TRANSPARENCY INTERNATIONAL - PAKISTAN

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4th October, 2021

TL21/10/04/1A

The Federal Secretary
Ministry of Communications
Islamabad

Sub: Complaint on the allegation of over Rs 1,000 Billion corruption, claimed by the Minister of Communications in the motorway contracts awarded from 2013-2018, stated to be at 3 times higher costs than the cost of motorway contracts awarded in 2020/21 under his ministership.

Dear Sir,

Transparency International Pakistan has received a complaint on the allegation of over Rs 1,000 Billion corruption claimed by the Minister of Communications in the motorway contracts awarded from 2013-2018, stated to be at 3 times higher costs than the cost of motorway contracts awarded in 2020/21 under his ministership.

The complainant has made following allegations.

That,

1. The Minister of Communications has announced that the motorway contracts awarded from 2013-2018 were at 3 times higher costs than the cost of motorway contracts being awarded in 2020/21 under his ministership and caused loss of over Rs 1,000 billion due to corruption.

2. If statements are not based on the facts, such statement by a Federal Minister of Pakistan are harmful for the credibility of NHA itself, contractors including Chinese companies, consultants, and more so on the doing business credibility of Pakistan by foreign investors, mainly CPEC, financial institutions/IFIs.

3. Conflicting statements were issued by the Ministers and the PM. The Minister of Communication on 28th September 2021 said that the NHA Projects were at Rs 1 trillion more expensive rates during 2013-2018, and the Minister of information said that the federal cabinet was told that the roads being constructed by the NHA today were almost **Rs100 million/KM** cheaper than the roads built during the previous government. The PM on 29 September 2021 said, "We are spending **Rs200 million/KM** less on a four-lane road than the ones executed back in 2013".

4. In order to verify the claims of the Ministers of Communications and Information and the PM, the PPRA website was checked.

5. It was found that unfortunately, NHA has not posted the actually awarded contracts on PPRA website.

6. According to PPRA Rules 2004, Rule No. 47, it is mandatory/essential for the National Highway Authority (NHA) to follow the legal requirements of posting all Contracts with BOQ etc. including motorway and other projects on PPRA website.

7. NHA should not have violated the mandatory requirement of PPRA rules. Since 2018, present Minister of Communications also carries the responsibility for committing the same violation of Rule No. 47 in NHA and all other departments of the ministry.

8. The application of Rule No. 47 by NHA must be implemented in order to ascertain the truth of the allegation by the Federal Minister that big corruption was committed in 2013-2018 contracts of NHA.

The complaint has been examined by Transparency International Pakistan.

Following are the comments and recommendation of Transparency International Pakistan

A. The allegation of violation of PPRA Rules 2004, Rule No 47, is correct, and the NHA has not uploaded on the PPRA website the awarded Contracts documents of all contracts, from 2013 to 2021, viz. BOQ, Contract Agreements, Conditions of Contracts, and Specifications etc.

B. Transparency International Pakistan vide letter dated November 17, 2020 had reminded Chairman, National Highway Authority, Ministry of Communication, PSPM, PPRA and Supreme Court of Pakistan of the illegality being committed by NHA, but unfortunately NHA nor the Ministry of Communication cared to follow the law. **(Annex-A)**.

C. It is to be noted that the cost of construction for roads depends on various factors, such as design parameters, specifications, terrain/filling/cutting/designed load/embankment protection/sizes of lane, depth of base and sub base, carpeting thickness, culverts and bridges etc. The prices escalation and rupee depreciation during last 9 years is also very high. The prices of MS Bars in 2013 was Rs 80,000/ton, in 2021 it is Rs 145,000/ton, and US $ vs Pak Rupee rates in 2013 were Rs 100/$ and in 2021 it US $ is at Rs 165, which has to be checked/verified from 2013 Contracts of NHA.

D. One example of this cost variation of Road Contracts due to design/drainage structures/terrain/spec and etc. factors, is in the recently awarded two contracts by NHA in 2021, for the construction of Ziarat Mor–Kach Hrnai Road and Harnai–Sanjavi Road. The Ziarat Mor–Kach Harnai Road is 109.882 KM long and its contract is awarded at Rs 2,404,338,786/- which means **Rs. 21.88 million per KM**. Whereas the Harnai–Sanjavi Road is 55.834 KM long and its contract is awarded at Rs. 2,551,684,210/- which means **Rs. 45.7 million/KM**. This shows that the per kilo meter for Harnai–Sanjavi Road is awarded at twice the price for per KM cost of Ziarat Mor–Kach Hrnai Road. **(Annex – B)**.

