



March 06, 2024

TIP 2024/0306/1A

Chief Executive Officer
Lahore Electric Supply Company (LESCO)
Lahore

**Subject: Complaint against Allegations of Violation of PPRA Rules 2004 in the
Procurement of 132 kv Circuit Breakers Tender No.580 dated 09.01.2024**

Dear Sir,

Transparency International Pakistan has received a complaint against the allegations of violation of PPRA Rules 2004, in a tender (Tender No.580 dated 09.01.2024) floated by M/s LESCO for the procurement of 132-kv Circuit Breakers. **(Annex-A)**

The complainant has made the following allegations:

That,

1. LESCO has introduced discriminatory conditions in the bidding documents of Tender no. 580 without appropriate vetting from the Chief Financial Officer (CFO) and the Technical Specification Wing (TSW). These conditions appear to exclusively favor M/s Hitachi Pakistan, the sole bidder offering M/s ABB China Make 132-kV Circuit Breakers.
2. M/s Hitachi Pakistan, although not registered as a General Order Supplier in LESCO, participated in the tendering process, contravening the prerequisite for the issuance of tender documents.
3. An abnormal delivery time of 270 days was granted to M/s Hitachi Pakistan, a practice unprecedented in any Distribution Company (DISCO), including LESCO.
4. LESCO accepted the bid guarantee directly from a foreign bank, as per corrigendum No. 271-273 dated 08.01.2024, merely one day before the tender opening date. LESCO has historically not accepted foreign bank guarantees in any National Competitive Bidding (NCB) process.
5. M/s Hitachi Pakistan fails to meet the criteria outlined in clause 51-(1) of the bidding document, requiring bidders to possess a minimum of three years' experience in the supply of Specialized Technical Goods (STG) materials or three years' import and supply experience of STG materials of similar nature.
6. The type test reports submitted by M/s Hitachi Pakistan, issued in 2009 by the manufacturer's own lab (M/s ABB China), lack independence and credibility. Additionally, this lab is neither an accredited member of the Standard Testing Laboratories (STL) nor included in the list of approved labs by the National Transmission and Dispatch Company (NTDC).
7. In the post-bid clarification phase, M/s Hitachi Pakistan submitted another type test report from 2007. However, these newly submitted reports are expired and fail to meet the 10-year validity requirement from the date of bid opening, as stipulated by NTDC Type Test Policies valid up to 31.12.2018.

Transparency International Pakistan's Comments

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



1. As per the PPRA Rules 2004, Rule 32, no procuring agency shall favor any contractor or supplier through conditions that put others at a disadvantage, The rule 32 is quoted below:

PPRA Rule 32. Discriminatory and difficult conditions:

“Save as otherwise provided, no procuring agency 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 procurement is related”.


2. Violation of any of the PPRA Rules may amount to Mis-Procurement as per Rule 50 of the PPRA Rules 2004.

Transparency International Pakistan’s Recommendations

Transparency International Pakistan requests the CEO LESCO to look into the allegations, and if found correct, issue directives for reinviting the tender in accordance with PPRA Rules 2004, to avoid mis-procurement under Rule 50.

Transparency International Pakistan is striving for across-the-board application of Rule of Law, which is the only way to stop corruption, and achieve against Zero tolerance against corruption.

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. Chief Minister, Government of Punjab, Lahore
2. Prime Minister’s Inspection Commission (PMIC), Islamabad
3. Managing Director, PPRA, Islamabad
4. Registrar, Supreme Court of Pakistan, Islamabad

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, and a three member bench in case of Mukhtar Ahmad Ali vs the Registrar, Supreme Court of Pakistan, Islamabad, headed by Chief Justice Qazi Faez Isa in the landmark judgment on 16 October 2023, in CP No. 3532/2023, has declared that

“What previously may have been on a need-to-know basis Article 19A of the Constitution has transformed it to a right-to-know, and the Access to information is no longer a discretion granted through occasional benevolence, but is now a fundamental right available with every Pakistani which right may be invoked under Article 19A of the Constitution”

26th, February 26, 2024

The Managing Director
PPMC Islamabad

SUBJECT: MISPROCUREMENT OF 132-kV CIRCUIT BREAKERS – PUBLIC MONEY AT RISK BY GIVING UNDUE FAVOR TO M/S HITACHI PAKISTAN TO SUPPLY NON-TYPE TESTED 132kV CIRCUIT BREAKERS AS PER NTDC TYPE TEST POLICY.

TENDER NO.580 DATED 09.01.2024.

