



TRANSPARENCY INTERNATIONAL-PAKISTAN

S-C, 2nd Floor, Khayaban-e-Itehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-5390408, 5390409, Fax: 5390410
E-mail: t.pakistan@gmail.com
Website: www.transparency.org.pk

20th January 2010.

Mr Raja Pervez Ashraf,
Federal Minister for Water and Power,
Chairman Power Infrastructure Board (PPIB),
Ministry of Water and Power,
Government of Pakistan,
A Block, Pak Sectt.,
Islamabad.
Tel 051-9212442

**Sub: Violation of Procurement in RPP and recovery of Billion of Rupees
under PPRA Public Procurement Rules 2004**

Dear Sir,

Transparency International Pakistan requested you on 24th July 2009 to review the awards of RPP, which in TI Pakistan's opinion were not complying with the PPRA Public procurement rules 2004, and provide the evaluation reports and Awarded Contract Agreements to TIP under Rule No 48. PPRA also asked the Secretary WAPDA vide its letter dated 30 July 2009, to provide the information under Section 5.2(i) of PPRA Ordinance 2002.

No response of TIP request was received from WAPDA or PPIB or PEPCO by TI Pakistan. The clarification of Mr. Iqbal Z Ahmed on the award of RPP were however received, which countered by TIP and were also reported in press in August 2009. (copy enclosed).

IN Business Recorder of 10th September 2009 following report was published.

The Economic Coordination Committee (ECC) of the Cabinet's decisions of February 15, 2008, on rental power plants (RPPs), have not been implemented in letter and spirit. The Asian Development Bank (ADB), under the third party validation mechanism, has begun evaluating rental plant contracts reportedly aimed at investigating allegations of kickbacks.

Official documents available with Business Recorder show that the ECC in its meeting on February 15, 2008 had directed the Ministry of Water and Power to negotiate tariff for RPPs lower than allowed to the independent power producers (IPPs), based on similar technology, for their first 10 years.

This direction has not been followed by the tariff negotiators i.e. the Private Power and Infrastructure Board (PPIB) and Pakistan Electric Power Company (Pepeco) as, according to Minister for Water and Power Pervez Ashraf, average RPP tariff would be 13.5 cents per Kwh—one cent per Kwh higher than IPPs.



The documents further say that the ECC had also directed that Secretaries of Finance and Water and Power along with Managing Director of Public Procurement Regulatory Authority (PPRA) will review the mechanism of procurement to ensure that further delay is avoided and PPRA Rules are strictly observed in letter and spirit. These instructions of the ECC were also violated by the Ministry of Water and Power which forced PPRA to seek details of the contract agreement signed between the GoP and RPP sponsors.

As a result of public criticism and also TI Pakistan monitoring, the Government of Pakistan assigned Asian Development Bank for the third party validation of the RPP. According to the News report published in News of 18th January and Editorial of Dawn on 19th January, ADB has also seconded TI Pakistan's determinations, and declared these RPP Contracts against the procurement procedures, as well as non economical on technical grounds.

Now, as the ADB report has also confirmed that the RPP renders were not processed according to Rules, Transparency International Pakistan refer to the Public Procurement Rules 2004 in which every Contract of over Rs 10 million, shall include no bribery pact : Integrity Pact" in which the contractor ahs to commit that in case any corruption is found in the award of contract or in future implementation of contract , the contractor will pay 10 times the amount of corruption. The actual commitment is;

Notwithstanding any rights and remedies exercised by GoP in this regard, [name of Supplier] agrees to indemnify GoP for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoP in an amount equivalent to ten time the sum of any commission, gratification, bribe, finder's fee or kickback given by [name of Supplier] as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoP.

Transparency International Pakistan therefore request the Minster to take action under PPRA Rule No 2 (f) , " Corrupt and fraudulent practices" and recover 10 times the loss of GoP, (which is estimated to be in Billions of rupees) under Rules No 7 " Integrity Pact", from the contractors found to be involved in the violation of Public procurement rules 2004.

Regards.

