MUTAHIR METAL WORKS (PVT) LTD.

MMW/MEPCO-ICB-01/GRC
17-07-2026

Multan Electric Power Company (MEPCO), through

Manager Procurement (PMU), Office of the Chief Engineer (Development), PMU MEPCO, Khanewal Road, Multan.

Sub: PRE-BID COMPLAINT UNDER RULE 48 OF THE PUBLIC PROCUREMENT RULES, 2004 READ WITH THE REDRESSAL OF GRIEVANCES REGULATIONS, 2021, AGAINST RESTRICTIVE, AMBIGUOUS AND INTERNALLY CONTRADICTORY CLAUSES OF THE BIDDING DOCUMENTS OF TENDER NO. PMU-01/2026-27 (ICB) 145KV SF-6 GAS CIRCUIT BREAKERS (REFERENCE NO. P55310)

Respected Sir:

Ref: Tender No. PMU-01/2026-27 (ICB) AND EPAD'S IDETIFICATION NO P55310 DUE ON DATED:13-08-2026

A. FACTS

1. That we M/s Mutahir Metal Works (Pvt) Ltd Lahore is a firm engaged in the supply of high voltage electrical equipment, including grid station items to Distribution Companies and other public sector utilities, and is a prospective bidder in the subject procurement, having downloaded the bidding documents from EPADS v2.0.

2. That MEPCO (Procuring Agency) issued a request for Bids for Tender No. PMU-01/2026-27 (ICB) 145KV SF-6 Gas Circuit Breakers, Reference No. P55310, published on EPADS v2.0 on 11.07.2026, for the procurement of 48 sets of 145KV SF-6 Gas Circuit Breakers on Single Stage Two Envelope basis under the Least Cost Based Selection (LCBS) technique, with a bid security of PKR 10,080,000, a bid submission deadline of 11.08.2026 at 10:00 AM, and bid opening on the same day at 10:30 AM.

3. That upon examination of the bidding documents, we found certain clauses of the Eligibility Criteria, the Evaluation Criteria, the Bid Data Sheet (BDS) and the Special Conditions for Bid to be ambiguous, internally contradictory and inconsistent with the Public Procurement Rules, 2004 and with the standard bidding document framework of the Public Procurement Regulatory Authority for international competitive bidding, as set out hereinafter.

4. That the present complaint is a pre-bid grievance directed against the bidding documents themselves. It is filed within ten days of the publication of the bidding documents and well

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before the bid submission deadline, and this learned Committee, duly notified under Rule 48 of the Public Procurement Rules, 2004 read with the Redressal of Grievances Regulations, 2021, is competent to entertain and decide the same. Redressal at this stage would serve the interest of the Procuring Agency itself, since Rule 29 of the Public Procurement Rules, 2004 declares in terms that failure to provide unambiguous evaluation criteria in the bidding documents amounts to mis-procurement.

B. IMPUGNED CLAUSES

5. That, without prejudice to the generality of the grounds hereinafter, we (the Complainant) impugns in particular the following clauses of the bidding documents:

(i) The expression, similar or higher rating, as it appears in each of the three experience-based Evaluation Criteria (contractual experience, manufacturing experience and satisfactory operation) and in Clauses 16.1, 16.2 and 16.3 of the Special Conditions for Bid, in so far as it admits experience of equipment ratings above the licensed operational domain of the Procuring Agency without any disclosed mechanism of verification;

(ii) The Evaluation Criterion, read with Clause 16.3(iii) of the Special Conditions for Bid, whereby the firm will be declared non-responsive if the performance of offered equipment installed in MEPCO is reported unsatisfactory by field formations;

(iii) The Eligibility Criterion requiring Valid Type Test Reports issued by designated lab(s) mentioned in the NTDC revised type test policy OR an unconditional undertaking / confirmation, duly signed and stamped by the bidder and supported by the manufacturer, for fresh type tests within the delivery period at the bidder's own cost, read with Clause 16.4 of the Special Conditions for Bid and the Evaluation Criteria;

(iv) The Eligibility Criterion requiring supply record of the firm with MEPCO / DISCOs against educational / regular P.O.(s), with the stipulation that the bid will be rejected in case of non-satisfactory performance / non-fulfilment of contractual obligations in previous purchase orders;

(v) BDS Clause 9 (ITB 16.1) restricting the currency of bids to PKR only, read with ITB Clause 28 and ITB Clause 15.6 / BDS Clause 8 (fixed price); and

(vi) ITB Clause 18.5 requiring the bid security to be denominated in local currency and to be in the form of a Bank Draft, read with BDS Clause 11 and paragraph 4 of the Request for Bids.

