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Dated	18-11-2020
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**OFFICE OF THE
PROSECUTOR GENERAL,
PUNJAB**

1st Floor Kasuri Tower, 4-Fane Road, Lahore

Dated Lahore, the 10th November, 2020

ORDER

NO. S-F/PGP/5-178/2017(P-II).-625-5036 The office of Prosecutor General Punjab floated a tender notice in 03 daily newspapers, uploaded on PGP's website and also uploaded on PPRA website, for purchase of Furniture & Fixture Items for the office of Prosecutor General Punjab Lahore and office of District Public Prosecutor, Faisalabad during the financial year 2016-17, M/s Wood Working Service Centre, TEVTA, Rawalpindi participated in open bidding process and was declared qualified for supply of Furniture & Fixture Items.

2. After observing all codal formalities as required under Punjab Procurement Rules, 2014, two contracts out of which, one amounting to Rs.20,142,340/- (Two Crore One Lac Forty-Two Thousand Three Hundred and Forty Rupees Only) and other amounting to Rs. 3,391,000/- (Thirty-three Lac ninety-one Thousand Rupees Only) for purchase of furniture items for the office of Prosecutor General Punjab and office of District Public Prosecutor, Faisalabad respectively were executed on 31-05-2017 between Government of the Punjab through Prosecutor General Punjab, Government of the Punjab, Public Prosecution Department (First Party) and TEVTA, Government of the Punjab through Syed Sajjad Haider, Deputy Director, Wood Working Service Centre (WWSC), Rawalpindi (Second Party) and in consequence thereof, two supply orders dated 01-06-2017 were issued for supply within a period of 120 days i.e. on or before 30.09.2017, which was extendable for a further period of 30 & 20 days respectively in the entire time with a precondition that the request for extension will be submitted by the supplier at least 30 days before the expiry of period. It is pertinent to mention here that delivery schedule was also provided with the supply order.

3. Furthermore, on request of the Wood Working Service Centre (TEVTA), Rawalpindi an advance payment amounting to Rs. 19,918,067 (One Crore ninety-nine Lac Eighteen Thousand and sixty-seven Rupees Only) against the above said two contracts were made after obtaining approval from Finance Department through Administrative Department.

4. As per clause 4.2 of the contract, Wood Working Service Centre (TEVTA), Rawalpindi was bound to get conducted pre-delivery inspection by the departmental selection committee before delivery of furniture in all over the Punjab. Wood Working Service Centre (WWSC), TEVTA, Rawalpindi, vide letter dated 03.10.2017, i.e after lapse of 03 days from the stipulated period of 120 days without submitting any application for extension in delivery period, requested for pre delivery inspection of furniture items. However taking a lenient view on consideration of the fact that TEVTA is a special institution of Industries, Commerce & Investment Department, Government of the Punjab a letter dated 10.10.2017 for pre-delivery inspection on 13.10.2017 was issued to all members of Departmental Inspection Committee constituted vide notification bearing No. SO(G)PPD/13-335/2016 dated 28.03.2017. All the members of the committee except member from TEVTA visited Wood Working Service Centre (WWSC) Rawalpindi, at the specified date and time, conducted the inspection and prepared inspection reports accordingly. During inspection it was observed by the committee that the claim of the supplier regarding manufacturing of 50% of furniture, mentioned in the letter dated 03.10.2017 was not based on facts and only a small quantity of required items was prepared. The detail of items ready for inspection along with observations of the committee is reflected in the chart given below:-

Furniture Items for Office of Prosecutor General Punjab Office

Sr. No.	Name of Item	Total items	50%	Items Ready for Inspection	% of prepared items w.r.t. total quantity	Remarks
1	Executive Visitor Chair	600	300	120	20%	Found as per specifications
2	Office Table (staff)	450	225	60	13.33%	i. Win Board, instead of Lamination Board has been used. ii. Two open boxes missing. iii. One side drawer missing. iv. No monogram.
3	Computer Table	80	40	80	100%	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
4	Wooden Cupboard/ Shelves for library	100	50	2	2%	Win Board, instead of Lamination Board has been used. Furthermore, wood footing as per specification is missing.
5	File Racks Simple	160	80	0	0%	
6	Office Table (officer)	165	82-83	0	0%	

7	Steel Almirah	100	50	0	0%	
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Furniture Items for Office of District public prosecutor Faisalabad

Sr. No.	Name of Item	Total items	50%	Items Ready for Inspection	% of prepared items w.r.t. total quantity	Remarks
1	Executive Visitor Chair	65	33	65	100%	Found as per specifications
2	Office chair cane	60	30	60	100%	All items termatic. Not found as per specifications.
3	Office Table (staff)	30	15	30	100%	i. Win Board, instead of Lamination Board has been used. ii. Two open boxes missing. iii. One side drawer missing. iv. No monogram.
4	Computer Table	05	2-3	05	100%	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
5	Office Table Prosecutor	51	25	0	0%	
6	Steel Almirah	10	5	0	0%	
7	Conference Table	1	1	0	0%	
8	Conference Room chair	51	25	0	0%	
9	Reception Table with chair	1	1	0	0%	

5. The inspection reports were communicated to the supplier, vide letters dated 27.10.2017, with the request to rectify the deficiencies mentioned in the inspection reports and to make ready the remaining items for pre-delivery inspection at the earliest but WWSC, TEVTA Rawalpindi did not inform any further date for inspection and verification of rectifications of observations mentioned in inspection reports dated 13.10.2020. In spite of that and after approval of the Prosecutor General Punjab, a notice dated 31.10.2017, was issued to all members of committee for inspection on 03.11.2017. All the members of Inspection Committee except Muhammad Asif Ashraf, Deputy Director (Monitoring)& member from TEVTA again visited the supplier premises on 03.11.2017 to inspect the rectifications (if any) regarding observations made during the inspection dated 13-10-2017 and remaining manufactured items. The inspection Committee, in the presence of Rana Ahmad Mehmood, Workshop Incharge, WWSC,

Rawalpindi, prepared inspection note showing total quantity of prepared furniture items with reference to total required items. It was observed during inspection dated 03.11.2017 that neither the observations were rectified nor any material progress regarding the manufacturing of remaining items has been made which is reflected in a chart which is given below:-

Furniture Items for Office of Prosecutor General Punjab Office

Sr. No.	Name of Item	Total Quantity	Items ready at time of inspection dated 13.10.2017	Items ready at time of inspection dated 03.11.2017	Progress made during intervening period	Inspected Items	Remarks
1	Executive Visitor Chair	600	155	155	0	155	Found as per specifications. Hence 155 chairs may be accepted.
2	Office Table staff)	450	60	60	0	60	i. Win Board, instead of Lamination Board has been used. ii. Two open boxes missing. iii. One side drawer missing. iv. No monogram.
3	Computer Table	80	80	80		80	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
4	Wooden Cupboard/ Shelves for library	100	2	30	28	30	Win Board, instead of Lamination Board has been used. Furthermore, wood footing as per specification is missing. Hence 30 cupboards / shelves for library may be

							rejected.
5	File Racks Simple	160	0	1	1	1	Found as per specifications. Hence 01 rack accepted.
6	Office Table (officer)	165	0	0	0	0	Nil
7	Steel Almirah	100	0	0	0	0	Nil

Furniture Items for Office of District public prosecutor Faisalabad

Sr. No.	Name of Item	Total Quantity	Items ready at time of inspection dated 13.10.2017	Items ready at time of inspection dated 03.11.2017	Progress made during intervening period	Inspected Items	Remarks
1	Executive Visitor Chair	65	65	65	0	65	Found as per specifications. Hence may be accepted.
2	Office chair cane	60	60	60	0	60	All items are termatic, hence may be rejected.
3	Office Table (staff)	30	30	30	0	30	i. Win Board, instead of Lamination Board has been used. ii. Two open boxes missing. iii. One side drawer missing. iv. No monogram.
4	Computer Table	05	05	05	0	05	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
5	Office Table Prosecutor	51	0	01	01	01	Found as per specifications. Hence 01 office table for officer may be accepted.
6	Steel Almirah	10	0	0	0	0	
7	Conference Table	1	0	0	0	0	
8	Conference Room	51	0	0	0	0	

	chair						
9	Reception Table with chair	1	0	0	0	0	

6. The resume of inspection note & report dated 03.11.2017 and above said chart clearly establishes the fact that the second party miserably failed to perform the contract quantitatively as well as qualitatively. However, the supplier, through letter dated 02.11.2017 received on 09.11.2017 responded to the observations made in inspection report dated 13.10.2017 with the submissions that top of computer tables, office tables, wooden cupboards have been manufactured in Vinboard which is preferably of superior quality as compared to lamination board. It is pertinent to mention here that lamination board was mentioned in the specifications contained in bidding document as well as supply order and the supplier did not rebut the observations of inspection committee regarding use of Vinboard instead of lamination board. Furthermore, the inspection committee has to inspect the items as per specifications. The inspection committee on the basis of inspection report dated 13.10.2017 and inspection note dated 03.11.2017, submitted the following recommendations to the Prosecutor General Punjab:-

