

**THE KARNATAKA TRANSPARENCY IN PUBLIC
PROCUREMENTS RULES, 2000**

No. PWD/154/FC-III/2000 Dated 24th October 2000

NOTIFICATION

**CHAPTER - I
PRELIMINARY**

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

1. Short title and commencement:-

- a) These rules may be called the Karnataka Transparency in Public Procurements Rules, 2000,
- b) They shall come into force on the date of Publication in the Gazette.

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

- a) "**Earnest money deposit**" means the amount required to be deposited by a tenderer along with his tender indicating his willingness to implement the contract;
- b) "**Pre-qualification**" means the process by which the tenderers are first screened for their capability and resources to implement the contract before they are permitted to offer their tenders;
- c) "**[Two Tender Document System]**"¹ means a procedure under which the tenderers are required simultaneously submit two separate [electronic documents, first]² containing the Earnest Money Deposit and the details of their capability to undertake the tender which will be opened first and the second containing the price quotation which will be opened only if the tenderer is found to be qualified to execute the tender;
- d) [**"Two-stage Tender System"** means a procedure under which tenders for turn-key contractors are invited in two stages, the first stage un priced tender being a technical tender only on the basis of conceptual design or performance specifications subject to technical as well as commercial clarifications and adjustments to be followed by amended tender documents and the submission of final technical proposals and priced tenders in the second stage.]³

¹Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019

²Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019

³ Inserted vide No. PWD 33 FC-3/2003 dated: 05-03-2003.

- e) [**"Consultancy Services"** includes activities such as Policy Advices, Institutional reforms, Management, Engineering Services, Construction Supervision, Financial Services, Investment and Merchant Banking Services, Social and Environmental Studies, Identification, preparation and implementation of projects to complement Government of Karnataka capabilities;
- f) **"Consultants"** means Individuals, Firms or Organizations engaged for providing Consultancy Services in accordance with Chapter VI A.
- g) **"Client"** means the Procurement Entity engaging the Consultants,
- h) **"Party"** includes that Client or the Consultant, as the case may be and "Parties" means both of them.]⁴
- i) [**Tender processing Fee** – means the non-refundable fee specified by the competent authority to be paid by the individual supplier for participation in tenders floated on the Karnataka Public Procurement Portal.]⁵

CHAPTER - II GENERAL

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

- [(i) Construction;
- (ii) Supply of goods and services; and
- (iii) Consultancy Services.]⁶

CHAPTER - III PUBLICITY

- 4. [Omitted]⁷
- 5. [Omitted]⁸
- 6. [Omitted]⁹
- 7. [Omitted]¹⁰
- 8. [Omitted]¹¹
- 9. **Details to be mentioned in notice inviting tenders:-**The Notice inviting Tenders [shall be published on the Karnataka Public Procurement Portal and]¹² shall contain the Following details, namely,-

⁴ Inserted vide No. PWD 121 SO/FC 2003 dated: 26-09-2003.

⁵ Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁶ Substituted vide No. PWD 121 SO/FC 2003 dated: 26-09-2003.

⁷ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁸ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁹ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹⁰ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹¹ Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹² Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

- (a) The name and address of the procuring entity and the designation and address of the Tender Inviting authority;
- (b) Name of the scheme, project or programme for which the procurement is to be effected;
- (c) *[The date and time upto which, and from where the tender documents can be accessed;]*¹³
- (d) The amount of earnest money deposit payable;
- (e) The last date and time for receipt of tenders;
- (f) *[The date and time for opening of tenders received; and]*¹⁴
- (g) any other information which the Tender Inviting authority considers relevant.

10. Publication of notice inviting tenders in newspapers:-

- (1)*[The advertisement in newspaper shall be brief; containing the title of construction works or goods or services sought to be procured, last date and time of receipt of tender and shall also provide reference to the web address of the Karnataka Public Procurement Portal where tender document details are available.]*¹⁵
- (2) The number, editions and language of the newspapers in which the notices inviting tenders shall be published will be based on the value of procurement as per departmental rules.
- (3) In cases where publication of Tender Notices is to be done only in newspapers with circulation within the District, the Information and Publicity Officer of the District shall be the competent authority to release the advertisement and in all other cases the competent authority shall be the Director of Information and Publicity Bangalore.
- (4) *[Omitted]*¹⁶

CHAPTER - IV NOTICE INVITING TENDERS AND TENDER DOCUMENTS

11. Technical specifications contained in the tender documents:-

¹³ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹⁴ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹⁵ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹⁶ Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

- (1) The technical specifications contained in the tender documents shall include a detailed description of what is proposed to be procured.
- (2) Unbiased technical specifications shall be prepared by observing the following safeguards, namely:-
 - (a) Use of brand names and catalogue numbers shall be avoided and where it becomes unavoidable, along with the brand name the expression "or equivalent" shall be added;
 - (b) Wherever possible the appropriate Indian Standards with the number shall be incorporated;
 - (c) In the case of construction tenders, detailed estimates shall be prepared by the competent technical authorities based on the schedule of rates and standard data as revised from time to time.

