

**Note: The below translation is unofficial. The Arabic original is the recognized text for the legal purposes.**

**DECREE NO.37 OF 2002 WITH RESPECT TO PROMULGATING THE IMPLEMENTING REGULATIONS OF THE LAW REGULATING GOVERNMENT TENDERS AND PURCHASES**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain,

having reviewed the Constitution,

and Legislative Decree No.36 of 2002 with respect to Regulating Government Tenders and Purchases,

and upon submission of the Prime Minister,

and with the approval of the Council of Ministers,

Hereby Decree the Following:

**Article 1**

The provisions of the Implementing Regulations of the Law Regulating Government Tenders and Purchases, which are attached to this Decree, shall come into effect.

**Article 2**

All the rules and regulations applicable with respect to regulating Government Tenders and Purchases shall be revoked and every other provision, which contravenes the provisions of these Regulations, shall be revoked.

**Article 3**

The Ministers, each in his respective capacity shall implement the provisions of this Decree, which shall come into force three months after the day following its publication in the Official Gazette.

**Signed: Hamad bin Isa Al Khalifa,  
King of the Kingdom of Bahrain.**

**Khalifa bin Salman Al Khalifa  
Prime Minister.**

Issued at Riffa Palace  
On: 3<sup>rd</sup> Sha'aban, 1423 Hijra  
Corresponding to: 9<sup>th</sup> October, 2002 AD

**IMPLEMENTING REGULATIONS OF THE LAW REGULATING GOVERNMENT  
TENDERS AND PURCHASES**

**Chapter One**  
**General Provisions**

**Article 1**

In the application of these Regulations and without prejudice to the applicable definitions in the Law Regulating Government Tenders and Purchases, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires.

**Law:** The Law Regulating Government Tenders and Purchases No.36 of 2002.

**Competent Authority:** The concerned Minister and officers to whom his powers are delegated.

**Article 2**

The applicable provisions of these Regulations shall apply to all ministries, organisations, public institutions, municipalities and government authorities that have an independent or supplementary budget and the companies that are fully owned by the Government, Consultative Council and House of Representatives as stated in Article (3) of the Law.

**Article 3**

The provisions of these Regulations shall be applicable to purchasing operations of goods, construction works and services.

**Article 4**

Contracts for the purchase of goods, construction works or services shall be concluded by one of the methods provided for in Article (4) of the Law.

**Article 5**

Civil servants, government officials and other employees of the authorities to whom the provisions of this Law are applicable shall not personally or through third parties submit bids or offers to such authorities. Further, no goods shall be purchased from them nor shall they be instructed to execute works.

This shall not apply to the purchase of books written by them nor to instructing them to produce works of art such as paintings, photography or such items or the purchase of works of arts from them if they are related to their job duties, provided that terms to be set forth by the Board's Internal Regulations shall be observed.

**Chapter Two**  
**Tender Board**

**Section One**  
**Specialised Sub-Committees**

**Article 6**

Specialised sub-committees provided for in Article (12) of the Law shall be formed subject to the following rules:

- (a) They shall consist of a chairman and a sufficient number of experienced and professional members and a rapporteur whether from among government officials or others.
- (b) Formation of sub-committees shall take place by virtue of a resolution to be issued by the Board in which kinds of such sub-committees, their number and powers shall be determined.
- (c) A sub-committee shall have its own Internal Regulations under a resolution to be issued by the Board. Such Internal Regulations shall include the special provisions with respect to the organisations of the committee's meetings, their deliberations, reporting procedures and issue of recommendations and term of membership.
- (d) Sub-Committees shall be entitled to seek the assistance of experienced and professional persons who are deemed appropriate.
- (e) A sub-committee's rapporteur shall prepare a register that contains a detailed summary of the sub-committee's proceedings.

The sub-committee's chairman shall submit its reports and recommendations to the Board to take the necessary actions concerning them.

**Section Two**  
**Purchase Procedure Register**

**Article 7**

A buyer, Tender Board and any sub-committee to be formed by the Board shall maintain a register called "Purchase Procedure Register".

**Article 8**

Such register shall, in particular, contain the following details and particulars:

- (a) A brief description of goods, construction works or services to be purchased.

- (b) Suppliers or contractors' names and addresses that submitted bids, offers, proposals, quotations and name and address of the supplier or contractor with whom the contract was concluded.
- (c) Information concerning qualification or non-qualification of suppliers or contractors who submitted bids, offers or quotations.
- (d) Basis of the determination of each bid, proposal or quotation or contract value and a summary of all the main terms and conditions for each.
- (e) A summary of the evaluation of bids, offers, proposals, quotations and principles and standards of comparison among them.
- (f) If all bids, offers, proposals or quotations are rejected, a statement of rejection and reasons of rejection shall be included.
- (g) If the purchase procedures including purchase methods other than the public tender procedure are used and such procedures do not result in entering into a contract, a statement of failure and reasons shall be included in the register.
- (h) Reasons for and conditions of the rejection of any bid, proposal or quotation.
- (i) Reasons and conditions relied upon by the buyer to justify choice of the purchase method.
- (j) In case of purchasing services, reasons and conditions used by the buyer to justify the used procedures shall be included in the register.
- (k) A summary of any details to clarify the qualification documents or tender documents, answers to any requirements concerning them and a summary of any amendments made to such documents.

