



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

SHOW CAUSE NOTICES ISSUED TO
M/S UTILITY STORES CORPORATION OF PAKISAN (PVT.) LIMITED
ON COMPLAINT FILED BY
M/S DIGITAL RESEARCH LABS (PVT.) LIMITED

INTERIM ORDER UNDER SECTION 32 OF THE COMPETITION ACT, 2010

(F. NO: 81/DRL/C&TA/CCP/2016)

Date of hearing: 27-01-2017

Commission: Dr. Shahzad Ansar
Member

Mr. Ikram Ul Haque Qureshi
Member

Present on behalf of:
**M/s Digital Research Labs (Pvt.)
Limited**

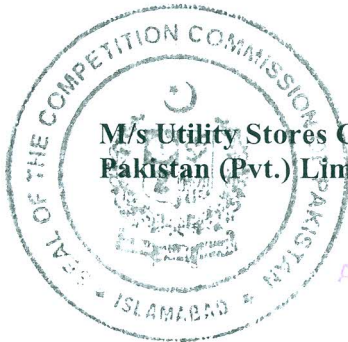
Syed Ahmed Hassan Shah, ASC
Hassan Kaunain Nafees

Jaffar Sibtain, Advocate
Hassan Kaunain Nafees

Ms. Tanees Fatima
Hassan Kaunain Nafees

Mr. Hashir Jan, CEO
Isphandiyar Tajammal Awan, Director (Legal)

Mr. Tariq Hassan, Advocate Hassan & Hassan
Mr. Bulent Sohail, Advocate Hassan & Hassan
Mr. Shakeel Ahmed, GM (IT)

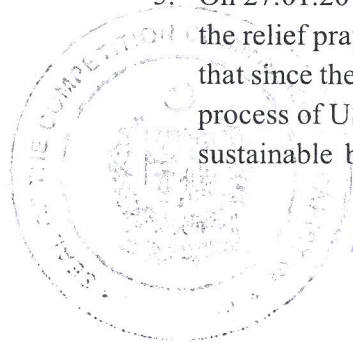


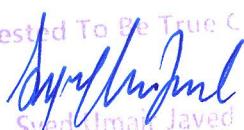
**M/s Utility Stores Corporation of
Pakistan (Pvt.) Limited**

Attested To Be True
by
Syed Iqbal Hameed
Member
Competition Commission of Pakistan
Government of Pakistan
Islamabad.

ORDER

1. The Competition Commission of Pakistan (the 'Commission'), upon receipt of complaints under Section 37(2) (the 'Complaint') of the Competition Act 2010 (the 'Act') by Digital Research Labs (Private) Limited (hereinafter, 'DRL' or 'Applicant') against the Utility Stores Corporation of Pakistan (Private) Limited (hereinafter, 'USC' or the 'Respondent') for alleged anticompetitive clauses in the USC's Request for Proposal (RFP) dated 19 May 2016 for procurement of 'Enterprise Resource Planning' (ERP) software and implementation services concluded an Enquiry Report on 16.12.2016 (the 'Enquiry Report').
2. Based on the findings of the Enquiry Report, the Commission issued a Show Cause Notice No. 57/2016 dated 29.12.2016 (the 'SCN') pursuant to Section 30 of the Act, calling upon the USC to show cause in writing within fourteen (14) of the SCN and to appear and place before the Commission the facts and material in support of its contentions and to avail the opportunity of being heard either in person or through a duly authorized representative on 19.01.2017.
3. On 29.12.2016, the Counsels for DRL submitted an application for Interim Order under Section 32 of the Act (the 'Interim Order Application') on the grounds that the Applicant has a *prima facie* case in terms of the Complaint and unresponsiveness on the part of USC. The Applicant asserted that if the impugned procurement of ERP by USC is not restrained, it will not only cause detriment to the interest of the Applicant but also in violation of the provisions of the Act, which the Commission is mandated to enforce. If USC is not restrained from procurement of USC, it shall cause serious or irreparable damage to the Applicant as well as public interest. Therefore, such direction may be issued to USC whereby USC ensures and/or satisfies the Commission that it shall not proceed with the impugned procurement during the pendency of the proceedings and/or otherwise in contravention of the provisions of the Act.
4. On 19.01.2017, the Counsels for USC filed their power of attorney and sought an extension to reply the SCN. The Bench acceded to the request and extended the time to file written reply to the SCN till 02.02.2017. The Counsels for USC also sought an extension to file a written reply to the Interim Order Application till 27.01.2017, which was also acceded to by the Bench.
5. On 27.01.2017, both parties presented their argument in favour and against the grant of the relief prayed under the Interim Order Application. The Counsels for USC submitted that since the Applicant has not submitted its RFP, it is not part of the ERP procurement process of USC; thereby its argument pertaining to serious or irreparable damage is not sustainable both in person and in public interest. In rebuttal, the Counsels for DRL

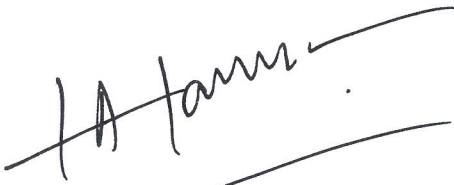


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Syed Jmal Javed
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad.

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submitted that they could not submit RFP because of the criteria laid down by USC for submission of RFP, which has been duly discerned in the Enquiry Report.

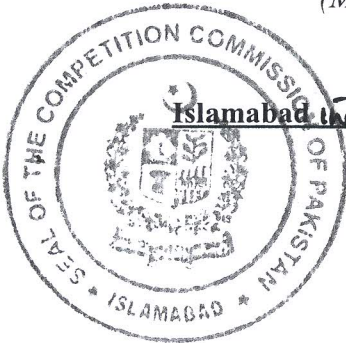
6. The Bench having heard the arguments at length and considering the likelihood of serious damage and in the public interest finds it necessary to issue an interim order under Section 31 of the Act to restrain USC till the conclusion of the proceedings and disposal of the SCN.
7. While keeping in view the proportionality and balance of interests of the Complainant and the Respondents the Bench will expedite disposal of the proceedings in the matter at hand it hereby orders that:
 - a. the Respondent may continue to carry out its internal processing of the RFP and tenders received thus far; however
 - b. the Respondent shall not award the impugned procurement/contract thereof till the conclusion of the proceedings;
8. Ordered accordingly.



Dr. Shahzad Ansar
(Member)



Ikram Ul Haque Qureshi
(Member)



Islamabad the 27th January 2017

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Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad.