



# TAMIL NADU GOVERNMENT GAZETTE

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## Part III—Section 1(a)

General Statutory Rules, Notifications, Orders, Regulations, etc.,  
issued by Secretariat Departments.

### NOTIFICATIONS BY GOVERNMENT

#### FINANCE DEPARTMENT [Salaries]

AMENDMENTS TO THE TAMIL NADU TRANSPARENCY IN TENDERS RULES, 2000

[G.O. No. 425, Finance (Salaries), 11th December 2012, Karthigai 26, Thiruvalluvar Aandu-2043.]

No. SRO A-36(a)/2012.

In exercise of the powers conferred by sub-section (1) of Section 22 of the Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998), the Governor of Tamil Nadu hereby makes the following amendments to the **Tamil Nadu Transparency in Tenders Rules, 2000**.

2. The amendments hereby made shall come into force on the 11th day of December, 2012.

#### AMENDMENTS

In the said Rules, in rule 1,-

(i) after clause (b), the following clause shall be added, namely:—

“(c) These rules shall apply to all types of procurement except the procurement of Projects under the Public Private Partnerships.”;

(2) in rule 2,-

(a) in clause (e), for the expression “price”, the expression “financial” shall be substituted.;

(b) for clause (g) the following clauses shall be substituted, namely:-

“(g) **Lump-sum Contract**” means a contract under which a tenderer is engaged to carry out a work or effect supply as specified within a given period and for a fixed total price and the tenderer is paid depending on the completion of work or supply to specification and adherence to the time schedule:

Provided that where appropriate, unit rates or prices for each of the various items comprising such work or supply may also be specified to facilitate interim payments depending on the actual quantities of work executed or supplies effected;

(h) **“Multi-Stage Tender”** means a tender in which there are atleast two stages including an initial stage of short-listing based on the fulfillment of eligibility criteria based on experience and financial or technical parameters or both and a final stage in which only the qualified, short-listed tenderers are invited to submit their financial bids;

(i) **“Piece-work Contract”** means a contract under which only unit rates or prices for various kinds of work or materials are agreed upon for a given period of time without reference to the total quantity of work to be done or the material to be supplied and the time period within which the work or supply is to be completed.;

(j) **“Turn-key Contract”** is a contract under which the tenderer is required to undertake within the framework specified by the Procuring Entity the entire responsibility for detailed investigation, planning, design, construction and commissioning of the total project.”

(3) in rule 8,- for the expression, “five lakhs or”, the expression “ten lakhs and is” shall be substituted.;

(4) in rule 11, in sub-rule (4), for the expression “tendering department”, in two places where it occurs, the expression “Procuring Entity” shall be substituted.

(5) in rule 13, in sub-rule (2), after clause (a), the following proviso shall be added, namely,-

“Provided that such specifications should as far as practicable specify the output or service levels to be delivered.”

(6) in rule 14,

(a) in sub-rule (2),-

(i) for the expression “prices”, the expression “financial bids” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely,-

“Provided that the initial period of validity shall ordinarily be ninety days.”;

(b) in sub-rule (7),-

(i) for the expression “price”, the expression “financial bid” shall be substituted;

(ii) sub-rule (7A) shall be omitted.

(7) in rule 15, in sub-rule (1), for the expression “in addition to price”, the expression “including financial bid” shall be substituted.

(8) in rule 16, in sub-rule (1), for the expression “from the date of publication of the tender”, the expression “from the date of publication of the Notice Inviting Tenders” shall be substituted.

(9) in rule 18, in sub-rule (5), after clause (d), the following clause shall be added, namely,-

“(e) in the case of tenders not submitted electronically, the tenderer shall ensure that all the pages are serially numbered and the submitted tender documents are properly stitched and bound.”.

(10) after rule 20, the following rule shall be added, namely,-

**“20A. Withdrawal of Tenders Before Opening:-** (1) No tenderer shall be allowed to withdraw the tenders after submitting the tender.

(2) A Tenderer may submit a modified tender before the last date for receipt of tender:

Provided that where more than one tender is submitted by the same tenderer, the lowest eligible financial tender shall be considered for evaluation.”;

(11) in rule 21, in sub-rule (1),-

(a) for the expression “Tender Accepting Authority”, the expression “Tender Inviting Authority” shall be substituted;

(b) for the expression “opened at the time”, the expression “opened at the time and venue” shall be substituted.

(12) in rule 22,

(a) in clause (h), the expression "The signatures of the tenderers present shall be obtained unless any of the tenderers or his representative refuses to sign the minutes." shall be omitted.;

(b) after clause (h), the following clause shall be added, namely,-

"(i) The signatures of all the tenderers present shall be obtained and if any of the tenderers or his representative refuses to sign the minutes, the same shall be recorded."

(13) in rule 26, in sub-rule (2),-

(a) for the expression "shall", the expression "may" shall be substituted;

(b) the following proviso shall be added, namely,-

"Provided that sum total of all extensions shall ordinarily not exceed 180 days."

(14) in rule 27, in sub-rule (1), for the expression "Sections 12 and 13 of the Act", the expression "Sections 13 and 14 of the Act" shall be substituted.

(15) in rule 29,-

(a) in subrule (2), in clause (d),-

(i) in sub-clause (iii), for the expression "sales tax", the expression "Value Added Tax" shall be substituted.;

(ii) in sub-clause (iv), for the expression "the sales tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959)", the expression "the Value Added Tax levied under Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)" shall be substituted;

(b) clause (f) shall be omitted.

(c) in sub-rule (3), for the expression "clauses (1) and (2) above", the expression "sub-rules (1) and (2)" shall be substituted.

