



21<sup>st</sup> January, 2019

Chairman WAPDA,  
701- WAPDA House,  
The Mall,  
Lahore.

Sub: Complaint of Violation of Public Procurement Rules 2004 in Inviting Tenders from Consultants for Procurement of Consultancy Services for Construction Design, Construction Supervision and Contract Management of Mohmand Dam Hydropower Project.

Dear Sir,

Transparency International Pakistan has received a complaint of Violation of Public Procurement Rules 2004 in Inviting Tenders from Consultants for Procurement of Consultancy Services for Construction Design, Construction Supervision and Contract Management of Mohmand Dam Hydropower Project, in which the bids are to be submitted on 24 January 2019.

The complainant has made following allegations.

That,

1. The Tender Documents are not complying with PPRA Rules and PPRA Regulation 2010 under which PEC SBDs for Construction and Consultants are mandatory.

Pakistan Engineering Council (Conduct and Practice of Consulting Engineers) Bye-laws, 1986 do not allow procuring agency to define share of lead consultants, whereas WAPDA has mandated **Local Consultant as Lead partner ( i.e.51% share)**.

This act of WAPDA is also violation of PPRA Rule 32. Discriminatory and difficult conditions. Save as otherwise provided, no procuring agency shall introduce any condition, which discriminates between bidders or that is considered to be met with difficulty.

2. WAPDA has prescribed Quality Based Selection QBS, whereas, PPRA Regulation 2010 prescribes QCBS for such Contracts, which is to be used where high quality is the prime consideration while cost is a secondary consideration.

Another requirement of not using QCBS Method , and using QBS Method, prescribed in PPRA Regulation 2010 is that **“That any procuring agency desirous of using quality based selection as a method of procurement shall record its reasons and**

**justifications in writing for resorting to this method and shall place the same on record”.**

In QBS Method financial bid of the highest technical ranking consultants are opened only and other bids remains sealed. WAPDA has opted a Method which amounts to a single Bid, and in which the prices of highest ranking firm may be even 2 to 3 times over the market prices, and in this Project they will be in Billions of Rs.

3. The Evaluation Criteria in Bid Documents , Section II, Instructions to Consultants, ICT No. 21.1, page 26, quoted below, is a discriminatory clause, and can only be met by NESPAK.

*Pre-requisites for Local Lead Firm (in case of Joint Venture): Lead firm shall be Local Firm who must meet the following threshold to qualify as Lead Firm. In case local lead firm does not qualify, the proposal of JV will be rejected:*

- a. Average Annual Turnover (based on average of last five years audited financial statements by independent Auditors of “A Category”) Not less than Rs. 250 Million (2013, 2014, 2015, 2016, 2017).*
- b. Total Professional Manpower (at least Graduate professionals): More than 150 Nos. supported by EOBI or tax statement u/s 149*

*(i) Specific experience of the Consultant (as a firm) relevant to the Assignment: [20] • Specific experience of similar assignments*

*Firms/ JVs having specific experience of three (03) similar projects during the last 10 years will obtain full marks.*

*The type of similarities will include following parameters:*

- a. Concrete Faced Rockfill Dams (150 m height); [7]*
- b. Gated Spillway with design capacity more than 15,000 m<sup>3</sup> /s; [5]*
- c. Power House (600 MW) with Francis Turbine; and [5]*
- d. Tunneling experience with diameter greater than 10 m for at-least 2 km length. [3]*

**Asking of experience in Francis Turbine in Pakistan is against PPRA Rule No. 10. Specifications.. Specifications shall allow the widest possible competition and shall not favour any single contractor or supplier nor put others at a disadvantage. Specifications shall be generic and shall not include references to brand names.**

**Asking experience of over 10 meter diameter tunnel of over 2 KM is kept for the consultants of Neelum Jehlum Project.**

**Asking annual turnover of Rs. 250 Million (2013, 2014, 2015, 2016, 2017) is only available with NESPAK.**

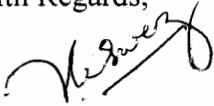
4. The Scope of Services also includes Detailed Design Review. This activity is very important, and shall not be performed by the Consultants who were employed by WAPDA as design Consultants. As consortium of M/s SMEC, NESPAK and ACE were the consultants at the design stage, these consultants cannot be awarded this contract as vetting their own design would be a conflict of interest, but WAPDA has not barred them from participating in any capacity in this bidding.

The allegations have been examined, and prima facia bid documents are violating PPRA Rule No 32, PPRA Regulation 2010, favoring particular firms, discriminatory, and may result in allegation of Mis-Procurement under Rule 50, and also cause billions of loss to exchequer due to uncompetitive rates based on QBS adopted by WAPDA.

Chairman WAPDA is requested to examine the allegations, and if irregularities are found, addendum may be issued addressing the violations, and extending the date of bid submission by 4 weeks.

TI Pakistan is striving to have Rule of Law in Pakistan, which is the only way to eliminate corruption and have good governance in country.

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 and for action under rules:

1. PSPM, Prime Minister Office, Islamabad.
2. Chairman PAC, Islamabad.
3. Chairman, NAB, Islamabad.
4. Register, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Lahore.