

2nd June, 2023

TL2023/0602/1A

Mr. Muhammad Azam Khan,
Care taker Chief Minister,
Khyber Pakhtunkhwa.

Sub: Complaint Against Allegation of Violation of KPPRA Rules 2014 by M/s Khyber Medical College (KMC) / Medical Teaching Institution, Peshawar In the Tender for 'Purchase of Tyres for KMC VEHICLES 2022-2023', Opening date: 14-02-2023, Causing Estimated loss of Rs. 7,167,884 to the National Exchequer.

Dear Sir,

Transparency International Pakistan has received a complaint on the allegation of violation of KPPRA Rules 2014 by M/s Khyber Medical College (KMC) / Medical Teaching Institution, Peshawar in Tender for 'Purchase for Tyres for KMC VEHICLES 2022-2023', Opening date: 14-02-2023, causing estimate loss of Rs. 7,167,884 to the national exchequer.

The complainant has made the following allegations:

That;

1. The tender for Purchase of Tyres for KMC-VEHICLES 2022-2023 was advertised under rule 6(2)(a) of KPPRA Rules 2014, Single Stage, One Envelope basis, which was opened on 14-02-2023 (**Annex-A**).
2. Pre-Bid Solicitation Documents for Procurement of Tyres for KMC Vehicles 2022-23' meeting was held on 01-02-2023 after which the eligibility criteria was revised and a new point was added quoted below;

'Samples may be called for all the above items if required.' And the 'Rating' was also modified in the specifications of tyres. (**Annex-B**)

3. The complainant, M/s Rafiq & Company participated in the subject tender and was declared lowest evaluated responsive bidder on the bid opening day 14-02-2023 by the Tender opening committee.
4. Despite accepting the complainant's bid as the lowest response evaluated bid, on 07-04-2023, Chairman Purchase Committee, KMC informed the complainant of the following, quoted below (**Annex-C**),

"After inspection both the technical teams recommended that the said firm provided samples is not fit for the subject vehicles and is not recommended for procurement. The same has also been approved by the Purchase Committee KMC".

5. The Rate quoted by the 2nd lowest bidder, i.e, Rs.11,600,432 is 3 times higher than the complainant's company that is Rs. 44,32,548 with difference of Rs.71,67,885 to 2nd lowest company, causing loss to the national exchequer.
6. The complainant filed application before Grievance Redress Committee (GRC) dated 09-04-2023 & 20-04-2023 and received GRC decision dated 10-05-2023, quoted below; (**Annex-D**)

"The grievance committee in two different meetings dated:- 17-04-2023 and 20-04-2023 and final minutes issued vide No:- 296/Pro-Dept/KMC Dated:- 10-05-2023, after assessing all relevant records concluded that grievance submitted by M/S Rafiq & Company does not hold any substantial ground and therefore the same is declared invalid and disposed."

7. Despite the passage of 1.5 months, the Bid Evaluation Report is not uploaded on website of KMC, in violation of KPPRA Rules 2014.



8. KMC has given favor to a specific supplier and a specific brand at very high rates, in violation of KPPRA Rules 2014, causing Rs. 7,167,886 loss to the exchequer.

Transparency International Pakistan Comments

Transparency International Pakistan has reviewed the allegations of the complaint, prima facie the allegations seem correct. Following are TI Pakistan comments;

1. M/s Khyber Medical College (KMC) / Medical Teaching Institution (MTI), Peshawar adopted 'Single Stage One Envelope' procedure, under which 'COST' is the only determining factor for evaluating goods (and for this purpose the lowest evaluated responsive bid shall be considered for award of contract). KPPRA Rules 2014, Rule 6(2) (a) is quoted below:

KPPRA Rule 6 (2) (a): Single Stage, One Envelope Procedure.—“this method should be used where cost is the only determining factor. Each bid shall comprise one single envelope containing financial proposal or offer and required information in accordance with the bid solicitation documents. This shall be the standard method of procurement of goods for simple and routine nature and where no technical innovation is involved [and for this purpose the lowest evaluated responsive bid shall be considered for award of contract] 12;”

2. The complainant claims that their offered brand of tyres use the same raw material as used in other brands. The difference between the quoted price of two response bidders appears to be significantly higher as quoted below:

