



LAHORE ELECTRIC SUPPLY COMPANY LIMITED
Office of the Chief Engineer (Development) LESCO

Near Qartaba Chowk, Bahawalpur Road, Mozang Lahore

Ph: 99214410 Fax: 99214412

website: www.lesco.gov.pk

No. 985-87 /Dev/Proc

Dated 27-01-2025

Mr. Kashif Ali
Executive Director,
Transparency International Pakistan

SUB: COMPLAINT AGAINST ALLEGATIONS OF VIOLATIONS OF PPRA RULES 2004
IN THE PROCUREMENT OF 132KV CIRCUIT BREAKERS TENDER NO. 580
DATED 09-01-2024

REF:

1. Your good office letter No. TIP 2024/0306/1A dated March 06th, 2024, written by, on behalf of Transparency International-Pakistan by Advocate Daniyal Muzaffar Trusteo/Legal Advisor.
2. This office letter no. 3508-3510 dated: 15-04-2024 (Copy enclosed)
3. Your good office letter No. TL 2025/0108/5A dated January 08th, 2025.

In continuation to this office reply vide Sr. no. 02, it is further apprised that CEO LESCO has constituted a high level inquiry committee regarding subject matter vide O/o no. C-256/HRD/HRM/Conf:/7570 & Endst no. C-4075-83 dated: 10-05-2024, on the directions of Ministry of Energy & MD PPMC Islamabad vide letter dated: 20-03-2024. Moreover, your letter vide referred at Sr. 01 also requested CEO LESCO to look into the matter.

The recommendation of the inquiry committee was submitted & approved by CEO LESCO and the same was communicated to the Ministry. The recommendations are reproduced as under:-

- a) The inquiry committee did not find any evidence of violation of PPRA rules and hence this matter cannot be treated as mis-procurement.
- b) The complaint is not based upon facts, therefore it is recommended to be filed.
- c) Chief Engineer (Dev.) PMU be directed to get check the equivalency from any NTDC approval lab of three legs 132KV Circuit Breakers and two legs 132KV Circuit Breakers for any impact assessment of load during working condition to avoid any complication at later stage.

In this regard, upon recommendations of the inquiry committee, the equivalency was obtained by NTDC approved international STL Lab and the same was communicated to the management.

Submitted for information please.

Chief Engineer (Dev.)
PMU LESCO

Info:

1. SO to CEO LESCO.
2. General Manager (Technical) LESCO.
3. Master File.



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No. 3SoB-3510 /Dev/Proc

Dated 15/04/2024

To:

Advocate Daniyal Muzaflar
Trustee / Legal Advisor,
Transparency International Pakistan

SUB: REPLY TO COMPLAINT AGAINST ALLEGATIONS OF VIOLATIONS
OF PPRA RULES 2004 IN THE PROCUREMENT OF 132KV CIRCUIT
BREAKERS TENDER NO. 580 DATED 09-01-2024

REF: Your office letter No. TIP 2024/0306/1A dated March 06th, 2024, written by, on behalf of Transparency International-Pakistan

Apropos captioned subject and letter under reference, it is informed that your office has forwarded an anonymous complaint with the comments "Transparency International Pakistan has reviewed the allegations of the complaint, prima facie the allegations seem correct" without consulting the point of LESCO. The points / allegations raised in anonymous complaint are false, frivolous and egregious.

First and foremost, it is apprised that if any party has any grievance against the tender enquiry raised by the procuring agency, then according to the same Public Procurement Regulatory Authority Rules, the Party has the right to invoke the Rule 48 "Redressal of grievances by the procuring agency" Para (2), which states that: -

"Any party may file its written complaint against the eligibility parameters, evaluation criteria or any other terms and conditions prescribed in the bidding documents if found contrary to the provisions of the procurement regulatory framework, and the same shall be addressed by the grievance redressal committee (GRC) well before the proposal submission deadline."

The appropriate Authority to address the grievance is the grievance redressal committee (GRC), which is fully functional and effective in LESCO, while having necessary powers and authorizations to address the complaints of bidders. However, no such presentation was made to the GRC by any party whatsoever, during the period leading to the bid submission deadline, despite the fact that three bidders purchased the bidding documents.

The above stated right to the bidders under PPRA Rule 48 (2), can be exercised & utilized, by any aggrieved party, feeling aggrieved against any discriminatory condition put forth, even before the bid's submission deadline. The fact that no party having lodged any grievance or complaint at that stage against the eligibility parameters, evaluation criteria or any other terms and conditions, is tantamount to the fact that there was no discriminatory clause presented in the bidding documents. The tender documents were purchased by three firms. The right to lodge the complaint regarding eligibility parameters, evaluation criteria or any other terms and conditions could not be exercised at a later stage i.e., during or after tender evaluation. Such interference, against the bidding documents criteria, after the tender



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evaluation stage, shows the intent of the bidders to jeopardize the procurement process, who are not even participating in tendering process.

In addition to above, PPRA rules, allows the non-responsive bidders, to lodge grievance against the tender evaluation, in accordance with Rule 48 "Redressal of grievances by the procuring agency" Para (3) which states as follows: -

"Any bidder feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances within seven days of announcement of the technical evaluation report and five days after issuance of final evaluation report."

The results of the evaluation have been uploaded on the PPRA and LESCO website on March 07th, 2024 and no grievance was lodged by any bidder, during the stated time frame. The fact that an anonymous complaint, lodged against LESCO, during the period of tender evaluation, is itself evident of the fact that such complaints are lodged to intentionally jeopardize the public procurement process, which is essential for the continuous and uninterrupted electricity supply to consumers.

The appropriate forum for the bidder, not satisfied with the decision of the GRC is also provided under PPRA rules clause 48 (7), which states as follows: -

"Any bidder or party not satisfied with the decision of the GRC, may file an appeal before the Authority within thirty days of communication of the decision subject to depositing the prescribed fee and in accordance with the procedure issued by the Authority. The decision of the Authority shall be considered as final."

In this particular instance, no grievance was lodged against the evaluation criteria or evaluation report to the appointed GRC of LESCO, nor to the Authority (PPRA). More so, the contents of the complaint although false, frivolous and presented in such a manner to gain sympathy by any third person, are confidential documents that any person or party, not involved in the evaluation process shall not be having access of. The complainant while disguising his true identity has obtained such false information while practicing fraudulent, obstructive and corrupt practices, which itself is a matter of grave concern for LESCO and your office also.

Such information is highly confidential and can only be disclosed in accordance with Public Procurement Regulatory Authority Rules, Clause 35 "Announcement of Evaluation Reports" which states as follows: -

*Based on the procedure adopted for the respective procurement, the procuring agency shall announce the result of bid evaluation, in the form of final evaluation report giving justification for acceptance or rejection of bids at least fifteen days prior to the award of procurement contract:



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Provided that in case where technical proposal is to be evaluated separately, prior to opening of financial proposal, the technical evaluation report shall be announced before opening of the financial proposal.

The complainant has breached the said clauses of Public Procurement Regulatory Authority Rules, and such, LESCO does not have the obligation at this stage to clarify the points, as LESCO's procurement processes are governed by and under PPRA rules, however believing in the best, fair and transparent practices in procurement to bring the efficiency, economically and value for money, the detailed para wise reply is as under: -

Reply to Point 1

The complainant has stated that the discriminatory clause was put in the tender documents without vetting from CFO and Technical Specifications Wing (TSW), wherein, favoring only one bidder.

Contrary to the complainant's claim, it is apprised that the bidding documents have been duly vetted by the office of Chief Engineer (TS Design) LESCO and the evaluation has also been conducted by the same office. Discriminatory clause disadvantages the other bidders to participate in the competition. Can Transparency International provide the detail of any discriminatory clause put forth in the bidding document by LESCO or seek further reply from the complainant that which clause is being referred to as being discriminatory, by the complainant.

Prudent procurement practices in LESCO always allows and facilitates as many bidders as possible to participate in the competition, which is the essence of Public Procurement Regulatory Authority Rules.

