



TAMIL NADU GOVERNMENT GAZETTE

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Part IV—Section 1

Tamil Nadu Bills

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BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE
STATE OF TAMIL NADU

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 22nd March, 2018 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 17 of 2018

A Bill further to amend the Tamil Nadu Transparency in Tenders Act, 1998.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:-

Short title and commencement.	<p>1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Second Amendment) Act, 2018.</p> <p>(2) It shall come into force on such date as the Government may, by notification, appoint.</p>	
Amendment of section 2.	<p>2. In section 2 of the Tamil Nadu Transparency in Tenders Act, 1998, (hereinafter referred to as the principal Act), after clause (e), the following clause shall be inserted, namely:-</p> <p>“(ee) ‘Service’ means any subject matter of procurement but does not include any goods or constructions or hiring of any person to represent the procuring entity or give advice on Legal matters in any judicial or quasi judicial proceeding.”.</p>	Tamil Nadu Act 43 of 1998.
Amendment of section 3.	<p>3. In section 3 of the principal Act, after sub-section (2), the following sub-section shall be added, namely:-</p> <p>“(3) Notwithstanding anything contained in sub section (1), a procuring entity may procure goods or services through a Government department or Government undertaking, nominated by the Government by notification to act as an agency for procuring specified classes of goods or services on behalf of any procuring entity upon payment of a fee:</p> <p>“Provided that no procurement shall be made by the nominated agency except by tender.”.</p>	
Amendment of section 6.	<p>4. In section 6 of the principal Act,-</p> <p>“(1) in sub-section (1), for the expression, “as the case may be, with such time as may be prescribed”, the expression “as the case may be, in such manner and within such time as may be prescribed” shall be substituted;</p> <p>“(2) for sub-section (2), the following sub-section shall be substituted, namely:-</p> <p>(2) The Tender Bulletin shall be delivered to registered subscribers by e-mail and shall also be published in a dedicated website administered by the State Tender Bulletin Officer for view and download by any person.”</p>	
Amendment of section 9.	<p>5. In section 9 of the principal Act, after sub-section (3), the following sub section shall be inserted, namely:-</p> <p>“(3A) The Tender Inviting Authority shall also cause the Notice Inviting Tender hosted in the dedicated website administered by the State Tender Bulletin Officer.”</p>	

6. In section 10 of the principal Act, to sub-section (2), the following provisos shall be added, namely:-

Amendment of section 10.

“Provided that the Tender Accepting Authority shall accept the tender of domestic enterprises, not being the lowest tender, upon satisfaction of such conditions as may be prescribed, in respect only of goods manufactured or produced and services provided or rendered by them, and only to the extent of not exceeding twenty five percent of the total requirement in that procurement, if such domestic enterprise is willing to match the price of the lowest tender.

Provided further that the Tender Accepting Authority shall accept the tender of a department of Government, Public Sector Undertaking, Statutory Board and other similar institutions as may be notified, not being the lowest tender, upon satisfaction of such conditions as may be prescribed, in respect only of goods manufactured or produced and services provided or rendered by them, and only to the extent of not exceeding forty percent of the total requirement in that procurement, if such tenderer is willing to match the price of the lowest tender.

Provided also that in case of a single procurement, the total procurement under the above two provisos shall not exceed forty percent of the total requirement in that procurement.”

7. In section 16 of the principal Act,-

Amendment of section 16.

