

Implementing Regulations of the Government Procurement Law of the People's Republic of China

(14-APR-2015)

Note: English version for reference only, Chinese version shall prevail.

Chapter 1 General Provisions

Article 1 The Implementing Regulations of the Government Procurement Law of the People's Republic of China (the "Regulations") are hereby formulated according to the Government Procurement Law of the People's Republic of China (the "Government Procurement Law").

Article 2 Financial funds as mentioned in Article 2 of the Government Procurement Law refer to the funds included in the budget management.

Loan funds that are repaid by means of financial funds are deemed as financial funds.

Where government departments, institutions and social organizations use both financial funds and non-financial funds for the items to be procured, the Government Procurement Law and the Regulations shall apply to the items procured using financial funds as well as items using both financial funds and non-financial funds that cannot be separated from each other.

Services as mentioned in Article 2 of the Government Procurement Law include services necessary for the government and public services provided to the public by the government.

Article 3 The catalogue for centralized government procurement shall include procurement items of centralized procurement agency and centralized procurement items by department.

Procurement items with unified standards (such as technical standards and service standards) and which are commonly used by the purchaser shall be classified as procurement items of centralized procurement agency; procurement items used by the department or system of the purchaser exclusively for special purposes on account of their business which may be procured in a centralized manner shall be classified as centralized procurement items by department.

Article 4 Centralized procurement as mentioned in the Government Procurement Law shall refer to the behaviors that a purchaser entrusts the items included in the catalogue for centralized government procurement to a centralized procurement agency for procurement or carries out centralized procurement items by department; decentralized procurement refer to the behaviors that a purchaser conducts by itself the procurement items that are not included in the catalogue for centralized government procurement and above the procurement thresholds or entrusts a centralized procurement agency to conduct such procurement by itself.

Article 5 The people's governments of a provinces, autonomous regions or municipalities directly under the Central Government as well as the organizations with proper authority may determine the centralized procurement catalogues and the procurement thresholds applicable to the provinces, cities divided into districts and counties of its own administrative region based on actual conditions.

Article 6 The finance department under the State Council shall, according to the national economic and social development polices, prepare the government procurement policies in concert with the related departments of the State Council, formulate procurement demand standards, reserved procurement share, price review preference, procurement privilege, and take other necessary measures, so as to realize energy

saving, protect the environment, support underdeveloped areas and minority areas, promote the development of small and medium-sized enterprises and achieve other objectives.

Article 7 The Law of the People's Republic of China on Bid Invitation and Bidding and its implementing regulations shall apply to the government procurement of constructions and the goods and services related to constructions taking the form of bidding; the Government Procurement Law and the Regulations shall apply to those taking other procurement form.

For the purpose of the preceding paragraph, constructions refers to construction work including the new construction, reconstruction and extension of buildings and structures and the related decoration, dismantlement and repair, etc.; goods related to constructions refer to the equipment and materials, etc. which are integral parts of the engineering and necessary for the fundamental functions of the engineering; services related to engineering construction are the investigation, design, supervision and other services necessary for the completion of the engineering.

Government procurement of construction works and the goods and services related to constructions shall be subject to government procurement policies.

Article 8 Information on government procurement items shall be published at the media designated by the finance department of a people's government above provincial level. If the procurement item budget meets the standard specified by the finance department under the State Council, the information on government procurement items shall be published at the media designated by the finance department under the State Council.

Article 9 The procurement personnel and related personnel may not participate in a government procurement activity if they have any of the following interest relationships with the supplier:

1. having labor relationships with the supplier within three years before they participate in the procurement activity;

2. acting as the directors or supervisors of the supplier within three years before they participate in the procurement activity;
3. being the controlling shareholders or actual controllers of the supplier within three years before they participate in the procurement activity;
4. being the spouse, lineal relative, collateral relative by blood (within three generations) or in-law of the supplier's legal representatives or persons in charge; or
5. having other relationships with the supplier which may affect the fairness and impartiality of the government procurement activity.

If the supplier thinks that the procurement personnel and related personnel have interest relationships with other suppliers, such supplier may file a written withdrawal request to the purchaser or the procurement agency, together with a statement of the grounds for such withdrawal. The purchaser or the procurement agency shall inquire the personnel subject to the withdrawal request in a timely manner, and such personnel having interest relationships with other suppliers shall avoid participating in the government procurement.

