



TAMIL NADU INFRASTRUCTURE DEVELOPMENT BOARD

Procurement: Planning and Processes

29th April, 2014

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Background (1/2)

TN Transparency in Tenders Act and Rules

TNIDB Act: All projects above Rs. 500 cr and all PPP projects above Rs.10 cr

- TN Transparency in Tenders (PPP) Rules, 2012
- All PPPs above Rs.25 lakh

Background (2/2)

Single Stage vs. Multi-stage tendering

Multi-stage tendering

Two compulsory stages

1

Request for
Qualification (RfQ)

2

Request for Proposal
(RfP)

Two optional stages

1

Request for Expression
of Interest (REOI)

2

Request for Technical
Proposal (RTP)

TNTIT Act does not preclude these stages in non-PPP projects

Step 1

Formation of **Tender Inviting Authority (TIA)**, the **Tender Scrutiny and Evaluation Committee (TSEC)** and the **Tender Accepting Authority (TAA)** **[MANDATORY]**

(Rule 7, TNTIT PPPP Rules 2012 and Section 7 , TNTIT Act 1998)

Tender Scrutiny and Evaluation Committee obligatory for each stage of procurement and will include:

- Head of the Procuring Entity or nominee
- Secretaries of the Administrative Department, Law Department, Finance Department or nominees
- Representative of the TNIDB where required
- Up to 3 Experts

Step 2

Engaging Consultants or Advisors **[OPTIONAL]**

(Rule 8, TNTIT PPPP, 2012)

Step 3

Procurement Process Modalities – Single stage vs. Multi-stage process

(TNTIT PPPP Rules 3, 4, 5,6)

Procurement Options	How well defined is the project?	Factors to be Considered How well are the bidders defined? How much work will the proposals require?
Single Stage : RFP	<ul style="list-style-type: none"> ▪ Project scope is clear ▪ Service options have been well defined 	Number of interested bidders is limited. Potential bidders are known and identified It is not necessary to identify interested bidders or to reduce their number
Multi-Stage Option 1: RFQ +RFP (With/Without RTP)	<ul style="list-style-type: none"> ▪ Project scope is not clear ▪ Extensive discussions are needed to finalise service options 	Potential bidders are known and identified, but the number of interested bidders is large Considerable effort required by bidders to submit proposals In this case, RFQ is use to reduce the number of bidders

Step 3

Procurement Process Modalities – Single stage vs. Multi-stage process (continued...)

Procurement Options	How well defined is the project?	Factors to be Considered How well are the bidders defined? How much work will the proposals require?
Multi-Stage Option 2: EOI +RFP (With/Without RTP)	Project scope is not clear Extensive discussions are needed to finalise service options	Number of interested bidders likely to be limited, but potential bidders not yet well known or identified Considerable effort required by bidders to submit proposals . In this case EOI is useful to identify useful bidders.
Multi-Stage Option 3: EOI +RFQ+RFP (With/Without RTP)	Project scope is not clear Extensive discussions are needed to finalise service options	Uncertainty about the level of interest in the project – unknown if interest is limited or large potential bidders not yet well known or identified Considerable effort required by bidders to submit proposals. In this case, EOI is useful to identify interested bidders and level of interest; RFQ is useful to reduce the number of bidders

Step 4

Preparation of Bidding Documents

- TNIDB to prescribe standard tender documents
- Model tender documents and model draft concession agreements for PPP projects prepared by Union Planning Commission may be used

Step 5

Approval of Bidding Documents and Draft Concession Agreement by TSEC

Step 1



Submission and Approval of Bidding Documents

The sponsoring agency may with prior concurrence of the Board may issue a REOI at any time

Approval For	Approving Authority
Approval of Tender Documents and Draft Concession Agreement	EC: For Projects exceeding Rs. 1,000 crore SC: For Projects up to Rs. 1,000 crore CEO: For Projects up to Rs. 100 crore

(Source: Delegation of Powers to Executive Committee/Sub-committee/Chief Executive Officer)

Stage III Notice Inviting Tenders

Publication of Notice Inviting Tenders – Notice Boards and Websites

Project Value > Rs. 50 lakh

- Notice Inviting Tenders to be published as per the instructions of the Procuring Entity

(TNTIT PPPP Rules 11)

Project Value > Rs. 50 crore

- To be published in Indian Trade Journal
- Director of Information and Public Relations is the Competent authority for release of tender