Dear Sir,

I am writing this to your organization being the Monitoring Authority over Distribution Companies (DISCOs) in the country. Procurement process of every Public Organization is vital especially where public utility services like POWER are involved.

In this regard I intent to draw your serious attention towards subjected matter, where LESCO is openly violating the set rules of law to procure non type tested equipment which is critical to the electrical protection of whole power system.

Recently LESCO floated subjected tender in which M/s Hitachi Pakistan participated offering ABB China Make 132-kv Circuit Breakers. LESCO managed to set discriminatory conditions in the bidding documents without getting vetted from CFO and TSW to exclusively favor only Hitachi Pakistan as below:

1. Hitachi Pakistan is not registered as General Order Supplier in LESCO which is prerequisite for the issuance of tender documents and participation in the tendering process.
2. Allowed abnormal delivery time of 270-days, which no DISCO including LESCO ever has practice before.
3. Accepted bid guarantee directly from a foreign bank against corrigendum No.271-273 dated 08.01.2024, just one day before tender opening date. Once again no DISCO ever has accepted any foreign bank guarantees in any national competitive bidding (NCB) process.

Finally Hitachi Pakistan participated in the tender as Single Bidder and the evaluation is under process now for almost 50-days. Chief Engineer Development PMU Mr Tahir Mayyo whose retirement is approaching in April 2024 is exploiting and threatening LESCO TSW Department to illegally qualify Hitachi Pakistan despite the following disqualifications:

- i. As per Clause-51 (b) of the bidding documents that

“the bidder (in case bidder is not manufacturer) should have atleast 3 years experience of supply of STG material or 3 years of import and supply experience of STG material having same nature”

However, in this particular case the bidder Hitachi Pakistan does not fulfill this particular criteria.

- ii. Hitachi Pakistan submitted his bid offering 132-kv Circuit Breakers with severe Technical Deviations.
- iii. Hitachi Pakistan submitted a type test reports year 2009 issued by the manufacturer's own lab which is not an independent lab by any means and this Lab is also not an STL member lab nor included in the list of approved labs of NTDC (List of NTDC approved labs attached).
- iv. Against post bid clarification Hitachi Pakistan submitted another type test report from year 2007, thus accepting that the type test report of 2009 submitted does not qualified.
- v. The newly submitted type test reports of year 2007 in post bid clarification are expired type test reports and do not qualify under the 10-years validity of reports from the date of opening of bid as per NTDC Type Test Polices valid upto 31.12.2018 (the same can be further clarified from NTDC being custodian of NTDC Policy).

Having involved in such illegitimate and illegal practices, LESCO Officers are of the mind set that they are untouchable and above the law.

In the light of the information shared above, an inquiry committee comprising independent and technically sound officers (except LESCO Officers) should be constituted to investigate the matter to avoid misuse of public money in corrupt practices and evaluation process of this tender immediately must be stopped till the final verdict of the Inquiry committee.

MOST MOST URGENT

**FROM
DIRECTOR LESCO**

Copy to:-

1. Secretary Power Division Ministry of Energy Room No.201-204 2nd Floor A Block Pak Secretariat Red Zone Islamabad.
2. All Chairmen BOD DISCOs.
3. All Members BOD LESCO.
4. Managing Director NTDC WAPDA House Mall Road Lahore.
5. Managing Director, PPRA (1st floor, FBC building near State Bank, Sector G-5/2, Islamabad).
6. General Manager, PPMC (Room 112, Evacuee Trust Complex, Agha Khan Road, Islamabad).
7. General Manager EDB Complex Building , 5-A, Constitution Avenue, Sector F-5/1, Islamabad.

8. Transparency International Pakistan Plot 72F/2, Floor 1, 9th Street, Jami Commercial Street 11, D.H.A. Phase 7 Phase 2 Commercial Area Defence Housing Authority, Karachi, Karachi City, Sindh 75500
9. Chief Executive Officer, Engineering Development Board (5-A Constitution Avenue, F-5/1, Islamabad)
10. All Chief Executive Officers.
11. All General Managers Technical DISCOs.
12. Chief Engineer TSW LESCO Paragon.
13. All Chief Engineers (Development) PMU DISCOs.
14. Chief Engineer Design NTDC WAPDA House Mall Road Lahore.
15. S.E GSO LESCO Grid Station Qartaba Chowk Lahore.
16. Director General (FIA) G-13 Markaz G 13/3 G-13, Islamabad, Islamabad Capital Territory.
17. Director FIA 1 Temple Rd. near Regal Chowk, Mozang Chungi, Lahore, Punjab 54000.