



10th December, 2020

TIP2020/ 12101A

Mr. Javaid Jehangir,
Auditor General of Pakistan,
Constitution Avenue,
Islamabad

Sub: Complaint against WAPDA on allegations of Loss of 1,454.48 million by not accepting Consultants determination & recommendations to en-cash Performance Guarantee for default of contractor M/s Sinohydro-Hajvairy on 128 MW Keyal Khwar Hydro Power Project under financing of KfW Bank, Germany

Dear Sir,

Transparency International Pakistan has received a complaint against WAPDA on allegations of loss of 1,454.48 million by not accepting Consultants determination & recommendations to en-cash Performance Guarantee for default of contractor M/s Sinohydro-Hajvairy on 128 MW Keyal Khwar Hydro Power Project under financing of KfW Bank, Germany.

The complainant has made following allegations;

That,

1. Water and Power Development Authority (WAPDA) awarded the Civil Works & Hydro Steel Works Contract No: KKHPP-02 of 128 MW Keyal Khwar Hydro Power Project under financing of KfW Bank, Germany to M/s Sinohydro-Hajvairy Joint Venture on 28-08-2014 after competitive bidding under Public Procurement Regulatory Authority (PPRA) rules. The order to commence was issued to the contractor on 12-08-2016 establishing therein the contract commencement date as 13-08-2016, for completion of the project in 4 years.
2. The commencement date of the contract was August 13, 2016 with stipulated construction schedule for four (4) years. The contract execution was very slow.
3. The Consultants, in pursuance to the provisions of the contract, had issued many notices to the contractors and several high level meetings were held to pace up the work but no fruitful results were achieved. The Engineer (Consultants) in pursuance of sub clause-15.2 of CoC recommended termination of the contract. Later on, WAPDA Authority in its meeting held on November 17, 2017 approved termination of the contract and termination notice was issued on December 8, 2017 with effective date of termination as December 23, 2017.
4. The contractor M/s Sinohydro as quoted below is a hundred percent subsidiary of M/s China Power Group. http://www.chinadaily.com.cn/m/powerchina/2019-09/26/content_37512579.htm.



POWERCHINA began restructuring its international operations on March 10, 2016. It merged its Overseas Business Department, Sinohydro Group, and HydroChina Corporation to form POWERCHINA Intl. (**Annex-A**)

5. M/s Power China was very active in participation of WAPDA tendering of Mohmand Dam and Bhasha Dam in 2017 and 2018 (prequalification Notice issued on 8 April 2018) and two Bids for Mohmand Dam were received in June 2018.

6. But WAPDA refused to accept Consultants determination and illegally signed an MoU with Contractor for an amicable settlement on 8 July, 2018.

7. The loss to exchequer of 1,454.48 million is caused by WAPDA, and also the Contractor M/s Sinohydro were not debarred, and that the parent company of M/s Sinohydro by name of M/s Power China, was allowed to participate in Two Mega Dam Projects Mohmand Dam & Bhasha Dam.

8. A unique system is prevailing in WAPDA for award of Billion of \$ Dam Projects, only on single Bid. M/s Power Chains was disqualified on experience, for Mohmand Dam, and M/s CGGC (JV) was awarded a single bid. While in Bhasha Dam M/s Power China was qualified in Experience, and M/s CGGC (JV) was disqualified being declared as non-responsive and M/s Power China was awarded the Contract as a single Bidder.

9. Due to the **non-performance** of the Sinohydro-Hajvairy Joint Venture, Contract KKHPP-02 of Civil & Hydraulic Works for 128 MW Keyal Khwar Hydropower Project was terminated after obtaining "No Objection" from M/s KfW Bank and approval from the Authority on 17/11/2017. Notice of termination issued on 08/12/2017 with effective date of termination as 23/12/2017. Due to non-performance of Sinohydro-Hajvairy Joint Venture, Pakistan has faced huge loss in generation and revenue in Public exchequer during energy short fall. It is estimated that around 2200 GWh loss in generation and six (6) billion PKR in revenue. Moreover, due to the delay the project construction cost would increase by more than fifteen (15) to twenty (20) Million \$ USD.

Transparency International Pakistan questions & suggestions.

The complaint has been examined, and also AGP Annual Audit Report of Ministry of Water & Power and its entities 2019-20, has been downloaded from AGP website. (Annex-A, describes and confirms the illegality done by WAPDA on this project.)

Transparency International Pakistan requests the Auditor General , to examine the complaint received at TI Pakistan as quoted above.

As AGP Annual Audit Report AGP Annual Audit Report of Ministry of Water & Power and its entities 2019-20 also declares default of WAPDA of causing loss to exchequer by not en-cashing the performance guarantee of 1,454.48 million, which might have resulted in debarring of the firm also. AGP may inquire on the alleged ambiguities of not forfeiting the performance bond, not debarring the company M/s Sinohydro and its parent Company M/s Power China, and how the



parent company of a defaulting company was allowed to be awarded the Contract of Bhasha Dam when they were disqualified for lack of experiences for Mohmand Dam.

The procedure adopted by WAPDA of signing MoU, resulted in WAPDA allowing the parent company to participate in Tender of Bhasha Dam and Mohmand Dam, as otherwise only one company Tender would have been received for each Dam.

Above all, loss of billions of rupees in delayed supply of 135 MW electricity for at least 4 years, is caused by M/s Sino hydro by not completing the Contract.
Accountability must be held on this default against all those who are found responsible.

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,

Sohail Muzaffar
Chairman
Transparency International Pakistan

Copies forwarded for the information and for action under rules to:

1. Principal Secretary to PM, PM House, Islamabad,
2. Managing Director, PPRA, Islamabad,
3. Register, Supreme Court of Pakistan, Islamabad
4. DG, FIA, Islamabad
5. GIZ/KfW Office, Islamabad
6. Chairman, Public Accounts Committee, Islamabad

POWERCHINA actively develops international business

Updated: 2019-09-26 10:53

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POWERCHINA's overseas business operations started in the 1960s. Since then, POWERCHINA's three subsidiaries, Sinohydro Group, HydroChina Corporation, and SEPCOIII, have been actively following the country's diplomatic strategy, from overseas aid projects to actively expanding overseas contracting markets.

1. Passive, opportunity-driven, sporadic business stage (before 1994)

At that time, Sinohydro Group and HydroChina Corporation had not yet obtained foreign trade rights. Only some subsidiaries had undertaken foreign economic assistance projects, helping Albania, Equatorial Guinea, Guinea, and other countries to build a number of hydropower, water conservancy, and power transmission projects.

The Lagdo Hydropower Station in Cameroon built in 1973 by POWERCHINA was one of the largest foreign aid hydropower projects in China at that time. It is still operating normally and is the backbone power plant of the northern power grid of Cameroon.

2. Exploration stage and forays into branding (1994-1999)

After obtaining foreign trade rights in 1993, Sinohydro Group fully utilized foreign engineering contracting, as well as the corresponding equipment, materials, and labor export rights, forming a certain size and share of the overseas market.

The design institutes of HydroChina Corporation had successively obtained the qualification documents for foreign economic and technological cooperation, designing and building a large number of hydropower projects around the world.

Although the contract value of a single project of POWERCHINA's at that time was only between \$10 million and \$30 million, this period was of great significance for the company to open the international market.

3. Resource integration stage (1999-2005)

Sinohydro Group began to integrate its resources, after its hydropower international business started to enter a certain scale and formed certain influence. It gradually linked the high-quality resources at all levels within the system to form a group advantage.

At this stage, Sinohydro Group's international business had formed a certain market channel, possessing a driving force and influence on the industry.

It actively promoted economic and technical cooperation between China and other countries, as well as put construction contracting into the management of qualified subsidiaries.

The company headquarters was mainly engaged in contracting and investment development, completing the extension of the international business chain.

4. Internationalization strategy leading stage (2006-2015)

In 2006, Sinohydro Group put forward and implemented its international business priority development strategy. The subsidiaries of the group began to actively participate in international business.

In 2011, POWERCHINA was established and clearly proposed a priority strategy for

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Inner Mongolia Normal University

international business development.

This stage marked the decade of POWERCHINA's rapid development in international business. A large number of projects started or completed construction, such as the Bui hydropower station in Ghana, the Kariba South hydro power station in Zimbabwe, the Soubre hydropower dam in Cote d'Ivoire, and the Adama wind farm in Ethiopia.

5. Globalization strategy stage (2015 on)

POWERCHINA began restructuring its international operations on March 10, 2016. It merged its Overseas Business Department, Sinohydro Group, and HydroChina Corporation to form POWERCHINA Int'l.

POWERCHINA has formed a basic market layout that encompasses a number of neighboring countries, with certain key countries at the center.

It has also established six international regional headquarters, forming a diversified market structure that involves roads, railways, housing, and water treatment.



SME fair draws eager participation of overseas players

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Annexture-B



**AUDIT REPORT
ON
THE ACCOUNTS OF
MINISTRY OF WATER RESOURCES
AND ITS ENTITIES
AUDIT YEAR 2019-20**

AUDITOR GENERAL OF PAKISTAN

Preface

Articles 169 and 170 of the Constitution of the Islamic Republic of Pakistan 1973, read with Sections 8 and 12 of the Auditor General's (Functions, Powers, Terms and Conditions of Service) Ordinance 2001, require the Auditor General of Pakistan to conduct audit of any authority or body established by the Federation. The Audit Report is based on the accounts of the Ministry of Water Resources and its entities for the Financial Year 2018-19.

