



2nd November 2012

Dr Muhammad Khawar Jameel,
Federal Secretary,
Ministry of Ports and Shipping,
Islamabad.

Sub: Procurement of 7,000 Cubic Meter TSHD from M/s China Shipbuilding Trading Company
Ltd (CSTC) China by PQA

Dear Sir,

Kindly refer to the Ministry of Ports and Shipping, Ports & Shipping Wing letters No 5(2)/99-P.1(Q), dated 25th October 2012, written to Transparency International Pakistan in connection with procurement of 7,000 cubic meter TSHD by the Port Qasim Authority.

Transparency International Pakistan has been requested by the Ministry to examine whether the procurement process conducted by Port Qasim Authority is in accordance with PPRA Rules, and give comments so that anomalies if any could be corrected.

PQA vide its letter No PQA/CD/05/2011-Part File dated 30th October 2012 has provided to TIP the steps taken by PQA to process this procurement, the process followed and various documents viz. copies of Tender document, Consultants Evaluation report, draft contract agreement and etc.

According to the PQA Statement in the letter No PQA/CD/05/2011-Part File dated 30th October 2012 the procedure used in this procurement is summarized below;

1. That PQA for the last many years has been trying to acquire its own dredger to offset/cut expenditure on dredging through contracts which has become a burden on the economy of the Port. The project of procurement of dredger was included in the Port Qasim Project Phase – I i.e. 6th five year plan of Pakistan, which was later dropped. Subsequently, 1st PC-I for procurement of dredger was approved by Govt. of Pakistan in January 2001 at a total cost of Rs 2500 Million including Foreign Exchange component of US Dollar 30 Million (Rate of Exchange 1 US Dollar= 60 PKR). However, in 2003, the project was shelved by Ministry of Communication.
2. That Consultant “M/s IMTECH (Pvt.) Ltd” was engaged in 2009 to prepare feasibility report for a new dredger including cost assessment, financial viability and analysis of Financial Benefits to Cost Ratio (BCR). The feasibility report prepared by IMTECH (Pvt.) Ltd was based on estimation in keeping 6000 Cubic Meters KPT dredger “ABUL” in view, and dredging requirement of PQA of 4.5 Million Cubic Meters annually.
3. That the cost of new 6000 Cubic Meters dredger estimated by the Consultant was Euro 60.0 Million (Rs 6.7 Billion @ Rs 113/Euro on 27 May 2009) and life of 25 years. The cost of dredger i.e. Rs 6.7 Billion and duration for construction i.e. 1.5 to 2 years were not in the benefit of PQA. As arranging of Rs 6.7 Billion for construction of new dredger and in tandem continue with contract maintenance dredging at the cost of Rs 1.5 to 2 Billion (approx) per year i.e. Rs 3.5 to 4.0 Billion for 02 years, was not financially viable for PQA.
4. That the case for procurement of new or used dredger was approved by PQA Board on 10 August 2011. Thereafter, the process for acquisition of dredger was initiated.



