

Procurement of Number Plates in Punjab Excise, Taxation & Narcotics Control Department

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Introduction

The Excise, Taxation & Narcotics Control (ET&NC) Department issues number plates to motor vehicle owners at the time of registration of motor vehicle under the relevant provisions of the Provincial Motor Vehicles Ordinance, 1965 and the Punjab Motor Vehicles Rules, 1969. The registration number is allotted immediately upon payment of the fee and submission of documents, but number plates are issued after a gap of one week and delivered through a courier service along with registration documents. The department registers approximately 1.9 million vehicles during an average year, the bulk of which are motorcycles (85%).² The annual requirement of number plates comes to around 2 million.³

The public procurement regime in Punjab is governed by the Punjab Procurement Regulatory Authority (PPRA) Act, 2009 and Punjab Procurement Rules (PPR), 2014 framed thereunder. The Act envisages a Public Procurement Authority which will “monitor application of the laws, rules, regulations, policies and procedures in respect of, or relating to public procurement, recommend to the government revisions in or formulation of new laws, rules and policies in respect of or related to public procurement, establish performance indicators for procurement performance of the procuring agencies and monitor compliance with these indicators through independent third party evaluation.”⁴ The rules set out the principles of procurement stating that “a procuring agency, while making any procurement, shall ensure that the procurement is made in a fair and transparent manner, the object of procurement brings value for money to the procuring agency and the procurement process is efficient and economical”.⁵

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² Excise, Taxation & Narcotics Control Department, Government of Punjab.

³ Ibid.

⁴ Punjab Procurement Regulatory Authority, *Punjab Procurement Regulatory Authority Act, 2009* (Lahore: Official Printers, 2009).

⁵ Punjab Procurement Regulatory Authority, *Punjab Procurement Rules, 2014* (Lahore: Official Printers, 2014).

The Issue

The supply of number plates to the public had been at a standstill for five months. The backlog had reached as high as 1.1 million. The procurement process initiated about a year-and-a-half ago had stalled due to the expiry of bid validity period of the only bidder left in the competition. The public was forced to procure substandard number plates from the market. The issue had tarnished the image of the government. These challenges had been compounded due to indecisiveness resulting from a fear of misplaced accountability by the National Accountability Bureau (NAB) and involvement of multiple stakeholders in the decision-making process as a result of the judgment passed in the Mustafa Impex case.⁶

Key Research Questions

- 1) What options did the Secretary have for resolving the crisis?
- 2) How did the Mustafa Impex case slow down the procurement of number plates?
- 3) How did the current accountability regime targeting civil servants impact the procurement of number plates in Punjab?

1. Scene Setter

It was Thursday, August 22, 2019, around 2 p.m. Wajihullah, Secretary, Excise, Taxation & Narcotics Control (ET&NC) Dept., Government of Punjab, was sitting in his office located on Egerton Road, opposite the iconic Faletti's Hotel. He had taken over the charge of Secretary only three days hence on August 19. Having just concluded a meeting with his Additional Secretary and Deputy Secretary (Technical), his telephone set buzzed. He picked up the phone. The operator told him that Secretary to the Chief Minister (CM) wanted to talk to him. He straightened himself up as if he was actually appearing before the senior officer. "It must be some important message," he thought to himself.

Soon, the Secretary to CM was on the line. "Congratulations Wajih on your posting. We know it is your first posting as Secretary. Unfortunately, your honeymoon is going

⁶ Mustafa Impex case. Karachi vs the Government of Pakistan, PLD 2016 SC 808. Under this case the Supreme Court of Pakistan had defined the term "government" – wherever it occurred in legal documents – as the cabinet, and not as the prime minister or chief ministers; this had complicated decision making as decisions that were earlier taken at various levels of government now routinely went to the cabinet.

to be short as you have to immediately attend to the crisis of number plates which has been brewing for some time. The department has not been supplying any number plates to the public since April 2019 despite charging their prices. The backlog has reached as high as 1.1 million. The issue is bringing a bad name to the government. The local media has turned its guns on the government for its failure to resolve the crisis and facilitate the public. The procurement process has been initiated but it is not getting anywhere. You must look into the matter and find an immediate solution. Get in touch with Chief Secretary [CS] and keep me posted on all developments. Goodbye and best of luck!”

After the call, the Secretary immediately called for the record. The latest correspondence on the subject was a summary for the CM moved by his predecessor on 07.08.2019 providing an updated status of the procurement process initiated in October 2018. A lot of ground had been covered but the process had stalled because of the expiry of bid validity period of the sole bidder left in the competition. Other bidders had refused to extend their bid validity period due to escalation of dollar to rupee exchange rate as the raw material for the plates was imported. The previous secretary, after weighing various options, had recommended a licensing system whereby the government would withdraw from the business of procuring and supplying licence plates; instead private parties would be authorized to do so. These would compete amongst themselves on quality and price parameters set by the government. This option entailed amending the Punjab Motor Vehicles Rules, 1969 and getting approval from the Cabinet through its Standing Committee on Legislative Business. The summary was routed through the Law Department. The Law Department had returned the summary with the observation that the department should first clarify the fate of current procurement before exploring other options.

“What should I do?” he questioned himself. “Should I scrap the on-going process and navigate the uncharted territory of the licensing regime which was not in place in any province and hence fraught with unknown risks or should I go ahead and conclude the current process?” The questions raced through his mind as his forehead furrowed and his eyes pored into the summary in front of him.

2. Background

After going through the summary, the Secretary decided to familiarize himself with the procurement history of number plates and get the latest update on all developments leading up to the present situation. He asked Naveed, Deputy Secretary (Technical), to prepare a brief along with a chronological history of the current procurement and

submit it by the next day. When he reached office the next morning, he found the brief on his table. He immediately delved into it.

According to the document, the procurement of number plates in Punjab had commenced in 2004 when the first contract for the procurement of retro-reflective number plates conforming to ISO 7591 standard for vehicles registered in Lahore was awarded as a pilot project to M/s 3M Pakistan (Pvt) Ltd by the IT Department. The initiative was taken very well by the public and it was decided to roll it out to other districts in 2007. The contract with M/s 3M was accordingly extended for a period of three years. Under the contract, M/s 3M was supposed to import finished number plates from Germany. Initially the contract proceeded smoothly but then problems began to crop up. It transpired that M/s 3M had set up a manufacturing facility in Karachi for embossing and hot-stamping the number plates without informing the department, though it continued invoicing the department for the price of imported number plates in euros. When the matter came to the notice of the department, it withheld payment of Rs. 375 million for breach of contractual obligations and black-listed the company for one year. The matter went to the court and was still *sub judice*.

