



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

12th October, 2015

TL15/1210/9A

Director General,
National Accountability Bureau (NAB) Karachi,
Karachi.

Sub: Complaint on the Allegation of Violation of PPRA Rules in Karachi Nuclear Power Project Unit-2 1,100 Mw each, (K-2) & Unit-3 (K-3), Unsolicited Award of Contract Rs. 30 Billion Construction of Water Intake & Outfall Project.

Dear Sir,

This is with reference to TI-Pakistan's letter dated 4th February, 2015 sent to Chairman, Pakistan Atomic Energy Commission and letter dated 29th September, 2015 sent to Prime Minister of Pakistan regarding Karachi Nuclear Power Project Unit-2 1,100 Mw each, (K-2) & Unit-3 (K-3), Unsolicited Award of Contract Rs. 30 Billion Construction of Water Intake & Outfall Project (Copy Encl).

The last one was sent two weeks back on 29th September, 2015. However no reply has been received till date.

This project might become another controversial mega project like Nandipur, Neelum-Jheelum, and LNG import project, and also may result in delay of the K-2 / K-3 completion to collusive practice by PAEC and Chinese negotiated contractors who might fail to complete the project due to lack of legal experience as was the case of Nandipur contractors.

DG, NAB is requested to take action under NAB Ordinance NAO 1999 otherwise it might become another cause of controversies being faced by Government of Pakistan on award of mega projects.

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 information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, Prime Minister's Inspection Commission, Islamabad.
3. Registrar, Supreme Court of Pakistan, Islamabad.
4. Managing Director, PPRA, Islamabad.
5. Chairman, Pakistan Atomic Energy Commission, Islamabad.



29th September, 2015

TL15/299/3A

Muhammad Nawaz Shareef,
Prime Minister of Pakistan,
Prime Minister House,
Islamabad.

Sub: Complaint on the Allegation of Violation of PPRA Rules in Karachi Nuclear Power Project Unit-2 1,100 Mw each, (K-2) & Unit-3 (K-3), Unsolicited Award of Contract Rs. 30 Billion Construction of Water Intake & Outfall Project.

Dear Sir,

This is with reference to TI-Pakistan's letter dated 4th February, 2015 sent to Chairman, Pakistan Atomic Energy Commission regarding Karachi Nuclear Power Project Unit-2 1,100 Mw each, (K-2) & Unit-3 (K-3), Unsolicited Award of Contract Rs. 30 Billion Construction of Water Intake & Outfall Project (Copy Encl).

The allegations were that negotiated contract is being awarded for intake & outfall channel which is funded by Government of Pakistan which is not allowed under PPRA Rules.

The Pakistan Atomic Energy Commission was also warned vide, letter dated 4th February, 2015, that this project is vital for timely completion of Nuclear Power Plant K-2 and K-3 in the following words;

In case the contract is awarded to COECG without abiding with the requirements of Rule No. 17 of the Public Procurement Rules 2014, and without inviting open competitive bids, it is feared that the inexperienced contractors M/s COECG might delay the projects for years, similar to the Nelam Jehlum Project which is delayed, and 1,100 Mw/hr electricity will not be available in the national grid.

One year delay in competition of Water Intake & Outfall Project will cause a loss of US \$ 900 million.

The Prime Minister was also requested to take action in the following words;

Copies forwarded for information, with request to take action under their mandate. When Contracts out of US \$9.60 Billion K-2 and K-3 nuclear plant of 2,200 MW project, has been included in the bilateral agreement between China and Pakistan, and China has entrusted M/s CZEC the construction of for whole Project, why and how the responsibility of only US \$ 300 million Construction of Water Intake & Outfall Project have been taken by PAEC?. This decision may jeopardize the timely completion of the K-2, which fact is also needed to be looked into, as prima facie there is no valid excuse of taking the responsibility to construct Water Intake & Outfall by for PAEC without any technical in-house expertise, within the time frame of main contractor M/s CZEC.



The clarification of Pakistan Atomic Energy Commission of 16th February, 2015 was an admission of violation of PPRA Rules, by admitting that open tendering was not invited and negotiated tendering are being held with the two Chinese Companies.

