



**TRANSPARENCY
INTERNATIONAL-PAKISTAN**

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

October 15, 2012

Mr. Syed Raghieb Abbas Shah,
Chairman,
Water and Power Development Authority,
703 WAPDA House,
Lahore.

Subject: Complaint on Violation of Public Procurement Rules 2004 in FESCO Tender Notice 214/2011-12.

Dear Sir,

With respect to FESCO letter dated 9th October 2012 addressed to Chief Engineer (Operation) PEPCO and copied to TI-Pakistan, the clarification given by you on the above subject matter is not correct.

Refer to TI-Pakistan letter dated 19th September 2012, kindly confirm that the allegation of selection of two companies is correct or not. (Refer to TIP attach letter Para 2).

Transparency International Pakistan is forwarding you its letter dated 19th September 2012 in which following violations of Rules and Regulations observed in the Tender Documents, but no corrective measures have been taken by FESCO.

- According to clause 06 of the Tender Documents, FESCO reserves the right to increase/decrease the quantity upto 50% of tender quantity. However, Rule 42 (c) (iv) of the Public Procurement Rules 2004, clearly limits the quantity of repeat orders to 15% of the original procurement.
- Clause 10 of the Documents restricts bidders from submitting Bid Security / Guarantee from any insurance company. WAPDA may refer to the Pakistan Engineering Council's Standard Bidding Documents, prescribed under the Public Procurement Regulations 2008 issued vide S.R.O. 805(I)/2008 dated 11th July 2008. According to IB. 15.2 "Bid Security" of the PEC Documents. "the Bid Security shall be at the option of the bidder". The security, in the form of Deposit at Call or Bank Guarantee, may be duly counter-guaranteed by a Scheduled Bank or an Insurance Company having at least AA rating from PACRA/JCR.

TI-Pakistan would greatly appreciate if you would kindly reply and inform us about any action that has been taken in this regard.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Syed Adil Gilani
Adviser

Copies Forwarded for the information of:

1. Chairman, Public Accounts Committee, Islamabad
2. Chairman, NAB, Islamabad
3. Registrar, Supreme Court of Pakistan, Islamabad
4. Auditor General, Islamabad
5. Secretary, Ministry of Water and Power, Islamabad
6. Managing Director, PPRA, Islamabad - with a request to take action under section 5(2) (a) "monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement" and under section 5(2) (i) of the PPRA Ordinance 2002.



19th September 2012

Mr. Syed Raghیب Abbas Shah,
Chairman,
Water and Power Development Authority,
703 WAPDA House,
Lahore.

**Sub: Complaint on Violation of Public Procurement Rules 2004 in FESCO Tender Notice
214/2011-12.**

Dear Sir,

This is with reference to a complaint received by Transparency International Pakistan about violations of Public Procurement Rules 2004 in FESCO's tender notice 214/2011-12 for the procurement of Insulated Bucket Mounted Vehicle.

The complainant has alleged that:

- The two selected companies, M/S Automobile Corporation of Pakistan and M/S ISUZU Punjab Motors, did not submit the bids in accordance with the specifications mentioned in the bidding documents.

This alleged act is in violation of Rule 30(1) "Evaluation of bids", of the Public Procurement Rules 2004, according to which, "*all bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents*".

- The empty forms submitted by the shortlisted bidders, without giving the required information, have been accepted by FESCO. How can FESCO/WAPDA compare or certify the conformity of the quoted product with the tendered product without any information?
- According to the General/Special Conditions for Bidding, the supplier/ manufacturer must have, at least 01 year experience of manufacturing/ supply of identical goods/material whereas M/S Automobile Corporation's bid for Crane (manufactured by them) was accepted by WAPDA even though no crane has been manufactured by them yet.

It may be noted that these acts of FESCO/ WAPDA are contradictory to clause 09 of the General/Specific Conditions for Bidding.

The complainant has also alleged violation of Rule 36 (c) (ii) in the subject tender.

The complaint has been examined by TI-Pakistan and the following violations of Rules and Regulations have been observed in the Tender Documents:

- According to clause 06 of the Tender Documents, FESCO reserves the right to increase/decrease the quantity upto 50% of tender quantity. However, Rule 42 (c) (iv) of the Public Procurement Rules 2004, clearly limits the quantity of repeat orders to 15% of the original procurement.



- Clause 10 of the Documents restricts bidders from submitting Bid Security /Guarantee from any insurance company. WAPDA may refer to the Pakistan Engineering Council's Standard Bidding Documents, prescribed under the Public Procurement Regulations 2008 issued vide S.R.O. 805(I)/2008 dated 11th July 2008. According to the IB. 15.2 "Bid Security" of the PEC Documents, "the Bid Security shall be at the option of the bidder". The security, in the form of Deposit at Call or Bank Guarantee, may be duly counter-guaranteed by a Scheduled Bank or an Insurance Company having at least AA rating from PACRA/JCR.

Transparency International Pakistan requests the Chairman WAPDA to kindly look into the matter as it appears to be a case of "corrupt and fraudulent practices", as defined under Rule 2(f), and if the complaint is found to be correct/ genuine take necessary actions under the law so that the citizen may get justice.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With regards,

Syed Adil Gilani,
Adviser

Copies forwarded for information with request to take action under the Rules and Regulations to;

1. Chairman, Public Accounts Committee, Islamabad.
2. Secretary, Ministry of Water & Power, Islamabad.
3. Chairman, NAB, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Auditor General, Islamabad.
6. Managing Director, PPRA, Islamabad - *with a request to take an action under section 5(2)(a) "monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to, procurement" and under section (5)(2)(i) of PPRA Ordinance 2002.*