12. Commercial conditions:-

- (1) The tender documents shall require all tenderers to pay an earnest money deposit at the rates as per the departmental rules by means of a demand draft, bankers' cheque, specified small savings instruments *[online or offline modes of e-payment and/]*¹⁷ or where the procuring entity deems fit, irrevocable bank guarantee in a specified form of the department. The tender documents shall clearly state that any tender submitted without the earnest money deposit be summarily rejected.

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

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

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

- (3) The tender documents shall require that as a guarantee of the tenderer's performance of the contract, a security deposit be taken from the successful tenderer as per departmental rules.
- (4) The tender documents and the contract shall include a clause for payment of liquidated damages and penalty payable by the

¹⁷ Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

tenderer in the event of non-fulfillment of any of the terms or whole of the contract.

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

13. Supply of tender documents:-

- (1) The Tender Inviting Authority shall make available the tender documents from the date indicated in the notice inviting tender.
- (2) *[The Tender documents shall be available for download free of cost from the date and time of publication of the tenders on the Karnataka Public Procurement Portal till the last date and time or the extended time of submission under Rule 15.]*¹⁸

- 14. Clarification to tender documents:-** At any time after the *[uploading]*¹⁹ of the tender documents and before the opening of the tender, the tender Inviting authority may make any changes modifications or amendments to the tender documents and *[these shall be notified on the Karnataka Public Procurement Portal through issue of Addendum or Corrigendum or Clarification and they shall form part of original tender document.]*²⁰

CHAPTER – V

RECEIPT OF TENDERS AND TENDER OPENING

15. *[Date]*²¹ **and time for receipt of tenders:-**

- (1) *[The Tender Inviting Authority shall fix the last date and time for online submission of the tenders subject to the provisions provided under rule 17.]*²²
- (2) *[Omitted]*²³
- (3) The Tender Inviting Authority may extend the last date and time for receiving tenders after giving adequate notice *[on the Karnataka Public Procurement Portal]*²⁴ where:-
- (a) The publication of the tender notice has been delayed;
 - (b) The communication of changes, in the tender documents to the prospective tenderers under rule 14 took time;

¹⁸ Substituted for sub rule (2) and (3) vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

¹⁹ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁰ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²¹ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²² Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²³ Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁴ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

- (c) Any other reasonable grounds exist, for such extension, which shall be recorded in writing by the Tender Inviting Authority.
- (4) *[(a) The Tenderers shall digitally sign their bids with their valid Digital Signature Certificate (DSC) as issued under the Information Technology Act, 2000 (Central Act 21 of 2000); and*
- (b) It shall be the responsibility of the tenderers to ensure that their tender is submitted in the Karnataka Public Procurement Portal within the last date and time specified for the receipt of the tenders.]*²⁵

16. [Omitted]²⁶

17. Minimum time for submission of tenders:-

- (1) Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and minimum time is allowed *[from the time of the publishing in the Karnataka Public Procurement Portal and]*²⁷ the last date for submission of tenders. This minimum period shall *[not be less than the period mentioned below]*²⁸:-
- (a) For tender upto rupees two crores in value, *[fifteen]*²⁹ days, and
- (b) For tenders in excess of rupees two crores in value *[thirty]*³⁰ days
- (2) Any reduction in the time stipulated under sub-rule (1) has to be specifically authorized by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing. *[This reduced time shall not be less than seven days.]*³¹
- (3) *[The last date for submission of tenders, so fixed, shall be on the working day and time shall be mandatorily between 10.00 hrs and 17.30 hours only.]*³²

18. [Opening of tenders:- The Tender Inviting Authority or representative can open tender in the Karnataka Public Procurement Portal at the designated date and time, without requiring the presence of bidders.]³³

²⁵ Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁶ Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁷ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁸ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

²⁹ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³⁰ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³¹ Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³² Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³³ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

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

- (a) *[List of submitted tenders termed as RECEIVED and list of incomplete tenders termed as DRAFT shall be displayed.*
- (b) *All tender payments successfully received shall be displayed.*
- (c) *The Tenders which have been submitted in Karnataka Public Procurement Portal and whose tender payments were successfully received shall be opened.*
- (d) *The name of the tenderers shall be published in the Karnataka Public Procurement Portal.]³⁴*
- (e) The fact whether earnest money deposit has been made and other documents required have been produced may be indicated, but this shall be merely an examination of the documents and not an evaluation;
- (f) *[Omitted]³⁵*

20. Tender scrutiny committee:-

- (1) Tender Accepting Authority may constitute a Tender Scrutiny Committee consisting of such officers as it deems fit to scrutinize the tender documents, *[xxxxx]*³⁶ carry out the preliminary examination and detailed evaluation of the tenders received and to prepare an evaluation report for the consideration of the Tender Accepting Authority.
- (2) The Tender accepting authority shall constitute the Tender Scrutiny Committee, where the value of tender exceeds rupees five crores in respect of public works, irrigation department and minor irrigation department and one crore in respect of all the other departments.

CHAPTER - VI TENDER EVALUATION

21. Tender evaluation to be in accordance with evaluation Criteria:-

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

³⁴Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³⁵Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³⁶Omitted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

22. Time taken for evaluation and extension of tender validity:-

- (1) The evaluation of tenders and award of contract shall be completed, as far as possible, within the period for which the tenders are held valid.
- (2) The Tender Accepting Authority shall seek extension of the validity of tenders from the tenderers for the completion of evaluation, if it is not completed within the validity period of tender.
- (3) In case the evaluation of tenders and award of contract is not completed within extended period, all the tenders shall be deemed to have become invalid and fresh tenders may be called for.

23. Process of tender evaluation to be confidential until the award of the contract is notified:-

- (1) The Tender Inviting Authority shall ensure the confidentiality of the process of tender evaluation until orders on the tenders are passed.
- (2) Tenderers shall not make attempts to establish unsolicited and unauthorized contact with the Tender Accepting authority, Tender Inviting Authority or Tender Scrutiny Committee after the opening of the Tender and prior to the notification of the Award and if any attempt by the tenderer to bring to bear extraneous pressures on the Tender Accepting authority shall be sufficient reason to disqualify the tenderer.
- (3) Notwithstanding anything contained in sub-rule (2), the Tender Inviting authority or the Tender Accepting authority or the Tender Scrutiny Committee may seek bonafide clarifications from tenderers relating to the tenders submitted by them during the evaluation of tenders.

24. Initial examination to determine substantial responsiveness:-

- (1) The Tender Inviting Authority shall cause an initial examination of the tenders submitted to be carried out in order to determine their substantial responsiveness.
- (2) During the initial examination the following factors shall be considered, namely:-
 - (a) Whether the tenderer meets the eligibility criteria laid down in the tender documents;
 - (b) Whether the crucial documents have been duly signed;

- (c) Whether the requisite earnest money deposit has been furnished;
 - (d) Whether the tender is substantially responsive to the technical specifications set out in the bidding documents including the testing of samples where required.
- (3) Tenders which on initial examination are found not to be substantially responsive under any of the clauses under sub-rule (2) may be rejected by the Tender Accepting Authority.

25. Determination of the lowest evaluated price:-

- (1) Out of the tenders found to be substantially responsive after the initial examination the tenderer who has bid the lowest evaluated price in accordance with the evaluation criteria or tenderer scoring the highest on the evaluation criteria specified as the case may be, shall be determined.
- (2) In determining the lowest evaluated price, the following factors shall be considered, namely:-
 - (a) *[Omitted]*³⁷
 - (b) *[Omitted]*³⁸
 - (c) adjustments to the price quoted shall be made for deviations in the commercial conditions such as the delivery schedules and minor variations in the payment terms which are quantifiable but deemed to be non-material in the context of the particular tender;
 - (d) The evaluation shall include all central duties such as customs duty and central excise duty inclusive of local levies as a part of the price.
 - (e) In the case of purchase of equipment, the operation and maintenance and spare part costs for appropriate periods as may be specified in bid documents may be quantified, where practicable and considered.