The Chairman, Pakistan Atomic Energy Commission was informed vide TI-Pakistan's letter 18th February, 2015 to invite open tendering to not to award the contract to a company which do not have any experience of this value of project and which is also a collusive practice under NAB Ordinance 1999.

The Chairman was requested to take immediate action in following words;

Instead of delaying the project and insisting on negotiating the parties and to avoid mis-procurement charge under Rule No 50, PAEC is advised to immediately process open international tendering, and not only within two Chinese contractors only, for the EPC Contract, in accordance with PPRA Rules and PEC requirements. Kindly note that one year delay in completion of Water Intake & Outfall Project will cause a loss of US \$ 900 million.

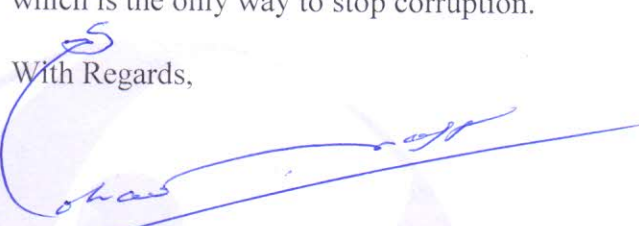
Eight months have passed and PAEC has not taken any action on TI-Pakistan's objections and delayed the project by another 8 months as no tender has been invited for this project till date.

This project might become another controversial mega project like Nandipur, Neelum-Jheelum, and LNG import project and also may result in delay of the K-2 / K-3 completion to collusive practice by PAEC and Chinese negotiated contractors who might fail to complete the project due to lack of legal experience as was the case of Nandipur contractors.

Prime Minister is requested to take immediate note of this complaint which might become a cause of controversies being faced by Government of Pakistan on award of mega projects.

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With Regards,


Sohail Muzaffar
Chairman

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2. Director General, NAB, Karachi.
3. Chairman, Prime Minister's Inspection Commission, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Islamabad.
6. Chairman, Pakistan Atomic Energy Commission, Islamabad.



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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

4th February 2015

Dr. Ansar Pervaiz,
Chairman,
Pakistan Atomic Energy Commission,
Near K-Block, P.O. Box 1114
Islamabad, Pakistan
Telephone: (+92 51)9209032

Sub: Complaint in violation of PPRA Rules in Karachi Nuclear Power Project Unit-2 1,100
Mw each, (K-2) & Unit-3 (K-3), Rs 30 billion Construction of Water Intake & Outfall
Project

Dear Sir,

Transparency International Pakistan has received a complaint of Collusion between officers of PAEC and M/s China Ocean Engineering Construction Bureau COECG, in processing the award of Rs 30 billion unsolicited contact, the Construction of Water Intake & Outfall Project for the (K-2) & Unit-3 (K-3) Project.

The allegations of the complainant are;

That

1. Karachi Nuclear Power Project Unit-2 1,100 Mw each, (K-2) & Unit-3 (K-3), are being constructed by China, under a bilateral agreement between Governments of Pakistan and China, and the commercial operation of K-2 is scheduled to start in June 2018. 82% of the total cost would be financed by China government. In August 2013 contracts were signed in Shanghai with CNNC, China Zhongyuan Engineering Co. Ltd. (CZEC), China Nuclear Power Engineering Co. Ltd. (CNPE), Nuclear Power Institute of China (NPIC), and East China Electric Power Designing Institute (ECEPDI).
2. But the Construction of Water Intake & Outfall Project, which is at the estimated Rs 30 billion is not included in the bilateral agreement, and therefore not included in the construction being carried out by CNNC, China Zhongyuan Engineering Co. Ltd. (CZEC), China Nuclear Power Engineering Co. Ltd. (CNPE), Nuclear Power Institute of China (NPIC), and East China Electric Power Designing Institute (ECEPDI).
3. Pakistan Atomic Energy Commission instead of inviting tenders for EPC Contract for over Rs 30 billion Construction of Water Intake & Outfall Project, is negotiating the contract with M/s China Ocean Engineering Construction Bureau COECG, which is a violation of Rule No 12 (2) of the Public Procurement Rules 2014.
4. M/s China Ocean Engineering Construction Bureau COECG is also not qualified to be awarded this contract, as it does not have any past experience of completing a



similar project worth Rs 30 billion (US \$ 300 million) , nor it is allowed under its registration condition to perform contracts of over US \$ 145 million, (five times its registered capital which is RMB 176 million US \$ 29 million).

