

29th January, 2024

TL2024/0129/2A

Dr. Syed Mansoor Abbas Rizvi,
The Secretary,
Health Department,
Government of Sindh,
Karachi.

Sub: Complaint Regarding Reservations/ Objections in the Procurement of Insecticides for the Financial Year 2023-24 by the Office of the Directorate General Health Services (VBD) Sindh Hyderabad, Sindh.

Dear Sir,

Transparency International Pakistan has received a complaint Regarding Reservations/ Objections in the Procurement of Insecticides for the Financial Year 2023-24 by the Office of the Directorate General Health Services (VBD) Sindh Hyderabad, Sindh. (Annex-A).

The complainant has made the following allegations;

That;

1. The Evaluation criteria for the procurement of Insecticides for the Financial Year 2023-24 by the Office of the Directorate General Health Services (VBD) Sindh Hyderabad, Sindh has an ambiguity.
2. In the bidding document it is stated that the product should be WHO PQT-VC approved or equivalent.
3. There is no concept of WHO Approved or Equivalent Insecticides defined by WHO.
4. It should be amended and only WHO PQT-VC prequalified insecticides should be mentioned in the bidding document as maintained in the last bidding documents.
5. WHO has uploaded list of firms and their brand on their official WHO website which are qualified as WHO PQT-VC Prequalified Insecticides by WHO. The products are only WHO Prequalified PQT-VC insecticides which are officially uploaded by WHO on their website.
6. No other firm has been certified as WHO PQT-VC Prequalified Insecticide manufacturer.
7. It is further submitted that if any firm participates in the tender and claims to be WHO prequalified manufacturer, what will be the evaluation criteria to judge their claim.
8. There is no mechanism available with the concerned authorities to evaluate that the particular insecticide is WHO Equivalent or not. How will they evaluate that the product is WHO Prequalified or WHO Approved or WHO Equivalent. As there is no lab in Pakistan to analyze the quality of the insecticides as per standards and specifications of WHO.
9. How can it be confirmed that any insecticide is similar to WHO Standard and that who will certify or take the responsibility for the same.

Transparency International Pakistan's Comments

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



1. SPPRA Sindh Public Procurement Rules, 2010, Rule 27(2) and Rule 28(1) requires procuring agency to carry out pre-qualification process, which may allow wider competition.

The Rule is quoted below for your reference;

27. Pre-qualification of Suppliers and Contractors (2) Pre-qualification of bidders shall be based entirely upon the capability, competence and resources of the bidders relevant to performance in the particular assignment, taking into account the following:

- (a) *experience and past performance on similar assignments;*
- (b) *capabilities with respect to construction or manufacturing facilities,*
- (c) *financial capability;*
- (d) *capabilities with respect to personnel, equipment, and plant;*
- (e) *appropriate managerial capability; and*
- (f) *any other factor that is relevant to the capability, competence and resources required for accomplishment of the assignment; Provided that pre-qualification may be carried out only for specific procurement contract and shall be applicable only to that particular assignment.*

28. Process of Pre-qualification - (1) To prequalify for bidding on a specific contract or package:

- (a) *invitation to prequalify on specific contract or package shall be advertised and notified as per Rules 17 and 18.*
- (b) *procuring agency shall provide a set of pre-qualification documents containing scope of contract, a clear set of requirements for qualification and evaluation criteria to any supplier or contractor, subject to payment of price, if any, which shall not exceed the limit, as prescribed in these Rules, and shall indicate the time and place where the documents can be obtained. Alternatively, if the procuring agency does not wish to issue pre-qualification documents, it shall include the scope of work and a clear set of requirements for pre-qualification and the evaluation criteria in the notice for pre-qualification.*
- (c) *all applicants found capable of carrying out the assignments in accordance with the approved prequalification criteria shall be prequalified and invited to submit bids.*

2. As pointed out by the complainant if the Government of Pakistan recommends the use of only WHO Prequalified insecticides in Pakistan, then requiring the product to be WHO PQT-VC approved or equivalent may pose restrictive and discriminatory practice in violation of SPPRA Rules 2010, Rule 44.

The Rule is quoted below for your reference;

44. Discriminatory and difficult conditions - Save as otherwise provided, no procuring agency shall introduce any condition which discriminates among bidders. In ascertaining the discriminatory 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.

