



10th December 2011

Chairman,
Port Qasim Authority,
Port Qasim,
Karachi.

Subject: Complaint received on the alleged collusion in appointment of foreign consultant for FSRU LNG Terminal at PQA.

Dear Sir,

Transparency International Pakistan has received complaint on the alleged collusion in appointment of foreign consultant for FSRU LNG Terminal at PQA, to favour Lloyd's Register, Karachi / London.

The contents of complaint are quoted below;

PQA invited bids from foreign firms for rendering specialist Consultancy Services for PQA. The evaluation of Bids has been conducted in an unprofessional manner, deliberately flouting the provisions of PEC & PPRA prevalent rules & regulations. Following observations regarding the pre-qualifications are brought to your notice for urgent redressal according to the norm's of the justice.

1. *According to the Technical Evaluation report result promulgated through Website, following two firms have been Technically qualified;*
 - i) *Lloyd's Register, Karachi / London*
 - ii) *Global Maritime Consultancy Ltd., London, UK*
2. *It is well known that Lloyd's Register have carried out the Qualitative Risk Analysis or/and Quantitative Risk Analysis (QRA) Studies in PQA which includes the viability of the location of the earmarked site and Terminal Design recommendations for Global Energy and Engro Vopak Terminal Ltd, (the proponent LNG Sponsors at Port Qasim) and reports were submitted accordingly. Bearing in mind that Lloyd's Register, who have not associated any local Consultancy firm in the Bid submission, is selected as Consultant on LNG by Port Qasim, the Scrutiny and Evaluation / vetting of QRA reports, etc. would be entrusted to the same firm who has already done the QRA. This is in conflict of interest and is open contravention to the criterion laid down in the Pakistan Engineering Council (PEC) regulations.*
3. *Art. 3 para 7 of 'Project Background' invites application from Foreign Consultant of Engineering and Management in venture with their LOCAL Pakistani Counterpart.*

According to Art. 10 para 'b' of 'RFP Registration with PEC in relevant field is Mandatory Requirements.

*It should be noted that Lloyds Register is not an **Engineering and Management Consultant**, rather the Company is known for Ship Certification Service. Therefore, they are not registered with PEC for relevant works, and according to available information they do not have any local Associate who may possess the PEC registration.*

*Due to non-conformance of this mandatory requirement the firm is **non-responsive**.*

In view of the above, the prequalification of Lloyds Register can not be treated as fair & transparent rather it appears to have been carried out with vested interest. Being not in conformity to the PEC criteria, Lloyds Register should not be treated eligible to participate in the bidding even if they emerge as the lowest bidder on opening of the two Financial Bids.



Transparency International Pakistan would like to inform PQA that TIP and PQA had Jointly prepared the RFP in April 2010, and inserted following condition in Section-4, 1 (b), as according to the PPRA and PEC requirements that any firm providing goods, works, or services with which you are affiliated or associated is not eligible to participate in bidding for any goods, works, or services (other than the Services and any continuation thereof) resulting from or associated with the project of which this Assignment forms a part;

“No Affiliation Certificate- Stating that the applicant has no affiliation with any sponsor or QRA study on LNG project at PQA”

Again in RFP prepared in September 2011, following condition as available in section 1.9;

“Any firm providing goods, works, or services with which you are affiliated or associated is not eligible to participate in bidding for any goods, works, or services (other than the Services and any continuation thereof) resulting from or associated with the project of which this Assignment forms a part”.

However, in the RFP of October 2011, this condition was deleted by PQA on its own, without vetting by TIP, which is direct act of collusive practice under Rule 2(f).

Rule 2 (f) “corrupt and fraudulent practices” includes the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the procuring agencies; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, 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 and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;

TIP suggest PQA to cancel the tenders if the allegations are correct, and the tender document have been changes from the approved and vetted RFP of 2010, , and re-invite in accordance with the PPRA Rules, amend also examine administrative action against those responsible for this act.

Regards,

Syed Adil Gilani
Adviser

Encl: Two RFP pages of April 2010 and Sept 2011

- i. The cost of preparing the proposal and of negotiating the contract, including a visit to the Client, are not reimbursable as a direct cost of the Assignment; and
 - ii. The Client is not bound to accept any of the proposals submitted.
- 1.8 This is an open invitation to firms to submit proposals that have experience and expertise relevant to the works outlined in scope of services.
- 1.9 We wish to remind you that in order to avoid conflicts of interest:
 - i. Any firm providing goods, works, or services with which you are affiliated or associated is not eligible to participate in bidding for any goods, works, or services (other than the Services and any continuation thereof) resulting from or associated with the project of which this Assignment forms a part; and
 - ii. Any previous or ongoing participation in relation with the project by your firm, its professional staff, its affiliates or associates under a contract may result in rejection of your proposal. You should clarify your situation in that respect with the Client before preparing the proposal.

2. DOCUMENTS

- 2.1 To prepare a proposal, please use the attached Forms / Documents listed in the Data Sheet.
- 2.2 Consultants requiring a clarification of the Documents must notify the Client, in writing, not later than Twenty one (21) days before the proposal submission date. Any request for clarification in writing, or by cable, telex or telefax shall be sent to the Client's address indicated in the Data Sheet. The Client shall respond by cable, telex or telefax to such requests and copies of the response shall be sent to all invited Consultants. 21 days before
- 2.3 At any time before the submission of proposals, the Client may, for any reason, whether at its own initiative or in response to a clarification requested by an invited consulting firm, modify the Documents by amendment. The amendment shall be sent in writing or by cable, telex or telefax to all invited consulting firms and will be binding on them. The Client may at its discretion extend the deadline for the submission of proposals.

3. PREPARATION OF PROPOSAL

- 3.1 You are requested to submit a technical and a financial proposal. Your

APRIL 2010

SECTION – 4

EVALUATION CRITERIA FOR PRE-QUALIFICATION OF CONSULTANTS

The Port Qasim Authority has established the Evaluation Criteria for Pre-qualification of Consultants. These include Registration with Relevant Engineering Authorities within the country in which the Project is being implemented.

The intention of Port Qasim Authority in setting up such Criteria of evaluation is solely to give a fair and just opportunity to each and every Consultants to evaluate itself and establish necessary Transparency in the Evaluation process.

Consultant applying for pre-qualification must provide reliable and true information about itself and its Key personnel.

The information requested for and supplied by the Consultants with regard to the firm's qualification must be supported by authentic and certified documentation to be true and factual.

The information requested for and supplied with regard to the Key personnel and their experience, must not only be certified by the Consultant and signed by the individual person himself, both certifying that the information supplied is true and factual.

In case any information supplied by the Consultant with regard to its own experience or that of its key personnel is determined to be false, the Consultant will automatically be liable to be disqualified, debarred, and its proposal rejected outright.

1. Preliminary Assessment (Mandatory Requirement)

- a. Association Certificate
- b. No Affiliation Certificate – Stating that the applicant has no affiliation with any Sponsor of QRA study on LNG project at Port Qasim.
- c. Income Tax Registration Certificate

Note: The firm not meeting the Mandatory requirements will be disqualified and no further evaluation of the document will be carried out.

