



17th May 2012

Chairman,
Port Qasim Authority,
Port Qasim,
Karachi.

Subject: Complaint received about Fraud in the awarding of the Contract of Eastern Industrial Zone, Port Qasim Authority, Package No. 1 and 2 to M/S NLC and FWO – TIP Letters dated 26th November 2011, 03rd December 2011 & 17th December 2011 and PPRA's letter dated 30th November 2011, 07th December 2011 & 31st January 2012, National Assembly Secretariat Letter dated 12th January 2012 & 12th March 2012 and POA Letters dated 27th January 2012.

Dear Sir,

This is with reference to the series of letters sent to you on the above subject regarding the exemption to M/S NLC and M/S FWO from providing bank guarantee against performance security and mobilization advance.

TI Pakistan refers to Deputy Secretary (N&C), Ministry of Defence's (Defence Division), letter No. F.5/5/2008/D-14/N-II, dated 15th May 2012. According to the Ministry's letter, FWO is providing bid guarantees, project insurance and retention money in all its projects. However being a public sector organization, FWO provides Performance Warranty and Mobilization of Advance Warranty in place of guarantees whenever requested by a client organization.

TI-Pakistan therefore requests the Port Qasim Authority to review its practice and demand the necessary guarantees from M/S FWO and M/S NLC, which are mandatory under the Public Procurement Regulatory Authority Ordinance 2002.

TI-Pakistan is striving for the Rule of Law.

Regards,

Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Chairman, Public Accounts Committee, Islamabad.
2. Secretary, Ports and Shipping, Islamabad.
3. Deputy Chairman, Planning Commission of Pakistan, Islamabad.
4. Chairman, NAB, Islamabad.
5. Registrar, Supreme Court of Pakistan, Islamabad.
6. Auditor General, Islamabad.
7. Managing Director, PPRA, Islamabad.



No.F.5/5/2008/D-14/N-II
GOVERNMENT OF PAKISTAN
MINISTRY OF DEFENCE
(DEFENCE DIVISION)
Rawalpindi, the 15th May, 2012

To

✓ Syed Adil Gilani
Advisor, Transparency International Pakistan
5-C, 2nd Floor, Khayban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.

Subject: - Exemption from Providing Bank Guarantee Against Performance Security and Mobilization Advance Granted by the Ministry of Defence to M/s FWO on December 03, 1985 is against the Public Procurement Rules 2004 and the Competition Act 2010

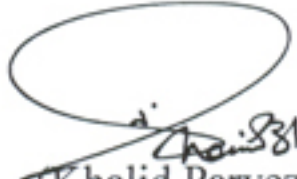
Dear Sir,

I am directed to refer to Transparency International Pakistan letter No. Nil dated 7th February 2012 on the above subject and to state that the case has been examined in consultation with the HQ FWO and following categories of 'Perceived' Financial Concessions, mentioned by Transparency International-Pakistan are re-viewed as: -

- a. Bid Guarantee. FWO is providing Bid Guarantees on all the projects.
- b. Project Insurances. All the projects entailing 'insurance clause' are being **deliberately insured**, as per clients' demands.
- c. Deduction of Retention Money. Retention money is being deducted by all clients on all the projects being executed by FWO.
- d. Performance Guarantee. FWO is a state owned organization and performance guarantees are not required from one state owned organization to another. "Performance Warranty", however, is provided by FWO, whenever requested by a client department, fulfilling the basic need and necessity of "performance guarantee"
- e. Mobilization Advance Guarantee. The Spirit of this guarantee is similar to that of performance guarantee and FWO provides warrantee against this also, whenever requested by a client.

2. It may be evaluated that with "Bid Guarantee", "Insurance Costs" and "Retention Money" out of the equation, the left over competitive advantage not only becomes insignificant but also is permissible under prevailing law of the land.

3. In view of above, it is contended that the little assistance being offered in the form of two categories of exemption may be weighed against utility/employment potency of FWO for operating in challenging environments/difficult situations


(Khalid Parvez Bhatti)
Deputy Secretary (N&C)

Copy to:-

Col. Sibte Hassan Rana
HQ FWO, Rawalpindi

- w.r.t. their letter No. 444Gen/Plans/CS
dated 6th April 2012