

FINANCE DEPARTMENT

TAMIL NADU TRANSPARENCY IN TENDERS ACT, 1998.

TAMIL NADU TRANSPARENCY IN TENDERS RULES, 2000.

AND

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

(As amended upto the 9th July 2024)

©

Government of Tamil Nadu

2024

TABLE OF CONTENTS

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

Rules	Content	Pages
	CHAPTER-I	
	PRELIMINARY	
1.	Short title, commencement and extent	61
2.	Definitions	61
	CHAPTER-II	
	PUBLIC PRIVATE PARTNERSHIP (PPP) - PROJECT PROCUREMENT PLANNING	
3.	Identifying the procurement method for Public Private Partnership (PPP) Project	66
4.	Two Stage Open Competitive Tendering	66
5.	Open Competitive Tendering with Request for Technical Proposal(RTP)	67
6.	Open Competitive Tendering with Request for Expressions of Interest (REOI)	67
7.	Formation of Tender Scrutiny and Evaluation Committee	67
8.	Engaging Consultants or Advisors	69
9.	Information to be published in the State Tender Bulletin`	69
10.	Details to be mentioned in Notice Inviting Tenders.-	69
11.	Publication of Notice Inviting Tenders in Newspapers	69
12.	Publication in Notice Board, Website and sending Notice Inviting Tenders to all possible tenderers.-	70
13.	Supply of Tender Documents	71
14.	Security	71
15.	Conflict of Interest	73
16.	Clarifications on Tender Documents	74
17.	Pre-submission Meeting	75
18.	Modification of Tender Documents and Responses	75
19.	Manner, Place and Due Date for Submission of Responses	75
20.	Withdrawal of Tenders Before Opening	76

TABLE OF CONTENTS

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

Rules	Content	Pages
21.	Opening of Tenders	77
22.	Procedure to be followed at Opening of Tenders	77
23.	Changes and alterations not to be permitted after Opening of Tenders	78
24.	Initial Examination to determine substantial responsiveness	78
25.	Clarifications on qualification information	79
26.	Confidentiality	80
27.	Record of Tender Proceedings	80
	CHAPTER-III	
	REQUEST FOR EXPRESSION OF INTEREST	
28.	Request for Expression of Interest (REOI)	81
	CHAPTER-IV	
	REQUEST FOR QUALIFICATION	
29.	Request for Qualification (RFQ)	83
30.	Contents of Request for Qualification (RFQ)	83
31.	Eligibility of Applicants	84
32.	Qualifying Criteria	84
33.	Schedule of Request for Qualification (RFQ)	86
34.	Removal of Conflict of Interest	87
35.	Evaluation of Applications	87
36.	Notification of Qualification	88
	CHAPTER-V	
	REQUEST FOR TECHNICAL PROPOSAL	
37.	Request for Technical Proposal (RTP)	89
38.	Schedule of Request for Technical Proposal (RTP)	91
39.	Technical Evaluation	92
40.	Notification of passed Technical Proposals to Qualified Applicants	92
41.	Combining Request for Technical Proposal with Request for Proposal	93

TABLE OF CONTENTS

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

Rules	Content	Pages
	CHAPTER-VI	
	REQUEST FOR PROPOSAL	
42.	Request for Proposal (RFP)	94
43.	Project Scope	95
44.	Revenue Sharing or Revenue Support Mechanisms	95
45.	Appointment and Role of Independent Auditor	95
46.	Appointment and Role of Independent Engineer	96
47.	Role of Lead Financial Institution	97
48.	Treatment of Variation.-	97
49.	Evaluation Criteria.-	98
50.	Schedule of Request for Proposal (RFP)	99
51.	Data Room.-	100
52.	Site visit.-	100
53.	Change in Composition of Consortium	100
54.	Effectiveness of Tenders	101
55.	Evaluation of Tenders.-	102
56.	Selection of the Lowest Tenderer	102
57.	Treatment of Two Equal Tenders	103
58.	Treatment of Speculative Tenders	103
59.	Tender Finalization and Award	104
60.	Monitoring of Concession Agreement	104
61.	Change in Ownership	105
	SCHEDULES	
I.	Provisions of the Draft Concession Agreement	106
II.	Scope of Work for Independent Auditor	109
III.	Scope of Work for Independent Engineer	111

-oOo-

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

TAMIL NADU TRANSPARENCY IN TENDERS (PUBLIC PRIVATE PARTNERSHIP PROCUREMENT) RULES, 2012.

[Published in TNGGE No.328, 26th November 2012 - Part-III – Section 1(a) of (No.SRO.A-35 (a) / 2012 - G.O.Ms.No.409 / 26th November, 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 rules, namely.-

CHAPTER-I.

PRELIMINARY.

1. Short title, commencement and extent.- (1) These rules shall be called the Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012.

(2) These rules shall come into force on the 26th day of November, 2012.

(3) These rules will apply to all procurement for Public Private Partnership (PPP) Projects of a value of more than rupees twenty five lakhs by any Procuring Entity.

2. Definitions.- In these rules, unless there is anything repugnant in the subject or context.-

(a) '**Act**' means the Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998);

(b) '**Applicant**' means an entity which has submitted or is likely to submit a response to the Request for Expression of Interest (REOI) or Request for Qualification (RFQ), as the case may be;

(c) '**Application**' means the submission made in response to a Request for Qualification (RFQ);

(d) '**Appointed Date**' means the date on which the Concession Agreement comes into force and effect in accordance with the terms outlined therein;

(e) '**Concessionaire**' means the private sector participant which has entered into a Public-Private Partnership;

(f) '**Concession Agreement**' means an agreement entered into between a Procuring Entity and a private sector participant for and in respect of a Public-Private Partnership;

(g) '**Conditions Precedent**' means the obligations which the Procuring Entity or the Concessionaire or both may be required to fulfill prior to the financial closure of the Public Private Partnership (PPP) Project, unless waived in writing by the relevant party in accordance with the terms of the Concession Agreement;

(h) '**Consortium**' means a tenderer comprising of two or more entities for the purpose of responding to a Tender Document, such that if the consortium includes a public sector entity or entities, such public sector entity or entities do not have a controlling stake in the consortium;

(i) '**Contingent Liability**' means a liability accruing to a Procuring Entity through the Concession Agreement or Public Private Partnership (PPP) Project on the occurrence or non-occurrence of an uncertain future event;

(j) '**Due Date**' means the date on which a tender submission is due in response to a Request for Expression of Interest (REOI) or a Request for Qualifications (RFQ) or a Request for Technical Proposals (RTP) or a Request for Proposals (RFP);

(k) '**Expression of Interest (EOI)**' means the submission made in response to a Request for Expression of Interest (REOI);

(l) '**Final Offer**' means the commercial offer made by a tenderer on the basis of the single criterion specified in the Request for Proposal (RFP);

(m) '**Feasibility Study**' means a preliminary study made for investment decision-making, to assess the technical, social, economic and financial viability and the social and environmental impact of a Project including the demand for the services, appropriate technology to be adopted, capital cost, time required for implementation, and such other information as may be prescribed;

(n) '**Independent Auditor**' means an auditor appointed under rule 45;

(o) '**Independent Engineer**' means an Engineer appointed under rule 46;

(p) '**Lead Member of Consortium**' means a member of a consortium who has been designated as the lead member by the Consortium and shall possess such qualifications as may be prescribed in the tender documents;

(q) '**Letter of Award (LOA)**' means the Letter of Award issued by the Procuring Entity to the Lowest Tenderer in accordance with rule 56;

(r) '**Minimum Technical Requirements (MTR)**' means the minimum technical requirements as described in rule 37;

(s) '**Notice Inviting Tenders**' means for the purposes of these rules, the Notice of Request for Qualification (RFQ) in all cases where rules 4, 5 and 6 apply and to the Notice of Request for Proposal (RFP) in cases where sub-rule (2) of rule 3 is invoked.

(t) '**Performance Security**' means a financial guarantee in the appropriate form including a security deposit or bank guarantee or both furnished by the Concessionaire to the Procuring Entity for the performance of its obligations under the Concession Agreement;

(u) '**Public Private Partnership (PPP)**' means an arrangement between a public agency and a private sector participant for the provision of infrastructure through investment made or through design, development, construction, maintenance or operation undertaken by the private sector participant, where risks are allocated between them such that the private sector participant takes on the risk beyond the stage of design and construction and the payment for the services are performance linked, in the form of user charges, annuities or unitary payments;

(v) '**Project Value**' means:- (i) in case of Public Private Partnership (PPP) Projects where the private entity is expected to make capital investments, the value of the asset or facility to be constructed including the cost of land, if the cost of land is to be borne by the private entity; or

(ii) in case of Public Private Partnership (PPP) Projects where the private entity is not expected to make substantial capital investments, the current replacement value of the asset or facility, whose operation and maintenance is proposed to be the responsibility of private entity;

(w) '**Public Sector Comparator**' means the estimated hypothetical risk-adjusted life cycle cost of a project if it were to be financed, owned and implemented solely by the government or its agency;

(x) '**Qualified Applicant**' means an Applicant that has been qualified in the Request for Qualification (RFQ) stage;

(y) '**Request for Expression of Interest (REOI)**' means the Tender Document prepared and issued in accordance with Chapter-III;

(z) '**Request for Proposal (RFP)**' means the Tender Document prepared and issued in accordance with Chapter-VI;

(aa) "**Request for Qualification (RFQ)**" means the Tender Document prepared and issued in accordance with Chapter-IV;

(ab) '**Request for Technical Proposal (RTP)**' means the Tender Document prepared and issued in accordance with Chapter-V;

(ac) '**Response**' means any submission required to be made to the Tender Inviting Authority as per the Tender Documents;

(ad) '**Respondent**' means any entity or consortium that has submitted or is likely to submit a Response to the Tender Documents;

(ae) '**Total Project Cost**' means the lowest of the total project cost mentioned in the tender documents or actual capital cost of the project upon completion of the Project as certified by the Independent Engineer; or total project cost as set forth in the financing documents;

(af) '**Value for Money Assessment**' means the quantitative and qualitative assessment of the costs and benefits associated with a project. Value for Money Assessment is used to establish whether implementing a project in the Public Private Partnership (PPP) mode is an economically optimal proposition for the Government or the public agency and it takes into account direct and indirect project execution costs, financing costs, transaction costs, cost of asset transfer on project completion, project monitoring costs and a cost estimation of the possible risks thereof;

(ag) '**Variation**' means changes which occur during the course of project development and delivery and shall be classified into the following forms:

(i) Day-to-day operational variations;

(ii) Known-variations that are likely to arise and whose nature is known, but time of occurrence and impact are unknown;

(ah) '**Viability Gap Funding**' means a capital grant or subsidy or equity from the Central or State Governments to render a Public Private Partnership (PPP) project financially viable and bankable.

CHAPTER-II.

PUBLIC PRIVATE PARTNERSHIP (PPP) - PROJECT PROCUREMENT PLANNING.

3. Identifying the procurement method for Public Private Partnership (PPP) Project.- (1) Save as provided for under these rules, a two-stage, open competitive tendering under rule 4 shall be the mode of procurement for a Public Private Partnership (PPP) Project.

[1][Provided that the Tender Inviting Authority for reasons to be recorded in writing, may adopt a single stage, two cover, open competitive tendering and in such cases, the Request for Qualification (RFQ) and the Request for Proposal (RFP) shall be received in separate covers.]

[2][(2).....]

(3) Under certain circumstances specified under these rules, the Procuring Entity may in addition to the two stages prescribed in sub-rule (1) issue a Request for Expression of Interest (REOI) or a Request for Technical Proposal (RTP) or both prior to the Request for Proposal (RFP).

(4) The Final Offer shall be in the form of a single objective criterion which shall be specified in the Request for Proposal (RFP).

4. Two Stage Open Competitive Tendering.- The two stage open competitive tendering shall include the following stages.-

(a) Request for Qualification (RFQ) stage for short-listing Qualified Applicants, in accordance with Chapter-IV: and

(b) Request for Proposal (RFP) stage for selection of the most Lowest Tenderer, in accordance with Chapter-VI.

---

[1] *Inserted by Amt. [TNGGE No.27, dated 20.01.2023 (No.SRO A-1(e-2)/2023) – G.O.Ms.No.20 /20 .01.2023] and*

[2] *Omitted by the amt [TNGGE No.27, dated 20.01.2023 (No.SRO A-1(e-2)/2023) – G.O.Ms.No.20/20 .01.2023 "For Public Private Partnership (PPP) Projects with a value less than Rs.10 crore (Rupees Ten Crore), a single stage, two cover, open and competitive tendering may be adopted where the qualification information and technical proposal are received in one cover and the final offer is received in a separate cover.*

5. Open Competitive Tendering with Request for Technical Proposal (RTP).- (1) Subject to the provisions of rule 4, in case of exceptionally complex Public Private Partnership (PPP) Projects, where the Procuring Entity seeks to assure itself that the Qualified Applicants completely understand its requirements, the Tender Inviting Authority may require that the Qualified Applicants submit Technical Proposals prior to the Request for Proposal (RFP) stage.

(2) The Request for Technical Proposal stage shall be conducted as per the provisions of Chapter-V.

(3) In cases not covered under sub-rule (1), the Request for Technical Proposal (RTP) and Request for Proposal (RFP) stages shall be combined as per the provisions of rule 41.

6. Open Competitive Tendering with Request for Expressions of Interest (REOI).- In Projects where the Procuring Entity is unsure of the likely interest from private entities in the Project, or where it seeks to explore alternatives on how best to design the project scope or other parameters of the Project, the Procuring Entity may adopt multi-stage open competitive tendering involving a Request for Expressions of Interest, followed by a two or three-stage processes as per rule 4 or rule 5, as the case may be.

7. Formation of Tender Scrutiny and Evaluation Committee.- (1) For each stage of procurement under these rules, the Procuring Entity shall form a Tender Scrutiny and Evaluation Committee to evaluate the Responses received as part of the Tender Proceedings:

Provided that the same committee may be retained for all stages of the procurement.

(2) The membership of the Tender Scrutiny and Evaluation Committee shall consist of:

(a) The head of the Procuring Entity or his nominee, who shall serve as the Chairman of the Committee;

(b) Secretary to Government of the Administrative Department concerned or his nominee;

(c) Secretary to Government, Law Department or his nominee when considered essential;

(d) Secretary to Government, Finance Department or his nominee;

[3][(e) ……]

Provided that the same person may represent both Finance Department and the Tamil Nadu Infrastructure Development Board (TNIDB).

(f) Such other experts or persons not exceeding three in number with relevant experience that the Procuring Entity or the Government by general or specific order may include.

(3) The Tender Scrutiny and Evaluation Committee shall perform the following functions:-

(a) Scrutinize and approve the tender documents prior to their issue and recommend any changes;

(b) Supervise the conduct of pre-submission meetings and conferences with prospective tenderers;

(c) Supervise the opening of tenders;

(d) Carry out the preliminary examination and detailed evaluation of the tenders received; and

(e) Prepare an evaluation report for the consideration of the Tender Accepting Authority.

[3] *Omitted by the amt [TNGGE No.27, dated 20.01.2023 (No.SRO A-1(e-2)/2023) – G.O.Ms.No.20 / 20.01.2023 for Representative of the Tamil Nadu Infrastructure Development Board (TNIDB) for projects covered under the Act: Provided that the same person may represent both Finance Department and the Tamil Nadu Infrastructure Development Board (TNIDB).*

8. Engaging Consultants or Advisors.- Where the Procuring Entity deems fit, it may engage the services of a consultant or advisor to assist the Tender Inviting Authority, the Tender Scrutiny and Evaluation Committee and the Tender Accepting Authority with the entire tender process or any stage thereof including the preparation of tender documents and the evaluation of tenders.

9. Information to be published in the State Tender Bulletin.- All Notices Inviting Tenders and decisions on tenders in respect of Public Private Partnership (PPP) projects shall be published in the State Tender Bulletin.

10. Details to be mentioned in Notice Inviting Tenders.- The Notice Inviting Tenders shall contain the following details, namely.-

(a) The name, address and other contact details of the Procuring Entity and the designation and address of the Tender Inviting Authority;

(b) Name of the project for which the procurement is to be effected;

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

(d) The amount of Earnest Money Deposit (EMD), if any payable;

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

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

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

11. Publication of Notice Inviting Tenders in Newspapers.- [4][1…]

[4] *Omitted by the amt [TNGGE No.178, dated 12.05.2023 (No.SRO A-18(a-2)/2023) – G.O.Ms.No.136 /12.05.2023 For The Tender Inviting Authority shall have the Notice Inviting Tenders published in the Indian Trade Journal in all cases where the project value exceeds rupees Seventy Five crores for Goods and Services and Rupees hundred crore for Construction. Substituted by Amt. [TNGGE No.27/20.01.2023 (No. SRO A-1(e-1)/2023) - G.O.Ms.No.19 / 20.01.2023] For the Tender Inviting Authority shall have The Notice Inviting Tenders published in The Indian Trade Journal in all cases where The Project value exceeds rupees fifty crores.*

(2) The competent authority to release the advertisement shall be the Director of Information and Public Relations, Chennai.

(3) The number, editions and language of the newspapers in which the Notice Inviting Tenders shall be published will be based on the value of procurement and adequate publication will be ensured in the Districts where the projects are to be implemented.

[5]"(4) The Director of Information and Public Relations, Chennai shall publish the Notice Inviting Tenders as per the instructions of the Procuring Entity.".

(5) Notwithstanding anything contained in sub-rule (4) for projects of a value exceeding rupees two hundred crores, the Notice Inviting Tenders shall be published, once every week for three consecutive weeks, in atleast two national level newspapers out of which, one will be a financial or business newspaper; and in one local newspaper, which is circulated in the district or city in which the project is to be implemented.

12. Publication in Notice Board, Website and sending Notice Inviting Tenders to all possible tenderers.- (1) The Notice Inviting Tenders shall be published on the Notice Board of the offices of the concerned Public Agency, District Collectorate and other Public Offices.

(2) The Notice Inviting Tenders shall be published on the website of the Procuring Entities, the Government of Tamil Nadu website and any other website as may be indicated by the Government.

(3) The Tender Inviting Authority may, if considers necessary, send the Notice Inviting Tenders to all possible tenderers including registered contractors, potential suppliers and any other well known company or firm directly.

---

[5] *Substituted by Amt. [TNGGE No.27/20.01.2023 (No. SRO A-1(e-2)/2023) - G.O.Ms.No.20 / 20.01.2023] For tenders for a project value above rupees fifty lakhs, the Director of Information and Public Relations, Chennai will publish the Notice Inviting Tenders as per instructions of the Procuring Entity and publication of Notice Inviting Tenders for an additional insertion shall not be made in newspapers not requested by the Procuring Entity for tenders above rupees fifty lakhs.*

13. Supply of Tender Documents.- (1) The Tender Inviting Authority shall make available the tender documents from the date of publication of the Notice Inviting Tenders.

(2) The tender documents shall be made available for downloading from the website designated for this purpose by the Government and from such other websites as may be indicated by the Tender Inviting Authority on payment of such fees and in such manner as may be determined.

(3) The tender documents shall also be made available on payment of such fees as may be determined, including a service fee to cover the cost of printing at:-

(a) the office of the Tender Inviting Authority;

(b) any other office or place indicated by the Procuring Entity.

(4) 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 fees along with postal charges at the risk and responsibility of the prospective tenderer.

14. Security.- [6][(1) The tenderers shall be required to provide an Earnest Money Deposit (EMD) ordinarily not exceeding two percent of the estimated total project cost, which shall be made by means of electronic mode of payment or in the form of a demand draft or banker's cheque or specified small saving instrument or where the Procuring Entity deems fit, unconditional, irrevocable bank guarantee:]

Provided that in case of operation and maintenance contracts, the Earnest Money Deposit (EMD) may be determined at a level not less than ten percent of the likely annual payments or two percent of the project value, whichever is less.

(2) The Earnest Money Deposit (EMD) shall be forfeited if the tenderer.-

---

[6] *Substituted by Amt. No.1 for sub-rule '(1) The tenderers shall be required to provide an Earnest Money Deposit (EMD) ordinarily not exceeding two percent of the estimated total project cost, which shall be in the form of a demand draft, banker's cheque, specified small saving instrument or where the Procuring Entity deems fit, unconditional, irrevocable bank guarantee' [TNGGE No.296, dated 19-09-2017 (No. SRO A-41(b-2)/2017) - G.O.Ms.No.271 / 19-09-2017].*

(a) withdraws his tender after submission but before opening of the tender, or

(b) following the opening of tender, withdraws its tender before expiration of the period of effectiveness of the tender; or

(c) fails to furnish the required Performance Security at the stage, the tenderer is required to do so as per the tender documents.

(3) The Earnest Money Deposit (EMD) shall remain valid for a period of not less than 30 (thirty) days beyond the period for validity of the tender specified in the tender documents in order to provide the Procuring Entity sufficient time to act if the security is to be called:

Provided that the Procuring Entity may seek extension of the period of validity of the tenders and of the Earnest Money Deposit (EMD).

(4) The Earnest Money Deposit (EMD) of tenderers who have not been selected will be released not later than 60 (sixty) days after the expiration of the tender validity period, including any extension thereof, or 60 (sixty) days after the issue of the letter of award, whichever is earlier.

(5) The Earnest Money Deposit (EMD) of the Lowest Tenderer shall be discharged when that tenderer furnishes the required Performance Security.

(6) The Concessionaire shall be required as a condition precedent to provide Performance Security, ordinarily not exceeding 5% (five percent) of the Project Value and subject to any increase or decrease in the Project Value that may occur during contract performance:

Provided that in case of Operation and Maintenance contracts, the Performance Security may be determined at a level not more than 50% (fifty percent) of the likely annual payments due.

[7][(7) The Performance Security shall be made by means of electronic mode of payment or in the form of a demand draft or banker's cheque or specified small saving instrument or unconditional and irrevocable bank guarantee or where the Procuring Entity deems fit, in form of an escrow account or a combination of the different forms.]

15. Conflict of Interest.- (1) It shall be the responsibility of Tender Inviting Authority and Tender Accepting Authority to ensure that the prospective tenderers do not have a conflict of interest that affects the Tender Proceedings.

(2) An Applicant or prospective tenderer shall be deemed to have a Conflict of Interest, if,-

(a) any other prospective tenderer or a member of consortium or any associate or constituent thereof have common controlling shareholders or other ownership interest; or

(b) a constituent of such prospective tenderer is also a constituent of another prospective tenderer.

Provided that 'constituent' in such cases will not include the provider of a proprietary technology to more than one applicant; or

(c) such prospective tenderer, or any associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant or Respondent, or any associate thereof has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant or Respondent, its member or any associate thereof; or

(d) such prospective tenderer has the same legal representative for purposes of the Tender Proceedings as any other prospective tenderer; or-

[7] *Substituted by Amt. No.2 for sub-rule '(7) The Performance Security shall be in the form of a demand draft, banker's cheque, specified small saving instrument, unconditional and irrevocable bank guarantee or where the Procuring Entity deems fit, in form of an escrow account or a combination of the different forms' [TNGGE No.296, dated 19-09-2017 (No. SRO A-41(b-2)/2017) - G.O.Ms.No.271 / 19-09-2017].*

(e) such prospective tenderer, its member or any associate thereof, has a relationship with another prospective tenderer, or any associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Response of either or each other; or

(f) such prospective tenderer, its member or any associate thereof, has participated as a consultant to the Tender Inviting Authority and Tender Accepting Authority in the preparation of any documents, design or technical specifications of the Public Private Partnership (PPP) Project; or

(g) if any legal, financial or technical advisor of the Tender Inviting Authority and Tender Accepting Authority in relation to the Project is engaged by the prospective tenderer, its member or any associate thereof, as the case may be, in any manner for matters related to or incidental to the Project:

Provided that this clause shall not apply where such advisor was engaged by the Applicant or Respondent, its member or associate in the past but such engagement expired or was terminated 6 (six) months prior to the date of issue of concerned Tender Document or where such advisor is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

16. Clarifications on Tender Documents.- (1) The Procuring Entity shall permit Respondents to seek clarifications on the Tender Documents and shall specify a last date for the submission of such clarifications in the Tender Documents:

Provided that the clarifications may be sought from the Tender Inviting Authority only in writing.

(2) The Tender Inviting Authorities shall specify in the Tender Documents the e-mail address, postal address and fax number to which the clarifications may be sent.

(3) The Tender Inviting Authority shall respond to any queries or requests for clarification received from a Respondent within the time as mentioned in sub-rule (1) that Respondent can make his response in a timely fashion.

(4) The Tender Inviting Authority shall, without disclosing the name of the Respondent seeking the clarification, communicate the clarification to all Respondents to whom it has provided the Tender Documents and shall also ensure that the clarifications are uploaded on the appropriate website.

17. Pre-submission Meeting.- (1) After issue of the Request for Qualification (RFQ) or Request for Technical Proposal (RTP) or Request for Proposal (RFP), as the case may be, the Tender Inviting Authority may, at its discretion, organize one or more pre-submission meetings for the purpose of clarifying the queries and understanding the concerns of the Respondents.

(2) The Tender Inviting Authority shall consider comments and suggestions provided by the Respondents in the pre-submission meetings and, if required, revise the Tender Documents.

(3) The pre-submission meetings shall not be a substitute for any other manner of communication of queries by the Respondents.

(4) The Tender Inviting Authority shall maintain minutes and the list of attendees of the pre-submission meetings and circulate them to all attendees.

18. Modification of Tender Documents and Responses.- (1) Subject to specific provisions contained in these rules, at any time prior to the due date, the Procuring Entity may, whether on its own initiative or as a result of a query, suggestion or comment of an Applicant or a Respondent, modify the Tender Documents by issuing an addendum or a corrigendum.

(2) Any such addendum or corrigendum shall be communicated and will be binding on all Applicants or Respondents or Tenderers, as the case may be.

19. Manner, Place and Due Date for Submission of Responses.- (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:

Provided that such of the tenders that are received through electronic mail shall be kept electronically locked.

(2) The Tender Inviting Authority shall take all measures to ensure that no intending tenderer is hindered in submitting his tender.

(3) The Tender Inviting Authority shall permit the submission of tenders by post or courier or by electronic submission through the designated website, wherever applicable:

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

(4) 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.

(5) The tenderer shall be responsible for properly superscribing and sealing the cover in which the tender is submitted and the Tender Inviting Authority shall not be responsible for accidental opening of covers that are not properly superscripted and sealed as required in the tender documents before the time appointed for opening of tenders.

(6) The Tender Inviting Authority shall not accept any tenders submitted by facsimile (fax).

(7) The Tender Inviting Authority may extend the last date and time for receiving tenders which shall be published on the designated website also 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 sub-rule (1) of rule 18 took time;

(c) any of the tenderers requested clarifications the communication of which to all the tenderers took time; and

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

20. 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.

21. Opening of Tenders.- (1) All the tenders received by the Tender Inviting Authority shall be opened at the time and the venue 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 sub-rule (7) of rule 19 at the time, so specified subsequently:

Provided that the e-tenders submitted may be permitted to be opened by a Tender Inviting Authority or a member of the Tender Scrutiny and Evaluation Committee from their new location, if they are transferred after the issue of Notice Inviting Tender and before opening of tenders and where the new incumbent is yet to obtain his digital signature certified.

(2) The time specified for the opening of tenders shall be immediately after the closing time specified for the receipt of tenders allowing a reasonable period, not exceeding one hour, for the transportation of the tenders received to the place they are to be opened.

(3) The tenders will be opened in the presence of the tenderers or their representative who choose to be present:

Provided that the Tender Inviting Authority may specify the number of representatives for each tenderer who may be permitted to be present.

