

KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENT RULES, 2000

No. PWD 154 PC-III 2000

Karnataka Government

Secretariat,
Vidhana Soudha
Bangalore, Dated: 24th October 2000.

NOTIFICATION

CHAPTER I **PRELIMINARY**

In exercise of the powers conferred by Sub Section (1) of Section 23 of the Karnataka Transparency in Public Procurement Ordinance 2000, the Government of Karnataka hereby makes the following Rules namely:-

1. Short title and commencement:- (a) These rules may be called the Karnataka Transparency in Public Procurements Rules, 2000.

(b) They shall come into force on the date of Publication in the Gazette.

2. Definitions: In these rules, unless the context otherwise requires

(a) "**earnest money deposit**" means the amount required to be deposited by a tenderer along with his tender indicating his willingness to implement the contract;

(b) "**pre-qualification**" means the process by which the tenderers are first screened for their capability and resources to implement the contract before they are permitted to offer their tenders;

(c) "**two-cover system**" means a procedure under which the tenderers are required 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 to be qualified to execute the tender;

CHAPTER II **GENERAL**

3. Categories of procurement:- (1) For the purposes of the application of these rules, procurement is categorized as follows, namely:-

- (i) Construction; and
- (ii) Supply of goods and services.

CHAPTER III

PUBLICITY

4. Publication of tender bulletin:- (1) The District Bulletin shall be published by the District Bulletin Officer atleast once in every week.

(2) The State Tender Bulletin shall be published by the State Tender Bulletin Officer at least once in every week.

(3) The Tender Bulletin Officer shall cause to be published all notices inviting tenders and intimations of acceptance of tenders received upto forty eight hours prior to the actual publication of the bulletin.

(4) In case notice inviting tender or information relating to acceptance of the tender needs to be published urgently, then the Secretary to Government of the concerned administrative department in the case of the State Tender Bulletin or the Deputy Commissioner in the case of the District Tender Bulletin may for the reasons to be recorded in writing, direct the respective tender bulletin officers to publish an extraordinary issue of the tender bulletin.

5. Distribution of Tender Bulletins:- (1) The Tender Bulletin Officer shall make the tender bulletin available in the concerned office of the Government department, local authority statutory board, public sector undertaking, university or cooperative institution.

(2) The Tender Bulletin Officer shall make available adequate copies of the tender Bulletin at the office of the Tender Inviting Authority whose notice inviting tenders and intimation of tender acceptance finds place in the bulletin.

(3) Any person or institution can be enrolled as a regular subscriber to the tender bulletin on payment of a fixed fee annually, half-yearly or quarterly, as the case may be.

6. Tender Bulletin to contain information only:- (1) The tender bulletin shall contain only information of the notice inviting tenders.

(2) Intimation of acceptance of tender shall not in itself create a legal right.

(3) A notice inviting tender will not be invalidated merely on the grounds that the notice has not been published in the News papers.

7. Information to be published in the state tender bulletin:- The notice inviting tenders and decisions on tenders shall be published in the State Tender Bulletin in cases where;

(a) the Tender Inviting Authority is a Secretary to Government, or a head of a government department, or the Chief Executive of a Public Sector

Undertaking, Statutory Board, Apex Cooperative Institution, University or State Level Society formed by the Government.

(b) the value of the procurement is rupees one crore and above.

8. Information to be published in the district tender bulletin:- Subject to the provisions of rule 10, notices inviting tenders and decisions on tenders shall be published in the District Tender Bulletin of the district where the headquarters of the Tender Inviting Authority is located.

Provided that where a value of procurement is rupees one crore and above, it shall also be published in the State Bulletin.

9. Details to be mentioned in notice inviting tenders:- The Notice inviting Tenders shall contain the following details, namely:-

(a) The name and address of the procuring entity and the designation and address of the Tender Inviting Authority;

(b) Name of the scheme, project or programme for which the procurement is to be effected;

(c) The date upto which and places from where the tender documents can be obtained;

(d) The amount of earnest money deposit payable;

(e) The last date and time for receipt of tenders;

(f) The date, time and place for opening of tenders received; and

(g) Any other information which the Tender Inviting Authority considers relevant.