["Provided that for a period of five years from 01.10.2014, Goods manufactured by Micro and Small Enterprise located in the State shall be given fifteen percent price preference against the large and Medium Industries of the State and Industries of other

³⁷ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

³⁸ Omittedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

States during Government Departments purchases, subject to the following conditions, namely:-

- (i) An enterprise shall be registered with the Director of Industries and Commerce, Government of Karnataka as a Micro and Small Enterprises, under Micro Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006); and*
- (ii) An enterprise shall produce a certificate obtained from the said authority certifying that it is a Micro and Small Enterprises.]³⁹*

[Provided further that nothing contained in the first proviso shall apply for the purchase of pumpsets under Ganga Kalyan Scheme being implemented by the Social Welfare Department]⁴⁰

- (f) [in a tender where the tenderers are both from the State of Karnataka as well as from outside the State of Karnataka, the Sales Tax/Vat shall be excluded for the evaluation of the price.]⁴¹*

26. Preparation of evaluation report and award of tenders:-

- (1) Tender Scrutiny Committee or the officer inviting the tender shall prepare detailed evaluation report which shall be considered by the Tender Accepting Authority before taking a final decision on the tender.*
- (2) [The system shall auto generate a statement of evaluation of the tenders with comparative statement for consideration of Tender Accepting Authority.]⁴²*
 - [(2A) Tender Accepting Authority shall pass suitable orders after evaluating the tenders, as per Rule 25.*
 - (2B) The order of the Tender Accepting Authority along with the comparative statement shall be uploaded in the Karnataka Public Procurement Portal.*
 - (2C) Tender Inviting Authority shall communicate the same to the successful tenderer.]⁴³*
- (3) Within such reasonable time as may be indicated in the tender documents, the tenderer whose tender has been accepted will be required to execute the contract agreement in the specified format*

³⁹Substituted vide notification No. FD 130 Exp-12/2015 dated: 08-09-2015.

⁴⁰Inserted vide notification No. PWD 66 FC-3/2007 dated: 03-07-2007 w.e.f. 16-07-2007.

⁴¹Inserted vide notification No. 130 Exp-12/2015 dated: 08-09-2015.

⁴²Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁴³Inserted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

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

[(5) Micro and Small Enterprises registered with NSIC under a single point vendor registration scheme, shall be facilitated by providing tenders sets free of cost, exempting from payment of Earnest Money Deposit during purchases by all Government Department and State owned PSUs.]⁴⁴

[(6) To enable wider dispersal of enterprises particularly in rural areas, the Government Departments and State owned PSUs shall procure 358 items from the Micro and Small Enterprises, which have been reserved for exclusive purchase from among them as per Ministry of MSME, GoI order S.O 581 (E) dt:23.3.2012” or as revised by Ministry of MSME from time to time subject to the following conditions, namely:-

(i) An enterprise shall be registered with the Director of Industries and Commerce, Government of Karnataka as a Micro and Small Enterprises, under Micro Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006);

(ii) An enterprise shall produce a certificate obtained from the said authority certifying that it is a Micro and Small Enterprises.

(iii) The Procurement Entity shall procure these items by following KTPP Act and Rules.

(iv) If no tenderer participates in the first two tenders or if there is a single tender in the first two tenders, this sub Rule shall not be applicable for those tenders.]⁴⁵

27. Pre-qualification Procedure:-

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

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

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

(c) Financial status and capacity.

⁴⁴ Inserted vide notification No. FD 130 Exp-12/2015 dated: 08-09-2015.

⁴⁵ Inserted vide Notification No. FD 130 Exp-12/2015 Dtd 10-10-2017.

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

[Provided that notwithstanding anything contrary contained in these rules the tender inviting Authority may adopt the list of prequalified tenderers empanelled by the Directorate of Information Technology, Government of Karnataka in respect of computers, peripherals and related services and call for price bids from all such prequalified tenderers and the price bids received from the prequalified tenderers shall be considered for evaluation by the tender accepting authority, so far as may be in accordance with these rules.]⁴⁶

[27(A) Preference to Tenderers belonging to the Scheduled Castes or Scheduled Tribes in Construction Works.- For the purpose of these rules, all procurement entities specified under clause (d) of section 2, which are taking up Construction works shall be the notified departments and they shall follow the following procedures, namely:-

- (a) all works approved in the Action Plan or Appendix-E of every financial year, the value of which does not exceed Rs.50.00 lakh shall be put to randomization for selecting 17.15% of these works to be tendered among registered contractors belonging to the Scheduled Castes Category and 6.95% to be tendered among contractors belonging to the Scheduled Tribes Category.
- (b) Works subsequently approved shall also have to be put to randomization periodically.
- (c) for randomization, an Engineering Division or the Jurisdiction of the Tender Inviting Authority shall be considered as a unit.
- (d) randomization of works shall be done when the number of works are more than four.
- (e) once a particular work is included in randomization process or were not put to randomization due to lack of adequate number of works, they shall not be put to randomization again for the reasons that they were not selected during the first randomization process.
- (f) if no qualified tenderers belonging to the Scheduled Castes or Scheduled Tribes participate in the bid in two attempts under this rule, then these works shall be tendered as open category wherein all eligible bidders of General or Scheduled Castes or Scheduled Tribes category can participate.

⁴⁶ Inserted vide notification No.PWD/22/FC-3/2001, dated 01-03-2001

- (g) *it shall be responsibility of the Executive Engineer or Tender Inviting Authority to verify the eligibility of the tenderers belonging to the Scheduled Castes or Scheduled Tribes. Verification of tenderers belonging to the Scheduled Castes or Scheduled Tribes shall be done by the Tender Inviting Authority subject to explanations provided in Section 6.*
- (h) *if the contractor is a firm, then all the partners or members of the firm shall belong to the Scheduled Castes or Scheduled Tribes as the case may be.*
- (i) *the contractor belonging to the Scheduled Castes or Scheduled Tribes shall be domicile of the State of Karnataka for more than 10 years.]⁴⁷*

28. [Two Tender Document System]⁴⁸:-

- (1) In the case of construction or supply and installation of equipment, tenders exceeding Rs. 50 lakhs in value where the prequalification procedure or Turn Key Tender System are not being followed the tender inviting authority shall follow the two -cover tender system.
- (2) The first *[electronic document]*⁴⁹ shall contain the following information about the tenderer namely:
 - (a) Experience and past performance in the execution of similar contracts.
 - (b) Capabilities with respect to personnel, equipment and construction or manufacturing facilities
 - (c) Financial status and capacity
 - (d) any other information considered relevant.
- (3) The second *[electronic document]*⁵⁰ shall contain the prices quoted by the tenderer.
- (4) The tender inviting authority shall cause the first *[electronic document]*⁵¹ to be opened first and evaluate the tenderer's capacity on the basis of criteria specified in the tender document and on this basis, prepare a list of qualified tenderers.

⁴⁷ Inserted vide Notification No. FD 876 Exp-12/2017, Dtd: 15/09/2017,

⁴⁸ Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁴⁹ Substitutedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁵⁰ Substitutedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

⁵¹ Substitutedvide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

- (5) Thereafter, the Second *[electronic document]*⁵²containing the price quotations of only those tenderers found qualified under sub-rule (4) shall be opened by the tender inviting authority.
- (6) The tender inviting authority shall follow the procedure outline in rule 25 and 26.

[28A. Two stage tender system.-

- (1) In the case of 'turn-key' contracts involving supply, installation, testing and commissioning of specially engineered plant and equipment such as turbines, generators, boilers, switchyard, pumping stations, telecommunications, process and treatment plants and the like for power, water, sewerage, telecommunication and similar projects or procurement of equipment subject to rapid technological advances such as computer and communication systems, where it is undesirable or impractical to prepare a complete technical specifications in advance, two-stage tender system may be adopted.*
- 2) First stage tender will consist of a technical tender only, without reference to the rates and prices for completing the facilities and a list of deviations to the technical and commercial conditions set forth in the tender documents or any alternate technical solution as a tenderer wishes to offer and a justification therefore, always provided that such deviation or alternate solution do not change the basic objective of the contract and that they meet the conceptual design or performance or functional specifications contained in the tender documents.*
- 3) The Tender Inviting Authority shall cause the first stage tender to be opened and evaluate whether the tenderer meets the required minimum acceptable qualification criteria, whether the tenderer has submitted a technically responsive first stage tender and prepare a list of qualified and responsive tenderers.*
- 4) The Tender Inviting Authority shall convene a clarification meeting of all first stage qualified tenderers and review the tenderer's tender and prepare a memorandum of all required amendments, additions, deletions and other adjustments.*
- 5) The Tender Inviting Authority shall revise the tender documents and specifications to permit new technologies and introduce the right evaluation criteria.*

⁵²Substituted vide notification no. FD 574(A) Exp-12/2019 Dated:07-09-2019.

