



2nd March 2012

Mr. Muhammad Shakil Durrani,,
Chairman WAPDA,
701- WAPDA House,
The Mall,
Lahore.

Sub: Violation of Public Procurement Rules, 2004 in procurement process for Golen
Gol Hydropower Project-Lot-3.2 E&M Works to award the Contract to unqualified
Consortium-Loss to Exchequer of Rs. 910 Million

Dear Sir,

Transparency International Pakistan has received a complaint about the procurement process for Golen Gol Hydropower Project-Lot-3.2 E&M Works, to award the Contract to unqualified Consortium by WAPDA.

This particular procurement is stated to be financed by Kuwait Development Fund for E&M Works (US\$ 37 Million). The process shall be in accordance with Public Procurement Rules 2004, as Kuwait Development Fund KDF has not prescribed in the Loan Agreement KDF own procurement Standard Bidding Documents SBDs. The main complaint comprises of following violations by WAPDA.

1. Prequalification request were received on 31-3-2011.
2. M/s Rainpower also applied for Prequalification. But 51 days after the last date of submission, WAPDA allowed change in the JV of M/s Rainpower / ARVEA T&D Pakistan (Pvt) Ltd, to new JV of M/s Rainpower/ ALSTOM Grid Pakistan, as per letter dated 21-05-2011 just few days before the tender opening i.e. 30-06-2011.
3. Tender Document, Instruction to Tenderers, Article 6 describes the Eligible Bidder
"3.1 This Invitation for Bids is open to all firms and Joint Ventures pre-qualified by the Employer. meeting the following requirements to submit tenders for Lot-3.2
a. Duly licensed by the Pakistan Engineering Council (PEC) in the category relevant to the value of the Works.
b. Duly prequalified / enlisted with the Employer."
4. The Consortium of M/s Rainpower/ ALSTOM Grid Pakistan has added two more companies, M/s INDAR and M/s Al-Fajr, without any approval of WAPDA, in violation of Article 29.1 of the Prequalification documents, "**Promptly after the notification of the results of the Prequalification, the Employer shall invite bids from all the Applicants that have been prequalified**".
5. The bid submitted by JV of M/s Rainpower/ ALSTOM Grid Pakistan, M/s INDAR and M/s Al-Fajr, is therefore, being not a pre-qualified Joint Venture, is an illegal Bid.
6. Other point is that principles of M/s ALSTOM Grid Pakistan, M/s Alstom Hydro France and M/s Alstom Network Schweiz AG (Switzerland) have been debarred by the World Bank on 22-2-2012. The news is quoted below;

WASHINGTON, February 22, 2012—The World Bank Group today announced the debarment of Alstom Hydro France and Alstom Network Schweiz AG (Switzerland) - in addition to their affiliates - for a period of three years following Alstom's acknowledgment of misconduct in relation to a Bank-financed hydropower project. The debarment is part of a Negotiated Resolution Agreement between Alstom and the World Bank which also includes a restitution payment by the two companies totaling approximately \$9.5 million. The debarment can be reduced to 21 months - with enhanced oversight - if the companies comply with all conditions of the agreement.



7. The tenders were opened on 30th of June 2011, after pre-qualification process, as per the bid opening results ANDRITZ price was lowest at around US\$48.0 M while price of M/s Rainpower , was more than US\$ 58.0 M but after manipulations WAPDA is trying to award the contract to unknown company i.e. Rainpower in comparison to the top company in the world for Hydro Power i.e. ANDRITZ Hydro, despite the fact the International consultant Fitchner has also recommended ANDRITZ. The most glaring violation by WAPDA is the financial loading on the quoted cost of the lowest evaluated responsive bidder, against the recommendations of WAPDA's Consultant Fitchner.
8. According to Sub-Clause 5.3(f) , a copy of the agreement entered into by the consortium partners shall be submitted with the tender. The consortium agreement is a void document as necessary signatures of the authorized persons are not available from at least 2 members of the unqualified consortium. And also that the JV of 2 firms M/s Rainpower/ ALSTOM Grid Pakistan, nor JV of 4 M/s Rainpower/ ALSTOM Grid Pakistan M/s INDAR and M/s Al-Fajr, is licensed holder of Pakistan Engineering Council, which is a violation of tendered Condition, 3.1 (quoted in para 3 above). It is also reported that the JV has conditioned for payments directly to all 4 partners separate (not allowed under the Tendered Conditions of WAPDA)y, and payment claimed for local partners for transportation etc. for M/ Al-Fajr (no previous experience) is about Rs 940 million.

complainant

The complainant has indicated that the officers of WAPDA, viz. GM Project, North, and GM (Hydel) Development , Convener of the review Committee are responsible for the violations and manipulation, and postponing the procurement to award the Contract to their chosen party, 7 times, on, 6-1-2011, 31-1-2011, 23-2-2011, 31.3-2011, 3-5-2011,31-5-2011 and 30-6-2011. And since last 8 months these officers are trying to manipulate to award the Contract to non-responsive consortium of M/s Rainpower/ ALSTOM Grid Pakistan M/s INDAR and M/s Al-Fajr, when one of its partner has been debarred by World Bank, and at loss to exchequers of Rs. 910 Million, at US \$ 58 Million against lowest responsive bid of US \$ 48 million.

Accordingly if the allegations of the complainant are correct, , under Rule 7, Integrity Pact, 10 times fine, (Rs 9.10 Billion) may also be required be recovered from the contractor, along with action under the NAO 1999. Transparency International Pakistan also request the Chairman to kindly provide the copies of the Evaluation Report and Contract Agreement under Rule 47.

TI Pakistan request the Chairman to examine the complaint and if found correct, under Rule No 50, this procurement is deemed to be declared as mis-procurement.

TI Pakistan is striving to have Rule of Law in Pakistan, which is the only way to eliminate corruption and have good governance in country.

With Regards,

Syed Adil Gilani
Advisor

Encl: Copies of Consultant Evaluation Report ,

Copies forwarded for the information and for action under rules to observe rule of law:

1. Chairman PAC, Islamabad,
2. Register, Supreme Court of Pakistan, Islamabad,
3. Mr Naveed Qamar, Minister of Water & Power, Islamabad
4. Chairman, NAB , Islamabad,
5. Auditor General Pakistan, Islamabad,
6. Managing Director, PPRA, Islamabad

**Water and Power Development
Authority (WAPDA)**

GOLEN GOL HYDROPOWER PROJECT

**Consultancy Services for Review of Construction
Design & Drawings and Construction Supervision &
Contract Administration**

**EVALUATION REPORT
LOT 3-2**

FICHTNER

 **STUCKY**



DMC

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0	15.09.2011	final version	Mac/Heg/Kom	Sie <i>vi</i>
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4.8 Recommendation

Based on the final evaluated tender price for the E/M equipment M/s Andritz solution costs a bit less than M/s Rainpower. The advantage of the M/s Andritz is that there is some potential of costs saving in civil works of the powerhouse building. Therefore it is recommended to initiate the first round of contract negotiations with M/s Andritz Consortium.