

Chief Executive Officer IESCO
Street No 40, Sector G-7/4, Islamabad Email: ceo@iesco.com.pk

SUBJECT: PRE-BID RIGGING IN THE PROCURMENT OF 300 NOS OF ENERGY METERS VIDE TENDER NO. 60 TO BE OPEN ON 07-10-2020 BY IESCO.

Dear Sir,

We are pleased to submit our protest and observations under the subject tender for the procurement of 300 Nos. of Energy Meters as per NTDC specification P202-2012. Following are the submissions; -

- 1- The same tender was floated and opened on 15-07-2020 under Single Stage Single Envelope Basis.
- 2- Four companies participated in the bid as detailed below:

Name Of Bidders	Evaluated cost (Millions)	Evaluation Status
M/s KBK Electronics Lahore	11.67	Non Responsive
M/s JZ International Lahore	13.14	Non Responsive
M/s Intelligent Metering System Lahore	20.235	Non Responsive
M/s Engineering Technics Lahore	41.25	Substantially Responsive

Surprisingly, IESCO declared first three bidders non responsive, without mentioning the justifications for rejection as per PPRA Rules 35, whose Energy meters are working in DISCOs since last many years with satisfactory performance and scraped the tender on the basis of Single Stage Single Envelop Basis. How a bidder can lodge his grievance without knowing the reasons of rejection by IESCO in bid evaluation report, deliberately IESCO did not mentioned the reasons of rejection as per PPRA rules 35 in the result of bid evaluation.

It is our apprehension that IESCO has scraped the tender to avoid the grievances from the bidders whose meters has already been working in Pakistan since last many years. Whereas Two Stage bidding process for the same material will allow IESCO to procure the material at high prices under the umbrella of Two Stage. This tends to be a **WHITE COLLAR CRIME** because IESCO already declared world renowned energy meters duly type tested at KEMA LAB as non-responsive.

- 3- It is our apprehension that IESCO has readvertised the same tender under umbrella of Single Stage Two Envelop basis to favor their favorite bidder. IESCO had already opened and checked all the bids in previous tender no. 02 of the same product that is why IESCO has not only changed the status of bidding but also changed the qualification criteria keeping in view of already available my bid documents so I may not fulfill the new criteria. Below are the observations on the discriminatory terms and conditions of subject tender;

A- Clause 3.1.2 Average Annual Turn Over

Quote

Required Average Annual Turn Over is Rs.123 Million.



Unquote

JZ international

It is astonishing to note that requirement of Average Annual Turn over is extra ordinary high as compared to the announced prices for the said project advertised vide tender no 02 opened on 15-07-2020 by IESCO. Following are the previous quoted FCS price of energy meters in DISCOs and NTDC inclusive of all custom duties and taxes and without involvement of any foreign exchange component from which it is established that IESCO has estimated the average annual turnover by considering the prices extra ordinary high and advance managed to reject my bid.

Sr no.	Name of Manufacturer	Tender no./ Opening Date	Unit Price 0.2S As Per P-202;2012
1.	BLUESTAR	FESCO/90/20.2.17	FCS PKR 59700/-
2.	HEXING	FESCO/90/20.2.17	FCS PKR 36500/-
3.	BLUESTAR	FESCO/138/6.12.18	FCS PKR 37,450/-
4.	HEXING	FESCO/138/6.12.18	FCS PKR 23500/-
5.	BLUESTAR	NTDC/NOR-90/25.01.19	FCS PKR 44100/-
7.	HEXING	NTDC/NOR-90/25.01.19	CIF PKR 48000/-
8.	BLUESTAR	FESCO/190/26.11.19	FCS PKR 36000/-
9.	HEXING	FESCO/190/26.11.19	FCS PKR 41000/-

On the other hand, required average turnover of Rs.123 Million is much more higher than the Financial resources/cash flow required as mentioned in clause 3.1.2 i.e Rs 10.3 Millions. In this regard, it is requested to review the same on the basis of the above market prices so that maximum bidders can participate in this tender for healthy competition.

B- Clause 3.2 Contractual Experience

Quote

Supplier/bidder/JV demonstrate at least two number of contracts successfully completed within last five year of similarly or better rated energy meter... Value of Each PO/Contract should be atleast PKR:13.5 Million .

Unquote

In this regard, the **contractual experience and technical experience of manufacture will also be considered** for evaluation purpose being internationally as well as locally acceptable criteria. For ready reference, a copy of clarification issued by HESCO in tender no.ADB-TRANCHE-IV-HESCO-02(S)-2017 and QESCO Tender no.ADB-QESCO-03(s)-2017 are attached which clearly states that:

“Contractual experience as well as technical experiences are meant only for the manufacturer and a dealer/agent/supplier needs not to fulfill the said experience i.e supplier/dealer/agent can quote material from any manufacture...”

Further to above, it should be brought in to consideration that how many energy meters have been procured by IESCO via tenders since last 5 years? It is our apprehension that after checking the previous bids of bidders participated in tender no 02 for the same energy meters, IESCO has added this particular clause so that only their favorite bidder can comply the contractual requirements.

