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PART-I

GOVERNMENT OF SINDH
LOCAL GOVERNMENT AND
HOUSING TOWN PLANNING DEPARTMENT

Karachi, dated the 20th September, 2016

No.SOA(LG)/4(34)/2014. In exercise of the powers conferred by section 138 of the Sindh Local Government Act, 2013, read with sub-section (1) of sections 96 and 100 thereof and entry 20 of Schedule VII thereto, the Government of Sindh are pleased to make the following Rules:-

CHAPTER-I

Short title and commencement.

1. (1) These rules may be called the Sindh Local Councils (Auctioning of Collection Rights) Rules, 2016.
(2) They shall come into force at once.

Definitions.

2. (1) In these rules, unless the subject or context otherwise requires-

(i) "Act" means the Sindh Local Government Act, 2013. (Sindh Act No. XLII of 2013);

(ii) "Contractor" means a person, firm or a company eligible to make contract with Local Council;

(iii) "income" means income from taxes, fees, tolls and other levies of Local Council but shall not include grants, contributions and deposite;

(iv) "negotiation" means a processed deal with the person, eligible to make a contract, to fetch maximum income out of contract.

(2) words and expressions used herein but not defined in these rules shall have the same meanings as are assigned to them in the Act.

Provided that in case of an income introduced by a Local Council for the first time, the assessed and expected income as provided in the budget from that sourceshall be the reserve price for the income.

Attempts to award the contract.

10. At least three attempts shall be made to award the contract of collection rights of an income Council concerned before the commencement of auction has failed to fetch bid equal to the reserve price or more.

Acceptance of bid.

11. (1) The bid received in open auction, if less than the reserve price shall be rejected by the officer incharge of the auction in all cases and the contract shall be re-auctioned in the manner, prescribed in rule-5;

(2) The highest bid, equal to reserve price or above, received in open auction shall be accepted by the officer incharge of the auction and place before the Local Council concernned within ten days or receipt of bid for confirmation; provided that bid so received was reasonable and there was no scope of its further enhancement in view of the concerned Local Council administration.

(3) The Council concerned shall have full powers to accept or reject the bid duly recommended by the Local Council administration for the reasons to be recorded in writing.

(4) In case, all attempts to fetch income equal to or more than reserve price as specified in rule 10 failed before commencement of financial year, the Chief Executive of respective Local Council shall report the matter to the Local Council concerned or decision whether the income be contracted out through negotiation be authorizing the Mayor or, as the case may be, the Chairman or by appointing a Negotiation committee or otherwise,

3. (1) Subject to sub-rule (2), a Local Council may collect an income through a contractor by awarding contract for collection rights for a period not exceeding one year. **Auction of collection rights.**

(2) A Local Council shall not award contract for collection of an income including water rate, building fee, commercialization charges, sanitaton fee, license fee and lighting rate or arrears of the income, demand for which can be raised against a specific person and its arrears can be carried forward.

4. No contract of collection rights of an income of Local Council shall be awarded to contract except in the manner hereinafter prescribed. **Prohibition.**

CHAPTER-II

5. (1) For the contract of awarding of collection rights of an income the following auction procedure shall be adopted:- **Auction procedure.**

(i) a public notice for conduct of an auction, in not less than three widely circulated newspapers in Urdu, Sindh and English languages, shall be published by the Local Council, at least fifteen days before the date of auction;

(ii) a copy of the notice shall be placed on the notice board of the office of the Local council concerned and at other conspicuous places. Announcement of auction may also be made by FM Radio and other electronic. methods as may be required.

(iii) the notice shall contain the date and time of auction specifying the major terms and conditions for participating in the auction;

(iv) providing a provision in the Tender Notice that in case of non-acceptance of the bid in the first attempt, the dates for second attempt or, if required, third attempt shall be specified; and

(v) the public notice shall contain the minimum reserve _____ for auction amount of bid security and period of contract with rates an details.

Statement of participants.

6. (1) On given date and time of auction a statement of participants, who are eligible to participate in the auction and have deposited the bid Security specified in the auction notice, shall be prepared and signed by the officer incharge of the auction and at least two participants of the auction.

(2) The name, address and identity card number of each participant shall be written, and attested copy of the participant's identity card shall be obtain and kept in the record.

Statement of bid or offer.

7. The auction shall be started after announcing and delivering the copy of terms and conditions of the contract to the intending participants. A statement of bids or offers shall be prepared in the presence of the participants of auction and it shall be signed by the Officer Incharge of the auction proceedings and signatures of three highest bidders shall also be obtained in a column against the amount of their bids.

CHAPTER-III

Manner of awarding contracts.

