



16th May, 2018

TL18/1605/8A

Chairman,
Water and Power Development Authority,
703 WAPDA House,
Lahore.

Sub: Allegation of Corruption in Mangla Refurbishment Project Package VI & VIII
Financed by USAID.

Dear Sir,

Transparency International Pakistan has received a complaint on the allegation of Corruption in Mangla Refurbishment Project Package VI & VIII financed by USAID. Copy of the complaint is attached.

The complainant M/s Multipower Hydroelectric Development Corporation has made following allegations;

That;

1. Bid of the complainant is evaluated as non-responsive on the basis of major commercial deviations.
2. Complainant has included few commercial clarifications with their bid, which is made the basis of major commercial deviations.
3. The commercial clarifications does not amount to major commercial deviations, as according evaluation criteria and procedure defined in the tender documents, as they are not part of the tender submitted, complying with all requirements of WPADA, including fully compliant specifications.
4. The commercial clarifications does not alter the tendered conditions, and are only clarifying few issues, and could also be withdrawn if the evaluators had asked them as per procedure defined in the tender evaluation procedure.
5. The other bidder is not supplying Current Limiter & MV Switchgear from the qualified manufacturers, and this bid shall be declared non-responsive.

The complaint has been examined by Transparency International Pakistan, and issues mentioned above are studied under following tendered clause.

IB.25 Clarification of Bids.

25.1 To assist in the examination, evaluation and comparison of bids, the Employer may, at his discretion, ask any bidder for clarification of his bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing but no change in the price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with Clause IB.28.



Normally in most tenders, bidders include some clarifications, which may or may not be acceptable by client. The commercial clarifications, if were submitted with the explicit intention that the bid prices are subject the acceptance of the commercial clarifications by client, and if these clarifications has any financial impact, the financial impact could be added to the price of the bid. Or the Client can evaluate the Bids with stating that the commercial clarifications are not considered.

If the Bid of any bidder is not complying with specifications, such as non-compliant supply from manufacturer of Current Limiter & MV Switchgear, such bid can not be made responsive by allowing the bidder to change the supplier.

Transparency International Pakistan requests the Chairman to take immediate action and direct the department to follow PPRA Rules, and if both bids are non-responsive as per evaluation criteria, discharge the bids and re-invite the bids again.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

Justice Zia Perwez
Former Judge of Supreme Court of Pakistan and High Court of Sindh
Trustee- TI-Pakistan

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

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad,
3. Registrar, Supreme Court of Pakistan, Islamabad.
4. Managing Director, PPRA, Islamabad.



黑龙江哈电多能水电开发有限责任公司
MULTIPOWER HYDROELECTRIC DEVELOPMENT CORPORATION

Dated: 7/5/18

The Chairman WAPDA
Room No 701 WAPDA House
Lahore Pakistan

Subject: Mangla Refurbishment Project Package VI + VIII Balance of Plant Electrical
Works & Control Financed by USAID Grant No: 391-PEPA-ENR-MANGLA-00

Appeal for Justice for Fair & Transparent Evaluation

Your Excellency,

We M/S Multipower Hydroelectric Development Corporation (MHDC) have participated in the subject project and have submitted a very competitive bid complying all the technical and commercial requirements of the tender in all respects. Keeping in view to meet the technical requirements we have selected M/S ABB UAE who are our preferred partner for eBoP engineered package to Design, interface, integrate and commission the subject scope of work of lot6a, b and 8.

We wish to bring into your kind information that the evaluation of the subject tender is not being done in a fair and transparent manner and we request you kindly look into this matter.

We M/S MHDC who have submitted a fully compliant bid meeting all the technical and commercial offer and are not being considered based on the reason that we have taken few major commercial deviations (in fact they were only commercial clarifications copy attached). Whereas our competitors even can not meet the tender technical requirements because they have not offered the required equipment from the qualified manufacturers of Current Limiter and MV Switch Gear which are the key and major items but still are being considered for the award of contract subject to the condition to replace their original offered Current Limiter and MV Switch Gear non-qualified equipment to the qualified ones. This recommendation is totally against the tender conditions.

This Current Limiter & MV Switchgear is required to be offered from the qualified manufactures who must have to meet the required technical and commercial requirements of the tender. The details of these items are as follows:

1. Current Limiter:

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地址: 黑龙江省哈尔滨市三大动力路 266 号
电话: 0451-82109936
传真: 0451-82107451

Address: 266 Sandadongli Rd. Harbin, China
Tel: +86-451-82109936
Fax: +86-451-82107451

not be considered because the offered Current Limiter and MV Switch Gear does not meet the tender technical conditions.

Furthermore, according to the following Tender Clauses:

24.3 Prior to the detailed evaluation, pursuant to Clause B.26 the Employer/Engineer will determine the substantial responsiveness of each Bid to the Bidding Documents. For purpose of these Clauses, a substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations. A material deviation or reservation is one:

- (i) which affects in any substantial way the scope, quality or performance of the Works;
- (ii) which limits in any substantial way, in consistent with the Bidding Documents, the Employer's rights or the Bidder's obligations under the Contract; or
- (iii) whose rectification/adoption would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

The Employer's/Engineer's determination of a Bid responsiveness will be based on the contents of the Bid itself without recourse to extrinsic evidence.