“(1) after clause (b), the following clause shall be inserted, namely:-

“(bb) of a service, other than operations and maintenance, project or facility management, supervision, supply of manpower, outsourcing of tasks, leasing of machinery, equipment or vehicles and insurance, in any particular instance of procurement declared by the Government by notification, upon the recommendation of a committee comprising the Secretary of the department concerned of the Government, Secretary of Finance department or his representative, the Chief Executive Officer or the head of the procuring entity, one technical representative of the procuring entity and one representative from a reputed Academic or Research Institution or Non-commercial Institution having expertise in such line;”

(2) clause (c), including the proviso thereto, shall be omitted;

(3) clause (dd), including the provisos thereto, shall be omitted;

(4) for clause (e), the following clause shall be substituted as follows, namely:-

“(e) from the rate contracts of Association of State Road Transport Undertakings;”

(5) in clause (f) for the expression “by similar organisations,” the expression “from similar organisations” shall be substituted;

(6) after clause (l), the following clause shall be added, namely:-

“(m) from the Government e-Marketplace - Special Purpose Vehicle through rate contract, on-line bidding, online reverse auction and any other mechanism provided by the said Government e-Marketplace - Special Purpose Vehicle, as may be notified by the Government.”

STATEMENT OF OBJECTS AND REASONS.

The Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998) was enacted for transparency in the public procurement and regulates the procedure in inviting and accepting tenders. In the implementation of the said Act, the need for certain improvements was felt as detailed below:

(i) The said Act, the term 'Service' is not defined. It is desired to define the term 'Service' (excluding the services of Legal Counsel);

(ii) It is now desired to outsource the procurement of goods and services by the procuring entities on payment of fee so as to ensure best price by availing expertise of procuring agencies;

(iii) Consequent on the implementation of e-tendering in the phased manner, it is desired to publish tender bulletin in electronic mode;

(iv) In the said Act, it is provided for procuring goods and services from domestic enterprises without following tender procedures with limitation in quantity and restriction in price. It is now desired to provide for purchase preference to such domestic enterprises;

(v) In the said Act, it is provided for procurement of goods manufactured by Government departments, Public Sector Undertakings, Statutory Boards and such other institutions as notified by the Government with limitation in quantity and restriction in price. It is now desired to provide for purchase preference to the above said entities;

(vi) It is desired to provide for procurement of certain services without following tender procedures by granting exemption;

(vii) In the said Act, provision is made for procurement of goods following rate contract of the Director General of Supplies and Disposals (DGS&D) without following tender procedures. The Directorate General of Supplies and Disposals was closed by 31.10.2017. Consequently, it is desired to amend the said exemption;

(viii) In the said Act, exemption is provided for certain spot purchase of goods and it is also provided to exempt similar procurements goods and services by notification. In this provision, the exemption is available for similar procurement 'from similar organizations'. But it is erroneously mentioned as 'by similar organization'. It is desired to rectify the error suitably;

(ix) The Government of India created Government e-Marketplace-Special Purpose Vehicle as a one stop shop for online procurement of common use goods and services as required by various procuring entities. The Government e-Marketplace aims to enhance transparency, efficiency and speed in public procurement. It provides the tools of e-bidding, reverse e-auction and demand aggregation to facilitate the government users, achieve the best value for their money. The low value procurement through Government e-Marketplace has been permitted as an optional mode subject to certain conditions. Considering its advantages, it is desired to allow the above mode for procurements above low value.

2. The Government have therefore decided to amend the said Tamil Nadu Act 43 of 1998, suitably for the above said purposes.

3. The Bill seeks to give effect to the above decisions.

O. PANNEERSELVAM
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clauses 1(2), 3, 4, 6 and 7 of the Bill authorize the Government to issue notifications or to make rules as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not an exceptional character.

O. PANNEERSELVAM
Deputy Chief Minister.

K. SRINIVASAN,
Secretary.

ANNEXURE TO THE TAMIL NADU TRANSPARENCY IN TENDERS (SECOND AMENDMENT) BILL, 2018.