Article 10 The State implements unified standards for the construction of e-commerce platform for government procurement and promotes the progress of electronic government procurement activities by using information networks.

Chapter II Government Procurement Parties

Article 11 In government procurement activities, the purchaser shall safeguard national interests and public interests, be impartial and honest as well as act in good faith, implement the government procurement policies, establish the internal control system for government procurement, practice strict economy and determine procurement demands in a scientific and reasonable manner.

No purchaser may ask for or accept gifts, kickbacks or other commodities and services irrelevant to the procurement from any supplier.

Article 12 Procurement agencies as mentioned in the Government Procurement Law refer to the centralized procurement agencies and other procurement agencies other than the centralized procurement agencies.

A centralized procurement agency refers to a legal person of non-profit public institution that is established by a people's government above the level of city divided into districts in accordance with the law and acts as the agency of centralized procurement items. A centralized procurement agency shall prepare the implementation program for the centralized procurement items, specify the procurement procedures and organize government procurement activities according to the purchaser's entrustment, and may not sub-entrust the centralized procurement items to other persons. Procurement agencies other than centralized procurement agencies refer to the social intermediaries conducting procurement agency business.

Article 13 A procurement agency shall establish a perfect internal supervision and management system for government procurement and have the evaluation conditions and facilities necessary for the government procurement.

A procurement agency shall improve the specialized service level related to procurement demand confirmation, preparation of bidding documents, negotiation documents and inquiry notices, contract text conclusion and procurement procedure optimization, and timely organize the signing of government procurement contract between the purchaser and the supplier winning the bid or the conclusive supplier within the specified time according to the purchaser's entrustment and timely assist the purchaser to check and accept the procurement items.

Article 14 A procurement agency may neither acquire the government procurement agency business by using improper means, nor conduct malicious collusion with the purchaser and the supplier to control government procurement.

The staff of a procurement agency may not accept the fete, travelling or entertainment activities organized by the purchaser or the supplier, or accept any gift, cash, securities

and other things from the purchaser or the supplier, or ask the purchaser or the supplier for reimbursement of expenses that shall be borne by the procurement agency itself.

Article 15 The purchaser and procurement agencies shall prepare procurement documents according to government procurement policies, budgets and demands.

The procurement demands shall meet laws and regulations as well as the requirements specified under the government procurement policies in respects of technique, service and safety, etc. For the public services provided to the public by the government, the government shall ask for advice from the public in order to determine the procurement demand. Except for the circumstance that detailed specifications or requirement details cannot be determined due to complex technology or special nature, the procurement demand shall be complete and clear. The advice from the related suppliers and experts shall be sought in order to determine the procurement demand when necessary.

Article 16 The agency agreement as specified under Article 20 of the Government Procurement Law shall define certain specific matters such as the scope, limits of authority and term of agent procurement.

The purchaser and the procurement agency shall perform obligations under the agency agreement respectively, and the procurement agency may not overstep its agency authority.

Article 17 A supplier participating in any government procurement activities shall meet the requirements as specified under Paragraph 1 of Article 22 of the Government Procurement Law and provide the following materials:

1. documentary evidence such as the business license of legal person or other organization and identity certificates of natural person;
2. report on financial condition and supporting materials related to the payment of taxes and social security funds in accordance with the law;
3. materials proving the possession of equipment and professional technical capability necessary for the performance of the contract;

4. written statement showing that no material malpractices have been recorded for the business activities within three years before participating in the government procurement activity; and

5. materials proving that other conditions required by laws and administrative regulations are met.

Where there are special requirements for the procurement items, the supplier shall also provide evidentiary materials or statements on conditions showing that special requirements are met.

Article 18 Different suppliers who are under the charge of the same person or have direct holdings or administrative relationships cannot participate in the government procurement activities under a same contract together.

Except for the procurement items with single source, suppliers providing services such as global design, specification preparation or project management, supervision or testing, etc. for the procurement items shall not participate in other procurement activities for the procurement items.

Article 19 Record of material malpractice as mentioned in Item 5, Paragraph 1 of Article 22 of the Government Procurement Law shall refer to the record of any criminal penalty or administrative penalty such as the order of production or business suspension, the revocation of permits or licenses or a fine with larger amount imposed on a supplier due to illegal business.