8. The contract of collection rights of an income of a Local Council shall be awarded to a highest bidder through an open bid by adopting the procedure of auction as laid down in Chapter-II.

Reserve Price.

9. The reserve price for an income shall be the average of last proceeding three years' income of the respective income:

Provided that in case of an income introduced by a Local Council for the first time, the assessed and expected income as provided in the budget from that source shall be the reserve price for the income.

Attempts to award the contract.

10. At least three attempts shall be made to award the contract of collection rights of an income through open bid by the administration of Local Council concerned before the commencement of financial year, if the first and second attempt of auction has failed to fetch bid equal to the reserve price or more.

Acceptance of bid.

11. (1) The bid received in open auction, if less than the reserve price, shall be rejected by the officer incharge of the auction in all cases and the contract shall be re-auctioned in the manner, prescribed in rule-5;

(2) The highest bid, equal to reserve price or above, received in open auction shall be accepted by the officer incharge of the auction and place before the Local Council concerned within ten days of receipt of bid for confirmation; provided that bid so received was reasonable and there was no scope of its further enhancement in view of the concerned Local Council administration.

(3) The Council concerned shall have full powers to accept or reject the bid duly recommended by, the Local Council administration for the reasons to be recorded in writing.

(4) In case, all attempts to fetch income equal to or more than reserve price as specified in rule 10 failed before commencement of financial year, the Chief Executive of respective Local Council shall report the matter to the Local Council concerned or decision whether the income be contracted out through negotiation by authorizing the Mayor or, as the case may be, the Chairman or by appointing a Negotiation committee or otherwise,

(5) Subject to sub-rule (6) if the Council accepts, an officer or bid of a contract and enters into an agreement with the contractor, it may repudiate an agreement.

(6) If the Government is satisfied that the auction has not been conducted in accordance with the rules or in a transparent manner, it may repudiate an agreement and the responsible officer may be proceeded against under the law.

Proceeding of negotiations.

12. (1) If a Council authorizes the Mayor or, as the case may be the Chairman or Negotiation Committee appointed by the Council to negotiate with the contractors so that the income be collected through a successful contractor at maximum amount, the person authorized for the negotiation shall invite at least three participants of preceding auctions who have offered maximum bid for the contract. Any other party may also be included in this process in order to get increase in offer from any of the parties.

(2) From all the invited parties a written offer shall be obtained separately and the maximum offer from a party if found reasonable, shall be entered and placed before the Council for acceptance.

Intimation of acceptance of bid.

13. (1) As soon as the confirmation from the Council about the acceptance of bid or offer is received, the Local Council administration shall communicate the acceptance of bid or offer to the contractor immediately by a letter through special messenger at his address provided by him at the time of participation in auction and direct him to enter into written agreement and fulfill his obligations in accordance with the terms and conditions of contract.

(2) The cost of written agreement shall be borne by the contractor.

(3) In case the contractor does not turn up to deposit dues recoverable from him in the light of terms and conditions of auction or does not enter into written agreement within the specified period mention in the communication, it shall be presumed that the contractor is no more interested in the contract and as such the contract shall automatically stand cancelled and the deposite made by the contractor shall stand forfeited. The income shall also be put to re-auction in such a case.

CHAPTER-IV

Terms and conditions of contract.

14. Among other conditions as a Local Council may decide the conditions laid down in this Chapter shall invariably be part of the terms and conditions of the contract

Eligibility of contract.

15. Any person who—

(i) is defaulter in respect of any dues to a Local Council or any Federal or Provincial Department; or

(ii) has been blacklisted by a Local Council or any other Federal or Provincial Department; or

(iii) has been declared insolvent; or

(iv) is not competent to enter into an agreement under the law, shall not be eligible to be a contractor.

Bid Security.

16. (1) Every contractor shall deposite at least two percent of reserve price of respective income as Bid Security in shape of Call deposit or Demand Draft or Pay Order for taking part in auction as contractor.

(2) The Bid Security of successful bidder shall be retained by the Local Council administration as a security for successful completion of contract alongwith other dues described in the agreement.

(3) The Bid Security of un-successful bidders shall be returned immediately after completion of auction.

Dues and deposite.

17. (1) After receipt of communication of acceptance of bid or offer from the Local Council, the contractor shall immediately deposite at least one-_____ of the amount of offer or bid in the shape of Pay order Demand Draft or Bank Guarantee and enter into written agreement with the respective Local Council within three days.

(2) The remaining amount of offer or bid shall be paid by the contractor to the Local Council in twelve equal monthly installments.

(3) The installments shall be paid by the contractor in advance by the fifth day of each month.

18. (1) The contractor shall deposite other _____ as rent of buildings under his possession _____

books, stationery, furniture and fixtures or any other assets or property provided by the Local Council for use of collection of income, in the funds of Local Council in advance by the fifth day of each month.

