Bureau of Experts at the Council of Ministers
Official Translation Department

Government Tenders and Procurement Law

Royal Decree No. M/128
July 16, 2019

Translation of Saudi Laws

NOTE:

The translation of Saudi laws takes the following into consideration:

- Words used in the singular form include the plural and vice versa.
- Words used in the masculine form include the feminine.
- Words used in the present tense include the present as well as the future.
- The word “person” or “persons” and their related pronouns (he, his, him, they, their, them) refer to a natural and legal person.

National Center for Archives & Records

Government Tenders and Procurement Law

Part 1: General Provisions

Chapter 1: Definitions

Article 1

In this Law, the following terms shall have the meanings assigned thereto unless the context requires otherwise:

Law: Government Tenders and Procurement Law.

Regulations: Implementing Regulations of the Law.

Minister: Minister of Finance.

Ministry: Ministry of Finance.

Authority: Local Content and Government Procurement Authority.

Unified Procurement Agency: The agency in charge of unified strategic procurement which is determined pursuant to a resolution by the Council of Ministers.

Government Agencies: Ministries, government bodies, public agencies, authorities, and institutions, and other entities with an independent public corporate personality.

Head of Government Agency: Minister, president, governor, or principal officer of a government agency.

Portal: The electronic portal designated for government procurements which is under the Ministry's supervision.

Framework Agreement: An agreement between one or more government agencies and one or more suppliers, contractors, or operators, that includes the terms and conditions of contracts awarded during a specific period.

Electronic Reverse Auction: An electronic method which allows for bids to be submitted successively within a given period in order to select the lowest offer.

Consultancy Services: Services of a professional or consultative nature, such as accounting and legal services, which include, but are not limited to, conducting research and studies, and developing and supervising the implementation of specifications, schemes, and designs.

Pre-Qualification: Measures taken by a government agency to ensure that a bidder, prior to submitting his proposal, is qualified to carry out the required works and procurements.

Post-Qualification: Measures taken by a government agency, upon selecting the best proposal and prior to awarding the tender, to ensure that the selected bidder is qualified to carry out the required works and procurements.

Suspension Period: A period for deciding appeals submitted by bidders which starts from the date of notifying them of the winning proposal.

Emergency: A state wherein the risk to public safety, security, or health is serious and unforeseen; involves an abrupt disorder that may cause loss of life or property; and which cannot be addressed through regular tendering procedures.

Urgency: A case where it is crucial for works and procurements to be carried out in a short period of time to ensure that government agencies operate efficiently.

Chapter 2: Purposes of the Law

Article 2

This Law aims at:

1. regulating procedures relating to works and procurements, and preventing abuse of power and conflict of interest to protect public funds;
2. achieving optimal value of public funds when concluding contracts of works and procurements, and implementing them at fair and competitive prices;
3. promoting integrity and competitiveness, maintaining equality, and ensuring fair treatment of bidders, in fulfillment of the principle of equal opportunity;
4. maintaining transparency in all procedures related to works and procurements; and
5. fostering economic growth and development.

Chapter 3: Basic Principles

Article 3

1. Government agencies shall, in carrying out their works and procurements, only contract licensed persons, subject to applicable laws and regulations.
2. Government agencies shall, before contracting foreign persons to carry out procurements or works inside the Kingdom, ensure the unavailability of more than one local person qualified to carry out said works or procurements. The Regulations shall specify the terms and conditions for implementing the provisions of this paragraph.

Article 4

All qualified persons seeking to contract with a government agency shall be accorded equal opportunities and treatment.

Article 5

Bidders shall be provided with clear and uniform information on the required works and procurements and shall be given access to such information at a specified time.

Article 6

A public tender shall be subject to the principles of publicity, transparency, and equal opportunity.

Article 7

No proposals or contracts shall be accepted or concluded unless they are compliant with the provisions of the Law.

Article 8

The tendering and contracting of works and procurements shall be restricted to the actual needs of the government agency and shall be at fair prices that do not exceed prevailing market prices.

Article 9

Priority shall be given to local small- and medium-sized enterprises, local content, and companies listed in the Capital Market. The regulations referred to in Article 96(3) of this Law shall determine the manner of prioritization.

Chapter 4: Scope of Application

Article 10

This Law shall apply to all government agencies.

Article 11

Works and procurements carried out outside the Kingdom shall be subject to the provisions of the Law. However, they may be exempted from some provisions, as specified in the Regulations.