The second contract for the procurement of number plates was concluded with M/s Inbox Technologies (Private) Ltd (IBTL) in February 2014. Under the contract, M/s IBTL was bound to deliver four (04) million pairs of number plates to the department over a period of three years. That contract had expired in February 2017. However, the department placed a “repeat order” for 15% of the original quantity under PPR, 2014 to avoid any disruption in supply. The supply of plates continued until April 2019 and then ceased once the stock was exhausted.

In the interval between the expiry of contract with M/s 3M and the new contract with M/s IBTL, the department continued registering vehicles and collecting payment for the number plates. However, when it realized that the new contract would take time to materialize, it stopped charging any fee for the plates. The motor vehicle owners were left in the lurch and were forced to procure number plates from private vendors. When the contract with M/s IBTL was concluded in February 2014, the supply situation improved but plates could not be delivered to the owners as they had not paid the price. This resulted in the accumulation of undistributed number plates in various motor branches across Punjab.

As the history of the case unfolded before him, the Secretary had a sense of *déjà vu* that the current procurement process was no different from the previous one when the public had to run from pillar to post to get the number plates and once the procurement

had got underway, the department would be flooded with backlogged plates which it would not be able to distribute efficiently. However, he brushed off these thoughts and tried to concentrate on the brief.

2.1 Universal Registration Mark Scheme (URMS) and Punjab Safe Cities Authority (PSCA)

The brief flagged another important decision of introducing the Universal Registration Mark Scheme (URMS) in Punjab which had been taken in a meeting held under the chairmanship of the CM on 23.06.2016. The old scheme of registration was linked to the district and year of registration and the number plates displayed both these marks. The scheme was alphanumeric with the first two alphabets signifying the district, the third one indicating category of the vehicle followed by two digits for the year of registration and maximum four digits unique to the vehicle (**Annex A**). The scheme posed a few problems. The number was long and difficult to remember and trace in a hit and run situation. Since the series was repeated every year with only the year of registration changed, the numbers were similar across years causing confusion. It was also observed that motor vehicle owners preferred registration marks of certain districts especially Lahore which led to increased workload in motor branches and inaccurate reporting of data as temporary addresses were given for registration. The URMS, on the other hand, addressed these issues. The series would start with AAA followed by digits from 000 to 999 (and 9999 in case of motorcycles) (**Annex B**). Once the AAA series was exhausted, it would be replaced by AAB and this would continue until the last series starting with ZZZ was exhausted.

The brief referred to a series of meetings held with PSCA in the first quarter of 2017 in which the size of number plates and fonts of letters/digits printed thereon were discussed in detail. The PSCA wanted a bigger plate size for its cameras to read the numbers correctly. The plates were to have security features embedded in them to prevent any forgery or tampering. It was decided that the new contract for the number plates would incorporate all these changes and a summary would be sent to the CM for amending the Punjab Motor Vehicles Rules, 1969. The Secretary stopped at this point and soliloquized. “The new procurement process could not start in earnest unless the rules were amended first. The previous contract had expired and rules were yet to be approved by the competent authority!”

2.2 “Government” Redefined: The Mustafa Impex Case

The Secretary called for the original summary moved by the department to amend the Punjab Motor Vehicles Rules, 1969 for the introduction of URMS and redesigning of the number plates. The summary was initiated on 09.09.2016. He recalled an important development which had redefined the way the business of the “Government” would be transacted. The Supreme Court, in the Mustafa Impex case in August 2016, had redefined (and expanded) the definition of the Federal Government declaring it as a collective entity (cabinet) constituting the prime minister and federal ministers. The judgment, when applied to the provincial government, meant that statutory powers exercisable by the provincial government could only be authorized by the cabinet consisting of the CM and provincial ministers and not the CM on his own. After this judgment, any amendments in the rules, which were earlier approved by the CM, were to be approved by the provincial cabinet. The Cabinet had constituted the Standing Committee of Cabinet on Legislative Business (SCCLB) headed by the Law Minister under Rule 25(3) of the Punjab Government Rules of Business, 2011 to examine amendments in the rules and recommend these to the Cabinet for approval.

The CM approved placing the proposed amendments before SCCLB on 31.10.2017. The matter was considered by SCCLB in its meeting held on 27.12.2017. The Committee examined the amendments in detail and recommended these to the Cabinet. The Cabinet approved the amendments through circulation on 10.04.2018. However, the department had a sudden change of heart and moved another summary to the CM on 12.06.2018 recommending deferring the introduction of URMS as it had sufficient stocks of number plates at its disposal which, if not put to immediate use, would cause considerable loss to the government. The summary was returned unapproved by the CM as a caretaker regime had taken office by then and the matter was deferred to be considered by the new government after the elections.

2.3 Status of the Current Procurement

The Secretary then turned his attention to the chronology of the current procurement. The procurement process for newly-designed number plates under URMS was initiated in December 2017 and pre-qualification of firms was completed in April 2018. The last date for submission of bids was 02.10.2018. Out of seven firms, four firms were pre-qualified. One of the companies, M/s Daoming Optics, which had failed to pre-qualify, filed a writ petition in the Lahore High Court (LHC) challenging its disqualification. The LHC granted a stay order which remained in operation from 21.01.2019 to 15.05.2019. The technical evaluation of the bids was carried out on 20.05.2019. Three

out of four firms refused to extend their bid validity period citing sharp escalation in the exchange rate. The financial evaluation of the sole bidder, i.e. M/s IBTL was carried out on 21.05.2019. After the financial evaluation, the procuring agency sought approval of the department to award the contract to M/s IBTL. The department dithered and asked the procuring agency to finalize the matter at its level as being the “Competent Authority under PPR, 2014” it had the power to do so. A lot of back and forth ensued. Meanwhile, the bid validity period of M/s IBTL expired and the procurement process came to a halt.

After going through the brief, the full complexity of the situation dawned on Wajihullah. He decided to move quickly to chalk out a strategy to resolve the crisis and get all stakeholders on board. He knew that the previous Secretary had been transferred as he was unable to handle the procurement in a professional manner and failed to come up with a viable plan to fast-track it. The same fate could befall him if he faltered.

3. Salvaging the Procurement Process

After consulting his team, Wajihullah decided to set up a meeting with the CS to brief him on the available options and the way forward. The meeting was held on 26.08.2019 which was attended, among others, by the Secretary Law, Secretary Finance and Acting Managing Director, PPRA. The Secretary apprised the participants that there were four options before the department, i.e. continue with the existing contract, float another tender, establish an in-house manufacturing facility or introduce the licensing regime as proposed by his predecessor. He explained that retendering would entail scrapping the existing procurement and inviting fresh proposals. However, new bids were expected to be higher as the dollar had appreciated considerably vis-à-vis rupee since October 2018 when the firms had submitted their bids. The department was charging Rs. 1,200 for a pair of number plates for motor cars and Rs. 750 for motorcycles/ rickshaws. In case of higher bids, the official prices would have to be revised upwards. If, however, the prices were kept unchanged, the differential would need to be subsidized to reduce the burden on the motor vehicle owner. In case no subsidy was provided, there would be no option but to pass on the extra cost to him. Both options were deemed financially and administratively unfeasible.