Where a supplier is prohibited from participating in any government procurement activity within a certain time limit due to illegal business within three years before it participates in a government procurement activity, in case of expiration of such time limit expires, such supplier may participate in the government procurement activity.

Article 20 A purchaser or procurement agency will be considered to give differential treatment or discriminatory treatment to the suppliers with unreasonable conditions if it:

1. provides differentiated item information of the same procurement item to the suppliers;
2. sets qualifications, technical and commercial conditions conflicting with the specific features or actual demands of the procurement item or irrelevant to the performance of contract;
3. makes technical, service and other requirements in the procurement demands targeting specific suppliers or products;
4. sets performance or awards in particular administrative regions or industries as terms for transactions or bid winning;
5. takes different qualification examinations or assessment standards towards suppliers;
6. limits or designates particular patents, trademarks, brands or suppliers;
7. illegally prescribes a limit to the form of ownership, organizational form or location of suppliers; or
8. limits or rejects potential suppliers by other unreasonable conditions.

Article 21 Where a purchaser or procurement agency takes prequalification towards the suppliers, an announcement on such prequalification shall be published at the media designated by the finance department under the people's government above the provincial level. Suppliers that have received prequalification may not receive qualification examination during the assessment phase. Where the qualification of a supplier passing the prequalification changes during the assessment phase, such supplier shall issue a notice to the purchaser and the procurement agency.

An announcement on prequalification shall include: name of the purchaser, name of the procurement item, procurement demand, qualifications for suppliers as well as the time and place for suppliers to submit application documents for prequalification. The time for submitting application documents for prequalification shall be not less than 5 working days as from the date of issue of the announcement.

Article 22 Where the suppliers with the same qualification in a consortium undertake the same work according to the division of work, the qualification grade shall be determined based on the grade of the supplier with lower qualification grade.

Where the suppliers form a consortium to participate in government procurement activities, each member of the consortium shall not participate in government procurement activities under the same contract by itself or by forming another consortium with other suppliers.

Chapter III Forms of Government Procurement

Article 23 When a purchaser purchases the goods or services above the quota for open tendering, which falls under the circumstances stipulated in Articles 29, 30, 31 and 32 of the Government Procurement Law or special circumstances that require to carry out the government procurement policies, the procurement methods other than open tendering may be adopted in accordance with the law upon the approval of the finance department under the people's government above the level of city divided into districts.

Article 24 In case that the items included in the catalogue for centralized procurement are suitable for adoption of centralized procurement in batches, the centralized procurement in batches shall be implemented, except for the urgent small-scale or sporadic items of goods and items of services or projects with special requirements.

Article 25 Where government procurement of constructionworks is not conducted in the method of public bidding in accordance with the law, the constructionworks shall be procured in the method of competitive negotiation or single source procurement as stipulated in the Government Procurement Law and the Regulations.

Article 26 The circumstance stipulated in Item 3 of Article 30 of the Government Procurement Law shall be contingent for the purchaser or be caused not as a result of delay by the purchaser; the circumstance stipulated in Item 4 refers to that under which the total price cannot be worked out beforehand because the time and quantities of the

artistic works, or patents and know-hows or services to be procured cannot be determined in advance.

Article 27 The circumstance stipulated in Item 1 of Article 31 of the Government Procurement Law refers to the circumstance in which goods or services or public service items can only be procured from specific suppliers because the goods or services use irreplaceable patents and know-hows, or the public service items set special requirements.

Article 28 If, in a fiscal year, a purchaser repeatedly procures the goods or services in the same type or category under the same budget item in the method other than open tendering, and the cumulative amount exceeds the quota for open tendering, such purchaser will be considered to avoid open tendering by breaking up the whole into parts, except as required by the adjustment to project budget or as approved to carry out procurement in the methods other than open tendering.

Chapter IV Procedure for Government Procurement

Article 29 A purchaser shall prepare the government procurement implementation plan in accordance with the catalogue for centralized procurement, procurement thresholds and approved departmental budget, and submit it to the finance department under the people's government at the same level for record.

Article 30 A purchaser or procurement agency shall disclose the budget amount for the items to be procured in the bidding documents, negotiation documents and inquiry notices.

Article 31 The term for submission of bidding documents shall be no less than five working days from the date of the issuance of the bidding documents.