Chapter 5: Advance Planning

Article 12

1. A government agency shall plan in advance its works and procurements, and coordinate with the Ministry for the allocation of necessary appropriations. At the beginning of each fiscal year, the agency shall publish a plan consistent

with its budget which includes key information about its works and procurements for the year, without compromising the confidentiality considerations of national security.

2. The government agency's publication of its plans of works and procurements shall not result in any obligation.

Chapter 6: Institutional Organization

Article 13

1. In implementing the provisions of the Law, the Ministry shall:
   a) create, oversee, and continuously develop the Portal;
   b) set policies and issue directives, instructions, and guidelines related to the implementation of the provisions of the Law and its Regulations;
   c) collect tender-related information and publish it on the Portal, and monitor the application of the provisions of the Law, without prejudice to the jurisdiction of other monitoring agencies; and
   d) publish on the Portal lists of persons whom dealing with is prohibited.
2. The Minister shall approve tender document forms, pre-qualification documents, contract forms, contractor performance assessment forms, and any other document required by the nature of the works or procurements.

Article 14

Without prejudice to the jurisdiction of the General Authority for Military Industries, and in the implementation of the provisions of the Law, the Unified Procurement Agency shall be in charge of the following:

1. Identifying the works and procurements needed by more than one government agency; unifying their technical specifications; carrying out their tendering procedures; receiving, reviewing, and selecting the best proposal; and concluding framework agreements on behalf of government agencies, in accordance with the provisions of the Law.
2. Preparing lists of works and procurements for which framework agreements have been concluded, and granting government agencies access to such lists and the terms of framework agreements through the Portal.
3. Reviewing feasibility studies and cost estimates submitted thereto by government agencies in relation to procurements and works tendered by said agencies, as well as relevant tender documents and pre-qualification documents, if any, and issuing an opinion thereon within the period specified by the Regulations.
4. Developing forms for tender documents, pre-qualification documents, contracts, contractor performance assessment, and any other document required by the nature of works or procurements, in accordance with the

provisions of the Law and its Regulations, and the regulations referred to in Article 96 of this Law.

5. Preparing the training programs necessary for developing the qualifications and skills of persons entrusted with the application of the Law at government agencies.

Article 15

1. A government agency shall not carry out procurements or works in the lists prepared by the Unified Procurement Agency except through framework agreements concluded by the Agency.
2. Notwithstanding paragraph (1) of this Article, a government agency may, upon obtaining the approval of the Agency, carry out works and procurements included in the lists, in accordance with the provisions of the Law.
3. A government agency shall, before holding tenders for works or projects or proceeding with pre-qualification, if any, submit the feasibility study, cost estimate, tender documents, and pre-qualification documents, if any, as well as reports on any action taken, to the Unified Procurement Agency for review within the period specified in the Regulations. If the Unified Procurement Agency fails to respond within said period, it shall be deemed to have granted its approval. The government agency shall comply with any modification required by the Unified Procurement Agency.
4. Notwithstanding paragraph (3) of this Article, a government agency may hold tenders for projects or works or proceed with pre-qualification, if any, without submitting the feasibility study, cost estimate, tender documents, and pre-qualification documents, if any, as well as reports on any action taken, to the Unified Procurement Agency, in cases where the estimated cost of the works and procurements does not exceed the amount specified in the Regulations, or in cases of emergency or urgency; in which case, a notification to the Unified Procurement Agency of the action taken shall suffice.

Chapter 7: The Portal

National Center for Archives & Records

Article 16

Government tenders and procurements shall be published through the Portal, unless it is infeasible for technical reasons or reasons relating to national security, as specified by the Regulations.

Article 17

1. The Portal shall ensure the highest degree of privacy, confidentiality, safety, and transparency of information, and it shall ensure integrity of procedures.
2. The Portal shall make available to interested parties tender-related

information and data as specified by the Regulations.

3. The Portal shall maintain a record for each government agency, which includes information, data, and procedures relating to concluded contracts, as well as tendered projects and works, as specified by the Regulations.
4. The Ministry shall charge a fee for the services rendered through the Portal. The Council of Ministers shall determine the amount of the fee and may amend it upon the Ministry's recommendation.

Chapter 8: Eligibility and Qualification of Bidders

Article 18

Prospective bidders shall meet the requirements necessary for carrying out government works and procurements, as specified by the Regulations.

Article 19

1. A government agency shall carry out pre- or post-qualification for its works and procurements in accordance with the Regulations.
2. If pre-qualification is conducted, the invitation to tender shall be limited to those who have passed the pre-qualification phase.

