



**TRANSPARENCY
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9th June, 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 Pakistan Railways letter dated 3 June 2010 to PPRA- Lahore High Court has restrained Pakistan Railways (PR) from opening the sealed bids received for purchase of 150 diesel locomotives and directed not to take any further action on these bids

Dear Sir,

Transparency International Pakistan has received copy of your reply of its letter date 28 May 2010 from Mr. Abid Malik, signed on behalf of General Manager (M&S) reference No. M&S/ 150/D.E. Loco. Dated 03-06-2010, again denying the complainants, PPRA and TI Pakistan stand that Pakistan Railways while processing this procurement is violating PPRA Ordinance 2002, and Public Procurement Rules 2004.

In TIP letters we have referred 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".

It is reported in press, (Business recorder news copy enclosed) that on 7th June that the Lahore High Court restrained Pakistan Railways (PR) from opening the sealed bids received for purchase of 150 diesel locomotives and directed not to take any further action on these bids. The court passed these orders in a petition filed by Malik Abdul Rehman challenging purchase of US-made locomotives in violation of public procurement rules 2004 and directed to keep the sealed bids safe in the custody of Chairman Pakistan Railways.

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

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.
 6. Registrar, Lahore High Court, Lahore

**Purchase of locomotives: LHC restrains Railways from opening sealed bids
RECORDER REPORT**

LAHORE (June 08 2010): The Lahore High Court restrained Pakistan Railways (PR) from opening the sealed bids received for purchase of 150 diesel locomotives and directed not to take any further action on these bids. The court passed these orders in a petition filed by Malik Abdul Rehman challenging purchase of US-made locomotives in violation of public procurement rules 2004 and directed to keep the sealed bids safe in the custody of Chairman Pakistan Railways.

The court issuing pre-admission notice to respondents sought reply within fortnight and directed Director Procurement Pakistan Railways to appear in person before the court along with record on July 07 next. Earlier, petitioner counsel contended that the tender is internationally restricted to USA while the Public procurement Rules 2004 requires that tenders ought to disregard nationality. Even otherwise transparency and good governance requires that an international tender must be opened to the world, he added.

He said that Pakistan Railways high ups were bent upon procuring 150 locomotives only from General Electric of USA by violating all the rules of Public Procurement Regulatory Authority (PPRA) and norms of International Competitive Bidding (ICB), which will result into losses of billions of rupees to the national exchequer, and a misprocurement of at least Rs 40 billion.

He said despite its exorbitant pricing this unsolicited single offer was eagerly taken up by both Pakistan Railways (PR) and Board of Investment (BoI), even though there is not a single dollar of investment - the whole offer is based on a loan from the US EXIM Bank. The MoU, which General Electric Company signed with BoI, has no relevance for a project which has no investment.

He said railways high ups gave strict instructions that the tender specifications were to be made in such a way that only one company ie General Electric USA could succeed and Railways Procurement Directorate advertised in the manner which specified that only locomotives manufactured in USA could participate in the bidding.

He said railways high ups deliberately misguided BoI that financing is only available from US Export-Import (EXIM) Bank which will only provide credit to American manufacturers. The fact is that in case Railways is to invite truly International Competitive Bidding, many non-American financial institutions and EXIM Banks from other countries will step forward to promote their domestic companies as well, with far better prices of locomotives and better credit terms.

He said other companies were ready to offer complete financial packages, as there was recession in the world markets and all manufacturers are eagerly looking for new business. He said the only thing transparent in this proposed procurement of 150 locomotives by Railways was the mala fide intention of Railways high ups to cause a planned loss to the National Exchequer.

It is widely known that Pakistan Railways operates locomotives made by America, Germany, China, Japan and Canada. In fact, the last two international tenders were won by Chinese companies and were also financed by Chinese credit. He, therefore, prayed to the court to restrain the respondents from receiving, accepting or opening the bids till the disposal of the petition.