22. Procedure to be followed at Opening of Tenders.- The following procedure shall be followed at the opening of tenders.-

(a) All the envelopes containing tenders and the tenders received through the electronic mail in the designated website shall be counted;

(b) All the tenders received in time shall be opened;

(c) Any tender received subsequent to the time specified for receipt of tenders shall not be opened and shall be returned unopened to the tenderer and in the case of tenders submitted through electronic mail in the designated website, a report on the late submission of tenders shall be generated and the same shall be sent to the tenderer concerned;

(d) On opening of the tender, the members of the Tender Scrutiny and Evaluation Committee shall initial the main tender including the prices and any corrections;

(e) A record of the corrections noticed at the time of the opening of tenders shall be maintained;

(f) The name of the tenderers and the quoted prices should be read out aloud;

(g) The fact whether Earnest Money Deposit (EMD) has been submitted and the other required documents have been produced may be indicated, but this shall not constitute an initial examination under rule 24;

(h) Minutes of the opening of tenders shall be recorded;

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

23. Changes and alterations not to be permitted after Opening of Tenders.- No changes or amendments which materially alter the final submissions shall be permitted after the opening of tenders, except as laid down in sub-section (3) of section 10 of the Act and prescribed in rule 24.

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 by the Tender Scrutiny and Evaluation Committee in order to determine their substantial responsiveness.

(2) The initial examination shall consider the following factors, namely:-

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

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

(ii) Whether the documents have been authenticated by digital signature, in the case of tenders submitted through electronic mail in the designated website.

(c) Whether the requisite Earnest Money Deposit (EMD) with appropriate validity has been furnished;

(d) Whether the tender is substantially responsive to the technical specifications and commercial conditions set out in the tender documents.

(3) Tenders which on initial examination are found not to be substantially responsive under any of the clauses under sub-rule (2) shall be rejected by the Tender Accepting Authority and not taken up for further scrutiny.

25. Clarifications on qualification information.- The Procuring Entity may, at any stage of the Tender Proceedings, ask any Applicant or Respondent for clarifications on its submission, in order to assist in the evaluation of such submission:

Provided that the Procuring Entity shall.-

(a) not seek or permit any substantive change to the submission, including changes aimed at qualifying an Applicant or a Respondent.

(b) not engage in negotiations with an Applicant or a Respondent with respect to the submission, pursuant to a clarification that is sought under this rule; and

(c) maintain in the record of Tender Proceedings, all communications generated under this rule.

26. Confidentiality.- (1) Subject to the provisions of sections 13 and 14 of the Act, the Tender Inviting Authority shall ensure the confidentiality of the process of tender evaluation until orders on the tenders are passed.

(2) The Tender Inviting Authority shall treat all information submitted as part of a Response, in confidence and will require all those who have access to such material to treat the same in confidence and shall not disclose any such information unless.-

(a) directed to do so by any statutory entity that has the power under law to require such disclosure; or

(b) such disclosure is to enforce or assert any right or privilege of the statutory entity or the Procuring Entity; or

(c) required to do so by law or in connection with any legal process.

27. Record of Tender Proceedings.- (1) The Procuring Entity shall cause to be maintained a record of the Tender Proceedings.

(2) Such record shall, *inter-alia*, contain the following; namely:-

(a) Subject matter of the procurement process;

(b) Basic information, including names and addresses of the authorized representatives of Respondents;

(c) The submissions made by the Respondents at each stage of the process;

(d) The report or reports of the Tender Scrutiny and Evaluation Committee;

(e) Statement of the reasons and circumstances relied upon by the Tender Inviting Authority and Tender Accepting Authority for decisions as part of the procurement process;

(f) The requests for clarification and the responses thereof;

(g) Statement of reasons for rejection of tender;

(h) Principal terms of the Concession Agreement; and

(i) The deviations, if any from the model tender documents where applicable.

-oOo-

CHAPTER-III.

REQUEST FOR EXPRESSION OF INTEREST.

28. Request for Expression of Interest (REOI).- (1) In cases where the Procuring Entity decides to proceed under rule 6, the Tender Inviting Authority shall prepare the Request for Expression of Interest (REOI).

(2) The Request for Expression of Interest (REOI) shall, *inter-alia*, contain,-

(a) the description of the Project;

(b) the request for expressions of interest;

(c) a closing date for seeking clarifications.

(3) The Request for Expression of Interest (REOI) shall be published in accordance with the provisions of rules 9, 10, 11 and 12.

(4) The Expression of Interest (EOI) shall not be used to either shortlist or disqualify tenderers and any entity which has not submitted an Expression of Interest (EOI) shall also be allowed to participate in the Request for Qualification (RFQ) stage as per terms and conditions that may be specified thereof.

(5) The Tender Inviting Authority may convene meetings to interact with Applicants, so as to facilitate greater interest and understanding of the proposed Project among potential private partners.

(6) The Tender Inviting Authority shall provide for the following minimum time periods in the schedule of the Request for Expression of Interest (REOI) stage:

(a) The due date shall ordinarily be not less than 30 (thirty) days from the date of advertisement or notification of the Request for Expression of Interest (REOI) whichever is later;

(b) Pre-submission meetings convened under sub-rule (5) shall be held at least 7 (seven) days before the due date;

(c) The clarifications on the queries of Applicants shall be issued not less than 4 (four) days before the due date; and

(d) Corrigenda or notifications of amendments in the Request for Expression of Interest (REOI) shall be issued not less than 4 (four) days before the due date.

(7) In exceptional cases, the Tender Inviting Authority may at the time of issuing Request for Expression of Interest (REOI) reduce the minimum time limits prescribed in sub-rule (6) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after the publication of the notification or advertisement of the Request for Expression of Interest (REOI):

[8][….]

-oOo-

[8] *Omitted by the amendment [TNGGE No.27, dated 20.01.2023 (No. SRO A-1(e-2)/2023) – G.O.Ms.No.20 /20.01.2023 for Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.*

CHAPTER-IV.

REQUEST FOR QUALIFICATION.

29. Request for Qualification (RFQ).- (1) The Request for Qualification (RFQ) called for under rule 4 is intended for the following purposes, namely.-

(a) publicise the information on the Public Private Partnership (PPP) Project and the services or infrastructure or both that the Procuring Entity seeks to obtain;

(b) communicate the proposed timeframes and the qualification criteria;

(c) ascertain the level of interest in the Project;

(d) provide an avenue through which prospective tenderers can comment on the proposed Project; and

(e) allow the Procuring Entity to qualify Applicants who are most capable of meeting project objectives over the project term for the Request for Technical Proposal (RTP) stage or Request for Proposal (RFP) stage or both.

(2) The Tender Inviting Authority preparing the Request for Qualification (RFQ) shall ensure that,-

(a) the Request for Qualification (RFQ) contains sufficient information to allow potential tenderers to form a view on whether they have sufficient capabilities and to identify potential partners for the Project; and

(b) the information requested from the Applicants is such that the Procuring Entity is enabled to qualify the Applicants on that basis.

30. Contents of Request for Qualification (RFQ).- The Request for Qualification (RFQ) document shall contain the following:

(a) a description of the Project and the estimated Total Project Cost;

(b) a description of the stages of the tender process and the proposed schedule of the Tender Proceedings;

(c) the conditions of eligibility of Applicants, the information sought from Applicants for qualification and the form and procedure of the Application;

(d) a description of the parameters and method of evaluating qualification of Applicants in order to identify Qualified Applicants that have the requisite capability to take up the Project; and

(e) the criteria or conditions, if any, for the disqualification of Applicants, such as, Conflicts of Interest and other relevant considerations.

31. Eligibility of Applicants.- In addition to any other criteria for eligibility that may be prescribed in the Request for Qualification (RFQ) tender documents, in all cases, the following shall apply, whether or not they have been specifically provided for in the documents: -

(a) the Applicant may be a single entity or a consortium. However, no Applicant applying individually or as a member of a consortium, as the case may be, can be member of another Applicant;

(b) an Applicant may be a natural person, or a private entity, or a combination thereof, or a combination with a public agency:

Provided that the public agency does not have a controlling interest in such combination, either with an existing agreement or the formal intent to enter into an agreement to form a consortium;

(c) no Applicant shall submit more than one application for the same Project and an Applicant applying individually or as a member of a consortium shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

32. Qualifying Criteria.- (1) The qualifying criteria used by the Procuring Entity to evaluate the responses to the Request for Qualification (RFQ) shall be objective, equitable, unambiguous, and shall be clearly stated in the Request for Qualification (RFQ).

(2) The qualifying criteria shall cover the following aspects of the Applicant:

(a) the Applicant's experience and track record in delivering projects of similar nature;

(b) the Applicant's ability to deliver against the physical aspects of the Project including its ability and track record in delivering services under long-term contractual arrangements.

(c) the capability of the Applicant to invest the capital that would be needed for the Project:

(d) the ability of the Applicants to secure adequate funds on competitive terms, since Projects normally requires the Concessionaire to finance a substantial part of the Total Project Cost, if not the whole;

(e) the ability of the Applicant to support the contractual arrangements over the contract term.

(3) Criteria for evaluation of financial capability shall be defined in terms of any or all of the following,-

(a) net worth of the Applicant as described in the tender documents;

(b) average annual turnover for a period not less than the immediately preceding three years derived from audited financial statements;

(c) average net cash accrual for a period not less than the immediately preceding three years derived from audited financial statements; and

(d) any other criteria relevant in the context of a particular Project.

(4) Based on the nature of the Project, the Procuring Entity may, in addition to the criteria prescribed in sub-rules (2) and (3), specify qualifying criteria in relation to the following areas, namely:-

(a) Existing commitment of the Applicant and capacity to deliver on the Project in addition to the existing commitments;

(b) Proposed team of experts, if the Project requires specialised technical expertise; and

(c) Experience of Applicant or the proposed team for working in local conditions where in the opinion of the Procuring Entity such conditions are expected to have a material impact on the development or operation of the proposed facility or service.

(d) Any other criteria relevant in the context of a particular Project.

(5) As far as may be practicable, the qualification criteria will be specified on a pass or fail basis to enable objective evaluation of the tenders.

Explanation:- For the purpose of sub-rule (5), a pass or fail test would includes a test based on a marking system with a minimum score requirement.

33. Schedule of Request for Qualification (RFQ).- (1) The following minimum periods shall be allowed by the Tender Inviting Authority while determining the schedule of Request for Qualification stage:

(a) The due date shall ordinarily be not earlier than [9][four weeks] from the date of advertisement or notification of the Request for Qualification (RFQ) whichever is later;

(b) Pre-submission meeting, if any, shall be held at least 3 (three) weeks before the due date;

(c) The clarifications on the queries of Applicants shall be issued not less than 1 (one) week before the due date; and

[9]*Substituted by Amt. [TNGGE No.27, dated 20-01-2023 (No. SRO A-1(e-2)/2023) - G.O.Ms.No.20 / 20-01-2023] for the expression '8 weeks'.*

(d) Corrigenda or notifications of amendments in the Request for Qualification (RFQ) shall be issued not less than 1 (one) week before the due date.

(2) In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Qualifications (RFQ) reduce the minimum time limits prescribed in sub-rule (1) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after the publication of the notification or advertisement of the Request for Qualification (RFQ):

[10][..]

34. Removal of Conflict of Interest.- The Procuring Entity may allow an Applicant, within 10 (ten) days after the due date, to remove from its consortium any member who suffers from a Conflict of Interest under rule 15, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

35. Evaluation of Applications.- (1) The submitted Request for Qualification (RFQ) Applications shall be evaluated by the Tender Scrutiny and Evaluation Committee by using the qualifying criteria as specified in the Request for Qualification (RFQ).

(2) The Applicants shall be assessed on the basis of whether they achieve the pre-specified minimum pass or fail threshold.

Explanation:- For the purpose of sub-rule (2), a pass or fail test would includes a test based on a marking system with a minimum score requirement.

[10] *Omitted by the amt [TNGGE No.27, dated 20.01.2023 (No. SRO A-1(e-2)/2023) – G.O.Ms.No.20/20.01.2023 for Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.*

(3) Only those applicants who clear the threshold shall be qualified for the next stage of the Tender Proceedings, as the case may be.

36. Notification of Qualification.- (1) The Procuring Entity shall promptly notify each Applicant in writing whether or not it has been qualified.

(2) The Procuring Entity shall make available to any person, the names of all Applicants that have been qualified.

(3) Only Applicants who have qualified are entitled to participate further in the Tender Proceedings.

(4) The Tender Accepting Authority may decide not to proceed further with the tender if the said authority is of the view that an adequate number of applicants have not qualified to have a competitive tender.

-oOo-

CHAPTER-V.

REQUEST FOR TECHNICAL PROPOSAL.

37. Request for Technical Proposal (RTP).- (1) Subject to the provisions of rule 5, where the Procuring Entity determines that a Request for Technical Proposals (RTP) should be made prior to the Request for Proposals, the Tender Inviting Authority shall issue a Request for Technical Proposals to all qualified applicants.

(2) The Request for Technical Proposals (RTP) shall involve a technical evaluation in the form of a pass or fail test, and only submissions that pass the minimum technical criteria will be invited to submit a Final Offer at the Request for Proposal (RFP) stage.

Explanation:- For the purpose of sub-rule (2), a pass or fail test would includes a test based on a marking system with a minimum score requirement.

(3) The Request for Technical Proposals (RTP) shall specify the Minimum Technical Requirements (MTR), formulated based on the Feasibility Study or detailed project study or such other study.

(4) The Minimum Technical Requirements (MTR) shall be a description of outcomes that are sought to be achieved and not necessarily the means by which they are to be achieved and to the extent possible the Minimum Technical Requirements (MTR) shall be technology and brand neutral.

