

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

GOVERNMENT OF KARNATAKA



ಸಾರ್ವಜನಿಕ ಸಂಗ್ರಹಣೆಗಳಲ್ಲಿ
ಪಾರದರ್ಶಕತೆ ಕಾಯಿದೆ, 1999

**KARNATAKA TRANSPERENCY IN
PUBLIC PROCUREMENTS ACT,
1999**

(Updated as on 14.02.2022)

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FINANCE DEPARTMENT

THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS ACT, 1999
(Received the assent of the Governor on the tenth day of December, 2000)

(As amended by Act 21 of 2001, 4 of 2003, 13 of 2007, 20 of 2015, 31 of 2017,
06 of 2019, 12 of 2020 and 19 of 2021)

An Act to provide for ensuring transparency in public procurement of goods and services by streamlining the procedure in inviting, processing and acceptance [*“and includes Contract execution Management”*]¹ of tenders by Procurement Entities, and for matters related thereto.

Whereas it is expedient in public interest to render the process of procurement of goods and services by Procurement Entities transparent by streamlining the procedure in inviting, processing and acceptance of tenders [*“and includes Contract execution Management”*]²

Be it enacted by the Karnataka State Legislature in the fiftieth year of the Republic of India as follows:-

CHAPTER I

1. Short title and commencement.-

1. This Act may be called the Karnataka Transparency in Public Procurements Act, 1999.
2. It shall be deemed to have come into force with effect from the Fourth day of October, 2000.

2. Definitions.- In this Act, unless the context otherwise requires.-

- a) **‘Construction Works’** means putting up, demolishing, repairs or renovation of buildings, roads, bridges or other structures including fabrication of steel structures and all other civil works;

[“(aa) Contract execution management’ means activities that are undertaken by the Procurement Entity for Construction Works, Goods and Services after issue of final letter of acceptance to the selected bidder, which include but are not restricted to creation of milestones and activities, creation of delivery schedules, measurement, inspection, processing of bills, creation of variation orders and payment.

¹Inserted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

²Inserted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

(ab) ‘Electronic reverse auction’ means an online real-time procurement technique utilized by the procuring entity to select the successful bid, which involves submission by technically qualified bidders of successively lowered bids during a prescribed period of time and the automatic evaluation of bids.”³

b) **‘Goods’** means Machinery, Motor Vehicles, Equipment, Furniture, Articles of Stationary, textiles raw materials, drugs, scientific instruments, chemicals, food grains, oil and oil seeds or other commodity required for consumption, use or distribution by a Procurement Entity in discharge of its public duties;

c) **‘Government’** means the State Government;

*[“(ca) **Karnataka Public Procurement Portal’** means a procurement platform of electronic media comprising of procurement process set up and managed by the State Government through integrated enabled procurement tools incorporated by customization.”⁴*

d) **‘Procurement Entity’** means any Government Department, a State Government Undertaking, Local Authority or Board, Body or Corporation established by or under any law and owned or controlled by the Government, and any other body or authority owned or controlled by the Government and as may be specified by it.

e) **‘Public Procurement’** or **‘procurement’** means purchase of goods, obtaining of services or undertaking of construction works by the procurement entities;

f) **‘Services’** means the action of serving, attending upon, helping or benefiting a Procurement Entity in the course of discharging its public duties and includes construction works;

g) **‘Specified goods or Services’** means the goods or services as the case may be specified in a tender and identified in the contract resulting from acceptance of a tender on account of a procurement entity;

*[“(h) **‘Tender’** means the formal offer made for supply of goods or services or construction works and includes tenders done through*

³ Clause (aa) and (ab) are substituted for clause (aa) and (aaa) by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

⁴ Inserted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

‘Electronic Reverse Auctions’ in response to an invitation for tender published in the Karnataka Public Procurement Portal.”⁵

- i) **‘Tender Accepting Authority’** means an officer or a Committee appointed to accept tenders and a ‘Tender Inviting Authority’ means an officer or a Committee appointed to invite tenders, under section 9;

[“j) Omitted

k) Omitted”⁶

[“l) Tender Document’ means the set of document including in electronic form detailing the schedule of works, calendar of events, requirement of goods and services, technical specifications, procurement criteria and such other particulars, as may be prescribed for evaluation and comparison of tenders.”⁷

[“Provided that for the purpose of e-Procurement, the ‘tender papers’ means set of documents in electronic form.”⁸

3. Provisions not to apply to certain Projects.- The provisions of this Act in so far as they are inconsistent with the procedure specified in respect of the Projects funded by International Financial Agencies or Projects covered under International Agreements, shall not apply to procurement of goods or services for such project.

4. Exceptions to applicability.- The provisions of Chapter II shall not apply to Procurement of goods and services,-

- a) During the period of natural calamity or emergency declared by the Government ;
- b) Where the goods or services are available from a single source or where a particular supplier or contractor has exclusive rights in respect of the goods or services or construction work and no reasonable alternatives or substitutes exist:

Provided that for the purpose of this clause there shall be a committee of three experts consisting of one technical representative of the procuring entity one technical representative of the Government organization dealing with similar procurement

⁵ Substituted for clause (h) by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

⁶ Clause (j) & (k) Omitted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

⁷ Substituted for clause (l) by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

⁸ Inserted by Karnataka Act No. 13 of 2007 w.e.f. 27.11.2006

and one representative from a reputed Academic or Research Institution or Non-Commercial Institution having expertise in such line to examine and declare that the goods or services are available from a single source;

- c) Where the procuring entity having procured goods, services or technology from a supplier or contractor determines that additional supplies must be procured from the same supplier or contractor for reasons of standardization and compatibility with the existing goods, service or technology;

*[“d)Omitted”]*⁹

- e) *[where the procurement is by the Government Departments, State Government Undertakings, or any Board, Body or Corporation established by or under any law and owned or controlled by the Government or Zilla Panchayats constituted under the Karnataka Panchayat Raj Act, 1993 or City Municipal Corporations established under the Municipal Corporations Act, 1976 or City Municipal Councils established under the Karnataka Municipalities Act, 1964 or the Hyderabad Karnataka Areas Development Board constituted under the Hyderabad Karnataka Area Development Board Act, 1993 or Malnad Area Development Board constituted under the Malnad Area Development Board Act, 1991 or the Bayaluseeme Development Board constituted under the Bayaluseeme Development Board Act, 1994,-*

*(i) in case of “[goods and services including construction works and consultancy services]”*¹⁰ *of all types the value of which does not exceed rupees five lakhs;*

*(ii) [Omitted]*¹¹

- ee) *Where the procurement of goods or services is by the Grama Panchayats and Taluk Panchayats constituted under the Karnataka Panchayat Raj Act, 1993, Town Municipal Councils or Town Panchayats constituted under the Karnataka Municipalities Act, 1964 or Urban Development Authorities constituted under the Karnataka Urban Development Authorities Act, 1987,-*

(i) for the purpose of implementing mini water supply scheme or construction of school rooms and the value of such procurement does not exceed rupees two lakhs; and

⁹ Clause (d) of section 4 omitted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

¹⁰ Substituted by Karnataka Act No.12 of 2020 w.e.f. 27-04-2020.

¹¹ Omitted by Karnataka Act No.12 of 2020 w.e.f. 27-04-2020.

(ii) for other purposes and the value of such procurement does not exceed rupees one lakh"]¹²

["(eee) Where the procurement is by the procurement entity receiving grant from the Consolidated Fund of the State, in case of Infrastructure works of electrification of drinking water schemes the value of which does not exceed rupees five lakhs;"]¹³

["(e 4) where the procurement entity entrusts the construction works of all types in rural and urban areas, the value of which does not exceed rupees two crores to the Karnataka Rural Infrastructure Development Limited, subject to the condition that the Karnataka Rural Infrastructure Development Limited shall execute works by itself:

Provided that, in case sub-letting is necessary, it shall be done through tendering in accordance with the provisions of this Act:

Provided further that, while sub-letting construction works through tender it shall be reserved in favour of persons belonging to the scheduled castes and scheduled tribes in accordance with the provisos to section 6 of this Act."]¹⁴