#### **Article 9**

Access to the register's details shall take place according to the following rules:

- (a) Any person, upon submitting an application to the Board, shall have access to the register's contents provided for in Paragraphs (a) and (b) of the preceding Article. This shall take place upon the completion of the purchase procedures whether a contract is awarded or such procedures failed to result in concluding a contract.
- (b) Suppliers and contractors who submitted bids shall have access to the register's contents provided for in Paragraphs from (c) to (g) and (k) of the preceding Article. This shall take place upon completion of the purchase procedures whether a contract is awarded or such procedures failed to result in concluding a contract.

- (c) The State's supervision authorities shall have access to the register's details according to the regulations applicable in such authorities.

### **Article 10**

The Board, buyer and any sub-committee to be formed by the Board shall not be empowered to reveal the following:

- (a) Information whose revelation involves a breach of the Law or is contrary to the public interest or is detrimental to the legal commercial interests of parties or leads to unfair competition.
- (b) Information concerning the examination and evaluation of bids except for such information provided for in of Article 8 (e) of these Regulations.

### **Article 11**

The Board shall determine the appropriate procedures to get access to the register without prejudice to the conditions set forth in the preceding Articles.

## **Chapter Three** **Suppliers and Contractors' Qualification**

### **Section One** **General Conditions**

### **Article 12**

To meet all their requirement of goods, construction works or services, the authorities subject to the provisions of these Regulations shall deal with suppliers and contractors who have the qualifications, professional, technical and financial capabilities and the necessary equipment such as machinery, equipment, appliances and such other items in addition to the management resources, goodwill and the necessary expertise to implement the purchase contract.

### **Article 13**

To enable them to take part in the purchase procedures, suppliers and contractors shall prove their qualifications and submit the documents required by the buyer.

## **Section Two** **Suppliers and Contractors' Pre-qualification**

### **Article 14**

Suppliers and contractors specialized in supplying goods or providing construction works or services whose nature requires the evaluation of their technical and financial capabilities and management resources shall gain pre-qualification.

### **Article 15**

A committee of professional and experienced members shall undertake the pre-qualification activities in each of the authorities subject to the provisions of these Regulations. They may seek the participation of technical personnel from the relevant authorities. If necessary, and with approval of the Board, it may seek the assistance of consultancy firms in the Kingdom of Bahrain or abroad provided that qualification and classification shall be approved by the Board.

### **Article 16**

The Board shall undertake the pre-qualification activities for big or complicated projects or projects of a special nature and whose implementation requires a detailed pre-qualification. It may seek the assistance of technical personnel from the relevant authorities or consultancy firms.

### **Article 17**

The Board and the buyer shall maintain a register called "Pre-qualification Register" in which pre-qualified suppliers and contractors are registered.

### **Article 18**

The Board shall supervise all the pre-qualification procedures of suppliers and contractors. It shall be entitled to ascertain the creditworthiness of suppliers and contractors at any phase.

The Board shall draw up special regulations of the pre-qualification process.

### **Article 19**

Before announcing the pre-qualification for any tender, a buyer shall prepare and draw up the required pre-qualification documents provided that documents, in particular, shall contain the following details:

- (a) Name and address of the advertiser.
- (b) Nature and kinds of goods, services and construction works for which pre-qualification takes place.
- (c) Particulars that the participant shall submit within his pre-qualification offer, provided that it shall, in particular, include the following:
  - 1. Financial position (bank statement – most recent audited balance sheet).
  - 2. Management and technical staff working for him on a permanent basis.

3. Technical staff that are required to be available to implement the works and subject to the pre-qualification.
  4. The available and necessary equipment, machinery and appliances to implement the required work.
  5. Period of experience.
  6. The highest value of works implemented by him.
  7. Works successfully implemented by him.
- (d) Details of evaluation principles and standards by which the pre-qualification offers shall be evaluated.

#### **Article 20**

Applicants for pre-qualification who have high financial resources, capital, equipment and technical, financial and management staff, but do not meet the period of the experience requirement nor have implemented works, shall be referred to the Board to take action concerning them in the light of a study to be conducted by a competent committee at the buyer.

#### **Article 21**

Pre-qualification shall be announced through the appropriate advertising media as deemed fit by the Board and in a manner ensuring the knowledge of most of those who are interested in participating in pre-qualification. The announcement, in particular, shall include the following details:

- (a) Name and address of the advertiser.
- (b) Nature and kinds of goods, services and construction works for which pre-qualification shall take place.
- (c) Means of collecting the pre-qualification documents.
- (d) Value of the pre-qualification documents.
- (e) Closing date for submission of the pre-qualification documents, method, place and closing date for depositing offers and opening them.

The announcement shall clearly specify whether the invitation for pre-qualification is local or international or restricted to suppliers and contractors from a particular country.

## **Article 22**

Pre-qualification documents shall contain the instructions and conditions of participation, the required documents and information to be submitted by the suppliers or contractors, method and place of submission and closing date.

## **Article 23**

The Board shall adopt the suppliers and contractors' qualification decisions in accordance with the evaluation rules and standards to be previously determined in the pre-qualification documents. Principles and rules other than these set forth in the pre-qualification documents shall not be used.