(2) The Contractor shall be responsible for deposit of salaries, pension contribution, premium of group insurance, leave salary, all allowances and other fringe benefits permissible to the employess of a Local Council handed over to him for administration and collection of respective income.

(3) Income tax, sales tax, professional tax or any other levies enforced by law or instructions issued from time to time shall also be recovered from the contractor.

(4) Any other deposit agreed upon between the Local Council and the contractor shall be recovered accordingly.

Maintenance of accounts and official record.

19. (1) A contractor shall keep the record relating to accounts of the income as well as other documents in proper order as provided in the respective rules, bye-laws and procedures.

(2) All such record shall be the property of respective Local Council. The contractor may have an attested copy thereof from the respective Local Council.

(3) The Mayor or, as the case may be, the Chairman or any other person authorized by him and officers or officials of Taxation Department of respective Local Council may inspect such record.

Properties and assets.

20. (1) The contractor shall keep the properties and assets of Local Council, given to him at the beginning of contract, in the same condition as those were received by him and he shall be responsible for any material loss caused to such properties and assets due to his negligence during the contract.

(2) The contractor shall deliver all assets and properties received by him back to the Local Council after completion of contract and get certificate from the Local Council of such delivery.

Implementation of collection procedure and bye-laws.

21. (1) The complete set of procedures of collection of taxes, fees, toll or and other levies of Local Council alongwith respective rules, notifications and bye-laws of a Local Council shall be the part of terms and conditions of the contract and contractor shall be bound by the said procedures, rules and bye-laws of respective Local Council in collection of taxes.

(2) The contractor shall have no right to interpret any law or bye-laws; provided that in case a need arises for interpretation he shall refer the matter to the Local Council concerned for interpretation.

Over charging.

22. (1) The contractor shall not be involved in overcharging either by himself or through any person.

(2) In case of violation of sub-rule (1), action shall be taken against the contractor or his agent or any other person involved in overcharging, and his contract shall be cancelled, and all deposits made by him shall be forfeited forthwith.

Rights and responsibilities of the contractor.

23. (1) The contractor shall be responsible to abide by the terms and conditions of the contract.

(2) The contractor shall be responsible to collect income in accordance with the provisions of law, rules, bye-laws and notifications, etc.

(3) The contractor shall be entitled to receive all amount collected as income related to the contract after making proper entry into the relevant books of accounts as a token that he has received such amount.

(4) The contractor shall be entitled to supervise, monitor and control the collection staff entrusted to him for the purpose of collection of relevant income.

(5) The contractor shall not be authorized to monitor and control the collection of income. All collections shall be carried out by him through the staff of Local Council concerned assigned to him for this purpose.

Disputes.

24. (1) In case of any dispute arising between the contractor and Local Council regarding contract, or any other matter arising out of contract, the contractor and the Local Council shall have a right to resolve the dispute through arbitration under the Arbitration Act, 1940.

(2) The arbitrator shall decide the dispute within one month.

(3) The decision of the arbitrator shall be final and binding on the parties concerned.

(4) The disputes between public and the contractor shall be settled by the head of Taxation Department of Local Council concerned within a week.

(5) The arbitrators shall be appointed by Government through notification in the official Gazette.

Sureties and Guarantees.

25. (1) The contractor shall provide at least two sureties and a guaranntor of contract. The sureties and guarantor shall be personally responsible for payment of dues recoverable from the contractor in case of default.

(2) The Local Council shall be entitled to recover all dues from the sureties and guarantor in case of default on the part of contractor due to any reason whatsoever. All cost and consequential costs of legal proceedings shall also be recoverable from them.

Cancellation of contract.

26. The contract shall stand automatically cancelled if a contractor—

(i) fails to abide by any term and condition of the contract; or

(ii) fails to pay any dues on proper date and time; or

(iii) involves in overcharging and circumventing rules, bye-laws and notifications related to collection of respective income; or

(iv) violates any other condition which the Local Council administration may deem fit to impose in the public interest.

Provided that the contract shall not be cancelled without providing an opportunity of being heard to the contractor by the concerned Local Council.

(2) After cancellation of contract the Local Council may choose to re-auction the income for the remaining period of contract or may make departmental collection and in any case if the income so received is found less than the contractual amount, the difference shall be recovered from the contractor as arrears of land revenue as provided in section-100(2) of the Act.

27. The contractor shall not be entitled to rebate on any ground whatsoever. **Rebates.**

28. No extension in a contract shall be granted on any ground whatsoever. **Extension of Contract.**

SECRETARY TO GOVERNMENT OF SINDH

SECTION OFFICER (ADMN)

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