Article 20

Pre- or post-qualification criteria shall be objective and measurable, and shall be inclusive of the bidders' technical, financial, and administrative capabilities as well as the amount of their contractual obligations, in a manner that is commensurate with the nature, size, and value of the project or work.

Chapter 9: Tender Documents

Article 21

1. Tender documents shall include information and data relating to works and procurements offered for tender, as specified by the Regulations.
2. Tender documents shall be made available on the Portal. If technically infeasible, a sufficient number of hard-copies shall be made available.
3. The Regulations shall set the criteria for determining the cost of tender documents.

National Center for Archives & Records

Chapter 10: Conditions and Specifications

Article 22

1. The conditions and technical specifications of works and procurements offered for tender shall be detailed, accurate, and clear, and shall observe national standard specifications, or international standard specifications in the absence of national standard specifications. Such conditions and specifications shall not include reference to a specific type or brand, nor to a specific trademark or trade name, nor should they set specifications that apply only to specific contractors, producers, or suppliers.
2. Notwithstanding paragraph (1) of this Article, reference may be made to a specific trademark or trade name in cases where it is not possible to accurately describe and specify technical specifications, provided that the approval of the Unified Procurement Agency is obtained, and the phrase *or its equivalent* is included in the tender documents.
3. A government agency shall not require exaggerated technical specifications, nor shall such specifications exceed the actual needs of the project and allocated appropriations.
4. In setting technical specifications, a government agency may seek the assistance of experts and specialists.
5. In setting technical specifications, a government agency shall take into consideration the needs of persons with disabilities.

Chapter 11: Estimated Costs

Article 23

Prior to estimating the cost of works and procurements, a government agency shall:

1. thoroughly study market prices and take them into consideration when setting a maximum limit for the expected total contract value; and
2. set measures necessary to maintain the confidentiality of the estimated cost.

Chapter 12: Proposal Assessment Criteria

Article 24

A government agency shall include in tender documents the criteria for the assessment, comparison, and acceptance of proposals, in accordance with the Regulations.

Article 25

Non-price assessment criteria shall be objective, commensurate with the nature of works or procurements offered for tender, and quantifiable to the extent possible.

Chapter 13: Tender Divisibility

Article 26

Works and procurements shall not be divided in order to make them eligible for direct purchase or limited tendering, or to fall within the powers of authorized officials.

Chapter 14: Joint Bidding

Article 27

Proposals submitted jointly may be accepted in accordance with the provisions of the Regulations.

Part 2: Manner of Contracting

Chapter 1: Public Tender

Article 28

All works and procurements shall be offered for public tender, except for those exempted under the Law.

Article 29

1. Public tenders shall be announced through the Portal in accordance with the Regulations.
2. The Regulations shall specify the medium for announcing a public tender if announcement on the Portal is technically infeasible.

National Center for Archives & Records

Chapter 2: Limited Tender

Article 30

A government agency may adopt the limited-tender contracting method in the following cases:

1. If the works and procurements are only provided by a limited number of contractors, suppliers, or operators.
2. If the estimated value of works and procurements does not exceed 500,000 riyals. This shall require inviting as many bidders as possible provided that the number of bidders is not less than five. Priority shall be given to local small- and medium-sized enterprises.
3. Urgent cases.
4. If the works and procurements can be provided by non-governmental organizations or societies, or non-profit entities, provided that they execute the contract themselves.
5. Consulting services.

The Regulations shall specify the rules and procedures for implementing this Article.

Chapter 3: Two-Stage Tender

Article 31

A government agency may offer a tender over two stages if it is not possible to determine the final technical specifications and contractual obligations fully and accurately due to the complex and specialized nature of some works and procurements, as specified by the Regulations.

Chapter 4: Direct Purchase

National Center for Archives & Records

Article 32

A government agency may adopt the direct-purchase contracting method in the following cases:

1. Procurement of weapons and military equipment, and spare parts thereof, shall be carried out by the General Authority for Military Industries.
2. If works and procurements are exclusively provided by a sole operator, contractor, or supplier, where no acceptable alternative is available, provided that contracting is carried out in accordance with the Regulations.
3. If the estimated cost of the works and procurements does not exceed

100,000 riyals; in such case, the priority of invitation shall be given to local small- and medium-sized enterprises.