A purchaser or procurement agency may make necessary clarifications or amendments to the bidding documents issued. Should the clarifications or amendments be likely to affect the preparation of completed bidding documents, the purchaser or procurement agency shall notify in writing all potential bidders who have obtained the bidding

documents at least 15 days before the bid invitation is closed; in case of less than 15 days, the purchaser or procurement agency shall postpone the deadline of submission of completed bidding documents accordingly.

Article 32 A purchaser or procurement agency shall prepare the bidding documents in accordance with the standard version of bidding documents established by the finance department under the State Council.

Bidding documents shall include commercial conditions of items to be procured, procurement demands, qualification criteria of bidders, requirements on the offer, bid evaluation methods, standards for bid evaluation and contract text to be signed.

Article 33 In case that bidding documents require a bidder to submit the bid bond, the bid bond shall not exceed 2% of the budget amount for items to be procured. The bid bond shall be provided in non-cash forms such as check, draft, promissory note or letter of guarantee issued by a financial institution and guarantee institution. If the bidder fails to provide the bid bond as required in the bidding documents, its bid shall be invalid.

A purchaser or procurement agency shall return the bid bond to a supplier who loses the bid within five working days from the date when the acceptance notice is issued and to the supplier winning the bid within five working days from the date when the contract of government procurement is signed.

In the procurement conducted in the method of competitive negotiation or inquiry, if the suppliers participating in the negotiation or inquiry are required to provide the security, the preceding two paragraphs shall apply *mutatis mutandis*.

Article 34 The bid evaluation methods for government procurement include the lowest-price bid evaluation method and the comprehensive scoring method.

The lowest-price bid evaluation method refers to the bid evaluation method in which the candidates to win the bid are determined according to the suppliers whose completed bidding documents meet all substantial requirements set out in the bidding documents and who provide the lowest offer. The comprehensive scoring method refers to the bid

evaluation method in which the candidates to win the bid are determined according to the suppliers whose completed documents meet all substantial requirements of bidding documents and who get the highest score in the appraisal by quantitative index of evaluation factors.

Items of goods and services with unified technology, service and other standards shall adopt the lowest-price bid evaluation method.

For adoption of the comprehensive scoring method, the score set in evaluation standards shall correspond with the quantitative index of evaluation factors.

Any standard of bid evaluation not provided in bidding documents may not be used as the basis of appraisal.

Article 35 If the negotiation documents fail to completely and explicitly set out the procurement demands, and the suppliers are required to provide the final design plan or solution, upon conclusion of the negotiation, the negotiation team shall vote in the principle of the minority subordinating to the majority to recommend the design plan or solution of more than three suppliers and request such suppliers to submit the final offer within a specified time limit.

Article 36 Inquiry notices shall determine the contract terms of government procurement according to the procurement demands. In the process of inquiry, the inquiry team may not change the contract terms of government procurement determined in the inquiry notice.

Article 37 Equal quality and equal services as mentioned in Item 5 of Article 38 and Item 4 of Article 40 of the Government Procurement Law mean that the product quality and services provided by the suppliers are able to satisfy the substantial requirements specified in the procurement documents.

Article 38 In case that the goods and services reaching the quota for open tendering that fall under the circumstance stipulated in Item 1 of Article 31 of the Government Procurement Law can only be procured from the sole supplier, the purchaser shall

publicize the information on the procurement item and the name of the sole supplier on the media designated by the finance department under the people's government above the provincial level with the publicity period not less than five working days.

Article 39 Except for the circumstances specified by the finance department under the State Council, a purchaser or procurement agency shall select the evaluation experts randomly from the government procurement evaluation expert database.

Article 40 Government procurement evaluation experts shall abide by the disciplines for evaluation work and may not reveal the evaluation documents, evaluation situation and trade secrets accessible to them in the process of evaluation.

If the bid evaluation committee, competitive negotiation team or inquiry team finds in the process of evaluation that any supplier has any illegal behavior such as bribery, provision of false materials or collusion, it shall report such case timely to the finance department.

In case that the government procurement evaluation experts suffer an illegal intervention in the process of evaluation, they shall report such intervention to the finance, supervision or other relevant departments.

Article 41 The bid evaluation committee, competitive negotiation team or inquiry team shall carry out independent evaluation in the principles of objectiveness, impartiality and prudence and according to the evaluation procedures, evaluation methods and evaluation standards specified by the procurement documents. If any content of a procurement document violates the relevant mandatory provisions of the State, the bid evaluation committee, competitive negotiation team or inquiry team shall cease the evaluation and state the situation to the purchaser or procurement agency.

