

Ref. Nr. RMG/PQA/2010/940
12th May 2010

Director General Admin,
Port Qasim Authority,
Karachi.

**Subject: INFRASTRUCTURE FACILITIES – WATER SUPPLY & SEWERAGE SYSTEM
GULSHAN-E-BENAZIR – PQA – KARACHI.**

**Reference: LETTER OF INTENT (LOI)
Bearing No. PQA/Dir(ICM)/39/2008 Dated 10-05-2010**

Dear Sir:

With reference to the above subject work, We are pleased to acknowledge the receipt of Letter of Intent (LOI) issued Dated 10-05-2010, by your good office, in respect of Contract Works pertaining to "Infrastructure Facilities For Sewerage System Gulshan-e-Benazir, Karachi, the contents of which has been read. In this connection the undersigned CEO, of M/s. R M Gulistan Engineers & Contractors (Pvt.) Ltd., would like to highlight certain matters before your goodself for consideration and immediate necessary favorable decisions at your end:

- All Contracts are to be Governed under PPRA 2004:**
- 1) In accordance with the provision of PPRA 2004, all contracts, whether it be by the Federal, Provincial, Local Bodies, Autonomous Bodies are to be strictly governed by and under the terms and conditions as defined in the PEC Approved Standard Bidding Document.

- Conflicting contents of Para-2 & Para-5 of Letter of Intent (LOI)
Dated 10-05-2010:**
- 2) Kindly refer to Para 2 and Para-5 of the subject LOI, which is reproduced for your ready reference:

Para-2: "the contract will be governed by the terms and conditions in the contract agreement and clarification given herein"; &

Para-5: "10 % Performance guarantee from a Bank or a Pay Order to be submitted as per terms and conditions of the said contract".

In this connection, your kind attention is drawn towards the PEC approved bidding document, duly notified being approved by ECNEC and notified by Planning & Development Division Government of Pakistan No.8 (60) WR/PC/2008 dated 12th February, 2008 (copy of SRO attached and marked as Annexure-A) which says that:

"The Federal, Provincial Departments / Organizations and District Governments shall be responsible to implement the decision of ECNEC in its full letter and spirit and without violating the Federal Statutory laws and Federal Corresponding Notifications inforce."

The seriousness for the implementation of PEC Standard Bidding / Contract Documents by the Government of Pakistan is evident as GOP has issued a notification in which a dead line was fixed for the departments to adopt the PEC bidding documents copy of said notification attached and marked as Annexure-B, which is mandatory for all engineering organizations and departments at Federal and Provincial level and District Governments to use same approved document.

No Deletion/Alteration in Contract Documents Clause-23 Bidding Document Permitted:

- 3) More over PPRA 2004 clearly bound the Departments not to delete or alter the Contract Document Clause 23 Bidding Documents Sub – Clause (4) which is also quoted for your ready reference:

QUOTE: "Procuring agency shall use standard bidding documents as and NOTIFIED by regulation by the Authority: Providing that bidding documents already in use of procuring agencies may be retained in their respective usage to the extent they are not INCONSISTENT with these rules, and till such time that the standard bidding documents are specified by REGULATIONS".

Copy of attached and marked as Annexure-C.

Clause 1B-15 – PEC Approved Bidding Documents:

- 4) As per PEC Approved Standard Bidding Documents clause 1B.15 should be read with D Forms 1. Bid Security (iii), which is also reproduced for your ready reference:

Standard Forms of Securities provided in this document are to be issued by a bank. "In case the bidder chooses to issue a bond for accompanying his bid or performance of contract or against receipt of advance, the relevant format shall be tailored accordingly without changing the spirit of the forms securities".

Copies are attached and marked as Annexure-D, D (i) and D (ii).

In the light above submission, explanations and the relevant facts and circumstances of the matter as well the quoted provisions, and sections of the statutory and mandatory provisions and sections of the PPRA 2004, and the Statutory Notification issued by the of the Planning & Development Division Government of Pakistan No.8 (60) WR/PC/2008 dated 12th February, 2008, as well as per the PEC Approved Standard Bidding Documents, it is clearly evident that for providing securities it is the option as well as the prerogative of the bidder to submit Pay Order / Guarantee or Bond.

Needless to mention here as well it appears to the undersigned, that the PQA deleted the clauses related to Securities before bidding that was contested by us through our various letters. The issuance of LOI substantiates our stance that in the presence of mandatory and statutory provisions and sections of PPRA 2004, the notified PEC Approved Standard Bidding Documents are the only Governing Documents in respect of all Contracts which are/ to be awarded to private sector contractors.

In the light of above submittals we request you to kindly pass necessary orders and take immediate steps for the implementation of the PEC approved Standard Bidding Documents, in its letter and spirit as any deviation in the subject matters would not only adversely effect the rights as well would constitute breach and violations of the mandatory statutory provisions and sections of the law as well the Federal Government Notifications in force, and accordingly amend the conditions mentioned in Para-2 and Para-5 of the subject LOI Dated 10-05-2010, being in violation and in conflict with the relevant provisions the Federal laws as well as the Federal Government Notifications in force, and to provide the amended LOI based on the above, accordingly.

We have applied for the issuance of 10% Performance Bond from Adamjee Insurance Company and other insurances as per provision of the contract which shall be submitted to you in due course.

Thanking you in anticipation.

Sincerely Yours
for R M Gulistan Engineers & Contractors (Pvt.) Ltd.



Muhammad Tariq
Chief Executive

Copy To: DG PPRA (for information please)
PS to Chairman, PQA
DG (Tech), PQA
Director (CM), PQA
Director (IR&W), PQA
Manager (Legal), PQA
Chairman Transparency International (for information please)