(5) The Minimum Technical Requirements (MTR) shall necessarily include the following:

(a) description of the scope of the Project; which shall mean the physical facilities that need to be constructed, the capacity of each such facility or its component and related aspects;

(b) output specifications; which shall include a description of the target users, levels of service, quality standards and performance parameters;

(c) the design and safety codes or standards that the facility must comply to, including for management of social and environmental impacts;

(d) the operation requirements including the standards to be followed for operations of the facility and provision of service including standards for safety, security, labour relations, quality, monitoring, reporting and dissemination, service levels to be offered to customers including waiting times and standards for grievance redressal;

(e) maintenance requirements including the maintenance standards and schedule for compliance; and

(f) testing and performance monitoring requirements specifing the tests that would be carried out for performance monitoring and the key performance indicators that would be monitored.

(6) The Request for Technical Proposal (RTP) shall ordinarily require the Qualified Applicants to submit responses on the technical solution, business solution and financial plan for implementing the Project. The Procuring Entity shall define and document the specific requirements for Technical Proposal for each Project in the Request for Technical Proposal (RTP), which have not already been assessed at the Request for Qualification (RFQ) stage and shall ordinarily include:

(a) Basic information about the Qualified Applicant:

(i) Corporate information about the Qualified Applicant;

(ii) Constitutional documents of the Qualified Applicant;

(iii) Annual reports (if required);

(iv) Details about business activities including number of years of operation, certifications, tie ups and similar arrangements; and

(v) Any other documents considered relevant.

(b) Experience of the Applicant, relevant to the Project:

(i) Details of the project experience; and

(ii) Certificates and other documentation supporting the project experience;

(c) Approach and methodology for implementation of the Project, including:

(i) Understanding of the scope of work;

(ii) Technical solution proposed or the approach for implementation of the Project;

(iii) Activity plan and schedule;

(iv) Details of the facility or service proposed;

(v) Brief construction plan; and

(vi) Brief operations and maintenance plan;

(d) Business plan for implementation of the Project, including.-

(i) Organisation structure of the Concessionaire;

(ii) Marketing plan;

(iii) Environmental and social impact management plan;

(iv) Tie-ups and associations; and

(v) Identification of risks and risk management plan.

(e) Financial plan for implementation of the Project, including.-

(i) Sources of finances and their expected boundary conditions;

(ii) Plan for financial sustainability of the Public Private Partnership (PPP) Project; and

(iii) Projected financial assessments and key assumptions.

(7) Each of the parameters shall be clearly defined for evaluation of the Technical Proposal and assigned a maximum score.

(8) The threshold or cut-off score for the pass or fail test based on Minimum Technical Requirements shall be pre-determined and specified in the Request for Technical Proposal (RTP).

38. Schedule of Request for Technical Proposal (RTP).- (1) The following minimum period shall be allowed by the Tender Inviting Authority while determining the schedule of the Request for Technical Proposal (RTP) stage:

(a) The due date shall not be less than 6 (six) weeks from the date of issue of the Request for Technical Proposal (RTP);

(b) Pre-submission meeting shall be held at least 3 (three) weeks before the due date;

(c) The clarifications on the queries of Qualified Applicants shall be issued not less than 1 (one) week before the due date; and

(d) Corrigenda or notifications of amendments in the Request for Technical Proposal (RTP) shall be issued not less than 1 (one) week before the due date.

(2) In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Technical Proposal (RTP) reduce the minimum time limits prescribed in sub-rule (1) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after the issue of invitation of the Request for Technical Proposal (RTP).

[11][...]

39. Technical Evaluation.- (1) The submitted Technical Proposals shall be evaluated by the Tender Scrutiny and Evaluation Committee as per the criteria laid down in the Request for Technical Proposals (RTP).

(2) The Technical Proposals shall be evaluated on the basis of whether they achieve the minimum threshold or cut-off score specified in accordance with sub-rule (7) of rule 37.

40. Notification of passed Technical Proposals to Qualified Applicants.- (1) The Procuring Entity shall promptly notify each Qualified Applicant whether or not the Technical Proposal submitted by it has passed.

(2) Only Qualified Applicants whose Technical Proposals have passed shall be entitled to participate further in the Tender Proceedings.

---

[11] *Omitted by the amt [TNGGE No.27, dated 20.01.2023 (No.SRO A-1(e-2)/2023) – G.O.Ms.No.20 /20.01.2023 for Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.*

41. Combining Request for Technical Proposal with Request for Proposal.- (1) For cases not covered under sub-rule (1) of rule 37 to optimize cost and effort when the Project does not merit a separate stage of Request for Technical Proposal (RTP), the Procuring Entity may combine the Request for Technical Proposal (RTP) stage with the Request for Proposal (RFP) stage to ensure price competition through adequate number of tenders.

(2) For cases covered under sub-rule (1), the Technical Proposal and the Final Offer shall be submitted in separate sealed envelopes.

(3) The Tender Inviting Authority shall open only the Technical Proposal for evaluation on the due date and time.

(4) The Technical Proposal shall be evaluated based on the technical parameters announced in the Request for Proposal (RFP) and list of technically qualified tenderers announced.

(5) The Final Offers of only the technically qualified tenderers shall be opened, after due intimation of the time and place of opening and evaluated.

(6) In the event that Request for Technical Proposal (RTP) stage is proposed to be combined with the Request for Proposal (RFP) stage, the Procuring Entity shall ensure that the relevant provisions of rule 37 are reflected in the Request for Proposal (RFP).

-oOo-

CHAPTER-VI.

REQUEST FOR PROPOSAL.

42. Request for Proposal (RFP).- (1) The Tender Inviting Authority shall prepare the Request for Proposal (RFP) and the Draft Concession Agreement and issue it to all the qualified applicants.

(2) The Request for Proposal (RFP) shall solicit the binding Final Offer from tenderers in a separate sealed cover.

(3) The Request for Proposal (RFP) shall contain the following.-

(a) Feasibility Report or Project Information Memorandum or both which will provide such information to tenderers as is required to evaluate the Project and estimate their Final Offer including:

(i) Project objectives and rationale;

(ii) Site details;

(iii) Role of the public agency and stakeholders;

(iv) Project scope in accordance with rule 43; and

(v) Output specifications;

(b) Instruction to Tenderers which would define the process of tender submission and evaluation. This section shall include all procedures, terms and conditions which should be followed by the Tenderers for submission of their tenders and which would be followed by the Procuring Entity in accepting and evaluating the Tenders;

(c) The draft Concession Agreement which shall govern the contractual relations between the Concessionaire and the Procuring Entity detailing the rights and obligations of both the parties, definition of the subject matter of the agreement, payment terms, performance obligations, defaults and their consequences, events of termination and other ancillary clauses as provided in Schedule-I of this rule.

(4) In case of any discrepancy between the Project Information Memorandum or the Feasibility Study Report and the Draft Concession Agreement, the Draft Concession Agreement shall prevail.

43. Project Scope.- (1) The Procuring Entity shall set out the detailed description of the Public Private Partnership (PPP) Project and the project scope in the Request for Proposal (RFP).

(2) To the extent practicable, the description of the Project and project scope shall be objective, functional and generic, and shall set out the relevant technical, quality and performance characteristics expected.

(3) There shall be no requirement for or reference to a particular trademark or trade name, patent, design or type, specific origin or producer unless there is no sufficiently precise or intelligible way of describing the characteristics of the project scope and specifications and provided that words such as "or equivalent" are included.

44. Revenue Sharing or Revenue Support Mechanisms.- (1) While preparing the draft Concession Agreement for any project, the Procuring Entity taking note of the monopoly nature of the public service to be provided by the Concessionaire under a Public Private Partnership (PPP) Project shall specifically consider whether to provide for revenue sharing or revenue support mechanisms within the Concession Agreement and if considered necessary, include necessary provisions in the Agreement.

(2) The revenue-sharing or revenue support mechanism for the Project should be designed in such a way as to ensure that:

(a) the Concessionaire does not enjoy super-normal or wind fall profits and at the same time does not suffer due to unforeseen revenue-side risks.

(b) the mechanism does not curtail private efficiency and at the same time does not compensate the Concessionaire for risks rightfully meant to borne by the Concessionaire under the Concession Agreement.

45. Appointment and Role of Independent Auditor.- (1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to appoint an Independent Auditor for the project and if considered necessary, include necessary provisions in the Agreement.

(2) An Independent Auditor shall be appointed with the specific prior concurrence of the Procuring Entity and shall not be removed or replaced without the approval of the Procuring Entity.

(3) The Independent Auditor's scope of work shall be specified in the Concession Agreement and shall *inter-alia* include certifying the accuracy and correctness of any financial calculations or claims required to be made by Concessionaire under the Concession Agreement.

(4) The Independent Auditor shall prepare and submit to the Procuring Entity a quarterly report and such other special reports as the Procuring Entity may seek.

(5) An indicative scope of work for the Independent Auditor is provided for guidance in Schedule-II of this rule.

46. Appointment and Role of Independent Engineer.- (1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to appoint an Independent Engineer for the project and if considered necessary, include necessary provisions in the Agreement.

(2) The Independent Engineer's scope of work shall be specified in the Concession Agreement and shall *inter-alia* include:

(a) Review, inspection and monitoring of construction works, examination of the designs / drawings and conduct of tests;

(b) Issue of progress reports and completion certificates during and after completion of the construction period;

(c) Review and inspection of the operations and maintenance arrangements and monitoring compliance with the performance and maintenance standards, during the operations period;

(d) Identifying delays and lapses that require action on part of the Procuring Entity for enforcing the agreement terms;

(e) Determining the reasonableness of costs for any works or services, as required under the Concession Agreement;

(f) Determining the period or extension thereof, for performing any duty or obligations, as required under the Concession Agreement;

(g) Carrying out such responsibilities as are assigned by the Procuring Entity.

(3) The Independent Engineer shall prepare and submit to the Procuring Entity a monthly progress report.

(4) An indicative scope of work for the Independent Engineer is provided for guidance in Schedule-III of this rule.

(5) The Independent Engineer shall, at the close of the Concession Agreement, take stock of the asset to be reverted to the Procuring Entity and submit a report on the same in comparison to the asset handed over for operation at commercial operations date and the value addition made thereon.

47. Role of Lead Financial Institution.- (1) While preparing the draft Concession Agreement for any project, the Procuring Entity shall specifically consider the need to include a provision to require the Concessionaire to identify a Lead Financial Institution and if considered necessary, include necessary provisions in the Agreement.

(2) Subject to sub rule (1), the Concession Agreement shall have provisions requiring the submission of quarterly reports by Lead Financial Institution to the Procuring Entity on the following aspects,- namely:-

(a) Financial progress,

(b) Statement of debt and equity contribution, and

(c) Any other relevant financial information, as required.

48. Treatment of Variation.- (1) The Concession Agreement shall provide that day-to-day operational variations which have no material impact on the project variables should be managed by the Concessionaire.

(2) The Concession Agreement may provide for the procedure for amending the Agreement as a consequence for known variations, and day-to-day operational variations that are likely to have a material impact on the Project.

(3) Such procedures for amendment shall take note of the nature of variation and its impact on contract terms and in case of material variations in contract terms, require an additional value for money assessment to be undertaken.

49. Evaluation Criteria.- (1) The Request for Proposal (RFP) shall specify the commercial conditions of the Tender and the single criterion for the Final Offer which would be used to determine the Lowest Tenderer.

(2) The single criterion specified in the Request for Proposal (RFP) for the Final Offer may be any one or a combination of the following:

(a) state support sought;

(b) expected revenue including from sources such as property development and advertisement;

(c) tariff;

(d) present value of lifecycle cost;

(e) period of the concession;

(f) upfront premium;

(g) equity stake;

(h) share of subsidized facilities to the Procuring Entity;

(i) revenue share;

(j) lease rent;

(k) annuity payment;

(l) any other financial criterion relevant to the project;

(3) The Request for Proposal (RFP) shall clearly and specifically define the form and content of the Final Offer and state that the Lowest Tenderer shall be selected on the basis of the most advantageous Final Offer.

50. Schedule of Request for Proposal (RFP).- (1) The following minimum periods shall be followed by the Tender Inviting Authority while determining the schedule of the Request for Proposal (RFP) stage:

(a) The due date shall be no later than 8 (eight) weeks from the date of advertisement or notification of the Request for Proposal (RFP) whichever is later;

(b) Pre-submission meeting shall be held not less than 4 (four) weeks before the due date;

(c) The clarifications on the queries of Qualified Applicants shall be issued not less than 2 (two) weeks before the due date; and

(d) Corrigenda or notifications of amendments in the Request for Proposal (RFP) or Draft Concession Agreement shall be issued not less than 1 (one) week before the due date.

(2) In exceptional cases, the Tender Inviting Authority may at the time of issuing the Request for Propsoal (RFQ) reduce the minimum time limits prescribed in sub-rule (1) for reasons to be recorded in writing and with the prior permission of the authority superior to the Tender Inviting Authority:

Provided that in no case shall the due date be advanced after such date and time has been notified to the Qualified Applicants or Tenderers:

[12][…]

[12] *Omitted by the amt [TNGGE No.27, dated 20.01.2023 (No.SRO A-1(e-2)/2023) – G.O.Ms.No.20 /20.01.2023 for Provided further that in cases where the tender documents require the clearance of the Tamil Nadu Infrastructure Development Board under the Tamil Nadu Infrastructure Development Act (Tamil Nadu Act 22 of 2012), such reduction of time would have to be specifically authorized by the Board.*

51. Data Room.- (1) In cases where the Procuring Entity is of the view that the Project requires substantial project related data to be made available to the prospective tenderers, the Procuring Entity shall maintain either a physical or a virtual data room or both where project-specific information shall be maintained.

(2) The data room shall be maintained in a single physical location or website, for a limited period of time, where the Tenderers shall be permitted only to review such documents, which are otherwise not distributed.

(3) All qualified applicants or prospective tenderers, as the case may be, shall be allowed to access the data room.

(4) The data room will be maintained by the Procuring Entity until the completion of the Request for Proposal (RFP) stage.

(5) The location and rules for accessing the data room shall be stated in the Request for Proposal (RFP).

52. Site Visit.- (1) If the Public Private Partnership (PPP) Project involves important site-related issues, a site visit shall be organised early in the Request for Proposal (RFP) stage.

(2) All qualified applicants or prospective tenderers, as the case may be, shall be invited to undertake the site visit.

(3) Non-discriminatory access to the site facilities based on prior requests by the qualified applicants or prospective tenderers may also be allowed by the Tender Inviting Authority to the extent practicable and considered necessary.

53. Change in Composition of Consortium.- (1) Where the Tenderer is a consortium, change in the composition of a consortium may be permitted by the Procuring Entity prior to the due date, only where:

(a) The application for such change is made not later than 15 (fifteen) days prior to the due date;

(b) The lead member of the consortium remains unchanged;

(c) Based on requirement, a substitute is proposed at least equal, in terms of financial or technical capacity or both, to the consortium member who is sought to be substituted;

(d) The modified consortium continues to meet the pre-qualification and short-listing criteria for the Tender Proceedings;

(e) The new member or members expressly adopt the Responses already made on behalf of the consortium as if party to it originally; and

(f) The new member or members do not have a Conflict of Interest in terms of rule 15.

(2) Approval for change in the composition of a consortium shall be at the sole discretion of the Procuring Entity and shall be communicated by the Procuring Entity to the Tenderer in writing.

(3) The reconstituted consortium shall submit a revised agreement before the due date.

54. Effectiveness of Tenders.- (1) Tenders shall be in effect during the period of time specified in the Request for Proposal (RFP).

(2) Prior to the expiry of the period of validity of Tenders, the Procuring Entity may request Tenderers to extend the period for an additional specified period of time. A Tenderer may refuse the request without forfeiting its Earnest Money Deposit (EMD).

(3) If a Tenderer agrees to extend the period of validity of its Tender, the Procuring Entity shall procure an extension of the period of effectiveness of Earnest Money Deposit (EMD) as provided by such Tenderer or call for new Earnest Money Deposit (EMD) for the additional specified period of time.

(4) If a Tenderer has not extended the Earnest Money Deposit (EMD), or has not provided a fresh Earnest Money Deposit (EMD), it shall be considered as refusal of the request to extend the period of effectiveness of its Tender.

55. Evaluation of Tenders.- (1) Evaluation of submitted Tenders shall be carried out by the Tender Scrutiny and Evaluation Committee.

(2) The Tender evaluation shall follow the pre-determined criteria as specified in the Request for Proposal (RFP).

56. Selection of the Lowest Tenderer.- (1) All qualified tenders adjudged responsive shall be ranked in accordance with the evaluation criterion specified in Request for Proposal (RFP) and the Tenderer with the financially most advantageous Final Offer shall be the Lowest Tenderer.

(2) Subject to the provisions of sub section (3) of section 10 of the Act, the Tender Accepting Authority may negotiate with the Lowest Tenderer for a further improvement of the Final Offer:

Provided that there shall be no negotiation on or changes to the provisions of the draft Concession Agreement.

(3) In the event that the Lowest Tenderer identified in accordance with sub-rule (1) is rejected in accordance with sub-section (4) of section 10 of the Act or withdraws, the Tender Accepting Authority may, in the second round of bidding invite all the remaining Tenderers to revalidate or extend their respective Earnest Money Deposit (EMD), as necessary, and match the Tender of the aforesaid Lowest Tenderer.

(4) If in the second round of bidding, only one Tenderer matches the aforesaid Lowest Tenderer, such Tenderer shall be selected the Lowest Tenderer. If in the second round of bidding, two or more Tenderers match the said Lowest Tenderer then the Tenderer whose Tender was lower or more advantageous as compared to other Tenderers in the first round of bidding shall be selected as the Lowest Tenderer.

Illustration: If the third and fifth ranked Tenderers in the first round of bidding offer to match the said first ranked Tenderer in the second round of bidding, the said third rank Tenderer shall be the Lowest Tenderer.

(5) In the event that no Tenderer offers to match the Lowest Tenderer in the second round of bidding as specified under this rule, the Tender Accepting Authority may for reasons to be recorded in writing, initiate a third round of bidding in which the said authority invites from all tenderers except the Lowest Tenderer of the first round of bidding or annul the tender process, as the case may be.

(6) In case, the Tenderers are invited for the third round of bidding, they will be required to revalidate or extend their tender security, as necessary, and offer fresh offers.

Provided, however, that in such third round of bidding only such offers shall be eligible for consideration which are lower than the tender of the second Lowest Tenderer in the first round of bidding.

57. Treatment of Two Equal Tenders.- In the event that two or more Tenderers have quoted the same Final Offer, the Lowest Tenderer shall be identified by adopting one of the following approaches, which shall be pre-specified in the Tender Documents:

(a) by taking into account the aggregate experience score of each such tenderer from the Request for Qualification (RFQ) stage, wherein the Tenderer with higher score shall be adjudged the Lowest Tenderer; or

(b) by asking the Tenderers who have quoted the same Final Offer to provide their best and final offer. The Tenderer offering the most advantageous Final Offer at this stage shall be adjudged the Lowest Tenderer.

58. 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 Public Private Partnership (PPP) 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.

59. Tender Finalization and Award.- (1) The results of evaluation of tenders shall be submitted to the Tender Accepting Authority for approval.

(2) The Lowest Tenderer shall be notified by the Tender Inviting Authority after obtaining approval of the Tender Accepting Authority.

(3) On receipt of approval of the Tender Accepting Authority, the Tender Inviting Authority shall communicate to other Tenderers about the selection of the Lowest Tenderer, and its intention to execute the Concession Agreement with the Lowest Tenderer.

(4) After selection, a Letter of Award (LOA) shall be issued, in duplicate, by the Procuring Entity to the Lowest Tenderer with the condition that the Lowest Tenderer shall, within 7 (seven) days of the receipt of the Letter of Award (LOA), sign and return a duplicate copy of the Letter of Award (LOA) in acknowledgement thereof.

(5) Subject to fulfilment of the requirements specified in the Request for Proposal (RFP) and of the Letter of Award (LOA) the Lowest Tenderer will be required to enter into a Concession Agreement with the Procuring Entity and the Procuring Entity shall execute the Concession Agreement with the Lowest Tenderer.

60. Monitoring of Concession Agreement.- (1) Procuring Entity that enters into a Concession Agreement shall make adequate institutional arrangements to monitor the performance of the Concessionaire under such agreement.

(2) Such arrangements shall include the receipt, study and corrective action based on the reports of the Independent Engineer and Independent Auditor.

61. Change in Ownership.- (1) In the event that the Lowest Tenderer is a consortium, the members of such consortium shall collectively hold such proportion of the issued and paid up share capital of the Concessionaire for the term of the Concession and at stages as may be specified in the Concession Agreement:

Provided that such proportion shall not be less than 51% (fifty one percent).

(2) In the event of a change of a member of a consortium or an Associate whose technical capacity or financial capacity or both was taken into consideration for the purposes of pre-qualifying the Tenderer, prior to the signing of the Concession Agreement, the tenderer shall inform the authority forthwith along with all relevant particulars about the same and the Procuring Entity may, at its sole discretion, disqualify the tenderer or terminate the Letter of Award (LOA), as the case may be, and also forfeit the Earnest Money Deposits (EMD) or the performance security.

(3) In the event of a change as described in sub-rule (2) occurs after signing of the Concession Agreement but prior to Financial Closure of the Public Private Partnership (PPP) Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach thereof, and the Concession Agreement shall be liable to be terminated without the Procuring Entity being liable in any manner whatsoever to the Concessionaire.

-oOo-

SCHEDULE-I.

[see rule 42(3)(c)]

PROVISIONS OF THE DRAFT CONCESSION AGREEMENT.

The provisions of the draft Concession Agreement shall *inter-alia* necessarily cover:

(i) Recitals- identifying the parties to the contract, offer and acceptance;

(ii) Definitions- defining the key terms of the contract to ensure uniformity of usage and interpretation throughout the document;

(iii) Scope of the Public Private Partnership (PPP) Project;

(iv) Grant of concession, whereby the Procuring Entity grants the concession to the Concessionaire subject to the terms and conditions of the Concession Agreement;

(v) Conditions precedent;

(vi) Obligations of the Concessionaire;

(vii) Obligations of the Procuring Entity;

(viii) Representations and warranties of both the parties;

(ix) Form and value of Performance Security to be submitted by the Concessionaire;

(x) Matters related to the site;

(xi) The construction of the facility including Minimum Technical Requirements thereof, date for completion of construction etc.;

(xii) Performance monitoring during construction including key performance indicators, monitoring responsibilities and related provisions;

(xiii) Completion of construction including provisions for testing, approval and certification;

(xiv) Change in scope during the contract period;

(xv) Operation and maintenance of the facility and provision of service including minimum technical requirements;

(xvi) Performance monitoring during operations and maintenance including key performance indicators, monitoring and reporting responsibilities and related provisions;

(xvii) Appointment, role and functions, remuneration and reporting requirements of Independent Engineer and Independent Auditor;

(xviii) Financial close;

(xix) State support, grant expected or revenue share or premium to be paid;

(xx) Payments by users, authority for tariff fixation, procedure of revision of tariff and related provisions;

(xxi) Collection of user charges, including allocation of the authority to collect and retain user charges;

(xxii) Financial aspects of the contract including escrow account, other payments between the parties to the contract;

(xxiii) Maintenance of books of accounts and audit requirements;

(xxiv) Insurance;

(xxv) Force Majeure – definition, procedure for recognition under the contract, consequences and compensation on termination due to occurrence of Force Majeure events;

(xxvi) Events of default and consequences of default;

(xxvii) Termination of the contract and consequences of termination;

(xxviii) Assignments and charges;

(xxix) Change in law including consequences for change in law;

(xxx) Liability and indemnity; and

(xxxi) Dispute resolution.

-oOo-

SCHEDULE-II.

[see rule 45(5)]

SCOPE OF WORK FOR INDEPENDENT AUDITOR.

(1) The role of the Independent Auditor would encompass:

(a) Advising Procuring Entity in the calculation of all financial parameters of the Project including the Total Cost of the Project, Returns and Recovery accounting and shall provide, at the end of each financial year, a certificate confirming the accuracy of all calculations made during the relevant financial year.

(b) Verification of the records and invoices provided by the Concessionaire and shall advise the Procuring Entity of the results of his quarterly audit within one month after the end of the relevant quarter.

(2) The scope of work as envisaged will be carried out during two different stages of the project.

- Construction Stage.

- Operation Stage.

(3) The Independent Auditor would carry out the work specified as scheduled above and would employ qualified and experienced person of the type and nature as desirable to carry out the assignment.

(4) The appointment of the Independent Auditor would be for a period of three years initially and could be extendable as mutually agreed between the parties concerned.

(5) The Independent Auditor would employ a team of qualified Chartered Accountants / Cost Accountants / other professions as may be relevant to carry out the assignment besides other support personnel as may be desirable.

(6) The Concessionaire will be required to provide all the necessary information as may be required by the Independent Auditor and will provide access to all the records as may be necessary to enable the Independent Auditor to carry out their responsibilities.

-oOo-

SCHEDULE-III.

[see rule 46(4)]

SCOPE OF WORK FOR INDEPENDENT ENGINEER.

1. Scope.- (1) Indicative Terms of Reference for the Independent Engineer [the "Indicative Terms of Reference (TOR)"] for development of the [...] Public Private Partnership (PPP) Project. The Public Private Partnership (PPP) Project is contemplated for [...].

(2) Terms of Reference (TOR) shall apply to construction, operation and maintenance of the Public Private Partnership (PPP) Project and Project Assets (Civil Structures, Plant and Machinery, any other as defined in Concession Agreement).

2. Role and functions of the Independent Engineer.- (1) The role and functions of the Independent Engineer shall include the following:

(a) Review of the Drawings and Documents;

(b) Review, inspection and monitoring of Construction Works;

(c) Review, inspection and testing of Civil Works, Plant and Machinery;

(d) Conducting Tests on completion of construction and issuing Completion / Provisional Certificate;

(e) Review, inspection and monitoring of Operation and Maintenance (O&M);

(f) Determining the costs of any works or services and / or their reasonableness;

(h) Determining the period or any extension thereof, for performing any duty or obligation; and

(i) Assisting the Parties in resolution of disputes.

(2) The Independent Engineer shall discharge his duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

3. Termination.- The Independent Engineer shall inspect the Project Assets in accordance with the Exit Strategy.

4. Reporting Requirement.- The Independent Engineer shall prepare and submit to the Project Management Facility (PMF) of Procuring Entity 3 (three) copies and Concessionaire 2 (two) copies each of the following reports:

(a) Design Review Phase: Monthly Progress Report.

(b) Construction Phase: Monthly and Quarterly Inspection Report covering all aspects such as Progress Monitoring, Quality Assurance (QA) / Quality Control (QC) etc.

(c) Operation and Maintenance Phase:

(i) Monthly and Quarterly report on existing condition of facility including advise on all aspects of Operation and Maintenance, Toll Booths, Bridges or other Structures, Traffic Management and Safety, Telephone, Ambulance, etc.; and

(ii) Monthly report on audit of the traffic using the Public Private Partnership (PPP) Project Highway at least once a month;

(d) Various other reports as provided in the Concession Agreement such as Completion Report.

-oOo-

APPENDIX

©
Government of Tamil Nadu
2023

FINANCE [Salaries] DEPARTMENT

G.O.Ms.No.94, Dated 30th March 2023.

(சுபகிருது, பங்குனி 16, திருவள்ளுவர் ஆண்டு - 2054)

ABSTRACT

Tenders – Instructions issued to all procuring entities to do procurement through electronic mode under the Tamil Nadu Transparency in Tenders Rules, 2000 – Orders- Issued.

Read:

G.O.Ms.No.93, Finance (Salaries) Department, Dated: 30.03.2023.

ORDER:-

The rule 4-A of Tamil Nadu Transparency in Tenders Rules, 2000 states that the Government may mandate procuring entities to do procurement through electronic mode through web portals as may be specified by order.

