



16th February 2012

Ms. Farzana Raja,
Chairperson,
Benazir Income Support Programme,
F Block, Pak Secretariat,
Islamabad.
Tel: 051-9246299

**Subject: Complaint of Non-Issuance of Evaluation Report by BISP in the
Data Center Project-TIP Letter dated 14th February 2012.**

Dear Ma'am,

Further to our letter dated 14th February 2012 regarding the complaint about the tender of Data Center, TI-P has received documents which confirm that only two bids were received on 23rd December 2011. One bidder M/S Al- Futtaim Technologies Pakistan (Pvt.) Limited came 10 minutes late and the Chairman of Tender Committee of BISP, with the consent of the only other bidder who participated in the tender, M/S Huawei Technologies Pakistan (Pvt.) Limited, had accepted the reason of delay which was due to the closure of route due to high security reason. The Tender Committee thereafter in the presence of bidders accepted the two bids and opened technical bids of the two bidders.

BISP then as an after thought contacted the Public Procurement Regulatory Authority on informing them about the 10 minutes delay in submission of one bid, and the reason of delay which was due to the closure of route due to high security reason, duly accepted by BISP with consent of other bidder M/S Huawei Technologies Pakistan (Pvt.) Limited, asking PPRA advise whether BISP shall continue with the procurement process (to open the financial bids after technical evaluation) or new bids be called.

PPRA advised BISP in clear words to either continue the process, or call new bids as BISP deem fit.

However, BISP has not acted on the advice of PPRA and after one month took a decision contrary to the PPRA recommendations and started processing the single bid of M/S Huawei by rejecting the bid of M/S Al-Futtaim.

Single tenders are normally not allowed under PPRA Rules, except when following conditions are met by the procuring agency; (Question No 24 Frequently Asked Questions PPRA website).

i. Public Procurement Rules, 2004 don't put any limit on number of tenders/ bids received in response to tender notices provided that the procurement opportunity has been advertised in the prescribed manner. The single bid may be considered if it meets the evaluation criteria expressed in tender notice and is not in conflict with any other rules, regulations or policy of the Federal Government. However the procuring agency should make a decision with due diligence and in the light of Rule 4 "Principles of Procurement".



ii. *Whenever a procuring agency is confronted with such a situation whereby the rate quoted by the single bidder cannot be compared so as to declare it as the lowest rate or otherwise it may make a prudent decision. While making a decision, the following factors may be kept in view: -*

a. *The comparison of price of the goods, works or services if procured during the current financial year.*

b. *Market price of the goods works and services to be procured.*

c. *In case abnormal Increase in prices is observed, the procuring agency may like to re-advertise the procurement opportunity, if time permits.*

iii *Re-advertisement would be a preferred option. Direct contracting could also be used provided it meets the prescribed condition for direct contracting.*

TI-Pakistan has been informing BISP not to violate the Public Procurement Rules 2004. However, this act of BISP of violating the Public Procurement Rules 2004 in general, and the directives of PPRA issued vide letter F.No.4(13)DD-I/PPRA/BISP/09 dated 12th January 2012 in particular comes under Rule No. 50, mis-procurement.

This act of BISP has also to be examined by the competent authorities under Rule 2(f) "corrupt and fraudulent practices" especially for collusive practices.

TI-P is of the view that BISP consider either both the bids as advised by PPRA to continue the process of financial evaluation, or re-invite the bids under Rule No. 33(1) of the Public Procurement Rules 2004.

Regards,

Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Chairman, Public Accounts Committee, Islamabad.
2. Chairman, NAB, Islamabad.
3. Mr. Daniel Altman, OIG USAID, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Auditor General, Islamabad
6. Managing Director, PPRA, Islamabad.



Government of Pakistan
Benazir Income Support Programme
F-Block, Pak. Secretariat,

Islamabad, the 9th January, 2012

Subject: ESTABLISHMENT OF DATA CENTRE FACILITY FOR BENAZIR INCOME SUPPORT PROGRAMME.

Benazir Income Support Programme (BISP), Govt. of Pakistan is going to establish the Data Centre Facility which includes supply, installation, and integration on TIA-942 standards on turnkey basis by adopting single stage two envelope procedure in accordance with Public Procurement Rules-2004. The Data Centre Facility will be established in BISP Headquarter Islamabad.

