

May 03, 2024,

TL2024/0503/1A

Mr. Musadik Masood Malik  
Federal Minister  
Ministry of Energy (Petroleum Division)  
Islamabad

**Subject: Complaint against Allegations of Awarding Contracts to Ineligible Bidders by The National Transmission and Despatch Company (NTDC) in Violation of The World Bank Procurement of Works Rules in Tender No. RFB-Dasu-ISW for Design, Supply, Installation, Testing & Commissioning of 765/500/220/132 kV Islamabad West Grid Station.**

Dear Sir,

Transparency International Pakistan has received a complaint against the allegations of awarding contracts to ineligible bidders by the National Transmission and Despatch Company (NTDC) in violation of The World Bank Procurement Rules in Tender No. RFB-Dasu-ISW for Design, Supply, Installation, Testing & Commissioning of 765/500/220/132 kV Islamabad West Grid Station.

The complainant has made the following allegations:

That:

1. The National Transmission and Despatch Company (NTDC) is engaged in award of contracts in dubious way and establishment of own companies by its top officials to get sub-contracts from the main contractors.
2. The Senate Standing Committee on Power has taken up several times with the Power Division and NTDC for awarding contracts to ineligible bidders.
3. For the project 765kV Dasu T/Line, the NTDC has awarded the contract for the Tender No. RFB-Dasu-ISW to M/s NWEPTDI-TBEA (JV)
4. M/s NWEPTDI-TBEA (JV) submitted a bid security of \$0.2 million in favour of the NTDC.
5. As per Notification of Award (NoA) and provision of ITB clause 51 of bidding documents, the bidder was required to furnish the Performance Security and Environment and Social performance security in accordance with the conditions of Contract within 28 days i.e., up to April 24, 2024.
6. Despite the issuance of a Notification of Award (NoA) vide office letter No. CEPD/DM(C)/F-LA-8/977 of March 27, 2024 within the bid validity period, the bidder failed to furnish the required Performance Security within the specified time frame.
7. The NTDC being the beneficiary of the Bank Guarantee, is entitled to encash the guarantee, however, upon the bidder's request, the NTDC agreed to extend the deadline for submitting the Performance Security and Environmental and Social Performance Security by 14 days until May 02, 2024, subject to obtaining No Objection Letter (NOL) from the World Bank.

**Transparency International Pakistan's Comments**

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

1. As per The World Bank's Standard Bidding Document for the procurement of works, Rule 18, bids shall only remain valid until the date specified in the BDS. The Rule 18.1 is quoted below:

**18. Period of Validity of Bids 18.1:** Bids shall remain valid until the date specified in the BDS or any extended date if amended by the Employer in accordance with ITB 8. A bid that is not



valid until the date specified in the BDS, or any extended date if amended by the Employer in accordance with ITB 8, shall be rejected by the Employer as nonresponsive (**Annex-B**)

2. As per The World Bank's Standard Bidding Document for the procurement of works, Rule 19.9 (b), if the bidder fails to furnish a performance security, the bidder will be declared ineligible. Rule 19.9 (b) is quoted below:

*19.9 (b):* "If the successful Bidder fails to sign the Contract in accordance with ITB 41; or furnish a performance security and if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 42;

The Borrower ay, if provided for in the BDS, declare the Bidder ineligible to be awarded a contract by the Employer for a period of time as stated in the BDS" (**Annex-C**)

3. The World Bank rules clearly suggest that in an instance of failure to submit Performance Security within stipulated time mentioned in bidding documents, the bidder may be declared ineligible and it is the right of the next lowest bidder to be awarded the contract.

#### **Transparency International Pakistan Recommendations**

Transparency International Pakistan requests the Federal Minister, Ministry of Energy (Petroleum Division) to direct the NTDC to examine the allegations of the complaint in light of The World Bank Procurement of Works Rules, and if found correct, issue directives to rectify violation in compliance with The World Bank Procurement of Works Rules.

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. PSPM, PM House, Islamabad
2. Chairman, PMIC, Islamabad
3. Managing Director, NTDC, Lahore
4. Registrar, Supreme Court of Pakistan, Islamabad
5. Country Head, World Bank, Islamabad

#### **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"

**STANDARD BIDDING DOCUMENTS**

**Procurement of Works**

(For use with a bidding process where the Bank's Disqualification mechanism for non-compliance with SEA/SH obligations applies)



January 2021

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ventures applying for eligibility for domestic preference shall provide the information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1.

- 17.3. Any change in the structure or formation of a Bidder after being prequalified and invited to Bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of the Employer prior to the deadline for submission of Bids. Such approval shall be denied if (i) a Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Bidder no longer substantially meets the qualification criteria set forth in Section III, Qualification Criteria and Requirements; or (iii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids.



**18. Period of Validity  
of Bids**

- 18.1. Bids shall remain valid until the date specified in the BDS or any extended date if amended by the Employer in accordance with ITB 8. A bid that is not valid until the date specified in the BDS, or any extended date if amended by the Employer in accordance with ITB 8, shall be rejected by the Employer as nonresponsive.
- 18.2. In exceptional circumstances, prior to the date of expiration of the bid validity, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid Security is requested in accordance with ITB 19, it shall also be extended for twenty-eight (28) days beyond the extended date for bid validity. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.3.
- 18.3. If the award is delayed by a period exceeding fifty-six (56) days beyond the date of expiry of the bid validity specified in accordance with ITB 18.1, the Contract price shall be determined as follows:
- (a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor specified in the BDS.

promptly as possible upon the successful Bidder's signing the Contract and furnishing the performance security and if required in the BDS, the Environmental and Social (ES) Performance Security pursuant to ITB 42.

19.6. The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security, and if required in the BDS, the Environmental and Social, (ES) Performance Security.

19.7. The bid security may be forfeited:

- (a) if a Bidder withdraws its bid prior to the expiry date of the bid validity specified by the Bidder on the Letter of Bid, or any extended date provided by the Bidder; or
- (b) if the successful Bidder fails to:
  - (i) sign the Contract in accordance with ITB 41; or
  - (ii) furnish a performance security and if required in the BDS, the Environmental and Social(ES) Performance Security in accordance with ITB 42.

19.8. The bid security or the Bid-Securing Declaration of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the bid security or the Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.

✓ 19.9. If a bid security is not required in the BDS pursuant to ITB 19.1, and

- (a) if a Bidder withdraws its bid prior to the expiry date of the bid validity specified by the Bidder on the Letter of Bid or any extended date provided by the Bidder, or
- ✓ (b) if the successful Bidder fails to sign the Contract in accordance with ITB 41; or furnish a performance security and if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 42;

the Borrower may, if provided for in the BDS, declare the Bidder ineligible to be awarded a contract by the Employer for a period of time as stated in the BDS.

## 20. Format and Signing of Bid

20.1. The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance