



5<sup>th</sup> November 2012

Mr. Ayub Qazi,  
Principal Secretary to the Prime Minister,  
Prime Minister House,  
Islamabad.

Subject: Allegation loss to Exchequer of Rs 7 Billion in award of Contract by WAPDA of 2 TMB for Neelum-Jhelum Project at cost of over Rs 19.5 billion without Tendering in violation of PPRA Rules to M/s Herrenknecht Germany in connivance with M/s NESPAK

Dear Sir,

Transparency International Pakistan received a complaint referring to a news report published last week that no insurance company is ready to provide even \$ 15 Million Insurance for the Two Tunnel Boring Machines, imported by WADPA at cost of Rs 19.5 billion, before they can start functioning, as they were not procured by open tendering required under PPRA Rules.

The allegations needs to be investigated by the Prime Minister as the project of tunnel boring in which the complaint of the alleged corruption of over Rs 7 Billion is reported, as the two TBM on Neelum Jehlum Project was inaugurated by the Prime Minister Raja Pervaiz Ashraf, on 6<sup>th</sup> August 2012, on a wrong feedback of WAPDA, as they have not been operations even after 3 months.

The allegations on WAPDA regarding the corruption in 2 TBMs case made by the complainant are;

1. That the contactors M/s CMEC/CGGC defaulted on the contract and delayed the work on the 32-km main tunnel, which is to divert Neelum waters from Nauseri to Chattar Kalas, and could achieve progress of only 4km. But the Contractor who does not have the equipment to do the tunnel boring, was not penalized for the delay.
2. That according the terms of the Contract due to failure of the contactors to perform, the contract agreement with of CMEC/CGGC JV should have terminated by WAPDA, and work should have been carried out at the risk and cost of M/s CMEC/CGGC.
3. That WAPDA, NESPAK the Consultants and M/s CMEC/CGGC colluded and by circumventing the PPRA Rules, and instead of recovering 10% Liquidated Damages Rs 9 Billion, provided financial help to M/s CMEC/CGGC, and procured 2 TBMs from M/S Herrenknecht Germany at the cost of Rs 19.5 billion.
4. That the Tunnel boring machines (TBMs) were not mentioned in the original contract awarded in Dec 2007 to the Chinese companies Gezhouba Group Company Limited and China Machinery Engineering Corporation, CMEC/CGGC JV.
5. That WAPDA on its website has reported that Board of Directors NJHPC has approved the deployment of Tunnel Boring Machine (TBM) for the project on 23.11.2010. WAPDA has arranged procurement of TBM from M/S Herrenknecht Germany at a cost of US\$ 92 Million.
6. That WAPDA itself has contradicted its own statement that WAPDA has directly purchased the two TBMs, by posting of a contradictory information on its website that Board of Directors NJHPC has approved the deployment of Tunnel Boring Machine (TBM) for the project on 23.11.2010 and the Contractor has arranged procurement of two TBMs from M/S Herrenknecht Germany.
7. That international consultant never recommended the use of the tunnel boring machines for the Neelum Jhelum hydropower project at any stage.
8. That the Chinese company has refused to operate the high tech tunnel boring machines (TBM) unless the insurance cover of \$ 15 million is arranged by WAPDA, as they have refused to accept the responsibility of performance of the TBMs.
9. That no insurance company is ready to Insurance the 2 TBMs as these were not procured in accordance with PPRA Rules.
10. That due to the corruption and incompetency of WAPDA cost of project has now increased by four times from Rs.84.0 billion (as per first PC-I) to Rs.321.0 billion in 2012.



11. That WAPDA in connivance with M/s NESPAK who are official consultants of the Project, ( WAPDA Chairman is a Director of NESPAK) , awarded the negotiated contract to M/S Herrenknecht Germany at a cost of US\$ 184 Million.
12. That the cost of the Boring Machines is not more than US \$110 million, and US \$74 millions have been taken as kickback.

These allegations are very serious, as the Lt General (Retd) Mohammad Zubair, chief Executive of Neelum-Jhelum Hydropower project himself has stated publically that the Chinese company which is responsible for completing the project has refused to operate the high tech tunnel boring machines (TBM) unless the insurance cover of \$ 15 million is arranged. "Now we are trying from pillar to post to get the insurance cover of \$ 15 million so that the two TBMs could be operated soon.

Why WAPDA has bought the TBMs itself, as nowhere in the world, a procuring agency has bought TBM and then asked a contractor to use it. And no Contractor in the World will agree to operate clients supplied TBM and also take responsibility of its failure, damages.

According to Public Procurement Rules 2004, open bidding should have been conducted, and according to the PPRA Regulations 2008, all insurances for performance of the equipment, risk of damages etc. is Contractors/suppliers responsibility.

GCC 21.1 **Insurance of Works and Contractor's Equipment, requires that** the Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 20, insure (a) the Works, together with materials and Plant for incorporation therein, to the full replacement cost (the term "cost" in this context shall include profit), (b) an additional sum of 15 per cent of such replacement cost, or as may be specified in Part II of these Conditions, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature.

**Had this procurement been processed under the PPRA Rules, issue of Insurance and Guarantees would have never occurred, and WAPDA would also have saved over payment Rs 7 Billion.**

TI-Pakistan requests the Prime Minister, that if the complaint is true, inquiry is required to be held on this complaint and also all those held responsible for this alleged mis procurement shall made accountable for the alleged loss of Rs 7 billion in procurement and further delay in the project, which is causing economic losses of over Rs 10 billion per year due to failure of completing the project which is supposed to supply 969 MW Hydro power.

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

Yours sincerely,

Syed Adil Gilani  
Adviser

Copies forward for the information of and necessary action under the Law:

1. Chairman, Public Accounts Committee, Islamabad.
2. Chairman, NAB, Islamabad.
3. Secretary, Water & Power, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Chairman, WAPDA, Islamabad.
6. M.D., PPRA, Islamabad.