The bid evaluation committee, competitive negotiation team or inquiry team shall sign on the evaluation report and undertake the legal responsibilities for its own evaluation opinions. If there is any objection to the review report, different opinions shall be stated

together with the reasons in the review report, or otherwise, the review report will be considered to be approved.

Article 42 A purchaser and procurement agency may not make tendentious and misleading interpretations or explanations to review experts of the bid evaluation committee, competitive negotiation team or inquiry team.

Article 43 A procurement agency shall deliver the review report to the purchaser within two working days upon conclusion of the evaluation. The purchaser shall determine the winning bidder or conclusive supplier according to the order of the candidates of the winning bidder or conclusive supplier recommended in the review report within five working days upon receipt thereof.

A purchaser or procurement agency shall give an acceptance notice or a notice on transaction conclusion within two working days from the date when the winning bidder or conclusive supplier is determined, and shall publish the results of bid winning or transaction conclusion together with bidding documents, competitive negotiation documents and inquiry notice on the media designated by the finance department under the people's government above the provincial level.

The results of bid winning or transaction conclusion to be published shall include the names, addresses and contact information of the purchaser and the procurement agency, project name and project number, the name and address of the winning bidder or conclusive supplier and the amount of the winning bid or the transaction concluded, the name, specification, quantity, unit price and service requirements of the principal subject matters set out in the winning bid or transaction concluded and the list of review experts.

Article 44 Except for the circumstances specified by the finance department under the State Council, the purchaser and procurement agencies shall not organize re-evaluation for any reason. Where the purchasers and procurement agencies organize re-evaluation according to the provisions of the finance department under the State

Council, they shall submit a written report to the relevant finance department under the people's government at the corresponding level.

The purchasers or the procurement agencies may not change any evaluation result by testing samples, investigating the supplier or other ways.

Article 45 Purchasers or procurement agencies shall accept the performance of the suppliers pursuant to the technical, service and safety standards provided by government procurement contracts and issue corresponding acceptance certificates. An acceptance certificate shall include the information on performance of each technical, service and safety standards.

For public service items provided by the government to the public, the service targets shall be invited for participation in acceptance and give opinions, and the acceptance result shall be announced to the public.

Article 46 The procurement documents as mentioned in Article 42 of the Government Procurement Law may be kept for record by electronic means.

Chapter V Government Procurement Contract

Article 47 The finance department under the State Council shall, in concert with related departments under the State Council, formulate the standard text of government procurement contract.

Article 48 Where procurement documents require the winning bidder or conclusive supplier to submit performance bond, the supplier shall submit such performance bond in check, draft, promissory note, or guarantee issued by a financial or guarantee institution or other non-cash ways. The amount of performance bond shall not exceed 10% of the government procurement contract amount.

Article 49 Where the winning bidder or conclusive supplier refuses to enter into a contract with the purchaser, the purchaser may determine the next candidate in the order of candidates of the winning bidder or conclusive supplier recommended in the

review report as winning bidder or conclusive supplier, and also may renew government procurement activities.

Article 50 The purchaser shall publish the government procurement contract on the media designated by the finance department under the people's government above the provincial level within two working days from the date of signing the same, except the contents concerning state secrets or business secrets.

Article 51 The purchaser shall promptly pay procurement funds to the winning bidder or conclusive supplier under the government procurement contract.

The payment procedures of government procurement project funds shall be subject to national provisions on financial fund payment and management.

Chapter VI Query and Complaint

Article 52 The purchaser or the procurement agency shall respond to the inquiries raised by the supplier in accordance with the law within three working days.

Where the inquiries or queries raised by the supplier are beyond the scope of authority of the procurement agency granted by the purchaser, the procurement agency shall notify the supplier that such inquiries or queries shall be delivered to the purchaser.

Government procurement evaluation experts shall coordinate with the purchaser or the procurement agency in responding to the inquiries and queries raised by the supplier.

Article 53 The date on which the supplier should know about an infringement of the rights and interests thereof as provided in Article 52 of the Government Procurement Law refers to:

1. in case of any query to doubtful procurement documents, the date on which the procurement documents are received or publishing period for the procurement documents expires;
2. in case of any query to the procurement process, the date of the end of each procurement procedure; and

3. in case of any query to the results of bid winning or transaction conclusion, the date on which the publishing period for the results of bid winning or transaction conclusion expires.