5. That the Notice Inviting Tender for procurement of new 9000±10% Cubic Meters Dredger for delivery on immediate basis/hire purchase was published in International and National press on 17 Feb 2012. However, considering non-availability of new dredger of required capability, Corrigenda for delivery of dredger hopper capacity i.e. 7000 to 11000 Cubic Meters was published on 21 April 2012.
6. That 25 national and International companies/firms obtained the tender documents.
7. That Four firms submitted bids on due date.
8. That 03 firms were declared technically qualified .
9. That the financial proposals were opened by In-house Dredging Committee in presence of reps of bidders and Consultant on 20 July 2012.
10. That the financial proposal submitted by M/s China Shipbuilding Trading Company Ltd (CSTC) was evaluated the lowest.
11. That the 7000 Cubic Meters dredger being offered by M/s CSTC is 3.5 years old.
12. That a PQA team went to Zoushan, China for inspection of dredger with the approval of Govt. of Pakistan and physically inspected the dredger prior issuing LOI and going ahead with the project.
13. That the PQA Board in its 147th Meeting approved the procurement of dredger on 6th September, 2012.
14. That the Govt. of Pakistan has also approved procurement of dredger at the cost of 36.95 Million US Dollars.
15. That thereafter a conditional Letter of Intent was issued to M/s China Shipbuilding Trading Company Limited on 24 September 2012. The Salient features of terms and conditions on which dredger is being acquired are:
 - a. Lease-purchase period of 03 years (36 Calendar months) will commence on arrival of dredger in Port Qasim.
 - b. CSTC's crew will man the dredger for 03 years for dredging operations and also for repair/maintenance of the dredger. CSTC will be responsible for salary, allowance, food, insurance, medical expense of its crew.
 - c. Spare parts for repair/maintenance of the dredger for 03 years are part of the proposal. Docking is also included, as per contract price.
 - d. Payment is to be made in quarterly installment spread over 03 years.
 - e. Maintenance, repairs and consumables (excluding fuel, lube oil, water and other necessary supplies) and materials including paints, shipyard costs and docking costs, shall be borne by the Supplier for 03 years.
 - f. Dredging of Port Qasim channel, minimum 15 million CuM in 03 years i.e. 5 million CuM of per year is included in the contract price.
 - g. The Supplier will arrange at its own costs the insurance of its crew during the lease period. In addition, the Supplier shall bear all costs on insurance of dredger from China till arrival at PQA against all risks, through a reputable insurance company.
 - j. The Supplier shall arrange alternate dredger during lease period, if unscheduled breakdown of dredger is more than 04 weeks. Further, the agreement/lease will be cancelled for non performance of dredger.
16. That the estimated cost of dredging 5 Million CUM through contract per year will be US \$ 21 Million. The cost through dredger on lease/purchase including fuel cost would be US \$ 15 Million, thus it would save upto US \$ 6 Million per year. That draft contract has been finalized with M/s CSTC.

TIP Comments on the Procurement Process.

Based on the above procurement process stated by the PQA in letter No PQA/CD/05/2011-Part File dated 30th October 2012, prima facie the procedure as prescribed under the Public Procurement Rules, 2004, in general has been followed by PQA.



TIP Comments on the negotiated Draft Contract Agreement.

On the request of NAB, some of the leasing terms which were missing in the tender documents, have been incorporated in the draft Contract Agreement by PQA which have also be examined by TIP. The negotiated draft contract agreement, incorporating NAB recommendations for the protection of client's interest under PPRA Rules & Regulations, contains revised payment terms, CAR Policy (to be corrected), supply spare parts of 5 years which has to be certified by Lloyds/Bureau Veritas as per tendered condition 38 (to be corrected), and dry docking of the dredger to upgrading it at the initial current operating condition at the time of handing over to PQA at the end of the lease period. The negotiated draft contract agreement with the proposed additional requirement as directed by NAB appears to comply with PPRA Regulations 2008 regarding mandatory use of Pakistan Engineering Council Standard Bidding Documents on Works.

TIP recommendation to correct the anomalies.

TIP agree with the NAB recommendations as stated above, and on the action taken on few of them, and also action is to be taken by PQA pointed out above, while finalizing the contract agreement. This is also to point out that the 10% **performance guarantee** and **Insurances** in the draft Contract Agreement are to be amended to comply with the tendered conditions, i.e. as per GCC Clause 18 and Sub Clause 24.1 respectively.

The PQA team's visit to Zoushan, China for physical inspected the dredger at the cost of the bidder is against the government policy as it is a conflict of interest. As this act was performed with the approval of Govt. of Pakistan, PQA is therefore not responsible for this irregularity, but in future the Ministry of Ports & Shipping should not allow anyone of the ministry from foreign visits for the contractors/bidders inspections/testing etc. at the cost of bidder/contractors.

TI Pakistan appreciates efforts of the Ministry of Ports & Shipping to reinsure compliance of Public Procurement Rules, 2004 in this important procurement, and request you to please direct all the departments under your ministry to follow Public Procurement Rules, 2004 in all procurements which will result in awards of all contracts to lowest evaluated responsive bid.

With Regards,


Syed Adil Gilani
Adviser

Enclosed: PQA Brief, and Negotiated Amendments to the Draft Contract Agreement.

Copies forwarded for the information of;

1. Brig (Retd) Musaddaq Abbasi, Director General (A&P) NAB Islamabad, with reference to NAB Letter ANB/PCi/BJA/PCA/Dredger dated 31 October 2012 for TIP comments on compliance of PQA in this procurement under the PPRA procedures as well as comments on the draft contract agreement to ensure transparency.
2. Director General Ports & Shipping, Karachi.
3. Chairman Port Qasim Authority, Karachi.