

L. A. BILL No. V OF 2023.

A BILL

to make special provisions for ensuring single point procurement of certain medical goods and execution of turnkey projects with highest standards of transparency, fairness, equity and for timely supply at optimum and uniform rates and of desired quality and quantity for health institutions under the State Government and certain other health institutions through the Maharashtra Medical Goods Procurement Authority and for the matters connected therewith or incidental thereto.

(As passed by the Legislative Assembly on the 3rd March, 2023.)

(As passed by the Legislative Council on the 8th March, 2023.)

WHEREAS it is expedient to enact a new law to make special provisions for ensuring single point procurement of certain medical goods and execution of turnkey projects with highest standards of transparency, fairness, equity and for timely supply at optimum and uniform rates and of desired quality and quantity for health institutions under the State Government and certain other health institutions through the Maharashtra Medical Goods Procurement Authority and for the matters connected therewith or incidental thereto, for the purposes aforesaid; it is hereby enacted in the Seventy-fourth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

Short title and commencement. **1. (1)** This Act may be called the Maharashtra Medical Goods Procurement Authority Act, 2023.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

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

(a) “appointed day” means the date on which the provisions of this Act shall come into force under sub-section (2) of section 1;

(b) “ Chief Executive Officer ” means the Chief Executive Officer of the Procurement Authority established under this Act ;

(c) “ medical consumables ” includes gloves, syringes, bandages, cotton wool, sutures, catheters, tubes, infusion sets, I.V. cannulas, etc., laboratory supplies including pipettes, blood collecting tubes and microscope supplies and surgical instruments such as scalpels, forceps, lancets, scissors, etc. ;

(d) “medical device” means any instrument, apparatus, implement, machine, appliance, implant, reagent for use, software, material or other similar or related article, intended by the manufacturer to be used, alone or in combination, for human beings, for one or more of the specific medical purpose of,—

(i) diagnosis, prevention, monitoring, treatment or alleviation of disease,

(ii) diagnosis, monitoring, treatment, alleviation of or healing of an injury,

(iii) investigation, replacement, modification or support of the anatomy or of a physiological process,

(iv) supporting or sustaining life,

(v) control of conception,

(vi) disinfection of medical devices,

(vii) providing information by means of examination of specimens derived from the human body,

and does not achieve its primary intended action by pharmacological, immunological or metabolic means, in or on the human body, but which may be assisted in its intended function by such means;

(e) “ medical equipment ” means the medical devices requiring calibration, maintenance, repair, user training and decommissioning – activities (usually managed by clinical or biomedical engineers) used for the specific purposes of diagnosis and treatment of disease or rehabilitation following disease or injury of human beings and can be used either alone or in combination with any accessory, consumable or other piece of medical device or medical equipment but excludes implantable, disposable or single-use medical devices ;

(f) “medical goods” means medicines, medical consumables, medical devices, medical equipments or execution of turnkey projects therefor; and includes any other medical goods as the State Government may, from time to time, in consultation with Procurement Authority, by notification in the *Official Gazette*, specify, to be the medical goods for the purposes of this Act ;

(g) “prescribed” means prescribed by rules made under this Act ;

(h) “procure” or “procurement” means the process of purchase, storage or supply of the medical goods;

(i) “Procurement Authority” means the Maharashtra Medical Goods Procurement Authority established under sub-section (1) of section 3 ;

(j) “regulations” means the regulations made under this Act;

(k) “rules” means the rules made under this Act ;

(l) “Secretary” means Additional Chief Secretary or Principal Secretary or Secretary of any administrative Department of the State Government.

CHAPTER II

ESTABLISHMENT AND COMPOSITION OF MAHARASHTRA MEDICAL GOODS PROCUREMENT AUTHORITY.

3. (1) As soon as may be after the appointed date, the State Government shall, by notification in the *Official Gazette*, establish an authority to be called “the Maharashtra Medical Goods Procurement Authority”, for the purposes of this Act.

Establishment of Maharashtra Medical Goods Procurement Authority.

(2) The Procurement Authority shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose off property, both movable and immovable, and by the said name may sue and be sued.

4. (1) The Procurement Authority shall consist of the following Chairperson, Deputy Chairpersons and Members, *ex-officio*, namely:—

Composition of Procurement Authority.

