

# Parivartan

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Dear Mr Wolfowitz,

We are writing this letter to you to inform you of the manner in which the India office of the World Bank is intervening in the functioning of the water utility in Delhi called Delhi Jal Board (DJB). The DJB has applied to the Bank for a loan of about 150 million dollars to carry out water sector reforms. It has already received a loan of about 2.5 million dollars towards Project Preparation Facility (PPF).

We are enclosing a note (Annexure A), which gives the sequence of events leading upto the award of contract to Price Waterhouse Coopers (PWC) for PPF. PWC lost in the normal bidding process not once but thrice. However, the Bank officials intervened every time. Finally PWC got the contract. World Bank over ruled strong protests from DJB and went ahead against the wishes of elected representatives. The resolutions passed by the Governing Board of DJB, of which the Chief Minister of Delhi is the Chairperson, were ignored by the Bank.

Some of the intervention appears to be violation of the terms and conditions applicable to this loan. It raises suspicion whether the Bank is trying to favor certain companies through their intervention. Annexure B gives specific instances of some such violations. The whole process appears to be fundamentally flawed.

Whereas we are separately taking up this issue with our governments, we request you, through this letter, to initiate a probe into the alleged inappropriate interventions by the Bank officials and take appropriate penal actions against officials found guilty. We also request you to ensure that such violations do not recur again. In the interest of transparency, we would request you to inform the people of India of the decision taken by you in this regard.

Mr Michael Carter, Country Director, has sought to justify the interventions saying that the water utility is in a mess and needs "hand holding" by the Bank. We wish to state that India exports managerial and technical expertise to the rest of the World. It has some of the best technical and management institutes. We are sure India does not need Bank's hand holding to improve its water systems. Also, wherever similar Bank initiated reforms were carried out in other developing countries, water tariffs skyrocketed, water quality deteriorated, water was diverted from residential areas to amusement parks and hotels and supply to the poor was cut off as they could not afford water. We are not aware of any developing country where Bank initiated reforms have been successful in improving water availability to all, including poor. With this background, can the Bank really claim to have the expertise to improve the water systems in developing countries?

According to DJB records, the Bank officials are believed to have told DJB officials that the Bank had indulged in similar violations in many other projects. The details of all such projects and nature of violations should be made public.

India has recently enacted one of the most progressive Right to Information law. Some of the State Governments, including Delhi, already had such laws in place earlier. The laws enable citizens to access almost all government documents, barring a small list of exemptions. In such a transparent atmosphere, the Bank has a dated Disclosure policy, which seeks to disclose much less than it seeks to hide. This makes Bank's operations in India opaque and prone to suspicion. When approached with a request to make all documents related to the above deal public, Mr Carter expressed his helplessness citing the Bank's Disclosure policy.

Bank's Disclosure policy starts as under:

*“ The Bank reaffirms its recognition and endorsement of the fundamental importance of transparency and accountability to the development process. Accordingly, it is the Bank’s policy to be open about its activities and to welcome and seek out opportunities to explain its work to the widest possible audience.”*

However, in practice, it discloses much less. If the Bank were to implement this in practice, it would need to seriously and urgently take a relook at its Disclosure Policy. Especially when the citizens are able to access all the documents from the Governments, Bank's refusal to allow access to its documents would seriously affect its credibility as a transparent organization.

We hope that you would initiate the process of revising your Disclosure policy in the light of the above developments. However, in the interregnum, we request you to consider Bank's adherence to the provisions of India's Right to Information Laws to its own operations in India.

Yours sincerely,

(Arvind Kejriwal)

Mr Paul Wolfowitz  
President, World Bank,  
Lodi Estate, New Delhi.

## Annexure A

# How did Price Waterhouse Coopers (PWC) bag the consultancy contract?

### What the papers reveal

The Delhi Jal Board (DJB) approached World Bank in 1998 for a loan. The Bank suggested that they hire a consultant who would “suggest” basic reforms for the DJB to carry out. The Bank offered a 2.5 million dollar loan to DJB for hiring the consultant.

Accordingly, DJB invited *Expressions of Interest*. 35 consultants applied. In the first step, 6 of them were to be short listed. An evaluation committee, consisting of senior officials of DJB, ranked each company on the basis of World Bank guidelines. PWC was ranked 10<sup>th</sup>. World Bank guidelines state that one of the short listed companies should be from a developing country. This provision was misused to bail PWC out. PWC was treated as an Indian company because the branch of PWC, which had applied, is incorporated in India. So, PWC was brought up from 10<sup>th</sup> to sixth position.

Technical and financial proposals were invited from the six short listed companies. First the technical proposals were opened. A company needed 75% marks in technical evaluation to qualify. An evaluation committee, consisting of senior officials of DJB, evaluated the proposals on the basis of the criteria given in World Bank guidelines. PWC again failed. Only two companies, namely Deloitte of USA and TAHAL of Israel, got more than 75% marks.