2. Accordingly, Government issue instructions to all procuring entities as detailed below:-

a) From 01-04-2023 onwards all tendering activities shall be done through the web portal **https://tntenders.gov.in.**

b) The Government further direct that such tendering activities shall include all stages of procurement from floating the bid upto generating and issuing the Letter of Award.

c) Further, any tender floated and finalized without following the web portal **https://tntenders.gov.in** route shall be considered a violation of procedure.

d) Finance (Salaries) Department may issue further instructions to streamline the process.

e) This order shall not be applicable to the following procurements:-

(i) Tenders which have already been floated before **01.04.2023**.

(ii) Procurement covered under **Section 16** of Tamil Nadu Transparency in Tenders Act, 1998.

(BY ORDER OF THE GOVERNOR)

N.MURUGANANDAM
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT.

To
All Secretaries to Government, Chennai-9
The Secretary, Legislative Assembly, Secretariat, Chennai-9
The Secretary to the Governor, Chennai- 32.
The Comptroller, Governor's Household, Raj Bhavan, Chennai-32.

P.T.O..

The Governor's Secretariat, Raj Bhavan, Guindy, Chennai-32.
All Departments of Secretariat, Chennai 600 009.
All Heads of Departments.
All Collectors / All District Judges /All Chief Judicial Magistrates.
The Principal Accountant-General(A & E), Chennai-18.
The Principal Accountant-General(A & E), Chennai-18.(by name)
The Accountant-General (Audit-1), Chennai-600 035.
The Accountant-General (Audit-1), Chennai-600 035.(by name)
The Accountant-General (Audit-II), Chennai-600 035.
The Accountant-General (Audit-II), Chennai-600 035.(by name)
The Accountant-General (CAB), Chennai-600 009.
All Pay and Accounts Officers/All Treasury Officers / All Sub Treasury Officers.
The Chairman/Secretary, Tamil Nadu Public Service Commission,Chennai-3.
The Registrar, High Court, Chennai-104.
The Registrars of all Universities.
All State Owned Corporations and Statutory Boards.
The Commissioner, Greater Chennai Corporation
All the Municipal Commissioners.

Copy to:
The Secretary to Hon'ble Chief Minister, Chennai – 600 009.
The Senior personal Assistant to Hon'ble Chief Minister, Chennai – 600 009.
The Chief Minister's Office, Chennai – 600 009.
The Senior personal Assistant to Hon'ble Minister for Finance &HRM, Chennai –9
The Senior Principal Private Secretary to the Additional Chief Secretary to Government, Finance Department, Chennai-600 009.
The Law (Fin/sty) Department, Chennai-9
All Sections in Finance Department, Chennai-9.
Stock File / Spare Copies.

-/ Forwarded: By Order /-

30.3.2023

SECTION OFFICER.

ABSTRACT

Finance Department – On-line Registration of Contractors and integration of e-Contractor Registration with e-procurement portal (https://tntenders.gov.in) - Mandatory with effect from 01.07.2024 - Orders - Issued.

Finance (Procurement Cell) Department

G.O.(Ms).No. 83 **Dated: 26.02.2024**
சோபகிருது, மாசி- 14,
திருவள்ளுவர் ஆண்டு - 2055

Read:

1. Budget Speech 2021-2022 of the Hon'ble Minister for Finance and Human Resources Management in the Legislative Assembly on 13.08.2021.
2. G.O.(Ms).No.94, Finance (Salaries) Department, dated: 30.03.2023.
3. Budget Speech 2024-2025 of the Hon'ble Minister for Finance and Human Resources Management in the Legislative Assembly on 19.02.2024.

-oOo-

ORDER:

In Budget Speech for 2021-2022, the Hon'ble Minister for Finance and Human Resources Management, among others, has made the following announcement:-

> **"E-procurement will be mandatorily adopted across all procuring entities. A separate e-procurement portal will be created for the Government of Tamil Nadu to enhance transparency in Government procurement."**

2. In the Government Order second read above, orders were issued making e-procurement mandatory for all the procuring entities in Tamil Nadu with effect from 01.04.2023 through the revamped portal "https://tntenders.gov.in"

3. In Budget Speech for 2024-2025, the Hon'ble Minister for Finance and Human Resources Management has made the following announcement:-

"In furtherance of these initiatives, electronic registration of contractors of all departments through e-sevai centres will commence from 01.07.2024."

4. Presently, various departments have their own system of registration of contractors. All systems are through physical file / paper mode. The database of all the registered contractors could not be integrated with e-procurement portal as the database is very dynamic and varied. Each department have its own thresholds, classification and eligibility conditions. The physical processing is time consuming. It also deprives the procuring entities from automatic verifications of contractor registration.

5. Registration of contractors through on-line mode and integrating it with the e-procurement portal, will be helpful to streamline the process, create a uniform database, enable verification, facilitate easy registration / renewal process of contractors and ensure transparency in the process.

6. As per the announcement made in the Budget Speech 2024-2025, the Government after careful examination hereby issues the following orders:-

(i)	Online registration and renewal of registration of contractors shall be made mandatory with effect from 01.07.2024, through e-Sevai Portal.
(ii)	Integrating e-contractor registration with the e-procurement portal "https://tntenders.gov.in".
(iii)	All departments having a registration of contractor system are directed to co-ordinate with Tamil Nadu e-Governance Agency to create customized process flow for their department.

7. The Mandatory on-line registration and renewal of registration of contractors will be implemented with the following terms and conditions:-

a) Tamil Nadu e-Governance Agency (TNeGA) will add a new service for contractor registration in their existing portfolio of services under the e-Sevai platform.

b) The contractors can apply for the Registration through online platform (or) e-sevai centres. All the related, required documents of the contractor can be uploaded for this purpose.

c) All the verification and approval procedures will be developed in the portal as per the existing physical procedure followed in each department. The TNeGA will co-ordinate with each department for customization.

d) TNeGA will further, in co-ordination with National Informatics Centre (NIC), integrate the system with e-procurement portal.

e) PAN number of the contractor would be the basic document for the registration. This would help avoid multiple registrations by the same contractor.

f) A unique identity number will be given to each contractor in the system, which will be common for all departments.

g) The department and the category, under which a contractor got registered, will also be shown in the unique identity number.

h) The details of previous history of the contractor like experience, project / works completion etc., would be made available in the portal.

i) The bid capacity of the contractor or solvency can be assessed through the portal.

j) The list of contractor for each Work / Service will be readily available in the e-procurement portal.

k) Each registered contractor will be intimated about the published tender details through e-mail / registered mobile number, which will increase the competition by encouraging participation of more bidders.

l) List of blacklisted contractors would also be available for cross verification.

m) The list contractors already registered with various agencies will be added in the database of the portal. Such contractors will not have to register again. They will be given valid registration number from the portal.

8. Finance (Procurement Cell) Department may issue further instructions to streamline the process.

(BY ORDER OF THE GOVERNOR)

T.UDHAYACHANDRAN
PRINCIPAL SECRETARY TO GOVERNMENT

To
All Secretaries to Government.
The Director of e-Governance and Chief Executive Officer of Tamil Nadu e-Governance Agency, Anna salai, Chennai-2.
The Secretary, Legislative Assembly, Secretariat, Chennai-9.

The Comptroller, Governor's Household, Raj Bhavan, Chennai-22.
The Governor's Secretariat, Raj Bhavan, Guindy, Chennai-22.
All Heads of Departments.
All Collectors /All District Judges/All Chief Judicial Magistrates.
All Departments of Secretariat.
The Principal Accountant-General (A & E), Chennai-18.
The Principal Accountant-General (A &E), Chennai-18.(by name).
The Accountant-General (Audit-I), Chennai-35.
The Accountant-General (Audit-I), Chennai-35. (by name).
The Accountant-General (Audit-II), Chennai-6.
The Accountant-General (Audit-II), Chennai-6.(by name).
The Accountant-General (CAB), Chennai-9.
The Commissioner of Treasuries and Accounts, Chennai-35.
All Pay and Accounts Officers/All Treasury Officers.
The Chairman, Tamil Nadu Public Service Commission, Chennai-03.
The Registrar, High Court, Chennai-104.
The Registrars of all Universities.
All State Owned Corporations and Statutory Boards.
The Commissioner, Corporations of Greater Chennai.
All Corporations Commissioner.

Copy to:
The Hon'ble Chief Minister's Office, Chennai-9
The Special Personal Assistant to Hon'ble Minister for Finance and Human Resources Management, Chennai-9
The Senior Principal Private Secretary to the Principal Secretary to Government, Finance Department, Chennai-9.
The Private Secretary to the Special Secretary to the Government (PW), Finance Department, Chennai-600 009.
All Sections in Finance Department, Chennai-9.
Stock Files / Spare Copies.

-/Forwarded: By Order /-

26.12.24

SECTION OFFICER.

ABSTRACT

Finance Department – Announcements made in Budget Speech, 2024-2025 - Permitting acceptance of electronic Bank Guarantee (e-BG) as valid bank guarantee and integrating electronic Bank Guarantee submission facility in e-procurement portal (https://tntenders.gov.in) by utilizing the services of National E-Governance Services Limited (NeSL) - Orders - Issued.

Finance (Procurement Cell) Department

G.O.(Ms).No.84 **Dated:26.02.2024**
சோபகிருது, மாசி-14,
திருவள்ளுவர் ஆண்டு - 2055

Read:

1. Budget Speech 2021-2022 of the Hon'ble Minister for Finance and Human Resources Management in the Legislative Assembly on 13.08.2021.
2. G.O.(Ms).No.94, Finance (Salaries) Department, dated: 30.03.2023.
3. G.O.(Ms)No.381, Finance (Procurement Cell) Department, dated: 22.12.2023
4. Budget Speech 2024-2025 of the Hon'ble Minister for Finance and Human Resources Management in the Legislative Assembly on 19.02.2024.

-oOo-

ORDER:

The Hon'ble Minister for Finance and Human Resources Management in Budget Speech for 2021-2022, among others, has made the following announcement:-

> **"E-procurement will be mandatorily adopted across all procuring entities. A separate e-procurement portal will be created for the Government of Tamil Nadu to enhance transparency in Government procurement."**

2. In the Government Order second read above, orders were issued making e-procurement mandatory for all the procuring entities in Tamil Nadu with effect from 01.04.2023 through the revamped portal "https://tntenders.gov.in".

3. In the tendering process, receipt and repayment part of Earnest Money Deposit (EMD) plays a vital role. Currently EMD is received in the form of cash, Demand Drafts, Bank Guarantees etc. Government departments/procuring agencies find it very difficult to keep these

payment documents safe and secure. The e-procurement portal provides facility for online payment. However, bank guarantees are still received only in the offline mode. Release of bank guarantee or its modification is also done through physical copies. This system is time consuming. It is also cumbersome for the procuring entities to verify the validity of these bank guarantees.

4. National E-Governance Services Limited (NeSL) has launched the electronic Bank Guarantee (e-BG) platform as a specific use case of the basic Digital Document Execution (DDE) Platform in close consultation with the Indian Banks' Association (IBA).

5. To strengthen the e-procurement activities, in Budget Speech for 2024-2025, the Hon'ble Minister for Finance and Human Resources Management has made the following announcement :-

"the Government will introduce the electronic bank guarantee system in the e-procurement portal".

6. Based on the announcement made by the Hon'ble Minister for Finance and Human Resources Management on the floor of the Legislative Assembly, the Government after careful examination issues the following orders:-

(i)	Permitting acceptance of electronic Bank Guarantee (e-BG) as valid bank guarantee.
(ii)	Integrating electronic Bank Guarantee (e-BG) submission facility in e-procurement portal "https://tntenders.gov.in".
(iii)	Engaging National E-Governance Services Limited (NeSL) for authenticating electronic Bank Guarantee (e-BG) through e-Procurement portal following Section 16 (b) of the Tamil Nadu Transparency in Tenders Act, 1998.

7. The following guidelines are issued for integrating electronic Bank Guarantee submission facility in e-procurement portal (https://tntenders.gov.in):-

a) Finance (Procurement Cell) Department will monitor the implementation and integration of the electronic Bank Guarantee.

b) National E-Governance Services Limited (NeSL) in co-ordination with National Informatics Centre (NIC) will integrate the e-BG process and the facility would be available from the date of issue of this order.

c) A detailed instruction manual would be issued by Finance (Procurement Cell) Department for stakeholders to familiarize with the system and for hassle free use.

d) Once integrated, electronic Bank Gurarantee will be one more option to submit EMD. The beneficiary can get specific encrypted tender code from the e-Procurement portal and avail of electronic bank guarantee against the specific code approaching a bank . The bank will issue electronic bank guarantee through NeSL portal. The NeSL portal in real time would send the information to the e-procurement portal. The beneficiary / bidder, while submitting the bid, can chose the option of electronic bank guarantee and submit the electronic bank guarantee number. The portal will fetch the details and would display for submission.

e) The system would have additional features such as online modification, extension and release of bank guarantee. It would be a hassle free experience for both procuring entities and bidders.

f) Similar to online payment, the Earnest Money Deposit submitted through bank guarantee would also be released automatically after finalization of bid. The validity of document would be verified automatically for the procuring entity.

8. Finance (Procurement Cell) Department may issue further instructions to streamline the process.

(BY ORDER OF THE GOVERNOR)

T.UDHAYACHANDRAN
PRINCIPAL SECRETARY TO GOVERNMENT

To
All Secretaries to Government.
The Secretary, Legislative Assembly, Secretariat, Chennai-9.
The Comptroller, Governor's Household, Raj Bhavan, Chennai-22.
The Governor's Secretariat, Raj Bhavan, Guindy, Chennai-22.
All Heads of Departments.
All Collectors / All District Judges / All Chief Judicial Magistrates.
Tmt. E.P.Nivetha, Executive Director , National E-Governance Services Limited (NeSL), 5th floor, the Estate, 121, Dickenson Road, Bengaluru – 560 042.
The State Informatics Officer, National Informatics Centre, Besant Nagar, Chennai – 90.
All Departments of Secretariat.
The Principal Accountant-General (A & E), Chennai-18.
The Principal Accountant-General (A & E), Chennai-18.(by name).
The Accountant-General (Audit-I), Chennai-35.
The Accountant-General (Audit-I), Chennai-35. (by name).

