



September 5, 2024

TL2024/0905/1A

Syed Mazhar Ali Shah
Secretary/Chairman
Ministry of Railways,
Islamabad.

Subject: Complaint Against Allegations of Violation of Public Procurement Regulatory Authority (PPRA) Rules 2004, by Railway Constructions Pakistan (RAILCOP) Limited in Tender for Fuel Monitoring System for Pakistan Railways Locomotives & Track Machines

Dear Sir,

Transparency International Pakistan has received a complaint from M/s Zara Solutions against the allegations of violation of Public Procurement Regulatory Authority (PPRA) Rules 2004, by Railway Constructions Pakistan (RAILCOP) Limited, in tender for fuel monitoring system for Pakistan Railways locomotives and track machines.

The complainant has made the following allegations:

That;

1. The Railway Constructions Pakistan (RAILCOP) invited Tender No. 12 for the Fuel Monitoring System for Pakistan Railways Locomotives & Track Machines on 5th August 2024, closing date of 22nd August 2024 (**Annex-A**).
2. M/s Zara Solutions was one of the bidders in the said procurement. Despite the obligation of all the procuring agencies to utilize the EPAD System as mandated under SRO 296(I)/2023, RAILCOP, in violation of the federal government's directives, bypassed the EPAD system for the said procurement.
3. In violation of the PPRA Rules 2004, RAILCOP deliberately delayed the issuance of the bidding documents to the prospective bidders, resulting in favored and skewed competition.
4. As per the bidding documents clause 8.2, RAILCOP was required to provide clarification to the queries submitted by the bidders. However, deliberate attempts were made by RAILCOP to provide a delayed response to the bidder's queries, leading to a lack of clarity among the prospective bidders.
5. The response to the queries by RAILCOP has significantly altered the scope of the tender such as quantities, size, and length of fuel sensors, dimensions, and quantity of flow meters which have not been defined in the bidding documents, in violation of the PPRA 2004 Rules.

Transparency International Pakistan Comments

Transparency International Pakistan has reviewed the allegations of the complaint, and prima facie, the allegations seem correct.

Following are TI Pakistan's comments:

1. Under the PPRA Rules, 2004, 23(1) the procuring agency is required to formulate and provide clear information in the bidding documents which shall be available to all the bidders. The PPRA Rule 23 is quoted below;

PPRA Rule 23(1): Bidding Documents - "Procuring agencies shall formulate precise and unambiguous bidding documents that shall be made available to the bidders immediately after the publication of the invitation to bid."

2. PPRA Rules require that all the bids shall be evaluated as per the criteria specified in the bidding documents. The PPRA Rule 30 is quoted below;

PPRA Rule 30: "All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in sub-clause (iv) of clause (c) of rule 36 no



evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents."

3. Clarification by RAILCOP on the quantity, size, or length of the fuel sensors and dimensions/quantity of the flow meters, less than 24 hours before the tender opening is a violation of PPRA Rules 2004. No bidder can quote a price without clarity about the size and quantity of the required goods and services. In case the procuring agency makes alterations or changes to the bid, it will also impact the bidder's quoted price.

Transparency International Pakistan Recommendations

Transparency International Pakistan requests the Secretary Railways to examine the allegations of the complainant, and if found correct, issue directives to the RAILCOP to re-invite the tender in compliance with PPRA Rules 2004.

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

Regards,


Advocate Daniyal Muzaffar,
Trustee/Legal Advisor
Transparency International Pakistan

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

1. PSPM, PM House, Islamabad
2. CEO RAILCOP, Islamabad
3. Managing Director PPRA, Islamabad
4. Registrar Supreme Court, Islamabad,

Note:

This is to clarify that Transparency International Pakistan is not a complainant, it acts as a whistleblower and operates under Article 19-A, of the Constitution of Pakistan which gives the right to the public to know how government is being run by public officers. Article 19-A makes the right to access information pertaining to a public authority a fundamental right, and a three-member bench in the 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”

INVITATION FOR BID

Annex-A

Tender No. 12

FUEL MONITORING SYSTEM FOR PAKISTAN RAILWAYS LOCOMOTIVES & TRACK MACHINES

1. Railway Constructions Pakistan Limited (RAILCOP) invites sealed bids from eligible firms registered with SECP/Registrar of Firm, Income Tax & Sales Tax Departments and who are on Active Taxpayers List of FBR (as the case maybe) for procurement of "FUEL MONITORING SYSTEM FOR PAKISTAN RAILWAYS LOCOMOTIVES & TRACK MACHINES".
2. The Procurement method shall be **Single Stage – One Envelope Procedure**. Complete set of bidding documents for the above-mentioned Works, containing detailed terms & conditions, method of procurement (Single Stage - One Envelope procedure), submission of Bids, Bid Security, bid validity, opening of Bid, Evaluation Criteria, etc. may be purchased by interested bidders from the address mentioned below on submission of application with Cash amounting to **Rs.5,000/-** (non-refundable) being cost of Bidding Document. Documents will also be uploaded on RAILCOP website for information of bidders only.
3. The Bids in sealed envelope, prepared in accordance with the instructions contained in the Bidding Document, must reach at the address mentioned below on or before **22nd August 2024** until **1130 Hours**. Envelope containing "Bid along with Bid Security" will be opened on the same day at **1200 Hours** as specified in the Bidding Document.
4. This advertisement is also available on RAILCOP & PPRA websites at www.railcop.com.pk & www.ppra.org.pk.
5. RAILCOP reserves the right to reject all bids in accordance with the PPRA Rule 33(1).



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