



18th March, 2013

Mr. Ayub Qazi,
Principal Secretary to the Prime Minister,
Prime Minister House,
Islamabad.

3rd Reminder

Sub: WAPDA and PPIB are responsible for shortage of Electricity in Pakistan by delaying for personal interest GolenGol, Nelam Jehlum, 1100 MW Kohala and 7000 MW bunji dam Hydropower Projects – Request for an Inquiry Commission – TIP Letter dated 3rd October 2012, 18th October 2012 and 5th January 2013

Dear Sir,

This is with reference to TI-Pakistan's letter dated 3rd October 2012 sent to the Prime Minister and reminders were also sent on 18th October 2012 and 5th January 2013, on the above cited subject. However no reply/action has been taken even after a lapse of five months.

Transparency International Pakistan had requested the Prime Minister vide its above mentioned letter to take immediate action on the following:

1. Direct the Ministry of Finance to Ministry of Finance not to issue such sovereign guarantee to any project, contractor or lenders in AJ & K which has been awarded on the unsolicited proposals, without Open Bidding, as the Supreme Court of Pakistan in its landmark Judgment announced on 30th March 2012 in RPP cases, has declared all unsolicited Contracts as illegal and void ab initio, and has ordered NAB to take action against all who were responsible for such illegal award of contracts from 2006 to 2009.
2. On 10th November 2011 TIP requested the Minister of Finance to perform its obligatory duty to stop MOW&P from destroying the fabric of governance and circumventing PPRA Ordinance 2002 and Public Procurement Rules 2004 in awarding of the **US\$ 2.2 Billion** 1100 MW Kohala hydropower project contract to M/s China International Water and Electric Corporation (M/s CWE) China without inviting Public Tenders.
3. The Minister was informed that recommendations of **PPIB, Ministry of Law, Cabinet and ECC and AJ&K Council** confirms that these five organizations (bodies) have been trying to circumvent rules, procedures and law of Pakistan to award the Contract without Open Tender, against the policy decision taken in 2005 that all Projects will be awarded through Open Tendering by the Prime Minister of Pakistan, Government of Azad Jammu & Kashmir.
4. Most of the Hydro Electric projects have been delayed form any years by the Ministry of Water & Power and PPIB due to efforts to circumvent PPRA and PPIB Rules for personal gain (a corrupt practice under NAB Ordinance 1999). This has deprived the nation economical Hydropower by the non-transparent handling of 1100 MW Kohala and 7000 MW Bunji dam in Astore district by MOW&P/PPIB. The onus of the responsibility of **the loss to exchequer of billion of rupees**, and failure to provide cheap electricity to



Pakistan and energy shortage in Pakistan completely rest with MOW&P, WAPDA, PPIB and the Cabinet.

5. MOW&P in its letter dated 21st Oct 2011 has clarified that ECC on 30th June 2011 while considering summary of MOW&P dated 16.6.2011, was based on the following opinion of Ministry of Law, which amongst other things states that; "Rule 5 of the PPRA Rules, 2004 exempts the International and inter governmental commitments of the federal government from the operation of the rules". However, TI-Pakistan refers to the Prime Minister to read the Rule, which has been misinterpreted by the Ministry of Law, which has resulted in a wrong decision taken by ECC. Public Procurement Rules 2004, Rule 5 is very clear that when ever these rules are in conflict with an obligation or commitment of the Federal Government arising out of an international treaty or an agreement with a State or States, or any international financial institution the provisions of such international treaty or agreement shall prevail to the extent of such conflict. This is to inform the Prime Minister that M/s China International Water and Electric Corporation is neither Government of China, nor a State, nor any treaty is signed between Governments of China and Pakistan, nor it is an IFI, and as such this Contract is not exempted from application of PPRA Ordinance and PPRA Rules, 2004. By awarding this project to M/s CWE China, without tendering this Contract may cause a loss of Rs 577 Billion in 30 years, if only Rs 2 are being overpaid to M/s CWE. The sovereign guarantee to Chinese Company for buying the electricity is being provided by the Government of Pakistan, which may be in trillion of rupees and according to news report published on 2nd October 2012.

TI-Pakistan would like to inform that no action has been taken in this respect. Transparency International Pakistan again requests the Prime Minister to urgently take up this case.

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 with the request to take appropriate action under their mandate.

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