Transparency International Pakistan Recommendations

Transparency International Pakistan requests Secretary Health department Sindh to examine the complaint in light of SPPRA Rules 2010 and issue directives to rectify the violation and re-invite the



tender and issue directives in compliance with SPPRA Rules 2010 to ensure that the process is transparent and fair.

Transparency International 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. Caretaker Chief Minister Sindh, CM House, Karachi.
2. Chief Secretary, Government of Sindh, Karachi.
3. Chairman, Prime Minister Inspection Commission, PMIC, Islamabad.
4. Managing Director, SPPRA, Karachi.

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”



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January 4, 2024

To,
The Secretary,
Health Department,
Government of Sindh

Subject : Reservations on the Bidding Document for the Procurement of Insecticides for the Financial Year 2023-24.

Respected Sir,
We would like to draw your kind attention regarding Evaluation Criteria for the Procurement of Insecticides for the Financial Year 2023-24 by the office of the Directorate General Health Services (VBD) Sindh Hyderabad, Sindh.

In the bidding document it is stated that the product should be WHO PQT-VC approved or equivalent. Sir, we would like to submit that it should be amended and only WHO PQT-VC Prequalified Insecticides should be mentioned in the bidding document. The condition of only WHO prequalified insecticides should be maintained as in the last bidding document.

It is submitted that WHO has uploaded list of firms & their brand on their official WHO website which are qualified as WHO PQT-VC Prequalified Insecticides by WHO. No other firm has been certified as WHO PQT-VC Prequalified Insecticide manufacturer. Official List of WHO PQT-VC Prequalified Insecticide manufacturers is attached herewith.

It is further submitted that if any firm participates in the tender and claims to be WHO Prequalified manufacturer, what will be the evaluation criteria to judge their claim. There is no lab in Pakistan to analyze the quality of the insecticides as per standards and specifications of WHO. How can it be confirmed that any insecticide is similar to W.H.O Standard ? . Who will certify or will take the responsibility for the same ? What is the Law & Regulation about it?

The Ministry of Health, Government of Pakistan also recommends use of only WHO Prequalified insecticides in Pakistan. You may refer to Ministry of Health, Government of Pakistan for their guidance. All other province procure WHO prequalified Insecticides meeting WHO Guidelines.

Therefore, you are requested to kindly take cognizance of this issue and instruct the concerned authorities to do the needful.

Thanking you,

Yours Sincerely,

For Z R Engineering

CC. :

1. **Managing Director, Sindh Public Procurement Regulatory Authority, Barrack 8 Secretariat 4A Court Road Karachi . Tel: 92-21-99205356, email : md@pprasindh.gov.pk**
2. **Transparency International Pakistan (TIP), Plot 72F/2, Floor 1, 9th Street, Jami Commercial Street, D.H.A. Phase 7, Karachi City, Sindh 75500, Pakistan. + (92-21) 35311898, email : ti.pakistan@gmail.com**

Tufail Enterprises

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To,
The Secretary,
Health Department,
Government of Sindh

January 4, 2024

Subject : Objections regarding Bidding Document for the Procurement of Insecticides FY 2023-24.

Dear Sir,

This letter is with reference to tender regarding Bidding Document for the Procurement of Insecticides FY 2023-24.

We want to state that there is no concept of WHO Approved or Equivalent Insecticides defined by WHO. The products are only WHO Prequalified PQT-VC insecticides which are officially uploaded by WHO on their website.

There is no mechanism available with the concerned authorities to evaluate that the particular insecticide is WHO Equivalent or not. How will they evaluate that the product is WHO Prequalified or WHO Approved or WHO Equivalent?

Therefore, you are requested to ask the concerned authorities to rectify this ambiguity and only WHO Prequalified Insecticides should be mentioned as before.

Yours Truly,

Tufail Enterprises

CC. :

1. Managing Director, Sindh Public Procurement Regulatory Authority, Barrack 8 Secretariat 4A Court Road Karachi . Tel: 92-21-99205356, Email: md@pprasindh.gov.pk
2. Transparency International Pakistan (TIP), Plot 72F/2, Floor 1, 9th Street, Jami Commercial Street, D.H.A. Phase 7, Karachi City, Sindh 75500, Pakistan. + (92-21) 35311898, Email : ti.pakistan@gmail.com