- (a) the Chief Minister - Chairperson ;
- (b) the Minister for Public Health - Deputy Chairperson ;
- (c) the Minister for Medical Education - Deputy Chairperson ;
- (d) the Minister for Food and Drugs Administration - Deputy Chairperson;
- (e) the Minister of State for Public Health - Member ;
- (f) the Minister of State for Medical Education - Member ;
- (g) the Minister of State for Food and Drugs Administration - Member ;

- (h) the Chief Secretary to Government of Maharashtra - Member ;
- (i) the Secretary-I of Public Health Department - Member ;
- (j) the Secretary-II of Public Health Department - Member ;
- (k) the Secretary of Medical Education and Drugs Department - Member ;
- (l) the Secretary of Industries Department - Member ;
- (m) the Secretary of Finance Department - Member ;
- (n) the Secretary-(UD-II) of Urban Development Department - Member ;
- (o) the Commissioner, Health Services - Member ;
- (p) the Chief Executive Officer of the Procurement Authority - Member—Secretary.

(2) The Chairperson may delegate all or any of his powers or functions under this Act to any one of the Deputy Chairperson as he deems fit.

(3) The Procurement Authority shall meet at least once in six months, at such place and at such time as the Chairperson may decide and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum thereat) as may be laid down by regulations.

(4) The Chairperson shall preside at the meetings of the Authority. In absence of the Chairperson at any meeting, any other member of the Authority elected by the members present at the meeting shall preside at such meeting.

Objectives of Procurement Authority. **5.** The objectives of the Procurement Authority shall be to procure medical goods for,—

- (a) the Public Health Department of the Government of Maharashtra ;
- (b) the Medical Education and Drugs Department of the Government of Maharashtra (excluding turnkey projects);
- (c) any other Department of the Government of Maharashtra, the urban or the rural local authorities or for any other authority or entity established, by or under any law, by the State Government, if they so request ;
- (d) the Central Government, other State Governments, Union Territories, or urban or rural local authorities of other States or other authority or entity established by or under any law by the Central Government or the other State Government or the Union Territory, if they so request ;
- (e) private hospitals, trust hospitals, private organizations, non-Governmental organization, trust or international organisation, if they so request.

6. The Procurement Authority shall, for the purposes of procurement of the medical goods, exercise the powers and discharge the functions, as follows, namely :— Powers and functions of Procurement Authority.

- (a) to prepare and review any financial plan for procurement;
- (b) to supervise the functioning of the Executive Committee;
- (c) to take policy level decisions related to the functions of the Procurement Authority;
- (d) to recommend to the State Government any matter or proposal requiring action by the State Government or any other authority for the overall procurement and supply of medical goods ;
- (e) to recommend procurement policy to the State Government regarding purchase of medicines and equipments;
- (f) to procure medical goods and execute turnkey projects therefor and their timely availability and distribution to the consignee locations;
- (g) to co-ordinate with other Government agencies and departments for procurement purposes;
- (h) to oversee the procurement process for streamlining supply of medical goods;
- (i) to supervise or otherwise ensure adequate supervision over the planning and execution of any procurement process, the expenses of which, in whole or in part, are to be met from the Procurement Authority Fund;
- (j) to bring transparency and accountability in procurement process of medical goods; and
- (k) such other powers and functions as may be prescribed.

7. (1) A demand for procurement of the medical goods shall be generated by the concerned administrative Department and after giving administrative approval, the proposal for its purchase shall be forwarded by the concerned Administrative Department to the Procurement Authority for procurement. The Procurement Authority shall thereafter carry out the procurement procedure as per provisions of this Act and rules and regulations made thereunder. Procedure for procurement of medical goods.

(2) The Procurement process shall be carried out by the Procurement Authority as per the orders issued by the Industries Department of the State Government through the Government Resolutions, the Government e-Market Place (GeM Portal) guidelines and any other relevant guidelines on procurement issued by the State Government, from time to time.

CHAPTER III

EXECUTIVE COMMITTEE.

8. There shall be an Executive Committee of the Procurement Authority consisting of the following Chairperson and Members, *ex-officio*, namely :— Constitution of Executive Committee.

