

Public Procurement Rules, 2004

42. Alternative methods of procurements.- A procuring agency may utilize the following alternative methods of procurement of goods, services and works, namely:-

(a) *petty purchases.*- Procuring agencies may provide for petty purchases where the object of the procurement is below the financial limit of *[twenty five thousand] rupees. Such procurement shall be exempt from the requirements of bidding or quotation of prices:

(b) *request for quotations.*- A procuring agency shall engage in this method of procurement only if the following conditions exist, namely:-

(c) *direct contracting.*- A procuring agency shall only engage in direct contracting if the following conditions exist, namely:-

(v) in case of an emergency:

Provided that the procuring agencies shall specify appropriate fora vested with necessary authority to declare an emergency;

(d) *negotiated tendering.*- A procuring agency may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. This procedure shall only be used when,-

(iii) for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:

Provided that any procuring agency desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record.



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10 November 2020

TL 2020/11/10/1C

Chairman,
Trading Corporation of Pakistan (PVT) LTD,
4th Floor, FTC Building,
Shahrah-e-Faisal, Karachi

Sub: Import of 320,000 MT Wheat awarded on Nov 6, 2020
Additional requirement of 250,000 MT by Punjab Government

Dear Sir,

This is with reference to the TCP procurement committee meeting held on Nov 06, 2020 to award the tender for import of 320,000 MTs of Wheat, in which TCP invited Transparency International Pakistan as an observer.

Following was discussed by TI Pakistan representative Mr. Syed Adil Gilani with TCP procurement committee with regards to ease of PPRA Rules, which allow TCP to use negotiated tendering, in case of urgency, without inviting Tenders and also without obtaining approval of Ministry or ECC..

1. During the meeting, the General Manager Market Assessment & Imports, TCP pointed out that 550,000 MT Wheat can be procured at a rate of \$286.2 from three different bidders, as stated in Para 9 of the working paper dated 03-11-2020.
2. On the teleconference, one member from the Ministry of Commerce informed that in addition to 1.8 million MT Wheat sanction given by the federal government to be procured by TCP, Punjab government has requested for an additional 250,000MT of Wheat, and the request has been sent for the approval of ECC.
3. In the meeting, the TCP also informed that the international trend of wheat prices has an increasing trend which may continue till March 2021.
4. Keeping in view the possibility of high future prices due to the market trend as informed in the Committee meeting, TI Pakistan representative suggested that TCP can procure 230,000 MT Wheat from the current bidders, if the ministry confirms the approval of ECC for procurement of 250,000 MT Wheat within one day under PPRA Rule 42 (d) (iii).
5. But TI Pakistan suggestion was not taken into consideration under the requirement of Public Procurement Rules, 2004. TCP/Ministry was explained by TI Pakistan representative that in cases of urgency, TCP as a procuring agency, is allowed to go into negotiated tendering with one or more parties without inviting tenders.

The only requirement to use the PPRA Rule 42-D (iii) is that "the circumstances invoked to justify extreme urgency must not be attributable to the procuring agency" and that the procuring agency should put this on record.

PPRA Rules 2004, Rule 42. Alternative methods of procurements.-

(d) negotiated tendering.- "A procuring agency may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. This procedure shall only be used when,-



- (i) the supplies involved are manufactured purely for the purpose of supporting a specific piece of research or an experiment, a study or a particular development;
- (ii) for technical or artistic reasons, or for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;
- (iii) for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:

Provided that any procuring agency desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record”.

6. This may also be pointed out that PPRA Rules should not be blamed for delay in urgencies or emergency situation. The procuring agencies should take into account the appropriate prices in order to economize the cost.
7. It was explained that under this Rule there is no approval of Ministry or ECC required to apply Rule 42-D, and this provision is provided for use in cases of urgency of immediate procurement , if such direction are given to the procuring agency by government (such as wheat, sugar, other commodities shortage in country), or due to breakdown of machinery etc.
8. However, the Committee decided not to accept TI Pakistan recommendations.

Transparency International Pakistan request the Chairman TCP to examine PPRA Rule 42-D and use it in urgencies to save country from unforeseen shortage of food items etc.

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,

With Regards,


Senail Mazaffar,
Chairman

Transparency International Pakistan

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

1. Minister of commerce, Islamabad
2. MD PPRA , Islamabad

BUSINESS RECORDER

Wheat ‘crisis’: TCP chairman likely to face the music

Mushtaq Ghumman Updated 14 Sep 2021

Islamabad: The Economic Coordination Committee (ECC) of the Cabinet has reportedly held Chairman TCP responsible for wheat “crisis” in the country and directed Commerce Ministry to seek an explanation from him for not complying with the ECC’s clear directions, well informed sources in Ministry of National Food Security and Research told Business Recorder.

The issue of Chairman TCP’s laxity in import of wheat will also land in the Federal Cabinet, and probably, Commerce Ministry will submit progress report in this regard.

The sources said, Ministry of National Food Security and Research gave a briefing on the case and recommended the following options for consideration and approval of the ECC: (i) ECC may accept the lowest bid price offered by M/s. Cargill, Pakistan @ US\$ 369.50/- MT for the quantity of 120000 MT, during the shipment window of October and November, 2021. Or TCP may be directed to scrap the tender and issue a fresh tender to get a reasonable price ;(ii) TCP may be directed to ensure maximum quantity through the process of matching, already allowed under PPRA rules and ;(iii) TCP may also be directed to explore and expedite the option of wheat import through G2G arrangement.

During the ensuing discussion, Minister for Interior, Sheikh Rashid Ahmed stated that this was a very sensitive issue relating to food security due to increasing shortage of wheat flour in the local markets. Moreover, due to fast changing political circumstances, demand for wheat flour was increasing in Afghanistan for the last one month which would also affect the prices of wheat in the country. Therefore, it was in the best interest of the country that procurement of wheat may be immediately done.

The Minister for National Food Security supported these comments and stressed that Ministry of National Food Security & Research repeatedly requested Ministry of Commerce/ TCP to make arrangements for maintaining strategic reserves of wheat in order to avoid price fluctuation and shortages etc. However, it regretted to note that such arrangements were not made in time.

The ECC approved procurement of 120,000 tons of wheat at \$ 369.50/ MT offered by M/s. Cargill, Pakistan.

The ECC also directed Commerce Division/TCP to proceed in this regard without waiting for formal ratification of the said the ECC decision by Federal Cabinet because of time limit involved.

The ECC further directed Commerce Division to seek explanation from Chairman, TCP for inordinate delay in importing wheat and not expediting option of wheat import through G2G arrangement despite clear instructions of the ECC. The Chairman TCP was also required to personally explain the position to ECC in this context.