10. Publication of notice inviting tenders in newspapers:- (1) The Tender Inviting Authority shall have the notice inviting tenders published in the Indian Trade Journal in all cases where the value of procurement exceeds rupees ten crores.

(2) The number, editions and language of the newspapers in which the notices inviting tenders shall be published will be based on the value of procurement as per departmental rules.

(3) In cases where publication of Tender Notices is to be done only in Newspapers with circulation within the District, the Information and Publicity Officer of the District shall be the competent authority to release the advertisement and in all other cases the competent authority to release the advertisement shall be the Director of Information and Publicity, Bangalore.

(4) The notice inviting tender shall be given due publicity in Newspapers

and also by a fixing on notice boards in the District Offices. The Director of Information and Publicity shall publish the Notice Inviting Tenders as per instructions of the tendering department.

CHAPTER IV **NOTICE INVITING TENDERS AND** **TENDER DOCUMENTS**

11. Technical specifications contained in the tender documents:- (1) The technical specifications contained in the tender documents shall include a detailed description of what is proposed to be procured.

2. Unbiased technical specifications shall be prepared by observing the following safeguards, namely:-

(a) use of brand names and catalogue numbers shall be avoided and where it becomes unavoidable, along with the brand name the expression "or equivalent" shall be added;

(b) wherever possible the appropriate Indian Standards with the number shall be incorporated;

(c) in the case of construction tenders, detailed estimates shall be prepared by the competent technical authorities based on the schedule of rates and standard data as revised from time to time.

12. Commercial conditions:- (1) The tender documents shall require all tenderers to pay an earnest money deposit at the rates as per the departmental rules by means of a demand draft, bankers, cheque, specified small savings instruments or where the procuring entity deems fit, irrevocable bank guarantee in a specified form of the department. The tender documents shall clearly state that any tender submitted without the earnest money deposit be summarily rejected.

Provided that any category of tenderers specifically exempted by the Government from the payment of earnest money deposit will not be required to make such a deposit.

(2) The tender documents shall specify the period for which the tenderer should hold the prices offered in the tender valid.

Provided that the initial period of validity shall not be less than ninety days.

(3) The tender documents shall require that as a guarantee of the tenderer's performance of the contract, a security deposit be taken from the successful tenderer as per departmental rules.

(4) The tender documents and the contract shall include a clause for payment of liquidated damages and penalty payable by the tenderer in the event of non-fulfillment of any of the terms of whole of the contract.

(5) The tender documents shall indicate the quantity proposed to be procured in the tender, and the Tender Accepting Authority shall be ordinarily permitted to vary the quantity finally ordered only to the extent of twenty five percent either way of the requirement indicated in the tender documents.

13. Supply of tender documents:- (1) The Tender Inviting Authority shall make available the tender documents from the date indicated in the notice inviting tender.

(2) The Tender Inviting Authority shall ensure that the tender documents are made available to any person who is willing to remit the cost of the documents.

Provided that in the cases where the procuring entity has a system of registration of contractors, the tender documents will be supplied only to registered contractors in the appropriate class.

(3) The Tender Inviting Authority shall send by registered post or courier the tender documents to any prospective tenderer who makes a request for the documents on payment of cost along with postal charges at the risk and responsibility of the prospective tenderer.

14. Clarification to tender documents:- At any time after the issue of the tender documents and before the opening of the tender, the Tender Inviting Authority may make any changes, modifications or amendments to the tender documents and shall send intimation of such change to all those who have purchased the original tender documents.

CHAPTER V RECEIPT OF TENDERS AND TENDER OPENING

15. Place and time for receipt of tenders:- (1) The Tender Inviting Authority shall ensure that adequate arrangements are made for the proper receipt and safe custody of the tenders at the place indicated for the receipt of tenders.

(2) The Tender Inviting Authority shall permit the submission of tenders by post or courier.

Provided that the Tender Inviting Authority shall not be responsible for any delay in transit a such cases.

(3) The Tender Inviting Authority may extend the last date and time for receiving tenders after giving adequate notice to all intending tenderers in cases where:-

(a) the publication of the tender notice has been delayed;

(b) the communication of changes, in the tender documents to the

prospective tenderers under rule 14 took time;

(c) any other reasonable grounds exist, for such extension which shall be recorded in writing by the Tender Inviting Authority.