## **Article 24**

The Board shall re-evaluate and re-classify suppliers and contractors and regularly update the pre-qualification register data. It shall be entitled to ask at any time the supplier or contractor to prove his/its qualification again and evaluate him/it in accordance with the same principles and standards that were used in the pre-qualification. A supplier or contractor's name shall be struck off the register if he/it fails to prove his qualification within the period fixed by the Board.

## **Article 25**

A supplier or contractor shall be entitled to file an application with the Board for registration or re-classification in the pre-qualification register within the time limits to be fixed by the Board.

## **Article 26**

The Board or buyer, as the case may be, shall submit clarifications and answer all questions submitted by pre-qualification applicants.

## **Article 27**

The Board shall notify every supplier or contractor participating in the qualification or pre-qualification procedures of all the decisions adopted with respect to approval or rejection of their applications.

## **Article 28**

The Board shall be empowered to exclude the suppliers and contractors who previously gained pre-qualification if it has conclusive evidence from any government authority confirming that he/it will not be able to carry out the works subject to the pre-qualification or he/it has violated his/its contractual obligations in any project inside or outside the Kingdom or he/it has deliberately submitted false information regarding his/its financial and management resources and technical capabilities, or that his/its contractual obligations inside the Kingdom have become in excess of his/its financial and management resources and technical capabilities so as to adversely influence the implementation of the works subject to the pre-qualification.



### **Article 29**

Reasons for the pre-qualification decisions, of whatever kind, shall be displayed on a notice-board to be specified for such purpose in a conspicuous place to be determined by the Board and for a period of seven days for each decision. Suppliers and contractors involved in the pre-qualification shall be notified by registered letters with a note of delivery at their addresses indicated in the pre-qualification applications.

### **Article 30**

A supplier or a contractor whose pre-qualification application has been rejected or his grade has been re-classified or he has been struck off the pre-qualification register, may ask the Board for a clarification of the basis upon which such decision relied within thirty days from the date of becoming aware of the decision. The Board shall not be obliged to give evidence and reasons proving the existence of such basis.

### **Article 31**

A supplier or a contractor whose pre-qualification application has been rejected or his grade has been re-classified or has been struck off the pre-qualification register, shall be entitled to file a complaint with the Board within thirty days from the date of becoming aware of the decision.

The Board shall adopt a substantiated decision in respect of the complaint within thirty days from the date of filing it. A rejection decision shall be substantiated. If no decision is adopted in respect of the request within the aforesaid time limit, this shall be deemed as an implicit rejection thereof.

A complainant shall be entitled to challenge the decision adopted by the Board before the competent court within thirty days from the date of informing him of the decision by a registered letter with a delivery note.

## **Chapter Four** **Contracting Methods**

### **Section One** **Public Tender**

### **Article 32**

Suppliers and contractors who are interested in taking part in a public tender shall prove their qualifications by fulfilling the following conditions:

- (a) Suppliers and contractors should have the necessary qualifications, professional and technical capabilities and equipment in addition to the management resources, expertise, goodwill and the necessary technical and management staff to perform the purchase contract.

- (b) They should have the legal capacity to enter into the purchase contract.
- (c) They shall not be insolvent, bankrupt or under liquidation nor facing business disruption.
- (d) They, their managers or employees shall not have been convicted for financial or professional offences in the name and on behalf of the company or owing to submitting false details about their qualifications to enter into purchase contracts unless they have been reinstated.
- (e) Compliance with the applicable laws and regulations in the Kingdom including the regulations with respect to the Commercial Registry. Non-registered suppliers and contractors participating in an international tender shall have to get registered within one month from the date of issuing the award decision.

### **Article 33**

Before announcing the pre-qualification for any tender, a buyer shall prepare documents called the "Tender Documents".

Such documents shall be printed and distributed, after being stamped and approved by the buyer, to suppliers and contractors against payment of the actual value of such documents in accordance with schedule to be laid down by the Board with regard to the value of such documents depending upon the value of each tender.

### **Article 34**

All Tender Documents shall be deemed owned by the supplier or contractor who purchased them and they shall not be transferred to third parties.

### **Article 35**

Tender Documents shall, in particular, contain the following information and details:

- (a) Instructions related to bids' preparation.
- (b) Standards and procedures related to the evaluation of suppliers and contractors related to proving their qualification once again.
- (c) Requirements related to the supporting documents or other information that must be submitted by suppliers or contractors to prove their qualifications.
- (d) Nature of goods, construction works or services to be purchased, the required technical features including the technical specifications, drawings, diagrams and designs, as the case may be, any related service to be provided, location in which the construction works shall be implemented or services to be provided and the fixed time to deliver goods, implement construction works or deliver the services.