E. In compliance with Rule No. 47 of PPRA Rules 2004, Secretary Communications is requested to order NHA for immediate posting of all motorway and other contracts under CPEC and non CPEC awarded during 2013-2018 as well as during 2018-2021, along with rates/prices quoted/BOQ, on PPRA website, in order that the general public as well as TI Pakistan can examine the authenticity of the claim of the Minister of Communications by comparing the previous and present costs.

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,

Ms. Yasmeen Lari
Sitara-e-Imtiaz, Hilal-e-Imtiaz
Chairperson
Transparency International Pakistan

Justice (R) Nasira Iqbal,
Sitara-e-Imtiaz
Vice-Chairperson
Transparency International Pakistan

Encl: Annex-A & B.

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

1. PSPM, Prime Minister House, Islamabad
2. Chairman, Public Accounts Committee, NA, Islamabad,
3. Minister of Communications, Islamabad
4. Auditor General Pakistan, Islamabad
5. Chairman National Highway Authority (NHA), Islamabad
6. MD, PPRA, Islamabad
7. Registrar, Supreme Court of Pakistan

Note: This letter is being issued under Article 19-A of the Constitution of the Islamic Republic of Pakistan 1973, which empowers civil society to seek information and hold accountable public institutions. Refer to the Lahore High Court Order, Attaullah Khan Malik vs. The Federation of Pakistan (**2010 PLD Lahore 605**) in which following observation is given;

"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 19A empowers the civil society of this country to seek information from public institutions and hold them answerable. Article 19A, therefore, enthuses fresh life into Public Interest Litigation.

Annex A

TRANSPARENCY INTERNATIONAL-PAKISTAN

4-C, Mezzanine Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21) 35390408, 35311897-8,
Fax: (92-21) 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

November 17, 2020

Chairman,
National Highway Authority,
Islamabad

Sub: Violation by NHA in Publication of the Contract Agreements on PPRA Website under Public Procurement Rules, 2004, Rule 47, Mis-Procurement Rule 50

Dear Sir,

Transparency International Pakistan monitors implementation of PPRA Rule 47 (quoted below) which requires all procuring agencies to upload contract award agreements along with rates/prices quoted/BOQ on the PPRA website.

> **47. Public access and transparency. -** As soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public:

Rule 47 has been incorporated with a view that **the rates, prices and monthly remuneration of consultants/experts** are to be known to the public, whereby public can scrutinize any overpriced rate/purchase by comparing prices for similar procurements by different departments. According to PPRA Rule 50, non-compliance of any of PPRA Rules amount to mis-procurement.

TI Pakistan has noted that the contracts award information along with BOQ rates relating to most of the recent contracts awarded by the National Highway Authority (NHA) are not uploaded under the "Procurement Contracts" section on the PPRA website. Some referenced contracts are attached **Annex-A**

And all the contracts awarded on Emergency (COVID-19, Floods etc), using Direct contracting, under the Public Procurement Rules 2004 are also mandatorily to be posted on PPRA website, under Rule No 47.

Managing Director PPRA vide letter F.No. 1/11/2013/Legal/PPRA/Pt, dated 28.10.2020 **Annex-B**, has also issued instructions to all Federal Secretaries to make sure that all Procuring Agencies comply with Rule 47, and as per Contract Award Proforma A-II, Copy of Agreement and Copy of Bid Evaluation Report are also posted on PPRA website. **Annex-C**

TI Pakistan would like to draw your attention to PPRA Rule 23 under which the documents of the **Contract Agreement** comprises of the following mentioned below, **signed of integrity pact.**

a) Invitation to bid;
b) instructions to bidders;
c) form of bid;
d) form of contract;
e) general special conditions of contract;
f) specifications and drawings or performance criteria (where applicable);
g) list of goods or bill of quantities (dully filled);
h) delivery time or completion schedule;
i) bid evaluation criteria;
j) format of all securities required (where applicable);

k) details of standards (if any) that are to be used in assessing the quality of goods, works or services specified; and
l) any other detail not inconsistent with these rules that the procuring agency may deem necessary

Similarly, under the National Accountability Bureau Ordinance NAO 1999, Section 33B, it is mandatory to submit Contract Agreement to NAB after signing of the contract (quoted below).

