

THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS ACT, 1999
[Act 29 of 2000]

STATEMENT OF OBJECTS AND REASONS:

(Obtained from L.C. Bill No. 12 of 1999)

In the recent past irregularities in the processing of tenders occurred in various Government Department, Public Sector Undertakings, Statutory Boards, etc., due to inadequate publicity of tenders, restricted supply of tender documents and resulting lack of transparency in evaluation and acceptance of tenders

In the Budget speech of the year 1997-98, It has also been announced that in order to prevent recurrence of such irregularities, It has been decided to bring about a legislation to provide for transparency in the tender processes and to regulate the procedure in inviting, processing and accepting tenders.

Hence the Bill.

II Amending Act 21 of 2001

(Vide L.A Bill No. 20 of 2001)File No. ೨೦೦೧ಶಾಇ 33 ಶಾಸನ 2001)

Clause (e) of section 4 of the Karnataka Transparency in Public Procurements Act, 1999 excludes applicability of Chapter II of the Act to the Government Dept in respect of Procurements of goods or services of the value not exceeding rupees 5 lakhs and to the local authorities in case of implementing mini water supply and construction of school rooms of the value not exceeding rupees 2 lakhs and in any other case where the value does not exceed rupees 1 lakh.

Keeping in view the escalation in prices, it was felt necessary to have uniform limit in respect of Government Departments as well as procurement of goods and services in the case of public sector undertakings, etc.,

Therefore it is considered necessary to amend the Act to exclude the applicability of Chapter II of the Act,-

- i. in respect of procurement made by the Government Departments, State Government Undertaking or any Board, Body or Corporation established by or under any law and owned or controlled by the Government, Zilla Panchayats, City Municipal Corporations, City Municipal Council, Hyderabad Karnataka Area Development Board, Malnad Area Development Board and Bayaluseeme Development Board for Construction work of all types of values not exceeding Rupees five lakhs and in case of goods and services other than construction work, of the value not exceeding rupees one lakh.
- ii. where the procurements goods or services is by Grama Panchayat, Taluk Panchayat, Town Municipal Councils, Town Panchayats, OR Urban Development authorities for the purpose of implementing mini water supply schemes or Construction of school rooms of the value not exceeding rupees 2 lakhs and in other cases, of the value not exceeding rupees 1 lakhs.

Hence the Bill

THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS ACT, 1999
[Karnataka Act No 29 of 2000]

(Received the assent of the Governor on the tenth day of December, 2000 First published in the Karnataka Gazette Extraordinary on the thirteenth day of December, 2000)

As Amended by Act 21 of 2001

An Act to provide for ensuring transparency in public procurement of goods and services by streamlining the procedure in inviting, processing and acceptance of tenders by Procurement Entities, and for matters related thereto.

WHEREAS it is expedient in public interest to render the process of procurement of goods and services by Procurement Entities transparent by streamlining the procedure in inviting, processing and acceptance of tenders.

BE it enacted by the Karnataka State Legislature in the fiftieth year of the Republic of India as follows:

PREAMBLE

Where a definition in a statute is not clear the help of preamble may be sort to find out the object of the act itself, to the legislative history of the act and to the socio-economic ethos, and aspiration needs of the time in which the act was passed. Bangalore Water Supply and Sewerage Board Vs . A.Rajappa, (1978) 2 SCC 213.

A preamble is the key to open the mind of legislature. But, that does not mean that, the clear and precise language of the statute can be controlled or qualified by it. Only when a provision rises a doubt, the preamble may be resorted to, to ascertain the reason for enacting it and legislative intent behind it. Where the Statute can convey more than one meaning, then the one which is close to the purpose and scope of the preamble should be employed. Thus the Preamble does not affect the clear words in an enactment. The court while interpreting provisions of a statute should not begin with the preamble. Tribhuban Prakash Nayyar Vs. Union of India, AIR 1970 SC 540:(1969) 3 SCC 99.

A preamble is not an independent enactment which neither confers rights nor takes them away. If the enacting Part is clear and unambiguous, the Preamble can neither restrict nor widen it. R.Venkataswamy Naidu Vs. Narsaram Naraindas, AIR 1966 SC 361.

Tools of Interpretation:

The rules of interpretation are useful servants but often tend to become difficult masters. Keshavji Ravji & Co. Vs. CIT, (1990) 2 SCC 231.

While interpreting statute, an appropriate rule of interpretation should be chosen as a tool depending upon the nature of defect in drafting which has to be set right. If the words are clear, there is no need to open the tool kit of interpretation. M/s. Mercury Press and Ors. Vs. Ameen Shacoor & Ors., ILR 2002 Kar.2304-DB.

Courts Play an Important part and it falls to their lot to adopt the law by its interpretation to suit the needs of the society at a given point of time. Union of India Vs. H.S.Dhillon,(1971) 2 SCC 779.

The nomenclature of an enactment is no index to its true nature, what counts is its pith substance. AIR 1958 SC 408; AIR 1951 SC 318; AIR 1954 SC 119.

To discover the true character and nature of an enactment, the courts should go beyond its form and appearance. AIR 1954 SC 119

While interpreting some provision of a statute it has to be borne in mind that the interpretation should be such as to further the object of their incorporation in the statute. They cannot be read in isolation. T.M.A Pai Foundation Vs State of Karnataka, 2002 (8) Scale 1 at p.57

While interpreting a provision, the statute must be read as a whole. Papatlal Shah Vs State of Madras AIR 1953 SC 274

In knowing the legislative intent, the language of the statute is the determining factor. Kanailal Sur Vs Paramnidhi Sadhukan, AIR 1957SC 907

As far as possible, interpretation and object of statute should be harmonious. New India Sugar Mills Ltd Vs CST, AIR 1966 SC 1207.

While interpreting a statute, Courts cannot ignore the provision to relieve what they consider distress resulting from its operation. Moris Mercantile Bank Ltd Vs. Union of India AIR 1965 SC 1956

The words employed in a Provision should be given their proper and plain meaning. State of Assam Vs. Deva Prasad Barua, AIR 1969 SC 831.

The Mischief rule or rule in Heydon's Case:

The case popularly known as Heydon's case, (1584) Co. Rep.7a:(1584) 76 ER 637 was first referred in India by the Supreme Court in Bengal Immunity Case, AIR 1955 SC 661

The rule is "For the sure and true interpretation of all statutes in general four things are to be discerned and considered- 1. what was the common law before the making of the act .2. what was the mischief and defect for which the common law did not provide 3. what remedy the parliament has resolved and appointed to cure the disease 4. the true reason of the remedy; and then the office of all the judges is to make such construction as shall suppress the mischief and advance the remedy to suppress subtle invention and evasions for continuance of the mischief.

The Golden Rule or Rule in Warburton's case:

The rule enunciated in warburton's Vs Loveland, (1928) 1 Hudson and B. Irish cases 623, also known as Golden rule is " the rule in the construction of statutes, that in the first instance, the grammatical sense of the words is to be adhered to."