- (e) Terms and conditions of the purchase contract.
- (f) In case of allowing alternatives of the goods, constructions works or services' specifications or the contractual terms and conditions or any other requirements specified in the Tender Documents, a statement of such alternatives shall be included in the manner by which the alternative bids and basis of comparison among them shall be made.
- (g) The method by which the tender price shall be fixed and items to be included in the price.
- (h) The currency by which the tender price shall be fixed.
- (i) Language in which bids shall be prepared.
- (j) Any requirements related to the bid bond, performance bond and any other bonds.
- (k) Method, place and closing date for the submission of bids.
- (l) Method by which suppliers or contractors shall seek to obtain clarifications concerning the Tender Documents, and an indication as to whether the buyer intends to hold a meeting for the suppliers and contractors.
- (m) Period of time during which submission of tenders shall be valid.
- (n) Place, closing date and time of opening the bids.
- (o) Procedures to be followed in opening the bids.
- (p) Name and job title of one or more of the buyer's employees authorized to directly contact suppliers or contractors and directly receive correspondence from them concerning the purchase procedures.
- (q) A statement of the buyer's right to reject all bids.
- (r) Any procedures required upon the acceptance of a bid so that a purchase contract shall be valid including the signing of a contract.
- (s) Any other requirements to be determined by the buyer in accordance with the provisions of the Law and provisions of these Regulations related to drawing up submission of bids and purchase procedures.
- (t) Determining the right to file complaints and reconsideration of any unlawful procedure or decision related to the purchase procedures.
- (u) Stipulating that purchase transactions shall be subject to the provisions of the Law and the provisions of these Regulations and any other decisions related to the purchase procedures.

### **Article 36**

The authorities subject to the provisions of Law shall, before announcing the invitation of supply of goods, construction works or services in a public tender, draw up accurate technical specifications provided that the following standards shall be followed:

- (a) Anything, which may result in discrimination, hindering fair competitiveness whether in specifications, drawings, diagrams or designs that specify the technology and kinds of the required goods, construction works or services, shall not be included in the qualification or tender documents.
- (b) Specifications, drawings, diagrams, designs and conditions or description of goods, construction works or services, shall rely on the technological features and objective quality without reference to specific kinds, brands or trademarks, except for special circumstances and provided that they shall be substantiated and the words "or equivalent" shall be included.
- (c) Using the relevant characteristics, requirements, codes and terminology to the technology and quality characteristics, if available, of goods, construction works or services in drawing up the specifications, drawings, diagrams and designs.
- (d) Using standard business terminology in drawing up the terms and conditions of the contract to be concluded.

### **Article 37**

In each of the authorities subject to the provisions of the Law, a committee that is experienced in the required goods, construction works or services shall lay down the specifications. It may seek the assistance of technical personnel from the other relevant authorities. If necessary, and with approval of the Board, it may seek the assistance of consultancy firms in the Kingdom or abroad. The committee shall ensure the consistency of such specifications with the nature of local production as far as possible. Moreover, such specifications shall comply with the Bahrain standard specifications and other specifications to be approved by the specialized technical authorities. The Board shall be entitled to verify the efficiency and safety of the technical specifications by seeking the assistance of technical personnel and consultant experts in the Kingdom or abroad.

### **Article 38**

A supplier or contractor may ask the buyer for any clarifications with respect to the Tender Documents before the fixed date indicated in the Tender Documents for submission of bids. The buyer shall reply to this request within a reasonable period provided that such clarification shall be advised to all suppliers and contractors participating in the tender without indicating its source.

**Article 39**

Before the closing date, a buyer, by its own initiative or at the request of a supplier or contractor, may amend the Tender Documents by issuing an appendix to them provided that such appendix shall be sent to all suppliers and contractors who have already purchased the Tender Documents and it shall be binding upon them.

**Article 40**

If a buyer holds a meeting for all the suppliers or contractors, it shall prepare minutes of the meeting including requests submitted for clarifications related to the Tender Documents and replies to such requests. If necessary, suppliers or contractors who have purchased the Tender Documents shall obtain a copy of such minutes.

**Article 41**

Submission of tenders shall take place on the fixed date and place and in a manner indicated in the Tender Documents.

**Article 42**

A bidder shall observe the following conditions in fixing prices:

- (a) Writing all tender's prices in Bahrain Dinars in words and figures unless the Tender Documents otherwise provide.
- (b) Neither striking of nor erasure shall be permitted in the bills of quantities and quotations. Any correction in quantities or prices should be re-written in words and figures and a bidder shall sign against the correction.
- (c) Prices so fixed shall be deemed final and binding and shall include and cover all expenses and obligations, of whatever kind, such as costs of shipping, insurance, customs duties, clearing, unloading and handling. They shall also include the completion of all works so as to be ready for delivery in the location to be specified by the Tender Documents unless the Tender Documents otherwise provide.

**Article 43**

Bid envelopes shall be placed in special boxes to be determined by the Board. A bid must be submitted in a sealed envelope on which must be indicated the tender's title and number. Bid envelopes may be sent by registered mail with a note of delivery before the closing date of opening them or by e-mails according to the conditions to be determined by the Board.

A bid must, in particular, be accompanied by the following:

- (a) A bid bond and an independent quotation certificate.
- (b) A statement by the bidder confirming that he has read the Tender Documents and checked the site in case of construction works and understood the nature of the goods, works or service.
- (c) A statement by the bidder confirming that his bid does not contain any additional requirements that may influence the bid's price or implementing the job subject to the bid except in the cases to be determined by the Board.

#### **Article 44**

A supplier or contractor shall be entitled to amend or withdraw his bid before the deadline fixed for submission of bids. Such amendment or notice of withdrawal shall be accepted if deposited in the tender box or delivered to the Board before the deadline fixed for submission of bids.

#### **Article 45**

Suppliers or contractors may submit more than one bid in the cases to be determined by the Board. They may also submit an alternative bid in addition to the original bid if so indicated in the Tender Documents.

#### **Article 46**

Subject to the provisions of Article (27) of the Law, the Board may extend the period of effectiveness of bids at the same prices and conditions.

A bidder shall be entitled to refuse such extension without forfeiting his right to recover the bid bond upon the expiry of his bid's validity period.

A bidder who has agreed to the extending of his bid's validity period shall extend the validity period of his bid bond or submit a new bid bond covering such term.

Failure to extend the bid bond's validity period or submit a new bid bond before the deadline fixed by the Board shall be deemed as a refusal by the bidder to extend the validity period of his bid.

#### **Article 47**

The Board or any committees instructed to undertake such duty shall open the bid envelopes at the time and place fixed in the tender documents or on the final date in case of an extension, and the Board or Committee's Chairman, as the case may be, shall take the following steps:

- (a) Permitting all suppliers and contractors participating in the tender to attend the bid envelope opening session.

- (b) Name and address of every supplier or contractor whose bid has been opened and amount of bid shall be announced. Such information shall be notified to all suppliers or contractors participating in the tender and who are absent at their request.
- (c) An envelope opening statement shall be drawn up and signed by the Board members or the committee members formed by the Board, as the case may be.

#### **Article 48**

Arithmetical errors that appear in the course of evaluating the bids shall be corrected. A notice of such correction shall be given to the concerned bidder. A bidder may be ignored in case of his refusal to correct the arithmetical errors unless the lowest price and the best conditions are offered.

#### **Article 49**

A bid shall be valid for the period to be fixed in the tender documents. This period shall be reckoned from the deadline fixed for submission of bids or from any other date fixed in the tender documents.

#### **Article 50**

Any bid or amendment received after the deadline fixed for submission of bids in the tender documents shall not be recognized.

#### **Article 51**

The Board shall be empowered to examine and evaluate bids or refer them to the buyer or any committee or other authority for examination, evaluation and submission of recommendations to the Board so as to make decisions in respect thereof.

In all circumstances, the Board shall be entitled to re-evaluate bids.

#### **Article 52**

The authority that undertakes the evaluation of bids and comparing between them may request suppliers or contractors to provide technical clarifications about bids to assist it in the accurate technical evaluation process and without prejudice to equality of opportunities among bidders and without any change in a fundamental issue in the bid or price that may turn a successful bid into an unsuccessful bid.

### **Article 53**

- (a) In case a bidder fails to fix the price of a particular item of the required goods, this shall be deemed as a refusal to take part in the tender in respect of such item.

Such bid shall be ignored if the tender documents provide for non-division of the bid.

In case of construction works or service tenders, the authority that undertakes the evaluation of bids shall be entitled to fix the highest price for an item for which the bidder ignored to fix its price in the bids submitted by comparing between it against other bids. In case the tender is awarded to such bidder, his account shall be settled on the basis of the lowest price for that item in the submitted bids.

This shall take place without prejudice the Board's right or the buyer's right to ignore a bid.

- (b) In case there is a difference between the price indicated in words and the price indicated in figures, the price indicated in figures shall be recognised.

In case there is a difference between the unit price and total unit price, the unit price shall be recognised.

### **Section Two** **Limited Tender**

### **Article 54**

A contract may be entered into through a limited tender in the cases provided for in the Law.

### **Article 55**

An invitation to submit bids for a limited tender shall be given to all suppliers or contractors engaged in the type of business subject to the tender and registered in the registers of the buyer and the Board by virtue of registered letters with notes of delivery containing all the particulars to be mentioned about the limited tender in either of the following two cases:

- (a) If the goods, construction works or services are not available because of their highly sensitive nature with a limited number of suppliers, contractors, consultants, technical personnel or experts whether in the Kingdom of Bahrain or abroad.
- (b) If the purchase takes place from a limited number of suppliers, contractors, consultants, technical personnel or experts necessary for strengthening the national economy especially the strengthening of the balance of payment or foreign currency reserves.



An invitation shall be given to the largest number of businesses engaged in the type of business subject to the tender if the goods, construction works or services are of a modest value so that such value is not proportionate to the necessary time and cost for review and evaluation of a large number of bids.

An invitation may be delivered by any appropriate method with a confirmation of the date of delivery to the concerned persons after their signature in acknowledgement of receipt.

In all cases, an invitation shall be sent at least 15 days before the date fixed for opening the envelopes. A limited tender shall be advertised in the Official Gazette.

### **Section Three** **Competitive Negotiation**

#### **Article 56**

An invitation to submit bids in a competitive negotiation shall be sent by registered letters with notes of delivery containing all the particulars to be mentioned about the public tender and fixing the date for the first competitive negotiation meeting, provided that a period fixed for submission of bids shall be at least 15 days from the date of sending out the invitation.

In case of urgency and subject to the approval of the Board, an invitation may be handed by a representative at least 5 days before the deadline and shall be delivered by virtue of a dated receipt.

An invitation to submit bids in a competitive negotiation shall be given to the biggest number of operators in the type of business who are approved by the Board from those registered in its registers or the buyer's registers.

