



TRANSPARENCY INTERNATIONAL-PAKISTAN

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16th September, 2009

Vice Admiral M. Asad Qureshi
HI (M),

Chairman,
Port Qasim Authority,
Port Qasim,
Karachi.

Sub: Implementation of Public Procurement Rules, 2004 in PQA, Karachi

Dear Sir,

Transparency International Pakistan has received complaints that M/s NLC and M/s FWO who are executing Contracts at PQA Karachi have not complied with the requirement of providing Contractors all Risk Insurance Policy.

According to the Standard Contract Agreement, on all Contracts in Pakistan, a provision of all cost for the loss to project are to be paid under Contractors all Risk Insurance Policy (CAR Policy). This Insurance policy cover cost of all damages due to any cause, and incidental to the reconstruction of the damaged works, including professional fees and the cost of demolishing and removing any part of the Works. Under PPRA Regulations, Procuring agencies when engaged in procurement of works, PQA and all procuring agencies shall use the standard form of bidding documents prescribed by the Pakistan Engineering Council constituted under the Pakistan Engineering Council Act, 1975 (V of 1976), which includes responsibility of Contractor to take out CAR Policy.

It is also reported to TI Pakistan that PQA has also not complied with the Contract provisions, which requires that in case of Contractors failure to take out CAR Policy, or even pay the annual premium of the CAR Policy, PQA shall have taken out the CAR Insurance Policy itself, and deducted the cost of premium from Contractors bills.

We quote the relevant Contract provisions.

21.1 Insurance of Works and Contractor's Equipment

The Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 20, insure:

- (a) the Works, together with materials and Plant for incorporation therein, to the full replacement cost (the term "cost" in this context shall include profit),
- (b) an additional sum of 15 per cent of such replacement cost, or as may be specified in Part II of these Conditions, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature.

Under Clause 21.2, Scope of Cover, insurance shall be in the joint names of the Contractor and the Employer and shall cover the Employer and the Contractor against all loss or damage from whatsoever cause arising, other than as provided in Sub-Clause 21.4, from the start of work at the Site until the date of issue of the relevant Taking-Over Certificate in respect of the Works or any Section or part thereof as the case may be.



Exclusions under 21.4 is ; war, hostilities (where war be declared or not), invasion, act of foreign enemies, rebellion, revolution, insurrection, or military or usurped power, or civil war, ionising, radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, or pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds.

25.3 Remedy on Contractor's Failure to Insure

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide the policies to the Employer within the period required by Sub-Clause 25.1, then and in any such case the Employer may effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

The approximate costs of CAR Policies is normally about 1-1/2 % to 2-1/2 % of Contract Value Cost. If CAR Policies were not taken out in previous Contracts of PQA, NLC/FWO shall refund the insurance premium saved, which shall be deposited in PQA accounts.

However, Transparency International Pakistan request PQA that in case of current contracts, if NLC/FWO have not provided the CAR Policies, PQA shall obtain CAR policies itself, and deducted the costs from the payments to be made to NLC/FWO. All obligations by contractors shall also be complied for NLC & FO also, and nondiscriminatory benefits, like bid security, performance security, retention money, insurance policies.

A report in this respect shall be sent to Transparency International Pakistan Transparency International Pakistan by Saturday the 19th September 2009, under the terms of MOU signed with PQA.

Yours Sincerely,


Syed Adil Gilani
Chairman

Copy forwarded for the information of:

1. Chairman Public Accounts Committee, National Assembly, Islamabad.
2. Auditor General Pakistan, Islamabad
3. Chairman, NAB, Islamabad.
4. Managing Director PPRA, Islamabad
5. Director, FIA, Karachi