CHAPTER I

1. **Short title and commencement:** (1) This act may be called the Karnataka transparency in public procurements act, 1999. (2) It shall be deemed to have come into force with effect from the fourth day of october,2000.

2. **Definitions:** In this act, unless the **context** otherwise requires,
- a. 'Construction works' means putting up, demolishing, repairs or renovation of buildings, roads and bridges or other structures including fabrication of steel structures and other civil works;
 - b. 'Goods' means Machinery, Motor Vehicles, Equipment, Furniture, Articles of Stationary, textiles raw materials, drugs, scientific instruments, chemicals food grain, oils and oil seeds or other commodity required for consumption, use or distribution by a procurement entity in discharge of its public duties;
 - c. 'Government' means the State Government;
 - d. 'Procurement Entity' means any Government Department, a State Government Undertaking, Local Authority or Board, Body or Corporation established by or under any law and owned or controlled by the Government, and any other body or authority owned or controlled by the Government and as may be specified by it.
 - e. 'Public Procurement' or 'Procurement' means purchase of goods, obtaining of services or undertaking of construction works by the procurement entities;
 - f. 'Services' means the action of serving, attending upon, helping or benefiting a Procurement Entity in the course of discharging its public duties and includes construction works;
 - g. 'Specified goods or Services' means the goods or services as the case may be specified in a tender and identified in the contract resulting from acceptance of a tender on account of a procurement entity;
 - h. 'Tender' means the formal offer made for supply of goods or services in response to an invitation for tender published in a Tender Bulletin;
 - i. 'Tender Accepting Authority' means an Officer or a Committee appointed to accept tenders and a 'Tender Inviting Authority' means an Officer or a Committee appointed to invite tenders, under Section 9;
 - j. 'Tender Bulletin' means a bulletin published for the State as a whole or for any district or districts within the State containing the details of invitation, processing and acceptance of Tenders;
 - k. 'Tender Bulletin Officer' means a State Tender Bulletin Officer or a Tender Bulletin Officer referred to in Section 7;
 - l. 'Tender Document' means the set of papers detailing the schedule of works, calendar of events, requirement of goods and services, technical specifications, procurement criteria and such other particulars, as may be prescribed for evaluation and comparison of tenders.
3. **Provisions not to apply to certain Projects:-** The provisions of this Act in so far as they are inconsistent with the procedure specified in respect of the Projects funded by International Financial Agencies or Projects covered under

International Agreements, shall not apply to procurement of goods or services for such project.

4. **Exceptions to applicability:-** The provisions of Chapter II shall not apply to Procurement of goods and services:-

- a. during the period of natural calamity or emergency declared by the Government;
- b. where the goods or services are available from a single source or where a particular supplier or contractor has exclusive rights in respect of the goods or services or construction work and no reasonable alternatives or substitutes exist. Provided that for the purpose of this clause there shall be a committee of three experts containing of one technical representative of the procuring entity one technical representative of the Government organization dealing with similar procurement and one representative from a reputed Academic or Research Institution or Non-Commercial Institution having expertise in such line to examine and declare that the goods or services are available from a single source;
- c. where the procuring entity having procured goods, services or technology from a supplier or contractor determines that additional supplies must be procured from the same supplier or contractor for reasons of standardization and compatibility with the existing goods, service or technology;
- d. where the goods or services are procured from certain Departments of Government, public sector undertakings, statutory boards and such other institutions specified by the Government and such goods are manufactured or services are provided by them, for a period not exceeding two years from the date of commencement of this Act;
- e. [where the procurement is by the Government Departments, State Government Undertakings, or any Board, Body or Corporation established by or under any law and owned or controlled by the Government or Zilla Panchayats constituted under the Karnataka Panchayat Raj Act, 1993 or City Municipal Corporations established under the Municipal Corporation Act, 1976 or City Municipal Councils established under the Karnataka Municipalities Act, 1964 or the Hyderabad Karnataka Areas Development Board constituted under the Hyderabad Karnataka Area Development Board Act, 1993 or Malnad Area Development Board constituted under the Malnad Area Development Board Act, 1991 or the Bayaluseeme Development Board constituted under the Bayaluseeme Development Board Act, 1994,-
 - i. in case of construction works of all types the value of which does not exceed rupees five lakhs;
 - ii. in case of goods or services other than construction works the value of which does not exceed rupees one lakh;

(ee) where the procurement of goods or services is by the Grama Panchayats and Taluk Panchayats constituted under the Karnataka Panchayat Raj Act, 1993, Town Municipal Councils or Town Panchayats constituted under

the Karnataka Municipalities Act, 1964 or Urban Development Authorities constituted under the Karnataka Urban Development Authorities Act, 1987,-

- i. for the purpose of implementing mini water supply scheme or construction of school rooms and the value of such procurement does not exceed rupees two lakhs; and
 - ii. for other purposes and the value of such procurements does not exceed rupees one lakh.]
- f. where the goods or services are procured under rate contracts from the Director General of Supplies and Disposals or from the Stores Purchase Department of the State; and in respect of specific procurements as may be notified by the Government from time to time.
- g. in respect of spot purchase of cotton by Spinning Mills, purchase of oil seeds by the Karnataka Agro-industries Corporation or the Karnataka Co-operative Oil Seeds Grower's Federation, purchase of sugarcane by Sugar Mills, direct purchase of paddy by the Agricultural Produce Market Committees and the Karnataka Food and Civil Supplies Corporation, purchase of cloth by the Karnataka Handloom Development Corporation, purchase of silk by the Karnataka Silk Industries Corporation, purchase of milk by the Karnataka Milk Producers Co-operative Federation, purchase of palm oil by the Karnataka Food and Civil Supplies Corporation and the Karnataka Co-operative Oil Seeds Grower's Federation, purchase of cloth by the Government Departments and public sector undertaking from the Karnataka Handloom Development Corporation and purchase by such other organizations or purchase of any other material as may be notified by the Government from time to time.

CHAPTER II

REGULATION OF PROCUREMENT

5. **Procurement other than by Tender Prohibited:** - On and from the date of commencement of this Act no Procurement Entity shall procure goods or services except by inviting Tenders for supply.
6. **Procurement Entities to follow Procedure:-** No tender shall be invited, processed or accepted by Procurement Entity after the commencement of this Act except in accordance with the procedure laid down in this Act or the rules made there under.
7. **Tender Bulletin Officers:-**(1) The Government may by notification appoint an officer not below the rank of a Deputy Secretary to Government of the concerned department to be the State Tender Bulletin Officer for the State in respect of that Department where the procurement of that department covers more than one district. (2) Deputy Commissioner of the District shall be the District Bulletin Officer.
8. **Publication of Tender Bulletin:-**(1)The State Tender Bulletin Officer, or as the case may be, the District Tender Bulletin Officer shall on receipt of intimation relating to notice of invitation of tenders from tender inviting authority or information relating to details of acceptance of tender under section 13 or rejection of tender under section 14 from the tender Accepting

Authority, publish within the prescribed time, the State Tender Bulletin or as the case may be District Tender Bulletin. (2) The Tender Bulletin shall be made available for sale in the office of the Tender Bulletin Officer and in such other places as the Tender Bulletin officer deems fit to make available.

