



28<sup>th</sup> November, 2018

TL18/2811/1A

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

**Sub: Violation of Public Procurement Rules 2004, Complaint Received Against  
Allegation of Violation of Country Regulations in Seeking Consultancy Services for  
Diamer-Bhasha Dam and Other Projects.**

Dear Sir,

Transparency International Pakistan has received a complaint regarding violation of country regulations in seeking consultancy services for Diamer-Bhasha Dam and other projects. Copy of the complaint is attached.

The complainant has made following allegations;  
That;

1. LOI 2.1© read in conjunction with 1( b) of Datasheet envisages adherence to the Country relevant laws and regulations not limiting to PPRA Rules and PEC regulations.
2. RFP Data Sheet, ITC Clause 21.1 is in contradiction with Country laws: as PEC regulations and International best practices do not ask for so high turnover, more than 150 permanent Professional engineers by a single local firm. These conditions presumably are designed to awarding the contract to a targeted consultant.
3. Purpose of the Joint Venture is to enhance the capacity and transfer of technology among the JV partners. Taking inference from Section 4(10) of the PEC construction bye- laws, the financial strength and firm experience is arithmetic sum of all the JV partners; nowhere in the PEC regulations such summation is negated.
4. Section 5.1.1. of the PEC guidelines for consultants stipulates even one project of similar magnitude, nature and complexity is enough to inspire confidence of firm's capability.
5. Section 6(3)(h) of the PEC consulting bye- laws stipulated that- " Selection of consulting engineers is done through open and fair completion and no preference is given to any consulting engineer for the reason of his being in the public or the private sector."
6. PPRA Rule 32 prevents the procuring agencies to put "Discriminatory and difficult conditions" while seeking bids, which discriminates between bidders or that is considered to be met with difficulties. In ascertaining the discriminatory and difficult nature of any



condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or services to which a particular procurement is related.

Chairman WAPDA is requested to kindly examine this complaint and if found genuine take necessary action against all those officers involved in corrupt practices and direct the department to follow PPRA Rules, to avoid mis procurement charges against WAPDA.

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. Chairman, Prime Minister's Inspection Commission, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Managing Director, PPRA, Islamabad.

Ref: ACEP/2018-19/019

Dated: Nov. 12, 2018

Sheet 1/2

Chairman WAPDA

Room # 701, WAPDA House

Shahrah-e-Quaid-e-Azam

Lahore

Tel: 042-99202222

Subject: **VIOLATION OF COUNTRY REGULATIONS IN SEEKING CONSULTANCY SERVICES FOR DIAMAR BASHA DAM AND OTHER PROJECTS**

Dear Sir,

Reference to the Request for Proposal dated October, 2018 for the subject project; we are deeply concerned about few provisions embedded in the RFP which are in violation of relevant Country regulations such as PPRA Rules and PEC Regulations; which deny level playing field to the Pakistani consultants experienced in this field. Few are specified below;

1. LOI 2.1© read in conjunction with 1(b) of Datasheet envisages adherence to the Country relevant laws & regulation not limiting to PPRA Rules and PEC regulations.
2. RFP Data Sheet, ITC Clause 21.1 is in contradiction with Country laws; as PEC regulations and International best practices do not ask for so high turnover, more than 150 permanent Professional engineers by a single Local firm. These conditions presumably are designed to awarding the contract to a targeted consultant.
3. Purpose of the Joint Venture is to enhance the capacity and transfer of technology among the JV partners. Taking inference from Section 4(10) of the PEC construction bye-laws, the financial strength and firm experience is arithmetic sum of all the JV partners; nowhere in the PEC regulations such summation is negated.
4. Section 5.1.1 of PEC guidelines for consultants stipulates even one project of similar magnitude, nature and complexity is enough to inspire confidence of firm's capability.
5. Section 6(3)(h) of the PEC consulting bye-laws stipulated that *"Selection of consulting engineers is done through open and fair competition and no preference is give to any consulting engineer for the reason of his being in the public or the private sector"*.
6. PPRA Rule 32 prevents the procuring agencies to put *"Discriminatory and difficult conditions"* while seeking bids, *which discriminates between bidders or that is considered to be met with difficulties. In ascertaining the discriminatory and difficult nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which a particular procurement is related.*
7. As can be seen from the RFP that awarding contract to the evidently Sole Bidder may attract action from Competition Commission of Pakistan; and even future repercussions thereafter. Chairman's interview with Duniya T.V at Kamran Khans programme was clear evidence of preference for a particular for certain Company which is in complete violation of rules and will be non-transparent.
8. In a JV, the partners, whether Local or International are responsible jointly and severally; as such, awarding contract only on the shoulder of the Local consultant is not legally tenable. In Pakistan, there is no such Local expertise for design of such magnitude of roller compacted concrete structure in highly seismic zone and even any Local consultant is bound to induct International consultants who must invariably be for his Professional Liabilities.

ACEP is a Member of:



Association of Consulting Engineers (Pakistan) - ACEP.

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Dated: Nov. 12, 2018  
Sheet 2/2

9. If the Federal Govt. decides that assigning "Partner in-Charge" position to the Local consultants is a Policy then that Policy should be notified after due processes involving Government and relevant regulatory bodies. And accordingly, should be applied to all such projects which require involvement of International Consultants in JV with the Local consultants.
10. The term in the RFP that Local "with Lead role of Local Firm" is vague and does not have legal standing.

#### SUGGESTED REMEDIES:

1. ITC 21.1 to be revised to the extent that Firms Experience and turn over (if at all needed) should be the arithmetic sums of all JV partners as narrated above.
2. Local Lead Firm should be replaced with "**Partner in-charge**" to deal with Client and coordinate with other Partners. It should be defined at the beginning of the RFP advising the JV partners to enter all conditions in details and modalities in the JV agreement to be part of the Proposal.
3. Quality Based System of evaluation (QBS) always entails higher costs as the bidders are not in an obligation to rationalize their cost of proposal for the requirement of competition, as technical ranking is the sole criteria for award. Whereas, keeping the cost of project is one of the objectives, therefore, the proposals are to be invited on Quality and Cost Based System (QSBS) of evaluation.
4. WAPDA should immediately issue an Addendum incorporating above changes and duly advertise in those newspapers in which the initial advertisements were published.

Regards;

  
ENGR. M. SIDDIQ ESSA  
President - ACEP

Copy to:

1. MD PPRA, Islamabad
2. Chairman PEC Islamabad
3. Chairman CCP, Islamabad
4. PM's Monitoring Cell, Islamabad
5. Transparency International Pakistan, Karachi ✓

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