



TRANSPARENCY INTERNATIONAL-PAKISTAN

27th February, 2016

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TL16/1202/7B

Secretary,
The Ministry of Water and Power,
Govt. of Pakistan,
Islamabad.

Sub: Violation of Public Procurement Rules 2004, Managing Director, Private Power and Infrastructure Board, Islamabad's Tender Notice for R-LNG Based Independent Power Projects (IPPs).

Dear Sir,

This is with reference to Managing Director, Private Power and Infrastructure Board, Islamabad's reply dated 24th February, 2016 on TI- Pakistan's letter dated 12th February, 2016 regarding Tender Notice for R-LNG Based Independent Power Projects (IPPs) (Annexure A & B).

MD, Private Power and Infrastructure Board's reply is wrong and his answer confirms that PPIB intends to re-initiate collusive practice in their procurement against which Government of Pakistan has notified Public Procurement Regulatory Authority Ordinance, 2002 and PPRA Rules 2004, to eliminate such steps taken by various procuring agencies in past.

The Public Procurement Rules 2004, Rule No. 23 (5), clearly define the cost of tender document which should only be printing cost.

Accordingly the above procurement of R-LNG Based projects is deemed to be mis-procurement under Rule No 50 of PPRA Rules 2004.


Secretary is also forwarded NAB's letter No 5-2 (75) Pre/ A & P/ NABHQ/ 2013 dated 8th January (Annexure C), to avoid collusive practices, the procuring agencies were directed to upload documents on website, so that the bidder may download document and print themselves and submit the tender without obtaining the document from the department.

Secretary is requested to take action against MD, Private Power and Infrastructure Board for introducing illegal procedures in the award for 1000 Mega LNG Power projects, which are needed to be awarded without any delay to cater for electricity short fall.

Prima facie the Managing Director is not competent to hold the post due to his wrong understanding of the PPRA Ordinance, 2002 and PPRA Rules 2004 which are the base of all the procurements in Pakistan,

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

With Regards,


Shail Muzaffar
Chairman

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Director General, NAB, Rawalpindi.
3. Chairman, Prime Minister's Inspection Commission, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Islamabad.
6. Federal Minister for Water & Power. Government of Pakistan. Islamabad.



Annexure - A

GOVERNMENT OF PAKISTAN
MINISTRY OF WATER AND POWER
PRIVATE POWER AND INFRASTRUCTURE BOARD

No. 1(102)PPIB/16/PRJ/46/01

24th February 2016

Mr. Sohail Muzaffar
Chairman
Transparency International – Pakistan
Karachi
Fax: 021-35390410

Subject: VIOLATION OF PUBLIC PROCUREMENT RULES, 2004, MANAGING DIRECTOR, PRIVATE POWER AND INFRASTRUCTURE BOARD, ISLAMABAD'S TENDER NOTICE FOR R-LNG BASED INDEPENDENT POWER PROJECTS (IPPs)


Reference is made to your letter No. TL16/1202/7A dated 12th February 2016 on the subject matter.

2. The fee for RFP has been duly approved by the Government of Pakistan (GoP) under Policy for Power Generation Projects as amended from time to time. PPIB charges the prescribed fee from the prospective bidders/companies, as per the GoP policy, in order to recover the legal and administrative expenses incurred on carrying out the process which include *inter alia* finalization of RFP including project agreements (Implementation Agreement and Power Purchase Agreement) involving complex transaction structure for which the fee is also paid to the international legal counsel. Further, the finalization of these documents is based on multiple tiers of approvals, iterations and consultations with stakeholders, which also adds to the cost of preparation of such documents. Thus, the printing fee might be minimal; however, it is the provisioning of the Project Agreements and RFP, which requires repeated recourse to international counsel and extensive man-hours which account for the costly component inclusive of the facilitation provided to the Power Purchaser in this regard. The accepted industrial practice peculiar to such transaction allays any misperception about the subject procurement. Besides, the nature of assignment involves international competitive bidding with huge investment requirement to the tune of US\$ 200 million for development of each project (of approx. 200 MW), thus seriousness of the bidders/companies as well as their financial strength need to be ascertained for undertaking such projects.

3. In view of the above, we understand that such charges are reasonable and customary. We believe that the said explanation adequately addresses the concerns raised by Transparency International – Pakistan.

Best regards,

Yours sincerely,


(Shah Jahan Mirza)
Managing Director

CC:

- i. Chairman PPIB/ Minister for Water & Power, Islamabad
- ii. Secretary Water & Power, Islamabad



TRANSPARENCY
INTERNATIONAL-PAKISTAN

Annexure - B

5-C, 2nd Floor, Knayaban-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

12th February, 2016

TL16/1202/7A

Managing Director,
Private Power and Infrastructure Board,
Islamabad.

Sub: Violation of Public Procurement Rules 2004, Managing Director, Private Power and Infrastructure Board, Islamabad's Tender Notice for R-LNG Based Independent Power Projects (IPPs).

Dear Sir,

This is with reference to Private Power and Infrastructure Board, Islamabad's Tender Notice published in daily "The News" on 10th February, 2016. It is observed that the advertisement is in violation of the Public Procurement Rules 2004.

RFP document fee is issued given as US \$ 2,500/- in the advertisement, i.e., PRs 261,162.50/-, which appears costly in light of the Public Procurement Rules 2004. The Rule is quoted below for your reference;

23. Bidding documents. – (5) The procuring agency shall provide a set of bidding documents to any supplier or contractor, on request and subject to payment of price, if any.

Explanation - For the purpose of this sub-rule price means the cost of printing and providing the documents only.

The above information is forwarded for the purpose of avoiding mis-procurement charge under Rule No 50, and with request to re-invite the tender under the prescribed procedures or issue a corrigendum and extend date 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

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1. Secretary to Prime Minister, Islamabad.
2. Director General, NAB, Rawalpindi.
3. Chairman, Prime Minister's Inspection Commission, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPR, Islamabad.