> **NAO 1999 Section 33B: Reporting of public contracts:** "All Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial and local governments, statutory corporations or authorities established by the Federal Government or Provincial Government and holders of public office shall furnish to NAB a copy of any contract, entered into by such Ministries, Divisions and Attached Departments of the Federal Government, all departments of Provincial Government or local government, statutory corporations or authorities established by the Federal Government or Provincial Government or such holder of public office on its behalf, as the case may be, of the minimum monetary value of fifty million rupees or more, within such time as is reasonably practicable from the date of signing such contract".

However, NAB pro-forma is also in addition to furnishing copy of the Contract Agreement under Section 33B of NAO 1999.

TI Pakistan requests the Chairman NHA to ensure compliance with PPRA Rule 47, to avoid charge of mis-procurement under PPRA Rule 50.

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,

Sohail Muzaffar,
Chairman
Transparency International Pakistan

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

1. PSPM, Prime Minister House, Islamabad
2. Chairman National Highway Authority (NHA), Islamabad
3. Secretary Ministry of Communications, Isalambad
4. MD, PPRA, Islamabad
5. Registrar, Supreme Court of Pakistan

Annex A

Some reference contracts include:

1. Missing BOQ with rates for "Consultancy Services for Detailed Design and Construction for Wide Remaining Portion of National Highway N-25 in Kararo - Wadh Section from Km 222 to Km 318 (18.258 Km)"
2. Widening of TATA - PANI Slide Area at KM: 467+000 on N-35 pertaining to Gilgit Baltistan Region under Annual Maintenance Plan (AMP-2017-2018)
3. Construction of Additional 2 Lane Carriageway from Ratodero to Shikarpur N-55 (Section-1). Km 0+000 to km 43+400 (43.4)
4. Construction of Bridge (Desert Canal) at KM: 491 on N-55 (AMP-2017-2018)
5. Construction of Four (04) NO Toll Plaza in Punjab South Region
6. Consultancy Services for Supervision & Assisting the Newly Established Quality Assurance cell in Maintaining and continually Improving the Quality Management system (ISO 9OO1:2O151 at NHA
7. Procurement of IT Services: Development & Implementation of e-Bidding System
8. Consultancy Services for Feasibility Study and Detailed Design for Construction of Flyover at the Junction of N-5 & N-65 at Sukkur [S-P) (4-Lanel Bridge Length along with Approach Road 1.2 Km
9. Consultancy Services for Feasibility Study and Design for Construction of Hoshab-Awaran-Khuzdar Section of M-8 (400KM) (2-lane Road)
10. Construction Supervision of Shatial-Thor Nullah Bvpass (Relocation of KKH) (34.83 km) including Link Road to Existing KKH (2.94 Km)

RIZWAN MALIK
Managing Director

F. No. 1/110/2013/Legal/PPRA/Pt
PUBLIC PROCUREMENT REGULATORY AUTHORITY
CABINET DIVISION
GOVERNMENT OF PAKISTAN

Islamabad, the 28th October, 2020

Subject: **POSTING/UPLOADING OF CONTRACT AWARD OF VALUE ABOVE RUPEES FIFTY MILLION (50 MILLION) ON PPRA'S WEBSITE**

My dear Secretary,

The Public Procurement Regulatory Authority (PPRA) has been mandated to ensure transparency, economy, fairness, efficiency and accountability of the public sector procuring agencies / organizations through monitoring and implementation of Public Procurement Rules, 2004 and Regulations made thereunder.

2. In pursuance of Rule 47 of the Public Procurement Rules, 2004, the procuring agency immediately after the award of Contract is under obligation to make all the document public with regard to the evaluation of bids and award of Contract. Posting / Uploading of all Public Contract awards of Works, Services and Goods worth fifty million rupees or more by all Procuring Agencies within or outside Pakistan on PPRA's website on the set pro-forma is mandatory in accordance with Regulation 2 of the Public Procurement Regulations, 2009 **(Annex-I)**. Failure to do so may leads to mis-procurement which cannot be condoned either under the PPRA Ordinance, 2002 or any other law of the land.

3. In spite of the above clear cut mandatory requirements of the said Regulations, most of the procurement agencies do not post / upload Contract Awards of monetary value of fifty million rupees or above on the PPRA's website. Please note that any award of Contract over fifty million rupees without posting / uploading on the PPRA's website is a mis-procurement, under the Public Procurement Rules, 2004.

