



09th February 2012

Dr Abdul Hafeez Shaikh,
Minister of Finance,
Government of Pakistan,
Islamabad.

Sub: Exemption from providing bank guarantee against performance security and mobilization advance granted by the Planning & Development Division to M/S NLC on 29 June 2000 is against the Public Procurement Rules 2004 and the Competition Act 2010.

Dear Sir,

TI-Pakistan encloses the letter written by Ministry of Ports & Shipping to PQA on 10th April 2009, informing PQA that Planning & Development Division has given the exemption from providing bank guarantee against performance security and mobilization advance, and also deduction of retention money. According to the PPRA Ordinance 2002 and the Public Procurement Rules 2004, the contract should be awarded to the lowest responsive bidder based on the compliance of the requirements of tender documents which includes provision of bid guarantee, performance guarantee, mobilization advance guarantee, providing all insurances and deduction of retention money.


The above requirements are estimated to cost from 7% to 10% of the bid cost and non deduction of WHT 6%, provides an edge of about 13-14 % in the competitive prices of the Tender. By providing these exemption to M/S NLC, the competition is not in accordance with the level playing field with other bidders, which is against the PPRA Ordinance 2002 and the Public Procurement Rules 2004. The Competition Commission of Pakistan also does not allow any edge / favor to a particular competitor in a tendering process.

TI-Pakistan requests the Minister of Finance to kindly examine the adverse consequences of this directive issued 12 years ago in 2000 (which was much before the promulgation of PPRA Ordinance 2002 and the Competition Act 2010).

The act of Planning Commission of Pakistan by granting this exemption to NLC is not only illegal under PPRA Ordinance, but also amounts to almost nationalization of the Construction Industry, and has caused irreparable damage for the existence of Pakistani Construction Companies, as most of the reputable firms like M/s MLC, M/s Gammon, M/s Interhome, etc. have become non entities.

TI Pakistan is striving to have Rule of Law in Pakistan.

With Regards,


Syed Adil Gilani
Adviser

Copies forwarded for the information of:

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

Annex - II (SB)

Headquarters 494 Engineer Group
(FWO) Karachi Cantonment
Telephone number 9201625
607/PQ/East Indus Zone 36/1005
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.

Qasim

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/R
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[Signature]
Lt Col
for Comd
(Muhammad Riaz Anwar)

1006/50/50

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Government of Pakistan
Ministry of Defence


No. 5/5/2008/D-14/N-II

Rawalpindi, the 07th April 2009

OFFICE MEMORANDUM


Subject: - Development of Infrastructure Facilities such as Roads, Storm Water Drainage, Water Supply and Sewerage System Inside and Around Planned Blocks Eastern Industrial Zone, Port Qasim.

The undersigned is directed to refer to M/o Ports & Shipping O.M. No. 4 (56)/2005-P&S-II dated 1st April 2009 on the above subject and to confirm the validity of the content of this Ministry's O.M. No.F. 47/D-18 (Coord-III)/FWO/85 dated 3rd Dec 1985 (Copy enclosed) as desired, please.


(Muhammad Anwar)
Section Officer

Ministry of Ports & Shipping
Mr. Abdul Basit, Section Officer (P&S-II)
Islamabad

M/o Ports & Shipping


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AS/H

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