



30th April 2013

Managing Director
Public Procurement Regulatory Authority
Islamabad

**Sub: Violation of Public Procurement Rules 2004, by NBP in Tier III Data Center
Project awarded against PPRA Rules**

Dear Sir,

Reference to National Bank of Pakistan letter NBP/IT-P&VMW/DC/99 Dated: April 22, 2013

Transparency International Pakistan has the following observations on NBP's reply about the subject matter.

1. According to PPRA the bid validity can only be extended to the period equal to the period of the original bid validity. As per your stated date that the bids were opened on May 31, 2011 (Annex A states 19 Dec 2010) and inference from the evaluators report that an extension was done on January 13 2012 for 3 months, it seems that the bids were valid for at least 6 months prior to this extension and were probably extended again till March 2013, every time for 3 months. All these extensions except the first one are in violation of PPRA Rule 26. Annexure D: Evaluation Report of financial Proposal, Page 3 & 4. Bid extension letter issued on January 13, 2012 for bid Validity up to March 10, 2012 Annexure 'C'

26.(3) Bid validity. The procuring agency shall ordinarily be under an obligation to process and evaluate the bid within the stipulated bid validity period. However under exceptional circumstances and for reason to be recorded in writing, if an extension is considered necessary, all those who have submitted their bids shall be asked to extend their respective bid validity period. Such extension shall be for not more than the period equal to the period of the original bid validity.

2. According to NBP "Getronics was awarded the Project on February 27, 2012". This is incorrect because the acceptance of bid is considered to be the time of award of Procurement contract and not publishing of the evaluation report. (See Rue 38, 44 and 35)

3. Secondly as per Bid Evaluation Report of Technical Proposal dated 27 Oct 2011, Page 2, Para:3.1 (b): Annexure 'B'

"Authorized Local Partner Certificate from Principal Getronics and Audited Financial Statements of Getronics Pakistan (Pvt.) Ltd. For last three years is missing".

It is also noted from the SECP Incorporation Certificate, that on 11th May 2011, the company Getronics Pakistan had completed only 2 years' experience, and thus the bid was non-responsive to the evaluation criteria.



4. That after 6 months of tender opening, 3 years audited report was submitted by Getronics on the request of NBP/Consultant. How could the 3 years audited report of a company of 2 years' experience be entertained by NBP?

5. According to Rule 31. *Clarification of bids - (1) No bidder shall be allowed to alter or modify his bid after the bids have been opened. However the procuring agency may seek and accept clarifications to the bid that do not change the substance of the bid.*

By adding missing documents 6 months after the bid opening is in clear violation of the above rule as it is considered altering /modifying the bid.

6. NBP website shows the revised Tender was issued on Feb 4, 2011 and closing date as 24 March 2011 whereas NBP states that the tender was opened on May 31, 2011. There is no publication on their website or on PPRA or in any newspaper indicating an extension of the deadline for submission. This is again a violation of PPRA

With Regards


Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Chairman, NAB, Islamabad.
2. Registrar Supreme Court of Pakistan
3. Governor State Bank of Pakistan
4. Auditor General, Islamabad.
5. President, National Bank of Pakistan



CHECKLIST FOR ISSUANCE OF CONTRACT & PURCHASE ORDER

TITLE OF CONTRACT / BID: DATA CENTER PROJECT ON TURNKEY BASIS

1. Requisition / In-Principle Approval by: EVP/CIO ITD (Dec 08, 2010)
2. Request For Proposal (RFP) (Attached) (Not Read / Review at part of resident of committee)
3. ADVERTISEMENT Newspaper dated: 19th Dec 2010
 NBP Website dated: 19th Dec 2010
 PPRA Website dated: 19th Dec 2010
4. List of Tender Documents issued
5. List of Vendor Participated (Attendance Sheet-Tender Opening)
6. Technical Evaluation Report
7. List of Financial bidders (Attendance Sheet-Financial Bid Opening)
8. Financial Evaluation
9. Bid Security (if applicable)
10. APPROVALS OPS Committee (APPLICABLE / NOT APPLICABLE)
 ITBC (APPLICABLE / NOT APPLICABLE)
 BoD (APPLICABLE / NOT APPLICABLE)
11. SUCCESSFUL BIDDER: GETRONICS PAKISTAN (PVT) Ltd
12. PROJECT COST: USD 6,185,986/-
13. To be submitted to NAB YES NO ← Make sum of copy & send to Capital Committee
14. Letter of Intent
15. Letter of Acceptance
16. Legal Vetted Agreement (Copy) (Attached, However Review of Contract is not the mandate of the Committee)

Prepared By:

[Signature]
WING HEAD - P & VM

Reviewed & Verified By:

[Signature]
11/3/13

[Signature]

[Signature]
11/3/13

The scope of evaluation has been broadly divided into two areas:-

- Contractual Evaluation
- Technical Evaluation

3.1 Contractual Evaluation

Examination of the Bids received was made to establish the compliance of each Bidder with regard to Bid submission requirements.