The results were sent to the World Bank for their “no objection”. The Bank was strangely dissatisfied with the results. It nevertheless blatantly displayed its interests in PWC. It demanded an explanation from the DJB as to why did they give such low marks to the PWC. In a letter written to DJB on 6.12.99, the Bank demanded:

*“for example, PWC was awarded 1 out of 3 points for understanding of the TOR; you need to provide a brief explanation of what exactly are PWC’s shortcomings against the TOR.”*

The Bank raised objections to the criteria and sub-criteria used by the evaluation committee. They prescribed new sub-criteria and directed DJB to cancel this evaluation and do a re-evaluation.

The DJB was stunned. How could the sub-criteria be changed after the bids had been opened? A Board meeting of DJB was called. We reproduce below some excerpts from the note placed before the Delhi Jal Board by Dr Ranbir Singh, the then Additional CEO, in its meeting on 27.01.00:

*“The comments of the Bank were considered by the DJB and it was felt that changing the sub-criteria at this stage would not be advisable since it is tantamount to an afterthought and militates against the principle of transparency.”*

The DJB felt that the World Bank was trying to favor a few companies by insisting on relaxing the criteria so that a few more companies could qualify. The DJB clearly opposed this arbitrary interference. The note further read:

*“A deeper analysis of the suggestions of the Bank would reveal that their objective is to ensure qualification of some more firms by making the sub-criteria less stringent.”*

*“It would mean that instead of two firms, 3 or 4 would qualify which may eventually translate into award of contract to a firm other than any of the two originally recommended by the committee. This could not only be terribly embarrassing to the DJB, but might even be questioned by the affected firms.”*

*Secondly, the Committee had evolved the sub-criteria by taking into consideration all aspects of the Terms of Reference (TOR) as well as the World Bank guidelines. It had also duly considered the illustrations received from the Bank and modeled the sub-division of points along the lines given. Needless to say, it was less than reasonable on the part of the Bank to insist on revision of the sub-criteria so scrupulously laid down by the Committee. Normally the sub-criteria are finalized before the opening of the bids, which the Committee had also done. In fact, the members of the Evaluation Committee were clearly advised to determine the sub-criteria before opening the proposals, during a brief orientation session in the World Bank office in Delhi on 24.8.99.”*

The DJB clearly felt bullied.

*“Now they are bent on violating the very principle enunciated by them.”*

*Not convinced with their suggestions, the DJB wrote a detailed letter to the Bank on 16.12.99 conveying its misgivings and again requesting to convey their “no objection”. However, the Bank has categorically declined to change their stand as conveyed vide their letter dated 23.12.99 and has insisted on revision of the sub-criteria.”*

DJB was categorically told by the World Bank that this was not the first time they were interfering in this manner. They have done this several times in other projects too.

*“Informal discussion was held with Sh Shyamal Sarkar, Senior Sanitary Engineer in the World Bank, to apprise him of the concerns of the DJB. He has indicated that the sub-criteria have been revised in similar circumstances at the Bank’s suggestion in the past.”*

On the basis of this note, the DJB passed the following resolution (Resolution No 514, Item No 531 dated 27.01.00):

*“The Board was of the view that the World Bank be requested to reconsider their position on revising the sub-criteria, failing which fresh bids should be called on the basis of newly introduced sub-criteria.”*

Accordingly, a team consisting of Principal Secy (UD), CEO, Addl CEO and Director (Finance) met Sh Anil Bhandari, Operations Advisor of the World Bank on 10.02.00 and impressed upon the bank to re-consider their position.

But the Bank refused to relent. Finally, vide its letter dated 02.05.00, the Bank turned down all requests from the DJB and “suggested” they to reject all bids, return all the proposals and call for fresh proposals.

Additional CEO discussed this matter with Sh Abhas Jha, Deputy Secretary, Department of Economic Affairs, Government of India. Mr Jha appreciated the viewpoint of the DJB but opined that “it might not be advisable to forego the project on this issue.”

The DJB, the State Government and the Central Government revealed their helplessness before the World Bank. Despite their many objections, the DJB had to comply.

Fresh bids were invited. A new Evaluation Committee was formed. The new committee was careful this time. At every step, they obtained Bank’s approval. The Bank interfered in the formation of the Committee. The composition, structure and procedures were all laid down in great detail by the Bank. The new Committee was formed with the approval of the Bank.

However, PWC again failed to get pass marks. Only one company, namely M Watson of UK, qualified. Amazingly, the Bank was again dissatisfied. It called for the detailed scores given by each member of the evaluation committee.

This time, the Bank transgressed all limits of interference and violated all norms of fair play and decency. It demanded that the scores given by Mr R K Jain, one of the members of the evaluation committee, be omitted because “evaluation made by Mr Jain is at considerable variance with the evaluation made by other evaluators.”

