

No.F.1(76)/DD-II/PPRA/2010
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)

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Islamabad, the August 30, 2010.

From : Naeem Ahmed,
Deputy Director – II,

To : Syed Adil Gilani,
Chairman,
Transparency International-Pakistan,
5-C, 2nd Floor,
Khayaban-e-Ittehad, Phase-VII,
Defence Housing Authority,
Karachi.

SUBJECT: NHA IS VIOLATING PPRA RULES IN ALMOST ALL
PROCUREMENTS CAUSING BILLIONS OF RUPEES LOSS TO
EXCHEQUER.

Please refer to Transparency International-Pakistan's letter No. nil,
dated 13th May, 2010 on the above subject.

2. Your complaint was forwarded to National Highway Authority for
disposal under Rule-48 of Public Procurement Rules, 2004. Procuring Agency has
given the comments on the complaint and the same is being enclosed for your kind
perusal.



(NAEEM AHMED)



National Highway Authority
Ministry of Communications
Government of Pakistan

27-Mauve Area, G-9/1, Islamabad
Telephone # 051-8351802, Fax # 051- 9261208

No. 16 (1)/NHA/DIR (OMU)/10/154

22nd July, 2010

Deputy Director-II
Public Procurement Regulatory Authority
Government of Pakistan
Islamabad.

Sub:- **NHA IS VIOLATING PPRA RULES IN ALMOST ALL PROCUREMENTS CAUSING BILLIONS OF RUPEES LOSS TO EXCHEQUER.**

Ref: Your office letter of even no dated May 18, 2010.

1. Transparency International Pakistan (TI-P) vide letter dated 13th May 2010 has stated that NHA has cancelled the award of a multi billion contract for collection of toll on motorways after the bids have been processed, allegedly to accommodate a favorite contractor. TI-P further stated that it has received complaint that NHA has discharged the tender and re-invited the same vide EOI Notice published in newspapers on 23rd April 2010. This allegation confirms the previous allegations made in newspapers that NHA is trying to induct a new firm. NHA is required to clarify the following violations of Public Procurement Rules, 2004.

Rule 33 - Rejection of Bids

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.

Rule 47 - Public access and transparency

As soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public.

Rule 35 - Announcement of evaluation reports

Procuring agencies shall announce the results of bid evaluation in the form of a report giving justification for acceptance or rejection of bids at least ten days prior to the award of procurement contract.

Rule 16(1) - Pre-qualification process

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 demonstrate their respective qualifications and any other information that the procuring agency deems necessary for pre-qualification.

Rule 9 - Limitation on splitting or re-grouping 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 agency shall announce in an appropriate manner all proposed procurements for each financial year and shall proceed accordingly without any splitting or re-grouping of the procurements so planned. The annual requirements thus determined would be advertized in advance on the Authority's website as well as on the website of the procuring agency in case the procuring agency has it's own website.

2. Public Procurement Regulatory Authority vide above referred letter has solicited a comprehensive parawise report and comments on the alleged violations of Public Procurement Rules, 2004.
3. NHA's response to the observations made by TI-P:-
 - a. NHA has cancelled the award of a multi billion contract for collection of toll on motorways after the bids have been processed, allegedly to accommodate a favorite contractor.
 1. NHA has annulled the process of procurement in line with PPRA rules based on among other reasons primarily because of lack of competition and returned financial bids unopened back to the proponents.
 - b. NHA has discharged the tender and re-invited the same vide EOI Notice published in newspapers on 23rd April 2010.
 1. NHA discharged the tender which was a Public Private Partnership (PPP) project and NHA has never re-invited the same.
 2. EOI notice published in newspapers on 23rd April 2010 is a services contract for toll collection on motorways only. It is not the same tender of Total Solution.
 - c. This allegation confirms the previous allegations made in newspapers that NHA is trying to induct a new firm.
 1. NHA has cancelled the said procurement and never re-invited the same therefore allegation that NHA is trying to induct a new firm, is baseless.
 - d. Rule 33 - Rejection of Bids
 1. NHA has not declined request of any bidder asking for grounds for rejection of bids.
 - e. Rule 47 - Public access and transparency
 1. Irrelevant; as NHA has cancelled the procurement process which was underway.

f. Rule 35 – Announcement of evaluation reports

1. The alleged procurement process was annulled before the finalization of technical evaluation whereas financial proposals were never opened for evaluation and returned unopened.


g. Rule 16(1) – Pre-qualification process

1. NHA provide all the requisite information under above rule in detail in EOI notices, PQ documents and provides any other information requested by any prospective bidder.

h. Rule 9 – Limitation on splitting or re-grouping of proposed procurement

1. NHA never violated the said rule.

4. It is further added that NHA ensures transparent procurements in the light of PPRA Rules and PEC Guidelines in true spirit.


(AMJAD ALI LAGHARI)
 Director (OMU)

Copy to: -

- 1) Chairman NHA, Islamabad.
- 2) Member (Operations) NHA, Islamabad.
- 3) General Manager (Operations) NHA, Islamabad.
- 4) Section Officer (Roads), Ministry of Communications, Islamabad.
- 5) PS to the Secretary, Ministry of Communications, Islamabad.
- 6) File