16. Marking of covers in which the tender is submitted:- The tenderer shall be responsible for properly superscribing and scaling the cover in which the tender is submitted and the Tender Inviting Authority shall not be responsible for accidental opening of the covers that are not properly superscribed and sealed as required in the tender documents before the time appointed for tender opening.

17. Minimum time for submission of tenders:- (1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the Notice Inviting Tenders in the relevant Tender Bulletin the last date for submission of tenders. This minimum period shall be as follows:-

- (a) for tenders upto rupees two crores in value, thirty days, and
- (b) for tenders in excess of rupees two crores in value, thirty days.

(2) Any reduction in the time stipulated under sub-rule (1) has to be specifically authorized by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing.

18. Opening of tenders:- (1) All the tenders received by the tender Accepting Authority shall be opened at the time specified in the Notice Inviting Tenders and in cases where an extension of time for the submission of tenders has been given subsequent to the original Notice Inviting Tenders in accordance with b-rule (3) of rule 15 at the time so specified subsequently.

(2) The tenders will be opened in the presence of the tenderers or one of the representatives of the tenderer who chooses to be present.

19. Procedure to be followed at tender opening:- The following procedure shall be followed at the tender opening:-

- (a) All the envelopes received containing tenders shall be counted;
- (b) All the tenders received in time shall be opened;
- (c) A record of the corrections noticed at the time of the bid opening shall be maintained;
- (d) The name of the tenderers and the quoted prices should be read out.
- (e) The fact whether earnest money deposit has been made and other documents required have been produced may be indicated but this shall be merely an examination of the documents and not an evaluation;

(f) Minutes of the tender opening shall be recorded. The signatures of the tenderers present shall be obtained unless any of the tenderers or his representative refuses to sign the minutes.

20. Tender scrutiny committee:- (1) Tender Accepting Authority may constitute a Tender Scrutiny Committee consisting of such officers as it deems fit to scrutinize the tender documents, supervise opening of tenders, carry out the preliminary examination and detailed evaluation of the tenders received and to prepare an evaluation report for the consideration of the Tender Accepting Authority.

(2) The Tender accepting authority shall constitute the Tender Scrutiny Committee, where the value of tender exceeds rupees five crores in respect of public works, irrigation department and minor irrigation department and one crore in respect of all the other departments.

CHAPTER VI **TENDER EVALUATION**

21. Tender evaluation to be in accordance with evaluation criteria:- The Tender Accepting Authority shall cause the evaluation of tenders to be carried out strictly in accordance with the evaluation criteria indicated in the tender documents.

22. Time taken for evaluation and extension of tender validity:- (1) The evaluation of tenders and award of contract shall be completed, as far as possible, within the period for which the tenders are held valid.

(2) The Tender Accepting Authority shall seek extension of the validity of tenders from the tenderers for the completion of evaluation, if it is not completed within the validity period of tender.

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

23. Process of tender evaluation to be confidential until the award of the contract is notified:- (1) The Tender Inviting Authority shall ensure the confidentiality of the process of tender evaluation until orders on the tenders are passed.

(2) Tenderers shall not make attempts to establish unsolicited and unauthorised contact with the Tender Accepting authority, Tender Inviting Authority or Tender Scrutiny Committee after the opening of the Tender and prior to the notification of the Award and if any attempts by the tenderer to bring to bear extraneous pressures on the Tender Accepting Authority shall be sufficient reason to disqualify the tenderer.

(3) Notwithstanding anything contained in sub-rule (2), the Tender Inviting

Authority or the Tender Accepting Authority or the Tender Scrutiny Committee may seek bonafide clarifications from tenderers relating to the tenders submitted by them during the evaluation of tenders.

24. Initial examination to determine substantial responsiveness:- (1) The Tender Inviting Authority shall cause an initial examination of the tenders submitted to be carried out in order to determine their substantial responsiveness.

