



## The Tamil Nadu Transparency in Tenders Act, 1998

Act 43 of 1998

**Keyword(s):**

Construction, Goods, Procurement, Procuring Entity, Tender, Tender Bulletin, Tender Bulletin Officer, Tender Document

Amendments appended: 14 of 2001, 43 of 2002, 33 of 2004, 28 of 2006, 6 of 2012, 31 of 2012

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# TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

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## Part IV--Section 2 Tamil Nadu Acts and Ordinances

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 11th December 1998 and is hereby published for general information:—

### ACT No. 43 OF 1998.

*An Act to provide for transparency in the public procurement and to regulate the procedure in inviting and accepting tenders and matters connected therewith or incidental thereto.*

WHEREAS to maximise economy and efficiency in Government procurement;

AND WHEREAS to foster and encourage effective participation by tenderers in the process of tenders;

AND WHEREAS to promote healthy competition among tenderers;

AND WHEREAS to provide for fair and equitable treatment of all tenderers;

AND WHEREAS it is expedient to eliminate irregularities, interference and corrupt practices in the matters relating to tender processes by providing transparency in such matters;

AND WHEREAS to promote the integrity of the process of tenders and to promote fairness and public confidence in the processing of tenders by ensuring transparency in the procedure relating to procurement;

Enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-ninth Year of the Republic of India as follows:—

(1) This Act may be called the Tamil Nadu Transparency in Tenders Act, 1998.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

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

Definitions.

(a) 'Construction' means all works associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or any other related works;

(b) 'Goods' means raw materials, products, equipment and other objects of every kind and description and includes electricity;

(c) 'Government' means the State Government;

(d) 'Procurement' means acquisition by any means by purchase of goods or services and also of construction;

(e) 'Procuring entity' means the entity specified in the Schedule to this Act;

(f) 'Tender' means the formal offer made in pursuance of an invitation by the procuring entity;

(g) 'Tender Bulletin' means the bulletin published for each district or State, containing details of invitation and acceptance of tender;

(h) 'Tender Bulletin Officer' means any officer appointed by the Government to publish the district or State Tender Bulletin;

(i) 'Tender Document' means a set of papers containing schedule of works, rates, requirement of goods or services, technical specifications, procedure and criteria as may be prescribed for evaluation and comparison of tenders and such other particulars as may be prescribed;

**Prohibition of procurement except by tender.**

3. (1) No procurement shall be made by the procuring entity except by tender.

(2) The provisions of sections 9 and 10 shall not apply to any procurement made by a procuring entity, in the normal course, if it is for carrying on business of selling and buying goods :

Provided that in case of procurement by the procuring entities on behalf of and for sale to Government or Government organisations for any Government programme, such procurement shall be only by tender.

**Regulation of tenders.**

4. No tender shall be invited or accepted by any authority after the commencement of this Act, except in accordance with the procedure specified in this Act and the rules made thereunder.

**Appointment of Bulletin Officer.**

5. The Government may, by notification, appoint,—

(a) an officer of the Government not below the rank of a Deputy Secretary to Government as State Tender Bulletin Officer;

(b) an officer not below the rank of a Deputy Collector as District Tender Bulletin Officer for every district.

**Functions of Bulletin Officers.**

6. (1) On receipt of intimation relating to details of notice of invitation of tender, from the Tender Inviting Authority, information relating to acceptance of tender together with a comparative analysis and reasons for acceptance of tenders from the Tender Accepting Authority, the State or as the case may be, the District Tender Bulletin Officer shall, publish the same in the State or District Tender Bulletin, as the case may be, within such time as may be prescribed :

Provided that, if the procurement covers more than one district, the invitation and the acceptance of tenders shall be published in the State Tender Bulletin and also in the District Tender Bulletin of such districts.

(2) The Tender Bulletin shall be made available for sale in the office of the Tender Bulletin Officer and at such other places as may be specified by him.

**Appointment of Tender Inviting Authority and Tender Accepting Authority.**

7. (1) The Government or the procuring entity, may, by order, appoint an officer under its control as Tender Inviting Authority for carrying out the functions assigned to it under this Act.