Article 54 Where matters inquired or queried may affect the results of bid winning or transaction conclusion, the purchaser shall suspend the signing of any contract; if any contract has been signed, the performance of such contract shall be suspended.

Article 55 Queries and complaints by suppliers shall be based on express requests and necessary evidentiary materials. Matters that suppliers complain about may not be beyond the scope of queried matters.

Article 56 Finance departments shall deal with complained matters in the manner of written review, and may carry out investigation and evidence collection or organize cross-examination when necessary.

For investigation and evidence collection carried out by any finance department in accordance with the law, complainants and parties involved in the complained matters shall provide true information and relevant materials.

Article 57 Where complainants complain by fabricating information, providing false materials or obtaining evidentiary materials by illegal means, finance departments shall reject such complaints.

Where complainants apply for revoking any complaint in writing after finance departments accept the same, finance departments shall terminate the complaint handling procedure.

Article 58 Where inspection, detection, identification, expert review and complainants' supplementing materials are required for finance departments' handling of complained matters, the required period will not be included in the complaint handling period.

The handling decision on complained matters made by finance departments shall be published on the media designated by the finance department under the people's government above the provincial level.

Chapter VII Supervision and Inspection

Article 59 The procurement standards for government procurement items as mentioned in Article 63 of the Government Procurement Law refer to the appropriation budget standard, assets allocation standard, technical and service standards, and others on which project procurement is based on.

Article 60 Besides the assessment items provided in Article 66 of the Government Procurement Law, other assessment items for centralized procurement agencies made by finance departments also include:

1. the implementation of the policies regarding government procurement;
2. the level of procurement documents preparation;
3. the forms of the procurement and the performance of procurement procedures;
4. the response to inquiries and queries;
5. the construction and implementation of the internal supervision and management system; and
6. other matters specified by the finance department under the people's government above the provincial level.

Finance departments shall make an assessment plan to regularly assess centralized procurement agencies; where any assessment result reflects significant findings, a report shall be submitted to the people's government at the corresponding level.

Article 61 Where the purchaser finds that the procurement agency has illegal conduct, it shall require the procurement agency to correct such conduct. Where the procurement agency refuses to do so, the purchaser shall report the case to the finance department under the people's government at the corresponding level, which shall handle the same in accordance with the law.

Where the procurement agency finds that the procurement demands of the purchaser contain unreasonable conditions under which the supplier is treated differently or discriminatorily or contain other contents not conforming to the laws, regulations and

government procurement policies, or finds that the purchaser has other illegal conduct, the procurement agency shall suggest the purchaser making correction. Where the purchaser refuses to do so, the procurement agency shall report the case to the finance department under the people's government at the corresponding level at the place of the purchaser, which shall handle the same in accordance with the law.

Article 62 The finance department under the people's government above the provincial level shall implement dynamic management on government procurement evaluation experts database and relevant specific management measures shall be formulated by the finance department under the State Council.

The purchaser or the procurement agency shall record the performance of duties of review experts during government procurement activities and timely report the same to finance departments.

Article 63 Finance departments under the people's government at all levels and other related departments shall enforce supervision and administration over the suppliers, procurement agencies and review experts for government procurement activities and record their misconduct, which shall be included into the uniform credit information platform.

Article 64 Finance departments under the people's governments at all levels will carry out supervision and inspection on government procurement activities and are entitled to refer to and copy relevant documents and data, and associated units and personnel shall render coordination.

Article 65 Auditing bodies, supervisory organs and other related departments will supervise government procurement activities in accordance with the law; where they find that procurement parties have illegal conduct, they shall timely report the case to finance departments.

Chapter VIII Legal Liabilities

Article 66 The fine set forth in Article 71 of the Government Procurement Law is not more than RMB 100,000.

The fine set forth in Article 72 of the Government Procurement Law is not less than RMB 50,000 but not more than RMB 250,000.