Syed Adil Gilani
Chairman

The
Frontier Post
National Daily Published from Peshawar and Quetta

The Frontier Post

TI seeks valuation report, contract agreement of RPPs

KARACHI (PPI): Transparency International has asked the Pakistan Power Resources (PPR) to supply the 'evaluation report' and 'contract agreement' of rental power procurement made by the PPIB and PEPCO so as to ensure there is no corrupt practices in the tendering process. In a letter sent to the Pakistan Power Resources (PPR), copies of which were also sent to the Chairman Public Accounts Committee, National Assembly; Federal Minister for Water and Power, Managing Director PPRA, Managing Director PPIB, Chairman Wapda and Auditor General of Pakistan, TI Chairman Syed Adil Gilani said the Transparency International Pakistan on August 7 requested the PPR to use its good offices to tell its clients, PPIB and PEPCO, to provide Contract Agreement/ Evaluation Report of all contracts to TI Pakistan, but it was not supplied the documents by PPIB and PEPCO, and instead it got another letter from director PPR. TI Chairman wrote: "It is felt necessary to reply this letter, as it contains issues relevant to Transparency and Accountability of so-called often contradictory press reports of last three successive governments to bridge the power demand, and allegations that a 'willful campaign to scuttle power projects of the sake of political point scoring'. "TI Pakistan has been informed that for the Rental Power Projects to be commissioned by end of 2009, in the evaluation report of PPIB dated December 1, 2008 at Eminabad, Gujranwala 80.50mw by Gulf Rental Power GRP, and at Gojra by IPL. The bid of IPL was evaluated as responsive with relation in the Net worth condition. The Rental Cost with Fuel RFO is Rs11.46 by IPL and Rs9.55 by GRP." The TI further said against the electricity costs through rental power plant, Pakistan Power Resources (PPR) advertised in Dawn last week that the electricity for RPP, PPR is supplying at Bhikhi to PEPCO is at Rs5.86. "Your ad may be true, but why you are charging 100% more for Gojra?" TI said we appreciate your efforts with WAPDA, PEPCO and PPIB to supply the documents to TIP, which are mandatory on them under PPRA Ordinance 2002, and Regulations 2007 under SRO 805(I)/2008. "You are a party to Contract Agreement, and it is in your interest that this requirement shall be met by Government of Pakistan (GoP). In this regard the TI quoted the relevant rule, Posting of contract awards on PPRA's Website: All procuring agencies whether within or outside Pakistan shall post Contract Awards over fifty million rupees on PPRA's website on the proformas as set out in Annexure-I and Annexure-II to these regulations. TI continued; "Another issue raised in your director's letter is in the 44th paragraph, which states: 'We are of the firm belief that the matter must be examined and reviewed dispassionately with the involvement and assistance of representatives of the previous and present governments, and the sponsors of rental power projects, without sanctifying what increasingly appears to be willful campaign to scuttle power projects for the sake of political scoring. You may be well aware of a similar campaign undertaken in the 1990s against IPPs and regrettable outcome of the campaign.' The TI wrote without going into

the merit of proposal by your director, it is fact the more than 12 IPP voluntarily reduced their tariff, when corruption inquiry was conducted. TI Pakistan quotes the World Bank report on 1990s IPPs projects, which indirectly conforms that the IPPs were not acquired according to the prudent procedures. The report says "Several important lessons can be drawn from the Pakistan experience. Setting a bulk tariff ceiling allowed Pakistan to alleviate its power shortage through private generation in record times; however, too much power was contracted with little regard for least cost expansion. The scale of private investment in generation should be aligned with the country's state of development with respect to sector reforms and also social, economic, political and institutional governance. In addition, solicitation of IPPs should be on a competitive basis and staggered over a few years so that changes in international investors' assessment of country and contract risks could lead to declining bid prices. Staggering IPP solicitation and scaling down large IPP capacity would allow the utility to re-assess demand/supply conditions and adjust the contracted capacity and completion timing of subsequent IPPs, accordingly. It is being said by many experts, continued TI, that these recommendations were not adhered to by GoP for the present procurement of RPPs, and that IPPs shall first be operated fully before considering the requirement of RPPs. Like KESC has contracted in December 2008, five year RPP with M/s Walters Power International (may be your partner), with bank guarantee or LC for 5-year Rental, at higher cost than IPPs, and not paying cost of two IPPs - Gul Ahmed and Tapal- arrears of Rs7billion, and they are closed. TI asked is it is prudent electricity generation and distribution business practice to ignore cheap electricity and buy costly electricity, adding SECP has issued notice to KESC for these acts. About 14 percent advance and exemption of 6 percent withholding tax, the TI Pakistan said that any condition allowed at the pre-tender stages in tender documents issued to all bidders, shall not be changed in the post-tender stage, and contract award shall only be made on the pre-tender conditions to the responsive, qualified and lowest evaluated bidder. Any such change or relaxation is a corrupt practice. 'As has been stated in your letter that these conditions were known to all bidders at the pre-tender stage, then TI Pakistan has no objection. But documents have to be provided by GoP to TI Pakistan to verify your claim, said TI. Transparency International Pakistan reminded it is known to all that white collar corruption is very difficult to prove. Even famous Al-Capone was never convicted on his Syndicate crimes of extortion, murder, gambling, but was convicted only for income tax default of a few thousand dollars. 'And in procurement, most of the money corruption occurs due to manipulation of procedures.' It added however, in Public Procurement Rules 20044, it has been made quite clear that many violation of the 50 Rules amount to misprocurement. It said this is an important law, which has made corruption in tendering process a high risk activity. "This law was not available in 1990s. But since 2004 this is the law, and hence it is difficult to repeat pre-2004 corrupt practices in tendering."