5. According to Rule 15(2), following are the mandatory requirements for bidders which have not been followed by PAEC, and the Pakistan Embassy in China has been asked to give their report, so that the ineligible company could be awarded the contract ;

- (a) relevant experience and past performance;
- (b) capabilities with respect to personnel, equipment, and plant;
- (c) financial position;
- (d) appropriate managerial capability; and
- (e) any other factor that a procuring agency may deem relevant, not inconsistent with these rules.

6. In case the contract is awarded to COECG without abiding with the requirements of Rule No 17 of the Public Procurement Rules 2014, and without inviting open competitive bids, it is feared that the inexperienced contractor M/s COECG might delay the project for years, like Nelam Jehlum Project is delayed, and 1,100 MW/hr electricity will not be available in the national grid.

7. One year delay in completion of Water Intake & Outfall Project will cause a loss of US \$ 900 million.

8. In case of delay in construction of Water Intake & Outfall Project, Pakistan Government may also have to pay damages to China Government for the loss to them which might be caused by delayed return of the loan.

The Chairman, is requested to take immediate action on this complaint, and if the complaint is correct , then it is a case of Mis-Procurement under Rule No. 50.

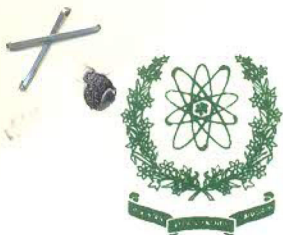
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Sohail Muzaffar
Chairman

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

1. Secretary to Prime Minister, Islamabad.
2. Mr. Khurshid Shah, Leader of Opposition & Chairman, PAC, National Assembly, Islamabad.
3. Chairman, NAB, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Islamabad.



Pakistan Atomic Energy Commission

P. O. Box 1114, Islamabad

Ansar Parvez
Chairman

No. PS/SEC-215/2015
February 16, 2015

Dear Mr. Sohail Muzaffar,

Sub:- Complaint in Violation of PPRA Rules in Karachi Nuclear Power Project Unit-2 1100 MW each, (K-2) and Unit-3, (K-3), Rs.30 billion Construction of Water Intake & Outfall Project

Reference your letter of 4th February, 2015, please note the following facts:

- i) The construction of the subject intake and outfall of the 2 x 1100 MW Nuclear Power Plant indeed requires high level of expertise in design and construction and no Pakistani design or construction company has the complete/relevant experience.
- ii) In fact, more than 6 months were consumed in involving NESPAK who themselves tried to associate a Chinese Company (TCZC) for the design of offshore component of the project through a joint venture with them but could not succeed despite numerous efforts/reminders to the Company. Later, NESPAK did offer their consultancy services to PAEC for design review and construction supervision of the project.
- iii) Ultimately, the main K-2/K-3 plants contractor, CZEC, was requested to help PAEC identify companies in China which could carry out the required work. After extensive search involving CZEC and Pakistan Embassy, only two companies could be located who had the right credentials.
 - a) China Harbor Engineering Company Ltd. (CHEC)
 - b) China Ocean Engineering Construction General Bureau (COECG)
- iv) A comprehensive technical evaluation exercise was carried out and both the companies were found fit to do the job. We also investigated if COECG was authorized to handle a job of this magnitude. They have produced a document which overrules the previous standard which set the limit of USD 145 million. **(Annex-A).**

- v) CZEC was then asked categorically about the credentials of the two companies and they confirmed vide fax dated 09-01-2015 (**Annex-B**) that both companies had the capability to do the job. In fact, COECG is performing similar job in China at Fuqing plant Unit-5 & 6 (Reference plant for K-2/K-3).
- vi) The two companies were asked to make their bid. COECG offered the lower of the two prices by about Rs.6 billion and seeing that China Harbor filed the complaint with TIP.