(2) During the initial examination the following factors shall be considered; namely:-

(a) Whether the tenderer meets the eligibility criteria laid down in the tender documents;

(b) Whether the crucial documents have been duly signed;

(c) Whether the requisite earnest money deposit has been furnished;

(d) Whether the tender is substantially responsive to the technical specifications set out in the bidding documents including the testing of samples where required.

(3) Tenders which on initial examination are found not to be substantially responsive under any of the clauses under sub-rule (2) may be rejected by the Tender Accepting Authority.

25. 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 case 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 inclusive of local levies as a part 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.

26. Preparation of evaluation report and award of tenders:- (1) Tender Scrutiny Committee or the officer inviting the tender shall prepare detailed evaluation report which shall be considered by the Tender Accepting Authority before taking a final decision on the tender.

(2) As soon as the tenderer qualified to perform the contract is identified, in accordance with section 12, the Tender Accepting Authority shall pass orders accepting the tender and communicate the order of acceptance to the successful tenderer. The Tender Accepting Authority shall also send to the Tender Bulletin Officer a statement of evaluation of the tenders with a comparative statement of tenders received and decision thereon for publication in the Tender Bulletin.

(3) Within such reasonable time as may be indicated in the tender documents, the tenderer whose tender has been accepted will be required to execute the contract agreement in the specified format.

(4) In case the successful tenderer fails to execute necessary agreement under sub rule (3) within the period specified, then Earnest Money Deposit shall be forfeited and his tender held as non-responsive.

27. Pre-qualification Procedure:- (1) The tender inviting authority shall for reasons to be recorded in writing provide for pre-qualification of tenderers on the basis of:

(a) experience and past performance in the execution of similar contracts;

(b) capabilities of the tenderer with respect to personnel, equipment and construction or manufacturing facilities;

(c) financial status and capacity.

(2) Only the tenders of pre-qualified tenderers shall be considered for evaluation.

28. Two Cover Tenders:- (1) In the case of construction or supply and installation of equipment tenders exceeding Rs. 50 lakhs in value where the prequalification procedure or Turn Key Tender System are not being followed, the tender inviting authority shall follow the two-cover tender system.

(2) The first cover shall contain the following information about the tenderer namely:

(a) Experience and past performance in the execution of similar contracts.

(b) Capabilities with respect to personnel, equipment and construction or manufacturing facilities.

(c) Financial status and capacity.

(d) Any other information considered relevant.

(3) The second cover shall contain the prices quoted by the tenderer.

(4) The tender inviting authority shall cause the first cover to be opened first and evaluate the tenderer's capacity on the basis of criteria specified in the tender document and on this basis, prepare a list of qualified tenderers.

(5) Thereafter, the second cover containing the price quotations of only those tenderers found qualified under sub-rule (4) shall be opened by the tender inviting authority.

(6) The tender inviting authority shall follow the procedure outline in rule 25 and 26.

CHAPTER VII **APPEALS**

29. Appeal:- An appeal under section 15 shall lie:

(a) to the Head of the Department concerned if the order is passed by a Tender accepting authority subordinate to the Head of the Department:

(b) to the Government if the order is passed by a tender accepting authority which is Head of the Department, or a local authority or a State Government undertaking or a Board, body, Corporation or any other authority owned or controlled by the Government.

By Order and in the name of the
Governor of Karnataka

(K.R. BADIGER)

Under Secretary to Government
PWD (Finance Cell)

Public Works Department

CORRIGENDUM

No. PWD 154 FC-3/2000(Part-1) Bangalore, Dated 17th January 2001.

Subject: Karnataka Transparency in Public Procurements Rules, 2000.

Reference: Notification No:PWD 154 FC-III/2000 Dt. 24-10-2000 Published in the Karnataka Gazette extraordinary Date-24-10-2000.

In the Notification No. PWD 154 FC-III 2000 dated 24th October 2000 published in part IV-A of the Karnataka Gazette Extra-ordinary dated 24 th October, 2000 the following corrections shall be read namely:-

Sl.No.	Page No.	Line	For	Read
1	7	19	Thirty days	Sixty days

P.R.83

By order and in the
name of
Governor of Karnataka,

K.R. BADIGER
Under Secretary to Government
PWD (Finance Cell)

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