- (a) the Chief Secretary to Government - Chairperson ;
- (b) the Secretary-I of Public Health Department - Member ;

- (c) the Secretary-II of Public Health Department - Member;
- (d) the Secretary of Medical Education and Drugs Department - Member;
- (e) the Secretary of Industries Department - Member;
- (f) the Secretary of Finance Department - Member;
- (g) the Secretary-(UD-II) of Urban Development Department - Member;
- (h) the Commissioner, Health Services - Member;
- (i) the Commissioner of Medical Education and Research - Member;
- (j) the Director-I, Health Services - Member;
- (k) the Chief Executive Officer of the Procurement Authority -Member-Secretary.

Powers and functions of Executive Committee.

9. (1) The Executive Committee shall exercise the powers and discharge the functions, as follows, namely :-

- (i) to appoint officers and employees of Procurement Authority;
- (ii) to supervise the procurement process as executed by the Chief Executive Officer ;
- (iii) to plan, implement and supervise procurement of medical goods and execution of turnkey projects therefor;
- (iv) to approve or reject tenders or processes of procurement under the Procurement Authority in cases which are not covered by existing procurement guidelines but are necessitated by the prevailing circumstances during that period ;
- (v) to invest the surplus money, if any, of the Procurement Authority Fund ;
- (vi) to institute, conduct and withdraw any legal proceedings on behalf of the Procurement Authority;
- (vii) such other powers (except the power to make regulations) delegated or the functions assigned or duties imposed, from time to time, on the Executive Committee by the Procurement Authority.

Meetings of Executive Committee.

10. The Executive Committee shall meet at such place and at such time as may be determined by its Chairperson, and shall observe such rules of procedure as it may determine.

Constitution of sub-committees.

11. (1) The Executive Committee may constitute such sub-committees and any other committees including Tender Approval Committee, and for such purpose or purposes, as it may think fit; and entrust to any such committee such powers as the Executive Committee may specify.

(2) The sub-committees constituted under sub-section (1) shall meet at such place and at such time, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be directed by the Executive Committee.

(3) The Executive Committee shall, from time to time, by order, determine the powers and duties of the sub-committees appointed by it.

12. The Executive Committee may, from time to time, by resolution passed in this behalf, direct that any power or function which is conferred on it, by or under the provisions of this Act, shall be exercised or performed by the Chief Executive Officer.

Delegation of powers or functions by Executive Committee.

13. All proceedings of the Procurement Authority and the Executive Committee shall be authenticated by the signature of the Chief Executive Officer or by any other officer of the Procurement Authority authorized by the Chief Executive Officer in this behalf.

Authentication of orders, etc., of Procurement Authority and Executive Committee.

14. No act or proceeding of the Procurement Authority or any of its committees shall be invalid by reason only of a vacancy therein, or any defect in the appointment of any person acting as the Chairperson or Deputy Chairperson or Member, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Proceedings presumed to be good and valid.

15. The Procurement Authority or the Executive Committee may invite any officer of the Government or the local authority or any other person as it deems fit to attend its meeting or meetings as a special invitee for the purpose of assisting or advising it on any matter or matters, connected with the objectives and functions of the Procurement Authority, but he shall have no right to vote.

Provision for inviting Government or local authority officers to assist or advise.

CHAPTER IV

CHIEF EXECUTIVE OFFICER.

16. (1) The Chief Executive Officer shall be the executive and administrative head of the Procurement Authority and shall exercise such powers and perform such duties as are assigned to him by or under this Act or the rules or the regulations made thereunder and shall exercise such powers and perform such functions as the Authority may, by a resolution, delegate to him.

Chief Executive Officer and his Powers, Functions and Duties.

(2) The Chief Executive Officer shall be the head of the Tender Approval Committee. The Tender Approval Committee shall approve and finalize all tenders. The Chief Executive Officer may, in exceptional cases, place tenders before the Executive Committee for its decision.

(3) The Chief Executive Officer shall exercise the powers and discharge the functions, as follows, namely :—

(a) to form Tender Approval Committee and various sub-committees for the purposes of procurement as directed by the Executive Committee;

(b) to monitor the progress of purchases made by the Authority;

(c) to take regular review of finance and accounts of the Authority;

(d) to develop benchmarks for continuous improvement of organization;

(e) such other powers, functions and duties as may be prescribed.