The option of in-house manufacturing was a non-starter as it amounted to replacing a private sector monopoly with a public sector monopoly. The licensing regime was a new idea that had not been piloted in any other province. Besides, it required amending the Punjab Motor Vehicles Rules, 1969, which was a time-consuming process. Under these circumstances, the only option left was to carry on with current procurement and

take it to its logical conclusion. The CS concurred with the views of Wajihullah and asked him to move a summary for approval of the CM to place the matter before the Standing Committee of Cabinet on Finance & Development (SCCFD) for its consideration.

Wajihullah immediately moved the summary on 29.08.2019 through the PPRA, Law and Finance Departments recommending continuation of the current procurement subject to two clarifications. First, since only one bidder was left in the field, whether the current procurement would qualify as a single bid and if it were so, whether the department could proceed with it under PPR, 2014. Secondly, whether the stay period of four months, when the procurement was stayed, could be excluded from the calculation of bid validity period. The bid validity of the sole bidder had expired on 29.07.2019.

PPRA advised that under PPR, 2014 even if one complying bid was received, the department could award the contract to the bidder. Furthermore, the contract had to be awarded within the original or extended bid validity period. The Law Department advised that since the procurement process was on hold for four months due to the operation of stay order, it could be excluded for the purpose of calculating the bid validity period. The remedy was available under Section 15 of the Limitation Act, 1908. If stay period were excluded, the bid validity period could be extended up to 10.10.2019. The CM allowed the department to place the matter before SCCFD. The meeting of SCCFD held on 07.10.2019 allowed the department to proceed in light of the advice of the Law Department and PPRA. The Secretary immediately directed the Director General E&T to proceed with the contract. Only three days were left to conclude the contract with M/s IBTL as the extended bid validity period was expiring on 10.10.2019. Time was of the essence.

4. The Spectre of NAB Haunts

A few months of working as Secretary had alerted Wajihullah to the fact that ET&NC Department remained under constant media spotlight as it dealt with sensitive issues of registration of motor vehicles, collection of property tax and issuance of liquor licenses. Due to its urban footprint and public exposure, the department was at the receiving end of several complaints relating to financial embezzlement, revenue slippages, tampering with record and staff collusion with transport/‘agent’ mafias.⁷ The

⁷ Due to cumbersome procedures and absence of transparent access to officials, ‘the agent’ or a private intermediary, akin to a facilitator or legal counsel, is an ubiquitous figure in all government offices in the developing world; often this character has an unsavoury presence and acts as a conduit of bribes between the citizens and officials.

urban profile of its clientele further compounded the situation as this constituency was not only highly vocal and impatient but also had ready access to media which amplified its voice and provided it a bigger platform to vent its grievances. Under these circumstances, it was naive to assume that the department would be able to escape the notice of NAB for long. The Secretary wondered if and when the department would get on the wrong side of NAB. He was soon to learn this, not once but twice.

The department first appeared on the radar of NAB when the scandal of illegal registration of army-auctioned vehicles hit the headlines in 2017. It was reported that as many as 8,000 vehicles were registered between 2005-2014 against fake army vouchers due to collusion between motor branch staff of Excise Department, army officials and the agent mafia.⁸ Since commercial vehicles were largely imported and carried a higher price tag, mafias involved in the commercial transport business would get hold of the frame of a smuggled/stolen/scrap vehicle, fabricate a body around it, register it as an army-auctioned vehicle with the Excise Department and operate it as a commercial transport endangering the safety of passengers. Unfortunately, there was no practice of physically inspecting the vehicle at the time of registration due to shortage of staff. Although commercial vehicles were required by law to get a “fitness certificate” from motor vehicle examiners, manual systems were in place at that time rendering the verification laborious and time-consuming. NAB took cognizance of the matter, procured the data of all army-auctioned vehicles registered during the period and implicated two directors in-charge of motor registration branches in Lahore. The investigation dragged on for about two years and was dropped without reaching any conclusion.

The second time the department got in the crosshairs of NAB was when an L2 license was granted to an under-construction hotel in Lahore for the sale of liquor in January 2019. Such licenses are issued under the Prohibition (Enforcement of Hadd) Rules, 1979, which spells out a very stringent regime for the manufacturing, storage, transportation, possession and sale of liquor. As soon as the license was issued, the local media picked up the story and raised a storm accusing the government of being complicit in the promotion and sale of liquor in the Islamic Republic under the guise of licensing. The department was brought under so much pressure that it was left with no option but to withdraw the license. The hotel filed a writ petition in the Lahore High Court arguing that the license had been issued after completing all formalities and it was illegally revoked. The court accepted the petition and restored the license.

⁸ ET&NC Department, Government of Punjab.

No less a person than the CM and all those involved in the process ranging from Excise Officer Lahore, who had carried out the site inspection, to the Director General, who had recommended the case, to the Secretary, who had moved the summary for approval of the CM, to the Principal Secretary to the CM, who had dealt with this matter, were summoned by NAB and asked to explain their position. This was despite the fact that LHC had already decided the case in favour of the hotel. NAB insisted that the department did not pursue the matter vigorously enough in the court which led to an adverse decision. The department filed an intra-court appeal which was still pending.

Against this backdrop when, after approval of SCCFD, the Secretary directed the DG Excise & Taxation to conclude the contract with M/s IBTL, the DG dragged his feet and came up with lame excuses. He tried to shift the responsibility onto the department arguing that the contract was to be signed by the Secretary himself. Nothing could be further from the truth as the procuring agency was the Directorate General, E&T and the department was only involved to the extent of getting approvals from the relevant fora. When the DG was pressed to explain his reluctance, he referred to an anonymous call from an unknown source advising him against proceeding with procurement or else the matter would end up in NAB and other consequences would follow. This was a rude awakening for the Secretary who had returned to Punjab after a gap of nine years and was not aware of the extent to which the fear of NAB had pervaded the top echelons of bureaucracy.

The flat refusal of the Director General jolted Wajihullah who had invested so much effort and energy in reviving a moribund procurement process. Now when all obstacles had been cleared and all legal formalities fulfilled, the officer had backed out due to fear of NAB and was ready to shelve the procurement to save his skin. Under these circumstances, the Secretary was left with no option but to scrap the procurement process on the grounds that there was no competition due to a single bid. NAB's fear had frustrated all attempts of the Secretary to bring the crisis to an early end. The DG got himself transferred after two months.

5. A New Player Enters

NAB's earlier interventions and its likely involvement in the number plates impressed upon the Secretary the need to tread with caution and explore other safe options. An opportunity presented itself in the form of a proposal by National Radio & Telecommunication Corporation (NRTC). NRTC is an entity under the Ministry of Defence Production fully owned by the Government of Pakistan. NRTC had been approaching the department in the past to reach an understanding on the procurement

of number plates. The Secretary did not engage it initially as he was trying to salvage the current procurement process. However, when the process was shelved, he decided to sound out the management of NRTC. The decision was prompted by a number of important considerations.

To begin with, NRTC was a government entity and a government-to-government (G2G) contract could be explored if it agreed to reduce the rates to less than what were offered by M/s IBTL. Second, since it was a defence organization and nature of the contract was G2G, NAB would also steer clear of it. Third, there was little chance of the procurement being challenged in the court due to its G2G nature. Fourthly, a long-term engagement with NRTC would rid the department of this problem once and for all. Fifth and finally, the backlog could be cleared in a shorter time as the contract could be awarded after receiving the bid and carrying out technical and financial evaluation. The more Secretary mulled it over, the more he became convinced of the feasibility of the G2G option. He discussed the matter with his team. They all concurred that it was the best option under the given circumstances. The Secretary knew that NRTC was desperate to conclude the contract with Government of Punjab as the volumes were big. A contract with Punjab would enable NRTC to conclude similar contracts with Government of Sindh and Islamabad Capital Territory (ICT) administration with which its negotiations were under way.

As expected, the NRTC management offered to supply plates to the department at a price which would be lower than that offered by the sole bidder. A comparison of the two rates is given in Table-1.1. NRTC, however, insisted on a mobilization advance as a *quid pro quo*. The Secretary immediately went into a huddle with his team on how the agreement with NRTC could be operationalized within the ambit of PPR, 2014. It transpired that PPR, 2014 did not provide for any G2G arrangement and relaxation of rules would be required from the Cabinet. His attention was drawn towards Section 23 of PPRA Act, 2009 which reads as follows⁹:

- 1) *The (PPRA) Board may, for reasons to be recorded in writing, recommend to the Government to exempt any public procurement from the application of any rule or regulation made under this Act.*

- 2) *The Government may, on the recommendation of the Board and by notification, exempt application of any rule or regulation made under the Act in any public procurement by specifying alternate mode of the public procurement.*

⁹ Punjab Procurement Regulatory Authority, *Punjab Procurement Regulatory Authority Act, 2009* (Lahore: Official Printers, 2009).

3) The notification under subsection (2) shall immediately be published in the official Gazette and on the websites of the Government and the Authority.

The section was pointing a way forward. If the present procurement were to be exempted from PPR, 2014, the case would be taken to the PPRA Board of Management (BOM) headed by the CS for detailed examination. If the Board concurred, it would recommend the matter to the provincial Cabinet for approval to undertake the procurement under the G2G mode. The Secretary immediately moved a summary for the CM for approval to place the matter before PPRA BOM, which was granted.

Table 1.1

S.No.	Category	Unit price for a single number plate incl. of GST quoted in the previous bid	Rate quoted by NRTC	% Increase/ Decrease
1.	Private Vehicle Cars (front)	600	596	-0.67%
2.	Private Vehicle Cars (rear)	600	596	-0.67%
3.	Commercial Vehicle Cars (front)	600	596	-0.67%
4.	Commercial Vehicle Cars (rear)	600	596	-0.67%
5.	Govt Vehicle Cars (front)	800	797	-0.38%
6.	Govt Vehicle Cars (rear)	800	797	-0.38%
7.	Semi-Govt Cars (front)	800	797	-0.38%
8.	Semi-Govt Cars (rear)	800	797	-0.38%
9.	Private Bike (front)	296	294	-0.68%
10.	Private Bike (rear)	500	498	-0.40%
11.	Govt. Bike (front)	300	298	-0.67%
12.	Govt. Bike (rear)	500	498	-0.40%
13.	Semi-Govt Bike (front)	300	298	-0.67%
14.	Semi-Govt Bike (rear)	500	498	-0.40%
15.	Rickshaw (front)	500	498	-0.40%
16.	Rickshaw (rear)	500	498	-0.40%

In the meeting of PPRA Board held on 17.02.2020, Wajihullah presented his analysis. According to him, the department would be able to save Rs. 124 million if G2G contract was signed with NRTC for three years and Rs. 208 million if the contract was for five years as shown in Table-1.2 below:

Table 1.2

Procurement of ISO 7591 and ANPR Compliant Number Plates											
COMPARISON											
Sr. #	Category	Pair Plate Rate received in 2019 (inclusive of all taxes) (in PKR)	NRTC Rates	Difference of NRTC Rates with last bid (May 2019) per pair	Difference in percentage	Total Estimated annual consumption of NP (based on actual consumption of 2018-19)	Total estimated cost as per Bid Rates	Total estimated cost as per NRTC Rates	Estimated annual Saving against bid rates as on 22.05.2019	Estimated three years Saving against bid rates as on 22.05.2019	Estimated five years Saving against bid rates as on 22.05.2019
1	Private Vehicle Cars	1,200.00	1,150.00	-50	-4.17%	196,945	236,334,000	226,486,750	9,847,250	29,541,750	49,236,250
2	Commercial Vehicle Cars	1,200.00	1,150.00	-50	-4.17%	78,332	93,878,400	89,966,800	3,911,600	11,734,800	19,558,000
3	Govt. Vehicle Cars	1,600.00	1,540.00	-60	-3.75%	2,221	3,553,600	3,420,340	133,260	399,780	666,300
4	Semi-Govt. Cars	1,600.00	1,550.00	-50	-3.13%	950	1,520,000	1,472,500	47,500	142,500	237,500
5	Private Bike	796.00	780.00	-16	-2.01%	1,616,796	1,286,969,616	1,261,100,880	25,868,736	77,606,208	129,343,680
6	Govt. Bike	800.00	780.00	-20	-2.50%	5,279	4,223,200	4,117,620	105,580	316,740	527,900
7	Semi-Govt. Bike	800.00	780.00	-20	-2.50%	600	480,000	468,000	12,000	36,000	60,000
8	Rickshaw	1,000.00	970.00	-30	-3.00%	56,844	56,844,000	55,138,680	1,705,320	5,115,960	8,526,600
	Total					1,957,867	1,683,802,816	1,642,171,570	41,631,246	124,893,738	208,156,230
		* USD in 02nd October 2018 was Rs. 122.71									
		* USD on 22nd May 2019 Rs. 150.75									
		* USD on 11th February 2020 Rs. 154.7									
		* Data collected from Exchange-rates.org									

However, if the department resorted to retendering, the bids received would be higher by about 30% for each category of number plates as shown in Table-1.3 below:

Table 1.3

Procurement of ISO 7591 and ANPR Compliant Number Plates									
COMPARISON									
Sr. #	Category	Pair Plate Rate received in 2019 (inclusive of all taxes) (in PKR)	Price of Pair of Plates in USD on 02nd October 2018 (122.71)	Conversion of price of plate from Dollar on 02nd October 2018 to PKR 11th February 2020	NRTC Rates	Difference of NRTC Rates with last bid (May 2019) per pair	Difference in percentage	Price differential in case of retendering	Difference in percentage
1	Private Vehicle Cars	1,200.00	9.779	1,512.835	1,150.00	-50	-4.17%	362.835	31.55%
2	Commercial Vehicle Cars	1,200.00	9.779	1,512.835	1,150.00	-50	-4.17%	362.835	31.55%
3	Govt. Vehicle Cars	1,600.00	13.039	2,017.114	1,540.00	-60	-3.75%	477.114	30.98%
4	Semi-Govt. Cars	1,600.00	13.039	2,017.114	1,550.00	-50	-3.13%	467.114	30.14%
5	Private Bike	796.00	6.487	1,003.514	780.00	-16	-2.01%	223.514	28.66%
6	Govt. Bike	800.00	6.519	1,008.557	780.00	-20	-2.50%	228.557	29.30%
7	Semi-Govt. Bike	800.00	6.519	1,008.557	780.00	-20	-2.50%	228.557	29.30%
8	Rickshaw	1,000.00	8.149	1,260.696	970.00	-30	-3.00%	290.696	29.97%
		* USD in 02nd October 2018 was Rs. 122.71							
		* USD on 22nd May 2019 Rs. 150.75							
		* USD on 11th February 2020 Rs. 154.7							
		* Data collected from Exchange-rates.org							

The analysis convinced the Board to recommend the matter to the government. The matter came up before the Cabinet on 12.03.2020 in which approval was accorded to

conclude G2G contract with NRTC. The gazette notification was issued on 16.06.2020 (**Annex C**). The contract with NRTC was eventually signed on 29.10.2020 after getting approval of the draft G2G contract from SCCLB. Under the contract, NRTC would supply 2.9 million number plates for one year. The contract would be extendable for two years subject to satisfactory performance.

6. Analysis

6.1 Impact of Mustafa Impex Case

The role of the Mustafa Impex case in delaying the procurement process cannot be overemphasized. As mentioned earlier, the summary for amendments in the Punjab Motor Vehicles Rules, 1969 was moved on 09.09.2016 and was finally approved by the Cabinet on 10.04.2018. This meant a delay of almost one and a half years. The amendments had to be routed through SCCLB first which, after detailed examination, recommended these to the Cabinet on 27.12.2017, after a delay of more than a year.

The Mustafa Impex case expanded the scope of the definition of the “Provincial Government” to include both the CM and provincial ministers. Earlier, the CM had exercised executive authority on behalf of the Cabinet. Whenever rules were to be amended, the department would prepare a summary for the CM and route it through the Finance and Law departments giving full justification for the proposed amendments and spelling out any financial and legal implications. If departments went along with the amendments, the summary would be approved by the CM. The decision-making was expedited that way. Now, by putting a liberal interpretation on the word “Government”, the Superior Court judgment added another tier in the form of Cabinet to the approval mechanism.

Different ministers in the Cabinet have different views on any matter under consideration rendering it difficult to forge a consensus and arrive at a common decision. While it cannot be disputed that collective decisions are always preferable over individual decisions and diversity of opinion elevates the level of debate, the fact is that only those agenda items are generally taken up by the Cabinet which advance the constituency interests of the CM and cabinet members, while the rest are deferred to be considered at a later stage. Cabinet deliberations best epitomize the political economy of the decision-making process not just in Punjab, but globally.

While the final approval authority rested with the Cabinet, the Cabinet had instituted clearing mechanisms in the form of standing committees to filter agenda items and

refer only those to the Cabinet which ranked higher in the political pecking order. The two important ones were the Standing Committee of the Cabinet on Legislative Business (SCCLB) and Standing Committee of the Cabinet on Finance & Development (SCCFD).

The SCCLB is headed by the Law Minister with representation of ministers for Higher Education, Excise, and Sports as well as secretaries/ heads of Law Department, Regulations Wing and Implementation & Coordination Wing (I&C) as permanent members (**Annex D**). At this forum, legal amendments are examined threadbare and recommended to the Cabinet for approval. The SCCFD is headed by the CM assisted by the Finance Minister, Minister for Industries and Advisor to the CM on Economic Affairs and Planning & Development (**Annex E**). The SCCFD is authorized to dispose of cases having financial implications for both the current and development budgets.

The introduction of these additional tiers has further slowed down the decision-making process. Almost all proposals originating from the departments are either legislative in nature and require amendments of existing rules or enactment of new law/ rules, or financial which require provision of funds for development and non-development activities. All these proposals are vetted by the committees before they make it to the Cabinet. In many cases, the proposals are referred back to the departments for review. It takes considerable time for the departments to put these proposals back on the agenda of the committees and get these approved. The paperwork of the departments has increased manifold as they first initiate the summary for the CM for approval to place a matter before either of the Standing Committees and then move another summary for consideration of the respective committee. In case the Cabinet approval is required, a third summary for the Cabinet is also moved.

These Standing Committees have weakened the office of the CM reducing it to a clearing house for cases to be considered by these committees. The CM's Secretariat has ceased to perform the leadership role that it used to when the CM was exercising all authority without sharing it with Cabinet or the standing committees.

There is another perception that in the current accountability regime where even the CM and ministers are not immune to the high-handedness of NAB, these committees serve an important purpose of diffusing the responsibility and taking the burden of decision-making off the shoulders of the CM. If a decision goes wrong, the responsibility will fall on the whole Cabinet rather than the CM alone. The fear of accountability by NAB and media witch-hunting that have permeated government echelons to such an extent that the CM Secretariat simply refuses to entertain

summaries whereby departments seek directions from the CM on sensitive issues requiring highest level clearance or which warrant a departure from previous policy.

6.2 Implications of NAB Intervention

NAB's intrusion in the executive functions of the departments under the garb of accountability has assumed ominous proportions. NAB law confers wide powers on NAB officials to call for any information from any department under Section 19 of NAB Ordinance, 1999 reproduced below:¹⁰

“The Chairman NAB or any authorized officer may, during the course of an inquiry in connection with contravention of any provision of this Ordinance:

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder;*
- (b) require any person to produce or deliver any document or thing useful or relevant to the inquiry;*
- (c) examine any person acquainted with the facts and circumstances of the case; and*
- (d) require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whosoever”*

Further, Section 27 of NAB Ordinance, 1999 states:¹¹

“The Chairman NAB shall have the power to seek full and complete assistance and can call for any documents and information relevant to or in connection with any matter or proceeding pending before the NAB, from any department of the Federal Government, Provincial Government, local authority, bank, financial institution, person or any authority and institution or department in the public sector or the private sector, as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the Chairman's decision shall be final.”

¹⁰ National Accountability Bureau, *National Accountability Bureau Ordinance, 1999* (Rawalpindi: Official Printers, 1999).

¹¹ Ibid.

With around 1.9 million number plates being issued every year (corresponding to the number of vehicles registered) the procurement of motor vehicle number plates is a huge undertaking; the cost of procurement runs into millions of rupees. While negotiating contracts of such high value, the thought uppermost in the mind of a procuring officer is that he might be called upon to clear his position, should NAB investigate the matter a few years down the line. These apprehensions are reinforced by many incidents in which officers were summoned by NAB to well into their retirement years to defend their decisions about matters disposed of by them many years ago.

The bid validity period of M/s IBTL expired for the reason that neither the department nor the procuring agency (Directorate General E&T) were willing to proceed on their own due to the fear of NAB and allowed the bid validity to lapse. The issue of number plates could have been resolved in October 2019 had Director General E&T stood his ground and not capitulated to the external pressure attributed to NAB. The NAB's likely involvement was the reason why the department was advised by the CS to take the matter to SCCFD for its token approval. However even this did not suffice to allay the concerns of the DG and other members of his team.

The decision to conclude G2G contract with NRTC was also driven by the consideration of 'NAB proofing' the procurement process and putting departmental officers at ease. Since no private party is involved in G2G contracts and the contract is between two government entities, there is no fear of any loss being caused to the government. It is a fact that NAB treats public sector contracts differently from those concluded with private sector and takes a more favourable view of these.

There is a tendency among government departments to conclude contracts with defence-related organizations as these are perceived to be more secure and immune from NAB scrutiny. NRTC had capitalized upon this factor to venture into the procurement of number plates in almost all provinces. At the time when it had approached the department, it had already concluded a contract with Government of Balochistan. After signing the contract with Excise Department Punjab, it was eyeing similar contracts with Government of Sindh and ICT. The NRTC specialized in the design and development of telecommunications equipment and vehicle number plates manufacturing was not its domain. However, it had jumped into this field due to the current accountability bandwagon to diversify into this business as well.

The fear of NAB had nudged the department towards the G2G contract, but it also spawned some unintended consequences as well. Such G2G contracts restrict

competition by squeezing private parties out. One of the objectives of public procurement is to create a market for goods and services, nurture the private sector and support small and medium enterprises. The private sector competes on the basis of cost and quality, with the ultimate beneficiaries being the citizens. These objectives are compromised when a public sector organization enjoys a monopoly over the provision of goods and services.

G2G contracts pose another type of problem. Since there is no competition in such contracts, there is always a chance that the contract price would be higher than that obtained through open competition. PPR, 2014 specifies competitive bidding as the principal mode of procurement in order to achieve the best value for money. G2G contracts are exceptions to this rule.

7. Conclusion

An analysis of this case reveals that the Mustafa Impex case has had a negative impact on the procurement of number plates as a lot of time was consumed in steering the proposed amendments through various fora including the board (BOM) of PPRA, SCCLB, SCCFD and the Cabinet for getting exemptions from the procurement rules. Procurement could have been expedited if the executive authority had rested with the CM. The involvement of a number of stakeholders rendered it difficult to evolve consensus on the matter. Initially, the number plates had to be redesigned keeping in view the requirements of PSCA and attendant amendments in the rules caused inordinate delay. The bid validity period had to be extended after seeking special relaxation from the Law Department. Further complications arose because of NAB's involvement in departmental affairs. The factor of NAB discouraged the department from resorting to open competitive bidding and nudged it towards G2G arrangement. This completely shut the private sector out of the procurement process and allowed an organization working in the telecom sector to dominate the number plates manufacturing business in the country.

8. Lessons Learnt

In retrospect, the department should have stayed out of the direct procurement of number plates. Provision of number plates is not a public good that has to be delivered by the government. There is enough capacity in the private sector to manufacture and supply the plates. The department should instead have regulated the quality and price and allowed multiple private players to compete. Withdrawing from the supply would have not only averted the need for the department to seek any approval from PPRA,

SCCLB, SCCFD and Cabinet but also helped save time. This would have deterred the NAB intervention as well.

Awarding the contract to a single bidder on the basis of open competitive bids, as was done in previous contracts, should have been revisited as it established the monopoly of a single player to the exclusion of other firms which had submitted technically feasible bids but could not match the lowest price of the successful bidder. Involving multiple players would have helped diversify the risk in case there were problems with a single supplier.

The Director General should have taken Secretary into confidence and shared his concerns regarding NAB upfront so that the time spent in reviving the current procurement could have been saved and negotiations with NRTC started as soon as possible.

Imported raw material in the production of number plates should have been avoided and the supply chain localized to cut delays. An imported regime posed many problems. One was the exchange rate risk. Three out of four bidders refused to extend the bid validity period as the dollar had appreciated against the rupee. In previous contracts, it had taken a lot of time for the contractor to open the letter of credit with a local bank and get approval of the State Bank of Pakistan. Import restrictions due to exogenous shocks and unforeseen circumstances also delayed the imports. The department was facing the same problems with supply of smart cards where raw material was being imported. Accordingly, it would have been and would be more prudent in the future to indigenize supply sources and reduce reliance on imports.

9. Recommendations

The following recommendations are proposed to streamline the procurement process of number plates:

- (i) The word “Government” used in Section 23 of PPRA Act, 2009 may be replaced with the word “CM” so that approval for exemption from any rules or regulations under the Act could be granted by the CM directly without involving the Cabinet. This will fast-track the procurement process.
- (ii) All departments may carry out the exercise of suggesting suitable replacement of the word “Government” with “Cabinet”, “CM”, “Secretary” or any other appropriate authority in the rules so that only certain categories of amendments are referred to the Cabinet while others are approved at the level of the CM/ other authorities.

- (iii) NAB may only investigate procurement contracts worth more than Rs. five (05) billion and that too upon receiving a reference from PPRA. Investigation may be undertaken at earlier stages and not when the officers concerned have either been transferred or have superannuated and have no access to the record.
- (iv) For contracts valued at less than Rs. five (05) billion, investigation/inquiry may be carried out by PPRA.
- (v) The government may withdraw from the business of procurement of vehicle plates and introduce a licensing regime outsourcing the job to private players. Quality parameters and price ceilings may be fixed and strictly enforced.
- (vi) Procurement may be localized and import of raw material discouraged in all future procurements as this is the main cause of delay. Instead of using aluminum, which is an import item, local materials may be deployed for the manufacturing vehicle number plates. This can be done without compromising the security features demanded by PSCA.
- (vii) G2G mode of contracting may be resorted to in case of projects which are sensitive in nature and where information cannot be shared with private sector. PPRA may be authorized to designate such projects.