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C. GROUNDS

GROUND A: THE EXPRESSION, SIMILAR OR HIGHER RATING, TRAVELS BEYOND THE LICENSED DOMAIN OF THE PROCURING AGENCY AND IS INCAPABLE OF VERIFICATION BY IT

6. That each of the three experience criteria, and Clauses 16.1 to 16.3 of the Special Conditions for Bid, admit experience of the tendered material having similar or higher rating. The tendered material is 145KV class SF-6 gas circuit breakers, 145KV being the standard rated voltage class of equipment for the 132KV nominal system. Under the licensing regime administered by NEPRA, the operational domain of a distribution company, including MEPCO, extends up to the 132KV network only; facilities and equipment of ratings above 132KV, namely the 220KV and 500KV transmission classes, vest exclusively in the national grid and transmission licensee, presently the National Grid Company (NGC), formerly NTDC, which is the appropriate authority for the operation, maintenance, testing and performance assessment of such higher rated equipment.

7. That the higher rating limb of the criteria therefore gives rise to fundamental questions which the bidding documents leave wholly unanswered. First, as to jurisdiction: on what basis does a distribution company frame and apply an experience criterion referable to equipment classes which lie altogether outside its own licensed domain of operation and function. Secondly, as to verification: by what mechanism will the Procuring Agency verify claims of supply, manufacturing experience and three years continuous satisfactory operation of higher rated equipment, when such equipment is installed only in the transmission network of NGC, and the Procuring Agency's own field formations neither install, operate, maintain nor monitor any such equipment and are in no position to report upon it. Indeed, the performance reporting stipulation in Clause 16.3(iii) is by its own terms confined to equipment installed in MEPCO, and is structurally incapable of applying to higher rated equipment at all. Thirdly, as to competence: even if verification were attempted, whether the Procuring Agency is eligible and authorized to certify or adjudge the in-service performance of equipment operating in the network of the transmission licensee, that being the exclusive province of the appropriate authority, namely NGC.

8. That in consequence, while the higher rating limb is ostensibly a relaxation, in its present form it is a criterion which the Procuring Agency itself cannot verify or apply by any disclosed, uniform standard. It will inevitably be applied unevenly, with bidders relying on transmission network experience assessed on unverifiable material while DISCO suppliers are assessed on records within the Procuring Agency's reach, and it thereby introduces arbitrariness and unequal treatment into the heart of the evaluation. A criterion incapable of

objective and uniform verification by the evaluating agency is not an unambiguous evaluation criterion within the meaning of Rule 29 of the Public Procurement Rules, 2004, and offends the principles of transparency and fair competition under Rule 4. The Procuring Agency must either delete the expression, or higher rating, or specify with precision the acceptable rating classes and an independent mechanism for verification of higher rating experience through the appropriate authority, namely NGC, before any such criterion can lawfully be applied.

GROUND B: THE TYPE TEST CLAUSE AND THE EXPERIENCE CRITERIA ARE MUTUALLY DESTRUCTIVE AND RENDER THE CRITERIA AMBIGUOUS

9. That the impugned criteria are internally contradictory and therefore ambiguous within the meaning of Rule 29 of the Public Procurement Rules, 2004. The Eligibility Criteria permit a bidder to furnish either (a) valid Type Test Reports issued by labs designated under the NTDC revised type test policy, or (b) an unconditional undertaking, supported by the manufacturer, for fresh type tests within the delivery period at the bidder's own cost. The undertaking route exists, by its very definition, for offered equipment which does not yet hold valid type tests, that is, newly developed or newly offered equipment.