Project Value > Rs. 200 crore

- Notice Inviting Tenders shall be published once every week for 3 consecutive weeks in atleast 2 national newspapers (one financial/business) and one local newspaper in the project district/city

Supply of Tenders

- To be made available in both soft and hard copies
- Payment mechanism adopted should be feasible for both download and purchase from offices of the procuring entity or Tender Inviting Authority

Key points to be considered

Record of Tender Proceedings

Conflict of Interest

Confidentiality

A

REOI

B

RFQ

C

RTP

D

RFP

Step 1

Issue of REOI

The REOI should have

- a) Basic project details
- b) Request for Expression of Interest
- c) Closing date for seeking clarifications

Step 2

Pre-submission Meeting

The Pre-submission meeting convened should be held at least **7 days** before the due date and clarifications on the queries should be issued not less than **4 days** before the due date

Step 3

Submission of REOI

The due date should ordinarily be not less than **30 days** from the date of advertisement or notification of the REOI whichever is **later**

Stage IV- B

Request for Qualifications (1/2)

Step 1

Issue of RFQ

Step 2

Pre-Submission Meeting

Step 3

Submission of RFQ

Step 4

Removal of Conflict of Interest

Pre-submission meeting – **3 weeks** before due date
Issue of clarifications – not less than **1 week** before due date
Notifications in RFQ – not less than **1 week** before due date

The due date should ordinarily be not less than **30 days** from the date of advertisement or notification of the RFQ whichever is **later**

Within **10 days** after the due date, an applicant can be allowed by the procuring entity to remove a member who suffers from a Conflict of Interest

Step 5

Evaluation of Applications

- Evaluation by TSEC
- Assessment on basis on the pre-specified minimum pass or fail threshold

Step 6

Notification of Qualifications

- Notification to each applicant whether qualified or not qualified
- TAA can decide not to proceed if the number of qualified applicants is inadequate

Step 1

Issue of RTP to all applicants found qualified in the RFQ Stage

Step 2

Pre-submission meeting

Pre-submission meeting – **3 weeks** before due date
Issue of clarifications – not less than **1 week** before due date
Notifications in RFQ – not less than **1 week** before due date

Suitable for projects that are *technically complex* – Should be issued *before* issuance of RFP

Step 3

Technical Evaluation

- Evaluation by TSEC
- Assessment on basis on the pre-specified minimum pass or fail threshold

Step 4

Notification to Applicants

- Notification to each applicant whether qualified or not qualified

Step 1

Issue of RFP

Step 2

Pre-submission meeting

- Pre-submission meeting should be held **at least 4 weeks before** the due date
- Clarification on queries should be issued **not less than 2 weeks before** the due date
- Notifications of amendments in the RFP should be issued **not less than 1 week before** the due date

Before proceeding with RFP, the project details, type of bidders, service level expectations and financial impact on the State should be established.

Step 3

Submission of Tenders

- The due date for submission should **not be ordinarily less than 8 weeks** from the date of notification of RFP or from the date of advertisement whichever is later

Step 4

Evaluation of Tenders

- Evaluation by TSEC
- Determination of the Lowest Tenderer

Step 1

Opening of Tenders

- Use of Digital Signature in case of e-tenders
- Opening of tenders should happen immediately after the deadline for submission

Initial Response Assessment

TSEC would examine the following factors

- Tenderers meets the eligibility criteria laid down in the tender document
- Documents are duly signed
- Documents have been authenticated by digital signature in case the tenders submitted electronically
- Requisite EMD with appropriate validity is furnished
- Tender is substantially responsive to the technical specifications and commercial conditions

Step 2

Selection and Evaluation of Lowest Tenderer

Bidding Round	Selection	Attendant Process
Round 1	Lowest Tenderer	All qualified tenders shall be ranked as per the evaluation criteria and the Tenderer with the most advantageous financial offer shall be Lowest Tenderer
Round 1 Outcome	The lowest tenderer may accept the negotiated terms and conditions of the Tender Inviting Authority (OR) The Lowest Tenderer withdraws or has been found to be banned by any procuring entity. In such event the TIA may invite another round of tenderers	
Round 2	Invite all the remaining tenderers	Extend / Revalidate EMD Invite other tenderers to match the Lowest Tenderer in Round 1
Round 2 Outcome 1	Only 1 tenderer matches the L1 of Round 1	The tenderer matching L1 will be the Lowest Tenderer and Selected