(2) The Government or the procuring entity, may, by order, appoint an officer or a committee consisting such number of officers as may be prescribed as Tender Accepting Authority for carrying out the functions assigned to it under this Act.

(3) Notwithstanding anything contained in sub-sections (1) and (2),—

(a) where the Government is the Tender Accepting Authority, Tamil Nadu Government Business Rules shall be followed for tender acceptance ensuring adherence to the other provisions of this Act;

(b) where a Multi-member Tender Accepting Authority is discharging its functions under other Acts, such Multi-member Authority shall be deemed to be Tender Accepting Authority under this Act.

8. The Tender Accepting Authority or any other officer authorised by it, shall open the tenders in the presence of tenderers present and who have submitted tenders in such time and in such place as may be specified in the tender document. **Opening of tender.**

9. (1) The Tender Inviting Authority shall invite tenders in the form of a notice containing such particulars as may be prescribed. **Functions of the Tender Inviting Authority.**

(2) The Tender Inviting Authority shall communicate the notice inviting tenders to the Bulletin Officers according to the value of the procurement and within such time as may be prescribed, so as to publish the same in the appropriate Tender Bulletin.

(3) The Tender Inviting Authority shall also publish the notice inviting tenders in Indian Trade Journal and in daily newspapers having wide circulation depending upon the value of the procurement prescribed.

(4) The Tender Inviting Authority shall supply the schedule of rates and tender documents in such manner and in such places as may be prescribed to every intending tenderer who has applied for such document.

10.(1) The Tender Accepting Authority shall cause an objective evaluation of the tenders taking into consideration the schedule of rates as mentioned in the tender document and the prevailing market rate for procurement and comparison of the tenders in accordance with the procedure and criteria specified in the tender document. **Evaluation and acceptance of tender.**

(2) After evaluation and comparison of tenders as specified in sub-section (1), the Tender Accepting Authority shall accept the lowest tender ascertained on the basis of objective and quantifiable factors specified in the tender document and giving relative weights among them.

(3) Notwithstanding anything contained in sub-section (2), if the Tender Accepting Authority decides that the price of the lowest tender is higher with reference to the prevailing market rate or the schedule of rates, he may negotiate for a reduction of price with that tenderer.

(4) If at any time before the acceptance of tender, the Tender Accepting Authority receives information that a tenderer who has submitted tender has been banned by any procuring entity, he shall not accept the tender of that tenderer even if it may be the lowest tender.

(5) In case where two or more tenderers quoted the same price, the Tender Accepting Authority shall split the procurement among such tenderers taking into consideration the experience and credentials of such tenderers. Where such splitting is not possible or could not be done equally, he shall record reasons for the same.

(6) If the Tender Accepting Authority proposes to accept the tender as per the provisions of this section, he shall pass orders accepting the tender together with reasons for such acceptance.

(7) The Tender Accepting Authority shall intimate the information regarding the name and address of the tenderer whose tender has been accepted along with the reasons for rejection of other tenders to the appropriate Tender Bulletin Officers.

11.(1) Any tenderer aggrieved by the order passed by the Tender Accepting Authority under section 10 may appeal to the Government within ten days from the date of receipt of order and the Government shall dispose the appeal within fifteen days from the date of receipt. **Appeal.**

(2) In disposing of an appeal under sub-section (1), the Government may, after giving the party an opportunity of making his representations, pass such order thereon as they may deem fit.

(3) The order of the Government on such appeal shall be final.

(4) The Government may, pending the exercise of their powers under this section, pass such interlocutory orders as they may deem fit.

**Right to reject tender.**

12.(1) After negotiation with the tenderer and before passing the order accepting a tender as under sub-section (6) of section 10, if the Tender Accepting Authority decides that the price quoted by such tenderer is higher by the percentage as may be prescribed over the schedule of rates or prevailing market price, he shall reject the tender.

(2) The Tender Accepting Authority before passing the order accepting a tender, may also reject all the tenders for reasons such as changes in the scope of procurement, new technologies or substantial design changes, lack of anticipated financial resources, court orders, accidents or calamities and other unforeseen circumstances.

