



18<sup>th</sup> September, 2009

Vice Admiral M. Asad Qureshi  
HI (M),  
Chairman,  
Port Qasim Authority,  
Port Qasim,  
Karachi.

Subject; **Sub: Deepening & Widening of Port Qasim Navigation Channel**  
**Ref: PQA Letter No PQA/P D/C S/03/09 dated 18<sup>th</sup> September 2009.**

Dear Sir,

Transparency International Pakistan refers to the request of PQA for TI Pakistan views on the technical evaluation report, condition of quoting rates of dredging in foreign currency only in US \$, and the tender date, vide PQA letter under reference above. On 15<sup>th</sup> September, you had called us, and discussed this issue on telephone. Next day Mr. Bogio DG Tech (PQA) visited TIP office with the documents. We clarified to him the views of TIP on both the issues. In his presence we called you and informed you about discussions held with Mr. Bogio, and views of TI Pakistan.

**The TI Pakistan views as requested in writing by PQA are given as under;**

1. The bidders shall be sent letter by PQA to withdraw the condition of payment of FE component in euro, and confirm the acceptance of the FE payment in US \$. This is mandatory, as the tender condition given in Section 2, Guidelines for Financing Structure clause 2.2 (i), states, Currency: Components of payments to the Dredging Company will be in US \$ and Pak Rupees. Percentage to be declared by the bidder but in any event the rupees component will not be less than 20%. Any modification to this condition is not allowed under PPRA Rules.

TI Pakistan recommends that the letters of withdrawal of payment of FE component in any other currency but US \$, shall be sent to M/s Van Oord, Consortium of DI, JDN and CHEC, and all the three JV partners M/s DI, M/s JDN and M/s CHEC separately also, as they are jointly and severally responsible for the tender conditions,

It is also recommended that this letter may be sent on 19<sup>th</sup> September 2009, asking them to respond in 6 days.

**Explanatory Note:** The tenders submitted by a Joint Venture of three Contractors, and one individual Contractor has been determined in the evaluation report by the Consultants as responsive tenders. According to FORM OF TENDER signed by all bidders, clause 10, the JV has signed, " We confirm, if our Tender is accepted, that all partners of the joint



venture shall be liable jointly and severally for the execution of the Contract and the composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer”.

The Joint Venture DI, JDN and CHEC have therefore submitted their tender for executing the contact if awarded to the JV, jointly and even severally, with prior approval of PQA. In case if all the three partners do not want to accept the US\$ conditions jointly, but any one or two partners accept US \$ condition, PQA can award the work to the responsive partners/partner.

2. Under the Tender Conditions attached as Annex, the tender opening date is public opening of all tenders, on the date of submission. This is also defined in PPR 2004 Rule No 28, quoted below.

**28. Opening of bids.-** (1) *The date for opening of bids and the last date for the submission of bids shall be the same. Bids shall be opened at the time specified in the bidding documents. The bids shall be opened at least thirty minutes after the deadline for submission of bids.*

In case non of the them withdraw the euro condition, the tenders shall be discharged, and reinvaded publicly .

These view have been given on the basis of the documents provided by PQA to TI Pakistan, and on the basis of Public Procurement Rules 2004.

Yours sincerely,



Syed Adil Gilani  
Chairman

## **Annexure**

### **6. Conversion to Single Currency**

To facilitate evaluation and comparison, the Employer will convert, all Tender Prices expressed in the amount in various currencies in which Tender Price is payable, to Pak. Rupees. The conversion rate of the Foreign currency shall be fixed as per buying rate notified by the National Bank of Pakistan 14 days before opening date of the Tender.

### **3.13 TENDER OPENING AND EVALUATION CRITERIA**

#### **3.13.1 Tender Opening**

- i). A Committee consisting of nominated members by the Employer will open the Tenders, including withdrawals and modifications made, in the presence of Tenderers' representatives who choose to attend, at the time, date and location stipulated in the Invitation to Tenderers.

The Tenderers' representatives who are present shall sign in a register evidencing their attendance.

- ii). Envelopes marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL" shall be opened and read out first and the name of the Tenderer shall be read out. Tenders for which an acceptable notice of withdrawal has been submitted, shall not be opened.
- iii). The Tenderer's name, Tender Prices, any discount and price of any Alternate Proposal(s), Tender modifications and withdrawals, the presence or absence of Tender Security, and such other details as the Employer at its discretion may consider appropriate, will be announced by the Employer at the Tender opening.

Any Tender Price or discount which is not read out and recorded at Tender opening will not be taken into account in the evaluation of Tender with the exception of Arithmetical error as detected on detailed evaluation under item 3.13.4.

- iv). Discounts offered for lesser period than the Tender validity shall not be considered in evaluation.