- 6) *Only those tenderers who have submitted a technically responsive and acceptable first stage tender shall be invited to submit Second Stage Tender.*
- 7) *The second stage tender shall consist of,-*
 - (a) *an updated technical tender incorporating all the changes required by the tender Inviting Authority as recorded in the memorandum prepared in sub-rule (4) or as necessary to reflect any amendments to the tender documents issued subsequent to submission of the first stage tender; and*
 - (b) *the commercial tender.*
- 8) *All second stage tenders must be accompanied by specified tender security.*
- 9) *All second stage tenders (both technical and price) will be opened in the presence of tenderers or their authorized representatives.*
- 10) *The two stage tender shall be evaluated and awarded following the procedure specified in rules 25 and 26.]⁵³*

[CHAPTER VIIA CONSULTANCY SERVICES

28B. Selection Methods:- *The following methods of selection of Consultants shall be adopted as found appropriate for the assignment.*

- (a) *Quality and Cost Based Selection (QCBS);*
- (b) *Least Cost Selection (LCS);*
- (c) *Single Source Selection (SSS);*

28C. Quality and Cost Based Selection (QCBS) :- *The quality and cost based selection is based both on the quality of the proposals and the cost of the services to be provided. In this method, the technical and financial proposals shall be received in separate sealed envelope. The technical proposals shall be opened first (unopened financial proposals are kept under security) and the evaluation report of the technical proposals shall be prepared and the approval of Tender Accepting Authority shall be obtained. The financial envelopes of those consultants who submitted responsive technical proposals meeting the minimum qualifying scores shall be opened in the presence of the consultants or their representatives. The proposals shall then be evaluated. Once the financial proposals are evaluated, a combined evaluation of the technical and financial proposals shall be carried out by weighing and adding the quality and the cost scores, and the*

⁵³ Inserted vide Notification No.PWD 33 FC-3 Dated 05/03/2003

Consultant obtaining the highest combined score shall be invited for negotiations. Since price is a factor of selection, staff rates and other unit rates shall not be negotiated.

28D. Least Cost Selection(LCS) :- The Least Cost Selection method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of non-complex works and so-forth) where well established practices and standards exist. Under this method a minimum qualifying score for quality is established and indicated while inviting proposals. Short-listed consultants shall submit their proposals in two envelopes. The technical proposals shall be opened first and evaluated. Proposals scoring less than the minimum technical qualifying score shall be rejected, and the financial envelopes of the rest shall be opened in public. The Consultant with the lowest evaluated price shall be selected.

28E. Single Source Selection (SSS) :- Under Single Source Selection, the Client selects a specific consultant and requests him to prepare technical and financial proposals, which are then negotiated. Since there is no competition, this method is acceptable only in exceptional cases and made on the basis of strong and convincing justifications where it offers clear advantages over the competition, because,-

(i) the assignment represents a natural or direct continuation of a previous one awarded competitively (the estimated cost of the continuation assignment is not more than 50% of the previous competitively awarded assignment), and the performance of the incumbent consultant has been satisfactory; or

(ii) a quick selection of the consultant is essential e.g., in emergency operations such as natural disasters and financial crisis; or

(iii) the contract is very small in value (i.e., less than rupees 5,00,000 for consulting firms or [xxxxx]⁵⁴for individual Consultants”); or

(v) only one Consultant has the qualifications or has experience of exceptional worth to carry out the assignment.

28F. Steps in the Selection Process:- Depending on the selection method adopted, the selection process carried out by the Client generally shall include the following steps:

(i) Preparation of the Terms of Reference (TOR) for the assignment;

(ii) Preparation of the cost estimate to determine the budget of the assignment;

⁵⁴ omitted

- (iii) Advertising to invite the expressions of interest from Consultants (mandatory in respect of assignments estimated to cost more than rupees 20 lakhs);
- (iv) Short-listing to identify consultants; qualified for the assignment;
- (v) Preparation and issuance of the Request for Proposals (REP);
- (vi) Preparation and submission of proposals by the consultants;
- (vii) Evaluation of the technical proposals i.e., quality evaluation;
- (viii) Evaluation of financial proposals;
- (ix) Final combined quality and cost evaluation to select the winning proposal (QCBS); and
- (x) Negotiations, if any signing of contract between the Client and Consultant.

