



17th December 2011

Mr. Muhammad Ejaz Chaudhry,
Chairman,
Oil & Gas Development Corporation Ltd,
OGDCL House, Plot No.3,
Jinnah Avenue, Blue Area,
Islamabad,

Sub: Allegations of Violation of Public Procurement Rules 2004 in Multi Billion Dollars Tender for the contract for LPG/NGL extraction project in the Kunnar Pashakhi field

Dear Sir,

Transparency International Pakistan refers to the two News published in Express Tribune on 16th & 17th December 2011 on the serious allegations made against OGDCL & M/s JJVL for collusive practice in the tender for the contract is for LPG/NGL extraction project in the Kunnar Pashakhi field.

Specific allegations made in the news report are;

1. OGDC, instead of negotiating a better deal through an open and transparent bidding process for the benefit of the country, preferred to secretly negotiate with JJVL the terms and conditions of the contract much before issuing the press tender for the contract.
2. A JJVL letter to OGDC for this project shows a difference of over two months in their pre-bid correspondence. A pre-bid correspondence with one bidder, not in knowledge of other bidders is sheer violation of Public Procurement Regulatory Authority (PPRA) rules, as it puts other parties at utter disadvantage.
3. It's also a question mark on OGDC's own procurement rules, which stresses for complete transparency in the award of procurement contracts that involve huge public money.
4. The OGDC and JJVL pre-bid correspondence, copies of which are available with Express Investigation Cell (EIC), indicates how the concerned OGDC officials spin the ball when they get ready to compromise on the national interest to give undue financial benefit to a selected party. It also makes abundantly clear who is who in the award of this multi-billion-dollar contract.
5. OGDC officials to illegally passed on secret information to JJVL before issuing a press tender for this contract.
6. The JJVL letter dated September 8, 2011 duly signed by its Resident Director, Anees Ahmed Ansari, addressed to General Manager Projects OGDC Zahid Bakhtiar said, "Kindly refer to our meeting with you at OGDC House on August 10, 2011, that after evaluating the data provided by you we remain interested in entering into a gas processing agreement with OGDC and propose provisions/heads of the agreement to be incorporated in the final gas processing agreement."
7. Other facts gave a new twist to the story. For example, JJVL's September 8 letter and the tender issue date show a difference of about two months.
8. JJVL's proposed processing fee of 45 per cent of LPG/ NGL price speaks all about the intention that allured OGDC for pre-bid negotiations with JJVL.
9. JJVL's proposed rate of processing fee stuns many in the oil and gas industry. "The processing fee in such projects cannot exceed five to six per cent.
10. The two-year contract period is even more intriguing. Such a short period was apparently meant to make sure that other parties stay away from the process and JJVL gets the contact for this key project without any hassle. The LPG/ NGL project requires huge investment and a short period of two years cannot be an attraction for any company except JJVL, which posses the processing facility in the same area.
11. Initially five parties – Kundi Construction Rawalpindi, Descon/ Presson Lahore, SKB Engineering Islamabad and High Rise Islamabad – showed interest to bid for the contract by purchasing the



12. tender document. However, only two of them – Kundi Construction and JJVL – returned for the submission of bids to OGDC.
13. The OGDC officials' act of providing secret information to JJVL, a party that participated in the tender for getting the contract, is tantamount to sheer misconduct. They, as per the official secret act, are liable to punitive action for this misconduct.
14. When contacted for comments, OGDC acting managing director Basharat Mirza said, "The Kunnar Pashakhi LPG/ NGL extraction project is very important," adding that his organisation will finalise its bidding process on "priority basis no matter how many parties come to contest for the contract

It was also reported in press that M/s Kundi Construction, has sent their complaint/ petition, to OGDCL mentioning Rule 13 of PPRA Rules, response time to complete and submit the bid by the closing date and in view of the foregoing, the request made by the bidder to extend the date to 30-12-2011 was absolutely the minimum time required to complete the bid. According to the Rule 23 the tender documents shall be made available to the bidders immediately after the publication of the invitation to bid and in case if any addendum is issued, appropriate extension of time shall be given to bidders.

If only two bids were received for multi billion dollar project , and when one of the two bidders has objected on the process, such tender may to be scrapped and re-invited, as such low response amounts to collusive practice. In such case Rule 2(f) is applicable, which is "corrupt and fraudulent practices" and includes, 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

This is also to inform that Rule 32 does not allow OGDCL to include Discriminatory and difficult conditions, which discriminates between bidders or that is considered to be met with difficulty. The discriminatory or difficult nature of any condition are those which are not normal in trade, manufacturing, construction business or service to which that particular procurement is related. Kindly clarify the above allegations, and hold inquiry under Rule No 4, which shall be completed within 15 days, and has to be signed off by the Secretary Ministry of Petroleum.

Transparency International Pakistan is striving to have Rule of Law in Pakistan.

Regards,


Syed Adil Gilani
Adviser

Copy forwarded for the information and appropriate action on the violation if it is true, under the Laws of Pakistan,

1. Chairman Public Accounts Committee, Islamabad,
2. Chairman, NAB, Islamabad,
3. Auditor General Pakistan, Islamabad,
4. Registrar, Supreme Court of Pakistan, Islamabad,
5. Managing Director PPRA , Islamabad