



TRANSPARENCY INTERNATIONAL-PAKISTAN

30th October 2012

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

Rizvi and Rizvi,
Advocates, Solicitors and Corporate Consultants,
11 Justice Kayani Road,
Lahore

Sub: Violation of Public Procurement Rules 2004, Manager, Legal, Pakistan Cricket Board's Tender Notice for Cellular Phone Companies – TIP Letter dated 04th October 2012 and Rizvi & Rizvi Letter dated 25th October 2012.

Dear Sir,

Transparency International Pakistan is in receipt of Rizvi and Rizvi's letter dated 25th October 2012 on the above subject, in reply to TI-Pakistan's letter dated 04th October 2012.

Vide its letter of 04th October 2012, TI-Pakistan had pointed out a violation of Public Procurement Rules 2004, compliance of which is mandatory on all public procuring agencies. For your understanding, PPRA Ordinance 2002 defines "procuring agency" as:

2. Definitions:- (j) "procuring agency" means-

- i. any Ministry, Division, Department or any Office of the Federal Government;
- ii. any authority, corporation, body or organization established by or under a Federal law or which is owned or controlled by the Federal Government.

As for the objection raised by you regarding the authority of TI-Pakistan to pass judgments, it may be noted that TI-Pakistan had only pointed out a violation of Public Procurement Rules 2004 and not passed any judgment.

TI-Pakistan had only performed its duty under the Article 19-A of the Constitution of Pakistan. It may be noted that Article 19-A makes the right to access of information pertaining to a public authority a fundamental right. Justice Syed Mansoor Ali Shah in his landmark judgment *Ataullah Malik v. Federation of Pakistan* (PLD 2010 Lahore 605) laid down the following:

"Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable."

TI-P also refutes Rizvi and Rizvi's stance that the advertisement given "is fully within the ambit of PCB Procurement Manual". It should be noted that according to Rule 03 "Scope and Applicability" and Rule 51 "Overriding Effect", the Procurement Manuals have been superseded by the PPRA Ordinance 2002 and Public Procurement Rules 2004, thus making it mandatory on the procuring agencies to carry out procurements in accordance with the Rules.

With Regards,

Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Chairman, Public Accounts Committee, Islamabad.
2. Registrar, Supreme Court of Pakistan, Islamabad.
3. Chairman, NAB, Islamabad.
4. Chairman, PCB, Lahore.
5. Auditor General, Islamabad.
6. Managing Director, PPRA, Islamabad - with a request to take action under section 5(2) (a) "monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement" and under section 5(2) (i) of the PPRA Ordinance 2002.

FOUNDER
MR JUSTICE (R)
JAMIL HUSSAIN RIZVI
1904-1981

ESTABLISHED : 1965
RIZVI and RIZVI
ADVOCATES, SOLICITORS & CORPORATE CONSULTANTS

TALIB H RIZVI
SENIOR ADVOCATE

TAFFAZUL H RIZVI
ADVOCATE SUPREME COURT
LL.M (CORNELL)
SCCS (CORNELL-SORBONNE)

SYED ADIL GILANI

Adviser

Transparency International-Pakistan

5 - C, 2nd Floor, Khayaban e Ittehad

Phase VII, Defence Housing Authority

KARACHI

T: 021 3539 0408

Through Courier

**LETTER DATED 04-10-2012 - VIOLATION OF PUBLIC PROCUREMENT RULES 2004, MANAGER
LEGAL, PAKISTAN CRICKET BOARD'S TENDER NOTICE FOR CELLULAR PHONE COMPANIES**

Under instructions from Our Client Pakistan Cricket Board (PCB), we reply to your supra referred letter written on behalf of Transparency International-Pakistan (TI-Pakistan), to the following effect.

At the outset, we take strong exception to your letter and its tenor keeping in view the legal nomenclature of Transparency International itself which is merely an "NGO" purporting to have been registered under the Trust Act, 1882. The said letter is a blatant harassment, uncalled for, unprofessional, unethical and threatening.

It would have been appropriate had you described in the first place what authority TI-Pakistan possesses to pass judgments or raise allegations, that too without doing necessary groundwork regarding your accusations for which Our Client reserves its right to avail appropriate legal remedy.

It is obligatory that when TI-Pakistan claims that it is "*striving for across the board application of Rule of Law*" it should yourself follow the law in the first instance which includes remaining within its jurisdiction and refraining from raising false accusations against any other person/entity.

Although we are under no obligation but since Our Client is extremely serious in taking necessary action if an unconditional apology is not tendered and the said harassing letter is not withdrawn, therefore for TI-Pakistan' benefit, we would like to bring on record that the advertisement given by Manager Legal, PCB in daily Jang dated 04-10-2012 is fully within the ambit of the applicable PCB Procurement Manual.

Page 1 of 2

IT IS THEREFORE DIRECTED that the letter dated 04 October 2012 of Transparency International-Pakistan should be immediately withdrawn and an unconditional apology should be tendered in the same manner in which the said letter was written.

Keep in mind that in case of your failure to do the needful within fifteen days of the receipt hereof, we have clear instructions to initiate legal proceedings against you.

Copy kept for record.

Yours Etc.

