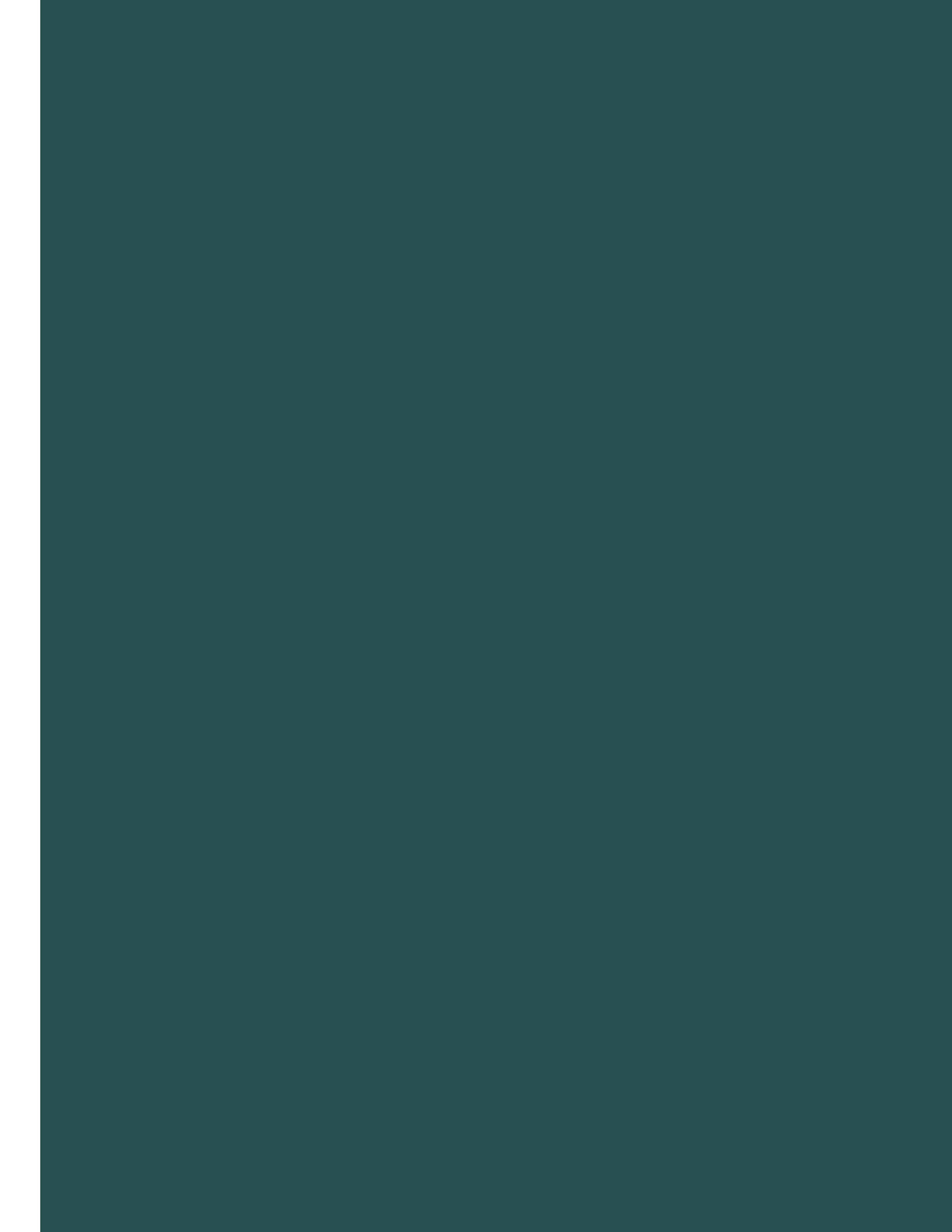


**CHAPTER IV**  
**TENDER**  
**PROCESSING**



## CHAPTER IV

### TENDER PROCESSING

Provisions available in the eProcurement portal for submission of bid documents and for calling missing bid documents within a stipulated time were not utilised and manually submitted documents were relied upon, defeating the objective of transparency in tender processing. Deficiencies in designing the BoQ template, awarding of contracts without ensuring compliance to bid conditions and inconsistencies in bid evaluation impaired the objectivity of the tender evaluation process besides depriving the legitimate bidders from being awarded the contract. Government accepted (February 2023), the observations and stated that the inputs will be useful for the new eProcurement portal to be implemented from 1 April 2023.