I may add here that PAEC is a responsible organization aiming to achieve excellence. It has successfully completed many projects without any blemish. It is currently involved in the construction of four nuclear power plants besides running two nuclear power plants at Chashma with very high capacity factors to provide reliable and very economical electricity to NTDC.

With best regards,

Yours sincerely,



(Ansar Parvez)

✓ Mr. Sohail Muzaffar,
Chairman,
Transparency International – Pakistan,
5-C, 2nd Floor, Khayaban-e-Attehad, Phase VII,
Defence Housing Authority,
Karachi

- Cc: 1. Secretary to the Prime Minister, PM Office, Islamabad
2. Syed Khurshid Shah, Leader of Opposition and
Chairman PAC, National Assembly, Islamabad
3. Chairman, NAB, Islamabad
4. Registrar, Supreme Court of Pakistan, Islamabad
5. Managing Director, PPRA, Islamabad

Certification

In accordance with the *Qualification Standard for Construction Enterprise* (J.S. [2014] No.159) (hereinafter referred to as "new standard") published by Ministry of Housing and Urban-Rural Development of People's Republic of China on November 6, 2014, the new standard has come into force on January 1, 2015. The previous *Qualification Ranking Standard of Construction Enterprise* (J.J. [2001] No. 82) (hereinafter referred to as "previous standard") published by MOHURD shall be abrogated simultaneously.

The previous standard had specified contracting scope of company with First Class General Contractor's Qualification for Port and Channel as following:

A Company with First Class General Contractor's Qualification for Port and Channel can assume construction work of various types of port and channel projects within contract amount no more than 5 times of the company's registration capital. Contracting scope includes: port, breakwater, revetment, piling yard and onshore structure, silo, shipyard, slipway, slide way, ship lock, ship lift, under-water foundation, earth work, light house at sea, fairway buoy, trestle, artificial island and platform, coast and offshore engineering, dredging and land reclamation, under-water excavation and obstacle clearance, underwater reef explosion, and etc.

Contracting scope of company with First Class General Contractor's Qualification for Port and Channel has been modified in the new standard as

following:

A Company with First Class General Contractor's Qualification for Port and Channel Construction can assume construction work of various types of port and channel projects, including port, breakwater, revetment, cofferdam, piling yard and onshore structure, silo, shipyard, slipway, slide way, ship lock, ship lift, under-water foundation, earth work, light house at sea, fairway buoy, trestle, artificial island and platform, offshore wind electricity, coast and offshore engineering, installation of port machinery and equipments, equipment and machinery installation for navigation building, river and sea channel regulation and channel formation engineering, dredging and land reclamation, under-water excavation and obstacle clearance, underwater reef explosion, and etc.

Please refer to the official website of Ministry of Housing and Urban-Rural Development of People's Republic of China for further details:

<http://www.mohurd.gov.cn>

China Ocean Engineering Construction General Bureau is a member of China Water Transportation Construction Association (CWTC), and moreover a vice-chairman rank unit of CWTC, certified with First Class General Contractor's Qualification for Port and Channel Construction.

Special statement for your information!

China Water Transportation Construction Association (CWTC)

January 28, 2015



NOTARIAL CERTIFICATE

(Translation)

(2015) J. H. C. W. J. Z. Zi, No. 00063

Applicant: China Water Transportation Construction Association, located at Cuiwei Road 36, Haidian District, Beijing

Legal Representative: Zhao Zhisheng, male, born on Nov. 18, 1959, ID Card No.: 110108195911184715

Agent: Liu Tingyu, female, born on Jul. 2, 1981, ID Card No.: 152801198107021225

Notarized Matter: photocopy is in conformity with the original

This is to certify that the photocopy is in conformity with the original Certification which is showed to me by Agent Liu Tingyu. The English Version attached to the photocopy is in conformity with the Chinese original.

