



13th May 2010

Altaf Ahmad Chaudhry,
Chairman,
National Highway Authority,
NHA HQ, 27, Mauve Area, G-9/1,
Islamabad.

Fax: 051-9260404

Sub: NHA is violating PPRA Rules in almost all procurements causing Billion of Rupees Loss to Exchequer

Dear Sir,

Transparency International Pakistan has been objecting on NHA procurements which are mostly in violations of PPRA Rules NHA has not responded to TIP objections on 10 April 2010 and 7th May 2010. NHA has also failed to respond to PRRA letter dated 10 May 2010 on allegation that (NHA) has cancelled the award of a multi-billion contract for collection of toll on motorways after the bids had been processed, allegedly to accommodate a favorite contractor.

TI Pakistan has received Complaint has NHA has discharged the tender, and re-invited the same vide EOI Notice published in Newspapers on 23 April 2010. This allegation confirm the previous allegations made in Newspapers that NHA is trying to induct a new firm. NHA is required to clarify following violations;

1. According to Rule No **33. Rejection of bids.**- (1) The procuring agency may reject all bids or proposals at any time prior to the acceptance of a bid or proposal. The procuring agency shall upon request communicate to any supplier or contractor who submitted a bid or proposal, the grounds for its rejection of all bids or proposals, but is not required to justify those grounds. Notice of the rejection of all bids or proposals shall be given promptly to all suppliers or contractors that submitted bids or proposals. NHA has failed to respond the reasons to bidders.
2. The complaint has to be addressed under Rule No 47, and the inquiry report has to be sent to Secretary Communication for decision. **Redressal of grievances by the procuring agency.**- (1) The procuring agency shall constitute a committee comprising of odd number of persons, with proper powers and authorizations, to



address the complaints of bidders that may occur prior to the entry into force-of the procurement contract. (2)Any bidder feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances not later than fifteen days after the announcement of the bid evaluation report under rule 35. (3)The committee shall investigate and decide upon the complaint within fifteen days of the receipt of the complaint.

3. NHA has not issued prequalification Documents under EOI published on 24 April 2010, as required under Rule No. 16. **Pre-qualification process.**- (1) The procuring agency engaging in pre-qualification shall announce, in the pre-qualification documents, all information required for pre-qualification including instructions for preparation and submission of the pre-qualification documents, evaluation criteria, list of documentary evidence required by suppliers or contractors to

4. New EOI amounts to splitting of the procurement not allowed under Rule No. **9.Limitation on splitting or regrouping of proposed procurement.**- Save as otherwise provided and subject to the regulation made by the Authority, with the prior approval of the Federal Government, a procuring agencies shall announce in an appropriate manner all proposed procurements for each financial year and shall proceed accordingly without any splitting or regrouping of the procurements so planned.

TIP would like to inform NHA that Public Procurement Rules 2004 are mandatory on SBP as has been admitted by you also, but now onwards the Supreme Court of Pakistan has taken the responsibility to ensure across the board application of these rules. We quote Supreme Court order given on 28th April 2010, in the case of award of multibillion dollar LNG contract to GDF-Suez, in which the SC has announced that it is the duty of the Court to ensure the application of Public Procurement Rules 2004.

NHA has also been violating PPRA in Contracts Awarded to NLC and FWO, on which TIP has sent complaints to you as well as CJ Supreme Court of Pakistan.

Regards,



Syed Adil Gilani
Chairman

Copies forwarded for the information of;

1. Minister of Communication, Government of Pakistan, Islamabad.
2. Chairman, Public Accounts Committee, Islamabad.
3. Chairman, National Accountability Bureau
4. Registrar, Supreme Court of Pakistan, Islamabad
5. Managing Director PPRA , Islamabad

**URGENT
BY FAX****National Highway Authority
(Operation Wing)
Road Asset Management Division (RAMD)**27-Mastur Area, G-9/1, Islamabad
Telephone # 051-8351822, Fax # 051-2281208No. 76 (1)/NHA/RAMD/DD (Ops/ETTM)/10/1053rd April, 2010M/s Toflink Pakistan-EFKON
Islamabad.Subject: PROCUREMENT OF TOTAL SOLUTION FOR THE OPERATION AND
MANAGEMENT OF MOTORWAYS (M-1, M-2 & M-3).
ANNULMENT OF PROCUREMENTRef: Your office letter no. TLP/ETTM-GEN/02/0153 dated 15th January 2010.

In continuation of your above referred letter vide which a Bid was submitted for the subject procurement by your office and subsequent meetings on the subject procurement, it is informed that the competent authority has annulled the subject procurement process with effect from 21st April 2010.

2. You are hereby requested to collect the Scaled Financial Bids and it's copies from the office of undersigned at the earliest, please.


 (AMJAD ALI YEGHARI)
 Director (OM'S)

Circulation:

- 1) All Committee Members

Copy to:

- 1) Member (Operations) NHA, Islamabad.
- 2) General Manager (Operations) NHA, Islamabad.
- 3) General Manager (Motorways) NHA, Balkassar.
- 4) PS to Chairman NHA, Islamabad.

TolLink Pakistan (Pvt) Limited.

Toll Road Management Systems and Engineering Specialists



TolLink Pakistan (Pvt) Ltd

April 28, 2010

TLP/GEN-Cor/01/223

General Manager (Operations)
National Highway Authority
27-Mauve Area, G-9/1
Islamabad

Subject: RFP for Supply, Installation, Commissioning, Operations, Maintenance and Management of E-System at Motorways M1, M2, M3 (Total Solution)

Dear Sir,

1. This is with regard to the Request for Proposals ("RFP") for the supply, installation, commissioning, operations, maintenance and management of an electronically toll collection, weigh stations fine collection and police fines collection system ("E-System") at M-1, M-2 and M-3 ("Project"). It is pertinent to highlight that we submitted a technical and financial proposal for the Project on 15-01-2010 and also submitted a high value Bid Security Bond in accordance with the terms of the RFP.

Subsequently NHA carried out technical evaluation of the bids and presentations were also given to the (Senate & National Assembly Standing Committees on Communication), in NHA auditorium. After which it was announced by the Honorable Minister for Communication that financial bids will be opened on 15-03-2010. However the same has not been opened as yet. The financial bids and the Security Bond of the bidders are lying with NHA for the last three months.

2. It has come to our notice that the National Highway Authority ("NHA") has invited a fresh expression of interest ("EOI") from interested local companies through a newspaper advertisement, dated April 23, 2010, for the operation and

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3. management of toll plazas on M-1, M-2 and M-3 for a term of one (1) year. Please note that this scope of work falls squarely within the ambit of the Total Solution Project. We wish to emphasize that **the EOI is in blatant contravention of the Public Procurement Rules, 2004 ("Rules")**, is inequitable and unwarranted. Please note that rule 34 of the Rules clearly stipulates that a procuring agency, such as NHA, may only re-tender a project, or part thereof, if it has rejected all original bids in accordance with rule 34. The procuring agency, before inviting for re-bidding, has to assess the reasons for rejection and, may thereafter revise the specifications, evaluation criteria or any other condition for bidders.
4. That being the case, advertisement of the EOI is a manifest breach of the rules, being unfair and arbitrary, contravenes principles of natural justice and is liable to be cancelled. It is therefore requested that our proposal with regard to the Total Solution Project be given due consideration and the EOI be revoked.

Trusting to have been of service to you, we remain.

For TollLink Pakistan Private Limited.

A handwritten signature in black ink, appearing to read "Syed Hassan Hamid".

Syed Hassan Hamid

Cc:

1. Member Operations

A handwritten number "1039410" in blue ink, written below the distribution list.