4. All Ministries, Divisions, attached Departments of the Federal Government, statutory corporations or authorities established by the Federal Government or owned and controlled by the Federal Government are required to post / upload all Contract Awards over fifty million rupees on the PPRA website on the enclosed pro-forma **(Annex-II & III)**.

Cont'd....P/2

1st Floor, Federal Bank for Cooperatives Building, Sector G-5/2, Islamabad-Pakistan
Tel: +92-51-9224824, Facsimile: +92-51-9224823
e-mail: mdppra@ppra.org.pk

NOTE: Please seek prior approval of the Authority in case of the disclosure of any information is of proprietary nature or against the public interest.

5. I shall be grateful if you would kindly circulate these instructions to all public sector agencies / autonomous bodies / corporations under the administrative control of your Ministry for strict compliance.

With best regards.

Yours sincerely,

Encl: *as above*

(RIZWAN MALIK)

ALL FEDERAL SECRETARIES

ATTACHMENT – II
(See regulation 2)

PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)

CONTRACT AWARD PROFORMA – II

To Be Filled And Uploaded on PPRA Website In Respect of All Public Contracts of Works, Services & Goods Worth Fifty Million Rupees or More

- NUMBER OF BIDDERS PRESENT AT THE TIME OF OPENING OF BIDS _____
- NAME AND ADDRESS OF THE SUCCESSFUL BIDDER _____
  _____
  _____
- RANKING OF SUCCESSFUL BIDDER IN EVALUATION REPORT (i.e. 1st, 2nd, 3rd EVALUATED BID).
  _____
  _____
- NEED ANALYSIS (Why the procurement was necessary?) _____
  _____
  _____
  _____
- IN CASE EXTENSION WAS MADE IN RESPONSE TIME, WHAT WERE THE REASONS (Briefly describe) _____
  _____
  _____
  _____

- WHETHER NAMES OF THE BIDDERS AND THEIR PRICES WERE READ OUT AT THE TIME OF OPENING OF BIDS_____Yes / No

- DATE OF CONTRACT SIGNING _____
  (Attach a copy of agreement)

- CONTRACT AWARD PRICE_____

- WHETHER COPY OF EVALUATION REPORT GIVEN TO ALL BIDDERS_____Yes / No
  (Attach copy of the bid evaluation report)

- ANY COMPLAINTS RECEIVED_____Yes / No
  (If yes result thereof)

  _____

  _____

  _____

- ANY DEVIATION FROM SPECIFICATIONS GIVEN IN THE TENDER NOTICE/DOCUMENTS_____Yes / No
  (If yes give details)

- DEVIATION FROM QUALIFICATION CRITERIA_____Yes / No
  (If yes give details)

  _____

  _____

  _____

- SPECIAL CONDITIONS, IF Any
  (Give Brief Description)

  _____

  _____

  _____

Annex B

ATTACHMENT - I

PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)

CONTRACT AWARD PROFORMA - I

To be filled and uploaded on PPRA Website in respect of all Public Contracts of Works, Services and Goods worth Rs 50 million or more

► NAME OF THE ORGANIZATION/DEPTT	**National Highway Authority**
► FEDERAL/PROVINCIAL GOVT/OTHERS	Federal Govt (Autonomous Body)
► TITLE OF CONTRACT	Construction of Ziarat Mor - Kach Hrnai Sanjavi Road **Package-I** Ziarat Mor - Kach Harnai Road (109.882 Km) **Package-II** Harnai - Sanjavi Road (55,834 Km) 2(526)
► BRIEF DESCRIPTION OF THE CONTRACT	The Scope of work include Constrution of Ziarat Mor-Kch Harnai Sanjavai Road; **Package-I** Ziarat Mor-Kach Harnai Road (109.882 Km) **Package-II** Harnai - Sanjavi Road (55.834 Km) **Total 165.716 Km**
► TENDER VALUE	Package-I Rs. 3,929,987,868.50 (Dist, Ziarat) Package-II Rs. 3,649,885,177.71 (Dist.Harnai)
► ENGINEER's ESTIMATE (for civil works only)	Package-I Rs. 3,929,987,868.50 (Dist, Ziarat) Package-II Rs. 3,649,885,177.71 (Dist.Harnai)
► ESTIMATED COMPLETION PERIOD (AS PER CONTRACT)	730 days for Package-I and 730 Days for Package-II from Engineer's notice to commence

► WHETHER THE PROCUREMENT WAS INCLUDED IN ANNUAL PROCUREMENT PLAN?