Notary: Qin Guoyou

Beijing Haicheng

Notary Public Office

The People's Republic of China

Jan. 28, 2015

176139462

中国水运建设行业协会

证 明

For kind information
Chairman

1/6
30/1/14

中华人民共和国住房和城乡建设部于 2014 年 11 月 6 日印发的《建筑业企业资质标准》(建市[2014]159 号)(下称“新标准”),新标准自 2015 年 1 月 1 日起施行。原建设部印发的《建筑业企业资质等级标准》(建建[2001]82 号)(下称“原标准”)同时废止。

原标准中关于港口与航道工程施工总承包一级资质标准的承包工程范围的规定为:

可承担单项合同额不超过企业注册资本金 5 倍的各种港口与航道工程的施工。工程内容包括码头、防波堤、护岸、堆场道路和陆域构筑物、筒仓、船坞、船台、滑道、船闸、升船机、水下地基及基础、土石方、海上灯塔、航标、栈桥、人工岛及平台、海岸与近海工程、港口装卸设备安装、通航建筑设备安装、河海航道整治与渠化工程、疏浚与吹填造地、水下开挖与清障、水下炸礁等。

新标准中关于港口与航道工程施工总承包一级资质标准的承包工程范围修订为:

可承担各类港口与航道工程的施工,包括码头、防波堤、护岸、围堰、堆场道路和陆域构筑物、筒仓、船坞、船台、

2/16

滑道、船闸、升船机、水下地基与基础、土石方、海上灯塔、航标、栈桥、人工岛及平台、海上风电、海岸与近海工程、港口装卸设备机电安装、通航建筑设备机电安装、河海航道整治与渠化工程、疏浚与吹填造地、水下开挖与清障、水下炸礁清礁等工程。

详情可查看中华人民共和国住房和城乡建设部网站：

<http://www.mohurd.gov.cn>

中海工程建设总局是中国水运建设行业协会会员，同时又是协会副理事长单位，具有港口与航道施工总承包一级资质。

特此证明！



公 证 书

(2015)京海诚外经证字第 00063 号

申请人：中海工程建设总局，住所，北京市海淀区翠微路 36 号。

法定代表人：赵祉胜，男，一九五九年十一月十八日出生，公民身份号码：110108195911184715。

委托代理人：刘庭宇，女，一九八一年七月二日出生，公民身份号码：152801198107021225。

公证事项：复印件与原件相符

兹证明前面的复印件与委托代理人刘庭宇出示给本公证员的《证明》的原件相符。前面的复印件所附的英文译本内容与中文原本内容相符。

中华人民共和国北京市海诚公证处

公证员



二〇一五年一月二十八日

1176139463

住房城乡建设部文件

**Document from Ministry of Housing and
Rural-Urban Development**

建市〔2014〕159号

Reference No. MOHRUD〔2014〕159

住房城乡建设部关于印发
《建筑业企业资质标准》的通知

Notice on Publication of *Qualification Standard
for Construction Industry Firm* by Ministry of
Housing and Urban-Rural Development

各省、各自治区住房城乡建设厅，直辖市建委，新疆生产建设兵团建设局，国务院有关部门建设司，总后基建营房部工程管理局：

To Housing and Urban-Rural Development Bureau of all provinces and autonomous regions, Commission of Housing and Urban-Rural Development of municipality directly under the central government, construction bureau of related department of State Council, Infrastructure and Barracks construction administration bureau of military of P.R.China:

根据《中华人民共和国建筑法》，我部会同国务院有关部门制定了《建筑业企业资质标准》。现印发给你们，请遵照执行。

According to Construction Legislation of People's Republic of China, our Ministry, along with related depart of State Council, have compiled *Qualification Standard for Construction Industry Firm*, which is hereby issued to you, please comply with it accordingly.

本标准自 2015 年 1 月 1 日起施行。原建设部印发的《建筑业企业资质等级标准》（建建〔2001〕82 号）同时废止。

This new standard shall come into force from January 1st, 2015. The previous *Qualification Ranking Standard of Construction Industry Firm* (Reference No: MOHURD No.[2001]82) has been abolished.