SR O	TYRE ZE	QUANTITY	RATE QUOTED BY AFIQ & COMPANY	RATE QUOTED Y AL HAMID	DIFFERENCE
1	1000R20	42	78008X42=3276336	198000X42= \$16000	119992
2	7.50R16	18	42008X18=756144	139500X18= \$11000	97492
3	195R15C	04	26006X4=104024	52660X4= 0640	26654
4	195R14C	08	26006X8=208040	50999X8= 07992	24993
5	195/65R15	04	22001X4=88004	38700X4= \$4800	16699
			Total Rs.4432548	Total Rs. 600432	

3. As per KPPRA Rules 2014, Rule 40, no procuring agency shall favor any contractor or supplier through conditions that put others at a disadvantage, quoted below:

KPPRA Rule 40. Discriminatory and difficult conditions.- "Save as otherwise provided, no procuring entity shall introduce any condition, which discriminates between bidders or that is considered to be met with difficulty. In ascertaining the discriminatory or difficult nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related."

4. Khyber Medical College (KMC) / Medical Teaching Institution, Peshawar has not made available the Bid Evaluation report, which is a violation of KPPRA Rules 2014, Rule 45 quoted below:

KPPRA Rule 45. Announcement of Evaluation Reports: - Procuring entities shall announce the results of technical bid evaluation in the form of a report before opening of the financial bids, to all bidders. The procuring entity shall also announce the final results of a bid evaluation giving justification for acceptance or rejection of bids at least ten days prior to the award of a contract and place the same on its and Authority website.



Transparency International Pakistan Recommendations

Transparency International Pakistan requests the Care taker Chief Minister, Khyber Pakhtunkhwa to examine the allegations of the complaint in light of KPPRA Rules 2014 and if found correct, direct the concerned authority to re-advertise the said procurement in compliance with KPPRA Rules 2014, to avoid mis-procurement under KPPRA Rule 54.

TI Pakistan is striving for across the board application of **Rule of Law**, which is the only way to stop corruption and achieve zero tolerance against Corruption.

With Regards,


(Advocate Daniyal Muzaffar)
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with request to take action under their mandate to:

1. Principal Secretary to PM, PM House Islamabad
2. Chief Secretary, Khyber Pakhtunkhwa Peshawar
3. Chairman, PM Inspection Commission, Islamabad
4. MD, KPPRA, Peshawar
5. Assistant Manager, Procurement Khyber Medical College, Peshawar

Note:

This is to clarify that Transparency International Pakistan is not a complainant, it acts as a whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, Justice Syed Mansoor Ali Shah in his landmark judgment in case of *Ataullah Malik v. Federation of Pakistan* includes following order.

Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable. PLD 2010 Lahore 605.

**Khyber Medical College,
MTI Peshawar.**

Phone: 091-9221385-8

INVITATION FOR BIDS

Dean Khyber Medical College, Peshawar

invites sealed tenders under National Competitive Bidding for the Procurement of Tyres for KMC Vehicles under rule 6(2)(b) **"Single stage Single envelope procedure"** of KPPRA Rules 2014, from Income / Sales tax, reflected on Active Taxpayer List of FBR.

The tenders complete in all respect must reach the office of Dean KMC by 11:00am on **14/02/2023**, which will be opened at 11:30am on the same day in conference room of KMC in the presence of the procurement committee and the bidders / representatives who may choose to attend.

Competent Authority reserves the right to reject any or all the bids as per provisions contained in Rule 47 of KPPRA Rules 2014.

4. BID SECURITY:

Bid security **Rs-100,000/-** in shape of Call Deposit refundable drawn in favor of "Dean KMC Peshawar"

The bid security may be forfeited:

- i) If a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Form; or
- ii) In the case of a successful Bidder, if the Bidder fails to sign the contract
- iii) If a successful Bidder unable to supply the items after issuance of 3 reminders, order will be placed to the next lowest bidder.

5. BID VALIDITY:

- i) The bids should be valid for a period of 120 Days.
- ii) In exceptional circumstances, Khyber Medical College, Peshawar may solicit the Bidder's consent to an extension of the period of validity reasons shall be recorded in writing. The request and the responses there to shall be made in writing. The bid security provided shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required nor permitted to modify its bid, except as provided in the bidding document.