#### **Article 57**

Subject to complying with the provisions of the Law, a buyer may, upon completion of negotiation, request the successful bidders to submit, at the time limit fixed for them, their best final bids. The buyer shall select the best of these bids through a committee to be formed by the Law upon the standardization of criteria and standards of comparison between the bids. The successful bid shall be the one quoting the lowest price and best conditions.

#### **Article 58**

The buyer shall notify the supplier or contractor of any requirements, directives, documents, clarifications or information relating to the competitive negotiation and such information shall be notified to the remaining suppliers and contractors participating in the competitive negotiation in writing.

### **Article 59**

Confidentiality shall be observed in negotiations between the buyer and bidders. It shall be prohibited for either party to reveal any technical information or pricing information related to the negotiations without the approval of the other party subject always to complying with the provisions related to access to the purchasing procedures register provided for in this Law.

### **Section Four** **Direct Purchase (From a Single Source)**

### **Article 60**

Contracts may be entered into by way of direct purchase with the approval of the Board in the cases provided for in this Law. The Board shall determine those who shall be empowered to undertake the contracting procedures from amongst the experienced and professional persons in the required process. Such persons shall be responsible for the compatibility of goods, construction works or services with respect to their kind, specifications and the purpose for which they are required in addition to ensuring that prices are appropriate to the market prices as reflected in the quotations to be enclosed with the transaction's documents.

However, in the cases whose nature require a supplier's or contractor's warranty to ensure the safety of what has been supplied or performed, a sum equivalent to 10% of his/their dues shall be retained to be paid upon the expiry of the agreed warranty period.

### **Article 61**

A direct purchase shall take place by a requisition for submitting a proposal or quotation from a supplier or contractor, provided that no suggestion shall be made thereto about the lack of competition.

### **Section Five** **Requests for Proposals**

### **Article 62**

Entering into contracts with respect to services shall take place in the cases and subject to the procedures provided for in the Law.

### **Article 63**

Requests for submission of proposals shall, in particular, contain the following information:

- (a) A buyer's name and address.
- (b) Language or languages in which the submission of proposals shall take place.

- (c) A method of submission of proposals and the place and deadline fixed for their submission.
- (d) Stating the buyer's right to reject all proposals.
- (e) Criteria and procedures related to qualifications.
- (f) Requirements and supporting documents that are required to prove qualification.
- (g) Nature and characteristics of services and the required site to provide services and date of provision.
- (h) Method of pricing and currency.
- (i) Criteria and procedures of submission of the successful proposal including the method of selecting the successful proposal.
- (j) In case a buyer decides the permission of submission of alternative proposals, a notice and method of submission thereof shall be served.
- (k) The concerned officer of the buyer who is authorized to receive correspondence and clarifications.
- (l) Methods by which suppliers or contractors shall seek obtaining clarifications including holding a meeting with them.
- (m) Terms of the purchase contract and the form of contract.
- (n) Stipulating that the purchase process shall be subject to the provisions of the Law, provisions of these Regulations and the relevant decisions.
- (o) Stipulating the right to reconsideration.
- (p) Contract execution procedures.
- (q) Any other requirements.

#### **Article 64**

The following shall be observed in the criteria for evaluation of proposals:

- (a) A buyer shall determine the relative weight of the technical bid and financial bid and shall determine the main and secondary criteria and the relative weight thereof.
- (b) The technical evaluation shall rely upon the extent of fulfilling the terms of reference, effectiveness of the submitted proposal in meeting the buyer's requirements. In addition to the supplier's and contractor's qualifications, experience, reputation and professional and management efficiency.

- (c) The financial evaluation shall rely upon the proposal's price including the associated costs or the relevant costs or any other issues that have a financial impact.
- (d) Requests for submission of proposals shall contain the criteria of evaluation of requests including the relative weight for both technical and financial evaluation without mentioning the details of the relative weight.

#### **Article 65**

Every supplier or contractor who filed applications for submission of proposals may request any clarifications from the buyer. The buyer shall provide such clarifications and send them to all the applicants including the suppliers and contractors.

A request for clarification and answer thereof shall be submitted before the deadline fixed in the requests for proposals documents.

#### **Article 66**

A buyer may, either upon its own initiative or upon the request of a participating supplier or contractor, make amendments to the request for submission of proposals provided that such amendments shall be sent to all the participants.

#### **Article 67**

If a buyer holds a meeting for the participating suppliers or contractors, it shall prepare minutes of the meeting including applications submitted for clarifications related to the requests for submission of proposals. Suppliers or contractors who have taken part in the meeting shall obtain a copy of such minutes.

#### **Article 68**

A buyer shall include in the requests for proposal documents one of the following selection methods:

- (a) Selection without negotiation.
- (b) Selection by consecutive negotiation.
- (c) Selection by simultaneous negotiation.

A method of selection without negotiation shall be chosen in the cases of services whose nature are not relatively complicated; otherwise a method of selection by consecutive negotiation shall be chosen. However, if more than one supplier or contractor obtains the same evaluation marks, a method of selection by simultaneous negotiation shall be selected.

### **Article 69**

Upon choosing the method of selection without negotiation and until deciding the successful proposal, the buyer shall observe the following procedures:

- (a) A level of marks for the proposals' quality and their technological aspects shall be determined and each proposal shall be marked regardless of its price in accordance with the specific criteria and their relative weight.
- (b) A comparison between the proposal prices that obtained marks equal to the required level or above shall take place.
- (c) The successful proposal shall be deemed the one for the lowest price or that obtains the highest evaluation score in terms of criteria and price.