10. That the Evaluation Criteria simultaneously demand that the very same offered material must have been in satisfactory continuous operation for at least three years and must have been supplied under at least two completed contracts within the last ten years. Equipment which satisfies these operational criteria necessarily already holds valid type tests, since no such equipment could have been supplied to and commissioned in a public utility network without them. Conversely, equipment for which the fresh type test undertaking route is invoked can never satisfy the three years operation and prior supply criteria. The undertaking option is thus illusory on the face of the record, and the two sets of clauses cannot stand together.

11. That where a bidder's prior supply record and three years satisfactory operation of the offered material are established, the material stands proven in service, and insistence upon fresh type testing serves no legitimate procurement purpose and only adds cost and uncertainty. Where, on the other hand, prior supply and operational experience of the offered material is not established, the bidding documents do not explain why, and on what rational basis, a mere undertaking for future type tests has been admitted as an eligibility route at all, when the Evaluation Criteria foreclose any such bidder in any event. The Procuring Agency is bound to state with precision which route is available to which class of bidder and how the twenty marks under the compliance criterion will in fact be applied to each route. In their present form the criteria fail the statutory test of an unambiguous evaluation criterion, and

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their retention exposes the entire procurement to the consequence of mis-procurement declared by Rule 29 itself.

GROUND C: REJECTION ON UNADJUDICATED PAST PERFORMANCE IS A DE FACTO BLACKLISTING WITHOUT DUE PROCESS

12. That the eligibility clause requiring supply record of the firm with MEPCO / DISCOs and stipulating that the bid will be rejected in case of non-satisfactory performance / non-fulfilment of contractual obligations in previous purchase orders, read with Clause 16.3(iii) of the Special Conditions for Bid whereby a firm will be declared non-responsive if the performance of offered equipment installed in MEPCO is reported unsatisfactory by field formations, is unlawful for the following reasons:

(a) It visits a bidder with the extreme consequence of outright rejection on the basis of an unadjudicated, one-sided assertion of unsatisfactory performance, without prior notice, without opportunity of hearing, and without any objective or disclosed standard, in violation of the principle of audi alteram partem;

(b) The only lawful mechanism by which a supplier may be disabled from participation in public procurement on account of past conduct is blacklisting or debarment under Rule 19 of the Public Procurement Rules, 2004 read with the Mechanism for Blacklisting Regulations, 2024, which mandate a show cause notice, an opportunity of hearing, a reasoned order and a right of review petition before the Authority. The impugned clauses erect a parallel, extra-legal debarment which bypasses each of those safeguards;

(c) The expression, reported unsatisfactory by field formations, delegates the power of disqualification to unidentified internal reports generated without any procedure, standard, or accountability, and is the very definition of unstructured and unguided discretion;

(d) Commercial disputes under previous purchase orders, including disputes presently pending adjudication before courts of law, arbitrators, Grievance Redressal Committees or other competent fora, whether with MEPCO or with any other distribution company including LESCO, cannot be equated with established non-performance. A clause which permits rejection of a bid on the strength of a disputed and subjudice claim prejudges pending proceedings and penalizes a bidder for exercising its lawful remedies; and

(e) In an international competitive bidding, a criterion pinned to supply record with MEPCO / DISCOs is inherently discriminatory, since a foreign bidder, or a new

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domestic entrant, has no such record. The clause does not even state whether the absence of a DISCO supply record is itself disqualifying, which is a further and independent ambiguity offending Rule 29.

GROUND D: A PKR-ONLY CURRENCY CLAUSE IN AN INTERNATIONAL COMPETITIVE BIDDING IS CONTRARY TO RULE 30(2) AND TO THE AUTHORITY'S OWN SBD FRAMEWORK

13. That BDS Clause 9 (ITB 16.1) fixes the currency of bids as PKR only. In an international competitive bidding this stipulation is inconsistent with the scheme of the Rules and of the Authority's standard bidding documents, for the following reasons:

(a) Rule 30(2) of the Public Procurement Rules, 2004 expressly provides: "For the purposes of comparison of bids quoted in different currencies, the price shall be converted into a single currency specified in the bidding documents. The rate of exchange shall be the selling rate, prevailing on the date of opening of bids specified in the bidding documents, as notified by the State Bank of Pakistan on that day." The Rule presupposes that bids may be quoted in different currencies and itself provides the machinery for their comparison. A PKR-only mandate renders that machinery inoperative and deprives international bidders of the facility which the Rule contemplates;

(b) The Authority's standard bidding document framework for the procurement of goods provides that, for goods and related services to be delivered from outside Pakistan, or for imported parts or components thereof, bid prices shall be quoted in a freely convertible currency, with conversion into a single currency for the purposes of comparison in accordance with the mechanism of Rule 30(2). The impugned BDS clause departs from this framework without any recorded justification;

(c) The MEPCO's own bidding document is internally contradictory on the point. ITB Clause 28 (Conversion to Single Currency) reproduces in full the multi-currency comparison mechanism, including conversion at the weighted average customer exchange rates issued by the State Bank of Pakistan on the date of opening of financial bids, and thereby presupposes bids in more than one currency. BDS Clause 9 then nullifies ITB Clause 28 and reduces it to a dead letter; and

(d) A PKR - only price which is fixed and not subject to variation on any account (ITB 15.6 read with BDS Clause 8), over a bid validity of 120 days followed by a delivery period of 120 days on DDP Multan basis, throws the entire exchange rate risk upon the foreign bidder, deters international participation, defeats the very object

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of adopting the ICB method, and inflates prices contrary to the principles of value for money and economy under Rule 4.

14. That, likewise, ITB Clause 18.5, which requires the bid security to be denominated in local currency and to be in the form of a Bank Draft, conflicts with paragraph 4 of the Request for Bids and with BDS Clause 11, both of which permit a Pay Order, Call at Deposit, Bank Guarantee or Demand Draft, and imposes upon foreign bidders an instrument and currency requirement inconsistent with international bidding. We further seeks confirmation, in terms of Rule 25 of the Public Procurement Rules, 2004, that the fixed bid security of PKR 10,080,000 does not exceed five percent of the estimated bid price.

D. REQUEST

15. That, in view of the foregoing, it is most respectfully prayed that this learned Committee may graciously be pleased to:

(a) Entertain and allow the present pre-bid complaint under Rule 48 of the Public Procurement Rules, 2004 read with the Redressal of Grievances Regulations, 2021;

(b) Declare the impugned clauses to be ambiguous, internally contradictory and inconsistent with Rules 4, 19, 25, 29 and 30(2) of the Public Procurement Rules, 2004 and with the Authority's standard bidding document framework for international competitive bidding;

(c) Direct the Procuring Agency to amend the bidding documents through addendum under ITB Clause 9, and in particular to: (i) either delete the expression, or higher rating, from the experience criteria, or specify with precision the acceptable rating classes together with an independent and disclosed mechanism for verification of higher rating experience through the appropriate transmission authority, namely NGC; (ii) harmonize the type test clause with the experience criteria and with the NTDC revised type test policy, stating with precision which route is available to which class of bidder and how it shall be scored; (iii) delete the clauses permitting rejection or declaration of non-responsiveness on the basis of unadjudicated performance reports of field formations or disputed previous purchase orders, and confine any exclusion on account of past conduct to blacklisting lawfully carried out under Rule 19 read with the Mechanism for Blacklisting Regulations, 2024; and (iv) permit quotation in freely convertible foreign currencies with conversion in accordance with Rule 30(2), and harmonize the bid security clauses as to currency and instrument;

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(d) Direct commensurate extension of the bid submission deadline in accordance with ITB Clause 9.4;

(e) In the meanwhile, and till the final decision of the present complaint, restrain the further processing of the subject procurement, including the opening of bids;

VERIFICATION

16. That the contents of the present complaint are true and correct to the best of the knowledge and belief of the Company, are based upon the bidding documents published by the Procuring Agency on EPADS v2.0, and nothing material has been concealed therefrom.

For and on Behalf of M/s Mutahir Metal Works (Pvt) Ltd Lahore

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Usman Iqbal
Authorized Representative

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