

FINANCE DEPARTMENT**NOTIFICATION****NO:FD 884 Exp-12/2019, Bangalore, Dated:7th May 2020**

In exercise of the powers conferred by sub-section (1) of section 25 of the Karnataka Transparency in Public Procurements Act, 1999 (Karnataka Act 29 of 2000), the Government of Karnataka hereby makes the following rules further to amend the Karnataka Transparency in Public Procurements Rules, 2000, namely:-

RULES

- 1. Title and commencement.**-(1) These rules may be called the Karnataka Transparency in Public Procurements (Amendment) Rules, 2020.
(2) They shall come into force from the date of their publication in the Official Gazette.
- 2. Amendment of Rule 2.**- In the Karnataka Transparency in Public Procurements Rules, 2000 (hereinafter referred to as the said Rules), after clause (a), the following shall be inserted, namely:-
"(aa) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of the public official in the procurement process or in contract execution;

(ab) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procurement Entity, and includes collusive practice among the tenderers either prior to or after tender submission, designed to establish tender prices at artificial non-competitive levels and to deprive the Procurement Entity of the benefits of free and open competition;”

3. Insertion of new rule 3A.- After rule 3 of the said rules, the following shall be inserted, namely:-

“3A. Procurement through Government e-market place {hereinafter referred as GeM}.-(1) The Procurement entity shall procure the goods and services through GeM portal subject to the following conditions, namely:-

- (i) the goods and services available on GeM portal and meeting the requisite standards of quality, specification and delivery period may be procured;
- (ii) the goods and services up to the value prescribed under clause (e) and (ee) of Section 4 of the Act may be procured directly through any of the available suppliers by following the procedure provided on the GeM portal;
- (iii) the goods and services exceeding the limit prescribed under clause (e) and (ee) of section 4 of the Act, shall be procured after calling for the tenders using online bidding or reverse auction tool provided on the GeM portal; and

(iv) the automobiles required for the use of office may be procured directly after getting the requisite sanction from the competent authority.

(2) The Concessions and exemptions, if any, provided on the GeM Portal may be availed while procuring the goods and services.”

4. Insertion of new rules 26A, 26B, 26C and 26D.- After rule 26 of the said rules, the following shall be inserted, namely:-

“26A. Debarment of Tenderers by Procurement Entity.- (1) The Procurement Entity may proceed with debarring such tenderer or contractor or supplier or any of the successor of the tenderer or contractor or supplier who has engaged directly or through an agent in a corrupt or fraudulent practices in participating or competing or executing the contract including misleading the Procurement Entity at any stage of procurement and executing activity.

(2) The Procurement Entity may, by order, appoint a Committee consisting of such officers not below the rank of Tender Inviting Authority to be the Debarment Committee to consider the proposals for debarring bidder or contractor or supplier and to take a decision thereof.

(3) On the receipt of information, Debarment Committee shall provide a reasonable opportunity, including an oral hearing, to the concerned for making representations before taking a decision.

(4) For consideration of debarment, Tender Inviting Authority or any other officer authorized by Tender Accepting Authority shall furnish the details of such bidders or contractors or suppliers who have engaged in corrupt practice and fraudulent practices to the Debarment Committee constituted under sub rule (2) above.

(5) The Debarment Committee may make recommendations with reasoning in writing, within thirty days from date of receipt of information.

Provided that, the said period may be extended by another fifteen days by Procurement Entity for the reasons to be recorded in writing.

(6) On the recommendations of the Debarment Committee, the Procurement Entity shall by notification debar any of tenderer or contractor or supplier and publish the same on its website and Karnataka Public Procurement Portal and also maintain the list of such tenderer or contractor or the supplier or any of its successors.

(7) The order of debarment shall be deemed to have been automatically revoked on the expiry of the period specified in the debarment order.

26B. Debarment by the Government.- (1) The Government may debar a tenderer or contractor or supplier, in the public interest and on the grounds specified in the Act.

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- (2) There shall be a State Level Debarment Committee consisting of such Officers as may be notified by the State Government to consider the proposals for debarring bidder or contractor or supplier and to take a decision thereof.
- (3) On the receipt of the information, the State Level Debarment Committee shall provide a reasonable opportunity, including an oral hearing, to the concerned for making representations before taking a decision on the debarment.
- (4) For consideration of debarment of the bidders or contractors or suppliers, the officer authorized by the Procurement Entity shall furnish the details of such bidders or contractors or suppliers to the State Level Debarment Committee constituted under sub rule (2) above;
- (5) The State Level Debarment Committee may make recommendation to the State Government to such an effect, within thirty days, from the date of receipt of the information:

Provided that, the said period may be extended by another fifteen days for the reasons to be recorded in writing by the Debarment Committee.

- (6) On the recommendation of the State Level Debarment Committee, the Government shall debar by notification such tenderer or contractor or supplier and publish the same on the Department website as well as Karnataka Public Procurement Portal and shall maintain the list of such bidder or contractor or the supplier or any of its successor.

- (7) The debarred tenderer or contractor or supplier shall be removed from the list of registered contractors or vendors.
- (8) The order of debarment shall be deemed to have been automatically revoked on the expiry of the specified period in the debarment order.

26C. Measures to be taken after Debarment.- The Procurement Entity may take appropriate measures in respect of debarred tenderer or contractor or supplier including one or more of the following, namely:-

- (i) reject the bid and forfeit or encash EMD or Bid Security;
- (ii) terminate the contract; forfeit or encash the performance guarantee; recover the compensation of loss incurred by Procurement Entity;
- (iii) forfeit or encash any other security or guarantee or bond provided by such tenderer or contractor or supplier in relation to the such procurement; and
- (iv) recover payments including advance payments, if any, made by the Procurement Entity along with the interest thereon at the prevailing rate of Nationalized Bank.

26D. Contract Management.-(1) The Procurement entity, as may be notified by the Government from time to time, shall undertake Contract Execution Management from the date of such notification on the Karnataka Public Procurement Portal in respect of works, goods and services exceeding the value of the contract as may be notified by the Government from time to time.

(2) All the activities and processes relating to the Contract Management shall be created, entered, managed and monitored on the Karnataka Public Procurement Portal.”

By order and in the name of the
Governor of Karnataka

(SHREEKRISHNA N.BUGATYAGOL)
Special Officer and Ex-Officio
Joint Secretary to Government
Finance Department (PWFC)

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