



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/ADG(Trf)/TRF-100/PQEPCPL-2015/7112-13

March 28, 2023

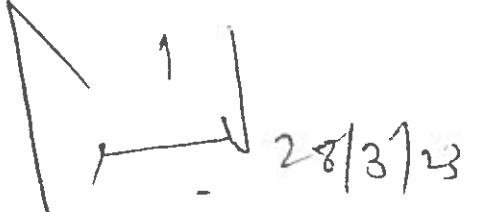
Chief Executive Officer

Port Qasim Electric Power Company (Private) Limited
Level 6, West Wing, Serena Business Complex, Sector G-5/1,
Islamabad

Subject: COMPLAINT RECEIVED AGAINST NOTICE OF PRE-QUALIFICATION
FOR BIDDING FOR SPOT COAL PUBLISHED ON MARCH 04, 2023

Reference is made to the complaint received from Transparency International–Pakistan vide letter No. TIP23/0803/1A dated March 08, 2023 (Annex-I). The concerns raised by the complainant seem justified, therefore, you are directed to submit a report in this respect within seven (07) days.

Encl: As above


(Iftikhar Ali Khan)
Addl. Director General

Copy to:

Chief Executive Officer
Transparency International Pakistan
Plot No. 72-F.2, I
Phase-VII, DHA, Karachi.
Tel: (092)(021) 35390408







TRANSPARENCY INTERNATIONAL - PAKISTAN

Plot 72, F/2, 1st Floor, 9th Street, Jami Commercial,
Phase VII, Defence Housing Authority, Karachi
Phone: +92-21-35390408, 35311898
Fax: +92-21-35390410
Email: ti.pakistan@gmail.com
Website: www.transparency.org.pk

8th March, 2023

TIP23/0803/1A

Mr. Tauseef H. Farooqi,
Chairman,
The National Electric Power Regulatory Authority (NEPRA),
Islamabad.

Subject: Complaint against Violation of NEPRA Guidelines for Procurement of Coal on Spot Basis 2023 by M/s Port Qasim Electric Power Company in the Notice of Pre-Qualification for Bidding for Spot Coal Procurement for the 2X660MW Coal- Fired Power Plant, advertisement published on 4th March, 2023 in Dawn newspaper.

Dear Sir,

Transparency International Pakistan has received a complaint on the allegation of violation of NEPRA 'Guidelines for Procurement of Coal on Spot Basis' by M/s Port Qasim Electric Power Company, in the Notice of Pre-Qualification for Bidding for Spot Coal Procurement for the 2X660MW Coal- Fired Power Plant, Port Qasim, Karachi, advertisement published on Saturday 4th March, 2023 in Dawn newspaper.

The complainant has made the following allegations that;

1. M/s Port Qasim Electric Power Company advertised pre-qualification notice for Spot Coal Procurement for the 2x660MW Coal- Fired Power Plant, Port Qasim, Karachi, on Saturday 4th March, 2023 in Dawn newspaper (Annex-A).
2. As per the notice, the submission deadline was 6:00PM on Monday 6th March, 2023.
3. In an attempt to select a pre-identified bidder, very short time is given in pre-qualification notice.
4. Insufficient response time will result in many low price coal supplying companies to not be able to participate in the pre-qualification process, causing loss to the exchequer as consumers will have to bear high power rates.
5. NEPRA Guidelines for Procurement of Coal on Spot Basis' 2023 require that the process to procure coal on spot basis should be transparent and sufficient time is given to the bidders.

Transparency International Pakistan Comments

Transparency International Pakistan has reviewed the allegations of the complainant, *prima facie* the allegations seem correct. Following are TI Pakistan comments;

1. Section 4 of Guidelines for Procurement of Coal on Spot Basis issued by NEPRA maintains that the advertised publication should give sufficient time to all the prospective bidders to participate in the pre-qualification notice, quoted below:

"The process to procure coal on spot basis should be transparent and the buyer shall ensure to reach out to all suppliers through advertised publications with sufficient time given for response. The publication of advertisement shall be for monthly bidding as well as for the purpose of pre-qualification of coal traders for extended period of 3-6 months as the case maybe. The term of bid, whether monthly or 3-6 months, may be decided by IPPs". (Annex-B)

2. As per the NEPRA Guidelines, coal power plants are required to ensure that *"the procurement process should be efficient and economical and must strive to ensure value for money for the consumers"*




3. The publication of a pre-qualification notice on a holiday with the deadline falling on the next working day, does not constitute sufficient notice in terms of the NEPRA Guidelines, and has the effect of excluding many low priced coal supplying companies from the procurement process resulting in an inefficient process and uncompetitive price.
4. The price of tariff is determined on the basis of the price of coal. Therefore, lack of competition from coal supplying companies will result in loss to the national exchequer in form of high power tariffs imposed on the consumers.

Transparency International Pakistan Recommendations

Transparency International Pakistan requests the Chairman, NEPRA to examine the allegations, and if found correct, direct M/s Port Qasim Electric Power Company to re-advertise the pre-qualification notice in compliance with NEPRA Guidelines for Procurement of Coal on Spot Basis and ensure that the procedure is both transparent and competitive.

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

Regards


Advocate Daniyal Muzaffar,
Trustee/Legal Advisor
Transparency International Pakistan

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, Justice Syed Mansoor Ali Shah in his landmark judgment in case of Ataulah Malik v. Federation of Pakistan includes following order.

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 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable. PLD 2010 Lahore 605.

1. Principal Secretary to PM, PM House, Islamabad
2. Secretary, Ministry of Energy, Islamabad
3. Chairman Public Accounts Committee, National Assembly, Islamabad
4. Chairman, NAB, Islamabad
5. Chairman, Prime Minister Inspection Commission, PMIC, Islamabad
6. Chairman, Port Qasim Electric Power Company, Karachi
7. Registrar Supreme Court of Pakistan, Islamabad
8. MD, PPRA, Islamabad

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No. NEPRA/ADG(TR)/TRF-100/PQEPCL-2015/7112-13 March 28, 2023

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(Handwritten signature)
Addl. Director General
(Ifrikhar Ali Khan)
28/3/23

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- The publication of a pre-qualification notice on a holiday with the deadline falling on the next working day, does not constitute sufficient notice in terms of the NEPRA Guidelines, and has the effect of excluding many low priced coal supplying companies from the procurement process resulting in an inefficient process and uncompetitive price.
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- Chairman, Port Qasim Electric Power Company, Karachi
- Registrar Supreme Court of Pakistan, Islamabad
- MD, PPRA, Islamabad

NOTICE OF PRE-QUALIFICATION

FOR SPOT COAL PROCUREMENT FOR THE 2X660MW COAL-FIRED POWER PLANT

PORT QASIM, KARACHI

The Port Qasim Electric Power Company (PQEC) is invited to receive pre-qualification applications from interested companies registered in Pakistan for the procurement of the 2x660MW coal-fired power plant.

Port Qasim, Karachi, Pakistan.

Minimum eligibility required:

- Minimum experience of 2 years in coal procurement trading.

• Never has been on the any of official blacklists.

- 1. Pre-qualification doesn't guarantee that a successful Bidder will be awarded a contract.
- 2. The aim of this pre-qualification is to create a pool of suppliers who will be invited to participate in the future bidding process for the next 3 months.
- 3. To obtain the pre-qualification document, an email must be sent to info-cfd@powerchina.cn. The registration deadline is 8:00 PM on 8 March 2023.

Contact person: Mr. Mohsin Iqbal, Miss Huiqing
Contact Tel: +86 21 31100004, +86 21 31269931

GUIDELINES FOR PROCUREMENT OF COAL ON SPOT BASIS

Coal power plants shall ensure that procurement of coal on spot basis is conducted fairly and transparently. The procurement process should be efficient and economical and must strive to ensure value for money for the consumers. On the same principles following guidelines shall be compiled by IPPs:

i. Imported coal based IPPs shall first ensure whether local coal such as Thar coal is available which can be used keeping in view plants' technical requirement.

ii. IPPs shall estimate total quantity/quality of coal to be procured in the next six (06) months and shall contact Thar Coal Energy Board (TCEB) and seek their input regarding availability of Thar coal from any of the blocks.

iii. If no local coal is available which meet the desired specs, then IPPs shall progress with spot purchases as per this mechanism.

iv. The process to procure coal on spot basis should be transparent and the buyer shall ensure to reach out to all suppliers through advertised publications with sufficient time given for response. The publication of advertisement shall be for monthly bidding as well as for the purpose of pre-qualification of coal traders for extended period of 3-6 months as the case maybe. The term of bid, whether monthly or 3-6 months, may be decided by IPPs.

v. The currency of contract shall be in Pak Rupees

vi. The comprehensive Request for Quotation (RFQ) document should include all supply, quality, and payment-related details and should also state the grievance redressal procedure for the interested parties. RFQ shall have the minimum acceptance and rejections standards of coal along with the penalty for any deviation from the required quality of coal including but not limited to ash, moisture, VM, sulphur etc.

vii. The process of tendering should be well-documented and traceable.

viii. The quality of the coal shall be determined on weighted average basis of the complete order accepted quantity. Quantity rejected will not be part of total weighted average of the complete order.

ix. Bidder should meet minimum eligibility criteria which shall among other include submission of bid bond which shall be worked out as:

$$\text{Quoted Price} \times (\text{Quoted Quantity} \times 5\%$$

x. The successful bidders shall either replace bid bond with performance bond/guarantee of 10% or submit additional performance bond/guarantee of 5%

xi. Tendering should be in the form of sealed bids and the same shall be opened in front of all the bidders.



d. Other incidental charges e.g. insurance, port charges, taxes and duties, inland freight charges etc. etc.

xxvi. The award price shall be subject to linear upward and downward adjustment (with rejection limit), as per the actual NCV (ARB) received at plant and tested by an independent 3rd Party testing facility. It should however be ensured that procuring higher quality coal justifies its purchase in terms of lower fuel tariff in Rs/kWh

xvii. Minimum order quantity shall be 5,000 tons/month

xviii. The coal specifications shall be prescribed by each IPP as per its requirements.

xix. The selection and award process shall prioritize the lower quoted price irrespective of the volume committed hence enabling a pool of suppliers to complete the requested quantity on a per month basis.

xx. Since PPA rules do not apply to IPPs, they may further negotiate prices from the lowest offered bid(s).

xxi. The requested quotes shall be based on the delivered price ex-stocks location defined in the RFP. The supplier invoice shall be based on the delivered tonnage at the designated stocks and measured through the nominated weigh bridge. The quoted price shall not be adjusted for any loss of handling or transportation.

xxii. However, a handling/logistics loss of 1% is permissible in the final cost of the buyer in case the coal is being received at an off-site yard and transported through railways. No handling/transportation loss shall be admissible in final cost if the purchase terms agreed are on a delivered ex-plant basis.

xxiii. In case of default by a supplier, the short fall quantity may be purchased on lower/equal price from any other pre qualified supplier.

xxiv. IPPs shall ensure a complaint redressal mechanism for the coal suppliers with the bidding process, a copy of complaint may also be shared with NEPRA.

xxv. IPPs may also include a blacklisting mechanism for non compliant suppliers.

xxvi. For coal payments, IPP shall sought evidence from the bid winners-suppliers that sales tax included in the invoice is deposited by the supplier to FBR.



Handwritten signature