- f) Where the goods or services are procured under rate contracts from the Director General of Supplies and Disposals or from the Stores Purchase Department of the State; and
- g) in respect of specific procurements as may be notified by the Government from time to time.
- h) in respect of spot purchase of cotton by Spinning Mills, purchase of oil seeds by the Karnataka Agro-Industries Corporation or the Karnataka Co-operative Oil Seeds Grower's Federation, purchase of sugarcane by Sugar Mills, direct purchase of paddy by the Agricultural Produce Market Committees and the Karnataka Food and Civil Supplies Corporation, purchase of cloth by the Karnataka Handloom Development Corporation, purchase of silk by the Karnataka Silk Industries Corporation, purchase of milk by the Karnataka Milk Producers Co-operative Federation, purchase of palm oil by the Karnataka Food and Civil Supplies

¹² Substituted vide Notification ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 33 ಶಾಸನ 2001 ದಿನಾಂಕ: 06-10-2001.

¹³ Inserted vide Karnataka Act No. 20 of 2015 w.e.f. 02-05-2015.

¹⁴ Inserted vide Karnataka Act No. 19 of 2021 w.e.f. 06-04-2021.

Corporation and the Karnataka Co-operative Oil Seeds Grower's Federation, purchase of cloth by the Government Departments and public sector undertaking from the Karnataka Handloom Development Corporation and purchase by such other organizations or purchase of any other material as may be notified by the Government from time to time.

CHAPTER II REGULATION OF PROCUREMENT

- 5. Procurement other than by Tender Prohibited.-** On and from the date of commencement of this Act no Procurement Entity shall procure goods or services except by inviting Tenders for supply.
- 6. Procurement Entities to follow Procedure.-** No tender shall be invited, processed or accepted by a Procurement Entity after the commencement of this Act except in accordance with the procedure laid down in this Act or the rules made there under.

[“Provided that, the tender inviting authority shall, in the notified Departments out of those construction works, value of which does not exceed Rs.50.00 lakhs such number of works not exceeding 17.15 percent be tendered only among the tenderers belonging to the Scheduled Castes Category and such number of works not exceeding 6.95 percent be tendered only among tenderers belonging to the Scheduled Tribes Category, by taking out notices, communications and publications required to be taken following the prescribed procedures:

Provided further that, if no tender from persons belonging to the Scheduled Castes or Scheduled Tribes as the case may be, is received in response to the invitation in two attempts such works may be tendered among others.

Explanation: For the purpose of this proviso.-

- 1. “Scheduled Castes” shall have reference to the Scheduled Castes specified in part VII of the Constitution (Scheduled Castes) Order, 1950 made under Article 341 of the Constitution of India and as amended from time to time;*
- 2. “Scheduled Tribes” shall have reference to the Scheduled Tribes specified in part VI of the Constitution (Scheduled Tribes)*

Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time.”¹⁵

[“6A. Procurement through Electronic Reverse Auction.- The procedure to be followed and the category of procurements which shall be subject to Electronic Reverse Auctions shall be as may be prescribed.

6B. Procurement through Government e-Market place (GeM) :

Where the goods or services are procured through on line at Government e-Marketplace (GeM) created by Government of India which is an end to end procurement system for commonly used goods and services for Government buyers subject to such norms as may be prescribed and from the date as may be notified by the Government.

6C. Preferences to Micro & Small Enterprises :

To encourage Micro and Small Enterprises, preferences may be given to them in such manner subject to such conditions as may be prescribed by the Government.

Explanation:- "For the purpose of this Section, Micro and Small Enterprises shall have the same meaning as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006)”¹⁶

[“7. The Karnataka Public Procurement Portal.- (1) The State Government shall set up and maintain a State Public Procurement Portal accessible to the public for posting and exhibiting matters relating to public procurement.

(2) Every procurement under this Act shall be carried out through the Karnataka Public Procurement Portal.

(3) Each procuring entity shall cause the procurement related information to be exhibited as required under this Act or the Rules made there under on the portal referred to in sub-Section (1).

(4) Each procuring entity shall carry out Contract execution Management in the Karnataka Public Procurement Portal

¹⁵ Inserted vide Karnataka Act No. 31 of 2017 w.e.f. 29-06-2017

¹⁶ 6A,6B & 6C are inserted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

with effect from such date and in such Departments as may be notified by the Government.”¹⁷

[“8. Omitted”]¹⁸

9. Tender Inviting Authority and Tender Accepting Authority.-

(1) The Procurement Entity may, by order, appoint, -

- (i) one or more of officers or a Committee of Officers to be the Tender Inviting Authority for any specified area, specified procurement or specified class of goods or services, and
- (ii) one or more of officers or a Committee of Officers to be the Tender Accepting Authority for any specified area or Specified Procurement, specified class of goods and services:

Provided that where a multi-member Committee is already appointed for any Procurement Entity for discharging the function of accepting tenders, such Committee shall be deemed to be a Tender Accepting Authority appointed under this Act.

10. Tender Scrutiny Committee.- The Tender Accepting Authority may constitute a Tender Scrutiny Committee consisting of such persons as it deems fit to scrutinize tenders above five crores in the case of the Public Works, Irrigation and Minor Irrigation Departments of the Government and above rupees one crore in other cases.

11. Opening of Tenders.-

1. The Procurement entity may authorise either the Tender Inviting Authority or the Tender Accepting Authority or any other Officer to open the Tenders and draw up a list of Tenderers responding to the notice inviting tender, in each case.
2. The Authority, or as the case may be the officer referred to in sub-section (1) shall open the tender, draw up a list of tenderers in the prescribed manner and unless it is also the Tender Accepting Authority, forward the tenders along with the list of tenderers, to the Tender Accepting Authority.

¹⁷ Substituted for section 7 by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

¹⁸ Section 8 omitted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

12. Duties of Tender Inviting Authority.-

1. It shall be the duty of every Tender Inviting Authority,-
 - a) to take out notice inviting tenders at the behest of the Procurement Entity in the prescribed manner;
["b) Omitted;"]¹⁹
["c) to cause publication of notice inviting tenders in the prescribed manner on the Karnataka Public Procurement Portal;"]²⁰
["d) to make available Tender Documents to every intending tenderer on the Karnataka Public Procurement Portal.
e) The details of tenders received in response to the notice inviting tender shall be compiled and made available to the Authority or officer authorized to open the tenders on the Karnataka Public Procurement Portal."]²¹
2. The Tender Inviting Authority shall take out notices, communications and publications required to be taken out under this section in such form, in such manner, by such mode and at such time and interval as may be prescribed and different manner and mode of publication may be prescribed for different procurements depending on the value of the procurement.
3. The Tender Inviting Authority shall collect all the details received in response to the notice inviting tender, within the time stipulated and unless it is itself authorized to open the tender shall compile and forward all the tenders received to the Authority or Officer authorized to open the tenders.

13. Acceptance of Tender.- 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 *["on the Karnataka Public Procurement Portal."]²²*

¹⁹ Clause (b) omitted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

²⁰ Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

²¹ Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

²² Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

Provided that where the Tender Accepting Authority consists of single officer who is due to retire within the next six months, from the date fixed for the acceptance for tender, he shall not act to accept the tender without obtaining prior approval of the Procurement Entity:

Provided further that subject to such general or special order as may be issued by the Government from time to time, the Tender Accepting Authority may before passing order accepting a tender negotiate with lowest tenderer.

14. General rejection of tenders.-

1. The Tender Accepting Authority may at any time before passing an order of acceptance under section 13 reject all the tenders on the ground of changes in the scope of procurement, failure of anticipated financial resource, accidents, calamities or any other ground as may be prescribed which would render the procurement unnecessary or impossible and report the same to the Procurement Entity.
2. The Procurement Entity shall thereafter communicate the fact of the rejection under this section to all the Tenderers and also cause the same to be published in the *[“the Karnataka Public Procurement Portal.”]*²³

[“14A. Debarment of Tenderers.- (1) The Procurement Entity may debar tenderers, for a period not exceeding three years, from participation in its tenders, following such procedure as may be prescribed on the ground that tenderer is engaged in corrupt or fraudulent practices in competing or executing the contract including misleading the procuring entity at any stage of Procurement Activity with a fraudulent intention:

Provided that, no tenderer shall be debarred without giving opportunity of being heard.

- (2) The State Government may debar tenderers for a period not exceeding three years, from participating in any procurement activity within the State, following such procedure as may be prescribed, on grounds of, but not restricted to, criminal offence, corruption, integrity, honesty and work ethics:*

²³ Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

Provided that no tenderer shall be debarred without giving opportunity of being heard.

(3) The State Government shall publish the list of so debarred tenderers under sub-section (2) from participating in any procurement activity on the Karnataka Public Procurement portal.

(4) The tenderer so debarred under sub section (2) shall not be entitled to apply to participate in tenders called by any procurement entity under this Act during the period so debarred.”]²⁴

15. Power to give directions.- It shall be competent for the Government to give appropriate directions to the Procurement Entity or the Authorities under this Act in order to secure and maintain transparency at any stage of the process of procurement, and it shall be duty of the Procurement Entity or such authority to comply with the directions.

16. Appeal.-

1. Any tenderer aggrieved by an order passed by the Tender Accepting Authority other than the Government under section 13 may appeal to the prescribed authority within [*“fifteen”*]²⁵ days from the date of receipt of the order:

Provided that the prescribed authority may, in its discretion allow further time not exceeding [*“fifteen”*]²⁶ days for preferring any such appeal, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

2. The prescribed authority may after giving opportunity of being heard to both the parties pass such order thereon as it deems fit and such order shall be final.

3. The prescribed authority shall as far as possible dispose of the appeal within thirty days from the date of filing thereof.

17. Power to obtain information.- Notwithstanding anything contained in this Act or in any other law for the time being in force, the Government may with a view to ensuring transparency call for

²⁴ Inserted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

²⁵ Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

²⁶ Substituted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019

and obtain, from any Authority under this Act, any information relating to any matter in the process of procurement.

18. Power to call for records.- The Government may at any time, with a view to ensuring transparency in the procurement process call upon any authority under this Act,-

- i. to produce records relating to invitation, processing and acceptance of tenders ;
- ii. to furnish the tender document, estimates / statements / accounts or statistics relating to such tenders; and.
- iii. to furnish report on any specific point incidental to the procurement.

**[“CHAPTER II A
E – PROCUREMENT”]²⁷**

[“18A. Omitted.”]²⁸

**CHAPTER III
MISCELLANEOUS**

19. Officers deemed to be Public Servants.- Every Officer acting under or in pursuance of the provisions of this Act or under a rule, order or notification made there under, shall be deemed to be a public servant within this meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

20. Immunity for action taken in good faith.- No suit or other legal proceeding shall lie against the Government or any officer or authority empowered to exercise powers or perform the functions under the Act in respect of anything which is in good faith done or intended to be done under this Act.

21. Bar of Jurisdiction of Courts.- Save as otherwise provided in this Act no order passed or proceedings taken by any officer or authority under this Act shall be called in question in any court, and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority in exercise of powers conferred on him or it, by or under this Act.

²⁷ Inserted by Karnataka Act No.13 of 2007 w.e.f. 27-11-2006.

²⁸ Omitted by Karnataka Act No. 6 of 2019 w.e.f. 24-01-2019.

22. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage, agreement, decree or order of a Court or a Tribunal or other Authority.

23. Penalty:- Whoever contravenes the provisions of this Act or the rules made there under shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees.

24. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette make such provisions not inconsistent with the provisions of the Act as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after this expiry of a period of two years from the date of commencement of the Act.

25. Power to make rules.-

1. The Government, may by notification, make such rules as are necessary for carrying out the purposes of this Act.
2. Every rule made or notification or order issued under this Act shall as soon as possible, after it is made or issued, be placed before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is laid or the sessions immediately following both Houses agree in making any modifications in the rule, notification or order or both Houses agree that the rule, notification or order shall not be made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

26. Savings.- All rules, regulations, orders, notifications departmental codes, manuals, bye-laws, official Memoranda, circular or any other order made or issued before the commencement of this Act and in force on the date of such commencement providing for or relating to any of the above matters for the furtherance of which this Act is enacted shall

continue to be in force and effective as if they are made under the corresponding provisions of this Act, to the extent they are not inconsistent with the provisions of this Act and unless and until superseded by anything done or any action taken or any rule, notification or order, is made under this Act.

27. Repeal and savings.-

1. The Karnataka Transparency in Public Procurements Ordinance, 2000 (Karnataka Ordinance No. 8 of 2000) is hereby repealed.
2. Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act.