Step 2

Selection and Evaluation of Lowest Tenderer

Bidding Round	Selection	Attendant Process
Round 2 Outcome 2	More than 1 tenderer match the L1 of Round 1	Ranking will be equal for Round 2 + Ranking based on Round 1 Hence the tenderer whose bid was more attractive than the others in Round 1 + Round 2 will be the lowest tenderer
Round 2 Outcome 3	No tenderer matches the L1 of Round 1	Extend/Revalidate EMD Initiate 3 rd round of bidding
Round 3	L2 of Round 1 becomes the price of reckoning	Rank the offers which are lower than the price offered by L2 in Round 1 and pick the most preferred offer

Treatment of Two Equal Tenders

- a) The experience score of the tenderer as evaluated in RFQ stage should be taken and the tenderer with the higher score would be selected OR
- b) Both parties would be asked to provide a best and final offer and the tenderer providing a better offer would be adjudged as the lowest tenderer

Treatment of Speculative Tenders

The price quoted by the tenderer is abnormally low or high in relation to the subject matter ?

- ✓ Opportunity to explain their rationale in writing before such rejection .
- ✓ Proceedings will be recorded
- ✓ Whatever the outcome, the decision of the Tender Accepting Authority shall be communicated to the tenderer.

Step 3

Finalization and Award of Project

- (i) The Tender Inviting Authority shall submit the results of the selection to the Tender Accepting Authority for approval.
- (ii) Notification about the Lowest Tenderer to all the tenderers
- (iii) Issue the Letter of Award (LOA) in duplicate to the Lowest Tenderer
- (iv) The Lowest Tenderer shall on receipt of the LOA return a duly signed copy within 7 (seven days).
- (v) The Sponsoring Agency shall forward to the Board the Concession Agreement with a certificate
- (vi) Subject to the conditions precedent in the RFP and LOA the Lowest Tenderer shall execute the Concession Agreement with the Procuring Entity

Approval for	Approving Authority
Approval of Concession Agreement if any changes have been made to the Final DCA	EC: For Projects exceeding Rs. 1,000 crore SC: For Projects up to Rs. 1,000 crore CEO: For Projects up to Rs. 100 crore

Draft Concession Agreement – Key Aspects

Conditions precedent, mutual rights and obligations

Payments

Performance indicators and penalties

Financial Closure

Default, breach, termination

Appointment of independent auditor, independent engineer and lead financial institution

Annexure I: Details of Tender Documents

The REOI should contain

Project Description

**Request for Expression
of Interest**

**A Closing Date for
Seeking Clarifications**

Timelines

Corrigenda/
Notification of
Amendments



**Change of
Timelines**

- ✓ Approval from Authority superior to TIA
- ✓ Approval from Board (if applicable)

The RFQ should contain

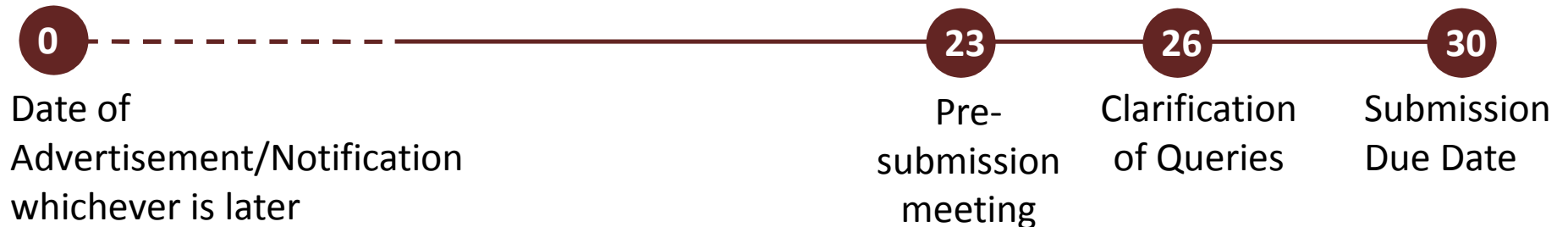
**Project Description and
Project Cost**

**Tender Process
Description and Schedule**

Eligibility Condition

Timelines

Corrigenda/
Notification of
Amendments



**Change of
Timelines**

- ✓ Approval from Authority superior to TIA
- ✓ Approval from Board (if applicable)