28G. Contracts :- Two main considerations determine the type of contract to be used for the various consultant assignments; the nature and degree of the definition of the assignment, the distribution of risks between the Client and Consultant and the level of contract supervision the client will be able to provide. The following are the various types of contracts that can be adopted for appropriate assignments, namely:-

(I) Lump Sum (Firm Fixed Price) contracts :- These are used mainly for assignments in which the content and length of services and the required output of the Consultant are clearly defined and for these reasons the Consultant can generally control the scope of work and duration of services. In these contracts payments are linked to clearly specified outputs.

(II) Time-Based contracts :- Under this type of contract, the Consultant provides services on a time basis according to quality specifications, and Consultants remuneration is based on, agreed unit rates for Consultant Staff multiplied by the actual time spent by this staff in executing the assignment and reimbursable expenses using actual expenses and agreed unit prices.

(III) Percentage Contracts: - It is one where consultants are paid an agreed percentage of the actual project cost.

(IV) Indefinite Delivery Contracts (Price Agreement or Standing Offers):- These refer to contracts in which a Consultant is hired for a specified period to undertake tasks as and when the need arises.

28H. Standard Requests for Proposals (RFP) and Contract Formats:- Standard RFP (Requests for Proposals) and Contract Formats as may be issued by the Government of Karnataka from time to time shall be used. The Instructions to Consultants (ITC), Formats for submission of Proposals (unless specified otherwise) as well as the General Conditions of Contract (GCC) shall not be changed. However the Data Sheet and Special Conditions of Contract enable the Procurement Entities to amend or supplement Instructions to consultants (ITC) and General Conditions of Contract (GCC) to reflect local conditions and characteristics of assignment.

28I. Supervision of the Consultancy Contracts:- The Client is responsible for supervising the assignment. He shall make arrangements to monitor the progress of work, the timely completion of deliverables, the staff months and money expended (for time-based contracts) and determine where, within the contract, changes in the scope of work might be appropriate. The Contract usually requires that the Consultant shall submit regular progress reports and other periodical reports. The Client shall ensure providing comments on these reports in a timely manner. For large assignments, a Committee shall be constituted to review Consultant's work.

28J. Individual Consultants versus Consulting Firms :- (1) Individual Consultants may be employed to assist the Client in various areas of the project preparation and implementation. Individuals may be engaged on assignments for which.-

(a) the experience and qualifications of the individual must be dominant;

(b) no support from an organization is needed for the individual; and

(c) team work or multidisciplinary approach is not necessary.

When integrated technical work and joint responsibility for the Consultants' output are important, it is necessary to hire a Consulting Firm. The TOR of the assignment provides the basis for decision. As a general rule, when dealing with project preparation services of a complex nature, it is advisable to hire a firm, whereas individuals can be considered for advisory services assignments or technical opinions on specific matters in which specialist individual knowledge is the key issue. As a practical rule, if three or more individuals are needed for an assignment, it is often better to hire a Consulting firm, so that the firm will be responsible for identifying the best individuals, ensuring cohesiveness and technical solvency, as well as backup and transparent administration.

28K. Hiring of Government Officials, officials of Government Undertaking, Corporation etc., Government officials and officials

employed in Government Undertakings or Corporations shall not be engaged under consulting services, since there could be a conflict of interest. This applies regardless of their being on leave or on deputation. University Professors or Scientists from Autonomous Research Institutes may be contracted individually provided they are permitted by their service conditions to undertake assignments for a specified period in a year. Individual Consultants shall not be hired by Agencies, where the relatives of the Individual Consultant, are employed in position of influence.]⁵⁵

CHAPTER - VII **APPEALS**

29. Appeal:- An appeal under [section 16]⁵⁶ shall lie:

(1)⁵⁷(a) to the Head of the Department concerned if the order is passed by the Tender accepting authority subordinate to the Head of the Department:

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

[(2) *The aggrieved tenderer shall submit online appeal within specified period to the Appellate Authority specified in tender schedule through the Karnataka Public Procurement Portal.]⁵⁸*

⁵⁵ Inserted vide Notification No. PWD 121 SO/FC 2003 dated 26/09/2003.

⁵⁶ Substituted vide notification No.PWD 154 FC-3/2001, dated 02-04-2001.

⁵⁷ Renumbered vide Notification No. FD 574(A) Exp-12/2019 Dated: 07-09-2019.

⁵⁸ Inserted vide Notification No. FD 574(A) Exp-12/2019 Dated: 07-09-2019.