



TRANSPARENCY INTERNATIONAL-PAKISTAN

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**Sub: Corruption of NHA's by blatant
violations of Public Procurement Rules 2004 in almost all procurements.**

Dear Sir,

1. Transparency International Pakistan has been writing to you regularly that NHA procedures of procurements are mostly in violations of Public Procurement Rules 2004. Latest letter was sent on 10th April 2010, on illegal process of Prequalification of Contractors Notice published in Dawn of 10th April 2010, which has not been responded by NHA to TI Pakistan nor to PPRA.

2. In press following news has been noted by TI Pakistan, which needs clarification from NHA as these allegations are serious and may fall under Rule No 2(f) Corrupt and fraudulent practice".

- a. *"The National Highway Authority (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 new company – Transflow. Toll Link. The foreign firm was selected earlier after it offered the highest bid, but authorities called off the process on grounds that a foreign company could not be awarded the contract because of "strategic reasons".*
- b. *In an effort to streamline the system on motorways following substantial increase in traffic volume, a tender was advertised in 2009 and two companies out of 11 were pre-qualified by the authority. Subsequently, the pre-qualified companies submitted technical and financial bids to the NHA on January 15 this year. The two bidders were the Frontier Works Organisation (FWO) and a foreign firm – Toll Link. However, the sources said NHA was all set to accommodate another company that even did not take part in the bidding process.*
- c. *In a bid to entertain a new company – Transflow, NHA Chairman Altaf Ahmed Chaudhry is said to have personally pleaded the case before the standing committees; however his requests were turned down by however his requests were turned down by the federal communication minister and the committees' members as there was no such provision in the Public Procurement Regulatory Authority (PPRA) rules and regulations."*

3. Public Procurement Rules, 2004 have eliminated all discretions in procurement process, and NHA does not have any authority to cancel a tender on lame excuse like "on strategic reasons", nor has any option to induct new bidder once the bids have been invited and opened. Rule 2 (f) is quoted below;

(f) "corrupt and fraudulent practices" includes the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the



detriment of the procuring agencies; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the procuring agencies of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;

4. Serious corruption charges of Rs have been levied on NHA by Auditor General of Pakistan in their Report for FY 2008-2009.

- a. *The audit department of Pakistan has identified the embezzlements worth Rs 29 billion in the financial records of the National Highways Authority (NHA) during the financial year 2008-09.*
- b. *The audit report made 36 observations in five categories, including irregular awards of contracts costing Rs20.7 billion, overpayment due to officials' negligence costing Rs 4.6 billion, loss to authority worth Rs 1.8 billion, mismanagement in different works costing Rs 1.24 billion and non-recovery of Rs 504 million.*
- c. *The total budget of the NHA for the fiscal 2008-09 was Rs 44.7 billion and the AGP audit report exposed massive irregularities and unjustified tenders awarded to their own contractors.*
- d. *The AGP report said massive amount of road contracts worth Rs 20,757 millions were awarded to the blue-eyed contractors without adopting proper tendering procedure, contrary to the rules of NHA, contractors must meet the criteria of the authority.*
- e. *The report observed that due to the negligence on part of the NHA officials, the Authority suffered the overpayments of Rs 4,669 millions. According to the report, NHA faced overpayments due to the enhancement in approved cost of works, escalation on foreign cost component, skilled labor and so on.*

This is to inform you that the Supreme Court on 28th April 2010, in the suo moto case of award of multibillion dollar LNG contract to GDF-Suez announced that "it is the duty of the Court to ensure the application of Public Procurement Rules 2004".

TI Pakistan request you to kindly clarify the press report on the multi-billion contract for collection of toll on motorway as Public Procurement Rules 2004 requires strict compliance of all rules..

Regards,


Syed Atif 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, Islamabad
4. Registrar, Supreme Court of Pakistan, Islamabad
5. Managing Director PPRA Islamabad.