



Transparency International Pakistan
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**“INTEGRITY PACT”
A PAKISTAN SUCCESS STORY**

Greater Karachi Water Supply Scheme
Phase-V, Stage-II,
2nd 100 MGD, K-III Project

**KARACHI WATER AND SEWERAGE BOARD
CITY DISTRICT GOVERNMENT KARACHI**



November 2003

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Karachi Water & Sewerage Board

23 July 2003

The Executive Director,
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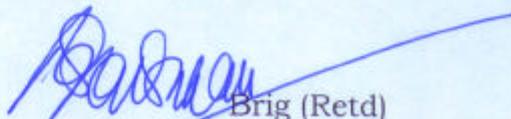
Dear Sir,

Through these few lines, I want to express my gratitude to the management of Transparency International Pakistan, especially the Procurement Specialist for their support and advise during the arduous undertaking of award of K-III Contracts in KWSB.

The Contract Award System in our environments are marred by a number of factors. Most damaging being absence of transparency and unwarranted discretion exercised by clients and contract awarding authorities at various stages of contract processing. This approach due to moral and professional deficit is further exacerbated by lack of, fair and efficient procurement documentation, pliable and exploitable contractors and utter absence of accountability of executives for their malafied decisions or non decisions. Resultantly, massive cost overruns, poor quality control regimes and major defaults have characterized our mega projects.

Another degradant is the arbitrary cost reductions after a legitimate bidding process. This is recoured by individuals and organizations without any inhibition. The irony being that those negotiations are not allowed under rules, violate integrity of tender processes, reduce credibility of organizations and open avenues of financial malfeasances. Obviously the completion cost of project not critical in this expeditious scheme of things. In K-III tendering we countered this vehemently. Tender evaluation criteria's were sacrosanct and not compromised despite all pressures.

Transparency International Pakistan in this backdrop was a big help in establishing this changed paradigm. In processing of the Tenders for Contracts of K-III Projects, a system of procedures with help of Transparency International Pakistan was put in place that obviated need of client discretion. The results are evident from this report of TI Pakistan experts. I thank once again TI and the procurement specialist for his informal help failing which the processing of K-III contract would not have achieved fruition as it did.


Brig (Retd)
Sardar Javed Ashraf Khan, SI(M)
Managing Director
KWSB - Karachi

Executive Summary

This report presents an analysis of the benefits of transparency in government procurement and of policy orientations for achieving them in practice, based on the procurement carried out for the Greater Karachi Water Supply Scheme, Phase-V, Stage-II, 2nd 100 MGD, K-III Project, Karachi Water and Sewerage Board, City District Government Karachi, Pakistan.

The conduct of government procurement involves a sequence of procedural steps that provide opportunities at different levels for transparency and open decision-making. These procedural steps are related to the initial announcement and dissemination of information about a tender; the definition and dissemination of criteria for prospective bidders; the establishment of timelines and guidelines for preparation and submission of bids; information about the type of award procedure being used; the definition and dissemination of criteria used to evaluate the quality and competitiveness of a given bid; and the availability of avenues for challenging given awards.

National Accountability Bureau Government of Pakistan has following statement on its website which gives annual cost of corruption in Pakistan as Rs 130 Billion;

The significance of corruption in Asia is highlighted by the fact that whenever a political regime has crumbled in Pakistan and some other countries in South Asia, a major and often decisive cause has been the prevalence of official misconduct among politicians and administrators. The current Pakistan regime has rightly concluded that in order to provide a stable system for the future, corruption from all segments of the society must be eliminated. It is generally believed that in terms of frequency, the incidence of corruption is the highest in law enforcement agencies. In terms of the amount of corrupt money changing hands, taxation departments, state-owned banks and development finance institutions, power sector utilities, and civil works departments probably account for the lion's share. Together, these departments and institution annually handle transactions in the order of approximately Rs.1.3 trillion. According to informal estimates, illicit income flows could amount to 10% of GDP. (The National Accountability Bureau www.nab.gov.pk)

On April 13, 2001, in a meeting held specifically to discuss Transparency in Procurement, the Managing Committee of the Karachi Water & Sewerage Board (KW&SB) decided that there was a need for Transparency in its Public Procurement, and on April 16, 2001, the Managing Director KWSB Brig. Behram Khan sent TI-Pakistan the following letter:

“In a special meeting convened on April 13th. 2001 to discuss “the Integrity Pact and the Transparency in Public Procurement Procedures., that the Karachi Water & Sewerage Board request that you may submit the concept of transparency International – Pakistan to establish procedures which should be built to include the Integrity Pact for Transparency In Public Procurement procedures within the KW&SB....”

In its first meeting, the coordinating committee set up specifically for the purpose of implementing Transparency in its Public Procurement and TI-Pakistan decided to implement the “Integrity Pact” in the Greater Karachi Water Supply Scheme (K-III Project) with an estimated contract value of more than Rupees Six Billion or nearly US Dollars One Billion.

Transparency International Pakistan executed the first phase of the project in 2002. The Integrity Pact was signed by all participating Consultants and Contractors on the Greater Karachi Water Supply Scheme, Phase-V, Stage-II, 2nd 100 MGD, K-III Project.

Finally based on TI Pakistan Integrity Pact, in July 2002 KW&SB awarded the Consultancy Contract on Rs. 62 Million. At a net saving to KW&SB of nearly Rs.185.5 Million, from the PC-I estimate of Rs. 249 million, the net savings were about 75%.

Techno Consult Pakistan Ltd were awarded the Contract in July 2002. Accordingly the Consultants and KW & SB agreed to follow Transparent Procurement of Contracts and the Consultant Contract Agreement included TI Pakistan Integrity Pact.

The TI Pakistan was associated with the KW&SB till the award of the Consultancy Contract and up to and including the prequalification of Contractors. However following the disassociation of Transparency International Pakistan from the project, Brig. Sardar Javed Ashraf Khan the Managing Director of KW&SB whole-heartedly supported and continued the process of Transparent Procurement that had been set up by TI Pakistan at the Consultancy Tendering Stage. The Managing Director regularly sought the advise of TI Pakistan on the award of tenders for Transparency and Procedural clarifications. The advise given by TI-Pakistan were normally fully implemented.

The Tender process for Procurement Contracts was completed in September 2003 and all major Construction Contracts were awarded at a total Cost of Rs 4448 million. It may be mentioned here that this total cost for award was against the approved PC-I Costs of Rs 5285 Million with variations of between 31.5% to 8% below the departmental estimates. The whole process which to all intents and purpose was wholly Transparent and in accordance with the spirit of the Integrity Pact, resulted in total saving of 15.83%.

This report presents an analysis of the potential monetary benefits of Transparency in Government Procurement and specifically details the success achieved by the "Integrity Pact" and the subsequent Transparency in Procurement of Services and Works on the K-III Water Supply Project up to and including the Awards of Contracts for the Consultancy and Construction which is now being implemented by the Karachi Water and Sewerage Board, under the Aegis of the Nazim - City District Government Karachi - Pakistan.

Benchmarks and standards and a constant monitoring are important for the credibility of any procurement systems. K-III Project which was critical to City of Karachi had serious problems at the pretendering stage. The Mega Project was structured on non tenable and outdated contract stipulations, defective structuring of packages, and prequalification of contractors without giving due cognisance to their capabilities. Two small contracts awarded were in default situation and whole contracting regime was in jeopardy. Brig. Sardar Javed Ashraf Khan, the new Managing Director reorganised and rationalised the whole Contract Packaging System, accepting delay in Tender Processing but not compromising on the principles and rules vital for a Transparent an efficient tendering process.

The management of KWSB following Standards prescribed by Pakistan Engineering Council, supported by Transparency International Pakistan, fully implemented Procurement Standards in the process of Tendering of Services and Works. The Project tendering was reorganized into packages, and 18 tenders were combined and reduced to 8 Packages. This arrangement was essential in order to make not only an economical work load for the bidders, to complete the tender Award in the least possible time frame, but to enhance the monitoring capability of the awarded contracts.

Given below is a summary of the results as officially reported by the Designated Consultants on the project and the success achieved through the Implementation of the Integrity Pact and Transparency in the Procurement Procedures for award of the Consultancy and Construction Contracts.

Total Savings in Consultancy and Construction Contracts due to Transparent Procurement in the Greater Karachi Water Supply Scheme, Phase-V, Stage-II, 2nd 100 MGD, K-III Project.

All figures in Pak Rupee

Nature of Assignment	GoP Approved Estimated Cost.	Contract Award Cost	Saving
Design & Supervision Consultants	249 Million	62 Million	187 Million
Construction Contracts	5285 Million	4448 Million	837 Million
Total	5534 Million	4510 Million	1024 Million

The net saving of Rs 1.024 Billion out of a total estimated cost of Rs 5.534 Billion is solely due to the implementation of Transparency in the procedures adopted for award of the contracts. It has also achieved at the same time a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for not only the government but also ultimately for the taxpayers.

Notwithstanding above the results would have not been possible without the commitment, integrity and professionalism of the New Managing Director KWSB. In an environment where contract awards are subject to intense pulls and pressures and rule are subject to discretion and not vice versa, an example of Transparent and merit based Tendering has been established perhaps for the first time in the history of mega project award in Pakistan. It is also a unique example where during prebid meetings, bid evaluation and contract award no negotiations were held to either change the contract stipulations, scope of work or for reduction of quoted prices. Managing Director Brig. Sardar Javed Ashraf Khan deserves appreciation for being instrumental in establishing a contract award regime that if followed will ensure a paradigm change in Procurement in Pakistan

A detailed report on the implementation of Integrity Pact in the Contract award process of Greater Karachi Water Supply Scheme, Phase-V, Stage-II, 2nd 100 MGD, K-III Project has been prepared for information and guidance.

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COST OF CORRUPTION

Amazing that in a poor country such as Pakistan, the National Accountability Bureau NAB has stated that Rupees 130 to 200 Billion is lost annually to the national exchequer in its development and other programs that could directly benefit the Citizens of Pakistan, the losers most times being the education and health sectors.

In broad terms, corruption is the abuse of public office for private gain. It encompasses unilateral abuses by government officials such as embezzlement and nepotism, as well as abuses linking public and private actors such as bribery, extortion, influence peddling, and fraud. Corruption arises in both political and bureaucratic offices and can be petty or grand, organized or unorganized.

Though corruption often facilitates criminal activities such as drug trafficking, money laundering, and prostitution, it is not restricted to these activities. For purposes of understanding the problem and devising remedies, it is important to keep crime and corruption analytically distinct. Corruption poses a serious development challenge. In the political realm, it undermines democracy and good governance by subverting formal processes. Corruption in elections and in legislative bodies reduces accountability and representation in policymaking; corruption in the judiciary suspends the rule of law; and corruption in public administration results in the unequal provision of services. More generally, corruption erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and officials are hired or promoted without regard to performance. At the same time, corruption undermines the legitimacy of government and such democratic values as trust and tolerance.

Corruption also undermines economic development by generating considerable distortions and inefficiency. In the private sector, corruption increases the cost of business through the price of illicit payments themselves, the management cost of negotiating with officials, and the risk of breached agreements or detection. Although some claim corruption reduces costs by cutting red tape, an emerging consensus holds that the availability of bribes induces officials to contrive new rules and delays. Where corruption inflates the cost of business, it also distorts the playing field, shielding firms with connections from competition and thereby sustaining inefficient firms.

Corruption also generates economic distortions in the public sector by diverting public investment away from education and into capital projects where bribes and kickbacks are more plentiful. Officials may increase the technical complexity of public sector projects to conceal such dealings, thus further distorting investment. Corruption also lowers compliance with construction, environmental, or other regulations; reduces the quality of government services and infrastructure; and increases budgetary pressures on government.

These distortions deter investment and reduce economic growth. In quantitative terms, Mauro's analysis of 94 countries suggests that a reduction in corruption of 2.38 points on his 10-point scale would increase a country's annual investment by 4 percent of gross domestic product (GDP), and would increase annual growth of GDP per capita by 0.5 percent (Mauro 1997). The World Bank's *The State in a Changing World, World Development Report 1997* further refines this relationship between corruption and investment by distinguishing between the level of corruption and the predictability of payments and outcomes. It suggests that investment drops off most in countries where corruption levels are high but the predictability of payments and outcomes is nonetheless low. (The USAID Handbook on Fighting Corruption)

IMPACT OF CORRUPTION

The particular deadliness of the disease of corruption lies in its self-perpetuation – any corrupt act sets in motion a vicious cycle in which the impact of corruption becomes the source for further acts of corruption. Direct loss to the public exchequer, in financial terms, is difficult to measure, but is significant. According to NACS Report, estimated revenue lost by corruption is 64%, 48%, and 45% in income tax, customs and sales tax respectively. If this perception is taken as true, the amount of revenue loss can go over Rs. 200 billion per annum. Other indicative statistics are equally alarming. World Bank estimate of revenue lost in Pakistan because of smuggling in 1992-93 was US\$ 5.08 billion. Ahmad and Ahmad (1995) estimated revenue loss in Pakistan because of black economy at Rs.40-45 billion in 1989-90 and Rs. 104 billion in 1995-96.

The biggest casualty of corruption has been the development process. In particular, the impact of aid received during the last 50 years has been minimal, as grand corruption distorts key developmental decision-making with choices influenced by private benefits and not by public needs. Pakistan's human development indicators such as literacy rates and infant mortality have shown little improvement in the past decade and are amongst the worst in the region. Furthermore, the waste of the development aid has saddled the country with high debt, which, at approximately 40% of budgetary expenditure, squeezes out, amongst other things, adequate remuneration for the public sector.

The private sector and commercial enterprise has been stifled by corruption. Unnecessary, obstructive and, above all, coercive bureaucracy impedes healthy businesses. Business depends crucially on operating in a climate where contracts can be made and enforced, and where risks can be predicted with confidence. The excessively intrusive public sector further reduces incentives for investment. The legal system affords little or no protection to small and medium sized businesses with a crippling effect on private sector development. This reduces revenue for public purposes, encourages massive wastes and increases costs to consumers.

Corruption in the police and judiciary has contributed to the breakdown of law and order. Laws are seen as oppressive and justified solely in the interests of those who abuse them for their selfish interests. In the absence of inexpensive and effective legal remedies, resort to extra-judicial methods has been on the rise. Mafias like land grabbers, 'Qabza Group', timber smugglers and narcotics dealers work through syndicates, co-opting public officials. Where the police are themselves corrupt, the lawbreaker is rewarded and those who obey the law are marginalized.

The blatant disregard for law and the ostentatious asset accumulation and display by the top public office holders has led to a decline in the moral standards and values of the society. The corrupt are no longer ostracized and they enjoy respect in society on the basis of wealth accumulated through illegal means, while the country remains under developed and poverty stricken.

There has been a loss of legitimacy of state institutions in the eyes of the populace. The concept of performance and meritocracy is subverted: 70% of the respondents who had tried for admission at educational institutions had not achieved this through fair practice. When this statistic is extrapolated it is clear that Pakistan is cheating itself of future potential. Rampant corruption has also led to the dismissal of four successive elected governments, creating political instability.

This political instability has contributed to Pakistan's vulnerability and lack of regional security. Finally, corruption, and the lawlessness and inequality it spawns, is also responsible for a negative image of the country internationally.

CORRUPTION & PUBLIC PROCUREMENT

Few activities create greater temptations or offer more opportunities for Corruption than public sector procurement. Every level of government and every kind of government organisation purchases goods and services, often in quantities and monetary amounts that defy comprehension. Whether this is really the most common form of public corruption may be questionable but without doubt it is alarmingly widespread and almost certainly the most publicised.

Public Procurement is the largest area vulnerable for alleged corruption. Corruption represents a major cost to the national exchequer – not only in terms of lost money which is approximated at about 30% of the government development budget, but also in terms of credibility.

Lack of political will to take the tough measures required to control corruption is considered a fundamental problem. “Upstream” (e.g. laws, advocacy campaigns, transparency, less discretionary systems, ethics codes, better remuneration) and “downstream” (e.g. enforcement, apprehension, punishment, sanctions) measures are all required. Tackling corruption, and showing that the efforts of the government are successful, must be a central part of any strategy to strengthen Transparency in Public Procurement.

TRANSPARENT PROCUREMENT PRINCIPLES

Transparency International (TI) firmly believes that the application of the principles of **integrity, transparency and accountability** to all decision making on major public investments will maximize the economic, financial, social, environmental and political benefits.

Integrity means that the best available technical expertise is employed in a non-discriminatory manner, that fair and open competition leads to a quality product at a fair price (value for money), and that the product takes into account the legitimate aspirations and concerns of all the stakeholders.

Transparency means that institutions, processes and decisions are made accessible to the public at large or to “representatives” of the public so that processes and decisions can be monitored, reviewed, commented upon and influenced by the stakeholders. It is essential that transparency be created from the very beginning so that potentially every step in the long decision making process related to the construction of a large dam can be influenced in a timely manner, if necessary. In particular the entire process of considering alternative sources of power or water, alternative locations or designs and the environmental and social aspects of the proposed project needs to be carried out in full transparency, for the protection of the people in the project area and of the environment, but also of the integrity and eventual economic justification of the investment. Indeed the assessment should start with questioning the additional power generation capacity or the water flows claimed to be “needed”. Often efforts directed at reducing demand (by better transmission and distribution efficiency or better demand management) or by better time management of water flows can be much more economic and profitable than new major investments.

“Transparency” in this context is not achieved by grudgingly allowing access to some internal documents to selected people. “Transparency” requires that the government or project agency (the “principal”) voluntarily and proactively provide full public information through the print and electronic media about the potential options, plans, designs and programs. Government must also

not be allowed to deal separately with individual stakeholder groups, keeping one away from the other.

Accountability means that governments, public (government-owned or –controlled) institutions and individual officials on the one hand, and companies and agents or other individuals acting on behalf of companies on the other hand, must be held strictly accountable for the correct and complete execution of their tasks and duties. Wherever violations of legal or contractual obligations occur, the perpetrator must be taken to task, by disciplinary, contractual and/or criminal sanctions, as appropriate. Laxness in accountability will quickly erode integrity.

FAIR AND EFFICIENT PROCUREMENT

Procurement should be economical. It should result in the best quality of goods and services for the price paid, or the lowest price for the acceptable quality of goods and services; not necessarily the lowest priced goods available; and, not necessarily the absolutely best quality available, but the best combination to meet the particular needs.

“Price” is usually “evaluated price” – meaning that additional factors such as operating costs, availability of spares, servicing facilities are taken into account.

Contract award decisions should be fair and impartial. Public funds should not be used to provide favours; standards and specifications must be non-discriminatory; suppliers and contractors should be selected on the basis of their qualifications and the merit of their offers; there should be equal treatment of all in terms of deadlines, confidentiality, and so on.

The process should be transparent. Procurement requirements, rules and decision-making criteria should be readily accessible to all potential suppliers and contractors, and preferably announced as part of the invitation to bid. The opening of bids should be public, and all decisions should be fully recorded in writing.

The procurement process should be efficient. The procurement rules should reflect the value and complexity of the items to be procured. Procedures for small value purchases should be simple and fast, but as purchase values and complexity increase, more time and more complex rules will be required to ensure that principles are observed. “Decision making” for larger contracts may require committee and review processes, however bureaucratic interventions should be kept to a minimum.

Accountability is essential. Procedures should be systematic and dependable, and records explaining and justifying all decisions and actions, should be kept and maintained. Competence and integrity in procurement encourages suppliers and contractors to make their best offers and this in turn leads to even better procurement performance. Purchasers who fail to meet high standards of accountability and fairness are quickly identified as poor partners with which to do business. (TI-Source book)

Public Procurement in Pakistan presently involves a sequence of procedural steps that allows both the opportunity at different levels for transparency and open decision-making and at the same time has in-built procedures with sufficient discretionary powers for manipulation of results. These procedural steps relate to the initial announcement and dissemination of information about a tender; the definition and dissemination of criteria for prospective bidders; the establishment of timelines and guidelines for preparation and submission of bids; information about the type of award procedure being used; the definition and dissemination of criteria used to evaluate the

quality and competitiveness of a given bid; and the availability of avenues for challenging given awards.

BENEFITS OF TRANSPARENT PROCUREMENT PROCEDURES.

Public procurement systems are the public expression (both domestically and internationally) of how countries do business. There is a strong “prima facie” case to show that Transparent Procurement Procedures adopted by government bring significant results in terms of savings.

Transparent Procurement goes beyond the monetary benefits derived from better procedures and includes credibility in the total process, attracts reputable firms to participate, and achieves good governance and at the same time accountability.

Monitoring and regular evaluation of systems are essential in strengthening procurement systems. They are important for showing that the transparent procedures are working and are delivering results.

TI – PAKISTAN’S INVOLVEMENT IN PUBLIC PROCUREMENT

TI Pakistan has played an important role in obtaining the commitment of Government of Pakistan to support mainstreaming the Procurement Procedures, ensuring Transparency and Public Participation in the Public Procurement Procedures and also commitment of the GoP to implement the proposals given in the World Bank CPAR 2000.

TI Pakistan has supported the efforts of the National Accountability Bureau in preparation of the chapter on procurement in its National Anticorruption Strategy (NACS), cooperating with them in incorporating within this Strategy recommendations related not only to enhance Transparency in Public Procurement approved by all the stakeholders at a convention organized by the National Accountability Bureau, GoP in July 2002) but also recommending the implementation and monitoring of the OECD Convention on Combating Bribery of Foreign Public Officials.

The Strategy document was approved both by the Cabinet and the President in October 2002. In addition, a TI Mission visiting Pakistan in April 2002 at the request of the GOP had supported the initiative of the World Bank in its earlier CPAR report on Pakistan recommending the setting up of a Public Procurement Regulatory Authority. The GOP immediately approved the same through an Ordinance in May 2002.

It has now been directed within the NACS that the “Integrity Pact” will be a part of all major Procurement Contracts of Works and Services within the Public Sector Organizations. Of the Government of Pakistan. Major decisions of NACS are at [Annexure-A](#)



Integrity Pact

Introduction.

Transparency International Pakistan (TI-Pak) is one of more than 90 National Chapters of Transparency International worldwide. All these chapters are dedicated to the fight against corruption associated with the Administrative, Financial and Procurement Procedures within the Public and Private Sectors.

Since its inception in 2001, TI-Pak has placed special emphasis on understanding and combating corruption in the contracting of public resources, which we consider as one of the most critical and strongly felt aspects of the prospects for failure or success of development programs and projects especially in Third World Countries. To this end, TI-Pakistan has been participating, with various institutional agencies, in strategic alliances directed toward the identification of bribery and towards the development of mechanisms, tools, or instruments that will help to enhance transparency, efficiency, and effectiveness in combating corruption within Public Procurement and Public-sector contracting in the country. One such tool developed by Transparency International and is being advocated extensively for implementation by TI-Pakistan is the “Integrity Pact.”

Integrity pacts have been designed by Transparency International and are in use by national TI chapters since 1994 in many different Countries of the world, any analysis of these pacts’ characteristics, scope, and achievements should be approached from the standpoint of the nature of the specific institutional, social, political, and cultural conditions of the national environments in which they are being implemented.

Bribery and extortion in public sector procurement of goods and services are key manifestations of corruption. “Public sector” in this context includes national or provincial governments, administrations of cities or local communities as well as prostates and other organizations carrying out public functions.

“Integrity Pact” in KWSB.

The present government since its establishment in October 1999 has embarked on a program to curb corruption in both the Public and Private sector. The KWSB in line with this policy agreed to implement the Integrity Pact (IP) within the Greater Karachi Water Supply Scheme Phase-V, Stage-II, 2nd 100 MGD in an effort to provide Transparency in its procurement. [Annexure -B](#)

Purpose of the Integrity Pact (IP).

The “ Integrity Pact” was developed following extensive discussions with governments and international agencies such as the World Bank, the Inter-American Development Bank, the Asian Development Bank, the International Finance Corporation, UNDP, the Court of Arbitration of the International Chamber of Commerce and FIDIC. “Integrity Pact” is a system which insures that all activities and decisions of public offices are transparent and that the projects/works are implemented, services are provided or taken, and goods/materials are supplied without giving or taking any kind of benefit, financial or otherwise. Justification of the decisions taken is provided

without much ado to the parties concerned or to any interested individual or institution/organization.

The Integrity Pact is designed to make public procurement practices more transparent.

The Integrity Pact (IP) is intended to accomplish two objectives:

- i) to enable companies to obtain from bribing by providing assurances to them that
- ii) their competitors will also refrain from bribing and
- iii) government procurement agencies will undertake to prevent corruption, including extortion, by their officials and to follow transparent procedures; and
- iv) to enable governments to reduce the high cost and the distortionary impact of corruption on public procurement.

The IP concept could also be applied in similar situation, e.g. when a government as part of its privatization program, invites bidders to tender for the acquisition of government assets, or for the granting of telecommunications, transport, mining logging or other such licenses.

Considering the critical role normally played by consulting engineers (or other consultants) in preparing the procurement documents, evaluating the bids and supervising the contract execution, their selection should be subject to the IP concept as well.

In practically all countries, all forms of domestic corruption are illegal, and one should assume that all government will continue to prosecute all offenders.

The IP implemented in the KW&SB however focused on the prevention of bribery in order to obtain or retain a contract or other improper advantage

Bribery includes any payments or other favours offered or granted in order to

- win a contract award
- get a contract change order (adjusting the price, the specifications, the time frame for implementation or any other important contract components) approved by the government,
- get sub-standard or sub-specification performance approved by a public official or the supervising consultant and their staff,
- circumvent tax, duty, license or other legal obligations, or
- Induce an official to breach his/her official duties in any other way.

Main Features of an IP.

The IP is an agreement between the government/government agency and the bidders/companies, who participate in the bidding process for the supply of goods or services for a selected contract/project, that bribes will not be offered, granted or sought, both during the bidding process and during implementation of the contract by the successful bidder. The IP has the following main features:

- A formal no-bribery commitment by the bidder, as part of the signed tender document, [supported by a company Code of Conduct and a Compliance Program];
- A corresponding commitment of the government to prevent extortion and the acceptance of bribes by its officials;
- Disclosure of all payments to agents and other third parties;
- Sanctions against bidders who violate their no-bribery commitment; and
- An involvement of Civil Society in monitoring the bid evaluation, the award decision process and the implementation of the contract. Alternatively to the involvement of Civil Society, or preferably in addition to it:

- Public disclosure of the award decision, including the major elements of the evaluation and the reasons for the selection of the successful bidder.