### **Article 70**

When choosing the method of selection by consecutive negotiation, a buyer shall comply with the following procedures:

- (a) A level of marks shall be determined as provided for in the preceding Article.
- (b) A supplier or contractor who gets the highest marks shall be invited to negotiate the proposed price by him/it.
- (c) All suppliers and contractors getting marks higher than the required level shall be advised that negotiations with them shall be held respectively and subject to the priority of the sequence of marks in case the negotiations with the first supplier or contractor do not result in entering into a contract.
- (d) All suppliers and contractors getting marks lower than the required level shall be notified.
- (e) Negotiations with the first contractor shall be terminated if they do not result in entering into a contract provided that negotiations with the next supplier or contractor in sequence shall take place. If negotiations do not result in entering into a contract, the buyer shall negotiate with the suppliers and contractors subject to the sequence of their marks until entering into a contract or rejecting all proposals.

### **Article 71**

When choosing the method of selection by simultaneous negotiation, a buyer shall observe the following procedures:

- (a) Entering into negotiations with suppliers and contractors who have submitted acceptable proposals. They may be requested or permitted to make amendments to their proposals, provided that they shall be allowed to enter into negotiations.

- (b) Upon finalizing negotiations, a buyer shall request all suppliers and contractors who continued with it to submit within the time limit fixed for them their best final proposal for all aspects of their proposals and the buyer shall choose the best of these proposals.
- (c) It shall not consider the proposal's price when evaluating the proposals until completing the technical evaluation.
- (d) A supplier or contractor whose proposal meets the buyer's optimum requirements and in compliance with the criteria related to the proposal evaluation and relative weight and the method of application of such criteria as indicated in the request for submission of proposals, shall be awarded the contract.

### **Article 72**

Confidentiality shall be observed in evaluating proposals and in negotiations to ensure the non-disclosure of technical or pricing information or any other information related to the purchase transaction or the legitimate interests of suppliers or contractors.

## **Chapter Five** **Bonds**

### **Article 73**

The Board or the buyer, upon being authorized by the former, may determine the form and content of the bid bond and performance bond and the amount and source of each.

### **Article 74**

- (a) Tender documents shall set forth the terms and conditions of the bid bond and the provisions of claiming its amount in the following cases:
  - 1. Withdrawal of the bid or amending it after the deadlines fixed to submit the bids.
  - 2. Failure to sign the purchase contract.
  - 3. Failure to submit the performance bond.
- (b) A buyer shall return the bond in the following cases:
  - 1. Expiry of the bond's term.
  - 2. Expiry of the purchase contract and submission of the performance bond.
  - 3. Cancellation of the tender.
  - 4. Withdrawal of bid before the deadline fixed for submission of bids.

### **Article 75**

The Board shall draft a schedule of the bid bond's amount subject to the tender's value and type. Such bond shall be returned to the suppliers or contractors without a request from them upon finalizing the purchase formalities subject to complying with the provisions set forth in the preceding Article.

### **Article 76**

A bidder who has been awarded the tender shall submit the performance bond whose amount is determined by the Board within ten days from its receipt of the preliminary letter of intent. As for contracts entered into with overseas contractors, submission of a performance bond shall take place within 20 days.

Subject to the approval of the Board, the term fixed for submission of the performance bond may be extended in both cases for a period not exceeding 10 days. If the bidder who has been awarded the tender does not submit the performance bond within the period fixed therefor, he/it shall be deemed to have withdrawn from the tender and his/its initial bond shall be seized and he/it, by a resolution to be adopted by the Board, shall be deprived of participating in tenders for at least one year. In such case, the Board may re-invite the tender or award it to another supplier or contractor.

### **Article 77**

In case a supplier or contractor fully carries out all his/its obligations subject to the terms of contract, the performance bond shall be returned thereto.

## **Chapter Six** **Contract Execution Formalities**

### **Section One** **General Conditions**

### **Article 78**

The period fixed for execution of goods purchase contracts shall commence after the day following the date of sending the award letter or from any other date to be fixed in such letter, unless otherwise mutually agreed upon.

Giving notice to overseas contractors shall take place by any means of communications provided that it shall be supported by a subsequent letter indicating the goods, quantities, series, place of delivery and commencement and expiry dates of supply.

The period fixed for execution of construction works shall commence from the date of submitting the site free of any obstructions, unless otherwise mutually agreed upon.

The period fixed for execution of the service purchase contracts shall commence from the date to be fixed in the award letter.

**Article 79**

A contractor shall execute the contract himself/itself and shall not assign such contract in favour of third parties.

**Article 80**

A buyer may amend the contract's quantities or size volume by way of increase or reduction subject to the limits set forth in the contract.

**Article 81**

Execution of the contract shall be subject to the provisions set forth therein and in a manner that complies with the requirements of goodwill and business ethics.

**Section Two**  
**Construction Works Contract Execution Conditions**

**Article 82**

A contractor shall comply with all the relevant laws and regulations subject to the execution of the contract.