In this regard, it is requested that the experience of manufacture should be considered as per international practice.



C- Clause 3.6 New Entrant Manufacturer

JZ international

It is our apprehension that this clause will be useless if IESCO will reject the bid of new entrant just to purchase the material at high prices from their favorite bidder.

In this regard, it is submitted that IESCO should announce the technical evaluation of the bid as per PPRA rules 35 by clearly mentioning justification for acceptance or rejection of bid. After the announcement of technical evaluation, IESCO should give atleast 10-15 days as per PPRA for the aggrieved bidders to submit their grievances. IESCO should decide the grievance as per PPRA rules before opening of financial bids and award of contract.

D- Extension of Bid Opening

It is submitted Chinese manufactures are also interested to participate in this tender whose meters have been working all over the world and in Pakistan with satisfactory conditions since last many years. In this regard, it is requested to extend the bid opening days for atleast 15 days so that Chinese can also participate and offer the maximum discounted price to IESCO to save the public money of tax payer.

E- Pandemic COVID-19

It is important to highlight that since last 10 months world is suffering from pandemic COVID situation, resultantly, slow down of world's economy including Pakistan. All over the world, institutions are encouraging companies to engage in the business activities by giving many relaxations out of the way. On the other hand, rejections to bids, scrap of tenders to favor a particular bidder due to minor reasons, imposition of the discriminatory clauses that does not affect the execution of the contract, change of bidding process and addition of discriminatory clauses just to favor a particular bidder after scrap of tender no 02 for the same energy meters by IESCO is astonishing.

Keeping all above in view, it is requested to intervene in the matter and remove the discriminatory clauses from the bidding document so that all bidders can also participate and offer the best prices to IESCO whose material has already been working in Pakistan since last many years as per opinion of competition commission of Pakistan issued on 17-02-2015 all DISCOS (copy attach).

It is requested to give us time for meeting to explain facts in further detail.

Thanking and assuring our best services.

Regards
 For & on Behalf of
JZ International

For JZ INTERNATIONAL

Cell: 0323-4202920

Cc;

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- Chairman BOD IESCO, Islamabad.
- Company Secretary IESCO, Islamabad for circulation to all BOD Members. Email: company_secretary@iesco.com.pk
- Managing Director PEPCO, WAPDA House Lahore



JZ international

- General Manager Technical IESCO Islamabad, Email: gm_tech@iesco.com.pk
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- Competition Commission of Pakistan , Islamabad.
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HYDERABAD ELECTRIC SUPPLY COMPANY

Office of
Chief Engineer (Development)
Project Management Unit
Bungalow # A-1 HESCO Colony
Hussainabad Hyderabad
Dated: 08/06/2017

NO: CE(Dev:)/PMU/P-1/ ADB-TR-IV-HESCO-02(S)/ 7900 704

M/S JZ INTERNATIONAL

Office No. 6 A, Basement 6,
Shimla Complex 11-Durand Road
Lahore Tel / Fax 042-36362921

Subject:- CLARIFICATION – HESCO TENDER NO. ADB-TRANCHE-IV-HESCO-02(S)-2017 DUE TO OPEN ON 21.06.2017

With reference to your email dated 02.06.2017, the point wise clarification is as under:

1. **Section 3 (Contractual Experience)**

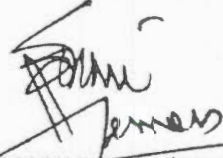
The bidder can be manufacturer and / or a supplier, but the Contractual Experience is meant only for the manufacturer and a dealer/agent/supplier needs not to fulfill the said experience i.e. a supplier/dealer/agent can quote material from any manufacturer who meets the Contractual Experience.

2. **Section 3 (Technical Experience)**

The bidder can be manufacturer and / or a supplier, but the Technical Experience is meant only for the manufacturer and a dealer/agent/supplier needs not to fulfill the said experience i.e. a supplier/dealer/agent can quote material from any manufacturer who meets the Technical Experience.

3. **Type Test Report (Section 3 & 6)**

Copy of Addendum No.2 is attached herewith.


CHIEF ENGINEER (DEV)
PROJECT MANAGEMENT UNIT
HESCO HYDERABAD

C.c to:

1. Mr. Ehtesham Zafar Khattak, Senior Project Officer (Energy) Pakistan Resident Mission, Asian Development Bank Office, Office Level-8, Sarina Office Complex Sector, G-5, ISLAMABAD w.r.t ADB email dated 02.06.2017 and 06.06.2017.
2. Managing Director (PPRA) Islamabad.
3. Chairman Competition Commission of Pakistan Islamabad.
4. Chairman Transparency Int: Pakistan Karachi.
Master File.



