

No. F. 1(79)/DD-II/PPRA/2010
GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)
<><><>

Islamabad, the May 10, 2011.

SUBJECT: VIOLATION OF PUBLIC PROCUREMENT RULES, 2004;
PROCUREMENT OF SERVICES OF INSURANCE COMPANY.

Reference Public Procurement Regulatory Authority Letter No. Nil
Dated 11.03.2011 on the subject cited above.

2. Your request was forwarded to State Bank of Pakistan (SBP) for disposal under Rules – 48 of PP Rules, 2004. Procuring Agency has given the comments on the request and the same is being enclosed for your kind perusal.



(Naeem Ahmed)
Deputy Director-II

Syed Adil Gilani,
Chairman,
Transparency International- Pakistan,
5 C, 2nd Floor,
Khayaban-eltehad, Phase VII,
DHA,
KARACHI.



STATE BANK OF PAKISTAN
Business Support Services Department

No. BSSD. (Pro. Div)/ 123 -F.4- (Policy) - 2010

June 3, 2010

Ms. Najma Siddiqi,
Joint Secretary (PAC & CII)
National Assembly Secretariat
Islamabad

Dear Madam:

Subject: Violation of Public Procurement Rules 2004- Procurement Services of Insurance Company- Notice by the Public Accounts Committee

Please refer to y U.O F.1 (2) /2010-PAC dated May 24, 2010 received on May 27, 2010 on the above subject.

The issue referred to the Public Accounts Committee by Transparency International-Pakistan (TI-Pakistan) concerns evaluation methodology followed by State Bank of Pakistan (SBP) for its procurements under Public Procurement Rules-2004 (PPR-2004), adopted internally by SBP with approval of its Board of Directors. It is important to mention that SBP and TI-P have in the past maintained a dialogue: on various aspects of procurements and SBP has regularly responded to concerns raised by the former even if raised under misplaced notions, also being the present case which has reference to "Services of Consultants for undertaking Independent Review of Procurement Function".

2 The above letter by TI-P; in addition to recent press reporting, has quoted their concerns which are misleading to say the least with false allegations of violations of PPR-2004 by State Bank of Pakistan (SBP). SBP has an impeccable record in respect of its procedures which not only afford equal opportunity and transparency but are in line with its core objectives and underlying principles of good governance. It was in this spirit that SBP's Board of Directors voluntarily adopted PPR 2004 as notified by the Federal Government in May 2005, although, as well known to all concerned, PPR 2004 are not applicable to SBP which is an autonomous

In their letter dated March 11, 2010 TI-P (*Annex-A*) had expressed the opinion that "lowest proposal" (bid); rather than a lowest evaluated bid/proposal, of a bidder who qualified technically may be awarded the contract. This correspondence also proposed improvement in ongoing weightages for evaluation. In almost a self-contradictory position subsequent TI-letters dated May 8 and 13, 2010 (*Annex-B&C*) declared methodology of employing weightages as corrupt and fraudulent.



STATE BANK OF PAKISTAN
Business Support Services Department

Basis for assigning technical and financial weightages is clearly provided in Rule 24 (2) of PPR-2004 providing that the *"magnitude of price preference to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria"*. Also, Rule 2 (h) clearly provides that where two unambiguous divisions of evaluation parameters have been given, the price preference cannot be bracketed with technical qualification under the wordings "lowest evaluated bid mean:

- i) a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document; and
- (ii) having lowest evaluated cost;

6. PPR-2004 therefore, clearly establishes a paradigm shift from 'lowest priced bid' to 'lowest evaluated bid'. This means that a bid should first conform to the evaluation criteria and other conditions and then should have the lowest evaluated cost. Moreover the lowest proposal approach of TI-P also negates Rule 4 "Principles of Procurement" whereby *"Procuring agencies, while engaging in procurements, shall ensure that the procurements are conducted in a fair and transparent manner, the object of procurement brings value for money to the agency and the procurement process is efficient and economical"* and overriding focus on "value for money" which is elaborated upon under Rule 2 (I) as *"best returns for each rupee spent in terms of quality, timeliness, reliability, after sales service, upgradeability, price, source, and the combination of whole-life cost and quality to meet the procuring agency's requirements."*

In order to obviate the risk of awarding contract on any subjective interpretation of qualification criteria, SBP lays down objectively verifiable scoring based evaluation criteria as required under Rule 29 which requires that *"Procuring agencies shall formulate an appropriate valuation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide an unambiguous evaluation criteria in the bidding documents shall amount to disprocurement"*. By meticulous compliance of Rule 23 (2-j) and 29 SBP, consistently provides unambiguous and objectively verifiable evaluation criteria. Additionally all bidding documents used at SBP request participating bidders to identify any **discriminatory and difficult condition** in accordance with Rule 32 of PPR-2004. Such proactive measures to foster transparency are seldom provided in bidding documents used by other procuring agencies

Through their letter of May 8, 2010 Transparency International Pakistan has also sent a letter to reinforce their misguided stance of "scoring" as a discretionary system. This evaluation process compares three bidders on notional marks and quoted prices. In this scenario three firms 'A', 'B' and 'C' have been shown to have both technical scores and quoted process in descending order with self serving division of technical and financial weightages as **80% and 20%**



STATE BANK OF PAKISTAN
Business Support Services Department

respectively. TI is well aware that SBP uses the maximum distribution of 70-30 and in most cases uses 60-40 and has employed a worst- case hypothetical scenario to mislead intentionally as their arguments otherwise hardly have any relevance to reality (*Annex-D* may be perused in support)

9. It would be pertinent to bring to your notice facts regarding applicability of PPR-2004 as related to SBP. As per Section 2 (j) of Public Procurement Regulatory Ordinance 2002 "*procuring agency means (i) any Ministry, Division, Department or any Office of the Federal Government; (ii) any authority, corporation, body or organization established by or under a Federal law or which is owned or controlled by the Federal Government*". However as per Rule 3 of PPR-2004 regarding "Scope and applicability" this definition renders autonomous entities like State Bank of Pakistan outside the purview of the applicability of PPR-2004 by stating that "*Save as otherwise provided, these rules shall apply to all procurements made by all procuring agencies of the Federal Government whether within or outside Pakistan*".

10. Notwithstanding the above, Central Board of Directors of SBP in its meeting held on 15th May 2005 approved the proposal to adopt the Public Procurement Rules 2004, as notified by the Ministry of Finance in place of the Bank's own Standard Rules and Regulations for bringing conformity with the government procurement procedures and for the sake of enhanced transparency. Moreover the amendments so far made in the PPRA Rules have also been adopted by the State Bank through approval of its Board.

11. We trust the foregoing explains the position in adequate detail to dispel any doubts as to the procedures being followed at SBP, which continue to conform to the letter and spirit of the law and best practices observed domestically as well as internationally.

Yours faithfully,

o/c h
Rehan Hyder
Co-Director

Copy for information to:

Naeem Ahmed, Deputy Director-II, Public Procurement Regulatory Authority (Cabinet Division), Government of Pakistan-Islamabad w.r.t letters no F.1 (79)/D.D-II/PPRA/2010 dated Nil & F.1 (79)/D.D-II/PPRA/2010 dated May 11, 2010