STATEMENT OF REQUIREMENT AND SPECIFICATIONS OF TYRES

S.No	Description	Specifications	QTY	PRICE
1.	Tyre (10.00 R20) with tube & flap	Michelin, Bridgestone, Dunlop or equivalent For Hino Buses Radial Pattern: RIB with Steel Casing Ply Ratting: 16ply Fresh import/manufactured	42 Tyres	
2.	Tyre (7.50 R16 LT) with tube & flap	Michelin, Bridgestone, Dunlop or equivalent For Hino Caoster Radial Pattern: RIB with Steel Casing Ply Ratting: 16ply Ratting: 10 or above ply Fresh import/manufactured	18 Tyres	
3.	Tyre (195 R15C) tubeless	Michelin, Bridgestone, Dunlop or equivalent For Toyota Hiace Radial Pattern: RIB with Steel Casing Ply Ratting: 16ply Ratting: 08ply Fresh import/manufactured	04 Tyres	
4.	Tyre (195 R14C) tubeless	Michelin, Bridgestone, Dunlop or equivalent For Toyota Hiace Radial Pattern: RIB with Steel Casing Ply Ratting: 16ply Ratting: 08ply Fresh import/manufactured	08 Tyres	
5.	Tyre (195/65/15) tubeless	Michelin, Bridgestone, Dunlop or equivalent For Motor Car Radial Pattern: RIB with Steel Casing Ply Ratting: 16ply Ratting: 04ply Fresh import/manufactured	04 Tyres	

Note:

- Rate shall be quoted of superior quality of vehicle tyres.
 - Bidders can inspect vehicles during the office hours for cost estimation before submission of Bids.
 - Samples may be called for all the above items if required.
- 6. Award of Contract:**
Contracts shall be confirmed through a written agreement signed by the successful bidder and the MTI /KMC Peshawar.
- 7. Payment:**
- a. No advance payment will be permissible.
 - b. The payment will be made after successful supply/work and inspection.



KHYBER MEDICAL COLLEGE, PESHAWAR



PROCUREMENT DEPARTMENT

Tele Exchange: 091-9221384-8 (Ext 114)

E-mail: muharom.khan@kmc.edu.pk

No: 256 /Pro-Dept/KMC

Dated: 07/04/2023

To

Mr. Shahzad Rafiq
 RAFIQ & COMPANY,
 344 A/3, Gulberg-3, Lahore.
 0300-8538800 / 0320-9438715

Subject: **SAMPLE OF TYRES FOR KMC VEHICLES FOR THE FINANCIAL YEAR 2022-23.**

Memo:

Reference to the above cited subject it is to inform you that M/S Rafiq & Company has submitted samples of their quoted brand for the tender Procurement of tyres for KMC Vehicles. A samples evaluation meeting was called comprising of external Transport & Mass Transit Department and Internal Technical committee of KMC.

After inspection both the technical teams recommended that the said firm provided samples is not fit for the subject vehicles and not recommended for procurement.

The same has also been approved by the Purchase Committee KMC.

No: 257-260 /Pro-Deptt/KMC


Chairman Purchase Committee
 Khyber Medical College Peshawar

Dated: 07/04/2023

Copy:

1. Administrative Officer, KMC Peshawar.
2. Senior Finance Officer, KMC Peshawar.
3. Transport Officer KMC, Peshawar.
4. P.S to Dean, KMC Peshawar.


Chairman Purchase Committee
 Khyber Medical College Peshawar



KHYBER MEDICAL COLLEGE PESHAWAR
OFFICE OF THE DEAN



No: 2558 /Estt/KMC

Dated: 10/5 /2023

To

Mr. Shahzad Rafiq
 RAFIQ & COMPANY,
 344 A/3, Gulberg-3, Lahore.
 0300-8538800 / 0320-9438715

Subject: - **GRIEVANCE REGARDING PROCUREMENT OF TYRES FOR KMC VEHICLES.**

Reference your e-mails, dated 09/04/2023 & 20/04/2023, received to this office on the subject cited above.

The grievance committee in two different meetings dated 17/04/2023, and 02/05/2023 and final minutes issued vide No.296/Pro-Dept/KMC dated 10/05/2023, after assessing all relevant records concluded that grievance submitted by M/S Rafiq & Company does not hold any substantial ground and therefore the same is declared invalid and disposed.

DEAN
 KHYBER MEDICAL COLLEGE
 PESHAWAR

No: 2559-63 /Estt/KMC

Dated: 10/5 /2023

Copy forwarded for information to: -

1. Chairman & Members Grievance Committee, KMC.
2. Administrative Officer, KMC Peshawar.
3. Senior Finance Officer, KMC Peshawar.
4. Assistant Manager Procurement, KMC, Peshawar.
5. Transport Officer KMC, Peshawar.

DEAN
 KHYBER MEDICAL COLLEGE
 PESHAWAR