QUETTA ELECTRIC SUPPLY COMPANY

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OFFICE OF THE
CHIEF ENGINEER (DEV) PMU QESCO H/Q
ZARGHOON ROAD QUETTA CANTT

No.PMU/QESCO/CE(Dev)/ 1014-19

Dated: 26/5/2017

M/s JZ International,
Lahore.

Subject: **CLARIFICATION – QESCO TENDER NO.ADB-QESCO-03(S)-2017-REBID
DUE TO OPEN ON 31.05.2017 UNDER ADB LOAN TRANCHE-III**

Ref:- Your letter dated 22.05.2017 received on 25.05.2107

1. **Section 3 Clause 2.2.1 (Contractual Experience)**

The bidder can be a manufacturer and / or a supplier, but the Contractual Experience is meant only for the manufacturer and a dealer/agent/supplier needs not to fulfill the said experience i.e. a supplier/dealer/agent can quote material from any manufacturer who meets the contractual experience.

2. **Section 3 Clause 2.2.2 (Technical Experience)**


The bidder can be a manufacturer and / or a supplier, but the Technical Experience is meant only for the manufacturer and a dealer/agent/supplier needs not to fulfill the said experience i.e. a supplier/dealer/agent can quote material from any manufacturer who meets the Technical Experience.

3. **Section 6 Clause 5 (Type Test Report)**

At Sr.No. 14 of sub-clause 5.1, it is written that “Any other laboratory accredited by STL/approved by WAPDA/NTDC/DISCOs”, it means that any other accredited Lab approved by NTDC and other DISCOs is acceptable.

4. Foregoing in view the above, it is clear that no such restriction on any bidder or supplier has been imposed however, to ensure best quality of good/material, the manufacturer has to fulfill the contractual as well as technical experience.

Looking forward for your participation on 31.05.2107, owing to loan closing date of January 2018 and enough time for purchase of tender document and subsequent clarifications, further extension in bid opening date is not possible at this stage.


Chief Engineer (Development)
PMU QESCO, Quetta

Copy:

1. CEO QESCO Quetta
2. Mr.Ehtesham Z.Khattak, Senior Project Officer, ADB Islamabad.
3. MD PPRA Islamabad
4. Chairman, Competition Commission of Pakistan.
5. Chairman, Transparency International Pakistan

Competition Commission of Pakistan

OPINION ON COMPETITION CONCERNS IN

PUBLIC PROCUREMENT OF ELECTRIC POWER EQUIPMENT

This opinion is issued as culmination of the Open Hearing held under Section 29(c) of the Competition Act, 2010 (hereinafter "the Act"), on 17 February 2015 pertaining to certain restrictive, exclusionary and discriminatory terms and conditions in tenders floated by public sector organizations for the supply of electric power equipment.

I. BACKGROUND

As per the Public Procurement Regulatory Authority's (PPRA)¹ estimate the public procurement comprises 15-25% of GDP in Pakistan. Whether 15, 20 or 25% (approx 38 Billion USD - 63 Billion USD), such a large volume of procurement demands strict measures against anti-competitive practices in order to ensure that public money is used in an efficient, effective and economically advantageous manner. This objective can only be achieved by ensuring free competition, a level playing field and maximum possible participation of bidders. For efficient procurement it is essential that new entry is encouraged, barriers to entry are minimized for local manufacturers/suppliers, and international participation is not restricted by means of impractical pre-requisites for participation. Efficient procurement leads to a healthy economy through best utilization of public funds, growth of local industry and creation of means of employment.

The Commission has received numerous complaints from manufacturers and suppliers of electrical equipment regarding certain conditions contained in tenders floated by procurement agencies, i.e., distribution companies (hereinafter "DISCOs") and the National Transmission and Despatch Company Limited (hereinafter "NTDC"), (together referred to as "Procuring Agency (ies)"), that precluded certain undertakings from participating in those tenders at the bidding stage. Due to the multiplicity, recurrence and technical nature of issues raised in complaints made to the Commission, an Open Hearing under Section 29(c) of the Act was held where all stakeholders were invited to share their views on the competition concerns raised in the procurement of electric equipment. To ensure maximum participation letters of invitation were sent to various stake holders including the Procuring Agencies. In addition notices in Urdu and English and were also published in the local news papers on 3 February 2015, 6 February 2015 and 17 February 2015 respectively (copies attached).

http://www.theneews.com.pk/newsmag/mag_detail_article.asp?id=8483&magId=10

<http://www.transparency.org.pk/news/newsdetail.php?nid=4882>

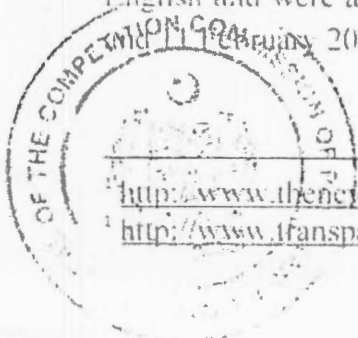
Page 1 of 23

Attested To Be True Copy

Syed Umair Ahmad

Registrar

Competition Commission of Pakistan
Government of Pakistan
Islamabad.



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