



TRANSPARENCY INTERNATIONAL-PAKISTAN

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
Advisory Committee

30th March 2012

Dr. Nadeem ul Haq,
Deputy Chairman,
Planning Commission of Pakistan,
Government of Pakistan,
Islamabad.

Subject: Exemption from application of PPRA Ordinance 2002 and Public Procurement Rules 2004 Granted to M/S National Logistics Cell NLC by Planning Commission is Corruption.

Dear Sir,

Transparency International Pakistan has received the copy of clarification given by your division to Public Procurement Regulatory Authority, on the alleged illegal exemption granted to M/S National Logistics Cell (NLC) by the Planning Commission.

Planning Commission has informed PPRA/ Cabinet Division that the Public Procurement Rules 2004 is silent on the subject of application of Public Procurement Rules 2004 on contractors being a Government entity. This is a false statement.

Planning Commission has also requested the PPRA/Cabinet Division that "*in the absence of specific provision in the rules, government [competent authority] may issue policy which is upheld vide Rule 38 of PPRA Rules 2004*".

According to the PPRA Ordinance 2002 and the Public Procurement Rules 2004 no such issue exist, as the provisions for format and mandatory requirements of Bid Guarantee, Performance Guarantee, CAR Insurance Policies and Retention Money are available in detail in the Public Procurement Rules 2004, and PPRA Regulations of 2008.

According to Rule 23 (k), format of all securities required is to be part of the bidding documents, and according to S.R.O 805(I)/2008 of 11th July 2008 (Public Procurement Regulations 2008), standard bidding documents of Pakistan Engineering Council are mandatory on all the procuring agencies. Under the PEC standard bidding documents, the format of performance security, bid bond, insurance guarantee, bank guarantee have been defined in explicit terms, which are mandatory on all the procuring agency to ask from all the contractors to provide, including the Government owned manufacturers, suppliers or consultants.

The exemption from mandatory requirements of Bid Guarantee, Performance Guarantee, CAR Insurance Policies and Retention Money, accorded to NLC vide Planning omission letter No P&D Division's U.O.No 4 (176) Ad-VII/PD/NLC2000 dated 01-08-2007, sent to Brig. Nisar Ahmed Mir, HQ Engineer NLC Sowan Camp, Rawalpindi, is therefore illegal.



Planning Commission will be held responsible by the CCP for violating competitive laws, as PC has been responsible to accord 20-25% advantage to NLC against other Contractors of Pakistan.

TI-Pakistan again requests the Chairman Planning Commission not to circumvent the Laws, and to take action according to the Public Procurement Rules 2004, which has also been upheld by the Supreme Court of Pakistan in the suo moto case of the Alleged Corruption in Rental Power Plants Judgment announced on 30 March 2012, and immediately withdraw all such exemptions granted to NLC.

With Regards,

Syed Adil Gilani
Adviser

Copies forwarded for the information and action to be taken under the Rule of Law to:

1. Chairman, Public Accounts Committee, Islamabad.
2. Chairman, PQA, Karachi.
3. Chairman, NAB, Islamabad.
4. Chairperson, CCP, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad.
6. Auditor General, Islamabad.
7. Managing Director, PPRA, Islamabad.

8. Minister of Finance, Islamabad. TIP has written to you on 2nd February 2012 about this illegal act of the Planning Commission, but no response has been received from your office. This act of Planning Commission negates the CCP Laws, and also the government Policy of Privatization. NLC is doing commercial activities like Building Plazas in Karachi, share dealings in Stock Exchange, and many more commercial venture. FBR has also pending claim of Billion of rupees of Income Tax on NLC. TIP request the Minister to act in accordance to the Laws of Pakistan in this particular issue.

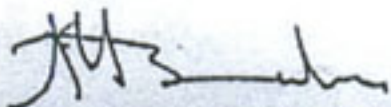
GOVERNMENT OF PAKISTAN
PLANNING COMMISSION
PLANNING & DEVELOPMENT DIVISION

Subject: Exemption for NLC Respecting Contracts for Government Works

Reference NLC's Fax No. 27201/FIC/Fsd/PW dated 13.07.2007 on the subject noted above.

2. It is clarified that instructions issued vide P&D Division's Office Memorandum No.4(176)Ad.VII/NLC/PD/2000 dated 29.06.2000 (copy enclosed) are applicable to all the Federal Ministries/Divisions, and Departments, Autonomous/Semi-Autonomous bodies under their administrative control as well as to all Provincial Governments including Government of Punjab and Departments, Autonomous/semi-Autonomous bodies under their administrative control, requiring the services of NLC.

Encl: As above


(AYAZ HASAN ZUBERI)
Section Officer

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Brig. Nisar Ahmed Mir, HQ Engineer NLC Sowan Camp, Rawalpindi
P&D Division's U.O.No. 4(176)Ad-VII/PD/NLC/2000 dated 01-08-2007



GOVERNMENT OF PAKISTAN
PLANNING COMMISSION
PLANNING & DEVELOPMENT DIVISION

4(176)Admn-VII/PD/NLC/2000

Islamabad February 9, 2012

From:- Muhammad Umar
Section Officer
Tele No. 9207848

To Syed Adil Gilani,
Advisor, Transparency International-Pakistan,
5-C, 2nd Floor, Khayban-e-ittehad, Phase-VII,
Defence Housing Authority,
Karachi.

Subject:- ALLEGATIONS OF VIOLATION OF PUBLIC PROCUREMENT
RULES 2004 M/S NATIONAL LOGISTICS CELL IN CONTRACTS
OF PQA-TIP LETTER DATED 1ST DECEMBER, 2011.

Dear Sir,

I am directed to refer to the Transparency International-Pakistan letter No. Nil dated 3rd February, 2012 on the subject noted above and to say that U.O No. 4(176)Admn-VII/NLC/PD/2000 dated 01.08.2007 is issued by this Division and no amendment or substitution in the decision has been made so far. Hence the same is intact / valid.

2. It may also be clarified that the above OM has been issued subsequent to the OM of even number dated 29th June, 2000 which was issued in consultation with the Finance Division and is not in contradiction to the PPRA Ordinance, 2002 and PPRA Rule, 2004.

Yours faithfully,


(MUHAMMAD UMAR)
SECTION OFFICER

Annex II (SB)

Headquarters 494 Engineer Group
(FWO) Karachi Cantonment
Telephone number 9201625
607/PQ/East/Incls 3/26/09
March 2009

To: The Director
Planning & Development
Port Qasim Authority
Bin Qasim
Karachi- 75020

Information: HQ FWO (Plans Dte)

Subject: Development of Infrastructure Facilities like Roads, Storm Water Drainage, Water Supply and Sewerage System inside and around Planned blocks, Eastern Industrial Zone, Port Qasim, Karachi Contract Package - III.

Ref: - PQA ltr no. PQA/P&D/103/2008 dated 02 March 2009.

It is submitted that Frontier Works Organization (FWO) is exempted from furnishing Bank Guarantee (BG) against performance security and mobilization advance vide Govt of Pakistan Ministry of Defence ltr no. F.47/D13 (Coord - III)/FWO/85 dated 3rd Dec 1985 (photocopy enclosed).



M/P
MS/3

Lt Col
for Comd
(Muhammad Riaz Anwar)

1006/18/01/50