



16<sup>th</sup> July 2011

Vice Admiral (R) Muhammad Shafi  
Chairman,  
Port Qasim Authority,  
Port Qasim,  
Karachi.

Sub: Complaint on procurement of Navigation Buoys costing over Rs 7 carores and  
Tender Invitation in Dawn of 1-7-2011 violating Public Procurement Rule 2004  
TIP letters dated 29 -6-2011 & 1-7-2011 and PQA reply dated 13-7-2011

Dear Sir,

Transparency International Pakistan received a complaint on the subject procurement, forwarded it to you on 29 June 2011, and again on 1 July 2011, when PQA did advertise the procurement of Navigation Channel Buoys in Newspapers.

The reply of PQA accepting the complaint that PQA did proceed to negotiate this procurement of 28 Bouys without inviting public tenders. PQA also stated that due to urgency of the requirement for immediate replacement of 28 Buoys,) of the Public Procurement Rule 2004 was invoked by PQA.

This is to clarify that Rule No 42 (d) (iii) do allow for negotiated tendering, but it shall only be applicable for reasons of extreme urgency brought about by events unforeseeable by the procuring agency.

The Rule is quoted below;

*42. Alternative methods of procurement (d) negotiated tendering- (iii) for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:*

*Provided that any procuring agency desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on*

Navigation Channel Buoys are not replaced frequently, as they are made to sustain sea rough and tough conditions, and port authorities carry out regular maintenance/repairs. However, if these 28 Navigation Channel Buoys were so badly damaged that all of them needed to be replaced, these should have been included in the annual plan/budget as per Rule No 8.



**8. Procurement planning.-**

*Within one year of commencement of these rules, all procuring agencies shall devise a mechanism, for planning in detail for all proposed procurements with the object of realistically determining the requirements of the procuring agency, within its available resources, delivery time or completion date and benefits that are likely to accrue to the procuring agency in future.*

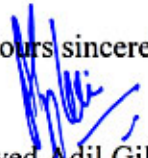
Managing Director PPRA had also issued a directive to PQA and all procuring agencies vide letter No. 2(21) DD( M & IMP)/PPRA/IMP Rules /09, dated 18-6-2009, for strict compliance as well as providing PPRA proposed annual requirement for FY 2009, and subsequent years to be placed on PPRA website. TI Pakistan also noted that PQA is constantly violating this PPRA rule. We request you to kindly confirm whether this procurement was planned in the annual Budget of 2011-2012.

Sir, kindly note that if such exemption is used by every procuring agency, for procurement of routine equipments on urgency basis, then no one will use normal procurement Rules, and Rule No 12 that all procurement opportunities over two million rupees should be advertised on the Authority's website as well as in other print media or newspapers having wide circulation, and Rule No 13 that under no circumstances the response time shall be less than fifteen days for national competitive bidding and thirty days for international competitive bidding from the date of publication of advertisement or notice.

TI Pakistan request the Chairman to kindly look into these violations, and issue a proper complaint Tender Notice, as this procurement can be treated as urgent procurement.

Transparency International Pakistan is striving for the Rule of Law in Pakistan.

Yours sincerely,

  
Syed Adil Gilani  
Chairman  
Advisory Committee

Copy forwarded for the information of;

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



No. 2 (21) DD (M & IMP)/PPRA/IMP. Rules/09  
GOVERNMENT OF PAKISTAN  
PUBLIC PROCUREMENT REGULATORY AUTHORITY  
(CABINET DIVISION)  
FBC BUILDING, SECTOR G-5/2

Hafeez ur Rehman  
Managing Director  
Tel: 051-9224824  
Fax: 051-9224823

Islamabad, the 18<sup>th</sup> June, 2009

Subject: **Implementation of Public Procurement Rules, 2004**

My dear

The Public Procurement Regulatory Authority (PPRA) has been mandated to ensure transparency, economy, efficiency, and accountability of the public sector procuring agencies through proper implementation and monitoring of PP Rules-2004. Since implementation of these rules the rate of violations leading to non-transparent procurement has decreased substantially. However, some areas still require extra attention of the procuring agencies for achieving desired goals set for PP Rules, 2004.

2. These Rules require all procuring agencies to devise a mechanism, for annual **planning** in detail for all proposed procurements with the object to realistically determine the requirements of the procuring agency, within its available resources, delivery time, completion date and benefits that are likely to accrue to the procuring agency and shall proceed accordingly. The annual requirements thus determined are also required to be advertised in advance on the Authority's website. Unfortunately response from procuring agencies in placing their annual proposed procurements on Authority's website since implementation of the Rules in 2004 has remained very poor.

3. In view of the foregoing, it would be appreciated that the organizations under the administrative control of your Ministry are directed to ensure strict compliance of Rules-8 & 9 of PP Rules, 2004 and furnish their proposed annual requirements of the financial year 2009 -10 for placing on Authority's website, at the earliest.

With best regards,

Yours sincerely

Sd/-

**Hafeez ur Rehman**

All Federal Secretaries