9. **Tender Inviting Authority and Tender Accepting Authority:-**(1) The procurement Entity may, by order, appoint,-(i) one or more of officers or a committee of Officers to be the Tender Inviting Authority for any specified area, specified procurement or specified class of goods or services, and (ii) one or more of officers or a Committee of Officers to be the Tender Accepting Authority for any specified area or Specified Procurement, specified class of goods and services:
Provided that where a multi-member Committee is already appointed for any Procurement Entity for discharging the function of accepting tenders, such Committee shall be deemed to be a Tender Accepting Authority appointed under this Act.
10. **Tender Scrutiny Committee:-**The Tender Accepting Authority may constitute a Tender Scrutiny Committee consisting of such persons as it deems fit to scrutinise tenders above five Crores in the case of the Public Works, Irrigation and Minor Irrigation Departments of the Government and above rupees one crore in other cases.
11. **Opening of Tenders:-**(1) The Procurement entity may authorise either the tender Inviting Authority or the Tender Accepting Authority or any other Officer to open the Tenders and draw up a list of Tenderer responding to the notice inviting tender, in each case. (2) The Authority, or as the case may be the officer referred to in sub-section (1) shall open the tender, draw up a list of tenderer in the prescribed manner and unless it is also the Tender Accepting Authority, forward the tenders along with the list of Tenderer, to the Tender Accepting Authority.
12. **Duties of Tender Inviting Authority:-**
 - (1) It shall be the duty of every Tender Inviting Authority,-
 - a. to take out notice inviting tenders at the behest of the Procurement Entity in the prescribed manner;
 - b. to communicate the notice inviting tenders by marking a copy thereof to the Tender bulletin Officer concerned immediately after issue of the notice;
 - c. to cause publication of notice inviting tenders in the prescribed manner; and
 - d. to supply the Schedule of Rates and Tender Documents to every intending tenderer who has applied to get such documents.
 - (2) The Tender Inviting Authority shall take out notices, communications and publications required to be taken out under this section in such form, in such manner, by such mode and at such time and intervals as may be prescribed and different manner and mode of publication may be prescribed for different procurements depending on the value of the procurement.
 - (3) The Tender Inviting Authority shall collect all the details received in response to the notice inviting tender, within the time stipulated and unless

it is itself authorized to open the tender shall compile and forward all the tenders received to the Authority or Officer authorized to open the tenders.

13. **Acceptance of Tender:-**The Tender Accepting Authority shall, after following such procedure as may be prescribed pass order accepting the tender and shall communicate the information relating to acceptance of tender together with a comparative analysis and reasons for accepting of tender to the procurement Entity and the Tender Bulletin Officer: Provided that where the Tender Accepting Authority consists of single officer who is due to retire within the next six months, from the date fixed for the acceptance for tender, he shall not act to accept the tender without obtaining prior approval of the Procurement Entity: Provided further that subject to such general or special order as may be issued by the Government from time to time, the Tender Accepting Authority may before passing order accepting a tender negotiate with lowest Tenderer.

Notes:

The State must not act arbitrarily in the matter of acceptance or rejection of tender or for that matter in the discharge of any of its intention can be well established in India by a series of Judicial decisions particularly of the Court being those of Kasturi Vs.J&K and Ramana Vs. International Airport Authority, AIR 1978 SC 1992, AIR 1979 SC 1628.

Rates fixed by the Govt. cannot be revised subsequently and unilaterally unless, there are specific rules in this regard. G.S.Fernandez Vs. State of Karnataka, AIR 1990 SC 958.

A tender notice is only an invitation extended to contractors for making offers. It does not amount to an offer or proposal and the question of rates made by the contractor does not amount to an acceptance of offer. N.P.Singh Vs Forest Officer, AIR 1962 Mani

A tender is an offer. It is something which invites and is communicated to notify acceptance. Following are the requisites of a valid tender-1. It must be unconditional. 2.Must be made at the proper place. 3.Conform to the terms of obligation. 4.Should be made at the proper time. 5.Should be made in the proper form. 6.The person by whom the tender is made must be able to and willing to perform his obligations. 7.There must be reasonable opportunity for inspection. 8.Must be made to the proper person. Tata Cellular Vs.Union of India, AIR 1996 SC 11.

14. **General rejection of tenders:-**(1)The Tender Accepting Authority may at any time before passing an order of acceptance under Section 13, reject all the tenders on the ground of changes in the scope of procurement, failure of anticipated financial resource, accidents, calamities, or any other ground as may be prescribed which would render the procurement unnecessary or impossible and report the same to the Procurement Entity. (2) The Procurement Entity shall thereafter communicate the fact of the rejection under this section to all the Tenderer and also cause the same to be published in the Tender Bulletin.
15. **Power to give directions:-**It shall be competent for the Government to give appropriate directions to the Procurement Entity or the Authorities under this Act in order to secure and maintain transparency at any stage of the process of

procurement, and it shall be duty of the Procurement Entity or such authority to comply with the directions.

16. **Appeal:-**(1) Any **Tenderer** aggrieved by an order passed by the Tender Accepting Authority other than the Government under Section 13 may appeal to the prescribed authority within thirty days from the date of receipt of the order:
Provided that the prescribed authority may, in its discretion allow further time not exceeding thirty days for preferring any such appeal, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.
(2) The prescribed authority may after giving opportunity of being heard to both the parties pass such order thereon as it deems fit and such order shall be final.
(3) The prescribed authority shall as far as possible dispose of the appeal within thirty days from the date of filing thereof.
17. **Power to obtain information:-**Not with standing anything contained in this Act or in any other law for the time being in force, the Government may with a view to ensuring transparency call for and obtain, from any Authority under this Act, any information relating to any matter in the process of procurement.
18. **Power to call for records:-** The Government may at any time, with a view to ensuring transparency in the procurement process call upon any authority under this Act,-
 - (i) to produce records relating to invitation, processing and acceptance of tenders;
 - (ii) to furnish the tender document, estimates/statements/accounts or statistics relating to such tenders; and
 - (iii) to furnish report on any specific point incidental to the procurement.

CHAPTER III

MISCELLANEOUS

19. **Officers deemed to be Public Servants:-**Every Officer acting under or in pursuance of the provisions of this Act or under a rule, order or notification made hereunder, shall be deemed to be a public servant within this meaning of Section 21 of the Indian Penal Code 1860 (Central Act XLV of 1860)
20. **Immunity for action taken in good faith:-**No suit or other legal proceeding shall lie against the Government or any officer or authority empowered to exercise powers or perform the functions under the Act in respect of anything which is in good faith done or intended to be done under this Act.
21. **Bar of Jurisdiction of Courts:-** Save as otherwise provided in this Act no order passed or proceedings taken by any officer or authority under this Act shall be called in question in any court, and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority in exercise of powers conferred on him or it, by or under this Act.
22. **Act to override other laws:-**The provisions of this Act shall have effect notwithstanding anything inconsistent there with contained in any other law for

the time being in force or any custom or usage, agreement, decree or order of a Court or a Tribunal or other Authority.