Article 67 The purchaser shall be ordered to make rectification within a prescribed time limit and be given a warning, and the directly responsible person in charge and other persons directly liable will be given a sanction in accordance with the law and be made public by the finance department, if the purchaser:

1. fails to prepare the government procurement implementation plan as required or fails to submit the government procurement implementation plan to the finance department under the people's government at the same level for record as required;
2. breaks up the whole of the items subject to open tendering into parts or otherwise avoids procurement by open tendering;
3. fails to determine the winning bidder or conclusive supplier among the candidates of the winning bidder or conclusive supplier recommended by the bid evaluation committee, competitive negotiation team or inquiry team as required;
4. fails to sign the government procurement contract on the items as determined by the procurement documents;
5. adds the same goods, construction works or services as the contract subject during the performance of the government procurement contract and the expenses therefrom exceed 10% of the original contract price;
6. arbitrarily alters, suspends or terminates the government procurement contract;
7. fails to make public the government procurement contract as required; or
8. fails to submit the copy of the government procurement contract to the finance department and relevant departments of the people's government at the same level for record within such period as required.

Article 68 The purchaser and the procurement agency shall be prosecuted for legal liabilities in accordance with Articles 71 and 78 of the Government Procurement Law, if they:

1. fail to conduct procurement in the manner required by the Government Procurement Law and the Regulations;
2. fail to publish the information on government procurement items on designated media in accordance with the law;
3. fail to carry out the government procurement policies as required;
4. violate Article 15 of the Regulations, which leads to the failure to organize the acceptance of supplier's performance or the loss of the State property;
5. fail to select review experts from the government procurement evaluation expert database in accordance with the law;
6. illegally interfere in procurement evaluation activities;
7. when applying the comprehensive scoring method, fail to have the score set in evaluation standards correspond with the quantitative index of evaluation factors;
8. fail to dispose of the inquiries and queries raised by the supplier within the stipulated time limit;
9. change the evaluation result by testing samples, investigating the supplier or otherwise; or
10. fail to organize the acceptance of the performance of the supplier as required.

Article 69 The centralized procurement agency will be ordered to make rectification within a prescribed time limit, be given a warning and have its illegal gains, if any, confiscated, and the directly responsible person in charge and other persons directly liable will be given a sanction in accordance with the law and be made public, by the finance department, if the centralized procurement agency:

1. has an imperfect internal supervisory and administrative system and does not set up and separate the post and personnel which shall be so set up and separated according to law;
2. entrusts centralized procurement items to other procurement agencies for procurement; or
3. engages in profit-making activities.

Article 70 In case that the procuring personnel have conflict interests with the suppliers and they do not avoid the procurement activities in accordance with the law, they will be given a warning and a fine of not less than RMB 2,000 but not more than RMB 20,000 by the finance department.

Article 71 In case of any one of the violations set forth in Articles 71 and 72 of the Government Procurement Law which affects or may affect the results of bid winning or transaction conclusion, the case will be handled in accordance with the following provisions:

1. to terminate the current government procurement activity and carry out the new government procurement activity in case that the winning bidder or conclusive supplier is not determined;
2. to otherwise determine the winning bidder or conclusive supplier among the qualified candidates of the winning bidder or conclusive supplier in case that the government procurement contract has not been executed by the determined winning bidder or conclusive supplier, and the results of bid winning or transaction conclusion are invalid; or to carry out new government procurement activity in case of the absence of the qualified candidates of the winning bidder or conclusive supplier;
3. to cancel the government procurement contract and otherwise determine the winning bidder or conclusive supplier among the qualified candidates of the winning bidder or conclusive supplier in case that such contract has been signed but not been performed;

or to carry out new government procurement activity in case of the absence of the qualified candidates of the winning bidder or conclusive supplier; or

4. losses caused to the purchaser or the supplier will be compensated by the person liable in case the government procurement contract has been performed.

In case of any other violations of the Government Procurement Law or the Regulations by government procurement parties, which still affect or may affect the results of bid winning or transaction conclusion after rectification or such results of bid winning or transaction conclusion are deemed invalid according to law, the provisions of the preceding paragraph shall apply.

Article 72 The supplier shall be prosecuted for legal liabilities in accordance with Paragraph 1 of Article 77 of the Government Procurement Law, if the supplier:

1. bribes the members of bid evaluation committee, competitive negotiation team or inquiry team or provides them with other illegitimate benefits;
2. refuses to enter into the government procurement contract with the purchaser after winning the bid or concluding the transaction without proper reasons;
3. fails to sign the government procurement contract on the items as determined by the procurement documents;
4. subcontracts the government procurement contract;
5. provides counterfeit and shoddy products; or
6. arbitrarily alters, suspends or terminates the government procurement contract.