Subsequent events vindicated the decision of the department to conclude G2G contract with NRTC. The procurement of number plates has started since April 2021. No NAB notice has been received so far. All the same, one private party approached the LHC for an injunction against G2G contract, but no stay was granted. The matter is still *sub judice* in court. The department is hopeful of getting a verdict in its favour. The government has amended PPR Rules, 2014 by incorporating provisions for direct contracting with organizations owned and controlled by the government. The amendment provides that “for procurement of works, services, consultancy services, a procuring agency shall engage an organization, semi-autonomous or autonomous institution under the administrative control of the federal and provincial government registered with the Authority if project is time-bound and of sensitive nature and its information cannot be shared with the private sector. In case there are more than one eligible organizations intending to participate, then the competition shall be held among such organizations.”¹² (**Annex F**).

¹² Notification No. SO(CAB-I)2-9/2015 dated March 10, 2021.

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Annexures

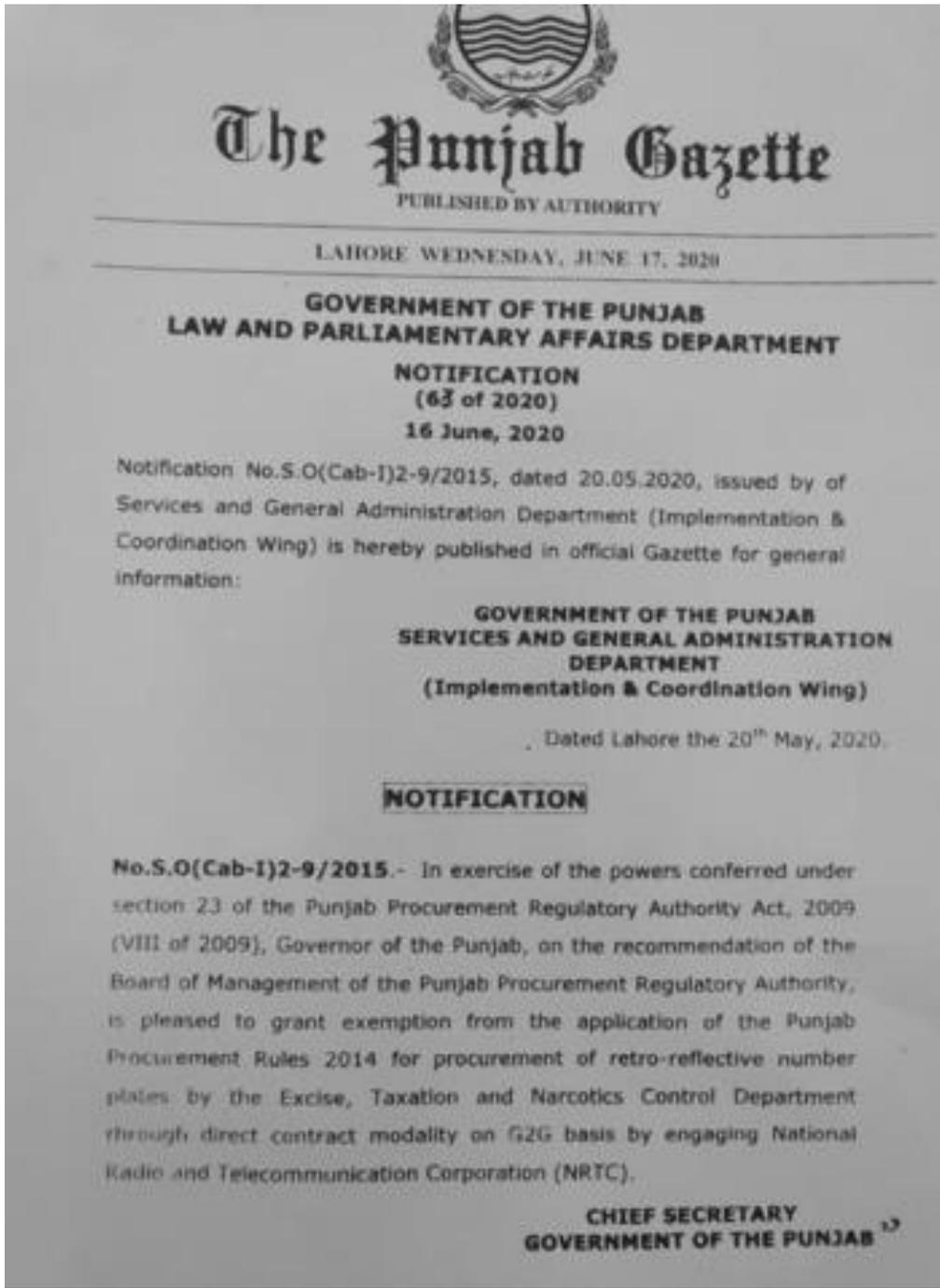
Annex A



Annex B



Annex C



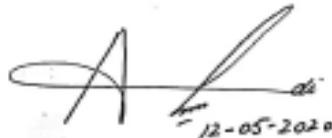
- vi. To consider / approve legislative proposals in principle in terms of Rule 33(1) of the Punjab Government Rules of Business, 2011.
- vii. To consider / approve signing of Memorandum of Understanding (MoU) / Letter of Interest (LoI).
- viii. To consider / approve Constitution / Re-constitution of Board of Directors / Board of Governors / Governing Bodies of Autonomous / Semi-Autonomous Bodies and Public Sector Companies under Government of the Punjab.
- ix. To consider / approve amendments in Schedules of Substantive / Delegated Legislation.
- x. The Cabinet may assign any other business to the Committee for disposal on its behalf under terms and conditions set by the Cabinet under Rule 25 (3) read with Rule 25 (1) (c) of the Punjab Government's Rules of Business, 2011.
- xi. The Committee may co-opt any other person, including a government functionary, a technical or professional expert, an academician etc. to assist the Committee in disposal of its business with approval of the Convener of the Committee. The member thus co-opted shall, however, have no right to vote.

JAWWAD RAFIQUE MALIK
CHIEF SECRETARY

D. & DATE EVEN:

A copy is forwarded for information and necessary action to:

1. All the Provincial Ministers, Punjab
2. All the members of the Standing Committee on Legislative Business
3. The Advisor to the Chief Minister, Punjab
4. The Senior Member, Board of Revenue, Punjab
5. The Chairman, Planning & Development Board, Punjab
6. All the Administrative Secretaries, Govt. of the Punjab
7. The Additional Chief Secretary, Punjab
8. The Principal Secretary to Chief Minister, Punjab
9. All the Divisional Commissioners, in the Punjab
10. The Provincial Police Officer, Punjab
11. The Chairman, Chief Minister's Inspection Team, Punjab
12. The Additional Secretary (General) / Staff Officer to Chief Secretary, Punjab
13. The Section Officer (I&C-I), S&GAD
14. P.S.O to Chief Secretary, Punjab
15. P.S to Secretary (I&C), S&GAD



12-05-2020

(ADIL UMAR-PMS)
SECTION OFFICER (CABINET-III)

Annex E

TO BE RE-SUBSTITUTED BEARING SAME NUMBER & DATED 14.09.2018



GOVERNMENT OF THE PUNJAB
SERVICES & GENERAL ADMINISTRATION
DEPARTMENT
(CABINET WING)

Dated Lahore, the 27th May, 2019

NOTIFICATION

No.SO(CAB-II)8-6/2018: In pursuance of the decision of Provincial Cabinet made in its meeting held on 08.09.2018, the Standing Committee of the Cabinet on Finance & Development is hereby notified with the following composition and TORs:-

COMPOSITION

i)	Chief Minister, Punjab	Convener
ii)	Minister for Finance, Punjab	Member
iii)	Minister for Industries, Punjab	Member
iv)	Dr. Salman Shah, Advisor to Chief Minister Punjab on Economic Affairs and Planning & Development	Co-opted Member

TORs OF THE COMMITTEE:

2. The Standing Committee of the Cabinet on Finance and Development is constituted by the Provincial Cabinet under Rule 25 (3) read with Rule 25 (1) (c) of the Provincial Government's Rules of Business (ROB), 2011 and is authorized by the Cabinet to dispose of the business of the Cabinet in terms of Rule 25 (1) (c) under the following Terms of Reference:-

- i. The Committee shall examine and decide upon all cases for supplementary grants on current side. Among other things as mentioned in the Budget Manual, supplementary grants also include creation of new posts on the non-development side.
- ii. The Committee shall examine and decide upon all fiscal matters (such as levy, abolition, remission, alteration or regulation of any tax, fee etc., incurring of floating of loans, raising of debts, and issuance of provincial guarantees), on behalf of Provincial Cabinet.
- iii. The Committee shall examine and decide upon cases of provision of supplementary grant for new / un-funded development schemes outside ADP.
- iv. The Committee shall examine and decide proposals for substitution of ADP schemes with new schemes.
- v. The Committee shall be fully authorized in terms of provisions of Rule 25 of the Punjab Government's Rules of Business, 2011.

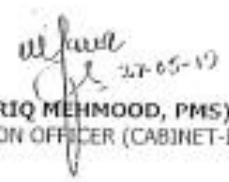
- vi. The Cabinet may assign any other business to the Committee for disposal on its behalf under terms and conditions set by the Cabinet in terms of Rule 25 (3) read with Rule 25 (1) (c) of the Punjab Government's Rules of Business, 2011.
- vii. The Committee may co-opt any other person, including a Government functionary, a technical or professional expert, an academician etc. to assist the Committee in disposal of its business with approval of the Convenor of the Committee. The member thus co-opted shall, however, have no right to vote.

YOUSAF NASEEM KHOKHAR
CHIEF SECRETARY

No. & DATE EVEN:-

A copy is forwarded for information and necessary action to:

1. All the Provincial Ministers, Punjab.
2. All the members of Standing Committee of Cabinet on Finance & Dev.
3. The Advisor to the Chief Minister, Punjab.
4. The Senior Member, Board of Revenue, Punjab.
5. The Chairman, Planning & Development Board, Punjab.
6. All the Administrative Secretaries, Govt. of the Punjab.
7. The Additional Chief Secretary, Punjab.
8. The Principal Secretary to Chief Minister, Punjab.
9. All the Divisional Commissioners, in the Punjab.
10. The Provincial Police Officer, Punjab.
11. The Chairman, Chief Minister's Inspection Team, Punjab.
12. The Additional Secretary:(Gen)/Staff Officer to Chief Secretary, Punjab.
13. P.S.O to Chief Secretary, Punjab.
14. P.S to Secretary (I&C), S&GAD.


(TARIQ MEHMOOD, PMS)
SECTION OFFICER (CABINET-II)

Annex F



**GOVERNMENT OF THE PUNJAB
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(Implementation & Coordination Wing)**

Dated Lahore, the 10th of March, 2021

NOTIFICATION

No.SO(CAB-I)2-9/2015.- In exercise of the powers conferred under section 26 of the Punjab Procurement Regulatory Authority Act 2009 (VIII of 2019), Governor of the Punjab is pleased to make the following amendment in the Punjab Procurement Rules 2014 with immediate effect:

AMENDMENT

In the Punjab Procurement Rules 2014, in rule 59, after clause (d), the following new clause (e) shall be inserted:

"(e) direct contracting with an organization, owned and controlled by the Government: (i) for procurement of works, services and consultancy services, a procuring agency shall engage an organization, semi-autonomous or autonomous institution under the administrative control of the Government, Federal Government or other Provincial Government, registered with the Authority, in direct contracting, if project is:

- (a) time bound; or
- (b) of sensitive nature and its information cannot be shared with private sector.

(ii) Government organization engaged for the procurement shall accomplish the task exclusively through its own resources without involving private sector as a partner or in the form of a joint venture or as a sub-contractor.

(iii) In case, there are more than one eligible organizations intending to participate, then the competition shall held among such organizations.

(iv) rules 12 and 14 of the rules shall not apply on procurement process under the clause."

MD PPRA

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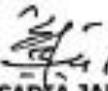
**CHIEF SECRETARY
GOVERNMENT OF THE PUNJAB**

P.T.O

NO. & DATE EVEN:

A copy is forwarded for information and necessary action to:-

1. The Secretary to Governor, Punjab.
2. The Secretary to Chief Minister, Punjab.
3. The Accountant General, Punjab, Lahore.
4. The Provincial Police Officer, Punjab.
5. The Registrar, Lahore High Court, Lahore.
6. All Administrative Secretaries to Government of the Punjab.
7. All Commissioners in the Punjab.
8. The Managing Director, PPRA.
9. All Heads of Special Institutions of S&GAD.
10. All Deputy Commissioners in the Punjab.
11. The PSOs to CS and ACS, Punjab.
12. PS to Secretary (I&C), S&GAD.


10/3/2021
(SADIA JAMAL)

SECTION OFFICER (CABINET-I)