- (i) Items ready and found as per specifications may be accepted by extending the time period.
- (ii) Contracts dated 31.05.2017 may be rescinded to the extent of non- performance of contracts on the ground that breach of contracts, on the part of the second party has occurred and second party, the Wood Working Service Centre, Rawalpindi has miserably failed to comply with the terms and conditions of the contract.
- (iii) The liquidated damages as per clause 6.2 of Contracts may also be charged from the second party and the same may be recovered from the performance guarantee submitted by the second party.
- (iv) Notice of revocation of contracts under clause 11.2 of Contracts dated 31.05.2017 to extent of non-performance of contracts be issued to M/s Wood work Service Centre, Rawalpindi with an addition that the first party has the right to procure the non-manufactured items at the risk and costs of the second party.
- (v) Matter of non-cooperation on the part of Mr. Samiullah Assistant Manager (S&M) TEVTA/Member Inspection Committee may also be taken with Secretary/ Chairman TEVTA.

7. After approval of Prosecutor General Punjab, Notices of revocation dated 22-11-2017 as required under clause 11.1 of the contracts, were served upon the supplier and the supplier was also directed to return the amount paid in advance by this office after deducting the price of manufactured furniture items which were found as per specification during the inspection. The supplier submitted his justifications through letters dated 06.12.2017 and 15.12.2017 to the notices of revocation for non-performance of the contracts and requested to provide delivery schedule. As per record, the delivery schedule stood delivered at the time of issuance of supply order and it was just an exercise to further delay the matter. *

The justifications of supplier were found unsatisfactory and hence rejected and the contracts dated 31.05.2016 were rescinded partially, vide letters dated 29.12.2017, with the directions to the supplier to deliver the items which were found as per specifications during the inspection and to return the amount paid in advance after deducting the price of items which were found as per specifications during the inspection.

8. In response to revocation letters dated 29.12.2017, the supplier, vide letters dated 03.01.2018, intimated that out of advance payment amounting to **Rs.19,918,067/-**, furniture items worth of **Rs.11,506,450/-** are ready for delivery and he is ready to refund the remaining amount of **RS.84,11,617/-**. The supplier further requested for extension in time of delivery of furniture items till 25.02.2018. Moreover, the supplier vide letter dated 08.01.2018, requested for meeting to discuss the issue. In response to the request, the matter was discussed and the supplier was directed to supply the furniture items found as per specifications during the inspection, at the specified places but he failed to do so and as such the supplier failed even in the part performance of the contracts. Eventually the first party, forced by the supplier's conduct, rescinded the contracts in whole vide letters dated 29.01.2018.

9. On 28.02.2018, the matter was also brought into the notice of the Chairman TEVTA, Lahore with the request to direct the supplier to return the whole amount i.e. **Rs. 19,918,067/- (Rupees One Crore ninety-nine lac eighteen thousand and sixty seven rupees only-)** along with liquidated damages @ 10% per month and other liabilities arising out of the contracts dated 31.05.2017 otherwise this office will be obliged to adopt all legal measures for the recovery of amount but in vain.

10. On 06.03.2018, the supplier submitted an appeal before this office to look into the matter sympathetically and to accept the manufactured items ready for delivery to the designated offices and destinations and save TEVTA, the Government entity from future complication and

irreparable loss. This office vide order dated 03.04.2018 rejected the appeal of supplier dated 06.03.2018 being not admissible under rules. The supplier vide letter dated 31.03.2018 & 05.04.2018, by making reference of a meeting with the Prosecutor General Punjab submitted as under:-

The Prosecutor General Punjab, Lahore very kindly agreed for the settlement of issue. In that meeting, in principal on following points both parties were agreed.