Elements of RFQ

- Project Description and Project Cost
- Tender Process Description and Schedule
- Eligibility Condition
- Information Sought and Format for furnishing Information
- Parameters for Evaluation
- Grounds of Disqualification

Change of Timelines

- ✓ Approval from Authority superior to TIA
- ✓ Approval from Board (if applicable)

Timelines (Weeks)

- 0** Date of Advertisement/ Notification whichever is later
- 3** Pre-submission meeting
- 1**
 - Clarification of Queries
 - Corrigenda/Notification of Amendments
- 8** Submission Due Date (8 Weeks)
- Removal of Applicants with Conflict of Interest (10 days after due date)

Eligibility Criteria

- An applicant may be single entity or a consortium
- No applicant either individually or as a member of the consortium can be member of another applicant
- An applicant may be a natural person, private entity or a combination or a combination with a public agency

Technical Criteria

- Track record and experience in similar projects
- Execution track record and service level track record
- Ability to invest capital in project
- Ability to raise funds to finance the project
- Track record in meeting and capability to meet contractual terms

Financial Criteria

- Net worth
- Average turnover for a minimum of preceding 3 years
- Average net cash accrual for a period of preceding 3 years
- Other relevant financial information

Pass – Fail Test

Develop a marking system that assigns specific marks for each criteria and total score determines position of applicants

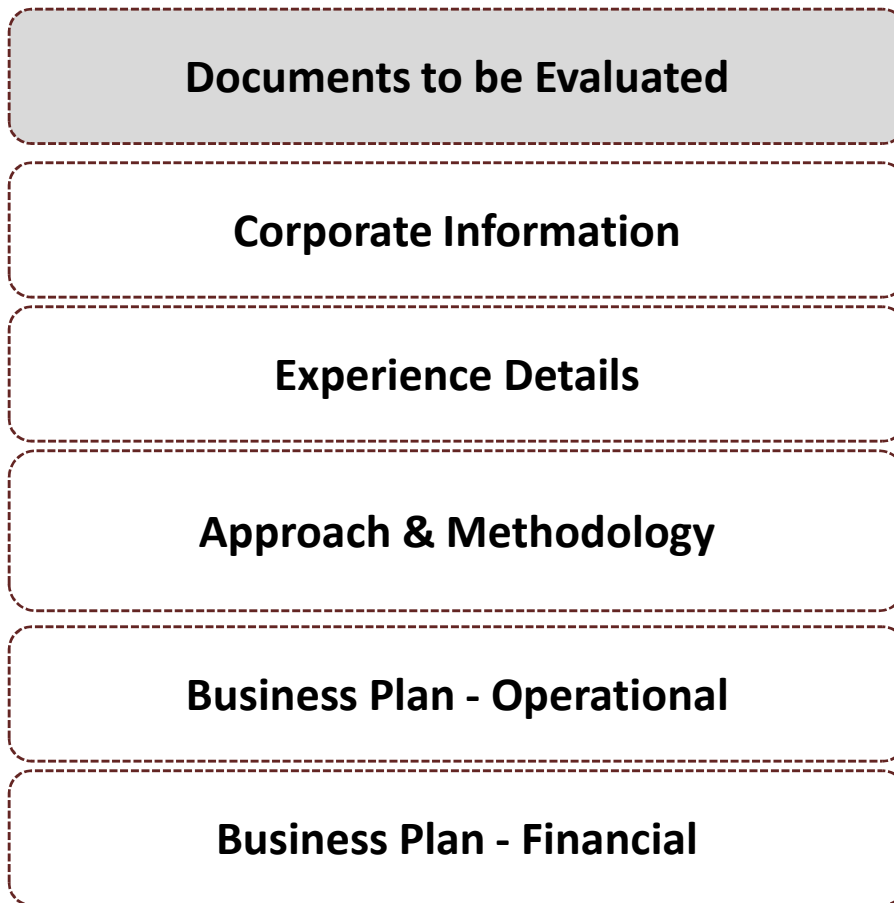
The foundation for evaluation is selection and not rejection.