23. **Penalty:-Whoever** contravenes the provisions of this Act or the rules made there under shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees.
24. **Power to remove difficulties:-**If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette make such provisions not inconsistent with the provisions of the Act as appear to them to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after expiry of a period of two years from the date of commencement of the Act.
25. **Power to make rules:-**(1) The Government, may by notification, make such rules as are necessary for carrying out the purposes of this Act. (2) Every rule made or notification or order issued under this Act shall as soon as possible, after it is made or issued, be placed before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is laid or the sessions immediately following both Houses agree in making any modifications in the rule, notification or order or both Houses agree that the rule, notification or order shall not be made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.
26. **Savings:-** All **rules**, regulations, orders, notifications, departmental codes, manuals, bye-laws, Official Memoranda, circular or any other order made or issued before the commencement of this Act and in force on the date of such commencement providing for or relating to any of the above matters for the furtherance of which this Act is enacted shall continue to be in force and effective as if they are made under the corresponding provisions of this Act, to the extent they are not inconsistent with the provisions of this Act and unless and until superceded by anything done or any action taken or any rule, notification or order, is made under this Act.
27. **Repeal and Savings:-** (1)The Karnataka Transparency in Public Procurements Ordinance,2000 (Karnataka Ordinance No.8 of 2000) is hereby repealed. (2)Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act.

THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS RULES, 2000

As amended by corrigendum No. PWD 154 FC-3/2000 Dated 17-01-2001 and Notification No. PWD 22/FC-3/2001, Bangalore dated 1-3-2001 and PWD 154 FC-3/2001 (Part-1), Bangalore, Dated 2-4-2001 and PWD 389 FC 3/2001, dated 30-8-2001

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 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 tenderer are first screened for their capability and resources to implement the contract before they are permitted to offer their tenders;
- (c) "Two-cover system" means a procedure under which the tenderer are required simultaneously submit two separate sealed covers, one containing the Earnest Money Deposit and the details of their capability to' undertake the tender which will be opened first and the second cover containing the price quotation which will be opened only if the tenderer is found to be qualified to execute the tender;

CHAPTER - II

GENERAL

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

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

CHAPTER - III

PUBLICITY

4. Publication of tender bulletin:-

- (1) The District Tender Bulletin shall be published by the District Bulletin Officer at least once in every week.

- (2) The State Tender Bulletin shall be published by the State Tender Bulletin Officer at least once in every week.
- (3) The Tender Bulletin Officer shall cause to be published call notices inviting tenders and intimations of acceptance of tenders received up to forty eight hours prior to the actual publication of the bulletin.
- (4) In case notice inviting tender or information relating to acceptance of the tender needs to be published urgently, then the Secretary to Government of the concerned administrative department in the case of the State Tender Bulletin or the Deputy Commissioner in the case of the District Tender Bulletin may for the reasons to be recorded in writing, direct the respective tender' bulletin officers to publish an extraordinary issue of the tender bulletin.

5. Distribution of tender bulletins:-

- (1) The Tender bulletin Officer shall make the tender bulletin available in the concerned office of the Government department, local authority statutory board, public sector undertaking, university or cooperative institution.
- (2) The Tender Bulletin Officer shall make available adequate copies of the tender Bulletin at the office of the Tender Inviting Authority whose notice inviting tenders and intimation of tender acceptance finds place in the bulletin.
- (3) Any person or institution can be enrolled as a regular subscriber to the Tender Bulletin on payment of a fixed fee annually, half-yearly or quarterly as the case may be.

6. Tender Bulletin to contain information only:-

- (1) The Tender Bulletin shall contain only information of the notice inviting tenders.
- (2) Intimation of acceptance of tender shall not in itself create a legal right.
- (3) A notice inviting tender will not be invalidated merely on the grounds that the notice has not been published in the Newspapers.

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

- (a) The Tender Inviting Authority is a secretary to Government, or head of a government department, or the Chief Executive of a Public Sector Undertaking, Statutory board, apex Co-operative Institution, University or State Level Society formed by the Government.
- (b) The value of the procurement is rupees one crore and above.

8. Information to be published in the district tender bulletin:- Subject to the provisions of Rule 10, notices inviting tenders and decisions on tenders shall be published in the district Tender Bulletin of the district where the headquarters of the Tender Inviting Authority is located. Provided that where a value of procurement is rupees one crore and above, it shall also be published in the State Bulletin.

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

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

10. Publication of notice inviting tenders in newspapers:-

- (1) The Tender Inviting Authority shall have the notice inviting tenders published in the Indian Trade Journal in all cases where the value of procurement exceeds rupees ten Crores.
- (2) The number, editions and language of the newspapers in which the notices inviting tenders shall be published will be based on the value of procurement as per departmental rules.
- (3) In cases where publication of Tender Notices is to be done only in Newspapers with circulation within the District, the Information and Publicity Officer of the District shall be the competent authority to release the advertisement shall be the Director of Information and Publicity, Bangalore.
- (4) The Notice Inviting Tender shall be given due publicity in Newspapers and also affixing on notice boards in the District Offices. The Director of Information and Publicity shall publish the Notice Inviting Tenders as per instructions of the tendering department.

CHAPTER - IV

NOTICE INVITING TENDERS AND TENDER DOCUMENTS

11. Technical specifications contained in the tender documents:-

- (1) The technical specifications contained in the tender documents shall include a detailed description of what is proposed to be procured.
- (2) Unbiased technical specifications shall be prepared by observing the following safe guards, 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 Standard 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 or rates and standard data as revised from time to time.

12. Commercial conditions:-

- (1) The tender documents shall require all tenders to pay an earnest money deposit at the rates as per the departmental rules by means of a demand

draft, bankers Cheque, specified small savings instruments or where the procuring entity deems fit, irrevocable bank guarantee in a specified form of the department. The tender documents shall clearly state that any tender submitted without the earnest money deposit be summarily rejected. Provided that any category of 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 performance of the contract, a security deposit be taken from the successful tenderer as per departmental rules.
- (4) The tender documents and the contract shall include a clause for payment of liquidated damages and penalty payable by the tenderer in the event of non-fulfillment of any of the terms 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 Inviting Authority shall ensure that the tender documents are made available to any person who is willing to remit the cost of the documents:
Provided that in the cases where the procuring entity has a system of registration of contractors, the tender documents will be supplied only to registered contractors in the appropriate class.
- (3) The Tender Inviting Authority shall be registered post or courier the tender documents to any prospective tenderer who makes a request for the documents on payment of cost along with postal charges at the risk and responsibility of the prospective tenderer.

