

GOVERNMENT OF KARNATAKA

PWD 1359 SO/FC 2001(P-2)

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, Dated: 25th October 2002

C I R C U L A R

Subject: Awarding of contracts to the lowest evaluated technically and Commercially responsive tenderer meeting the prescribed Qualification criteria including tender capacity and past Performance.

It has come to the notice of the Government that some Procurement Entities are adopting the practice of splitting the contract (particularly in Goods contracts) among all or some tenderers by offering the price of the lowest tenderer to others and dividing the quantity of Supply evenly or in other proportion. Such practices undermine the rationale of competitive bidding, promote collusion and go against the provisions of the KTPP Act and Rules.

The provisions of the KTPP Act and Rules provide for only the acceptance of the lowest tender. The lowest evaluated responsive tenderer deserves the full award, if he has satisfied the stipulated qualifying criteria.

The following Provisions in the KTPP Act and Rules are brought to the notice of all Procurement Entities:

- (1) Section 13 of the Karnataka Transparency in Public Procurement (KTPP) Act 1999 lays down that "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 Tender Bulletin Officer"

- (2) Rule 21, Chapter VI of the KTPP Rules 2000 stipulates that "The Tender Accepting Authority shall cause the evaluation of tenders to be carried out strictly in accordance with evaluation criteria indicated in the tender documents"
- (3) Rule 24, details the procedure for the initial examination of tenders to determine substantial responsiveness.
- (4) Rule 25, explains the procedure for determination of the lowest evaluated price.
- (5) Rule 26 (1) stipulates that "The 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."
- (6) Rule 26 (2) states that "As soon as the tenderer qualified to perform the contract is identified in accordance with Section 13 of KTPP Act, the Tender Accepting Authority shall pass order accepting the tender and communicate the order of acceptance to the successful tenderer...."

From the above provisions in the KTPP Act and Rules, it is clear that the Contract should be awarded only to the lowest evaluated technically and commercially responsive tenderer, who meets the prescribed qualification criteria including bid capacity and past performance.

In view of the foregoing, the Government reiterates that when tenders are invited for a specified quantity of Goods, the contract should be awarded only to the lowest technically and commercially responsive tenderer who meets the prescribed qualification criteria including bid capacity and past performance.

The above instructions shall apply to all Government Departments, Boards Corporations, Societies, Government Autonomous organizations, Universitites, Panchayat Raj Institutions, Municipal Corporations, Local bodies etc for which KTPP Act and Rules are applicable.

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All Procurement Entities shall ensure that the above instructions are followed strictly in respect of all contracts irrespective of the funding agency. It may be noted that any violation of the KPTT Act,1999 and Rules, 2000 attracts the penal provision under Section 23 of the Act.

The above instructions do not apply to tenders for fixing Rate Contracts, for which instructions would be issued separately.

Sd/-

(CHIRANJIV SINGH)
Principal Secretary to Government,
Finance Department.

To:

The Chief Secretary to Government
Additional Chief Secretary to Government
Additional Chief Secretary and Development Commissioner
All Principal Secretaries & Secretaries to Government
Secretary Karnataka Legislature/Council/Assembly
Registrar, Karnataka, High Court, Bangalore
Registrar, Karnataka Lokayukta, Bangalore
Secretary, Karnataka Public Service Commissioner, Bangalore
Additional Secretary, Parliamentary Affairs & Legislation Department
All Internal Financial Advisers
All Head of the Departments / CEOs of ZPs
All Boards / Corporations / Autonomy Bodies
All Deputy Secretaries Under Secretaries to Government, Finance Department