

CHAPTER IX - Tendering of Works

Salient Features of Tamil Nadu Transparency in Tender Act, 1998 and Rules 2000

The Government of Tamil Nadu have framed the rules as Tamil Nadu Transparency in Tender Rules, 2000 in G.O.Ms.No.446 Finance (Salaries) Department dated.26.09.2000 based on Tamil Nadu Transparency in Tender Act, 1998 to ensure open and fair procedures while undertaking construction and procurement of goods and services by the Government and Governmental organizations.

Regulation of Tender

No tender shall be invited or accepted by any authority after the commencement of this Act, except in accordance with the procedure specified in this Act and rules made there under.

Method of Tendering

Procurement of different categories shall be effected by the following methods of tendering namely :-

1. Piece-work contract
2. Lump sum contract
3. Turn-key contract
4. Multistage contacting including pre-qualification and two cover system
5. Fixed rate contract

Tender Bulletin

It means the bulletin published for each district or State, containing details of invitation and acceptance of tender.

District Bulletin

The bulletin officer is the officer who is responsible for publishing the tender bulletin in district or State. The tender bulletin officers are appointed by the Government. The District Tender bulletin shall be published by the District Bulletin officer at least once in every week.

The notice inviting tenders and decisions on tenders in all cases where the value of tender exceeds Rupees Five lakh and below Rupees Twenty Five lakh shall be published in the District Tender Bulletin of the district.

If the value of tender is less than Rs.5 lakhs the tender notice may be displayed in the notice board in the office calling tender.

State Bulletin

The State Tender bulletin shall be published by the State Bulletin officer at least once in every week.

- The notice inviting tenders and decisions on tenders shall be published in the State Tender Bulletin in cases where,
- The value of procurement/work exceeds Rupees Twenty Five lakhs.
- In any other case where the tender inviting authority deems it fit.

Publication of Notice Inviting Tenders in Newspapers

The following procedure to be adopted in the matter of release of advertisement in details:
(G.O.Ms.No.108 Information and Tourism (Advt.) Department dated.28.05.1999)

For works in Rs.	For purchase of Materials/Instruments in Rs.	No. of Dailies in which advertisement is to be published
Works costing less than Rs.10 lakhs	Less than Rs.5 lakh	No publication of Tender Notice would be necessary in dailies. Tender notices shall however be sent to all registered contractors in the concerned Panchayat Union/DRDA
Works costing Rs.10-25 lakhs	Between Rs.5-10 lakh	In two Tamil Dailies, one insertion each at the District Level.
Works costing Rs.25-100 lakhs	Between Rs.10-25 lakh	All editions of one Tamil daily and in one English daily published at state level.
Works costing more Rs.100-500 lakhs	Between Rs.25-100 lakh	Southern Edition of one English daily and all editions of one Tamil daily.
Works costing more than Rs.500 lakhs	More than Rs.100 lakh	All editions of One English Daily and All editions of One Tamil daily.

Minimum Time Limit for Submission of Tenders

The minimum time limit for submission of tenders.

- Up to Rupees 2 crores in value : **15 days.**
- Above Rupees 2 crores in value : **30 days.**

Any reduction in time stipulated above has to be specifically authorized by an authority superior to the tender inviting authority for reasons to be recorded in writing.

E-Tendering

The objective of the Tamil Nadu Transparency in Tender Act, enacted in 1998 by the Government of Tamil Nadu with a view to making the tendering process even more transparent, E-Tendering has been adopted in the Government departments for construction and procurement of goods.

Tenderers may download the tender documents from the designated website at free of cost without any hindrance, for open tenders of value exceeding Rs.10 Lakhs.
(G.O.Ms.No.177, Finance (Salaries) Department Dated 22nd May 2007)

Earnest Money Deposit (EMD)

While submitting a tender, the tenderer has to deposit with the department an amount ordinarily not exceeding 1% of the value of the contract by means of demand draft, bankers cheque, specified small savings instruments or where the procuring entity deems fit, irrevocable bank guarantee in a prescribed form. The tender documents shall clearly state that any tender submitted without EMD in the approved form shall be summarily rejected provided that any category of tenders specifically exempted by the Government from the payment of EMD will not be required to make such a deposit.

Security Deposit

As soon as the tender has been accepted, the successful bidder has to deposit with the Department at an amount not exceeding 5% of the contract value at the time of execution of the agreement. The amount is kept as check so that the contractor fulfils the terms and conditions of the contract and carries out the work satisfactorily in accordance with the specifications. In case the contractor fails to fulfill the terms of contract, the whole or part of this deposit can be forfeited by the department. The withheld amount for effective performance of the contract, do not exceed 10% of the contract value.

Variation in quantity

The quantity proposed to be procured in the tender shall be indicated in the tender document and the tender accepting authority shall ordinarily be permitted to vary the quantity finally ordered only to the extent of 25% either way of the requirement indicated in the tender document. The percentage of variation of items of work for which there shall be no increase in rates shall be of 25%.

In case of procurement in special cases, it is necessary to have more than one supplier, the authority may place orders on the tenderer quoting the lowest evaluated price for not **less than 60% of the quantity covered in the tender** at the price quoted by him and place orders for the remaining quantity on the tenders quoting the next lowest evaluated prices at the lowest evaluated price and shall specify in the tender documents as per rule 31(4) of Tamil Nadu Transparency in Tenders Rules, 2000.

