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Copy of:

Office of the Engineer-in-Chief, WRO and Chief Engineer (General) PWD,  
Chennai.

Memorandum No. MD0/ (A)/59685/2000-8 dated the 17th Sept. 2001

Present: Er. S. Sivaraman, B.E., M.B.A., F.I.V.,  
Engineer-in-Chief, WRO & Chief Engineer (General) PWD.

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Sub: Tenders - The Tamilnadu Transparency in Tenders Act 1998  
and the Tamilnadu Transparency in Tender Rules, 2000 -  
Guidelines on follow-up actions - issued of - Regarding.

- Ref: 1. The Tamilnadu Transparency in tenders Act, 1998.  
 2. The Tamilnadu Transparency in tenders Rules, 2000  
 3. Memo.No.CTO/1/59685/2000-2 dated 16.10.2000  
 4. ~~...~~ (3)/59685/2000-5 dated 19.10.2000.

The attention of all the officers of this department is invited  
to the Tamilnadu Transparency in Tenders Act, 1998 and the Tamilnadu  
Transparency in Tenders Rules, 2000 which stand communicated to them  
for cover of the references third and fourth read above. By this  
time they could have studied them in depth and put into practice,  
in letter and spirit.

Further to this, the guidelines scripted in the succeeding  
lines, are hereby issued to accomplish uniformity:-

GUIDELINES FOR ENSURING TRANSPARENCY IN TENDERS:

Section 7 of the Act:

This section, deals with the appointment of tender inviting  
authority and tender accepting authority. At present, the  
Executive Engineers and Executive Engineers invite as well as accept  
tenders. The Chief Engineer, Board of Engineers and the Tender  
Award Committee exercise only administrative powers in accordance  
with approval for the acceptance of tenders if the value and/or price  
exceeds the prescribed limits that are enunciated in the departmental  
codes.

Henceforth, the officers, as specifically indicated below,  
in tune with the spirit of Section 7 (of the aforesaid Act), will function  
as Tender inviting Authorities and Tender accepting Authorities.

Tender Inviting Authority:

- Executive Engineer .. For works up to the value of Rs.10 lakhs
- Superintending Engineer .. For works with a value exceeding  
Rs.10 lakhs.

Tender Accepting authority:

- Executive Engineer .. For works upto the value of Rs.10 lakhs
- Superintending Engineer .. For works upto the value of Rs.30 lakhs
- Chief Engineer ..
- Board of Engineers ..
- Tender Award Committee .. According to the powers vested  
with them already.

Sections 5, 6 & 9 of the Act.  
Sections 5 to 11 of the rules.

...2..

According to rules 8 and 9 of the Act, the notices (inviting tenders) should be published in the District Tender Bulletin for the value of which fall in between Rs.5 lakhs and Rs.25 lakhs in the State Tender Bulletin, if the value exceeds Rs.25 lakhs. Rule 11, provides for publicising of such notices (inviting tenders) in News Papers also.

In view of the provision contained in rule 7 that tender bulletin shall contain only information of the notice inviting tenders, the Executive Engineers and Superintending Engineers are advised to adhere to the format which satisfies rule 10 by furnishing the details warranted, for the notices (inviting tenders) to be publicised in the tender bulletins. As far as the publicity through the other wing of the print media, that is, through News Papers in the existing format of notice (inviting tenders) shall be retained, the adoption for publicising at both the District and State level.

It is emphasised that the Executive Engineers need have to forward the Notices (inviting tenders) for all works costing above Rs.5 lakhs, to the District Tender Bulletin Officers, even though it may not be necessary to publicise the tender notices in the Newspapers upto Rs.10 lakhs as per existing orders.

**Rule 14:**

**Commercial conditions:-**

The rule 14(1) generally fixes the Earnest Money Deposit as not exceeding one percent of the value of procurement. Hence, the existing pattern of working out and fixing Earnest Money Deposit at one percent up to the procurement value of Rs.20 lakhs and at half percent for the value (of procurement) exceeding the quantum of Rs.20 lakhs shall be continued.

A Provision has been made for paying Earnest Money Deposit in the form of irrevocable bank guarantees wherever the Procuring Entities and authorities deem such a mode of payment as fit. The Government has issued orders, in G.O.Ms.No.283/Public works Department dated 21.5.99, permitting acceptance of Irrevocable Bank Guarantee for remittances towards Security Deposits. The Superintending Engineers and Executive Engineers are requested to notify the form of Irrevocable Bank Guarantee as one of the modes of remittances for security deposits for works.

The rule 14(3)(a) alters the existing quantum of security deposit payable at not exceeding five percent. As the security deposit now collected (including LMD) at 2% is well within the limit of 5%, the officers shall continue to maintain the existing level of security deposit at 2%. The Tender Rule 14(3)(b) made a provision for one time deposit only. Therefore, the orders issued in G.O.Ms.No.1646, Public works Department, dated 06.10.1991 which permitted recovery of further security in three instalments stand superseded.

The rule 14(4)(c) enunciates to withhold a sum not exceeding 10% of the total value of the contract to command effective performance by the contracting agencies.

In as much as the quantum of 5% of the total value of contract that is being withheld as of now is well within the maximum of the limit fixed in this rule (14(4)(c), the present practice of withholding five percent of the total value of contract as security deposit could be sustained.