- i. Furniture items provided by WWSC, Rawalpindi will be re-advertised with same specification as provided by WWSC, Rawalpindi and TEVTA, WWSC, Rawalpindi will be accommodated.*
- ii. The WWSC, Rawalpindi will transfer back advance amount to Prosecutor General Punjab office as per given account after completion its codal formalities.*
- iii. The PG, office will return all Earnest money/Securities to WWSC, Rawalpindi Simultaneously.*

11. As the assertions made in the letter dated 31.03.2018 & 05.04.2018 were totally against the facts hence, the office of Prosecutor General Punjab conveyed deep concern and displeasure vide letter dated 11.04.2018, regarding the issuance of letter dated 31.03.2018 and 05.04.2018 as the same were not only against the facts but also appeared to have been written due to some ulterior motives.

12. The supplier filed a writ petition bearing No. 1306/2018 Titled TEVTA VS Government of the Punjab Through the Office of Prosecutor General Punjab before Honorable Lahore High Court, Rawalpindi Bench on 13.06.2018 and submitted in paras No. 16 & 17 of the petition as under:-

16. "That being aggrieved the act of revocation of contract and issuance of tender regarding the contractual furniture items by respondent No. 02, the petitioner through the instant constitutional petition assailed being illegal, based on malafide and norms of justice inter alia on the following grounds....."

17. "The petitioner has no other efficacious, alternate and speedy remedy except to invoke the constitutional jurisdiction of this Honorable Court.

It is, therefore, respectfully prayed that the instant writ petition may kindly be allowed, the impugned order 03.04.2018 dismissing the petitioner's

appeal and order of revocation of contract may graciously be declared illegal, unlawful, mala fides, null void and be set aside, in the interest of justice.

It is further prayed that the respondents may graciously be restrained from blacklisting the petitioner on the basis of said contract and also the further proceedings on tender of items issued by respondents No. 1 & 2 for procurement of furniture items already manufactured by the petitioner, may graciously be suspended.

Any other relief, which this Honorable Court deems just and proper, may also be granted.

13. The Honorable High Court granted stay order in favour of the petitioner vide order dated 07.05.2018. The said writ petition was disposed of being not pressed vide order dated 23.10.2019. The order passed by the Honorable Court is as under:-

"Learned Counsel for the petitioner in pursuance to the order dated 21st October, 2019 at the very outset does not want to press the instant petition in order to invoke the arbitration clause mentioned in the agreement interse parties. Order accordingly."


14. In view of, order dated 07.05.2018 passed by Honorable High Court, this office recession order dated 29.01.2018 and rejection of appeals, the bid security & performance guarantee amounting to **Rs.39,22,278/-** were forfeited, deposited in government treasury, a show cause notice dated 14.11.2019 for blacklisting the supplier as required under Rule 21 of Punjab Procurement Rules, 2014 read with Sr. 01 of schedule of rules ibid was issued to the supplier but no reply received till date.

15. The supplier (2nd party) filed civil suit in which the notices were issued for 23.11.2019 and subsequently the said suit was dismissed and withdrawn on 24.12.2019.

16. In view of facts narrated above, I Rana Muhammad Arif Kamal Noon, Prosecutor General Punjab, being the competent authority under Rule 21 of Punjab Procurement Rules, 2014 read with Sr. 01 to 04 of schedule of rules ibid as amended time to time, hereby found that M/s Wood Working Service Centre, TEVTA, its registered office at Tipu Road, Behind Moti Mahal Cinema, Rawalpindi has consistently failed to perform his obligation under the contract dated 31.05.2017, therefore it is debarred / blacklisted for a period of fifteen years and it cannot

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participate in any public procurement process of the office of Prosecutor General Punjab, Lahore.


**Prosecutor General
Punjab**

No. & Date Even

A copy is forwarded for information & necessary actions to:-

- ✓ 1. Managing Director, Punjab Procurement Regulatory Authority Lahore with the request to publish the order on PPRA website.
2. Chairman, (TEVTA, 96-H, Gulberg, Lahore.
3. The Project Manager, Wood Working Service Centre (TEVTA), Tipu Road, Behind Moti Mehal Cinema, Rawalpindi.
4. PS to Secretary, Government of the Punjab, Public Prosecution Department.
5. PS to Secretary, Government of the Punjab, Industries, Commerce & Investment Department.
5. P.A to Prosecutor General Punjab, Lahore.


(IJAZ AHMAD BHATTI)
ASSISTANT DIRECTOR (B&F)