



TRANSPARENCY INTERNATIONAL PAKISTAN

Strives to build a better country to live in

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is signed on 30th August 2005 between Transparency International Pakistan (**TIP**) and the Department of Agriculture (**DOA**), Government of Sindh for the Implementation of the “Integrity Pact” and Transparency in Procurement Systems in the Department of Agriculture, Government of Sindh.

Transparency International is a non-governmental organization, dedicated to government accountability, and curbing the international and national corruption. Through over 98 independent National Chapters, Transparency International bring together people of integrity in civil society, business and government, to work as coalitions for Systemic reforms. Transparency International do not name names” or attack individuals or investigate, but focus on building systems that combat corruption.

Transparency International national chapter Transparency International Pakistan aims at Building a coherent National Integrity System, to institutionalize efforts to curb corruption. The ultimate goal of this system is to make corruption a “high risk” and” low return” undertaking. It is designed to prevent corruption from occurring in the first phase, rather than resting on punishment after the event. Because corruption tends to be the result of SYSTEMATIC failures. The primary emphasis of Transparency International Pakistan is on reforming the system, rather than blaming the individuals.

The “Integrity Pact” is an Integral Part of the National Accountability Bureau initiative towards Shafaff Pakistan, the National Anti Corruption Strategy approved by the Cabinet on 20th September 2002 & 5th October 2002, its Implementation mechanism approved by the President 24th October 2002. The Integrity Pact is a tool developed by Transparency International, which ensures 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 taking or allowing for any kind of benefit, financial or otherwise. Justification of the decisions taken is provided without discrimination to all parties concerned or to any individual or institution/organization.

Considering that all Companies and Organizations in Pakistan share a responsibility to combat bribery in all forms and manifestations, it is agreed;

That the **Department of Agriculture (DOA), Government of Sindh** will work with Transparency International Pakistan for the application of Transparent Procurement Rules, complying GoS Rules and Pakistan Engineering Council Bylaws and Standard Bidding documents and the “Integrity Pact” in the **Department of Agriculture, Government of Sindh**



To sign this Memorandum of Understanding between Transparency International Pakistan (TI-Pakistan) and the DAO for the Implementation of the “Integrity Pact” and Transparency in its Procurement Systems.

That DOA along with TI-Pakistan will work jointly for the implementation the recommendations in the NACS involving Transparency in procurement, and incorporate them in PEC & World Bank Standard Bidding Documents. It is also agreed that the DOA will establish an accountability in all its dealings and try to provide all the necessary Checks and Balances in its effort towards an all encompassing Transparent Procurement System . The process will comprise the formation of a Coordination Committee to implement the Integrity Pact in all Procurement Contracts.

That in case the DOA fails to carry out the above agreed-upon recommendations Transparency International Pakistan has the right to withdraw from this Memorandum of Understanding and declare the same through a public announcement. Such withdrawal shall be effective 30-days after the date of the receipt of a notification given by TI- Pakistan to the DOA to this effect.

The Coordinating Committee.

This committee to be set up by DOA, shall consist of a three members comprising 3 Officials of DOA , with responsibilities related to the Administration, Financial and Technical (Procurement & Contracts) Departments. and two Representative of TI-Pakistan. The Coordinating Committee will:

1. Identify and list all issues of transparency and evaluation of tenders criteria in the procurement bidding documents, including the discretionary conditions of exiting in the contract documents and make the necessary changes where necessary.
2. Prepare ways and means to be included in Contract Documents to eliminate/reduce delays to a bare minimum (Time base decisions with predictable milestones) and in approvals by providing mandatory time frames for submittals by consultants/contractors and approvals by client/consultants.
3. Introduce approval systems to process and award contracts, as well as complete the Projects at the most economical cost and within the scheduled time.
4. Incorporate the Directives of the NACS & PEC in the GoS Tendering procures with regards to Procurement and Contracting.



Herein after it is agreed that;

- All important decisions be made public.
- Information on all important activities including auditor's report should be made easily accessible to all.
- DOA will periodically make public their sources of income and revenues.
- For this purpose, Transparency International Pakistan will provide experts' services to DOA without any cost to the DOA.
- DOA has the responsibility to inform the local public and all interested individuals / institutions / organizations / Vendors and others about the activities carried out under this Agreement.
- In accordance with the proposed Pact, Transparency International Pakistan will provide experts' services for 3-months, and vetting of the Procurement Documents prepared on the basis of Transparent Procurement Procedures for another 3 month, beginning from 28 November 2005, which may be renewed on mutual understanding.
- Team of Experts of TI Pakistan and DOA will prepare Transparent Procurement Procedures.
- The Transparent Procurement Procedures will comprise of all the Standard Bidding Documents on procurement of Works, Goods & Services, based on International Standards, World Bank, FIDIC and Pakistan Engineering Council, duly amended to comply with the Transparent Procurement Procedures, recommended by the National Accountability Bureau in the National Anticorruption Strategy 2002, and fully compliant to the Sindh Government Rules.
- That all information relevant to providing Transparency Procurement procedures shall be provided to the Coordination Committee by DOA and all its related attached departments. It shall include documents which are in addition to those that are allowed under the Freedom of Information. Ordinance 2002.

Nazar Hussain Mahar
Secretary to Government of Sindh
Agriculture Department

Syed Adil Gilani
Vice Chairman & CEO
Transparency International Pakistan



Communications by the Department of Agriculture GoS to all Firms for Shortlisting/pre-qualification/Tendering/purchase

Attachment 1

Invitation to Firms for Department of Agriculture GoS Contract

1. The Government of Sindh (GOS) is committed to fight corruption in public contracting. As part of this program, Department of Agriculture GoS 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, Department of Agriculture GoS is introducing new procedures, which Department of Agriculture GoS 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, Department of Agriculture GoS will treat the oversight and monitoring of the implementation of these new procedures with the highest priority. Department of Agriculture GoS will pay particularly close attention to the need to prevent any case of extortion, or acceptance of bribes, by Department of Agriculture GoS officials. We are asking all those bidding for Department of Agriculture GoS 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 office of the Secretary Agriculture, Government of Sindh.
5. Department of Agriculture GoS hopes to obtain your company's endorsement of these procedures as fair and reasonable, and as having your full support.



6. The Engineering/Construction/Supply/Manufacturer Firms shall observe the highest standards of ethics during the selection and execution of such contracts. In pursuance of the policy:

(a) corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution, and fraudulent practice means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Department of Agriculture GoS, and includes collusive practices among the Firms (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the Department of Agriculture GoS of the benefits of free and open competition.

(b) Department of Agriculture GoS will reject a proposal for award if it determines that the firm recommended for award has engaged in corrupt or fraudulent activities in competing for the contract in question;

(c) Department of Agriculture GoS will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing contract.



Attachment 2 **The “Integrity Pact”**

Department of Agriculture GoS Procedures for Bidding for Public Sector Contracts:

1. The following procedures will apply to the letting of all contracts by Department of Agriculture GoS.
2. These procedures are in addition to the standard legal and administrative requirements.
3. They will form part of the terms and conditions of each contract and will be actionable, in the event of breach, by the Department of Agriculture GoS and any of the competing bidders.
4. 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 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:

- b) “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, including agents, consultants, consortium partners, subcontractors and suppliers.”



- c) This commitment is in the name and on behalf of this Company's Chief Executive Officer.
 - d) 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 sub consultants/subcontractors and consortium partners. The bidder may however cover the sub consultants /subcontractors and consortium partners in its own statement, provided the bidder assumes full responsibility.
 8. All payments shall be limited to appropriate compensation for legitimate services.
 9. 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.
 10. 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.
 11. 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.
 12. Statements required according to subparagraphs (b) and (d) of paragraph 5 will have to be certified by an appropriate senior corporate officer.
 13. In Pakistan, all forms of corruption are illegal, and the Government will continue to prosecute offenders.
 14. 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 to win a contract award, get a contract change order (adjusting the price, the specifications, the time frame for implementation on any other important contract components) approved by Department of Agriculture, GoS, get substandard or sub-specification performance approved by a public official or the supervising engineer or his staff, circumvent tax, duty, license or any other legal obligations that should be met, or induce an official to breach his/her official duties in any other way.



15. If a bidder fails to comply with its no-bribery commitment, the following sanctions will apply:
16. denial or cancellation of the contract; liability for damages to Department of Agriculture GoS , in the amount of five percent of the contract value, unless Department of Agriculture GoS can demonstrate a higher damage, or the bidder can demonstrate a lesser damage; forfeiture of the bid security; and debarment by Department of Agriculture GoS from bidding for further public contracts for such period as the Department of Agriculture GoS may deem appropriate.
17. Department of Agriculture GoS has made special arrangements for adequate oversight and monitoring of the procurement process and the execution of the contract. In this regard, Department of Agriculture GoS 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.
18. Department of Agriculture GoS has also set up a special office in the Office of the Secretary Agriculture for the investigation and handling of any reports of extortion or bribery in public procurement.
19. The Department of Agriculture GoS will publicly disclose the award decision including the evaluation report and the reasons for the selection of the successful bidder.
20. Bids which do not conform to the requirements of these procedures will not be considered.

Agreed

Signed by, the Authorised Representative/CEO of the Applicant Firm/Consortium