**Power to obtain information.**

13. 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 in tender process, by order in writing, call for any information relating to transparency from the Tender Inviting Authority or from the Tender Accepting Authority on any matter in tender processing and the said Authority shall furnish the same to the Government.

**Power of Government to call for records.**

14. The Government may at any time, with a view to ensuring transparency in tender process, require any authority,—

(a) to produce records relating to invitation and acceptance of tenders;

(b) to furnish the tender document, estimate, statement, accounts or statistics relating to such tenders; and

(c) to furnish any report.

**Procedure to be followed in certain cases.**

15. The provisions of this Act to the extent they are not consistent with the procedure prescribed in the Projects funded by International Agreements or by International Financial Agencies shall not apply.

**Provisions of this Act not to apply in certain cases.**

16. The provisions of sections 9 and 10 shall not apply to procurement,—

(a) during natural calamities and emergencies declared by the Government;

(b) available from a single source only from a supplier or cases in which a particular supplier or contractor has exclusive rights in respect of the goods or services or construction and no reasonable alternative or substitute exists or where the procuring entity having procured goods, equipment, technology from a supplier or contractor determines that additional supplies must be procured from that specific supplier or contractor for reasons of standardisation and compatibility with the existing goods, equipment or technology;

Provided that a committee of three experts consisting one technical representative of the procuring entity, one technical representative of a State or Central Government Organisation dealing with similar procurement and one representative from a reputed Academic or Research Institution or Non-commercial Institution having expertise in such line, declares it as single source procurement;

(c) from certain departments of Government, public sector undertakings, statutory boards and such other institutions only in respect of goods manufactured or services provided by them for a period not exceeding two years from the date of commencement of this Act;

(d) of low value and local purchases as may be prescribed;

(e) from the rate contracts of Director-General of Supplies and Disposals and Association of State Road Transport Undertakings; and

(f) by spot purchase of cotton by Spinning Mills, Oil Seeds and Oils by Tamil Nadu Agro Industries Corporation or Tamil Nadu Co-operative Oil Seeds Growers' Federation Limited, animals from shandies, Sugarcane by Sugar Mills, Paddy by direct purchase centres of the Tamil Nadu Civil Supplies Corporation, Clothing by Co-optex from registered Primary Weaver Co-operatives, Milk by Tamil Nadu Co-operative Milk Producers Federation from Districts and Primary Milk Co-operative Societies, Palm oil by Tamil Nadu Civil Supplies Corporation from Tamil Nadu Co-operative Oil Seeds Growers' Federation for Noon Meal Scheme, Clothing by Government Departments, Public Sector Undertakings and statutory departments from Co-optex and similar organisations and materials as may be notified by Government.

Act  
1860.

17. Every officer acting under or in pursuance of, the provisions of this Act or rule or order or notification made thereunder, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

Officers deemed to be public servants.

18. No suit or other legal proceeding shall lie against the Government or any officer or authority of the Government in respect of anything which is in good faith done or intended to be done.

Indemnity.

19. Save as otherwise provided in this Act no order passed or proceeding 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 pursuance of any power conferred by or under this Act.

Bar of Jurisdiction.

20. 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 or agreement or decree or order of a Court or a Tribunal or other Authority.

Act to override other laws.

21. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions, not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

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.

22.(1) The Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the date on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly; and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, 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.

23. All the existing rules, regulations, departmental codes, manuals, orders shall, so far as they are not inconsistent with the provisions of this Act and the rules made thereunder, continue in force.

Savings.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 21st September 2001 and is hereby published for general information:—

**ACT No. 14 OF 2001.**

*An Act to amend the Tamil Nadu Transparency in Tenders Act, 1998.*

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Amendment) Act, 2001.

Short title and commencement.

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

Tamil Nadu Act  
43 of 1998.

2. In section 2 of the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(1) after clause (a), the following clause shall be inserted, namely:—

“(aa) ‘domestic small scale industrial unit’ means an industrial unit in which the investment in fixed assets in plant and machinery, whether held in ownership or on lease or by hire purchase, does not exceed rupees one hundred lakhs, and which manufactures the goods within the State and registered with the Director of Industries and Commerce;”;

(2) to clause (i), the following proviso shall be added, namely:—

“Provided that such criteria for evaluation and comparison of tenders shall also provide for a price preference,—

(a) not exceeding fifteen per cent for the domestic small scale industrial units;

(b) not exceeding ten per cent for the Public Sector Undertakings of the Government in respect of products and quantities manufactured by them.”.