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

CHAPTER-V

RECEIPT OF TENDERS AND TENDER OPENING

15. Place and time for receipt of tenders :-

- (1) The Tender Inviting Authority shall ensure that adequate arrangements are made for the proper receipt and safe custody of the tender at the place indicated for the receipt of the tenders.
- (2) The Tender Inviting Authority shall permit the submission of tenders by post or courier: Provided that the Tender Inviting Authority shall not be responsible for any delay in transit in such cases.

- (3) The Tender Inviting Authority may extend the last date and time for receiving tender after giving adequate notice to all intending tenderer 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 tenderer under rule 14 took time;
 - (c) Any other reasonable grounds exist, for such extension which shall be recorded in writing by the Tender Inviting Authority.

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

17. Minimum time for submission of tenders:-

- (1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and minimum time is allowed between date of publication of the notice inviting tenders in the relevant tender bulletin and the last date for the submission of tenders. This minimum period shall be as follows:
- (a) For tender up to Rs two Crores in value, thirty days, and
 - (b) For tenders in excess of Rs two Crores in value, [sixty days].
- (2) Any deduction in the time stipulated under sub-rule(1) has to be specifically authorized by an authority superior to the tender inviting authority for reasons to be recorded in writing.

18. Opening of tenders:-

- (1) All the tender received by the Tender Accepting Authority shall be opened at the time specified in the Notice Inviting Tenders and in cases where an extension of time for the submission of tenders has been given subsequent to the original Notice Inviting Tenders in accordance with sub-rule (3) of rule 15 at the time so specified subsequently.
- (2) The tenders will be opened in the presence of the tenderer or one of the representatives of the tenderer who chose to be present.

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

- (a) All the envelopes received containing tenders shall be counted;
- (b) All the tenders received in time shall be opened ;
- (c) A record of the correction noticed at the time of the bid opening shall be maintained ;
- (d) The name of the tenderer and the quoted prices, should be read out;
- (e) The fact whether earnest money deposit has been made and other documents required have been produced may be indicated, but this shall be merely an examination of the documents and not an evaluation;
- (f) minutes of the tender opening shall be recorded. The signatures of the tenderer present shall be obtained unless any of the tenderer or his representative refuses to sign the minutes.

20. Tenders scrutiny committee:-

- (1) Tender Accepting Authority may constitute a Tender Scrutiny Committee consisting of such officers as it deems fit to scrutinize the tender document, supervise opening of tender carry out the preliminary examination and detailed evaluation of the tenders received and prepare the evaluation report for the consideration of the Tender Accepting Authority
- (2) The Tender Accepting Authority shall constitute Tender Scrutiny Committee, where the value of the tender exceeds Rs five Crores in respect of public works, irrigation department and minor irrigation department and one crore in respect of all the other department

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.

22. Time taken for evaluation and extension of the 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 tenderer 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 tender are passed.
- (2) tenderer shall not make attempt 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 the bear extraneous pressures on the Tender Accepting Authority shall be sufficient reason to disqualify the tenderer.
- (3) Notwithstanding any thing contained in sub rule (2), the Tender Inviting Authority or Tender Accepting Authority or the Tender Scrutiny Committee may seek bonafide clarification from tenderer relating to the tender 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 tender 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 document ;
 - (b) Whether the crucial document have been duly signed ;
 - (c) Whether the requisite earnest money deposit has been furnished ;
 - (d) Whether the tender is substantially responsive to the technical specification 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) The quoted price shall be corrected for arithmetical errors ;
 - (b) In case of discrepancy between the price quoted in words and in figures, lower of the two shall be considered ;
 - (c) Adjustment to the price quoted shall be made for deviations in the commercial conditions such the delivery schedule 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 part of the price.
 - (e) In case of purchase of equipment, the operation and maintenance and spare parts cost 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 first day of April, 2001, Small Scale Industries in the State shall be given fifteen percent price preference in accordance with the New Industrial Policy 2001-2006 issued by the Government in Order No. CI 167 SPI 2001, dated 30th June, 2001 while determining the lowest evaluated price.

Explanation:- For the purpose of this provision Small Scale Industry means an Industrial undertaking in which the investment in fixed assets in plant and machinery whether held on ownership terms or on lease or by hire purchase does not exceed Rs One hundred lakhs]

26. Preparation of evaluation report and award of tenders:

- (1) Tender Scrutiny Committee or the officer Inviting the tender shall prepare detailed evaluation report which shall be considered by the Tender Accepting Authority before taking a final decision on the tender.

- (2) As soon as the tenderer qualified to perform the contract is identified, in accordance with [section 13], The Tender Accepting Authority shall pass orders accepting the tender and communicate the order of acceptance to the successful tenderer. The Tender Accepting Authority shall also send to the Tender Bulletin Officer a statement of evaluation of the tenders with a comparative statement of tender received and decision there on for publication in the Tender Bulletin.
- (3) within such reasonable time as may be indicated in the tender document, the tenderer whose tender has been accepted will be required to execute the contract agreement in the specified format.
- (4) In case the successful tenderer fails to execute necessary agreement under sub-rule (3) within the period specified, then Earnest Money Deposit shall be forfeited and his tender held as non-responsive.

27. Pre-qualification Procedure :-

- (1) The Tender Inviting Authority shall for reasons to be recorded in writing provide for pre-qualification of tenderer on the basis of :
 - (a) Experience and past performance in the execution of similar contracts;
 - (b) Capabilities of the tenderer with respect to personnel, equipment and construction or manufacturing facilities;
 - (c) financial status and capacity
- (2) only the tenders of pre-qualified tenderer shall be considered for evaluation : [provided that notwithstanding anything contrary contained in these Rules, The Tender Inviting may adopt the list of pre-qualified tenderer empanelled by the directorate of Information Technology, Government of Karnataka in respect of Computer, Peripheral and related services and call for price bids from all such pre-qualified tenderer and the price bids received from the pre-qualified shall be considered for evaluation by the Tender Accepting Authority, so far as may in accordance with these Rules]

28. Two Cover Tenders:

- (1) In the case of construction or supply and installation of equipment, tenders exceeding rupees fifty lakhs in value where the pre-qualification procedure or Turn Key Tender System are not being followed the Tender Inviting Authority shall follow the two-cover tender system
- (2) The first cover shall contain the following information about the tender 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 the capacity;
 - (d) Any other information considered relevant.
- (3) The second cover shall contain the prices quoted by the tenderer
- (4) The Tender Inviting Authority shall cause the first cover to be opened first and evaluate the tenderer capacity on the basis of criteria specified in a tender document and on this basis, prepare a list of qualified tenderer.

- (5) Thereafter, the Second cover containing the price quotation of only those tenderer qualified under sub-rule(4) shall be opened by the Tender Inviting Authority
- (6) The Tender Inviting Authority shall follow the procedure outline in rule 25 and 26.

CHAPTER VII

APPEALS

29. **Appeals:-** An **appeal** under [section 16] shall lie:

- (a) To the head of the department concerned if the order is passed by the Tender Accepting Authority sub-ordinate to the Head of Department:
- (b) To the Government if the order is passed by a Tender Accepting Authority which is Head of Department, or a Local Authority or State Government Undertaking or a Board, Body Corporation or any other Authority owned or controlled by the Government.

THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENT (AMENDMENT) RULES, 2001

NOTIFICATION

[No.PWD/22/FC-3/2001 Bangalore:1-3-2001]

In exercise of the powers conferred by the section 25, of the Karnataka Transparency Public Procurements Act, 1999 (Karnataka Act 29 of 2000) The Government of Karnataka hereby makes the following rules to amend the Karnataka Transparency in Procurement rules, 2000 namely:

1. **Short title and commencement:** These rules may be called the Karnataka Transparency in public Procurements (Amendment) Rules, 2001. (2) They shall come into force on the date of their publication in the official Gazette.
2. **Amendment of Rule 27:-** In Rule 27 of the Karnataka Transparency in the Public Procurement Rules, 2000, after sub-rule(2), the following provision inserted namely: "Provided that notwithstanding anything contrary contained in these rules the Tender Inviting Authority may adopt the list of pre-qualified tenderer 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 pre-qualified tenders and the price bids received from the pre-qualified tenderer shall be considered for the evaluation by the tender accepting authority, so for as may be in accordance with these rules."

By order and in the name of Governor of Karnataka

K.R.BADIGER,
Under Secretary to Government,
PWD (Finance Cell)
Public works Secretariat

[Notification No.PWD 154 FC-3/2001 (Part-I), Bangalore, Dated,2nd April 2001]

In exercise of powers conferred by section 25 of the Karnataka Transparency in Public Procurement Act, 1999 (Karnataka Act 29 of 2000) The Government of Karnataka hereby makes the following rule further to amend the Karnataka Transparency in Public Procurements rules, 2000 namely:

1. **Title and commencement: These rules** may be called the Karnataka Transparency in public procurement (Amendment) Rule, 2001 (2) They shall come into force on the date of their publication in the official gazette.
2. **Amendment of Rule 26 :** In rule 26 of the Karnataka Transparency in public procurement rule, 2000, (herein after referred to as the said rules) in sub-rule(2) for the words and figures " section 12 " the word figures " section 13 " shall be substituted.
3. **Amendment of Rule 29:** In rule 29 of the said rule, for the word and figures "section 15 " the words and figures " section 16 " shall be substituted.

By order and in the name of Governor of Karnataka,
K.R.BADIGER,
Under Secretary to Government,
PWD (Finance Cell)

[Notification No. PWD 389 FC-3/2001 Bangalore, Dated 30th August 2001]

In exercise of Powers conferred by Section 25 of the Karnataka Transparency in Public Procurements Act, 1999 (Karnataka Act 29 of 2000) the Govt. of Karnataka here by makes the following rules further to amend the Karnataka Transparency in Public Procurement Rules, 2000, namely:

1. **Title and commencement:-**(1) **These** Rules may be called the Karnataka Transparency in public Procurements (Third Amendment) Rules, 2001. (2) They shall come into force from the date of their publication in the Official Gazette.
2. **Amendment of Rule 25:-** In **Rule 25** of the Karnataka Transparency in Public Procurement Rule, 2000, in sub-rule (2), the following shall be inserted at the end, namely: "Provided that for a period of five years from the first day of April 2001, Small Scale Industries in the State shall be given fifteen percent price preference in accordance with New Industrial Policy 2001-2006 issued by the Government in Order No. CI 167 SPI 2001, dated 30th June 2001 while determining the lowest evaluated price.

Explanation:-For the purpose of this proviso Small Scale Industry means an industrial undertaking in which investment in fixed assets in plant and machinery whether held on ownership terms or on lease or by hire purchase does not exceed rupees one hundred lakhs."

By order and in the name of Governor of Karnataka,
K.R.BADIGER,
Under Secretary to Government,
PWD (Finance Cell)

CIRCULARS AND CLARIFICATIONS
Public Works Department
CORRIGENDUM

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

Subject: Karnataka Transparency in Public Procurement Rules, 2000.

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

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

Sl No.	Page No.	Line	For	Read
1	7	19	30 days	60 days

By order and in the name of Governor of Karnataka,
K.R.BADIGER,
Under Secretary to Government,
PWD (Finance Cell)

CIRCULAR

No. PWD/33/FC-III/2001 Bangalore, Dated:21st March 2001

Sub: Clarifications regarding Karnataka Transparency in public Procurement Act, 1999 and Rules, 2000-reg.

The departments are already aware of KTPP Act, 1999 and Rules, 2000 issued in this behalf. Some of the Deputy Commissioners and Departments have sought clarification on some issues. Accordingly following clarifications are brought to notice of all the concerned.

1. Regarding printing of Tender Bulletin: It shall be printed like a booklet covering the information as mentioned in Rule 7&8 and it should be distributed as per Rule 5. It need not be printed either in the Gazette or in Newspaper. It shall be printed by the Tender Bulletin Officer through Govt. Printing Press or in Private Press after following procedures/Rules as applicable.
2. Publication of Tender Bulletin: Tender Bulletin shall be published at least once in every week. In case of urgency an extraordinary bulletin shall be published after following procedures as per sub rule(4) of Rule 4. If in a particular week there is no information to publish in the Tender Bulletin, then a 'Nil' report be published and circulated.
3. Content of the Tender Bulletin: The Tender Notice as per Rule 9 published by each Tender Inviting Authority shall be printed in the bulletin as it is. Further Tender Bulletin shall also contain information as given by the Tender Inviting/Accepting Authority as it is as per Rule 8 and Sec. 8 of the Act. As per Sec. 8 of the Act, the Tender Bulletin Officer after receipt of Notice of Acceptance of tender under Sec.13 of the Act or rejection of tender under Sec.14 of the Act shall be publish in the bulletin. So part-A of the bulletin shall contain tender inviting notices, part-B should contain order relating to tender acceptance and Part-C shall contain orders relating to general rejection of tender.
4. Budget provision for printing of Tender Bulletin and fixing cost of it: Govt. will make separate provision for Tender Bulletin expenditure. Cost of the Bulletin should be fixed at Rs. 1.00 per page and total cost per copy depends upon the total pages of the bulletin.
5. Procedures to be followed for purchase below Rs. 5 lakhs by Govt. Depts. and below Rs 2 lakhs for water supply and school buildings and below Rs.1 lakh for other works by the local bodies: Any procurement of goods and services below Rs. 5 lakhs in case of govt. Dept. and below Rs. 2 lakhs in case of water supply and school building and below Rs. 1 lakh for other works in case of local bodies shall be followed as per existing applicable Rules/Procedures/Codes of the Dept. as followed earlier to the Act as mentioned in Sec, 26 of the Act. However following tender procedure is not banned for procurement below the above monitory limit.
6. Procurement of goods and services from Govt. Depts., Public Sector Undertakings, Boards, Corporations: For any procurement through Public Sector Undertaking, exemption for 2 years from the date of publication of this Act is applicable as per sec.4 (d) of the Act, It should be ensured that such Undertaking manufactures the particular goods or render the service without subletting to any other private agency, For example KSIMC is not a manufacturing unit. Therefore, the above exemption clause does not apply

to it. Public Sector Undertakings include not only state but also Central Public Sector Undertakings.

