMENT RULES, 2004 - APPLICATION OF

The undersigned is directed to refer to the advertisement of Pakistan Railways received through Mail on 01-05-2010 ref No. 00150-LP/000005-2010 regarding procurement in Miscellaneous sector and to state that the advertisement must comply with the following provisions of the Public Procurement Rules, 2004 as framed by the Ministry of Finance, Government of Pakistan vide S.R.O. No. 432(I)/2004 dated 01 June 2004.

- Rule 23 (5) requiring that the price of bidding documents shall be limited into cost of printing and providing. - The revised procedure bidding documents is higher than printing and providing tender documents.
- Rule 24 (1) Procuring agencies shall allow all registered bidders to participate in procuring procedure without regard to nationality, except in cases in which any procuring agency decides to invite only bidders of national origin or to prohibit participation of bidders of any particular country in accordance with the policy of Pakistan Government. - The name of country of origin has been mentioned in tender notice referred above.

2. It is requested that concerned departments may kindly be directed to strictly comply with Public Procurement Rules, 2004 and also to make necessary corrective measures under intimation to the Authority. Any violation will be treated as misprocurement.

2. A complete copy of the text of the rules and guidelines is available at PPRAs website www.ppra.gov.pk


 (Jamil Akmal Natheru)
 Deputy Director - (M & I/P)
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MANAGING DIRECTOR,
Pakistan Railways,
Carnegie Factory, Admin Building,
Sector I-11,
(ISLAMABAD)

CC:

DIRECTOR PROCUREMENT, Procurement Directorate, Pakistan Railways, P.R.
Carnegie Factory Admin. Building, Sector-I-11, **(ISLAMABAD)**



DAWN.COM

Locomotive tender flawed, US firm tells rail minister

LAHORE, May 27: An American company has drawn the attention of the federal minister for railways towards the "irregularities" being committed apparently to award the contract for the supply of 150 locomotives to a favourite.

"The General Motors/Electromotive Division (EMD) has alleged serious violation of Public Procurement Regulatory Authority (PPRA) Rules 21 and 22 besides irregularities both technical and procedural in a letter sent to Minister Haji Ghulam Ahmad Bilour through its local agent," an officer in the Ministry of Railways told Dawn on Tuesday.

The EMD is represented here by IPS whose resident chief, Col S M Sami Khan (retired) is the writer of the letter to Mr Bilour. The letter has surfaced against the background of allegations which say the Pakistan Railways (PR) has plans to procure 150 diesel locomotives from a US-based firm at more than double the rate of the last purchase of locomotives. It is estimated the Railways could suffer a loss of Rs40 billion should the deal materialise.

In his letter, Col Sami Khan states that the Railways tender "is termed International Tender whereas the product is to be manufactured and supplied from one country i.e. USA. Restricting the bidding from USA will deny EMD to get financing under Canadian EDC channels who offer better terms and conditions than EXIM Bank USA and is far more favourable for both Pakistan Railways and the Government of Pakistan."

The letter says: "We believe technical specifications are being formulated with a view to keep EMD out of competition and favour [our] competitor... To mention a few: a. EMD is being restricted to 645F engine which is outdated, obsolete and no more being manufactured or offered. EMD stands disqualified even before participation for an item they do not offer to any railways. It is also informed that most of the spare parts [of 645F] are not available/manufactured (anywhere) in the world. b. 645F had never been equipped with EFI [Electronic Fuel Injection] whereas this requirement has been made mandatory."

The letter asks the minister "to look into the matter and remove impediments for fair and larger participation as required under PPRA rules 21 & 22 which are being ignored and violated with impunity. We may also request (you) to constitute a technical committee to review the specifications for fairness to all bidders and not favourable to a particular manufacturer/supplier".

The Transparency International Pakistan (TIP) has already written to Railways requesting for an explanation of the tendering process in this case. According to a senior Railways official, the Public Procurement Regulatory Authority (PPRA) must investigate the matter.

A Pakistan Railways spokesperson tells Dawn the specifications for additional locomotives demand have been generic in substance and not tailor-made to suit a supplier.

"At present, the replacement programme is for US origin locomotive only," he says, and adds: "So far, we have heard nothing from the PPRA though the tenders had been placed on its website." — Zaheer Mahmood Siddiqui