3. In section 16 of the principal Act,—

Amendment of section 16.

(a) after clause (d), the following clause shall be inserted, namely:—

“(dd) from domestic small scale industrial unit for the reserved items identified by the Central Government:

Provided that where a procuring entity intends to procure any of such reserved items, the procuring entity shall procure such item from the domestic small scale industrial units and the provisions of sections 9 and 10 shall apply to such procurement;”;

(b) after clause (f), the following clause shall be added, namely:—

“(g) of cement from the Tamil Nadu Cement Corporation Limited, or of paper from the Tamil Nadu Newsprints and Papers Limited:

Provided that,—

(a) a committee consisting of the Secretary to Government, Industries Department, the Secretary to Government, Finance Department and the Chairman-cum-Managing Director or the Managing Director, Tamil Nadu Cement Corporation Limited shall determine the price of cement to be procured;

(b) the price of paper shall be negotiated with the Tamil Nadu Newsprints and Papers Limited by the procuring entity.”.

(By order of the Governor)

**M. BAULIAH,**  
Secretary to Government,  
Law Department

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 15th November 2002 and is hereby published for general information:—

**ACT No. 43 OF 2002.**

*An Act to amend the Tamil Nadu Transparency in Tenders Act, 1998.*

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:—

- |   |                                      |
|---|--------------------------------------|
| <p>1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Amendment) Act, 2002.</p> <p>(2) It shall be deemed to have come into force on the 30th day of September 2002.</p>   | <p>Short title and commencement.</p> |
| <p>2. In section 16 of the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as the principal Act), in clause (c), for the words "two years", the words "four years" shall be substituted.</p>  | <p>Amendment of section 16.</p>      |
| <p>3. In section 21 of the principal Act, the proviso shall be omitted.</p>   | <p>Amendment of section 21.</p>      |
| <p>4. (1) The Tamil Nadu Transparency in Tenders (Amendment) Ordinance, 2002 is hereby repealed.</p> <p>(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 the principal Act, as amended by this Act.</p> | <p>Repeal and saving.</p>            |

(By order of the Governor)

A. KRISHNANKUTTY NAIR,  
Secretary to Government,  
Law Department.

Tamil Nadu  
Act 43 of  
1998.

Tamil Nadu  
Ordinance 8  
of 2002.



The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 7th December 2004 and is hereby published for general information:—

**ACT No. 33 OF 2004.**

*An Act further to amend the Tamil Nadu Transparency in Tenders Act, 1998.*

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Amendment) Act, 2004.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of October 2004.

2. In section 16 of the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as the principal Act), in clause (c), for the words "four years", the words "six years" shall be substituted.

Amendment of section 16.

3. (1) The Tamil Nadu Transparency in Tenders (Amendment) Ordinance, 2004 is hereby repealed.

Repeal and saving.

(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 the principal Act, as amended by this Act.

(By order of the Governor)

**L. JAYASANKARAN,**  
*Secretary to Government-in-charge,  
Law Department.*

Tamil Nadu  
Act 43 of  
1998.

Tamil Nadu  
Ordinance  
43 of 2004.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 11th September 2006 and is hereby published for general information:—

**ACT No. 28 OF 2006.**

***An Act further to amend the Tamil Nadu Transparency in Tenders Act, 1998.***

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Amendment) Act, 2006.

Short title and commencement.

(2) It shall come into force on the 1st day of October 2006.

2. In section 16 of the Tamil Nadu Transparency in Tenders Act, 1998 in clause (c), for the words "six years", the words "eleven years" shall be substituted.

Amendment of section 16.

(By order of the Governor)

**S. DHEENADHAYALAN,**  
*Secretary to Government in-charge  
Law Department.*

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 23rd February 2012 and is hereby published for general information:—

**ACT No. 6 OF 2012.**

***An Act further to amend the Tamil Nadu Transparency in Tenders Act, 1998.***

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-third Year of the Republic of India as follows:—

Short title and commencement.

**1.** (1) This Act may be called the Tamil Nadu Transparency in Tenders (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 1st day of October 2011.

Amendment of section 16.

**2.** In section 16 of the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as the principal Act), in clause (c), for the words "eleven years", the words "sixteen years" shall be substituted.

Tamil Nadu Act 43 of 1998.

Validation.

**3.** Notwithstanding anything contained in the principal Act, all things done or actions taken by any officer or authority, on or after the 1st day of October 2011 and before the 22nd November 2011, which are in conformity with the provisions of the principal Act as amended by this Act, shall, for all purposes, be deemed to be, and to have always been validly done or taken in accordance with law as if the principal Act, as amended by this Act, had been in force at all material times when such things or actions were done or taken.

Tamil Nadu Ordinance 2 of 2012.

Repeal and saving.

**4.** (1) The Tamil Nadu Transparency in Tenders (Amendment) Ordinance, 2012 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 the principal Act, as amended by this Act.

(By order of the Governor)

G. JAYACHANDRAN,  
Secretary to Government,  
Law Department.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 15th November 2012 and is hereby published for general information:—

**ACT No. 31 of 2012**

***An Act further to amend the Tamil Nadu Transparency in Tenders Act, 1998.***

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Transparency in Tenders (Second Amendment) Act, 2012.

Short title and commencement.

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

2. In section 2 of the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) after clause (c), the following clause shall be inserted, namely:—

“(cc) ‘Lowest Tender’ means the tender which, on evaluation, is found to be most beneficial to the procuring entity in financially quantifiable terms.”;

(ii) in clause (i), the proviso shall be omitted.

3. In section 10 of the principal Act,—

Amendment of section 10.

(i) for the expression “he”, in four places where it occurs, the expression “the said authority” shall be substituted.

(ii) to sub-section (6), the following proviso shall be added, namely:—

“Provided that if the tenderer is unable to supply the entire quantity required, the Tender Accepting Authority may follow the fixed rate of contract procedure as may be prescribed.”.

4. In section 12 of the principal Act, in sub-section (1), for the expression “he”, the expression “the said authority” shall be substituted.

Amendment of section 12.

5. In section 16 of the principal Act,—

Amendment of section 16.

(i) for clause (c), the following clause shall be substituted, namely:—

“(c) from departments of the Government, Public Sector Undertakings, Statutory Boards and such other institutions as may be notified by the Government, only in respect of goods manufactured or services provided by them:

Provided that such procurement shall not exceed forty percent of the total requirement in that procurement and shall be at a price not exceeding the price of the lowest tender in respect of the remaining sixty per cent;”.

(ii) for clause (dd) and the proviso thereunder, the following clause and provisos shall be substituted, namely:—

“(dd) from domestic small-scale industrial units, only in respect of goods manufactured by them:

Provided that such procurement shall not exceed twenty-five percent of the total requirement in that procurement and shall be at a price not exceeding the price of the lowest tender in respect of the remaining seventy five percent:

Provided further that in the case of a single procurement involving clauses (c) and (dd), such procurement shall not exceed forty percent of the total requirement in that procurement;”.

(iii) for clause (f), the following clause shall be substituted, namely:—

“(f) by spot purchase of agricultural commodities, agricultural produce and livestock from primary producers; by spot purchase of cotton by Spinning Mills; by spot purchase of animals for the Government programmes or schemes or for the Government departments from *shanties*; of sugarcane purchase from farmers by the State Public Sector Undertakings or Co-operative Sugar Mills; of paddy by the Direct Purchase Centres of the Tamil Nadu Civil Supplies Corporation; of clothing by the Government Departments or the State Public Sector Undertakings from the Tamil Nadu Handloom Weavers’ Co-operative Society; and by similar organisations and of similar goods and services, as may be notified by the Government;”.

(iv) after clause (g), the following clause shall be added, namely:—

“(h) by the Co-operative Federations from their Federating units or Primary Co-operative Societies, of goods manufactured or services provided by them.”.

(By order of the Governor)

G. JAYACHANDRAN,  
Secretary to Government,  
Law Department.