住房城乡建设部文件

建市〔2014〕159号

住房城乡建设部关于印发 《建筑业企业资质标准》的通知

各省、自治区住房城乡建设厅，直辖市建委，新疆生产建设兵团建设局，国务院有关部门建设司，总后基建营房部工程管理局：

根据《中华人民共和国建筑法》，我部会同国务院有关部门制定了《建筑业企业资质标准》。现印发给你们，请遵照执行。

本标准自2015年1月1日起施行。原建设部印发的《建筑业企业资质等级标准》（建建〔2001〕82号）同时废止。



抄送：中央管理的有关企业，有关行业协会。

住房城乡建设部办公厅秘书处

2014年11月6日印发



中核集团中国中原对外工程有限公司
CNNC China Zhongyuan Engineering Corp.

January 9, 2015

Mr. Syed Yusuf Raza, Member Power
Pakistan Atomic Energy Commission
Islamabad, Pakistan

Dear Dr. Yusuf,

CZEC believes that both COECG (China Ocean) and China Harbor have the capability to undertake the intake/outfall structure project of K2/K3.

Yours sincerely,

Yang Chaodong
President of CZEC

Office Fax: 0086-10-62356700

Address: No.B3, South Building, Huayuan Road, Haidian District, Beijing, P.R. China

B



GOVERNMENT OF PAKISTAN
NATIONAL ACCOUNTABILITY BUREAU
ATTA TURK AVENUE, G-5/2
ISLAMABAD

AWARENESS & PREVENTION DIVISION

Mandated to educate, advise, assist and instruct in Prevention of Corruption and Corrupt Practices
(Section 33B & C of NAO 1999)

5-2(75)Pre/A&P/NABHQ/2013

January 08, 2014 /40

All Ministries / Divisions /
Departments / Regulatory Bodies
and Corporation etc. (lst attached)

Subject: MEASURE FOR PREVENTION OF CORRUPTION IN PUBLIC
PROCUREMENT PROCESS FOR TRANSPARENCY AND
MERITOCRACY

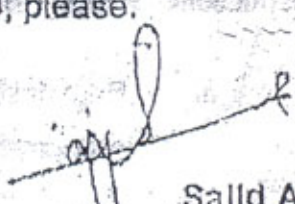
To plug the possible corruption holes during procurement process, National Accountability Bureau (NAB) under its Prevention Regime, as enshrined in section 33B and 33C of National Accountability Ordinance (NAO) 1999 read with Public Procurement Rules 2004, advises to abide by the following instructions, in order to ensure transparency in the public procurement process:

- a. Registration or enlistment of contractors on periodic basis a procurement agency is not needed under the Public Procurement Rules 2004 nor any charging of fee on this account is admissible. This practice should be stopped forthwith as it supports the Corrupt Practices of collusive/limited competition to favor the favorites.
- b. A procurement agency may adopt the process of pre-qualification of contractors to establish their ability to perform for a particular work; therefore enlistment of the contractors, as condition in pre-qualification is not required and cannot be imposed as condition for pre-qualification under Public Procurement Rules 2004.
- c. It is further required to completely specify the conditions and circumstances explained in rules 15 and 16 "pre-qualification of contractors and suppliers" and "pre-qualification process" of Public Procurement Rules 2004.

- d. All procuring agencies should make available the bidding or pre-qualification documents and other related communication in downloadable format, for any interested bidder or party, at their websites to use these documents for submitting bid(s) with admissible tender fee, if any, paid in bank as prescribes by procuring agency. This will break cartelization and collusive biddings. (Instructions under Prevention Regime of NAB)
- e. Mis-procurement declared and falling within Rule 50 of PP Rules 2004 at any stage shall be liable for cognizance by NAB under relevant Section of NAO 1999.

2. The above information be communicated to all subordinate offices responsible for procurement processes.

3. It is to inform that these instructions are issued after consultation with Public Procurement Regulatory Authority and with the approval of DG A&P NAB HQ / President Prevention Committee on Procurement, Projects and Auctions, constituted by Chairman NAB under Section 33C of NAO 1999, please.


Sajid Ali
Deputy Director (Coord)
(A&P Division) NAB HQ
Ph: 051-9245537
Fax: 051-9245908

Copy for info to:-

- a. PS to Chairman NAB
- b. MD, Public Procurement Regulatory Authority (PPRA) Islamabad
- c. Addl. Directors Staff, All Regional NABs
- d. Director A&P, All Regional NABs
- e. MD, Punjab Public Procurement Regulatory Authority, Lahore