**Article 83**

A contractor shall undertake to complete the works subject to the contract so as to be ready for interim delivery on the fixed dates. In case of delay, the provisions set forth in the contract shall be applicable to the concerned contractor.

**Article 84**

A contractor shall guarantee the works subject to the contract and their performance in the best possible manner for the period fixed in the contract from the date of the interim delivery without prejudice to the bond term provided for in the Civil Code or in any other law.

**Section Three**  
**Supply Contract Execution Conditions**  
**And Taking Delivery of the Goods**

**Article 85**

A supplier shall supply all kinds of goods on the date fixed in the contract.

**Article 86**

If a buyer refuses one item or more of the items of goods supplied or if a defect or breach of the specifications or samples is found, it shall inform the supplier of the reasons for rejection and the necessity to withdraw the rejected items and supply the compatible item in accordance with the provisions set forth in the contract.



**Article 87**

A buyer shall pay the prices of the goods supplied within the time limits fixed in the contract.

**Article 88**

If the supplier has not supplied goods on the date fixed in the contract, the buyer shall inflict the penalties set forth in the contract.

**Article 89**

The concerned authority shall resolve the disputes that may arise between the suppliers and the buyer.

**Article 90**

A buyer shall indicate in the goods inspection reports the results of its work in comparison with the indicated conditions and specifications on the basis of which the contract is based. A buyer shall refuse the goods that are not compatible with the contract's specifications or samples.

**Chapter Seven**  
**Reconsideration and Complaints**

**Article 91**

An application for reconsideration or complaint shall be filed with the buyer or the Board Chairman, as the case may be, subject to an application in writing or by a registered letter with a delivery note.

**Article 92**

An application for reconsideration or complaint shall include the following particulars:

- (a) Applicant's name and address.
- (b) The date of issuing the procedure or the decision for which a reconsideration or complaint is filed and the date of becoming aware thereof.
- (c) The subject of the procedure or decision and the reasons upon which the application for reconsideration or complaint relied, provided that the necessary documents shall be enclosed therewith.

### **Article 93**

The Board and each of the authorities subject to the provisions of this Law shall assign an employee who shall be empowered, in addition to his functions, to receive applications for reconsideration and complaints and register them immediately upon receipt with serial numbers in a special register indicating the date of submission. Applicants for reconsideration and complaints shall be given a receipt in which the application for reconsideration or complaint number and date of submission shall be indicated, or the receipt shall be sent by mail.

### **Article 94**

Applications for reconsideration and complaints shall, immediately upon registration, be notified to the authority that has the legal power to investigate them so as to determine and take the necessary measures concerning them subject to complying with the dates set forth in this Law.

### **Article 95**

The following shall not be subject to reconsideration:

- (a) Selection of the contracting methods provided for in the Law.
- (b) Choice of the selection methods with respect to the purchase of services.
- (c) Restricting the contracting procedures on the basis of nationality.
- (d) A decision to exclude all bids, proposals or offers.
- (e) Selection by a buyer of an application for submission of direct proposals from a number of suppliers or contractors in the cases prescribed in the law.
- (f) Overlooking the reference to this Law or these Regulations in the tender documents or requests for submission of proposal documents with respect to services.

### **Article 96**

The Board shall adopt a substantiated decision in respect of the complaint within the legally prescribed time limit. It shall be empowered to decide while investigating the complaint to take one or more of the following actions:

- (a) Announcing the legal principles that govern the issue of the complaint.
- (b) Informing the buyer not to take any action or decision that conflicts with the Law.
- (c) Obliging the buyer to follow a procedure or adopt a decision that is strictly conforms with the provisions of the Law.

- (d) Canceling, in whole or in part, a procedure or a decision adopted by the buyer in conflict with the provisions of the Law except for a decision that renders the contract valid and effective.

#### **Article 97**

The following rules shall apply to the reconsideration procedures:

- (a) All suppliers and contractors participating in the purchase procedures shall be notified of the request for reconsideration and its contents immediately upon receiving it.
- (b) Any supplier or contractor whose interests have been influenced or may be influenced by the reconsideration procedures, shall be entitled to take part in such procedures.
- (c) A supplier or contractor who fails to participate in the reconsideration procedures shall not be allowed later to submit an application of the same kind.
- (d) Any government authority whose interests are influenced or may be influenced by the reconsideration procedures, may take part in such procedures.
- (e) An applicant for and all the participants in the application for reconsideration shall be given notice of any decision to be adopted thereof within three days from the date of adopting the decision.
- (f) An application for reconsideration and the decision adopted in respect thereof shall be displayed on a board to be designated for this purpose, provided that such display shall not result in any breach of the provisions of the Law or prejudice to the public interest or the parties' legitimate interests.

#### **Article 98**

Decisions adopted with respect to applications for reconsideration and complaints shall be recorded in the purchase procedures register.

### **Chapter Eight** **Miscellaneous Provisions**

#### **Article 99**

Combining between the committees' chairmanship set forth in these Regulations and approval of their activities shall not be permitted.

**Article 100**

Entering into a contract by way of a two phase tender, limited tender, competitive negotiation, direct purchase or request for proposals shall be subject to the public tender conditions in the cases where there is no special provision set forth in these Regulations.

***Note: The above translation is unofficial. The Arabic original is the recognized text for the legal purposes.***