



Secretary

No. F. 29/IT/BISP/2010
Government of Pakistan
Benazir Income Support Program
F-Block, Pak. Secretariat

Islamabad, the 26th March, 2012

Subject: **COMPLAINT OF NON-ISSUANCE OF EVALUATION REPORT BY BISP IN THE DATA CENTRE PROJECT.**

Dear Gilani Sb.,

I am writing this letter with reference to your letters dated 14-02-2012, 16-02-2012 and 02-03-2012 on the subject mentioned above.

2. It is a well known tactic that sometimes interested parties try to bring the whole procurement process in disrepute by writing to various agencies in the hope of getting another chance even if unfairly. The complaint referred to in TIP letters also appears to be one such effort by an interested party who could not compete because of late submission of its bid. The financial bid of the subject company was returned unopened after seeking advice of PPRA. Assertion in TIP letter dated 16 February 2012 that BISP has not acted on the advice of PPRA is incorrect.

3. The complaint has also tried to establish that the evaluation process of the technical proposals took a long time. Two months for evaluation of technical proposals is not too long particularly when it also involved clarification from the PPRA, huge technical details, online searching of data to judge the technical compliance and convenience of the external technical members of the Evaluation Committee to attend its meetings. It will be relevant to mention here that keeping in view the complex nature of procurement, BISP obtained the services of technical experts from NADRA and NTC for an objective evaluation of the received technical proposals. However, one of the technical experts remained abroad for some time during this period in connection with his official engagements which held up the evaluation for a few weeks. Nevertheless, the process was completed within the time stipulated in the PPRA Rules.

4. Rule 35 of Public Procurement Rules, 2004 requires sharing of evaluation report at least 10 days prior to the award of the contract. Since the tender was never awarded, therefore an occasion for application of the said Rule did not arise. The complaint was, therefore, premature and an attempt to prejudge the process.

5. The time period of 15 days under Rule 48(3) Public Procurement Rules, 2004 is binding upon the Grievances Redressal Committee to investigate and decide the complaint after its

lodging. The bidders are also given time line of 15 days to lodge the complaint under Sub-Rule (2) of the Rule 48 of Public Procurement Rules, 2004. Hence, the timeline given under Rule 48(3) of the Public Procurement Rules is not obstructing the procuring agency to enter into a contract and this Rule would only be invoked if any complaint received after the announcement of evaluation results under Rule 35 of Public Procurement Rules, 2004 without suspension of the procurement process.

6. It is to be noted that under Rule 26 of Public Procurement Rules 2004, the procuring agency shall ordinarily be under an obligation to process and evaluate the bids within the stipulated bid validity period and according to clause 4.3.7.2 of the tender document, the bids submitted had 90 days validity period ending on 25th March, 2012, and not 1st March 2012 as interpreted by TIP in its letter dated 2 March 2012, which means that evaluation process was carried out in accordance with the provisions of the Rules. Therefore, the assertion of a delay in processing is not valid.

7. The subject tender was re-advertized on 3rd March, 2012 based on the report of Technical Evaluation Committee and Procurement Committee due to the fact that the participating bidder did not fulfill the technical requirements as required in the bidding document. This act of BISP is an effort to maintain a competitive and transparent procurement mechanism. You have very aptly quoted in your letter dated 16-2-2012 from the FAQ portion of PPRA website which reads as under:

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

8. BISP acted in all fairness and in a transparent manner and would continue working in this fashion. We appreciate the concern of the Transparency International and welcome any future input to make our procurements further transparent. I hope that the information provided above will serve the purpose, however, in case of any further information Transparency International Pakistan is welcome to contact the undersigned.

with regards -


(MUHAMMAD SHER KHAN)

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