Minimum Technical Requirements

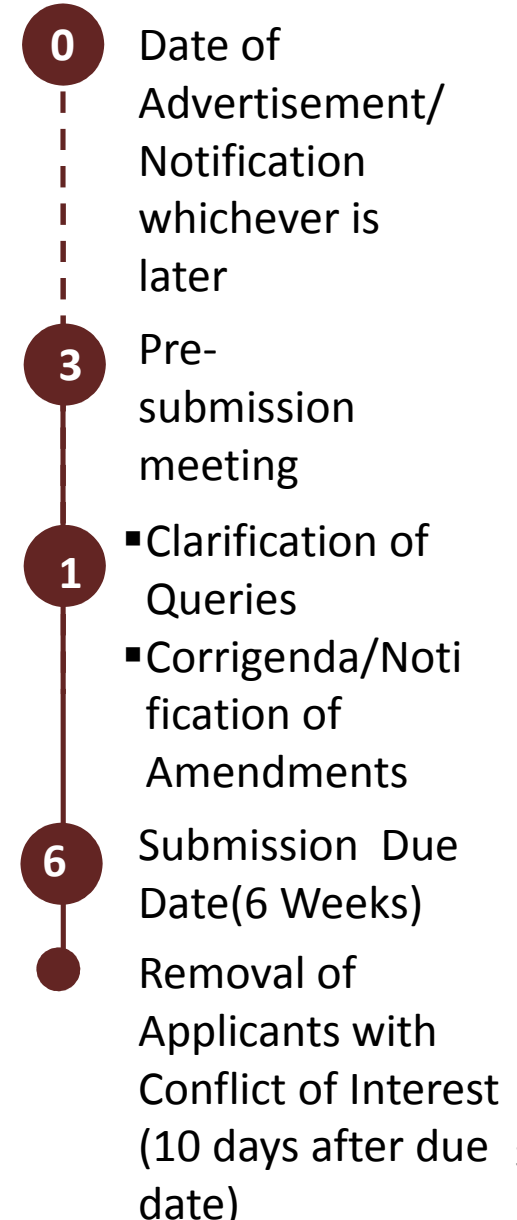
- Physical facilities including capacity, individual components and related aspects
- Output specification- target users, levels of services, quality and performance parameters
- Design and safety codes including social and environmental impact
- Detailed operational requirements including service levels, redundancy and impact on waiting, customer redressal, safety, security, labour relations and compliance issues
- Maintenance standards, schedules and requirements
- Key Performance Indicators for testing & Performance monitoring requirements

Combining RTP with RFP:

RTP is not a mandatory stage. It is *desirable* where the projects are of complex nature. The RTP should be technology and brand neutral



Timelines



IV

Element of RFP (1/4)

Procuring Entity shall consider need for following in preparing RFP/DCA:

- Revenue sharing/ revenue support mechanisms for possible monopoly situations to mitigate revenue risks, windfall profits or low revenue
- Need for appointment of Independent Auditor and Engineer
- Role of Lead Financial Institution
- Treatment of variations including triggers to amend Concession Agreement

By now, the Project details, type of bidders, service level expectations and financial impact on the State are more or less finalised
Hence, the ***Draft Concession Agreement*** should be ready

Procuring Entity may combine the RTP stage with RFP stage to ensure price competition through adequate number of tenders

Elements of RFP

Project related details

Instruction to tenderers

EMD specification

Draft concession agreement

Performance security
specification

Variation clauses

Project scope

Evaluation criteria

RFP shall specify the commercial conditions and the **single criterion** for the Final Offer which would be used to determine the Lowest Tenderer.

Single criterion may be any one or a combination of:

- State support sought- tariff
- Expected revenue - period of concession
- Upfront premium - equity stake
revenue share - lease rent
- Annuity - subsidized facilities
- Any other financial criterion relevant to the project

Earnest Money Deposit (EMD)

- Normally does not exceed 2% of estimated project cost
- For O & M contracts, may be not less than 10% of the likely annual payments or 2% of the project value whichever is less
- EMD shall remain valid for 30 days beyond the period for validity of the tender specified in the tender documents

Performance Security

- Performance Security shall ordinarily not exceed 5% of the Project Value
- For O&M contracts Performance Security may be not more than 50% of the likely annual payments due

IV

Element of RFP (4/4)

Change in the Composition of Tenders

Application is made 15 days prior to the due date

There is no change in the lead member

Substitute proposed is atleast equal in both technical and financial terms

Modified consortium meets the pre-qualification criteria and short listing criteria

New member or members adopt the responses expressly as if part of the original consortium

No conflict of interest

Timelines

0

Date of Advertisement/ Notification whichever is later

4

Pre-submission meeting

2

- Clarification of Queries
- Corrigenda/Notification of Amendments

6

Submission Due Date(6 Weeks)

Removal of Applicants with Conflict of Interest

Thank You