Moreso, in accordance with Clause 10 "Specifications" of PPRA Rules, the technical specifications adopted for this tender are the same as approved and used in procurement of 132kV Circuit Breakers being developed by NTDC and are applicable throughout the DISCOs. Therefore, the allegation is totally false.

Reply to Point 2

M/s Hitachi is a registered General Order Supplier in LESCO since 2022. Refer to LESCO memo no. 38433-52 dated 31-03-2022 (Annex-A).

Hence this allegation is also baseless.

Reply to Point No. 3

Delivery time of 270 days was allowed in the tender documents which is same for all prospective bidders. It is also important to point out that certain local suppliers, in the past, are not being able to supply the 132kV circuit breakers in 180 days delivery time and hence being faced with liquidated damages. These local agents of the foreign manufacturers are seeking extension of time in all such previous cases. Therefore, this delivery time is applicable for all the bidders and is a more relaxed criteria.

Therefore, this allegation is also baseless.

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Reply to Point 4.

While allegations have been raised against acceptance of foreign bank guarantee by LESCO, it is informed that the letter under reference and the general practice in NTDC and DISCOs is always to accept the foreign bank guarantees duly vetted by a Pakistani Bank. The equipment to be purchased in this tender is imported from abroad and is not being manufactured in Pakistan. Therefore, to facilitate the foreign manufacturers to participate directly in the competition, foreign banks operating in Pakistan duly registered with State Bank of Pakistan are allowed for the issuance of bid securities. It is once again emphasized that, the basis criteria remained the same as always and does not restrict any bidder to participate in the competition.

Therefore, this allegation is also baseless.

Reply to Point 5

That M/s Hitachi fails to meet with the minimum three years of experience in the supply of Special technical Goods. The supply record provided in the bid, has been duly evaluated by the independent evaluator i.e. office of Chief Engineer (TS Design) LESCO. It is only after fulfillment of all qualification and supply criteria, the bidder is being declared as technically, commercially and financially responsive by the evaluator. LESCO maintains transparency in the evaluation of all tenders, as the evaluation is also done by a separate independent design department.

Therefore, this allegation is also termed as baseless and false.

Reply to Point 6.

That the type test reports submitted by M/s Hitachi are neither from STL accredited lab issued nor in the approved list of labs issued by NTDC. It is replied that the type test of the offered 132KV Circuit breaker has been conducted in the STL accredited member lab i.e., SATZ Ludvika, Sweden, which is not only an STL accredited lab but also falls in the list of NTDC approved labs, with reference to all the previous type tests policies as well as the latest revised type test policy of NTDC.

Therefore, again the allegation is totally false.

Reply to Point 7

That the submitted type test reports are expired and failed to meet the 10-year validity requirement as per NTDC type test policy valid up to 31-12-2018.

The NTDC revised type test policy, which the bidder has to comply and meet with, is the required type test validity and applicability criteria along with other related technical standards, parameters to meet with bid document criteria, has been approved by the NTDC BoD and circulated vide company secretary letter no. 2730-35 dated 03-02-2023, clearly states that "This type test policy will come into effect at once and shall replace the existing type test policy which was issued in 2019".

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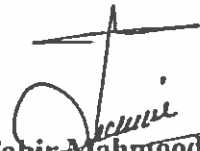
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Therefore, the type tests shall be valid till the design and other parameters have not been amended or modified by the manufacturer. The submitted type test reports have been checked by the evaluator in accordance with the applicable NTDC standards and revised type test policy applicable for the subject equipment.

Above all, PPRA Rule 41 (Confidentiality) states as follows: -

"The procuring agency shall keep all information regarding the technical or final evaluation confidential, as the case may be, until the time of the announcement of the respective evaluation reports in accordance with the requirements of rule 35"

As evident from the above narrations, the anonymous complaint lodged during the tender evaluation is to influence upon the results of the tender evaluation, and allegations raised in the complaint are totally false, baseless and to bar LESCO from adopting the fair, transparent and efficient procurement strategy. The anonymous complainant is trying to mislead the facts.


Tahir Mahmood Mayo
Chief Engr. (Development)

cc:

1. CEO LESCO for his kind information
2. General Manager (Tech) LESCO
3. Master file