Rizvi & Rizvi

RIZVI & RIZVI®

October 25, 2012

C C:

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



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October 04, 2012

Mr. Muhammad Zaka Ashraf,
The Chairman,
Pakistan Cricket Board,
Gaddafi Stadium,
Lahore
Tel: 042-571-7231

Sub: Violation of Public Procurement Rules 2004, Manager, Legal, Pakistan Cricket Board's Tender Notice for Cellular Phone Companies.

Dear Sir,

The Manager, Legal, Pakistan Cricket Board's Tender Notice for Cellular Phone Companies, published in daily "Jang" on October 04, 2012 is against the Public Procurement Rules 2004.

TI-Pakistan would like to point out that Pakistan Cricket Board is providing the set of bidding documents to the bidders for a sum of **Rs. 100,000**, whereas as per Public Procurement Rules 2004 the bidding documents fee shall not exceed the preparation cost of the documents. The Rule is quoted below for your information;


23. Bidding documents:- (5) The procuring agency shall provide a set of bidding documents to any supplier or contractor, on request and subject to payment of price, if any.

Explanation:- For the purpose of this sub-rule price means the cost of printing and providing the documents only.

The above information is forwarded for the purpose of avoiding the mis-procurement charge under Rule No 50, and with request to re-invite the tender under the prescribed procedures.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Chairman, Public Accounts Committee, Islamabad.
2. Registrar, Supreme Court of Pakistan, Islamabad.
3. Chairman, NAB, Islamabad.
4. Auditor General, Islamabad.
5. Managing Director, PPRA, Islamabad - with a request to take action under section 5(2) (a) "monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement" and under section 5(2) (i) of the PPRA Ordinance 2002.



PAKISTAN CRICKET BOARD

INVITATION TO BID FOR THE CELLULAR PHONE COMPANIES

As the Official Cellular Provider of PCB and Sponsorship (Title, Presenter & Co-Sponsorship) Rights.

The Pakistan Cricket Board (PCB) invites the Cellular Phone Companies (Tel-Co) as Prospective Bidders for the tendering and acquisition of the Rights as the "PCB-Official Cellular Provider" Services and Sponsorship (Title, Presenter and Co-Sponsorship) for the term commencing **2012 – 2015** regarding events of Cricket-Series, ODIs, T-20 and Domestic Cricket Activities, which are classified as under:

- PCB-Official Cellular Phone Company; (One)
- Title Sponsorship Rights;(One)
- Presenter Sponsorship Rights; (One) and/or
- Co-Sponsorship Rights (Two).

All the above PCB-Official Cellular Provider/Title Sponsorship/Presenter Sponsorship Rights/Co-Sponsorship Rights may be acquired by One Prospective Bidder (Tel-Co).

The Tendering Documents may be obtained by the Prospective Cellular Phone Companies desirous of participating in the Tendering Process from the Office of Manager Legal, Pakistan Cricket Board as mentioned hereunder from **4th October, 2012 – 18th October, 2012** (between **09:00 a.m.** till **05:00 p.m.**) upon payment of **PKR. 100,000/-** (One Hundred Thousand Rupees Only) via Demand Draft or Pay Order in the name of and favouring "Pakistan Cricket Board" drawn on a Bank in Pakistan or via remittance to a Pakistan Cricket Board designated Bank Account (details of which may be obtained from the Office of the Pakistan Cricket Board as mentioned hereunder). The aforesaid deposited amount of **PKR. 100,000/-** (One Hundred Thousand Rupees Only) shall be non-refundable and non-adjustable.

The last date for the submission of Tender Bids shall be **18th October, 2012** till **05:00 p.m.** and thereafter no Bid Documents/Offer shall be received and accepted by the Pakistan Cricket Board.

The prospective Bids shall be opened by the duly constituted PCB-Committee on **19th October, 2012** at **3:00 p.m.** in the presence of the Prospective Bidders. The "Reserve Price" shall be communicated by the PCB-Committee immediately after opening of the Bids/Offer. In case, the "Reserve Price" is not met an opportunity shall be given to the Prospective Bidders to submit their respective Bids/Offer.

The PCB-Committee shall have the sole-discretion to accept or reject any Bid-Offer(s); however, in case of any rejection of the Bid-Offer(s) reasons shall be conveyed in writing upon request at least **ten (10) days** prior to the award of the contract.

The successful Bidder shall be issued the Letter of Acceptance by the Office of the Pakistan Cricket Board in due course of time.

CONTACT-INFORMATION:

Mr. Salman Naseer
Manager, Legal
Pakistan Cricket Board
Gaddafi Stadium, Ferozepur Road, Lahore, Pakistan.
Tel: (92-42) 3571-7231 to 34, Fax: (92-42) 3571-1860
Email: salman.naseer@pcb.com.pk



Last date for the submission of bids is scheduled for 18th October, 2012 till 5:00 p.m. whereas the Bid-Offer(s) shall be opened on 19th October, 2012 at 3:00 p.m. at PCB Main Office at Gaddafi Stadium by PCB-Committee. The Pakistan Cricket Board reserves the right to reject all bids before acceptance, without any liability. The grounds of rejection will be communicated upon written request.