



TRANSPARENCY INTERNATIONAL-PAKISTAN

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

31st March 2016

TL16/3103/1A

Managing Director,
Karachi Water & Sewerage Board,
Karachi.

Sub: **Illegal Award of Unsolicited Contract against SPPRA Act , Rs. 25.5 Billion Karachi Water Supply Project, known as K-IV, to the Frontier Works Organization (FWO).**

Dear Sir,

Transparency International Pakistan refers to the letter sent to MD on the above quoted subject vide No. TL16/3003/1A dated 30 March 2016, **on the Illegal Award of Unsolicited Contract against SPPRA Act , Rs. 25.5 Billion Karachi Water Supply Project, K-IV, to the Frontier Works Organization (FWO).**

This is to inform you that the following public office holders took **an illegal decision** in the meeting held at the Chief Minister's House on 11.2.2016 to allow KWSB to procure **Works Contracts** related to whole of K-IV Project Phase-I, 260 MGD through Direct Contracting, giving wrong exemption to award unsolicited **Works Contract** to M/s FWO under Clause 21 (1) (2) of the Sindh Public Procurement (Amended) Act 2013, as the Clause 21 allows the exemption **only for procurement of Goods** and related services Contracts, but is not applicable for **Works Contracts**.

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|------------------------------|--------------------------------------|
| 1. Dr. Ishrat-UI-Ebad Khan | Governor Sindh |
| 2. Syed Qaim Ali Shah | Chief Minister Sindh |
| 3. Mr. Murad Ali Shah | Minister of Finance, GoS |
| 4. Mr. Maula Buksh Chandio | Minister of Information, GoS |
| 5. Mr. Jam Khan Shoro | Minister of Local Govt, GoS |
| 6. Mr. Muhammad Siddiq Memon | Chief Secretary Sindh |
| 7. Mr. Aijaz Ali Khan | Additional Chief Secretary (P&D) GoS |
| 8. Mr. Suhail Rajput | Secretary Finance, GoS |
| 9. Mr. Noor Muhammad Laghari | Secretary, LD Deptt GoS |
| 10. Syed Asif Haider Shah | Commissioner Karachi |
| 11. Mr. Khalid Siddiqui | Chief PP&H P&D Deptt, GoS |
| 12. P.S Rajhani | Secretary Technical, P&D Deptt GoS |
| 13. Mr. Misbahuddin Farid | Managing Director-I KW&SB |

The Clause 21 (1) (2) of the Sindh Public Procurement (Amended) Act 2013 and is quoted below;

Power to Exempt, 21 (1) (2)

(1) [Notwithstanding anything contained in this Act or any other law and rules or regulations made thereunder, for the time being in force, Government shall have the



power to grant exemption to procurement of **an object or class of objects** in the national interest from the operations of this Act or any other law or rules or regulations made thereunder regulating public procurement.

(2) The Authority may also, for reasons to be recorded in writing, recommend to Government that the procurement of **an object or class of objects** in the national interest be exempted from the operation of this Act or any other law regulations public procurement and Governments on such recommendations may, if it deems fit, exempt the aforesaid object or class of object the operation of such laws and rules and regulations made there under."]

Definition of Goods means only **Object**, in Sindh Public Procurement (Amended) Act 2013 is quoted below,

Definitions Clause 2, (e) defines " Object"

"Goods" means **articles and object** of every kind and description including raw materials, drugs and medicines, products, equipment, machinery, spares and commodities in any form, including solid, liquid and gaseous form, and includes services identical to installation, transport, maintenance and similar obligations related to the supply of goods, if the value of these services does not exceed the value of such goods;

Clause 2, (q) defines " Works"

"Works" means any **Construction Work**, including electrical and mechanical work, consisting of erection, assembly, repair, renovation, or demolition of a building or structure or part thereof, such as site preparation, excavation, installation of equipment or materials and decoration, finishing and includes incidental services such as a drilling, mapping, satellite photography, seismic investigations and similar activities, if the value of those services does not exceeds that of the works themselves

Transparency International Pakistan Observations

1. The exemption accorded for direct contracting for all **K-IV Works Contract** with M/s FWO by the Government of Sindh, with approval of 13 above mentioned POHs is **illegal and void ab-intio**, as under Clause 21 (1) and (2) the exemption can only be given for **Goods and related Services (Objects)**.
2. MD should note that there is no provision SPPRA Law of exemption from application of Sindh Public Procurement (Amended) Act 2013 for **Works Contracts**, and K-IV packages are all Works Contracts.
3. **This illegal exemption comes under SPPRA Rule 2 Corruption and corrupt practices.**
Rule 2 , sub rule (q) (ii) "Collusive Practice" means any arrangement between two or more parties to the procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency **to establish prices at artificial, noncompetitive levels** for any wrongful gain;

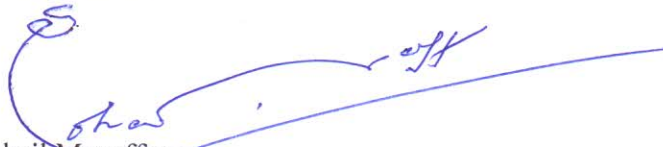
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The Managing Director is requested to act in accordance with the provisions of the Sindh Public Procurement (Amended) Act 2013 and SPPRA Rules 2010, and invite open tenders of K-IV Projects, in order to avoid allegations of mis procurement and allegation of Corruption and corrupt practices against the 13 public office holders who approved the illegal exemption in the meeting held on 11.2.2016.

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

With Regards,


Sohail Muzaffar
Chairman

Copies forwarded for the action under rules to immediate address this major illegal act granting exemption from SPPRA , in order to have good governance in Pakistan;

1. Secretary to Prime Minister, PM House, Islamabad,
2. Governor Sindh , Governor House, Karachi,
3. Chief Justice, Sindh High Court, Karachi
4. DG, NAB, Karachi.
5. Chief Secretary Sindh, Karachi.
6. Minister of Finance, Karachi
7. Minister of Information, Karachi,
8. Secretary Finance, Karachi,
9. Secretary, LD Deptt, Karachi,
10. Syed Asif Haider Shah, Commissioner Karachi,
11. Chief PP&H P&D Deptt, Karachi
12. MD, SPPRA, Karachi.
13. MD, PPRA, Islamabad.
14. Registrar Supreme Court of Pakistan