The IP function as follows:

The government/government agency, when inviting contractors or suppliers of goods or services to tender for a specific contract, informs the potential bidders that their tender offer must contain a formal commitment, on behalf and in the name of the bidder's CEO, not to offer or grant any payments or favours in order to obtain or retain this contract or other improper advantage, and not to collude with other actual or potential bidders with the aim of restricting competition. The bidder's commitment will have to cover all managers and employees of the company as well as agents consultants, subcontractors and consortium partners of the bidder. The government on its part will commit itself to prevent extortion and the acceptance of bribes by its officials, and to follow transparent procurement rules. In substance, these commitments are nothing other than an agreement to respect and apply the existing laws of the country.

Because a bidding company acts through many employees and agents, the company's and CEO's commitment should (not least for the CEO's own protection) be supported by a company-wide no-bribery policy (a "Code of Ethics" or "Code of Conduct") and implemented through a compliance program which assures that all employees and agents will be familiar with, and observe, the no-bribery policy and commitment. Where the company already has a written no-bribery policy in effect, it can furnish a copy of that policy together with the compliance program implementing that policy. Where a company does not have such a policy, or does not have a written compliance program, it can prepare a compliance program for the particular contract.

A Code of Conduct and compliance program normally addresses the following issues:

- An unequivocal statement of the company's policy prohibiting all forms of bribery and collusion;
- The company's policy regarding gifts and entertainment, travel and lodging expenses, political contributions etc;
- Distribution of the policy (in appropriate languages) to all managers and employee;
- An acknowledgement of receipt and acceptance by the employees, to be renewed annually;
- Training controls, external audit and record keeping; and
- Application of appropriate sanctions (including possibly termination of employment) in case of violation.

The government needs to evaluate the no-bribery policy /code of conduct and the compliance program adopted by every bidder at the time of bid submission. Only if and when there is cause to suspect malpractice by one of the bidders, that bidder's policy and compliance program will be evaluated. Any shortcomings identified at the time would then be relevant to the sanctions, including the length of any period of debarment to be imposed for breach.

While it is highly desirable that all companies develop and apply a no-bribery policy and a compliance program, its existence is not mandatory under the IP. Disclosure of Payments to Agents and other Third PARTIES.

One key issue lies in the transparency relating to payments to agents and other third parties in connection with the contract. There are, of course, good and valid reasons why agents may be engaged to perform legitimate services, and be paid an appropriate amount for such services. However, agents' commissions are a traditional avenue for the concealing of bribes. The IP concept therefore requires that all past and intended future payments to agents and other third parties be disclosed at the bidding stage, and that they be formally recorded and reported during

the execution stage by the successful bidder, with certification by an appropriate senior manager. This certification is necessary so that senior managers and the CEO will not be able to disclaim knowledge of malpractice as presently often is the case. This requirement is bolstered by the compliance program which the successful bidder should have in place.

Sanctions.

Bidders who violate their no-bribery commitment during the contract award process, or the successful contractor or supplier, who violates the no-bribery commitment during the contract execution phase, will be subject to significant sanctions.

Sanctions normally will include denial/cancellation of the contract, liability for damages (to the government as well as to the competing bidders), and forfeiture of the bid security and debarment of the offender from all business with that government for an appropriate period of time.

In case where the government debar an offender from government business because of a violation of the no-bribery commitment under an IFI/external donor financed contract, the IFI/external donor should also seriously consider debarring that offender from eligibility for contracts financed by it globally.

Damage claims by the government could be open-ended or they could be in the form of liquidated damages where a certain percentage of the contract value (say, five or ten percent) is pre-agreed as “the damage” unless either party can demonstrate and prove that the actual damage is larger or smaller. Damage claims by competitors could also be pre-set as a percentage of the contract value (say, one-half of one percent or one percent), unless higher or lesser damage can be proven. The legal route for enforcing the damage claims, to be announced in advance by the government, may be any suitable national court system, or it may be arbitration e.g. under the auspices of the International Chamber of Commerce. By empowering unsuccessful bidders to enforce sanctions themselves (through the courts or by international arbitration) their confidence in the integrity of the process as a whole will be increased.

Role of Civil Society.

It is essential that a process be employed which involves consultation among key parties and which leads to the adoption of a methodology which enjoys the confidence of the private sector. Where an effective civil society structure exists, possibly also a National Chapter of TI, it will be highly desirable to enlist its support by providing access for an effective monitoring role – directly or through expert consultants – and thereby create transparency and credibility to the process. It is therefore important that a government does not seek unilaterally to impose such system but it is recommended that the government arrange for prior consultation, possibly in the form of a hearing or hearings with the key actors.

A government may also, either in addition to the involvement of Civil Society, or possibly in its place, adopt a policy of total transparency of the bidding, bid evaluation, award selection and contracting process, through outright publication of all the critical documents or by giving easy access to relevant documents and information to any interested party.

Provision for suggestions and complaints:

- A suggestions box should be placed in the office premises to encourage suggestions from the concerned or other interested parties.
- Arrangements for the analysis of and implementation of feasible suggestions be made.

- An official should be designated to respond to the suggestions and complaints thus received.
- Complaints be studied and redressed as soon as possible.
- All these processes be made public.

Concluding Remarks.

The IP concept should be presented to the respective bidders as early in the process as possible, so as to assure that the new rules are established before interested parties have had the opportunity to enter into different (traditional) arrangements. This means inter-alia that for any contract with pre-qualification procedures (e.g. major civil works contracts) the bidders are requested to present their commitment as part of their submission for pre-qualification, or at least that the companies invited to apply for pre-qualification are informed of the use of the IP concept in the bidding process.

The attachments to the IP in KWSB:

- A model communication Attachment- I form to be given by the KWSB to the bidders for the selected contract, which would normally be incorporated into the government's Invitation to Tender; and
- A model of "Integrity Pact" Attachment-II by the KWSB.
- A model of "Memorandum of Understanding" between KWSB and TI-Pakistan
- Public Notice for announcement of the Contract
- Public Bill Board
- Commitment of the officers/ employees of KWSB
- Proposed "Access to Information" Policy
- Code of Conduct of Engineers

These above "Models" would be attached to the government's invitation to bidders and must be adjusted to the specific requirements of the selected contract.

It must be remembered that applying the Integrity Pact is just one part of the Process towards total Transparency in the Procurement Procedures.

"IP" AND INTERNATIONAL ORGANIZATIONS.

FIDIC in 1997 recommended incorporation of Transparency International "Integrity Pact" in Tender of Procurements.

The World Bank Document on Helping Countries Combat Corruption published in September 1997, after TI introduced "Integrity Pact", also recommend following requirements;

- *Introducing a provision in the Procurement and Consultant Guidelines to permit, at the request of a borrower, the inclusion in the bid form of an undertaking to observe the laws of the country on fraud and corruption in bidding and execution of the contract (in effect, a "no bribery pledge").*

Asian Development Bank taking cognizance of the World Bank measures for revisions of their SBDs for more transparency, in its Guidelines on the use of Consultants revised in April 2002 included following no briber pledge provisions,

"With the specific agreement of the ADB, a borrower may introduce, into the invitation for proposals for large contracts financed by the ADB, an undertaking of the consultants to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery) as listed in the invitation for proposals. A footnote shall also be inserted into the documents where such a pledge is inserted with a noting that such a pledge has been placed at the request of the borrower."

TI- PAKISTAN AND THE CDG - KARACHI

Transparency International Pakistan contacted Niamatullah Khan Nazim City District Government Karachi CDGK for inclusion of Integrity Pact in all CDGK Projects. On 22 May 2003 CDGK signed an agreement between Transparency International Pakistan (TI-Pakistan) and City District Government Karachi in which it is agreed that CDGK along with TI-Pakistan will work jointly in the implementation of the NACS decision for providing Systemic improvements initially within the Works & Services Department of CDGK on transparent procurement

procedures. It will include Transparency in all its dealings and incorporate the necessary Checks and Balances in CDGK's effort to reduce corruption.

Transparency International Pakistan is now working on preparing a comprehensive Procurement Manual for all Procurements by CDGK which shall comply with the requirement of Transparent Public Procurement based on the principles laid down in the National Anti-Corruption Strategy (NACS).

This manual is being compiled to achieve following aims;

“All Procurements shall be from competent firms, of the best quality of Works goods / services, at the same time to obtain the lowest price for the stipulated/acceptable quality of goods/services.”

Through introduction of Transparency International's "Integrity Pact" in all CDGK Contracts of over Rs. 5 million, Citizen Monitoring will automatically become an integral part of the Procurement Process, a Key Factor for the Checks and Balances in the Award and in the Implementation phase of Projects.

Timely and Transparent Contract Implementation is a key to the success of Procurement and will only be achieved by making available on CDGK website to all tenders notices, , evaluation reports, award decisions Contract Monthly Progress reports and variation orders for external scrutiny.

INTERNATIONAL SUPPORT TO TI-PAKISTAN

Partnership for Transparency Fund, funded TI Pakistan in June 24, 2001 to carry out a detailed examination of KWSB's present system, rules, statutes, and channels of approvals, and identify legal hindrances and lacunas in the present system of contracting. This team has advised KW&SB on how to introduce an Integrity Pact compatible with local requirements and conditions and help prepare the necessary legal and technical documentation. The funds were used for the international experts visit to Pakistan and local surveys, interviews, documentation and workshops to ensure that all the stakeholders (including the staff and managers of KWSB, prospective contractors, the media and local civil society organizations) understand the concept and specific application of the proposed Integrity Pact

PTF is a not-for-profit corporation registered in New York. Kumi Naidoo, Secretary-General of CIVICUS, is Chairman of the PTF Board. Pierre Landell-Mills is President and Chief Executive Officer, and Dan Ritchie is Secretary. While PTF maintains close operational links with TI, it is a separate organization with a distinct mission, operating procedures and staff. PTF headquarters are located at 1100 New Hampshire Avenue NW, Washington, D.C. The United Nations Development Program has approved a significant grant as seed money to enable the PTF to begin operations.

“IP” & TRANSPARENCY IN KW&SB.

In April 16, 2001, the Brig. Muhammad Behram Khan Managing Director issued a formal letter accepting the assistance of TI-Pakistan for implementation of the "Integrity Pact" and Transparency in the workings of the KW&SB with regards its Public Procurement.

In May 2001, to confirm the establishment of the “Integrity Pact” a Workshop was organized by TI-Pakistan for the Karachi Water and Sewerage Board. This Workshop was chaired by the Managing Director and attended by the Deputy Managing Directors, Senior Engineers and Administration, a total of nearly 50-officials of the KW&SB. The Keynote speaker on this occasion was Dr. Michael Wiehen, President TI-Germany, who introduced the Integrity Pact principle and its benefits in establishing Transparency in Procurement within the Karachi Water & Sewerage Board.

On 23rd August, 2001, Dr Michael Wiehen specially visited Pakistan and Congratulated the Managing Director and the Coordination Committee of the KWSB on the preparation of a transparent document “Letter of Invitation (LOI)” for short listing of Consultants/Consortiums in a short period. The document was commended as not only being transparent but that it included a non-discretionary evaluation criteria.

He informed the members present, that the LOI produced by KWSB is probably first of its kind in international bidding and that Transparency International will consider circulating for adoption of this LOI in the other TI-National Chapters. Brig. Muhammad Bahram Khan, Managing Director assured that other documents viz. Contract Agreement, Evaluation of Contractors and Conditions of Contract will also be made Transparent and discretion free, and declared that all forthcoming procurement projects of KWSB will follow the same procedures.

The Criteria for award of contracts was not the Least Cost or the lowest priced tender. The main consideration for award being an overall quality cum cost criteria which took into account both the technical and contractual responsiveness.

The Criteria for the Lowest Responsive Evaluated Tender allows for better tailoring by the procuring agency. However, being inherently less objective than a lowest-price criterion, calls for stronger procedural guarantees of transparency and clarity.

Many of the problems encountered by procurement agencies relate normally to the criteria that lacks clarity and which allows for varying interpretations (discretion) by the public officials in charge of the procurement. This in turn greatly reduces the predictability of the process and has even on occasion given rise to allegations of corruption. Furthermore following award such situations of uncertainty leaves room for successful bidder to seek renegotiation in the value of the contract, thus allowing for collusion and unnecessarily increase in the overall costs of the project.. It also encourages less competitive suppliers to put forward underrated bids in order to win the contract, knowing that re-evaluation of the costs was always possible..

The Criteria for short listing and appointment of consultants on the K-III Project was made Transparent and Discretion-free. Only those responsive proposals were considered which scored 75% marks in technical submission, and the best technical proposal was selected for award of the Contract.

Finally based on TI Pakistan Integrity Pact, in July 2002 KW&SB awarded the Consultancy Contract on Rs. 62 Million. At a net saving to KW&SB of nearly Rs.185.5 Million, from the PC-I estimate of Rs. 249 million. The K-II Project which comprised of works of almost the similar volume of work as that of K-III was executed in the years 1993-2001 at Consultancy fee of Rs 180 Million plus US \$ 4 million.

Techno Consult Pakistan Ltd was awarded the Contract in March 2002. Accordingly the Consultants and KW & SB agreed to follow Transparent Procurement of Contracts as the Consultant Contract Agreement included TI Pakistan Integrity Pact.

TRANSPARENCY IN CONSTRUCTION CONTRACTS

There was an administrative change in the Management of the KW &SB. A new Managing Director Brig. Sardar Javed Ashraf Khan took charge in November 2002.

The Tendering of Construction Contracts commenced in August 2002. Although TI Pakistan did not participate in the monitoring of the Bidding Process of Construction Contracts on full time basis, as the KW & SB due to Government of Sindh's procedural approval, but the Managing Director Brig. Sardar Javed Ashraf Khan supported the implementation of the transparent procurement procedures set up by TI Pakistan at the Consultancy Tendering Stage, and regularly sought TI Pakistan advise on Transparency and Procedural clarifications in tendering.

The Design Phase of K-III comprised the detailed design and preparation of Tender Documents for 16 nos. Conduits, Syphons; MS and PRCC Mains and 2 nos. EPC contracts for Pumping Stations, Bidding Process and Award of Contracts. Managing Director, Brig. Sardar Javed Ashraf Khan reviewed the Project, recommended a regrouping of 18 Sub Projects, and managed to complete the award of all contracts in a Transparent and Discretion Free manner to the Responsive Lowest Evaluated Bidders within a period of 12 - months.

Right from the very outset and throughout the entire process of award, the Managing Director KW&SB has followed a professionally sound approach in restructuring and devising modalities towards project implementation. TI Pakistan appreciates that through his personal efforts Brig. Sardar Javed Ashraf Khan Managing Director KW&SB has spearheaded the project to meet the requirement of the "Fast Track" schedule solely through his lobbying at all forums of the City and Provincial Governments. The Managing Director KW&SB was also successful in achieving the relevant project milestones.

The tendering processing were accomplished by KW&SB in a timely manner and with following outstanding features:

- Indubitable transparency prevailed during the entire tendering process right from the prequalification stage through tendering and award of works.
- Contract adjudication modalities remained fully accountable to date as strict adherence was maintained to standing rules & regulations. All procedures were fully complied with.
- Both KW&SB and Consultants endeavoured their best to minimize lest not eliminate legal and contractual risks typically associated with procurement of works of this magnitude costing over Rs. 5 billions
- Good quality of work was ensured at reasonable costs – works awarded at good value for Government funds. Emphasis was given to award the contracts to qualified and fully responsive bidders to achieve the most competitive cost as opposed to traditional "Lowest m submitted Cost" ideology giving due diligence to quality of human & technical and financial resources of contractors. The basis of Selection was thus only the Most Responsive Lowest Evaluated Bidder and not the Lowest Submitted Bidder.
- Un-necessary financial burden over contractors was avoided by providing all unknown factors in the tender's viz. Price escalation, Time of Approval by Engineer and Payment Time, which might lead to cash flow crisis or other complications in project implementation.
- Undesirable practices in tendering were checked & curtailed at the very onset – Full sanctity of tenders has been maintained. All external pressure was resisted.
- In comparison to K-II, a cost effective & advanced implementation regime was prevalent in the entire contract realization efforts.

- On few tenders, Legal situation arising as a result of contractor's default on certain contract stipulations were handled with utmost care & with professionalism. Widest ranges of opinion were obtained both formally & informally, and decisions thereafter were taken promptly.
- Contract documents were made contractor friendly using PEC stipulations recently notified. The PEC terms and conditions were recently notified.
- Pre-bid meetings held with the contractors and queries were responded to both by word and in writing.
- Only contractors of technical competency and financial capabilities were pre-qualified for each contract package thereby ensuring robust and equitable participation.
- Sufficient time as per requirement of PEC procedures was given to contractors to structure their bids properly.
- It was emphasized that no over or under loading of contract pricing would be accepted and bids will be qualitatively examined on merit and workability.
- Low cost syndrome was contested and any pooling to give higher costs was countered.
- Consultant & Project Team worked together for the purpose of ensuring transparency and responsive bids.
- Informal channel of advise and information from organizations like Transparency International Pakistan and Pakistan Engineering Council were solicited by MD KWSB.

To ensure procedural, time related & funding constraints on project, likely over runs have been controlled / prevented well in advance. In the procurement / tendering process of K-III, a mega project, care had been taken by adopting preventive measures such as:

- Avoiding Technical problem during project
- Keeping in cognizance the effects of Rise of Prices of materials (escalation).
- Minimizing / eliminating changes to scope of work
- Claims/litigation on project
- Vigilance to curb corruption
- Recognizing Political Climate
- Ensure and encourage swift decision making within hierarchy
- Inconsistent Tenders were re-invited

THE FINANCIAL ASPECT

The Estimate for the Consultancy Fee for Design and Supervision, and Construction Contracts made by the Karachi Water & Sewerage Board for the K-III Water Supply project and recommended to the ECNEC through its PC-I for approval was approximately Rupees 249 Million and Rupees 5285 Million. These costs for Project were based on a similar project the K-II Water Supply Project completed in 1998 but initiated in 1988 – ten years earlier and FUNDED BY THE WORLD BANK. We can safely say that the K-III project is a replication of the K-II project funded by the World Bank.

The Tender process for Procurement Contracts has been successfully completed and 14 Contracts have been awarded at Cost of Rs 4448 million, against approved PC-I Costs of Rs 5285 Million. With Variation of 31.5% to 8% below engineers estimate, the whole process which was transparent resulted in saving of 15.83% in cost from the approved Engineers Estimates.

TOTAL SAVINGS IN CONSULTANCY AND CONSTRUCTION CONTRACTS.

All figures in Pak Rupee

Nature of Assignment	GoP Approved Estimated Cost.	Contract Award Cost	Saving
Design & Supervision Consultants	249 Million	62 Million	187 Million
Construction Contracts	5285 Million	4448 Million	837 Million
Total	5534 Million	4510 Million	1024 Million

The tabulated results of Contracts awarded are at [Annexure -C](#).

The Consultants report is attached as [Annexure-D](#).

Annexure -A

National Anticorruption Strategy 2002

Major Guidelines for Development, Procurement and Contracting;

Systemic weakness	Proposed strategy	Proposed measures	Responsibility
Failures in mechanisms to ensure sound use of development funds	Introduce rigour, wider participation and transparency in development process	Development projects to be based on independent community needs assessment with broad local public participation	All tiers of Local Govt
		Laid down requirements for details of all projects to be made public at planning stage, either in local community (local projects) or in the media (national projects) Aid agencies and International	All concerned organizations
		Tenures to be fixed for Project Directors. In case of short duration projects of upto three years, posting for the entire project period. For projects of longer duration, there must be a criteria of minimum three years	All concerned organizations
Lack of clear, standard, coherent and transparent set of laws and procedures	Create standard, coherent and transparent set of laws and procedures	Either the Pakistan Engineering Council (PEC) byelaws or the World Bank guidelines should be uniformly implemented until such time the Public Procurement Regulatory Authority prepares its own laws and procedures	GoP
Procurement rules and practices outdated, anti-competitive, non-transparent	Ensure that new law and procedures facilitate fair competition, transparency and public participation	High value and high profile procurements in particular, above Rs 5 Million for procurement of services, and over Rs 50 Million for procurement of works, goods and equipment, to be based on Integrity Pacts. These shall serve as model for inclusion in law	All concerned organizations
		All consultancy contracts except single source selection of engineering experts, should be processed on the two envelope system, evaluated on the basis of technical competence with minimum passing marks of 75%. The	PPRA

		financial proposals of firms lower than 75% should be returned unopened, the remaining financial proposals should be publicly opened, and the contract awarded to the lowest bidder	
		Project specifications to be widely publicised/circulated/ advertised with defined minimum period before invitations to bid	PPRA
		Bill of Quantity (BOQ) Format requires change, to include breakdown against each BOQ item cost of material, equipment, labour & overhead costs	PPRA
		Evaluations should be on pre-determined and pre-publicised criteria	
		Evaluation committees for procurement over defined amount should include members of civil society, for example from Institute of Chartered Accountants, PEC and FPCCI	
		Evaluation reports should be made public, e.g. by placing on website or locally by the clients 10 days prior to award of contracts to invite any objections from any sector for the purpose of making any re-evaluation, if needed	
		Introduce standard systems of required documentation, reasons for decisions and procedures for audit	
Foreign governments, multinational/ national companies and donor agencies encourage or fail to prevent corruption	Build the willingness, capacity and confidence of the governments/ multinational/ donor agencies to fight corruption	All companies operating in Pakistan to have Code of Conduct, Good Governance Corporate policies, including no bribery provisions in conformity with US Foreign Corrupt Practices Act and the OECD Convention etc.	Transparency International (embassies, donor agencies and PPRA
		Provide guidance to all businesses to inform their employees about the tougher anti-bribery arrangements, and the definition of bribery i.e. includes entertainment of officials etc.	FPCCI, TI Pakistan, American Business Council, Overseas Investment, Chamber of Commerce and Industry
		All companies operating in Pakistan to have Code of Conduct, Good Governance Corporate policies, including no bribery provisions in conformity with US Foreign	FPCCI, TI Pakistan, American Business Council, Overseas Investment,

		Corrupt Practices Act and the OECD Convention etc.	Chamber of Commerce and Industry
Honest bidders dissuaded from bidding	Reform procedures and practices to incentives wider group of bidders	GoP to put in place arrangements to guarantee swift payment of consultants, contractors' invoices	PPRA, Ministry of Finance
		Introduce system of milestone payment release system, i.e. opening of local Letter of Credit (LC), and development funds for projects should be placed with Bank for opening of LC for full duration of Project	PPRA, Ministry of Finance
		Effective system for blacklisting corrupt contractors	PPRA, Ministry of Finance
Projects offer opportunities for corruption and fail to meet development needs	Strengthen functional specialisation and professionalism in technical/developmental areas	Ensure all projects planned, and payments made, on the basis of milestones and outputs	PPRA,
		In key technical/developmental depts., amend service laws to provide for: continuity of professional officers on projects and in technical departments and prevent rotation to different dept; technical depts. to be headed by technical professionals	Ministry of Law, Ministry of Finance, Establishment Division and Provincial Governments



Communications by the KW&SB to all Firms for Short listing/pre-qualification for Greater Karachi Water Supply Scheme Phase-V, Stage-II , 2nd 100 MGD Project.

Attachment 1

Invitation to Firms for KW&SB Contract

1. The Government of Pakistan (GOP) is committed to fight corruption in public contracting as part of this program, Karachi Water & Sewerage Board (KW&SB) has reviewed its arrangements for the letting and implementation of contracts against criteria of transparency and accountability.
2. In an effort to limit the scope for abuse, KW&SB is introducing new procedures, which KW&SB is sure your company will wish to support. The objective is to ensure that there is fair competition for government business, and that competition takes place openly and in a manner that provides fair and equal opportunity for all competitors. The new procedures will also apply to the execution of contracts by the successful bidder/supplier. The new Procurement Procedures will be set out in the Letter of Invitation/Tender Documents.
3. As part of our confidence building strategy, KW&SB will treat the oversight and monitoring of the implementation of these new procedures with the highest priority. KW&SB will pay particularly close attention to the need to prevent any case of extortion, or acceptance of bribes, by KW&SB officials. We are asking all those bidding for KW&SB business to assist the government by reporting any instances of this occurring.
4. A special office for the investigation and handling of any reports of extortion or bribery in public procurement has been set up in the Managing Director's Office.
5. KW&SB hopes to obtain your company's endorsement of these procedures as fair and reasonable, and as having your full support.



Attachment 2

The Integrity Pact

1. Karachi Water & Sewerage Board Procedures for Bidding for Public Sector Contracts:
2. The following procedures will apply to the letting of contracts for Short-listing of “Consultants Services for the Greater Karachi Water Supply Scheme Phase-V, Stage-II, 2nd 100 MGD Project”.

Or

(The following procedures will apply to the letting of contracts for Pre-qualification of Contractors for “Procurements Contracts for the Greater Karachi Water Supply Scheme Phase-V, Stage-II, 2nd 100 MGD Project”.)

3. These procedures are in addition to the standard legal and administrative requirements.
4. They will form part of the terms and conditions of each contract and will be actionable, in the event of breach, by the KW&SB and any of the competing bidders.
5. Each bidder must submit a statement, as integral part of the Tender documents, with the following text:
 - a) This Company places importance on competitive tendering taking place on a basis that is free, fair, competitive and not subject to abuse. This Company is pleased to confirm that (i) it has not offered or granted, and will not offer or grant, either directly or indirectly through agents or other third parties, any improper inducement or reward to any public official, their relations or business associates, in order to obtain or retain this contract or other improper advantage, and (ii) it has not colluded, and will not collude, with others in order to limit competition for this contract.
 - b) This Company has a No-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the no-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the Karachi Water Supply Scheme Phase-V, Stage-II, 2nd 100 MGD Project, including agents, consultants, consortium partners, subcontractors and suppliers. Copies of our No-Bribery Policy/Code of Conduct and Compliance Program are attached.

Or

In cases where companies participate in the bidding which do not yet have a general no- bribery policy/Code of Conduct:

- c. This Company has developed, for the purposes of this tender, a Compliance Program – copy attached – which includes all reasonable steps necessary to assure that the no-bribery commitment given in this statement will be complied with by its managers and

employees, as well as by all third parties working with this Company on the Greater Karachi Water Supply Scheme Phase-V, Stage-II, 2nd 100 MGD Project, including agents, consultants, consortium partners, subcontractors and suppliers.”

- d. This commitment is in the name and on behalf of this Company’s Chief Executive Officer
 - e. This Company agrees for the resolution of any damage claims arising from this contract under Law of Pakistan.”
- 6 Where a bidding company is a foreign company and has a subsidiary in Pakistan, the commitment must extend to that subsidiary and its managers and employees as well. If the tender is submitted by the subsidiary in Pakistan, the no-bribery commitment needs to extend also to the parent company and its managers and employees.
- 7 Bidders will also be required to submit similar no-bribery commitments from their subcontractors and consortium partners. The bidder may however cover the subcontractors and consortium partners in its own statement, provided the bidder assumes full responsibility.

All payments shall be limited to appropriate compensation for legitimate services.

- 8. Each bidder will make full disclosure in the bid documentation of the beneficiaries and amounts of all payments made, or intended to be made, relating to the bid and, if successful, the implementation of the contract.
- 9. The successful bidder will also make full disclosure semi-annually of all payments to agents and other third parties during the execution of the contract.
- 10. Within one year of the completion of the performance of the contract, the successful bidder will formally certify that no bribes or other illicit commissions have been paid in order to obtain or retain this contract. The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.
- 11. Statements required according to subparagraphs (b) and (d) of paragraph 5 will have to be certified by an appropriate senior corporate officer.
- 12. In Pakistan, all forms of corruption are illegal, and the Government will continue to prosecute offenders.
- 13. This IP however focuses on bribery in order to obtain or retain the contract or other improper advantage, including collusion with others in order to limit competition for this contract. This includes any payments or other favours offered or granted in order
 - i) To win a contract award,
 - ii) To get a contract change order (adjusting the price, the specifications, the time frame for implementation or any other important contract components) approved by KW&SB,
 - iii) To get sub-standard or sub-specification performance approved by a public official the supervising engineer or his staff,
 - iv) To circumvent tax, duty, license or any other legal obligations that should be met, or
 - v) To induce an official to breach his/her official duties in any other way.

If a bidder fails to comply with its no-bribery commitment, the following sanctions will apply:

- i) denial or cancellation of the contract;
 - ii) liability for damages to KW&SB, in the amount of five percent of the contract value, unless KW&SB can demonstrate a higher damage, or the bidder can demonstrate a lesser damage;
 - iii) forfeiture of the bid security; and
 - iv) Debarment by KW&SB from bidding for further public contracts for such period as the KW&SB may deem appropriate.
- 14 KW&SB has made special arrangements for adequate oversight and monitoring of the procurement process and the execution of the contract. In this regard, KW&SB has provided for public hearings on the procurement process, and for access by Civil Society including representatives of the local TI-Pakistan, to the minutes of the meetings of the Tender Board and to all documents relating to the evaluation of the competitive tenders, the award decision process and the execution of the project.
- 15 KW&SB has also set up a special office in the Office of the Managing Director for the investigation and handling of any reports of extortion or bribery in public procurement.
- 16 The KW&SB will publicly disclose the award decision including the evaluation report and the reasons for the selection of the successful bidder.

Bids which do not conform to the requirements of these procedures will not be considered.

COMPONENT WISE COMPARISON OF K-II & K-III COSTS (PC-I / TENDERED)

K-III Component	K-II Contract No.	Name of Work	Scope of work	Length Km	K-II Final Cost Rs. (Mn)	PC-1 Cost of K-III Rs. (Mn)	Sanctioned Tender Cost Rs. (Mn)	Present Status / Remarks
WN-1	W-1	Gujjo to Gharo Canal	Conduit (3.3x3.3) m Twin Syphon 72" dia	1.8 km 0.1 km				The segment will not be executed under K-III. Only a portion of Conduit and 72" dia twin siphons will be constructed under the project.
WN-2	W-2	Gharo Creek Syphon	72" dia (twin) MS Pipe Syphon	2.098 Km				Replicate of Contract W-2.
WN-3	W-3	Gharo to Dhabeji Conduit	Conduit 3.3x3.3 m Backfill to conduit Chambers	9.770 Km				Three sides to be constructed with center wall already constructed under W-3. Work awarded to M/s Ramzan & Sons (Pvt) Ltd.
			Total		1829.86	547.95	499	
W-4A		Dhabeji PS Civil Works	Construction of Pump Stations surge Chamber, Providing Pipe work, cable ducts and Building services					Administration building, Generator Building, Cross connection chamber Inlet chamber has already been constructed under W-4A. Tenders have been received and Evaluation is under progress.
			Total		192.04	96.05	93.98	
W-5		Dhabeji to High point Pipeline (Twin)	Supply & laying 2*72" dia pipe chambers etc. Fitting Gate valves & air valves.	4.546 Km				The work is awarded to M/s Echowest International on tendered cost, which comes out be 12.18% below the provision made under PC-I. The contractor has started construction activities at site.
			Total		379.55	293.46	257.703	
WN-6	W-6	High Point to Pipri Conduit	Excavation RCC Conduit 3.3x3.3m Backfill to Conduit Chambers & miscellaneous Syphons	27.485 Km				Three sides to be constructed with center wall already constructed under W-6. The work has been awarded to M/s China National Water Resources Engineering Corp.

			bedding etc. other chambers, fitting Test fitting etc.					
WN-7A	W-7A	Tunnel bypass conduit	Excavation RCC Conduit 3.2x3.3m earthworks Crossing testing.	27.485 Km				Three sides to be constructed with center wall already constructed under W-7A. The work has been awarded to M/s China National Water Resources Engineering Corp.
			Total		1995	1136.4	944.9	
WN-7B	W-7B	Tunnel bypass Syphon (Twin)	Conduit Syphons 2*72" dia pipes Washouts bedding etc other chambers, fitting etc.	3 Km				The work comprises laying of twin 72" dia Syphons. The work has been awarded to M/s Habib Rafiq (Pvt) Ltd. The Contractor has started construction activities at site.
			Total		213.59	176.32	158.66	
WN-8	W-8	Pipri to NEK Conduit	Excavation RCC Conduit 3.3x3.3m Backfill to Conduit Chambers & miscellaneous Syphons 2 * 72" dia pipes Washouts bedding etc. other chambers, fitting etc.	16.75 Km				The work comprises construction of three sided conduits alongwith the construction of a number of 72" dia twins Syphons. The work is awarded to M/s R.M. Gulistan (Pvt) Ltd., The Contractor has started mobilizing the site.
			Total		904.85	679.62	612	

WN-9	W-18	Dhabeji M&E Equipment	Pump sets (35 mgd x 5 Nos.) transformers Cables etc. HV motor control centres LV motor control centres Cranes Pipe work (large dia.) Valves Surge suppression equipment Flow meters Penstock etc. Submersible & sump pumps Sump model test Shipping transport insurance Installation, testing etc. Provisional sums Spares etc.					Tendering of the Contract has been done, evaluation is under progress.
			Total		£ 10	679.62	612	
WN-10	W-15A	NEK Pumping Station (Civil Works)	Pump stations / surge chamber Generator Building etc. Foul drainage Pipe work, cable ducts etc. Building services.					Tendering of the Contract has been done, evaluation is under progress.
			Total		785.95	100.05	68.62	
WN-11	W-19	NEK Pumping Station M&E Equipment	Excavation RCC conduit 3.2x3.3m earthworks Crossing testing etc.					Tendering of the Contract has been done, evaluation is under progress.
			Total		1248.43	100.05	68.62	
WN-12	Component not executed in	NEK Pumping Station NEK Reservoir (old) pipeline	Supply & laying 66" (Twin) dia pipe, Fittings Gate valves etc. Surrounding Chamber Crossings air valves etc.	5.5 Km				The work comprises laying of 66" dia twin M.S pipe. The work is awarded to M/s Ayaz Builders Pvt) Ltd.

	<i>K-II</i>	(Twin).						
			Total		-	338.18	295.6	
WN-13	<i>Component not executed in K-II</i>	Ajmer Nagri PS & E equipment with civil works.	Pumping unit with all associate pip work surge protection valves					Not to be executed. Not to be executed.
WN-14	<i>Component not executed in K-II</i>	Syphon 19-20 link pipeline	Total Supply & laying 84" dia PRCC pipe Fitting gate valves surrounding chambers cross.	1.34 Km	-	123.27		New work under K-III with PRCC pipes. The work has already been awarded to M/s Indusmens corporation on the Tendered cost which comes out to be 4.3% lower than the PC-I provision. The contractor has mobilized at site and the work is commenced and is in progress.
			Total		-	34.61	33.121	
WN-15	<i>Component not executed in K-II</i>	NEK old Reservoir Hub interconnection pipeline	Supply & laying 66" dia pipe PRCC Fitting gate valves surrounding chambers crossing air valves.	14.16 Km				Evaluation of the Tender has been completed and report submitted to the Competent Authority. Cost of PRCC Pipes manufactured by KDA Pipe Factory = Rs. 165.6 Million.
WN-17	<i>Component not executed in</i>	5C - Hub P/S pipeline	Supply & laying 66" dia pipe PRCC Fitting gate valves surrounding chambers crossing air valves.	8 Km				

	<i>K-II</i>							
			Total		-	603.28	309.5+165.6 = 475.1	
WN-16	<i>Component not executed in K-II</i>	Missing link of K-2 W-10 & inter linking of K-III with Syphon 19.	Supply & laying 66" dia pipe PRCC Fitting Gate valves surrounding chambers crossing air valves.	7 Km				The work has been awarded to M/s Ayub Bros. (Pvt) Ltd. Cost of PRCC Pipes manufactured by KDA Pipe Factory = Rs. 27.6 Million.
			Total		-	172.63	146.8+27.6 = 174.4	
Balochistan Component	<i>Component not executed in K-II</i>	Pipeline meant to supply 5 Mgd Water to Lasbella Industrial State Balochistan	Supply & laying 24" dia M.S Pipeline from Hub Reservoir to Lasbella Intake.	8 Km				
			Total		-	300	300 (Anticipated)	
<i>Not to be executed under K-III</i>	W-9	NEK university Pipeline (Twin)		6 Km				<i>Not to be executed under K-III.</i>
			Total		387.28			
<i>Not to be executed under</i>	W-10	Construction of NEK Primary Distribution		4.4 Km				<i>Not to be executed under K-III.</i>

<i>K-III</i>								
			Total		232.32			
<i>Not to be executed under K-III</i>	W-11	Primary Distribution Strengthening (NEKZ)		6.5 Km				<i>Not to be executed under K-III.</i>
			Total		377.96			
<i>Not to be executed under K-III</i>	W-12	Primary Distribution Strengthening (CKZ)		2.9 Km				<i>Not to be executed under K-III.</i>
			Total		200.03			
<i>Not to be executed under K-III</i>	W-14	NEK Treated Water reservoir						<i>Not to be executed under K-III.</i>
			Total		159.69			
<i>Not to be executed under K-III</i>	W-15B	NEK Treatment Works and pump Station.						<i>Not to be executed under K-III.</i>
			Total		122.58			
			TOTAL		9455	5285.91	4448.08	

Consultants Report on Tendering Process adopted on K-III Project

1.0 General

The prequalified bidders who had shown interest to participate in the K-III bidding process were issued the bidding documents for the specific WN contract for procurement of various K-III work components.

As the Instruction to Bidders (ITB) was most relevant section of Bidding Documents, the clarity, conciseness and completeness of this section was kept in purview. The bidders were also advised thru pre-bid meetings and given guidance sometimes by the Managing Director KWSB in person to abide by these instructions for tendering a real, meaningful, rational and complete bid conforming to all the requirements of the Bidding Documents which have been primarily based on Pakistan Engineering Council model document.

The ITB covered all aspects for finalization of bid by following and very clearly laying down the known limitations of the bidders. This factor was given due consideration by clearly laying down the consequential penalties in case these limitations were violated in preparation of the bid for the high priority K-III project.

It is worthwhile to mention that KWSB under direction of its top management undertook the tender review and award process most efficiently so as to ensure smooth implementation of K-III project. This required quick decision making, procurement at most economical least but 'workable' cost to the public funds. Only the Lowest Evaluated Responsive Bids (LERB) for each respective component was considered for award in a transparent manner earmarking the cornerstones of a credit-worthy bid evaluation process.

As far as possible the Pakistan Engineering Council model of Tender Adjudication was adapted.

2.0 Bid Evaluation Basics

Following elements were considered and accorded appropriate weightage to determine the
LOWEST EVALUATED RESPONSIVE BIDDER (LERB) for award of contract.

- Deadline for submission, (date, time and place), handling of bids received after deadline
- Eligibility of Bidders in the light of the PEC Bye-Laws, i.e. holding a current valid licence to practice as constructor,
- Qualification of the Bidder i.e.

- Review of updated information on the sub-elements for prequalification to establish information status as at the time of pre-qualification,
 - Assessment of qualification of the Bidder from data provided for post-qualification.
- Completeness of bid i.e. provision of all the essential information in response to bidding documents/any Addendums
 - Validity of the bid viz-a-viz the requirements of the bid documents in terms of time.
 - Provision of Bid Security requirements in the specified format from an acceptable source and in the requisite, amount fixed in the ITB/Bid Data Sheet.
 - The acceptability of bid in terms of its validity due to its signing by the duly authorized representative and inclusion of Letter of Authority.
 - Conformance of bid to technical and commercial requirements of the bid documents.

3.0 Process of Evaluation

All through the Tendering Process, the Managing Director followed following principles;

3.1 Bid Opening

KWSB bid opening committee publicly announced following information about each bid received and signed the respective sheets:

- Name of bidder, single or a JV of firms.
- The bid price along with corrections made
- Discounts (unconditional/conditional), if any.
- Modifications to the Bid, if any.
- Withdrawal of bids(s), if any
- Presence/absence of bid security and its amount.

3.2 Preliminary Examination

- Committee checked if bidder, held a valid licence from the PEC and fall within the category allowed' to participate for the size of the project?
- Also if the bid was properly signed by the authorized persons and the authorization is available/bonafide?
- It was ensured that the bid was accompanied by the required securities i.e. the amount is adequate as required in ITB/Bid data Sheet; conforms to the specified format and issued by an acceptable source

- Committee ensured that the bid generally and substantially meets the requirements of tile bid documents?
- Also examined was adequate provision for clarifications, if required for substantiation of any elements desired by the KW&SB?
- Bids were then checked for arithmetic errors and acceptance of corrections by the bidders.

3.3 Comparison of bids

- (i) Committee then Determined the evaluated bid price for each bid by making any adjustments, as required which may include:
 - (a) Application of unconditional discounts/conditional discounts,
 - (b) Making correction of errors. ,
 - (c) Excluding Provisional Sums & Contingencies.
 - (d) Determination/making adjustments for minor (acceptable) deviations on technical/commercial grounds.
 - (e) Making adjustments for varying times for completion offered by the bidders, if acceptable.
- (ii) Consideration of the effect of any loading of bid (if required or considered necessary)

3.4 Substantial Responsiveness

An important element of bid evaluation was the determination of each bid to be substantially responsive. This process entailed a close review of following parameters:

3.5 Material deviations

On all the tenders received on K-III project, major deviations to commercial requirements and technical specifications were checked for each tender as any inconsistencies could have formed a basis for the rejection of the bid (bids). These checks included for example any indication of price adjustments as opposed to fixed price BOQ's requested in tender, reservation or failing to respond to specifications, non-compliance of mile -stones/critical dates of tender, subcontracting of work not in accordance with ITB, reservations on responsibilities/ liabilities, request for tax holiday, etc.

Other causes of bid not being considered further for evaluation included for example if a Bidder has participated in more than one Bid, is not accompanied with adequate Bid Security, alteration to tender document is made, it is unsigned, validity, scope of work and time of completion have been qualified etc.

3.6 Minor Deviations

Evaluation committee had the option that if certain tenders which offered minor deviations and which were felt acceptable to KW&SB could be assigned a monetary value could be considered substantially responsive. This value would however then be included as an adjustment during detailed evaluation process.

3.7 Detailed Adjudication

Committee only took up detailed adjudication of Responsive bids determined as a result of Preliminary Examination. Following operative was subsequently performed:

- Correction for Errors
- Correction for Provisional Sums
- Application of Discounts & Rebates:
- Additions Against Omissions
- Adjustments as per ITB
- Pricing of Minor Deviations (if any)
- Determination of Award
- Award of Contract

3.8 Arithmetical Errors

Arithmetical Errors were rectified on the following PEC guidelines. If there was a discrepancy multiplying the unit price and quantity, the unit price prevailed and the total price was corrected. In case a discrepancy was observed between words and figures the amount in words prevailed. If a discrepancy was noted between total-Bid entered in the Form of Bid and the total shown in Schedule of Prices Summary, the amount stated in the Form of Bid was corrected by the Committee in accordance with the Corrected Schedule of Prices.

Care was taken by Tender Evaluation Committee to ensure that the each bid under evaluation was undoubtedly devoid of material deviation or reservation would affect in any substantial way the scope, quality or performance of the K-III Works, which may limit in any substantial, way or be inconsistent with the Tender Documents or in case a supplied rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

Tender Evaluation Committee also ensured during the process of determination of tender responsiveness that original contents of the Bid were maintained without recourse to extrinsic evidence. No substantially non-responsive bids were allowed subsequently be made responsive by the Bidder by correction of the non-conformity.