#### 4.1 Introduction

Section 2(f) of the TNTIT Act, 1998 defines ‘Tender’ as the formal offer made by any means including electronic mode in pursuance of an invitation by the procuring entity. The tender process consists of the following stages:



The eProcurement portal has provisions enabling the procuring entities to publish the tender documents and the template for Bill of Quantities (BoQ). The bidders have to upload the required documents and quote their rates in the BoQ template.

As per System Requirement Specifications (SRS) the bids submitted for a tender are opened online by the officials who have been assigned with the role of bid opener at the time of tender creation. The bid documents are to be downloaded for technical evaluation purposes and the results on the selection of the bidders and the date of financial bid opening are updated into the system. At the time of financial bid opening, the system automatically generates the BoQ comparative statement identifying the L1 bidder. The Tender Inviting Authority (TIA), based on the recommendations of the financial evaluation committee, prepares the Award of Contract (AoC) manually and then updates the order along with contract details.

Since the evaluation process of tenders is a combination of manual verification of documents, automatic comparison of price bids by the system and AoC, audit verified the tender processes through scrutiny of manual documents, Management Information System (MIS) reports and analysis of data.

The issues noticed in respect of bid submission and bid evaluation in the eProcurement portal among the 1,260 sampled tenders are discussed in the following paragraphs.

## 4.2 Bid Submission

### (a) Mandatory documents not uploaded by bidders

Uploading of requisite tender documents<sup>1</sup> by bidders in support of fulfilling the laid down eligibility criteria, technical conditions, commercial conditions etc. is stipulated in the Notice Inviting Tenders (NIT). Only, the Earnest Money Deposit (EMD) instrument and affidavit(s) in original were to be submitted manually to the TIA.

Analysis of MIS reports relating to sampled tenders, revealed that bidders have not uploaded the mandatory documents in 94 tenders, as detailed in **Table 4.1** and two cases are illustrated below:

**Table 4.1: Mandatory documents not uploaded by bidders**

Sl. No.	Sampled Office	Number of tenders in which mandatory documents not uploaded
1	Directorate of Sericulture, Salem	1
2	District Rural Development Agency, Coimbatore	28
3	District Rural Development Agency, Thanjavur	37
4	District Rural Development Agency, Krishnagiri	10
5	District Rural Development Agency, Karur	18
<b>Total</b>		<b>94</b>

(Source: eProcurement portal)

(i) In 10 sampled tenders<sup>2</sup> relating to District Rural Development Agency (DRDA), Krishnagiri, the bidders have not uploaded the mandatory documents such as PAN, annual turnover certificate, list of similar works executed, affidavit, undertaking to abide by the terms of contract etc.

(ii) In the eight sampled tenders<sup>3</sup> relating to DRDA, Karur the bidders have not uploaded any of the mandatory documents except the EMD document.

DRDAs replied (December 2022), that though the mandatory documents were not uploaded in the eProcurement portal, the tender evaluation was carried out based on the manually submitted documents.

<sup>1</sup> Scanned copies of Demand Draft towards the EMD, copy of PAN, contractor registration certificate and live certificate, evidence of access to line of credit, annual turnover certificate from Chartered Accountant, breakup of civil works and total works in each financial year, affidavit regarding correctness of certificates, list of similar nature of works executed, list of works in hand, list of machineries owned/brought on hire etc.

<sup>2</sup> Tenders for 'Renovation or Rejuvenation of Ponds and Ooranies from State Finance Commission Grants 2019-20'.

<sup>3</sup> Tenders for 'Functional Household Tap connection to Rural Households under the Jal Jeevan Mission Scheme'.

The reply was not acceptable as bid submissions were accepted in violation of the stipulated NIT conditions.

**(b) Calling for shortfall documents in the Bid**

The eProcurement portal provides a menu option, viz., ‘Shortfall of Tech documents’ enabling the TIA to call for any shortfall documents from specific bidder during the technical evaluation. The menu also facilitates stipulating a time schedule to upload the called for documents. If the bidder fails to provide the documents within the stipulated time, the bid may be rejected.

In the following instances (**Table 4.2**), it was noticed that documents which were to be uploaded at the time of bid submission were subsequently called for through email after opening the bid.

**Table 4.2: Calling for missing documents**

Sl. No.	Sampled procuring entities	Number of tenders in which missing documents were called for
1	Tamil Nadu Medical Services Corporation (TNMSC)	1
2	O/o the Superintending Engineer, Water Resources Department, Ground Water Circle, Taramani, Chennai (World Bank tenders)	27
	<b>Total</b>	<b>28</b>

(Source: Records of selected procuring entities)

Analysis of the correspondence made in this regard revealed the following:

(i) The NIT pertaining to a tender published (February 2022), by TNMSC stipulated that bid submitted in manual mode would not be considered. TNMSC, however, while seeking clarification prior to financial bid opening (July 2022), also required the single bidder to submit mandatory documents viz., EMD details, Annual Sales Turnover, signatory copy of bid document etc. Based on the documents submitted (July 2022) by the bidder, the tender was finalised and AoC was awarded.

Audit observed that TNMSC failed to utilise the provision available in the eProcurement portal to call for ‘Shortfall documents’ and accepted submission of bid documents outside the eProcurement portal which was in violation of NIT.

TNMSC stated (December 202) that though the bidder had uploaded the documents as per the schedule, due to technical issues, the bid could not be opened and hence the documents were called for through email.

Reply was not acceptable as the actions of TNMSC was in violation of NIT and the reply did not specify the action taken by TNMSC to escalate the technical issues to NIC authorities for clarification/rectification.

(ii) The technical evaluation of 27 World Bank Tenders published by Water Resources Department (WRD), Ground Water Circle (GWC) Chennai, was based on the submission of requisite documents by the bidders in response to the requisition made through email.

Superintending Engineer, WRD, GWC in reply (December 2022), stated that the eProcurement portal provides the option for calling for ‘Shortfall documents’ only once during the technical evaluation and any further requirement of submission of clarification at the review or approval stage would not be possible. Hence clarifications during technical evaluation were being sought through email.

During the Exit meeting (February 2023), NIC stated that provision has been made in the new eProcurement portal to call for missing documents more than once.

Despite availability of provisions in the eProcurement portal for submission of bid documents and calling for missing documents within a stipulated time, continuous dependence on manual documents defeats the objective of transparency in tender processing.

### 4.3 Evaluation of tenders

As per SRS, the bid documents submitted online are to be opened, printed, signed and submitted to the committee for technical evaluation purposes.

In the above context, Audit noticed discrepancies in 79 tenders as detailed in **Table 4.3** and some of the instances are elaborated below:

**Table 4.3: Discrepancies noticed in evaluation of sampled tenders**

Sl. No.	Selected procuring entity	Number of tenders in which discrepancies were noticed in evaluation
1	Directorate of Sericulture, Salem	9
2	District Rural Development Agency, Coimbatore	34
3	District Rural Development Agency, Thanjavur	10
4	District Rural Development Agency, Krishnagiri	1
5	District Rural Development Agency, Karur	16
6	Tamil Nadu Medical Services Corporation	4
7	O/o Superintending Engineer, Water Resources Department, Ground Water Circle, Taramani, Chennai	5
	<b>Total</b>	<b>79</b>

(Source: Records of respective procuring entities)

(i) **Wrong identification of L1:** The price bid details of a tender published (October 2021) by Director of Sericulture (DoS) for supply of 35 KVA Generator is given in **Table 4.4**.

Table 4.4: Details of bids with different GST rates for same item

Bidder	Rate without tax (₹)	GST percentage quoted by bidder	Rate with quoted GST (₹)	Bid Rank	Rate with correct GST of 18 per cent (₹)
Chennai Diesel Private Limited.	4,11,111	12	4,60,444.32	L1	4,85,111
Madras Power Corporation	4,06,800	18	4,80,024.00	L2	4,80,024
Sri Lakshmi Agencies	4,02,000	21.73	4,89,360.00	L3	4,74,360
The Precision Scientific Company	4,40,000	18	5,19,200.00	L4	5,19,200

(Source: Records of Directorate of Sericulture)

Though the GST rate for 35 KVA Generator was 18 per cent, the bidders have submitted the bids with different rates of GST. Consequently, Chennai Diesel Private Limited was shortlisted as L1 bidder in the system generated BoQ comparative chart based on their quoted rate inclusive of incorrect GST at the lesser rate of 12 per cent. The Department thus incorrectly finalised Chennai Diesel Private Limited as L1 bidder.

DoS, accepted (October 2022), that the tender was finalised as per the system generated BoQ and AoC was issued for a negotiated sum of ₹4.48 lakh.

The reply points to the failure of DoS in designing the BoQ template duly incorporating the correct GST rate to avoid quoting of different GST rates for the same item by the bidders.

**(ii) Discrepancies in technical specifications submitted online vis-à-vis manual records:** Tender document pertaining to a tender published (August 2019) by DRDA, Krishnagiri for work of installation of 35 Reverse Osmosis (RO) plants had stipulated certain conditions for submission of technical specifications by a bidder who is an authorised dealer viz., (i) documentary evidence issued by the manufacturer that the bidder is a dealer, (ii) bidder should have supplied a cumulative of minimum 50 number of RO plants during the past three years, (iii) in the event of being technically qualified, inspection report of the original manufacturing unit to be obtained from the Executive Engineer (EE), DRDA and submitted before price bid opening etc.

Scrutiny of manual records and bid documents uploaded to eProcurement portal vis-a-vis tender evaluation carried out by DRDA, Krishnagiri with reference to the above eligibility criteria are detailed in **Table 4.5**.

**Table 4.5: Details of technical evaluation of bids received for installation of RO plants**

<b>Name of the technically qualified bidder out of four bids received</b>	<b>Qualification criteria required as per bid document</b>	<b>As per the manual evaluation summary</b>	<b>As per the documents uploaded by bidders in the eProcurement portal</b>
M/s Sky Traders, Salem	Dealer Certificate	Dealer of IROS Water purifiers	Authorised dealer of 'Battery operated electrical vehicles for various models'
	Details of execution of similar nature of work	Stated as enclosed-details not available	Supplied Electric Cart Battery vehicle
M/s Anbu Agencies, Dharmapuri	Dealer Certificate	Dealer of IROS Water purifiers	Authorised dealer of 'LED lights, Solar systems and Electric vehicles'
	Details of execution of similar nature of work	Stated as enclosed-details not available	Supplied Electric Cart Battery vehicle
The mandatory inspection report of EE/DRDA to be obtained prior to opening of price bid was not available			

(Source: eProcurement database and records of DRDA, Krishnagiri)

Despite the above discrepancies, the price bid was opened (October 2019) and the work was awarded (November 2019) to M/s Sky Traders, Salem.

DRDA, Krishnagiri accepted (December 2022) that the mandatory inspection of manufacturing unit had not been conducted and that action will be initiated against the tenderer as per tender conditions. Reply was not acceptable as awarding of contract without ensuring the completeness of bid documents is in violation of tender conditions.

Tender evaluation process is vital in identifying the bidder who meets the criteria fixed for the work for early/effective completion of work. Deficiencies in designing the BoQ template which is relied upon for selection of lowest bidder and awarding of contract without ensuring compliance to bid conditions contributes to deficient/delayed completion of works.

**(iii) GST Registration:** TNMSC published (July 2021) a tender for supply of Dual Chamber Temporary Pacing Machine. One of the conditions specified in the bid document was furnishing of GST registration number for supply and services along with the Harmonised System of Nomenclature (HSN) code<sup>4</sup> of the item in the price schedule. The GST Registration of M/s Swastika Medical Center, the successful bidder related only to Medicaments, Sprays and Deodorants and not to Pacing Machine.

TNMSC replied (December 2022), that the item procured was an imported one and the supplier can supply with the existing GST registration number itself. The reply is not acceptable as it violates the tender condition. Also, the HSN Code ('90215000') quoted by the bidder in the price schedule appended to the

<sup>4</sup> Harmonised System of Nomenclature meant for systemic classification of goods based on which GST rates are levied.



NIT does not figure in the HSN number pertaining to the GST Registration of M/s Swastika Medical Center.

(iv) **ISO Certification** - Director of Sericulture (DoS), Salem published a tender for the supply of ‘Silkworm rearing bed disinfectant’ (Ankush). The Condition No. 5(b) for the bidders in the NIT stipulates that the entity must have ISO certification. Audit, however, observed that the ISO certification of M/s SR Systems, Salem, the successful bidder, related only to IT Infrastructure and not to the disinfectant Ankush.

DoS accepted (September 2022), that the Tender Scrutiny Committee verified ISO certification of the bidders but failed to verify the goods and services for which it was given and further stated that such verification will be ensured in future.

Awarding contracts without appropriate GST registration / ISO certification is not in order and could result in non-execution of the contract.

(v) **Non-exemption of EMD for SSI/MSME bidders:** GoTN exempted (September 2013) Small Scale Industries (SSIs) located outside the State and registered with National Small Industries Corporation (NSIC) from payment of EMD/SD in respect of items manufactured by them. The eProcurement portal provides for such exemption for SSIs/ Micro, Small and Medium Enterprises (MSMEs) and the documents in support of the exemption are to be uploaded in the eProcurement portal.

In two sampled tenders published (February/March 2022) by TNMSC, the bidders<sup>5</sup> were not granted EMD exemption though they had uploaded necessary documents on the grounds that they were not domestic enterprises.

Details of bids received in one of the tenders and in the retender consequent on cancellation of the first tender are given in **Table 4.6**.

**Table 4.6: Details of bids received**

Tender ID	Name of bidder	Price quoted	Remarks
2022_TNMSC_222594_1	M/s Analytical Technologies Limited, Baroda	₹20 lakh	Bid rejected as he claimed EMD exemption under NSIC.
	M/s Spincotech Private Limited	₹35 lakh	Since the quote exceeded the threshold limit of ₹25 lakh for limited tender, the tender was cancelled.
2022_TNMSC_230305_1	M/s Analytical Technologies Limited, Baroda	₹35 lakh	In the retender, incorporating the EMD exemption for domestic enterprise clause, two bidders remitted EMD and qualified for the price bid. Since the prices exceeded the limited tender threshold, corrigendum was published on 05/07/2022 for cancellation of Tender.
	M/s Spincotech Private Limited	₹35 lakh	

(Source: Records of TNMSC)

<sup>5</sup> M/s Quality Scientific & Mechanical Works, Haryana and M/s Analytical Technologies Limited, Baroda.

Scrutiny of records revealed that M/s Analytical Technologies Limited, being aware of the higher price quoted by M/s Spincotech Private Limited in the first tender, quoted their price higher by ₹15 lakh. The limited tender was however, cancelled subsequently and it was decided to float open tender online.

Audit observes that if the EMD exemption had been considered during the first Tender, M/s Analytical Technologies Limited would have been L1 within the threshold limit of limited tender.

TNMSC replied (December 2022) that the criteria that EMD exemption is only for domestic enterprises and not for non-domestic units had been incorporated in all subsequent tenders. The reply is not acceptable as the action of TNMSC in failing to extend exemption from payment of EMD/SD to SSIs located outside the State is in contravention of Government orders that was meant to encourage SSIs.

**(vi) Different procedures for similar tenders:** For impartial evaluation of all tenders, the procuring departments should follow uniform methods while evaluating the bid documents submitted by the bidders. It was, however, noticed that in three instances involving seven tenders, the evaluation differed for same criteria in similar tenders and for same bidders too. In this regard, illustrative cases noticed in tenders published by Director of Sericulture, Salem are discussed in **Table 4.7**.

**Table 4.7: Illustrative cases of different procedure adopted in tenders for procuring machineries/equipment**

Sl. No.	Tender ID (Name of the bidder)	Tender status	Audit observation on tender evaluation
<b>Case 1:</b>			
1	2018_SERI_114430_1 (M/s Star Associated Traders, Pollachi)	The bid was accepted and contract awarded (February 2019).	In both the tenders the Test report (Birsra Agricultural University, Ranchi) was furnished by the bidder without rectification documents. However, while the first tender was accepted the second tender was rejected
2	2020_SERI_188007_1 (M/s Star Associated Traders, Pollachi)	The bid was rejected (January 2021) in technical evaluation.	
<b>Case 2:</b>			
3	2018_SERI_114430_1 (M/s Fortune Agro Impex, Bangalore)	The bid was rejected (January 2019) in technical evaluation.	Bid was rejected due to submission of tampered/manipulated document in another tender 2018_SERI_114568_1 (January 2019). However, the bidder had not been blacklisted.
4	2021_SERI_211898_1 (M/s Fortune Agro Impex, Bangalore)	The bid was accepted (November 2021) and qualified for price bid opening.	Bid accepted without considering that the bidder had submitted tampered/ manipulated documents in an earlier bid.

(Source: Records of Directorate of Sericulture, Salem)

DoS stated (December 2022) that in Case 1 (**Table 4.7**), the test report submitted by the bidder for the second tender was thoroughly verified and then rejected for the second tender as the test report was not updated / rectified for more than 3 years. In respect of Case 2 (**Table 4.7**), it was stated that the bid

for the second tender was accepted as the previous performances of the bidder was good and that in future, firms submitting manipulated records would be recommended to Government for blacklisting at least for a year. The reply is not acceptable since Department was inconsistent in verifying the test reports and in evaluating the bids and also failed to blacklist the bidder who submitted tampered documents so that he would not be considered for future bids.

**(vii) Bidder rejected by TSC but approved by TAC:** In WRD, PWD, Chennai in the following two instances, the bidders who were rejected in the technical evaluation by the Tender Scrutiny Committee (TSC) were awarded the contract by the Tender Acceptance Committee (TAC) without recording the justification.

In one tender, three bids were received from M/s Vetri Constructions (B1), M/s Vishnu Infrastructures (B2) and M/s Jawahar Constructions (B3). The TSC pre-qualified B1 observing that he alone fulfilled all criteria while the other two bidders (B2 and B3) did not qualify in the ‘Tools and Plant’ criteria. Subsequently, the TAC decided that B3 alone satisfied all qualification criteria and rejected the bids of B1 and B2 on the grounds that they did not fulfill the ‘Tools and Plant’ criteria. Consequently, the tender was finalised and the contract awarded to B3.

In another tender bids were received from seven tenderers viz., KKS & Co (B1), VNS Constructions (B2), Dharani Hitech Projects Private Limited (B3), Vetri Constructions (B4), V.Meenal (B5), P.Angamuthu (B6) and PRG Constructions (B7). As per TSC report, all seven bidders did not pre-qualify as they failed to satisfy the Class-I Live Certificate criteria. TAC, however, decided that three bidders viz., B1, B4 and B5 satisfied all criteria including the Class-I Live Certificate criteria and evaluated their price bids and awarded the contract to the shortlisted L1 bidder i.e. B5.

It was observed in Audit that though TAC is empowered to overrule the decision of TSC, the reasons for the same should be recorded and uploaded in the eProcurement portal which was not done in the above two cases. The deficiencies brought out above impair the objectivity of the evaluation process besides depriving the legitimate bidders from being awarded the contract.

#### 4.4 Conclusion

Provisions available in the eProcurement portal for submission of bid documents and for calling missing bid documents within a stipulated time were not utilised and manually submitted documents were relied upon, defeating the objective of transparency in tender processing. Deficiencies in designing the BoQ template, awarding of contracts without ensuring compliance to bid conditions and inconsistencies in bid evaluation impaired the objectivity of the tender evaluation process besides depriving the legitimate bidders from being awarded the contract. Government accepted (February 2023) the observations and stated that the inputs will be useful for the new eProcurement portal to be implemented from 1 April 2023.

#### **4.5 Recommendations**

- Government should establish a 'Centre of responsibility' to escalate eProcurement portal issues to NIC for appropriate resolution.
- Government should instruct the procuring entities to evaluate the tenders only based on the documents uploaded by the bidders to the eProcurement portal.
- Government must fix responsibility on the tender inviting authorities and officers involved in the tender process for discrepancies in tender processing.
- Government should consider introducing a feature in the system for fixing responsibility on the tender evaluator and for breaking down bid conditions into its components and generate an automatic inviolable checklist for the tender evaluation.
- Government, through NIC, should take steps to map the policies relating to SSIs/MSMEs bidders in the eProcurement portal to ensure a holistic tender evaluation.
- Government should ensure that the bidders who indulge in malpractices are blacklisted.
- Nodal Officers of procuring departments should ensure that all evaluation reports are uploaded in the eProcurement portal in complete shape for transparency in tender processing.