2. In response to the advertised invitation (Annex-I) for bids in the national newspapers as well as posted on the website of Public Procurement Regulatory Authority & BISP, nineteen Bidding Documents were sold, whereas until the closing date & time i.e. 23rd December, 2011 at 1100 hours only one bidder namely M/s Huawei Technologies Pakistan (Pvt.) Ltd., Islamabad submitted their bid and after that tender box were sealed (Annex-II). However, one of the bidder M/s Al-Futtaim Technologies Pakistan (Pvt.) Ltd., Islamabad reached ten minutes late after the closing time and requested to the Chairman, Procurement Committee that their bid may be accepted due to the reason that route was closed because of security issue and they ultimately got late (Annex-III). The other participated bidder M/s Huawei Technologies Pakistan (Pvt.) Ltd., Islamabad had also given their verbal consent to accept the bid of M/s Al-Futtaim Technologies Pakistan (Pvt.) Ltd., Islamabad. Therefore, the technical proposal of both the bidders was opened, whereas their financial proposals are kept unopened. The clause 4.4.3.1 of the bidding document regarding late receiving of bids is reproduced below:-

“any bid received by the purchaser after the bid submission deadline prescribed by the purchaser will be rejected and returned unopened to the bidder”

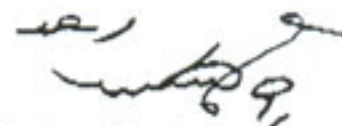
3. The matter was taken up with Public Procurement Regulatory Authority vide query No. 2203 (Annex-IV) which was responded that “please follow provision of Public Procurement Rules, 2004 as its violation may result in mis-procurement as provided under Rule 50 of the Public Procurement Rules, 2004”.

4. Obviously this reply does not say anything except that everyone should follow Rules. Purpose of this letter is to get a definite reply as to whether the purchase is in order or not. Major points of clarifications are:-

- a. Can the purchaser entertain a bid after ten minutes of the given time? 1/0
- b. Can BISP proceed with the single bid if the late submitted bid is cancelled?
- c. Should the procurement process be completed or new bids be called?

5. An early response in the matter will be highly appreciated.

Encl: As above.


(Zahoor Ahmed)
Director General (Admin) 1/11/2012

Mr. Hafeez-ur-Rehman
Managing Director
Public Procurement Regulatory Authority
1st Floor FBC Building near State Bank
Sector G-5/2
Islamabad.

GOVERNMENT OF PAKISTAN
PUBLIC PROCUREMENT REGULATORY AUTHORITY
(CABINET DIVISION)



Islamabad, the 12th January, 2012

From: **Asif Khan**
Deputy Director-I,
Ph:051-9203314

To: **Mr. Zahoor Ahmed**
Director General (Admn),
Benazir Income Support Programme (BISP),
F-Block, Pak. Secretariat,
ISLAMABAD

Subject: **Establishment of Data Centre Facility for Benazir Income Support Programme.**

Reference Benazir Income Support Programme's letter No.29/IT/BISP/2010 dated 9th January, 2012 on the above subject.

2. Issues raised by the Benazir Income Support Programme (BISP) are reproduced below alongwith clarifications from this Authority:-

S #	Issues	Clarification
1.	Can the purchaser entertain a bid after ten minutes of the given time?	Rule 28(2) of the Public Procurement Rules, 2004 provides that the bids submitted after the time prescribed shall be rejected and returned without being opened. Therefore the late bid can not be opened.
2	Can BISP proceed with the single bid if the late submitted bid is cancelled?	This issue has been elaborated on F.A.Q. page of this Authority's website at www.ppra.org.pk under the clarification of Rule-21 of the Public Procurement Rules, 2004. A copy of the same is enclosed.
3	Should the procurement process be completed or new bids be called?	It is decision of the procuring agency keeping in view overall situation in addition to principles of procurement as provided under Rule-4 of the Public Procurement Rules, 2004 specially value for money concept as defined under Rule-2(l) of the said Rules.


(Asif Khan)



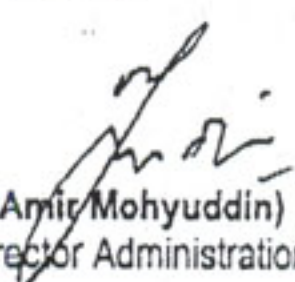
Islamabad, the 10th February, 2012

Al-Futtaim Technologies Pakistan (Pvt.) Ltd.,
503-B, Street No. 67, I-8/3,
Islamabad.
Telephone # 051-4434427
Fax # 051-4434431

Subject: **BISP DATA CENTRE PROJECT FOLLOW UP AND TECHNICAL EVALUATION STATUS.**

Reference your letter No. 1(5)/BISP/438/291111 dated 3rd February, 2012 on the subject mentioned above. It is to inform that evaluation of received bids for establishment of data centre facility for BISP is under process in accordance with the evaluation criteria given in the bidding documents. As regards the status of your bid; the matter was referred to Public Procurement Regulatory Authority (PPRA) regarding acceptance of late received bids and based on the response received from PPRA viz-a-viz compliance with the relevant provision of Public Procurement Rules-2004, your bid has not been further evaluated being part of the competition and declared as rejected due to submission after the prescribed time given in the tender notice.

2. Therefore, your firm is advised to collect your technical as well as un-opened financial proposal from the office of Benazir Income Support Programme during the office hours.


(Amir Mohyuddin)
Director Administration

Copy to:-

1. PS to Secretary, BISP
2. DG (Administration & HR), BISP
3. DG (F&A), BISP
4. Deputy Director-III, Pakistan Public Procurement Regulatory Authority (PPRA), Islamabad