4. If adopting such method is necessary for the protection of national security interests, where public or limited tenders are precluded. In such case, a government agency shall, after concluding the contract, prepare a report stating the reasons for adopting such method, and it shall provide a copy thereof to the General Auditing Bureau.
5. If the works and procurements are only provided by a single non-governmental organization or society, or a single non-profit entity, provided that it executes the contract itself.
6. Emergencies.

Without prejudice to the powers of the General Authority for Military Industries stipulated in paragraph (1) of this Article, the Regulations shall specify rules and procedures for the implementation of the provisions of this Article.

Chapter 5: Framework Agreement

Article 33

A government agency may conclude a framework agreement with the winning bidder, stating the terms for executing the contract, in cases where it is not feasible to determine the quantity for each type or volume of works or services, or the subject of the contract, or determine their execution date, as specified in the Regulations.

Chapter 6: Electronic Reverse Auction

Article 34

A government agency may adopt the electronic reverse auction in accordance with the Regulations, taking the following into consideration:

1. Detailed technical specifications are prepared.
2. A competitive market is available to ensure effective competition.
3. Proposals are received through the Portal and are automatically put in order.
4. The auction's commencement and end dates are specified.
5. Bidders are provided with the necessary information and guidelines for using the Portal.

Chapter 7: Transfer of Industry and Know-How

Article 35

The Authority may, at its own initiative or upon the request of a government agency, subject to the Ministry's approval, conclude contracts for the transfer of industry and know-how, in accordance with the rules specified by the Regulations.

Chapter 8: Competition

Article 36

A government agency may, by way of competition, conclude a contract with the bidder presenting the best idea, design, or any other intellectual property rights, as specified in the Regulations.

Part 3: Proposals and Awards

Chapter 1: Submission of Proposals

Article 37

1. Proposals submitted through the Portal shall be encrypted, as specified by the Regulations.
2. Proposals shall be submitted on designated dates; otherwise, they shall not be accepted.
3. Proposals may be submitted in sealed envelopes if their submission through the Portal is not feasible for technical reasons.
4. A government agency shall announce the names of bidders through the Portal; if technically infeasible, the names shall be announced through any other medium specified by the Regulations.

Article 38

A government agency may require that a sample of the items to be procured be attached with the proposal.

Article 39

1. A proposal shall be valid for a period of 90 days from the date set for proposal opening. If a proposal is withdrawn within said period, the initial financial guarantee shall not be returned.

2. A government agency may extend the proposals' validity period for another 90 days. Bidders willing to proceed with the tender shall extend the validity period of their initial guarantees.

Article 40

1. Total prices and any subsequent increases or reductions thereof shall be stated in the proposal letter. No reduction submitted by means of a separate letter shall be considered, even if enclosed with the proposal.
2. Bidders may not, except in cases where negotiation is allowed under the provisions of the Law, amend the prices included in their proposals after submission.

Chapter 2: Initial Guarantee

Article 41

1. A bidder shall submit, along with the proposal, an initial guarantee of 1% to 2% of the value of the proposal. Any proposal submitted without such guarantee shall be disqualified.
2. The Regulations shall specify the provisions relating to the initial guarantee.

Article 42

Notwithstanding Article 41 of this Law, an initial guarantee shall not be required in the following cases:

1. Direct purchase.
2. Competition.
3. Intra-governmental contracts.
4. Contracting with a non-governmental organization or society, or a non-profit entity.
5. Contracting with local small- and medium-sized enterprises.

National Center for Archives & Records

Chapter 3: Opening of Proposals

Article 43

Pursuant to a decision by the head of the government agency, or his designee, one or more committees shall be formed for the opening of proposals, as specified by the Regulations.

Article 44

1. At the end of the proposal submission period, proposals shall be opened in the presence of all committee members, and minutes to this effect shall be made. In cases where technical proposals are required to be submitted separately from financial ones, only the technical proposals shall be opened. The Regulations shall specify proposal opening procedures.
2. Bidders may attend proposal opening sessions.
3. The committee shall, within three days from the proposal opening date, forward the minutes along with the proposals to the proposal review committee.