In case of behavior by the supplier set out in Item 1 of the preceding paragraph, the results of bid winning or transaction conclusion will be invalid. In case of any change in the qualification during the evaluation, and that the supplier fails to inform the purchaser and the procurement agency of such change in accordance with Article 21 of the Regulations, such supplier shall be given a fine of 5‰ of the procurement value and be included in the list of those with bad behavior records, and the results of bid winning or transaction conclusion will be invalid.

Article 73 In case of any complaint by the suppliers through making up a story, providing false materials or obtaining evidentiary materials in illegal ways, such suppliers will be included in the list of those with bad behavior records and be prohibited from engaging in government procurement activity in next one to three years by the finance departments.

Article 74 In case of any one of the following circumstances which is deemed as malicious collusion, the suppliers shall be prosecuted for legal liabilities in accordance with Paragraph 1 of Article 77 of the Government Procurement Law; and the purchaser, the procurement agency and their staff shall be prosecuted for legal liabilities in accordance with Article 72 of the Government Procurement Law:

1. the suppliers directly or indirectly acquire relevant situations of other suppliers from the purchaser or the procurement agency and make amendments to their completed bidding documents or response documents;
2. the suppliers replace and modify the completed bidding documents or response documents as instructed by the purchaser or the procurement agency;
3. the suppliers negotiate the substantial contents of the completed bidding documents or response documents such as the quoted price, and technical solution with each other;
4. the suppliers who are the members of the same group, association or chamber of commerce engage in the same government procurement activity in a cooperative manner as required by the above organization;
5. the suppliers reach an agreement on a certain winning bidder or conclusive supplier in advance;
6. the suppliers reach an agreement that part of the suppliers will give up the government procurement activity or the bid winning and the conclusion of transaction; or

7. other collusions between the suppliers and the purchaser, between the procurement agencies or between the suppliers to determine a particular supplier as the winning bidder or conclusive supplier or reject other suppliers.

Article 75 In case the government procurement evaluation experts fail to conduct independent evaluation according to the evaluation progress, method and standard set forth in procurement documents or disclose evaluation documents or situations, such experts will be given a warning and a fine of not less than RMB 2,000 but not more than RMB 20,000 by finance departments; or a fine of not less than RMB 20,000 but not more than RMB 50,000 and be prohibited from engaging in government procurement evaluation activities if such case affects the results of bid winning or transaction conclusion.

The government procurement evaluation experts will be given a fine of not less than RMB 20,000 but not more than RMB 50,000 and prohibited from engaging in government procurement evaluation activities if they have a conflict interest with the suppliers and do not avoid conducting procurement evaluation activities.

In case the government procurement evaluation experts accept the bribery of the purchaser, the procurement agency and suppliers or acquire other illegitimate benefits, such experts will be prosecuted for criminal liabilities in accordance with the law if such behavior constitutes a crime; or they shall be given a fine of not less than RMB 20,000 but not more than RMB 50,000 and be prohibited from engaging in government procurement evaluation activities if such behavior does not constitute a crime.

In case of any foregoing violation by the government procurement evaluation experts, their evaluation comments are invalid and they are not entitled to evaluation fees. If they have illegal gains, such gains shall be confiscated. In the event of any losses caused to others, they will assume civil liabilities in accordance with the law.

Article 76 In case of any violations of the Government Procurement Law and the Regulations by the government procurement parties, which cause losses to others, such parties shall bear civil liabilities in accordance with the law.

Article 77 In case the finance department violates the Government Procurement Law and the Regulations during the performance of supervision and administration duties in government procurement by abusing its powers and functions, neglecting its duties, playing favoritism and committing irregularities, the directly responsible person in charge and other persons directly liable will be given a sanction according to the law; or they will be prosecuted for criminal liabilities if the above behaviors by them constitute a crime.

Chapter IX Supplementary Provisions

Article 78 The people's governments at the county level applying directly financial administration of the provincial level may perform their duties to change the forms of procurement as approved by the people's governments at the city level with districts set out in the Government Procurement Law and the Regulations, after reporting the same to the people's governments at the provincial level for approval when necessary.

Article 79 The Regulations come into force as of March 1, 2015.

Note:English version for reference only,Chinese version shall prevail.

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