Rule 14(9) requires introduction of a price adjustment clause in the contracts where the period of execution exceeds eighteen months. In view of the above, it is mandatory to introduce a price adjustment clause based on a prescribed formula. The Superintending and Executive Engineers shall introduce a condition to that effect in the tender document for the works, the period of execution of which exceeds eighteen months and above. A model clause, on discussion and approval by the Board of Engineers of PWD, will, separately, be communicated in due course.

#### Rule 14(9)

This rule enables the Tender Accepting Authority to vary quantity (of work) finally ordered to the extent of twenty five percent on either sides of the requirement that was indicated in tender documents.

The Superintending Engineers and Executive Engineers are informed that they should not order deviation in quantity (of work) as a matter of routine but should also unfailingly obtain the written permission of the Competent Authority who sanctioned the estimate even for the variations upto 2%.

#### Rule 16:

##### Copy of Tender Documents:

The rule 16(3) provides for sale of tender documents (1) at office of the tender inviting authority and (2) at any other office as indicated by the procuring entity.

As such, the tender documents shall, in future, could be ordered to be sold to prospective buyers at both the offices of the Superintending Engineers and Executive Engineers concerned whenever the Superintending Engineers invite tenders for works. Furthermore, it is emphasised that Notices inviting tenders should be publicised immediately after keeping the tender documents ready for sale.

#### Rule 20:

##### Minimum time for submission of Tenders:

This rule requires pointed attention of the Superintending Engineers and Executive Engineers, since it comes as a mandatory requirement that minimum time for submission would be from the date of publication in the relevant tenders bulletin or Newspapers "which is later".

The rule 5 requires publication in the District and State bulletins once in every week. As publicising in Newspapers can be arranged within a specified period and date, ensuring of publication in the tender bulletins concerned will require attention.

The Officers of the department are advised to be vigilant to send the Notice inviting Tenders to District/State Bulletin Officers first and to synchronise the date of publicising in the Newspapers with the date of publication of the NIT in the Bulletin concerned. Another important change worthy of attention is that the existing monetary limit of Rs.1.00 crore has been enhanced to Rs.2.00 crore with 15 days time. Any reduction in time-limit has to be specifically authorised by an authority superior to the Tender Authority for reasons to be recorded in writing.

22:

Procedure to be followed at the time of opening of tenders:

Besides the existing system of obtaining signature of the tenderer (present) in the tender register, minutes of the tender opening, containing details of tender notice number, date, number of tenders for which tenders were invited, total number of covers received, number of tenders received for each work, the information of reading of amount quoted/percentage, etc. shall be recorded and full signature of the Tenderers who were present during the opening of the tenders shall be obtained.

Rule 24:

Tender Scrutiny Committee:

The rule 24 requires constitution of tender scrutiny committee. The Superintending Engineers and Executive Engineers are required to issue formal orders (with reference to rule 24) constituting tender scrutiny committees in their offices, to perform the duties specified under rule 22, 28 and 30, if not done already.

Rule 30:

Preparation of Evaluation Report:

The rule 30(1)(2) requires preparation of evaluation report by the Tender Scrutiny Committee in a standardized format.

Section 10:

The Act provides for publishing the name and address of the tenderer whose tender was accepted and the reasons for rejecting the other tenders in the state or district tender bulletins. The orders of the department may note that this changes the present practice and nullifies the stipulation (safety clause) that any or all tenders might be rejected without assigning any reason.

Therefore, all the Tender Accepting Authorities shall intimate the name and address of the lowest responsive Tenderer whose tender was accepted together with the particulars of amount, percentage, and similar particulars in respect of other tenderers with reasons for not accepting their tenders to the Tender Bulletin Officer concerned. This shall be done on the day when the acceptance of tender is communicated.

Section 11:

This section offers a right of appeal to the aggrieved tenderer. Since the decisions of Superintending Engineers and Executive Engineers will stand the test of scrutiny by the higher authorities, the officers have to ensure that the procedures prescribed in rules 25 to 30 are followed scrupulously and records maintained well.

Sd/-xx

for Engineer-in-Chief, WRO, and  
Chief Engineer (General) PWD, Chepauk,  
Chennai. 600 005.

To

1. All the Superintending Engineers of Circles in WRO, PWD.

- 1. All the Superintending Engineers of Circles in Buildings Organisation, PWD.
- 2. All the Executive Engineers of WRO (including Tank Modernisation)
- 4. All the Executive Engineers of Buildings Organisation (including Electrical)

Copy to:

1) All the Regional Chief Engineers of WRO, PWD.

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Office of the Executive Engineer, WRO, PWD,  
Kodayar Basin Division, Nagercoil.

Lr.No.D3/M.56/2401<sup>S</sup>/2001 dt.5.10.2001.

Forwarded to all Asst. Executive Engineers for information.  
and necessary action.

cc D.B. Members  
Sr.D.O., P.A. & D.A.

Sd/ -G.Copalakrishna Raja,  
Executive Engineer, WRO, PWD (i/c)  
Kodayar Basin Division, Nagercoil.

The Section Officer should note here the reasons for the short or excess out-turn, if any, including the condition of the plant in parentheses.

/t.c.f..c./

Section Officer

Sr. Draughting Officer. \_\_\_\_\_ Date

*[Handwritten signature]*