The Accountant-General (Audit-II), Chennai-6.
The Accountant-General (Audit-II), Chennai-6.(by name).
The Accountant-General (CAB), Chennai-9.
The Commissioner of Treasuries and Accounts, Chennai-35.
All Pay and Accounts Officers/All Treasury Officers.
The Chairman, Tamil Nadu Public Service Commission, Chennai-03.
The Registrar, High Court, Chennai-104.
The Registrars of all Universities.
All State Owned Corporations and Statutory Boards.
The Commissioner, Corporations of Greater Chennai.
All Corporations Commissioner.

Copy to:
The Hon'ble Chief Minister's Office, Chennai-9
The Special Personal Assistant to Hon'ble Minister for Finance and Human Resources Management, Chennai-9
The Senior Principal Private Secretary to the Principal Secretary to Government, Finance Department, Chennai-9.
The Private Secretary to the Special Secretary to the Government (PW), Finance Department, Chennai-600 009.
All Sections in Finance Department, Chennai-9.
Stock Files / Spare Copies.

-/Forwarded: By Order /-

2.2.24

SECTION OFFICER.

ABSTRACT

TENDERS –Publication of Notice Inviting Tender in the Newspapers – Revision of financial norms for advertisement – Orders - Issued.

Finance (Salaries) Department

G.O.Ms.No.103 **Dated: 11.04.2022**

பிலவ, பங்குனி - 28

திருவள்ளுவர் ஆண்டு-**2053**

Read:-

1. G.O.(Ms) No.108, Information & Tourism Department, dated 28.05.1999.
2. G.O.(Ms)No.392, Finance (Salaries) Department, dated 18.08.2009.
3. G.O.(Ms).No.307, Finance (Salaries) Department, dated 01.11.2011.
4. G.O.(Ms).No.243, Finance (Salaries) Department, dated.21.08.2017.
5. G.O.(Ms).No.374, Finance (Salaries) Department, dated.19.10.2020.

-oOo-

ORDER:-

Articles 125 and 192 of Tamil Nadu Financial Code Volume-I, envisages inviting tenders to procure goods / services and works by public advertisement in prominent newspapers. The norms for publishing tender notices in newspapers were fixed and revised from time to time by the Government.

2. In the Government order first read above, orders were issued prescribing norms for publishing tender notices in newspapers by various public procurement entities in the State as detailed below:-

Details of Newspaper			Value of Procurement	
Area	English	Tamil	Goods/ Services	Works
District	-	2 (District edition)	Above Rs.5 lakh and upto Rs.10 lakh	Above Rs. 10 lakh and upto Rs. 25 lakh
State	1 (State Edition)	1 (All editions in Tamil Nadu)	Above Rs.10 lakh and upto Rs.25 lakh	Above Rs.25 lakh and upto Rs. 1 crore
South India	1 (South India edition)	1 (All editions in the State)	Above Rs. 25 lakh and upto Rs. 1 crore	Above Rs. 1 crore and upto Rs. 5 crore
All India	1 (All India edition)	1 (All editions in the State)	Above Rs. 1.00 crore	Above Rs. 5.00 crore

3. The Tamil Nadu Transparency in Tenders Act, 1998 and the Tamil Nadu Transparency in Tenders Rules, 2000 were notified with effect from 01.10.2000. Consequently, orders were issued in the G.O. second read above, revising the financial norms for advertisement and publishing of tender notices in newspapers as follows:

Revised norms for tenders advertisements:-

Details of Newspaper			Value of Procurement	
Area	English	Tamil	Goods/ Services	Construction
District	-	2 (District-level editions only)	-	Above Rs. 25 lakh and upto Rs. 1 crore
State	-	2 (All editions in Tamil Nadu)	Above Rs. 10 lakh and upto Rs. 50 lakh	Above Rs. 1 crore and upto Rs .5 crore
All India	1 (All India edition)	1 (All editions in Tamil Nadu)	Above Rs. 50 lakh and upto Rs.50 crore	Above Rs. 5 crore and upto Rs. 50 crore
	2 (1 being Business Daily) (All India edition) and Indian Trade Journal	1 (All editions in Tamil Nadu)	Above Rs .50 crore	Above Rs. 50 crore

4. In the Government order third read above, orders were issued to amend para 3 of the Government order second read above so as to revise the financial norms for advertising notice inviting tenders in newspapers as detailed below:-

Details of Newspaper			Value of Procurement	
Area	**English**	**Tamil**	**Goods/ Services**	**Works**
District	-	2 (District edition)	Above Rs.5 lakh and upto Rs. 10 lakh	Above Rs.10 lakh and upto Rs. 25 lakh
State	1 (Tamil Nadu Edition)	1 (All editions in Tamil Nadu)	Above Rs. 10 lakh and upto Rs.25 lakh	Above Rs.25 lakh and upto Rs. 1 crore
South India	1 (South India edition)	1 (All editions in the State)	Above Rs. 25 lakh and upto Rs. 1 crore	Above Rs 1.00 crore and upto Rs.5 crore
All India	1 (All India edition)	1 (All editions in the State)	Above Rs. 1.00 crore	Above Rs. 5 crore
	Indian Trade Journal		Above Rs.50 crore	Above Rs.50 crore

5. In the Government order fourth read above, orders were issued to the existing norms for publication of tender notices in newspaper for low value procurement and also revision of the financial norms and the size of the advertisement as follows:

(i) Revised norms for advertisement of tender notice:-

Details of Newspaper			Value of Procurement	
Area	English	Tamil	Goods/ Services	Works
			Revised Norms	Revised Norms
District	-	1 (District edition)	Above Rs.10 lakh and upto Rs.25 lakh	Above Rs.25 lakh and upto Rs.50 lakh
State	1 (All editions in the State)	1 (All editions in the State)	Above Rs.25 lakh and upto Rs.3 crore	Above Rs.50 lakh and upto Rs.3 crore
South India	1 (South India edition)	1 (All editions in the State)	Above Rs.3 crore and upto Rs.5 crore	Above Rs.3 crore and upto Rs.5 crore
All India	1 (All India edition)	1 (All editions in the State)	Above Rs.5 crore and upto Rs.75 crore	Above Rs.5 crore and upto Rs.75 crore
	Indian Trade Journal		Above Rs.75 crore	Above Rs.75 crore

(ii) The size of the advertisement shall be

a) not exceeding 50 sq.cm., for all procurements upto Rs.10 crore; and
b) upto 100 sq.cm., for all procurements above Rs. 10 crore;

(iii) all other conditions prescribed in the G.O.Ms.No.392, Fin (Salaries) Department, dated.18.8.2009, shall continue to apply and shall be followed scrupulously.

6. In the Government order fifth read above, orders were issued to the effect that "Low Value Procurement" means any procurement, which is less than rupees fifty lakhs in value for construction, which is less than rupees twenty lakhs in value for Vehicles and which is less than rupees twenty five lakhs in value for all other categories of procurement inclusive of consultancy for construction.

7. Consequent on the issue of orders enhancing the value of orders enhancing the value of "Low Value procurement", for Goods / Services / works, Government after careful consideration have decided to issue necessary amendment to the orders issued in the G.O fourth read above.

Accordingly, the Government issues the revised norms for advertisement of tender notices as follows:

Details of Newspaper			Value of Procurement	
Area	English	Tamil	Goods/ Services	Works
District	-	1 (District edition)	Above Rs.25 lakh and upto Rs.50 lakh	Above Rs.50 lakh and upto Rs.75 lakh
State	1 (All editions in the State)	1 (All editions in the State)	Above Rs.50 lakh and upto Rs.3 crore	Above Rs.75 lakh and upto Rs.10 crore
South India	1 (South India edition)	1 (All editions in the State)	Above Rs.3 crore and upto Rs.5 crore	Above Rs.10 crore and upto Rs.20 crore
All India	1 (All India edition)	1 (All editions in the State)	Above Rs.5 crore and upto Rs.75 crore	Above Rs.20 crore and upto Rs.100 crore
	Indian Trade Journal		Above Rs.75 crore	Above Rs.100 crore

8. All other conditions prescribed in the Government Order second read above, shall continue to apply and shall be followed scrupulously.

9. The Director of Information and Public Relations shall apply the size of advertisement as ordered above scrupulously, while releasing advertisements of public procurement entities.

10. Necessary amendment to the Tamil Nadu Transparency in Tenders Rules, 2000, will be issued separately.

(BY ORDER OF THE GOVERNOR)

N.MURUGANANDAM
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT.

To

All Secretaries to Government.
The Secretary, Legislative Assembly, Secretariat, Chennai-9.
The Comptroller, Governor's Household, Raj Bhavan, Chennai-22.
The Governor's Secretariat, Raj Bhavan, Guindy, Chennai-22.
All Heads of Departments.
All Collectors /All District Judges/All Chief Judicial Magistrates.
All Departments of Secretariat.
The Principal Accountant-General(A & E), Chennai-18.
The Principal Accountant-General (A &E),Chennai-18. (by name).

The Accountant-General (Audit-1), Chennai-35.
The Accountant-General (Audit-1), Chennai-35. (by name).
The Accountant-General (Audit-II), Chennai-6.
The Accountant-General (Audit-II), Chennai-6.(by name).
The Accountant General (CAB), Chennai-9.
The Commissioner of Treasuries and Accounts, Chennai-35.
All Pay and Accounts Officers/All Treasury Officers.
The Chairman, Tamil Nadu Public Service Commission, Chennai-3.
The Registrar, High Court, Chennai-104.
The Registrars of all Universities.
All State Owned Corporations and Statutory Boards.
The Commissioner, Corporations of Greater Chennai.
All Corporations Commissioner.

Copy to:

The Senior Principal Private Secretary to the Additional Chief Secretary to Government, Finance Department, Chennai-9.
The Tamil Development and Information Department, Chennai -9.
All Sections in Finance Department, Chennai-9.
Stock File / Spare Copies.

/ Forwarded: By Order/

11/04/2022

SECTION OFFICER.

11/4/22

©
Government of Tamil Nadu
2023

FINANCE [Salaries] DEPARTMENT

G.O.Ms.No.135, Dated 12th May 2023.

(சோபகிருது, சித்திரை-29, திருவள்ளுவர் ஆண்டு - 2054)

ABSTRACT

RULES – The Tamil Nadu Transparency in Tenders Rules, 2000 – Amendments – Orders - Issued.

ORDER:-

The following Notification will be published in the **Tamil Nadu Government Gazette, Extraordinary**, dated the 12th day of May 2023.

NOTIFICATION.

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.

AMENDMENTS.

In the said Rules,-

(1) in rule 11, sub-rule (1) shall be omitted.

(2) in the Annexure, in para 1, in the tabular column, for the entry "All India" in column (1) and the corresponding entries relating thereto in columns (2) to (5), the following entries shall, respectively, be substituted, namely:-

"

All India	1 (All India edition)	1 (All editions in the State)	Above Rs.5 crore	Above Rs.20 crore

".

(BY ORDER OF THE GOVERNOR)

N.MURUGANANDAM
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT.

To

The Works Manager, Government Central Press, Chennai -79
(for publication of notification in the Tamil Nadu Government Gazette Extraordinary and to send 200 copies to Government)
All Secretaries to Government, Chennai – 600 009.
The Secretary, Legislative Assembly, Secretariat, Chennai-9.
The Secretary to the Governor, Chennai- 32.
The Comptroller, Governor's Household, Raj Bhavan, Chennai-32.

The Governor's Secretariat, Raj Bhavan, Guindy, Chennai-32.
All Departments of Secretariat, Chennai 600 009.
All Heads of Departments.
All Collectors / All District Judges / All Chief Judicial Magistrates.
The Principal Accountant-General(A & E), Chennai-18.
The Principal Accountant-General(A & E), Chennai-18.(by name)
The Accountant-General (Audit-1), Chennai-600 035.
The Accountant-General (Audit-1), Chennai-600 035. (by name)
The Accountant-General (Audit-II), Chennai-600 035.
The Accountant-General (Audit-II), Chennai-600 035.(by name)
The Accountant-General (CAB), Chennai-600 009.
All Pay and Accounts Officers/All Treasury / Sub Treasury Officers.
The Secretary, Tamil Nadu Public Service Commission,Chennai-3.
The Registrar, High Court, Chennai-104.
The Registrars of all Universities.
All State Owned Corporations and Statutory Boards.
The Commissioner, Greater Chennai Corporation
All the Municipal Commissioners.

Copy to:

The Principal Secretary-I to Hon'ble Chief Minister, Chennai –9.
The Senior personal Assistant to Hon'ble Chief Minister, Chennai – 9.
The Chief Minister's Office, Chennai – 9.
The Senior personal Assistant to Hon'ble Minister for Finance &Human Resources Management, Chennai –9
The Senior Principal Private Secretary to the Additional Chief Secretary to Government, Finance Department, Chennai-9.
The Law (Fin/sty) Department, Chennai-9
All Sections in Finance Department, Chennai-9.
Stock File / Spare Copies.

-/ Forwarded: By Order /-

SECTION OFFICER.

12/05/2023

DEFINITIONS
(for Reference Only)

Administrative department means the department of the Secretariat which is administratively concerned with a Project as per the Tamil Nadu Government Business Rules, 1978, and more than one department may also be administratively concerned with a Project.

Annuity means annual or periodic contract consideration payable by the sponsoring agency to the private sector partner for delivery of services as per the terms and conditions of the Concession Agreement and where the user charges, if any, are levied, collected and retained by the public agency.

Applicant means an entity which has submitted or is likely to submit a response to the Request for Expression of Interest (REOI) or Request for Qualification (RFQ), as the case may be.

Application means the submission made in response to a Request for Qualification (RFQ).

Appointed Date means the date on which the Concession Agreement comes into force and effect in accordance with the terms outlined therein.

Board means the Tamil Nadu Infrastructure Development Board.