7. Procurements of goods from DGSD firms and rate contract fixed by SPD: Under sec. 4(f), exemption is available if procurement is through DGSD firms and rate contract fixed by SPD.
8. Application of KTPP Act/ Rules in case of MPLAD scheme: Under the guidelines of MPLAD, the existing Procedures/ Rules of the state have to be followed. Therefore, for any work taken up beyond the monetary limit of Rs. 5 lakhs in case of Govt. Dept. and Rs 1 lakh in case of other works and Rs. 2 lakhs in case of water supply and school buildings by ZPs/Local bodies, this Act and Rules are applicable until any change in system.
9. Application of KTPP Act/Rules in case of other centrally sponsored by schemes, like Swarna Jayanthi scheme, Shahari Rozgar Yojana, Udyoga Bharavase Yojana etc. If in the guidelines of the scheme itself entrustment of work to contractors is banned, then the KTPP Act/Rules does not apply. Otherwise it has to be followed.
10. Publication of Extraordinary Tender Bulletin in case of emergency: Under sub-rule (4) of Rule 4 it is indicated that the D.C himself may record in writing the reasons for such extra ordinary bulletin and issue the same. In case of state Tender Bulletin, Approval of the concerned Secretary to Govt. is required.

All the Secretaries to Govt. and Departmental heads are once again requested to direct the procurement entities under their control to follow the KTPP Act, 1999 and KTPP, Rules, 2000 scrupulously. Anybody violating the provisions of the Act and Rules is liable of penalty as per sec.23 of the Act.

C.GOPALA REDDY

Principal Secretary Finance Department

NOTIFICATION

No. PWD 513 FC-III/2001 Bangalore, Dated 29th October 2001

Sub: KTPP Act, 1999 and KTPP Rules 2000 Clarifications regarding new amendment of the Act.

Ref: Circular No. PWD 33 FC-IW2001. Dated 21.03.2001

The Government Departments, The public sector undertakings, Local Authorities, and Autonomous Institutions are aware of Karnataka Transparency in Public Procurement Act, 1999 which came into effect from the fourth October 2000. The Karnataka Transparency in Public Procurement Rule, 2000 have been Published in the Karnataka gazette (part-IV-A) Dated 24.10.2000. The Finance Dept has issued certain clarification vide circular No. No.PWD 33FC-III/2001,Dt. 21.03.2001

1. The Procurement entities are aware of recent amendment made to KTPP Act, 1999 called KTPP (amendment) Act, 2001 vide notification No. 2001 Dated 25.08.2001 Published in Extraordinary gazette Dated 25.08.2001. by the said amendment act earlier clause(e) of section 4 is substituted by new clauses (e) and (ee).
2. The new clause (e) of section 4 provides that, the act does not apply. where the procurement is made by the Government dept, state Government Undertaking or any Board, body or corporation establish by or under any law and owned or controlled by the Government or Zilla Panchayats, city Municipal Corporations or City Municipal Councils or the Hyderabad Karnataka areas development board or Malnad area development board or the Bayaluseeme development Board. (i) In case of construction of all types the value of which does not exceed rupees 5 lakhs (ii) In case of goods and services, other than the construction works, the value of which does not exceed rupees 1 lakhs
3. Further new clause (ee) of section 4 provides that the KTPP Act does not apply, where the procurement of the goods or services in by the Grama Panchayats, and Taluk Panchayats, Town Municipal Council or Town Panchayats or Urban development Authorities, (i) For the purpose of implementing mini water supply scheme or construction of school rooms and the value of such procurement does not exceed rupees 2 lakhs, and (ii) For other purposes and the value of such procurement does not exceed rupees 1 lakh
4. **After the amendment of the Act stated as above, several dept/Agencies have sought the finance dept clarifications of the following :** (i) whether the piece work can be taken up within the limit mentioned in the Amended Act? (ii) whether departmental work can be taken up within the limit mentioned in the Amended Act? (iii) Whether tender procedures to be followed for procurement within the above limit and whether exemption is allowed only for publication of Tender Bulletin and other procedures as per KTPP Act? (iv) The procedures to be followed for the procurement within the limit given in the amendment i.e. Rupees Five lakhs, Rupees Two Lakhs as the case may be.

5. The above points have been examined and following clarifications are issued:

- i. S.26 of the KTPP Act, 1999 provides as follows :
"All rules, regulations orders, notifications departmental codes, order manual bye-laws, official Memoranda, Circular or any other order made or issued before the commencement of this Act and in force on the date or such commencement providing for or relating to any of the above matter for furtherance of which this Act is enacted shall continue to be in force and effective as if they are made under the corresponding provision of this Act, to the extent they are not inconsistent with the provisions of the act and unless and until superceded by anything done or any action taken or any rule, notification or order, is made under this Act ."
Therefore, wherever the KTPP Act does not apply the provisions of already practiced procedures in force before coming into force of the Act shall continue to be followed. Hence, while taking up construction work upto rupees 5 lakhs, or rupees 2 lakhs as the case may be, the procedure followed earlier i.e. before the commencement of this Act shall continue to be follow. Piece work is allowed only upto a limit of rupees 1 lakh as specified in PWD code and G.O.No.PWD 1 FCR 93,dt: 15.12.1994 and not beyond it. However for taking up construction works below Rs. 5 lakhs, Rs 2 lakhs as the case may be and for procurement of goods and services below Rs 1 lakh. Normal tender procedure needs to be followed.
- ii. Construction of work upto Rs 5 lakhs or Rs 2 lakhs as the case may be taken up if it is allowed in depts., PSUs, Local Authorities and if there is no ban order. for example : water resources dept has banned to take up works departmentally.
- iii. The amend Act allows exemption only from following provision of KTPP Act and rules for the following cases.
 - (1) Construction of works upto Rs 5 lakhs (for depts, PSUs, Local Authorities and other Agencies mentioned at para 3 above)
 - (2) For implementing mini water supply scheme or construction of school upto Rs 2 lakhs (for Local Authorities mentioned at para 4 above)
 - (3) For procurement of goods and services upto Rs 1 lakh (For Government Departments, PSUs, Local Authorities and also other institutions mentioned at para 3 & 4 above). As per this, Government Department and other institutions mentioned can purchase materials only upto Rs 1 lakh without following procedures of KTPP Act /Rules. A Comparative chart showing provision existed under section 4 (e) of KTPP Act, 1999 and provisions existing under section 4 (e) and 4 (ee) of KTPP (Amendment) Act, 2001 is enclosed. In above cases Government Departments, PSUs, Local Authorities and other organizations as mentioned above shall follow all required normal tender/purchase procedure which were followed prior to commencement of the KTPP Act, But only the exemption is given from following the provision of KTPP Act/Rules.

- iv. In all cases referred to above [1,2 & 3 of (iii)] only the provision of KTPP Act/ Rules does not apply, but normal departmental rule, regulations, codal provision and normal tender procedure which were followed prior to commencement of KTPP Act/ Rules have to be followed.

C.GOPALA REDDY

**ACS & Principal Secretary Finance Department
Finance Department.**

Comparative chart regarding provision existed under section 4(e) of KPTCL Act, 1999 and provision as existing under section 4 (e) and 4 (ee) of KTPP (Amendment) Act, 2001.

Procurement entities	Provision existed under section 4(2) of KTPP Act 1999		Provision existing under section 4 (e) and 4 (ee) of KTPP (Amendment) Act, 2001	
	Civil Construction works	Procurement of goods	Civil Construction works	Procurement of goods
Govt. Departments	Up to Rs. 5.00lakhs	Up to Rs.15.00lakhs	Up to Rs.5.00lakhs	Up to Rs1.00lakh
State PSUS, Boards Corporation	Nil	Nil	UptoRs.5.00lakhs	Up to Rs1.00lakh
Zilla Panchayats City Municipal Corporations City Municipal Councils, HKDB ,MADB, BSDB	Up to Rs. 2.00lakhs (for mini water supply scheme & school buildings) Upto Rs. 1.00lakhs for other works	Up to Rs.1.00lakh	UptoRs.5.00lakhs	Up to Rs1.00lakh
Grama Panchayats Taluk Panchayats, Town Municipal Councils, Town Panchayats and Urban Development Authorities	Upto Rs.2.00Lakhs (for mini water supply scheme & school buildings) Upto Rs.1.00 lakh (for othe works)	Up to Rs 1.00lakh	Up to Rs 5.00lakhs (for mini water supply scheme & school buildings) Upto Rs.1.00lakh (for other works)	UptoRs2.00lakhs

NOTIFICATION

No. PWD 513 FC-1I1/2001 Bangalore, Dated 29th October 2001

Sub: KTPP Act 1999 and KTPP Rules 2000 Clarifications regarding new amendment of the Act.

Ref: Circular No. PWD 33 FC-IIU2001. Dt: 21.3.2001

The Government Departments, the Public Sector Undertakings, Local Authorities, and Autonomous institutions are aware of the Karnataka Transparency in Public Procurements Act, 1999 which came into effect from 4th October 2000. The Karnataka Transparency in Public Procurements Rules, 2000 have been published in the Karnataka Gazette (Part-IV-A) dated: 24.10.2000. The Finance Department has issued certain clarifications vide Circular No. No. PWD 33 FC-III/2001, dt: 21.3.2001.

2. The procurement entities are aware of recent Amendment made to KTPP Act, 1999 called KTPP (Amendment) Act, 2001 vide Notification No. 2001 dated 25.8.2001 Published in Extraordinary Gazette dated 25.8.2001. By said amendment Act, earlier clause (e) of Section 4 is substituted by new clauses (e) and (ee)
3. The new clause (e) of Section 4 provides that, the Act does not apply, where the procurement is made by the Government Departments, State Government Undertakings, or any Board, Body or Corporation established by or under any law and owned or controlled by the Government or Zilla Panchayats City Municipal Corporations or city Municipal Councils or the Hyderabad Karnataka Areas Development Board Or Malnad Area Development Board Or the Bayaluseeme Development Board.

NOTIFICATION

No. PWD 33 FC-III/2001Bangalore, Dated 10th December 2001

CIRCULAR

Sub: Clarifications regarding Karnataka Transparency in Public Procurements Act, 1999 and Rules, 2000-reg. Printing of 'Nil' Bulletin.

Ref: Circular No. PWD 33 FC-III/2001. dt:21.3.2001

In circular No. PWD 33 FC-III/2001 dt:21.3.2001 at para 2 it was asked that if in particular week there is no information to publish in tender bulletin, then a 'Nil' report be published and circulated. Now the Dept. of PA&L has opined that there is no provision under Rule 4,6&7 of KTPP Rules, 2000 for publishing 'Nil' report of tender bulletin. It is therefore considered to delete the following from para 2 of the circular. "If in a particular week there is no information to publish in the tender bulletin, then a 'Nil' report be published and circulated." All the Tender Bulletin Officers are hereby informed that they should not publish and circulate 'Nil' report of tender bulletin if there is no information in a particular week.

(CHIRANJEEVI SINGH)
Principal Secretary,
Finance Department

NOTIFICATION

No. PWD 389 FC-3/2001 (Part) Bangalore, Dated 30th January 2002

CIRCULAR

- Sub:** Price Preference to SSI units - Amendment to KTPP Rules, 2000-Clarification reg
Ref: Notification No. PWD/389/FC-3/2001 Date 30-08-2001 (2) V.O. Note No. CI 167 SPI 2001 dt:02.01.02

The C&I Dept, has requested the F.D to modify the notification dated 30.08.2001 relating to 15% prices preference to the small scale industries as it is affecting a large number of SSI units while quoting for tenders along with Large & Medium Industries from within and outside the state.

In Rule 25 of KTPP Rules, 2000 it is mentioned about the procedures to be followed for determination of the lowest evaluated price. As per the said rule the lowest quoted tender only should be accepted. The C&I Dept. had requested to amend the KTPP Act, 1999 to consider the tenders of the small scale industries of the state giving 15% price preference as announced in the new industrial policy. Accordingly the matter was examined in consultation with the dept. of Parliamentary affairs and legislation and the notification No. PWD 389 FC-3 : 2001 dt:30.08.2001 was issued. In the said notification it was indicated that the period of five years from 01.04.2001 Small scale Industries of the state shall be given 15% price preference in accordance with the new Industrial policy, 2001-2006 issued by the GO No. CI 167 SPI 2001 dt:30th June 2001 while determining the lowest evaluated price.

It appears that many procurement entities have been interpreting the above notification differently and this has affected the finalization of the tenders. Therefore following clarification are issued in respect of the above notification relating to 15% price preference to be considered while determining the lowest evaluated price in respect of Small Scale Industries for finalizing the tender.

2. Upto 15% preference for evaluation should be allowed to SSIs of the state who have quoted in the same tender application, the 15% price preference should be calculated on basis of the lowest quoted rate if it is quoted by a large or a medium industry/SSI of another state
3. The lowest bids by the SSI unit with in the 15% price preference range shall be deemed to be the lowest evaluated price and shall be given preference for awarding the tender.
4. The following illustration is given to make it clear :

L1	L2	L3	L4
L&MI/SSI of another state Rs. 100	SSI. of the state Rs.108	SSI of the state Rs.112	SSI. of the state Rs.115

5. Range of price preference is up to Rs. 115, ie, Rs 100+15% of Rs. 100.
6. The SSI unit L2,L3&L4 are eligible to be considered. Tender is to be awarded to L2 at Rs. 108 as it is the lowest evaluated price.

7. Accordingly all the procurement entities as hereby asked to follow the above procedure, while determining the lowest evaluated price of SSI units of the state.

(CHIRANJIV SINGH)
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