The Directorate General of Audit Water Resources conducted audit of the Ministry of Water Resources, Water and Power Development Authority (WAPDA) and Water Sector Capacity Building & Advisory Services Project (WCAP) during the year 2019-20 on test check basis with a view to reporting significant findings to the relevant stakeholders. The main body of Audit Report includes the systemic issues and audit findings carrying value of Rs.1 million and above. Relatively less significant findings have been listed in Annexure-I of this report as MFDAC. The Audit observations listed in Annexure-I shall be pursued with PAO at the DAC level and in all cases where the PAO does not initiate appropriate action, the Audit observations shall be brought to the notice of Public Accounts Committee through the next year's Audit Report. Moreover, sectoral analysis has been added in this report covering strategic review and overall perspective of audit results.

Audit findings indicate the need for adherence to the regulatory framework besides instituting and strengthening internal controls to avoid recurrence of similar violations and irregularities. Most of the observations included in this report have been finalized in the light of discussions in the Departmental Accounts Committee meetings.

The Audit Report is submitted to the President of Pakistan in pursuance of Article 171 of the Constitution of the Islamic Republic of Pakistan 1973, for causing it to be laid before both houses of Majlis-e-Shoora [Parliament].

Islamabad
Dated: 18 FEB 2020

Sd/-
(Javaid Jehangir)
Auditor General of Pakistan

10-11, 2020 directed the Member (Water) to probe the facts of the matter within one month in case of Tarbela 4th Extension and directed the management to submit a case of Dasu Hydropower Project to the MoWR for examination. No further progress was intimated till finalization of Audit Report.

Audit Recommendations

Audit recommends the management to implement DAC's decision and effect recovery of LD as per contractual obligations.

1.5.16 Undue favour to the contractor on account of amicable settlement and non-encashment of performance guarantee – Rs.1,454.48 million

According to Section-III (1) of WAPDA Guidelines for Enforcing Responsibility for Losses due to fraud, theft or negligence of Individuals, 1982 (amended to date), "all losses whether of public money or of stores, shall be subjected to preliminary investigation by the officer in whose charge they were, to fix the cause of the loss and the amount involved".

In the office of Chief Engineer / Project Director, Keyal Khwar Hydropower Project Pattan, Kohistan, a contract No. KKHPP-02 for civil and hydraulic steel works was awarded to M/s Sinohydro-Hajvairy Joint Venture on January 28, 2014. The commencement date of the contract was August 13, 2016 with stipulated construction schedule for four (4) years. Due to internal disputes of the JV partners, contract execution was very slow. The Consultants, in pursuance to the provisions of the contract, had issued many notices to the contractors and several high level meetings were held to pace up the work but no fruitful results were achieved. The Engineer (Consultants) in pursuance of sub clause-15.2 of CoC recommended termination of the contract. Later on, WAPDA Authority in its meeting held on November 17, 2017 approved termination of the contract and termination notice was issued on December 8, 2017 with effective date of termination as December 23, 2017. The contractor refused to accept the termination due to contractor's default and requested for Amicable Settlement. WAPDA Authority in its meeting held on July 06, 2018 accorded approval for signing the MoU to amicably settle all the issues arising from termination of contract No.KKHPP-02 until re-tendering process would be completed at no additional cost to the Employer. Neither any penalty was imposed on the contractor nor performance guarantee amounting to Rs.1,454.48 million forfeited which showed that undue favour was extended to the contractors.

Implication

Non-adherence to Authority's instruction resulted in undue favour to the contractor on account of amicable settlement and non-encashment of performance guarantee amounting to Rs.1,454.48 million up to Financial Year 2018-19.

Management Response

The matter was taken up with the management in August, 2019 and reported to the Ministry in October, 2019. The management replied that the contract was terminated on December 08, 2017 on account of slow progress of works with prior NOC of the project financier M/s KfW. The request of M/s Sinohydro was accepted and a MoU was approved by the Authority on July 06, 2018 for going into amicable settlement till retendering process. Moreover, the performance guarantee amounting to Rs.1,454.48 million was retained by WAPDA and the contractor was liable to maintain and extend the same till completion of retendering process.

The reply was not convincing because performance guarantee of the defaulter contractor was required to be forfeited upon termination of contract.

The DAC in its meeting held on December 6, 2019 directed the management to conduct fact findings inquiry within 30 days. No further progress was intimated till finalization of Audit Report.

Audit Recommendations

Audit recommends the management to implement the DAC's decision besides fixing responsibility.

(DP No.320/2019-20)

1.5.17 Irregular award of contract of leftover works through variation orders in violation of PPRA rules – Rs.1,395.33 million

According to Rule-20 of Public Procurement Rules, 2004, "save as otherwise provided, the procuring agencies shall use open competitive bidding as the principal method of procurement for the procurement of good, services and works".

In the office of Chief Engineer / Project Director RMM Project, a contract MGC-04 for earthwork, canal lining and rehabilitation of allied structures of