(d) after sub-rule (3), the following sub-rule shall be added, namely,-

"(4) In the event that two or more tenderers have made the same financial bid and the splitting of the tender is not possible in accordance with sub-section (5) of Section 10 of the Act, the Tender Accepting Authority shall identify the lowest tenderer by adopting one of the following approaches, which shall be prespecified in the Tender Documents:

(a) In case of multi-stage tenders, by taking into account the qualification score of each tenderer from the first stage and the tenderer with higher score shall be adjudged the Lowest Tenderer; or

(b) By asking the two tenderers to provide their best and final offer of the financial bid in a sealed cover and the tenderer offering the most advantageous financial bid shall be adjudged the Lowest Tenderer.

(c) In case a tie still persists after the procedure contained in clause (a) or (b) of this sub-rule has been followed, the selected tenderer shall be identified by draw of lots, which shall be conducted, with prior notice, in the presence of the tied tenderers or their representatives who choose to be present."

(16) after rule 29, the following rule shall be added, namely,-

**"29A. Treatment of Speculative Tenders.-** (1) The Tender Accepting Authority may reject a tender if it has determined that the financial bid in combination with other constituent elements of the tender is abnormally low or abnormally high in relation to the subject matter of the procurement and raises concerns with such Authority as to the ability of the tenderer to perform the contract.

(2) Before arriving at a determination under sub-rule (1), the Tender Accepting Authority may in writing seek such other information from the tenderers as it considers relevant.

(3) The decision of the Tender Accepting Authority to reject a submission in accordance with this rule and the reasons for that decision, and all communications with the tenderer under this rule shall be included in the record of the Tender Proceedings.

(4) The decision of the Tender Accepting Authority and the reasons therefor shall be promptly communicated to the tenderer concerned."

(17) after rule 31, the following rule shall be added, namely,-

**“31A. Fixed Rate Contract.-** (1) In cases where the prices offered by the Lowest Tenderer are in the opinion of the Tender Accepting Authority higher than the schedule of rates or the prevailing market price and the quantity of goods or services to be procured are of such volume or are required to be delivered at different locations or at different points in time such that it is not practical for the entire supply to be effected by only one or a few suppliers, such authority may for reasons to be recorded in writing and after obtaining the prior approval of Government, follow the fixed rate contract procedure.

(2) The rates for the supply of the goods or services will be determined through a process which shall include the following steps:-

(a) Open tenders shall be or shall have been called from all eligible tenderers and the rates quoted shall be taken into consideration.

(b) The rates quoted by the eligible Lowest Tenderer in the open tender shall be compared with the prevailing market rate and the rates of the previous period and if the Tender Accepting Authority is of the view that the quoted rates are too high, the Authority may negotiate with the Lowest Tenderer to ascertain whether further reduction in rates is possible.

(c) If after negotiations, the Tender Accepting Authority is of the view that the rates are still too high with reference to rates of the previous period or prevailing market rates, the Tender Accepting Authority may after considering relevant factors, determine and notify an appropriate rate, as the fixed rate.

(d) All eligible suppliers who accept the fixed rate shall be enlisted by the Procuring Entity for delivery of services.

(e) Where the Procuring Entity deems fit, it may issue an advertisement indicating the rates fixed and call for enrollment of more suppliers at these rates subject to such suppliers fulfilling the eligibility criteria.

(f) Orders for supply of goods or services from the enlisted suppliers shall be placed on the basis of transparent criteria to be indicated in the tender documents or advertisement as the case may be, and shall *inter alia*, include the capacity to supply, past performance of the suppliers where applicable, and giving due priority to the supplier or suppliers who participated in the initial tender and offered the lowest rate.”

(18) in rule 32, for the heading, “Prequalification procedure”, the heading “Prequalification Procedure in a single stage, two cover system” shall be substituted.;

(19) after rule 32, the following rule shall be added, namely,-

**“32A. Prequalification with Multi-stage Tendering.—**(1) A Procuring Entity may invoke the multi-stage tendering process in cases where.-

(a) the Procuring Entity assesses that discussions with tenderers are needed to refine aspects of the description of the subject matter of the procurement and to formulate them with precision in order to allow the Procuring Entity to obtain the most satisfactory solution to its procurement needs; or

(b) the successful tenderer is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement; and

(c) in any other case for reasons to be recorded in writing.

(2) Where the Procuring Entity invokes the multi-stage tendering process, the Tender Inviting Authority shall call for initial submissions containing their applications or proposals without a financial bid, containing the following items, namely:-

(a) proposals relating to the technical, quality or performance characteristics of the subject matter of the procurement;

(b) contractual terms and conditions of supply;

(c) where relevant, the professional and technical competence, experience and qualifications of the tenderers.

(3) The Tender Accepting Authority may, in the first stage, engage in discussions with eligible tenderers concerning any aspect of their initial proposals:

Provided that when the Tender Accepting Authority engages in discussions with any tenderer, it shall extend equal opportunity to all eligible tenderers to participate in discussions.

(4) At the conclusion of the first stage, the Tender Accepting Authority shall pre-qualify the tenderers that fulfill the eligibility criteria, and promptly notify each tenderer whether or not it has been pre-qualified and shall upon request communicate to the tenderers that have not been prequalified the reasons therefor:

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Provided that if the Tender Accepting Authority is of the view that the number of prequalified tenderers is too small to have an effective competition, the authority may decide not to proceed further with the Tender.

(5) In the second stage, the Tender Accepting Authority shall invite financial tenders from the prequalified and shortlisted tenderers.

(6) The final tenders received under sub-rule (5) shall be evaluated in order to ascertain the lowest evaluated tenderer in accordance with these rules."

S. KRISHNAN,  
*Principal Secretary to Government (In-charge).*