



**FINANCE [Salaries] DEPARTMENT**  
**Secretariat**  
**Chennai-600 009.**

Letter No.330/Secy.(Expr)/2017, dated:13.09.2017

From  
Thiru M.A. Siddique, I.A.S.,  
Secretary to Government (FAC)

To  
All Secretaries to Government  
All Heads of Departments  
All Statutory Boards/State Public Sector Undertakings/  
Co-operative Federations

Sir/Madam,

Sub : Tenders-Evaluation of Tenders-Certain Clarifications-Issued.

Ref : G.O (Ms) No. 215, Finance (Salaries) Department,  
dated 13.07.2017 (TNGGE No. 228, dated  
13.07.2017).

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After the enactment of the Central Goods and Services Act 2017, the State Goods and Services Act 2017 and the Integrated Goods and Services Act 2017, there has been a complete change in the indirect tax system in the Country and in the State of Tamil Nadu with effect from the appointed date of 1<sup>st</sup> July 2017.

2. Certain difficulties have arisen on account of this change of tax regime in Government contracts. It has been brought to the notice of the Government that some procuring entities that have called for tenders prior to the appointed date are not evaluating tenders due to lack of clarity on the manner in which tenders have to be evaluated after the regime change.

3. In the Government Order cited above, amendments to Rule 29 of the Tamil Nadu Transparency in Tenders Rules, 2000, have been notified, providing that evaluation criteria shall include SGST, CGST, IGST and all central duties such as customs duty. This notification states that these amendments shall be deemed to come into force on 1<sup>st</sup> July 2017. There have been enquiries regarding whether tenders that have been opened prior to 1<sup>st</sup> July 2017 and yet to be awarded should be evaluated as per the revised rules.

4. The Tamil Nadu Transparency of Tenders Act, 1998 and the rules framed thereunder regulate the procedure for inviting and accepting tenders, to provide transparent means for selecting the supplier of works,

goods or services as the case may be. The corner stone of the Act is Section 10 which requires that the tenders should be evaluated on the basis of evaluation criteria stated in the tender document. Thus, after the last date of submission of bids is over, the Act requires that there should be no change in the evaluation criteria for selection of the bidders.

5. It is, therefore, now clarified that the tenders for which the last date of submission of bids is prior to the appointed date of 1<sup>st</sup> July 2017, shall be evaluated based on the criteria mentioned in the tender documents, strictly in accordance with Section 10 of the Tamil Nadu Transparency of Tenders Act, 1998.

6. However, after identification of the lowest tender as per the said Act and Rules, it must be ensured all taxes subsumed under GST are carefully deducted to arrive at the value of supply under the GST laws, and the agreements should provide for payment of value of supply plus applicable GST. The tender scrutiny committees and Tender Accepting Authorities must note that there would have been a tendency on part of the bidders to understate the tax components while giving break up of their quotes under Rule 14(7) of the Tamil Nadu Transparency of Tenders Rules, 2000, to maximize the value of supply. Therefore, while negotiating with lowest tender, care must be taken to estimate the value of taxes subsumed under GST that L1 has quoted in the break up details and in case, it is found to be under stated, adjustments should be made to arrive at value of supply.

7. To illustrate, if L1 has quoted price of Rs.100 lakh (inclusive of taxes) and has understated tax at only Rs. 2 lakh, while the expected tax subsumed under GST is 12 percent, the value of supply should be treated as  $\text{Rs.100 lakh} \times \frac{100}{112} = \text{Rs.89.20 lakh}$  rather than Rs.98 lakh. Price negotiation should start at Rs.89.20 lakh and not Rs.98 lakh.

8. It may be also be noted that for the procurements under Externally Aided Projects (EAP), Section 15 of the Tamil Nadu Transparency in Tenders Act 1998, restricts the applicability of the Act only to the extent its provisions are not consistent with the procedures prescribed by Funding Agencies. Where tenders for EAPs are required under the corresponding procurement guidelines to be evaluated without taking the domestic taxes into account, the introduction of GST regime has no effect on the manner in which tenders are evaluated and the lowest bidder is finalized.

Yours faithfully,



for Secretary to Government (FAC)

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