Clause 24.4 states that, a Bid determined as substantially non-responsive will be rejected and will not subsequently be made responsive by the Bidder by correction of the non-conformity.

According to the above mentioned Clause No 23.3 (I) (ii) the bid of our competitors contains material deviations as the offered Current Limiter & MV Switchgear does not meet the technical requirements of the tender and is a major deviation, which cannot be corrected by changing the manufacturers to the qualified (according to Clause 24.3 iii & iv and 24.4) ones.

Commercial Clarification of MHDC

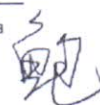
MHDC has mentioned under the heading few "Commercial Clarifications" (copy attached) which has been considered as commercial deviations by the Consultants as well as the Project office and are not considering our offer. Whereas no clarification was asked from MHDC in this regard. These Commercial clarifications are only clarifications and not commercial deviations in the offer. If these clarifications are not acceptable it can be withdrawn.

Our competitors are being recommended for the award of contract subject to the condition that they have to change their quoted manufacturer to the qualified one. This recommendation is against the tender conditions by making them responsive by correcting the nonconformity, which is against the tender conditions, PPRA& USAID Procurement Guidelines. We strongly protest for this non transparent and biased evaluation and request you to please look into the above explained two issues and below:

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1. How the bid of our competitors was considered responsive in spite of the fact that their offered Current Limiter and MV Switch Gear does not meet the tender technical condition according to the Clause IB.24

2. How they are considered for the recommendation for the award of contract when according to the Clause No 23.3 (I) (ii) their bid contains material deviations as the offered Current Limiter & MV Switchgear does not meet the technical requirements of the tender and is a major deviation, which cannot be corrected by changing the manufacturers to the qualified (according to Clause 24.3 iii & iv and 24.4) ones.

3. Under which clause of the tender they can be recommended for the award of contract subject to the condition by changing the non qualified equipment to the qualified ones?

In total discrimination, our offer is not being considered by declaring our commercial clarification as major commercial deviations and no chance was given to explain our position whereas on the other hand our competitors who's offered Current Limiter & MV Switchgear does not meet the technical requirements of the tender and is a major deviation according to the tender conditions but are being considered for the award of contract.

We strongly protest for this injustice and for this biased, discriminatory and non-transparent evaluation.

Therefore, based on the above mentioned factual explanations (which are 100% true and can be checked and verified) in the interest of fairness, transparency as enforced by the tender, PPRA Procurement Guidelines of Pakistan and USAID, we request you to please do justice with us and evaluate the tender strictly according to the tender conditions.

Sincerely Yours.


Bao Linbin
Project Manager of MHDC



CC:

1. Office of Inspector General
United States Agency for International Development
1300 Pennsylvania Avenue

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哈电集团

黑龙江哈电多能水电开发有限责任公司
MULTIPOWER HYDROELECTRIC DEVELOPMENT CORPORATION

Washington, DC 20523.

USA

(ig.hotline@usaid.gov)

2.Member Power WAPDA

Room No 738 WAPDA House Lahore.

3.GM Hydel Development WAPDA

Room No 104 WAPDA House Lahore.

4.GM Central Contracts Cell WAPDA

Room No 631 Wapda House Lahore.

5.Managing Director

Public Procurement Regulatory Authority

1st Floor, FBC Building, Near State Bank,

SectorG-5/2, Islamabad.

6. Transparency International Pakistan

5-C, 2nd floor Khayaban-e-Ittehad,

DHA Phase VII Karachi

complaints@anti-fraud hotline.com

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Commercial Clarification

Bid Reference No.: GMHD-06

Sr. No.	Ref. of Bidding Documents	Employer's Specification	Bidder's Clarification	Remarks
1	Time for Completion, Section 5.1 Preamble to Conditions of Contract	Sub-Clause 1.1.35 2nd bullet Completion of all Works related to U5-6 ... Presumed start date for the U5-6 outage is 21 Sept. 2017.	Thanks to reschedule the new start date for the U5-6 outage which is 21 Sept. 2017, as the new Bid opening date is changed.	
2	SECTION 5.2 - GENERAL CONDITIONS OF CONTRACT (GCC)	Part II - Particular Conditions of Contract (PCC)	For clarity, for our review, request for the "Conditions of Contract for Electrical and Mechanical Works including Erection on Site, " Third Edition 1987, Reprinted May, 1988 with editorial amendments, published by the Federation Internationale des Ingenieurs-Consells (FIDIC)	
3	PCC Cl. 14.8 and Cl.17.5	Cl. 14.8 - "Import Permits and Licences/Import Authorisation", and Cl.17.5 - "Assistance for Import Permits and Licences/Import Authorisation"	We insist that the Import permits or license/import authorisation required for the Permanent plant should be obtained by the Employer, Contractor may apply for pressure containers and hazardous articles. Even though the contractor was entitled to apply for the said Permits/Licenses, it has to be in the name of the Employer.	
4	PCC Cl. 18.1	Cl.18.1 Engagement of Labour	To add "skilled staff and labour from the sources within Pakistan ..."	
	PCC Cl. 24.2	Payment in the Event of Suspension	56 days is too long, prefer remaining 28 days.	
	PCC Cl. 26.1	Extension of Time for Completion	(b) and (h) are expected to remain	
	PCC Cl. 29.2	Taking-Over Certificate	56 days is too long, prefer remaining 28 days.	