Build-Lease-and-Transfer (BLT) Model means a contractual arrangement whereby the concessionaire undertakes to finance and construct the Project and on its completion hands it over to the Government. The Government then gives the facility to the same operator on a lease arrangement for a fixed period, after which ownership of the facility is automatically transferred to the Government.

Build Operate and Transfer (BOT) Model means a contractual arrangement whereby the concessionaire undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The concessionaire operates the facility over a fixed term during which they are allowed to charge the users appropriate tolls, fees; rentals and charges as incorporated in the contract to enable the recovery of investment in the Project. The concessionaire transfers the facility to the Government at the end of the fixed term that shall be specified in the Concession agreement.

Build-Own-and-Operate (BOO) Model means a contractual arrangement whereby the concessionaire is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the concessionaire is allowed to recover the total investment by collecting user levies from facility users. The ownership of the land will be vested with the Government. Under this mode, the concessionaire owns the assets of the facility and may choose to assign its operation

and maintenance to a facility operator. The transfer of the facility to the Government is not envisaged in this structure; however, the Government may terminate its obligations after the specified time period.

Build-Own-Operate-Transfer (BOOT) Model means a contractual arrangement whereby the concessionaire is authorised to finance, construct, maintain and operate a Project and whereby such Project is to vest in the concessionaire for a specified period. During the operation period, the concessionaire will be permitted to charge user levies specified in the Concession agreement, to recover the investment made in the Project. The concessionaire is liable to transfer the Project to the Government after the expiry of the specified period of operation.

Build-Transfer-and-Operate (BTO) Model means a contractual arrangement whereby the Government contracts out an infrastructure facility to the concessionaire to construct the facility on a turn-key basis, assuming cost overruns, delays and specified performance risks. Once the facility is commissioned satisfactorily, the concessionaire is given the right to operate the facility and collect user levies specified in the Concession agreement. The title of the facilities always vests with the Government in this arrangement.

CEO means Chief Executive Officer of the Board.

Concessionaire means the private sector participant which has entered into a Public-Private Partnership.

Concession Agreement means an agreement entered into between a Procuring Entity and a private sector participant for and in respect of a Public-Private Partnership.

Conditions Precedent means the obligations which the Procuring Entity or the Concessionaire or both may be required to fulfil prior to the financial closure of the Public Private Partnership (PPP) Project, unless waived in writing by the relevant party in accordance with the terms of the Concession Agreement.

Consortium means a tenderer comprising of two or more entities for the purpose of responding to a Tender Document, such that if the consortium includes a public sector entity or entities, such public sector entity or entities do not have a controlling stake in the consortium.

Construction means all works associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or any other related works.

Contingent Liability means a liability accruing to a Procuring Entity through the Concession Agreement or Public Private Partnership (PPP) Project on the occurrence or non-occurrence of an uncertain future event.

Detailed Project Report means a detailed study of the Project made after the preliminary investment decision, in order to ascertain the capital cost, technological parameters, description of the technology to be used, technical specifications, plan schedule to assist the financial investment and the plan for implementation of the Project and such other information as may be prescribed in the regulations.

Design-Build-Finance-Operate-Transfer (DBFOT) Model means a contractual arrangement whereby the concessionaire is bestowed with the responsibility of designing, building, financing and operating the facility before transferring the Project to the Government after the expiry of the specified period. The concessionaire operates the facility over a fixed term during which they are allowed to charge the users appropriate tolls, fees, rentals and charges as incorporated in the contract to enable the recovery of investment in the Project.

Domestic Enterprise means any micro and small enterprise as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006), which manufactures or produces goods, provides or renders services within the State and filed Part II of the Entrepreneurs Memorandum in the District Industries Centres or filed Udyog Aadhaar portal.

Due Date means the date on which a tender submission is due in response to a Request for Expression of Interest (REOI) or a Request for Qualifications (RFQ) or a Request for Technical Proposals (RTP) or a Request for Proposals (RFP).

Earnest Money Deposit (EMD) means the amount required to be remitted by a tenderer along with his tender indicating his willingness to implement the contract.

Executive Committee means the Executive Committee of the Board.

Expression of Interest (EOI) means the submission made in response to a Request for Expression of Interest (REOI).

Feasibility Study means a preliminary study made for investment decision-making, to assess the technical, social, economic and financial viability and the social and environmental impact of a Project including the demand for the services, appropriate technology to be adopted, capital cost, time required for implementation, and such other information as prescribed in the regulations.

Financial Model means a forecast of the project's outlays and future cash flows including the capital expenditure, operation and maintenance expenses, debt service costs and tax payments and the revenues to be generated, which is developed based on specifically indicated assumptions to facilitate the estimation of financial parameters and to enable an informed investment decision.

Final Offer means the commercial offer made by a tenderer on the basis of the single criterion specified in the Request for Proposal (RFP).

Fixed Rate Contract means a contract where a set of rates and terms and conditions are fixed for the supply of unit quantities of goods or certain standardized services.

Goods means raw materials, products, equipment and other objects of every kind and description and includes electricity.

Government means the State Government.

Government company means any company in which not less than fifty one per cent of the paid-up share capital is held by the State Government or Governments and includes a company which is a subsidiary of a Government company as thus defined.

Independent Auditor means an auditor appointed under rule 45 of TNTIT (PPP), Rules, 2012.

Independent Engineer means an Engineer appointed under rule 46 of TNTIT (PPP), Rules, 2012.

Infrastructure means provision of assets or services in any one or more of the sectors specified in Schedule-I of TNID Act, 2012.

Lead Member of Consortium means a member of a consortium who has been designated as the lead member by the Consortium and shall possess such qualifications as may be prescribed in the tender documents.

Lease Management Agreement means a contractual arrangement whereby the Government leases a Project owned by it to the concessionaire which is permitted to operate and maintain the Project for the period specified in the contract. The concessionaire is allowed to charge the users appropriate fees, rentals and charges as specified in the agreement to enable the recovery of investment in the Project.

Letter of Award (LOA) means the Letter of Award issued by the Procuring Entity to the Lowest Tenderer in accordance with rule 56 of TNTIT (PPP), Rules, 2012.

Local authority means any municipal corporation or municipal council or panchayat union council or village panchayat constituted under the relevant law for the time being in force.

Lowest Tender means the tender which, on evaluation, is found to be the most beneficial to the procuring entity in financially quantifiable terms

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.

Management Agreement means a contractual arrangement whereby the Government entrusts the operation and management of a Project to the concessionaire for the period specified in the agreement on payment of specified consideration. In such agreement, the Government may charge the user levies and collect the same either by itself or entrust the collection for consideration to any concessionaire who shall after collecting the user levies, pay the same to the Government.

Minimum Technical Requirements (MTR) means the minimum technical requirements as described in rule 37 of TNTIT (PPP) Rules, 2012.

Multi sector project means a project that involves stakeholders from more than one sector as mentioned in Schedule-I of the TNID Act, 2012 and where responsibility for implementation may not be conveniently assigned to a single public agency dealing with anyone of the sectors, that the Board may specifically declare to be a Multi sector project.

Multi-Stage Tender means a tender in which there are at least two stages including an initial stage of short-listing based on the fulfilment 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.

Notice Inviting Tenders means for the purposes of these rules, the Notice of Request for Qualification (RFQ) in all cases where rules 4, 5 and 6 apply and to the Notice of Request for Proposal (RFP) in cases where sub-rule (2) of rule 3 is invoked.

Performance Security means a financial guarantee in the appropriate form including a security deposit or bank guarantee or both furnished by the Concessionaire to the Procuring Entity for the performance of its obligations under the Concession Agreement.

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.

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.

Private sector participant means any person other than a public agency or the Central Government or a public sector undertaking of the Central Government.

Procurement means acquisition by any means including electronic mode of purchase of goods or services and also of construction.

Procuring entity means the entity specified in the Schedule to the TNTIT Act, 1998.

Project means an Infrastructure Project.

Project Concept Note means a note containing preliminary information about the proposed Project prepared in accordance with regulation 7 of TNID Regulations, 2013

Project Value means, (i) in case of Public Private Partnership (PPP) Projects where the private entity is expected to make capital investments, the value of the asset or facility to be constructed including the cost of land, if the cost of land is to be borne by the private entity; or (ii) in case of Public Private Partnership (PPP) Projects where the private entity is not expected to make substantial capital investments, the current replacement value of the asset or facility, whose operation and maintenance is proposed to be the responsibility of private entity.

Public agency means any department of the Government or any public sector undertaking of the Government, a Government Company, Statutory Board formed by the Government, Local authority, Co-operative Institution, State University, any Society or Trust formed, owned or controlled by the Government.

Public financial support means financial support from the Central Government or the State support or both.

Public Private Partnership (PPP) means an arrangement between a public agency and a private sector participant for the provision of infrastructure through investment made or through design, development, construction,

maintenance or operation undertaken by the private sector participant, where risks are allocated between them such that the private sector participant takes on the risk beyond the stage of design and construction and the payment for the services are performance linked, in the form of user charges, annuities or unitary payments.

Public-Private Partnership Project means a Project implemented through public-private partnership.

Public Sector Comparator means the estimated hypothetical risk-adjusted life cycle cost of a project if it were to be financed, owned and implemented solely by the government or its agency.

Public sector mode means implementation of a Project directly by a public agency by its own resources or through the State Budgetary resources.

Qualified Applicant means an Applicant that has been qualified in the Request for Qualification (RFQ) stage.

Rehabilitate-Operate-and-Transfer (ROT) Model means a contractual arrangement whereby an existing facility is handed over to the concessionaire to invest, refurbish, operate and maintain for a period, at the expiry of which the facility is returned to the Government. The concessionaire operates the facility over a fixed term during which they are allowed to charge the users appropriate fees, rentals and charges as specified in the contract to enable the recovery of investment in the Project.

Rehabilitate-Own-and-Operate (ROO) Model means a contractual arrangement whereby an existing facility is handed over to the concessionaire to invest, refurbish, operate and maintain the development facility from which the concessionaire is allowed to recover the total investment by collecting user levies from facility users. The ownership of the land shall be vested with the Government. The transfer of the facility to the Government is not envisaged in this arrangement; however, the Government may terminate its obligations after a specified time period.

Respondent means any entity or consortium that has submitted or is likely to submit a Response to the Tender Documents.

Response means any submission required to be made to the Tender Inviting Authority as per the Tender Documents.

Request for Expression of Interest (REOI) means the Tender Document prepared and issued in accordance with Chapter-III of the TNTIT (PPP) Rules, 2012.

Request for Proposal (RFP) means the Tender Document prepared and issued in accordance with Chapter-VI of the TNTIT (PPP) Rules, 2012.

Request for Qualification (RFQ) means the Tender Document prepared and issued in accordance with Chapter-IV of the TNTIT (PPP) Rules, 2012.

Request for Technical Proposal (RTP) means the Tender Document prepared and issued in accordance with Chapter-V of the TNTIT (PPP) Rules, 2012.

Service means any subject matter of procurement but does not include any goods or constructions or hiring of any person to represent the procuring entity or give advice on Legal matters in any judicial or quasi-judicial proceeding.

Sponsoring Agency means the public agency designated by the Board to implement a Project through public-private partnership.

Start-up means any commercial entity, incorporated as a private limited company under the Companies Act,2013 (Central Act 18 of 2013) or registered as a firm or as a limited liability partnership under the Indian Partnership Act,1932 (Central Act IX of 1932) or the Limited Liability Partnership Act,2008 (Central Act 6 of 2009), respectively, in this State and a period of seven years has not lapsed since the date of its incorporation or registration, as the case may be, and its turnover has not exceeded rupees twenty five crore in any financial year: Provided that in bio-technology, artificial intelligence or machine learning sectors a period of ten years has not lapsed:

Provided further that no such entity has been formed by splitting up or by reconstruction of an existing commercial entity.

State support means the support extended by the Government to a concessionaire, which may include the following:- subsidy or capital grant not exceeding such proportion of the cost of the Project, as may be prescribed in the rules; equity; loans; guarantee by the Government; opening and operation of escrow account; conferment of right to develop any land; incentive in the form of exemption from the payment of, or deferred payment of, any tax or fees levied under any law or such other incentives, as may be prescribed in the rules.

Supply and Installation Contract means a contract under which the tenderer is required to supply, erect, test and commission the equipment at the place specified by the Procuring Entity.

Tender means the formal offer made by any means including electronic mode in pursuance of an invitation by the procuring entity.

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

Tender Bulletin Officer means any officer appointed by the Government to publish the district or State Tender Bulletin.

Tender Document means a set of papers including electronic document containing schedule of works, rates, requirement of goods or services, technical specifications, procedure and criteria as may be prescribed for evaluation and comparison of tenders and such other particulars as may be prescribed.

Total Project Cost means the lowest of the total project cost mentioned in the tender documents or actual capital cost of the project upon completion of the Project as certified by the Independent Engineer; or total project cost as set forth in the financing documents.

Transaction Advisor means an independent consultant who advises on the process of structuring of a project, its tendering and assists the public agency or sponsoring agency up to the stage of award of the tender or signing of the concession agreement as the case may be.

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.

Two-cover System means 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 2[financial] quotation which will be opened only if the tenderer is found qualified to execute the tender.

User levy means user charge or fee or any other amount, by whatever name called, payable by the user of an infrastructure facility.

Value for Money Assessment means the quantitative and qualitative assessment of the costs and benefits associated with a project. Value for Money Assessment is used to establish whether implementing a project in the Public Private Partnership (PPP) mode is an economically optimal proposition for the Government or the public agency and it takes into account direct and indirect project execution costs, financing costs, transaction costs, cost of asset transfer on project completion, project monitoring costs and a cost estimation of the possible risks thereof.

Variation means changes which occur during the course of project development and delivery and shall be classified into the following forms: Day-to-day operational variations; Known-variations that are likely to arise and whose nature is known, but time of occurrence and impact are unknown.

Viability Gap Funding means a capital grant or subsidy or equity from the Central or State Governments to render a Public Private Partnership (PPP) project financially viable and bankable.