Yes	x	No	✓

► ADVERTISEMENT

(i) PPRA Website (Federal Agencies)

Yes	✓	No	x

(ii) News Papers

Yes	✓	No	x

(If yes, give names of newspapers and date) "Dawn" and "Jang" 1st January 2021

► TENDER OPENED ON (Date and Time) Technical bids opened on 20th January 2021
Price Bids opened on 5th March 2021

► NATURE OF PURCHASE Procurement of works

► EXTENSION IN DUE DATE (if any)

Yes	x	No	✓

► NUMBER OF TENDER DOCUMENTS SOLD Two (02) for Each Package,
(Also available on NHA webiste for Free download)

► WHETHER QUALIFICATION CRITERIA WAS INCLUDED IN BIDDING/TENDER DOCUMENTS

Yes	✓	No	x

Qualification criteria included in Instruction to Bidders and BDS of bidding document

► WHETHER BID EVALUATION CRITERIA WAS INCLUDED IN BIDDING/TENDER DOCUMENTS

Yes	✓	No	x

► WHICH METHOD OF PROCUREMENT WAS USED:- (Tick one)

a) SINGLE STAGE - ONE ENVELOPE PROCEDURE	x
b) SINGLE STAGE - TWO ENVELOPE PROCEDURE	✓
c) TWO STAGE BIDDING PROCEDURE	x
d) TWO STAGE - TWO ENVELOPE BIDDING PROCEDURE	x

- Please specify if any other method of procurement was adopted with brief reasons (i.e. Emergency, Direct Contracting, Negotiated Tenering, etc.

- WHO IS THE APPROVING AUTHORITY NHA Executive Board

► WHETHER APPROVAL OF COMPETENT AUTHORITY WAS OBTAINED FOR USING A METHOD OTHER THAN OPEN COMPETITIVE BIDDING N/A

► NUMBER OF BIDS RECEIVED Package-I: Fourteen (14)
Package-II: Twelve (12)

► WHETHER THE SUCCESSFUL BIDDER WAS LOWEST BIDDER

Yes	✓	No	x

► WHETHER INTEGRITY PACT WAS SIGNED

Yes	✓	No	x

ATTACHMENT - II

PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)

CONTRACT AWARD PROFORMA - II

To be filled and uploaded on PPRA Website in respect of all Public Contracts of Works, Services and Goods worth Rs 50 million or more

► No. OF BIDDERS PRESENT AT THE TIME OF OPENING OF BIDS	**Package-I and II** - 04 bidders were pesent at the opening of price bid for both
► NAME & ADDRESS OF SUCCESSFUL BIDDER	**Package-I - M/s Umer Jan & Compny**, Plot No. B-39, Sindh Cooperative Society, Main Airport Road, Sukkur. **Package-II - M/s Umer Jan & Company**, Plot
► RANKING OF SUCCESSFUL BIDDER IN EVALUATION REPORT (I.e. 1st, 2nd, 3rd EVALUATED BID)	1st Lowest evaluated bidder
► NEED ANALYSIS (Why the procurement was necessary?)	In the interest of public.
► IN CASE EXTENSION WAS MADE IN RESPONSE TIME, WHAT WERE REASONS (Bridfly describe)	...N/A...
► WHETHER NAMES OF THE BIDDERS AND THEIR PRICES WERE READ OUT AT THE TIME OF OPENING OF BIDS	Yes √ No x
► DATE OF CONTRACT SIGNING (Attach a copy of agreement)	Package-I: 16th June 2021 Package-II: 18th June 2021
► CONTRACT AWARD PRICE	**Package-I** Rs 2,404,338,786/- **Package-II** Rs 2,551,684,210/-
► WHETHER COPY OF EVALUATION REPORT GIVEN TO ALL BIDDERS (Attach a copy of evaluation report)	Yes x No √ Uploaded on PPRA & NHA Websites.
► ANY COMPLAINTS RECEIVED (If Yes, result thereof)	Yes x No √
► ANY DEVIATION FROM SPECIFICATIONS GIVEN IN THE TENDER NOTICE/DOCUMENTS (If yes give details)	Yes x No √
► DEVIATION FROM QUALIFICATION CRITERIA (If yes give details)	Yes x No √
► SPECIAL CONDITIONS, IF ANY (Give Brief Description)	N/A **N/A**