Interestingly, the Evaluation Committee mentioned in its report that Mr R K Jain gave low marks to PWC and Mr S K Chhabra gave low marks to M/s Sogreah. But the World Bank demanded omission of Mr Jain’s scorecards only. The Bank’s bias could not have been more apparent. .

The DJB was “requested” to recast the scores accordingly. This time, there were no protests from DJB. DJB obliged and PWC scraped through.

## The World Bank needs to explain...

Does the World Bank feel that this kind of interference is justified? If so, does that mean that it will continue to interfere in this manner in India and elsewhere?

Did World Bank favor PWC because the Bank wanted a pliable consultant who would act at the behest of the Bank and recommend what the Bank wanted rather than what was in the best interests of the people of India, and the residents of Delhi in particular? Or because there is corruption within the Bank?

The World Bank website shows PWC as being one of the companies it has hired to examine corruption charges against bank officials. Does its support to PWC for obtaining contracts not amount to a conflict of interest?

Is the World Bank intervening similarly in the award of all other contracts under the ongoing water sector reforms in Delhi? Will it make all its correspondence including its exchanges with the DJB, the Delhi Government and the GOI public?

## **Annexure B**

### **Terms & conditions of this loan agreement:**

We reproduce below some of the relevant terms and conditions of the loan agreement signed between Government of India and World Bank for the loan of about 2.5 million dollars towards Project Preparation Facility (PPF).

#### ***“Prior Review***

*2. With respect to all contracts that are subject to the Bank’s prior review:*

*(a) Before inviting proposals, the Borrower shall furnish to the Bank for its review and “no objection” the proposed cost estimate and RFP (including the short list). The Borrower shall make such modifications to the short list and the documents as the Bank reasonably requests. Any further modification shall require the Bank’s “no objection” before the RFP is issued to the short-listed consultants.*

*(b) After the technical proposals have been evaluated, the Borrower shall furnish to the Bank, in sufficient time for its review, a technical evaluation report (prepared, if the Bank shall so request, by experts acceptable to the Bank) and a copy of the proposals, if requested by the Bank. If the Bank determines that the technical evaluation is inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination; otherwise, the Bank shall issue a “no objection” to the technical evaluation. The Borrower shall also request the Bank’s “no objection” if the evaluation report recommends rejection of all proposals.”*

#### **Our observations:**

1. This shows that at the time of technical evaluation, the power/role of the Bank is limited to ensuring that the technical evaluation is not inconsistent with the provisions of the RFP. For this, the Bank has the powers to call for only technical evaluation report and copies of proposals, and no other records.

It means that the Bank does not have the powers to call for the scores given by individual members of the evaluation committee to each bidder. The Bank does not have the powers to comment on the evaluation of each member. The Bank also does not have the powers to seek selective removal of scores of some of the members of the evaluation committee. In the instant case, the Bank did precisely all this. At some fora, the Bank has sought to justify its actions by questioning the integrity of some of the members of the evaluation committee. If the Bank doubted the integrity of any of the members, it could have approached various vigilance agencies of the country with a formal complaint. But how did the Bank officials acquire powers to seek selective removal of scores and intervene in the manner as they did?

The Bank would need to probe and explain this action, which appears totally arbitrary, whimsical, one-sided and could be guided by corrupt motives.

2. In a letter written on 6.12.99, the Bank demanded following explanation from DJB:

*“for example, PWC was awarded 1 out of 3 points for understanding of the TOR; you need to provide a brief explanation of what exactly are PWC’s shortcomings against the TOR.”*

Does the Bank have the powers to seek such explanations from the Borrower, and that too for only one of the bidders? Four companies, including PWC, had disqualified at this stage. But the Bank officials seemed to be concerned only about PWC. Does this not indicate Bank’s interest in a particular company?

3. The Bank forced DJB to cancel its bids in the first instance, change the sub-criteria of evaluation and invite fresh bids. This was done because the “sub-criteria were not responsive of TOR.”

Who decides whether the sub-criteria are responsive to TOR or not? What is the process of arriving at such a decision? Is this process transparent and open to public scrutiny? Else, any criteria could be termed as non-responsive to TOR.

In this case, DJB officials painstakingly and emphatically clarified that the criteria and sub-criteria were laid down on the basis of the Bank’s own guidelines. And still the Bank chose to force DJB to cancel its bids. Don’t the above incidents indicate that since the Bank officials had an interest in PWC, the decision of Bank officials to reject the sub-criteria was guided by extraneous motives?

4. Who should decide the agenda of reforms? The Bank or the Borrower? Under the terms of the contract, the Bank has the powers to “review” RFP. Is this power defined anywhere or does it give supreme powers to the Bank to make any changes to the RFP amounting to dictating the RFP word by word and imposing the entire agenda of reforms? Records show that this is what happened in this case. The Bank virtually wrote the entire TOR, which is the most critical part of RFP.