Supervision
by Chief
Executive
Officer.

17. The Chief Executive Officer shall supervise and control all its officers and employees, including any officers of the Government appointed, from time to time, on deputation or otherwise to the Procurement Authority.

Responsibility
of Chief
Executive
Officer.

18. The Chief Executive Officer shall be responsible for collection of all sums due to the Procurement Authority and payment of all sums payable by the Authority and shall ensure adequate security of all assets, including cash balances of the Authority. The Chief Executive Officer shall also be responsible for performing all executive functions in connection with the works of the Authority.

CHAPTER V

OFFICERS AND EMPLOYEES.

Officers and
employees of
Procurement
Authority.

19. (1) The State Government shall appoint the Chief Executive Officer from the Indian Administrative Services Cadre.

(2) The State Government shall, to assist the Procurement Authority, appoint one or more of the following officers :—

(a) General Manager (Technical), who shall be of the rank of the Joint Director under the Public Health Department or equivalent thereto;

(b) General Manager (Administration), who shall be of the rank of the Joint Secretary to the State Government or equivalent thereto;

(c) Assistant General Manager (Technical), who shall be of the rank of the Deputy Director under the Public Health Department or of the rank of the Dean or Professor or Associate Professor under the Medical Education and Drugs Department or equivalent thereto;

(d) Technical Officer, who shall be of the rank of the Assistant Director under the Public Health Department or equivalent thereto;

(e) Chief Accounts and Finance Officer (Accounts), who shall be of the rank of the Joint Director, Finance and Accounts under the Finance Department or equivalent thereto;

(f) Chief Administrative Officer (Administration), who shall be of the rank of the Under Secretary to the State Government or equivalent thereto.

(3) The Procurement Authority may, from time to time, create posts of officers and employees, other than those mentioned in sub-section (2), as it thinks necessary. The conditions of appointment, conditions of service and the powers and duties of such officers and employees shall be such as may be determined by regulations. The Procurement Authority may appoint officers and employees on contractual basis, as and when required.

CHAPTER VI
FINANCE, BUDGET AND ACCOUNTS.

20. (1) There shall be a fund of the Procurement Authority to be called " the Medical Goods Procurement Fund ", to which shall be credited all moneys received by the Authority, including,— Fund of Procurement Authority.

(a) all grants and such other moneys as may be paid to the Authority by the State Government;

(b) such moneys as may be paid to the Authority by the Central Government or any other State Government or Union Territory or any other authority or agency;

(c) all fees, costs and charges received by the Authority under this Act or any other law for the time being in force;

(d) all other fees and charges received towards services rendered and towards administrative procedure of the Authority;

(e) all moneys borrowed by the Authority;

(f) any bequests, donations, endowments or other grants made by private individuals or institutions;

(g) all moneys received by the Authority by way of rents or in any other manner or from any other source.

(2) The Procurement Authority may keep in current or deposit account with the State Bank of India or with any Nationalized Bank or with any other bank as approved by the State Government in this behalf, such sum of money out of its fund as may be prescribed, and any money in excess of the said sum shall be invested in such manner as may be approved by the State Government.

(3) Such accounts shall be operated by such officers of the Procurement Authority as may be authorized by it by regulations made in this behalf.

21. (1) The Procurement Authority shall make provisions for a reserve fund and may provide for other specially denominated funds as it deems fit. Reserve and other funds.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Procurement Authority.

22. All property, funds and other assets vesting in the Procurement Authority shall be held and applied by it for the purposes and subject to the provisions of this Act. Application of funds, etc.

23. The State Government shall provide grant in aid for the first two years from the establishment of the Procurement Authority for salary component of staff and other office support expenses or till the time the Procurement Authority becomes self-sustainable, whichever is earlier. Grants by State Government.

24. The Procurement Authority may, with the previous approval of the State Government, borrow any moneys for carrying out the purposes of this Act or for servicing any loan obtained by it, at such rates and on such conditions, as the State Government may determine at the time the moneys are borrowed. Powers of Procurement Authority to borrow.