Existing Section.	Section embodying the Amendment.
(1)	(2)
2. Definitions.-	2. Definitions.-
(e) xxx xxx xxx xxx xxx xxx xxx xxx	(e) xxx xxx xxx xxx xxx xxx xxx xxx “(ee) ‘Service’ means any subject matter of procurement but does not include any goods or constructions or hiring of any person to represent the procuring entity or give advice on Legal matters in any judicial or quasi judicial proceeding.”
3. Prohibition of Procurement except by tender.-	3. Prohibition of Procurement except by tender.-
(1) xxx xxx xxx xxx xxx xxx xxx xxx	(1) xxx xxx xxx xxx xxx xxx xxx xxx
(2) xxx xxx xxx xxx xxx xxx xxx xxx	(2) xxx xxx xxx xxx xxx xxx xxx xxx “(3) Notwithstanding anything contained in sub section (1), a procuring entity may procure goods or Services through a Government department or Government undertaking, nominated by the Government by notification to act as an agency for procuring specified classes of goods or services on behalf of any procuring entity upon payment of a fee: “Provided that no procurement shall be made by the nominated agency except by tender.”
6. Functions of Bulletin Officers.-	6. Functions of Bulletin Officers.-
(1) On receipt of intimation relating to details of notice of invitation of Tender, from the Tender Inviting Authority, information relating to acceptance of tender together with a comparative analysis and reasons for acceptance of tenders from the Tender Accepting Authority, the State or as the case may be, the District Tender Bulletin Officer shall, publish the same in the State or District Tender Bulletin, as the case may be within such time as may be prescribed: xxx xxx xxx xxx xxx xxx xxx xxx	(1) On receipt of intimation relating to details of notice of invitation of Tender, from the Tender Inviting Authority, information relating to acceptance of tender together with a comparative analysis and reasons for acceptance of tenders from the Tender Accepting Authority, the State or as the case may be, the District Tender Bulletin Officer shall, publish the same in the State or District Tender Bulletin, as the case may be, <u>in such manner and</u> within such time as may be prescribed: xxx xxx xxx xxx xxx xxx xxx xxx
(2) The Tender Bulletin shall be made available for sale in the office of the Tender Bulletin Officer and at such other places as may be specified by him xxx xxx xxx xxx xxx xxx xxx xxx	(2) The Tender Bulletin shall be delivered to registered subscribers by e-mail and shall also be published in a dedicated website administered by the State Tender Bulletin Officer for view and download by any person. xxx xxx xxx xxx xxx xxx xxx xxx
9. Functions of the Tender Inviting Authority.-	9. Functions of the Tender Inviting Authority.-
(3) xxx xxx xxx xxx xxx xxx xxx xxx	(3) xxx xxx xxx xxx xxx xxx xxx xxx

Existing Section.**(1)****10. Evaluation and Acceptance of Tender.-**

(1) xxx xxx xxx xxx xxx xxx xxx xxx

(2) After evaluation and comparison of tenders as specified in sub-section (1), the Tender Accepting Authority shall accept the lowest tender ascertained on the basis of objective and quantifiable factors specified in the tender document and giving relative weights among them.

16. Provisions of this Act not to apply in certain cases.-

(a) xxx xxx xxx xxx xxx xxx xxx xxx

(b) xxx xxx xxx xxx xxx xxx xxx xxx

Section embodying the Amendment.**(2)**

(3A) The Tender Inviting Authority shall also cause the Notice Inviting Tender hosted in the dedicated website administered by the State Tender Bulletin Officer.

10. Evaluation and Acceptance of Tender.-

(1) xxx xxx xxx xxx xxx xxx xxx xxx

(2) After evaluation and comparison of tenders as specified in sub-section (1), the Tender Accepting Authority shall accept the lowest tender ascertained on the basis of objective and quantifiable factors specified in the tender document and giving relative weights among them:

“Provided that the Tender Accepting Authority shall accept the tender of domestic enterprises, not being the lowest tender, upon satisfaction of such conditions as may be prescribed, in respect only of goods manufactured or produced and services provided or rendered by them, and only to the extent of not exceeding twenty five percent of the total requirement in that procurement, if such domestic enterprise is willing to match the price of the lowest tender.”