This is with reference to M/s Getronix Technical Proposal submitted with the bid. On its scrutiny, the following clarifications/missing information are to be sorted out in the Contract Negotiations Meeting before Award of Contract, if M/s Getronix are selected for Award:

- a) The consortium detail as provided in their bid does not mention the specific work assignment for which M/s Getronics Pakistan (Pvt.) Ltd. would be responsible. Furthermore, Wateen Solutions (Pvt.) Ltd., TechXact FZ-LLC Dubai, Salman Ansari Technology Consultants (SATC) and Dr. Chew Seng Poh are to be the teaming partners as part of consortium. Moreover, please conform that their services are included in the amount of your quoted Financial Bid.
- b) Authorized Local Partner Certificate from the principal Getronics and Audited Financial Statements of Getronics Pakistan (Pvt.) Ltd. for the last three years is missing.
- c) Client's certificates of stated projects of Uffaq Technology (Pvt.) Ltd. are missing.
- d) Work Experience, Financial Statements and NTN Certificate of Innovative (Pvt.) Ltd. is missing.

This is with reference to M/s Jaffer Business Systems Technical Proposal submitted with the bid. On its scrutiny, the soft copy contents have a Bid Form with their Bid amount filled-in as USD 4,982,132.23 which is not a signed copy (attached as Annexure - B) and is against the requirement of the RFP/Instructions to Bidders.

Since the hard copy of the Bid prevail on the soft copy contents the Bid of M/s Jaffer has been further technically evaluated as such disclosure, is neither a signed copy nor submitted as hard copy. However, M/s Jaffer are being disqualified for the opening of Financial Bids as they have not abided to the defined requirements as laid down by PPRA rule # 22 (1).

The Compliance Sheet Comparison for Bidder's Eligibility has been prepared and attached as Annexure - C.

3.1.1 M/s NCR Corporation Pakistan

The Bid submission of M/s NCR is attached for easy reference as Annexure-E. Arithmetic Errors were found in the BOQ which were communicated to them vide NESPAK query letter attached as Annexure-F.

The major queries were regarding submission of Bid Form, acceptance of Arithmetic Errors, conformance to RFP requirements both technically as well as financially and application of GST in the BOQ as a lump sum figure since it is applicable on material only. Without the breakup of GST amount the arithmetically corrected Bid price could not be determined.

The reply of M/s NCR is attached as Annexure-G through which they have submitted the missing Bid Form and accepted the Arithmetical Errors as indicated. The mandatory requirements conformance, as specified in the RFP were also confirmed by them along with provision of breakup of GST. They further confirmed that in case of any contradiction between NCR and RFP commercial terms and conditions, the RFP terms will prevail.

Based upon the breakup of GST corrected Bid Price of M/s NCR was determined to be USD 6,980,211/- as tabulated in the attached Annexure-H.

The mandatory requirement of validity of Bid and Bid Security was discussed in the Clarification meeting held on January 02, 2012 and reminder sent vide e-mail dated January 13, 2012 attached herewith as Annexure-I since evaluation of an expired Bid cannot be done. The Bid validity and Bid guarantee has been extended by M/s NCR up to March 15, 2012 whose copies are attached as Annexure-J and original submitted to NBP.

3.1.2 M/s Getronics Pakistan (Pvt.) Ltd.

The Bid submission of M/s NCR is attached for easy reference as Annexure-K. Arithmetic Errors found in the BOQ were Nil. Vide NESPAK query letter attached as Annexure-L some Contractual and Technical queries were sent to the Bidder.

The major queries were regarding submission of consortium details, authorized local partner certificates & financial statements for the last three years, conformance to RFP requirements both technically as well as financially and non mentioning of unit of measurement in their BOQ.



The reply of M/s NCR is attached as Annexure-M through which they have submitted the missing details and certificates as indicated and have confirmed the conformance of mandatory requirements as specified in the RFP. They further confirmed that they will provide the complete solution as per the RFP requirements on a turn-key basis without any additional cost to the Purchaser.

Regarding the matter of their stipulated commercial terms & conditions it was clarified that their Financial Bid is in full compliance with the terms and conditions of the RFP, in case there is any term and condition mentioned in our financial that is contradictory to the RFP, the terms in the RFP would take precedence.

The constitution and sharing of Consortium partners liabilities were further discussed in subsequent meeting and contractually acceptable reply of M/s Getronics was received on the matter vide # L-NBP-004-11 dated January 13, 2012 attached herewith as Annexure-N.

The mandatory requirement of validity of Bid and Bid Security was discussed in the Clarification meeting held on January 03, 2012 and reminder sent vide e-mail dated January 13, 2012 attached herewith as Annexure-O since evaluation of an expired Bid cannot be done. The Bid validity has been extended by M/s NCR up to March 10, 2012 as mentioned at Serial # 22 of Annexure-N. Accordingly Bid Security/Guarantee is to be extended up to March 10, 2012.

3.2 Technical Evaluation/Clarifications to determine the conformance of RFP requirements without any additional cost impact

Technical evaluation/clarification of systems offered by Bidders has been carried out specifically to check their conformity with the requirements of technical specifications as laid down in the Request for Proposals (RFP) and to finalize the recommendations for award of Contract to the successful Bidder for a least cost but technically most viable solution as per the RFP document Clause # 3.8.6.

3.2.1 M/s NCR Corporation Pakistan

Details of queries and clarifications are listed in the attached Annexures-F & G. M/s NCR have confirmed to conform to the specified requirements of the RFP that are essential and mandatory to be a part of the full solution BOQ proposed by them.