State
Guarantee to
loans taken
or given by
Procurement
Authority.

25. The State Government may guarantee repayment of the principal of, and interest on, any loan raised or given by the Procurement Authority or transferred to it for the purposes of this Act, subject to such conditions as the State Government may think fit to impose.

Accounts and
Audit.

26. (1) The Procurement Authority shall keep accounts in such form and in such manner as it may, by regulations made in this behalf, determine.

(2) The accounts of the Procurement Authority shall be audited by the Chief Auditor, Local Fund Accounts or by any other auditor appointed by the State Government, from time to time.

(3) The audit shall be made in such manner as may be determined by the regulations.

(4) The auditor shall submit his audit report to the Procurement Authority and shall forward a copy thereof to the State Government.

Budget.

27. (1) The Member-Secretary of the Procurement Authority shall prepare, every year, in such form and at such time as may be prescribed, an annual budget estimate in respect of the next ensuing financial year showing the estimated receipts and disbursements of the Procurement Authority and shall submit it to the Procurement Authority for approval.

(2) The Member-Secretary shall forward to the State Government copies of the budget estimate so prepared by him and the budget as approved by the Procurement Authority.

Annual
Report.

28. The Procurement Authority shall prepare after the end of each year (ending on the 31st day of March), a report of its activities during the previous year and submit it to the State Government before the 30th day of November and the State Government shall cause a copy of such report to be laid before the State Legislature.

Operations of
Procurement
Authority not
to be carried
at a loss.

29. (1) The Procurement Authority shall not and shall not be required to carry out any of its operations under this Act at a loss. Any deficit in the Medical Procurement Fund caused due to procurement in any financial year shall be made good by the Authority not later than those of the next succeeding financial year.

(2) The Procurement Authority shall not place any orders to the successful bidders till the time fund is received at their end from the user institution.

Fees or
charges by
Procurement
Authority.

30. The Procurement Authority shall take fees or charges for carrying out the procurement process at such rate or rates as the State Government may, by notification in the *Official Gazette*, specify.

CHAPTER VII

MISCELLANEOUS.

Control by
State
Government.

31. (1) The Procurement Authority shall exercise its powers and perform its duties under this Act in accordance with the policy framed and guidelines laid down, from time to time, by the State Government for procurement of the medical goods in the State.

(2) The Procurement Authority shall be bound to comply with such directions which may be issued, from time to time, by the State Government for efficient administration of this Act.

32. The State Government may, from time to time, issue such general or special directions, to the Executive Committee in respect of policy matters as it deems necessary or expedient for the purpose of carrying out the objectives of this Act and the Executive Committee shall be bound to follow and act upon such directions. Power to give directions.

33. The Procurement Authority may, by resolution, delegate from time to time, any power (except the power to make regulations) exercisable by it or any function to be discharged or any duty to be performed by it by or under this Act to the Chief Executive Officer or the Executive Committee, subject to such terms and conditions as may be specified in such resolution. Power to delegate.

34. Every member, officer and other employees of the Procurement Authority and every member of the Committees or sub-committees constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Officers and other employees of Procurement Authority to be public servants.

35. No suit, prosecution or other legal proceeding shall lie against any member or any officer or other employee of the Procurement Authority and any member of Committees constituted under this Act for anything done in good faith under this Act. Indemnity.

36. The Procurement Authority may, from time to time, make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Authority, necessary for the exercise of its powers and the discharge of its functions under this Act. Power to make regulations.

37. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act. Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made 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 successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall from the date of publication of such decision in the *Official Gazette*, 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 or omitted to be done under that rule.

Power to
remove
difficulty.

38. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. V OF 2023.]

[A BILL to make special provisions for ensuring single point procurement of certain medical goods and execution of turnkey projects with highest standards of transparency, fairness, equity and for timely supply at optimum and uniform rates and of desired quality and quantity for health institutions under the State Government and certain other health institutions through the Maharashtra Medical Goods Procurement Authority and for the matters connected therewith or incidental thereto.]

**[SHRI TANAJI SAWANT,
Minister for Public Health.]**

**[As passed by the Legislative Assembly
on the 3rd March, 2023.]**

**[As passed by the Legislative Council
on the 8th March, 2023.]**

**RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Council.**