Exemptions in Tender Act

This act is not apply to procurement in the following certain cases.

1. During natural calamities and emergencies declared by the Government.
2. Available from single source only from a supplier or cases in which a particular supplier or contractor has exclusive rights in respect of the goods or services or construction and no reasonable alternative or substitute exists or where the procuring entity having procuring goods, equipment, technology from a supplier or contractor determines that additional supplies must be procured from that specific supplier or contractor for reasons of standardization and compatibility with the existing goods, equipment or technology.
3. From the rate contracts of Director-General of Supplies and Disposals (DGS&D) and Association of State Road Transport Undertakings.
4. Cement from Tamil Nadu Cement Corporation Limited (TANCEM) and or of paper from the Tamil Nadu Newsprints and papers Limited.

Applicability of Tender Act / Rules in cases of funded works

The procurement of Tamil Nadu Transparency in Tender Act, 1998, to the extent they are not consistent with the procedure prescribed in the projects funded by International agreements or by International Financial Agencies shall not apply.

Cost of Tender Documents

The Government departments which issue tender documents should notify that the cost of tender documents inclusive of sales tax and also ensure proper accounting by requiring the cost of tender documents and sales tax to be noted separately in column, head of account in the chalan.

Sale Price of Tender Documents	
For works costing up to and including Rs.10,000/-	Rs.300 + ST + SC
works costing above Rs.10,000/- up to and including Rs.2 Lakh	Rs.600 + ST + SC
For works costing Rs.2 Lakh up to and including Rs.5 Lakh	Rs.1500 + ST + SC
For works costing above Rs.5 Lakh up to and including Rs.10 Lakh	Rs.3000 + ST + SC
For works costing above Rs.10 Lakh up to and including Rs.25 Lakh	Rs.6000 + ST + SC
For works costing above Rs.25 Lakh up to and including Rs.50 Lakh	Rs.9000 + ST + SC
For works costing above Rs.50 Lakh	Rs.15000 + ST + SC

Note : Sales Tax (ST) and Surcharge (SC) are as applicable from time to time.

Evaluation of Tender

Pre Qualification Procedures

1.The tender inviting authority shall for reasons to be recorded in writing provide for pre-qualification of tenders on the basis of :

- I) experience and past performance in the execution of similar contracts
- II) capabilities of the tenderer with respect to personnel, equipment and construction or manufacturing facilities.
- III) Financial status and capacity.

2. Only the bids of pre-qualified bidders shall be considered for evaluation.

Two Cover System

A procedure under which the tenderers are required to simultaneously submit two separate sealed covers one containing the earnest money deposit and the details of their capability to undertake the tender which will be opened first and the second cover containing the price quotation which will be opened only if the tenderer is found qualified to execute the tender.

Time taken for evaluation and extension of tender validity

The tenders remain valid for a period of not less than 90 days from the last date for receipt of tenders. The validity period can be extended further if a contractor gives his consent in writing, specifying the period of extension.

In case the evaluation of tenders and award of contract is not completed within extended validity period, all the tenders shall be deemed to have become invalid and fresh tenders may be called for.

Determination of The Lowest Evaluated Price

1. Out of the tenders found to be substantially responsive after the initial examination, the tenderer who has bid the lowest evaluated price in accordance with the evaluation criteria or the tenderer scoring the highest on the evaluation criteria specified, as the case may be, shall be determined.
2. In determining the lowest evaluated price, the following factors shall be considered, namely:
 - a) The quoted price shall be corrected for arithmetical errors;
 - b) In cases of discrepancy between the prices quoted in words and in figures, lower of the two shall be considered;
 - c) Adjustments to the price quoted shall be made for deviations in the commercial conditions such as the delivery schedules and minor variations in the payment terms which are quantifiable but deemed to be non-material in the context of the particular tender.
 - d) The evaluation shall include all central duties such as Customs Duty and Central Excise Duty and Sales Tax as a part of the price, as detailed below:
 - i) In evaluation of the price of an imported item, the price has to be determined inclusive of the Customs Duty;
 - ii) In evaluation of the price of articles which are subject to excise duty, the price has to be determined inclusive of such Excise Duty;
 - iii) In a tender where all the tenderers are from within the State of Tamil Nadu, or where all the tenderers are from outside the State of Tamil Nadu, the Sales Tax shall be included for the evaluation of the price; and
 - iv) In a tender where the tenderers are both from the State of Tamil Nadu as well as from outside the State of Tamil Nadu, the Sales Tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) shall be excluded for the evaluation of the price.
 - e) In the case of purchase of equipment, the operation and maintenance and spare part costs for appropriate periods as may be specified in bid documents may be quantified where practicable and considered;
 - f) The evaluation and comparison shall include fifteen per cent price preference for domestic small scale industrial units and ten per cent price preference for the Public Sector Undertakings of the Government in respect of products and quantities manufactured by them.
3. In order to secure the best possible procurement price, negotiations with the tenderer determined as per Clause (1) and (2) above are permissible subject to provisions in Section 10 of the Act.