“Provided further that the Tender Accepting Authority shall accept the tender of a department of Government, Public Sector Undertaking, Statutory Board and other similar institutions as may be notified, not being the lowest tender, upon satisfaction of such conditions as may be prescribed, in respect only of goods manufactured or produced and services provided or rendered by them, and only to the extent of not exceeding forty percent of the total requirement in that procurement, if such tenderer is willing to match the price of the lowest tender.”

“Provided also that in case of a single procurement, the total procurement under the above two provisos shall not exceed forty percent of the total requirement in that procurement.”

16. Provisions of this Act not to apply in certain cases.-

(a) xxx xxx xxx xxx xxx xxx xxx xxx

(b) xxx xxx xxx xxx xxx xxx xxx xxx

Existing Section.	Section embodying the Amendment.
(1)	(2)
(c) from departments of Government, Public Sector Undertakings, Statutory Boards and such other institutions as may be notified by the Government only in respect of goods manufactured or services provided by them;	(bb) of a service, other than operations and maintenance, project or facility management, supervision, supply of manpower, outsourcing of tasks, leasing of machinery, equipment or vehicles and insurance, in any particular instance of procurement declared by the Government by notification, upon the recommendation of a committee comprising the Secretary of the department concerned of the Government, Secretary of Finance department or his representative, the Chief Executive Officer or the head of the procuring entity, one technical representative of the procuring entity and one representative from a reputed Academic or Research Institution or Non-commercial Institution having expertise in such line;
Provided that such procurement shall not exceed forty percent of the total requirement in that procurement and shall be at a price not exceeding the price of the lowest tender in respect of the remaining sixty percent.]	- Omitted -
(d) xxx xxx xxx xxx xxx xxx xxx xxx	- Omitted -
(dd) from domestic small-scale industrial unit only in respect of goods manufactured or produced, services provided or rendered by them:	(d) xxx xxx xxx xxx xxx xxx xxx xxx
Provided that such procurement shall not exceed twenty five percent of the total requirement in that procurement and shall be at a price not exceeding the price of the lowest tender in respect of the remaining seventy five percent:	- Omitted -
Provided further that in case of a single procurement involving clauses (c) and (dd), such procurement shall not exceed forty percent of the total requirement in that procurement.	- Omitted -
(e) from the rate contracts of Director-General of Supplies and Disposals and Association of State Road Transport Undertakings;	- Omitted -
	(e) from the rate contracts of Association of State Road Transport Undertakings;

Existing Section.**(1)**

(f) by spot purchase of agricultural commodities, agricultural produce and livestock from primary producers; by spot purchase of cotton by Spinning Mills; by spot purchase of animals for the Government programmes or schemes or for the Government departments from *shanties*; of sugarcane purchase from farmers by the State Public Sector Undertakings or Co-operative Sugar Mills; of paddy by the Direct Purchase Centres of Tamil Nadu Civil Supplies Corporation; of clothing by the Government Departments or the State Public Sector Undertakings from the Tamil Nadu Handloom Weavers' Co-operative Society; and by similar organisations and of similar goods and services, as may be notified by the Government.

(l) xxx xxx xxx xxx xxx xxx xxx xxx

Section embodying the Amendment.**(2)**

(f) by spot purchase of agricultural commodities, agricultural produce and livestock from primary producers; by spot purchase of cotton by Spinning Mills; by spot purchase of animals for the Government programmes or schemes or for the Government departments from *shanties*; of sugarcane purchase from farmers by the State Public Sector Undertakings or Co-operative Sugar Mills; of paddy by the Direct Purchase Centres of Tamil Nadu Civil Supplies Corporation; of clothing by the Government Departments or the State Public Sector Undertakings from the Tamil Nadu Handloom Weavers' Co-operative Society; and from similar organisations and of similar goods and services, as may be notified by the Government.

(l) xxx xxx xxx xxx xxx xxx xxx xxx

(m) from the Government e-Marketplace - Special Purpose Vehicle through rate contract, on-line bidding, online reverse auction and any other mechanism provided by the said Government e-Marketplace - Special Purpose Vehicle, as may be notified by the Government.