Chapter 4: Review of Proposals and Power to Contract

Article 45

1. Pursuant to a decision by the head of the government agency, or his designee, one or more committees shall be formed for reviewing proposals in the manner prescribed by the Regulations. Said committee shall review the proposals and submit recommendations as to the best proposal, in accordance with the provisions of the Law. To this end, such committees may draw on reports from technical experts when preparing their recommendations.
2. The Unified Procurement Agency may participate in the meetings of the proposal review committee, and it shall have the same powers as other committee members.
3. The proposal review committee shall issue its recommendations and record them in the minutes, along with any dissenting opinion, if any, and grounds therefor, as well as all actions made and procedures taken. The minutes shall be submitted to the person with the authority to decide on tender awarding, in accordance with the provisions of the Law.
4. A person shall not simultaneously chair the proposal review committee and have the authority to decide on tender awarding; chair the proposal opening committee and the proposal review committee; nor hold membership in both committees.

Article 46

1. Proposals shall be reviewed pursuant to the criteria specified in the tender documents. Proposals not satisfying such criteria shall be disqualified, and the initial guarantees thereof shall be returned.
2. If proposals are submitted in two separate electronic files or in two sealed envelopes, only the technical proposal shall be reviewed. Technical proposals that do not meet the requirements shall be disqualified; in such case, the financial proposals shall be returned intact to the bidders along with

the initial guarantees.

3. The proposal review committee shall examine the financial proposals submitted with the accepted technical proposals and submit its recommendations as to the best proposal, in accordance with the assessment criteria set out in the tender documents.

Article 47

The proposal review committee may negotiate with the bidder of the best proposal, and then with the next best bidders, in the following cases:

1. If the price of the best proposal is significantly higher than market prices, the committee shall specify the amount of reduction that would make the bidder's price consistent with market prices, and it shall send a written request for reduction. If the bidder declines or fails to reduce the price to the specified amount, the committee shall negotiate with the next best bidder, and so forth, until the target price is reached. If such price is not reached, the tender shall be canceled.
2. If the price of the best proposal exceeds the appropriations for the project, the committee shall send the bidder a written request to provide a reduction that makes the price fall within the appropriations. If the bidder declines or fails to reduce the price to the specified amount, the committee shall proceed to negotiate with the next best bidder, and so forth, until reaching a price that falls within the project appropriations. If such price is not reached, the government agency may, upon approval of the Unified Procurement Agency, cancel or reduce some items to lower the price to the appropriated amount, provided that this does not affect the usability of the project or the order of proposals. If such cancellation or reduction of project items is not feasible, the tender shall be canceled.

Article 48

No proposal may be disqualified on grounds of underpricing unless the proposed price is less than the estimated cost or market price by 25% or more, provided that the proposal review committee, upon reviewing the estimated prices, discusses the issue with the bidder of the underpriced proposal, and sends the bidder a written request to provide more details about the items covered in the proposal, along with an explanation for the low price. If the Committee is not convinced of the bidder's ability to execute the contract, it may recommend disqualification of the proposal.

Article 49

A government agency shall announce the tender results and notify the other bidders thereof, in accordance with the Regulations.

Article 50

1. If only one proposal is submitted, or multiple proposals are submitted but

only one satisfies the requirements of the tender, said proposal may only be accepted if the proposed price is similar to market prices, upon the approval of the head of the government agency.

2. The Regulations shall specify the provisions to be applied in cases of equal proposals.

Article 51

A tender shall be cancelled in the following cases:

1. If tender documents contain substantial errors that cannot be rectified.
2. If an irreparable action that violates the provisions of the Law or Regulations is taken.
3. If there are clear indications of fraud, corruption, or collusion between bidders or any parties related to the tender in a manner that precludes awarding the tender in accordance with the provisions of the Law and Regulations.
4. If all proposals violate the tender requirements.
5. If public interest so requires.

Article 52

If the tender is canceled, the fees for tender documents and the initial guarantees shall be returned to the bidders, in accordance with the Regulations.

Chapter 5: Suspension Period

Article 53

Upon the issuance and announcement of the awarding decision, the government agency shall observe a suspension period of not less than five working days and not more than 10 working days, during which the award may not be approved and the contract may not be signed, in order to allow bidders to appeal the awarding decision.

National Center for Archives & Records

Chapter 6: Powers

Article 54

1. The head of a government agency shall have the power to decide on tenders for carrying out works and procurements and to assign additional works; he may delegate such power in the following cases:

   a) Deciding on tenders for carrying out works and procurements of a value not exceeding 10,000,000 riyals.

b) Assigning additional works of a value not exceeding 5,000,000 riyals per project or 10% of the project cost, whichever is lower.

2. The head of a government agency shall have the power to cancel a tender and he may delegate such power.
3. The head of a government agency shall have the power to terminate contracts and he may delegate such power.
4. The head of a government agency shall have the power to decide on direct purchases and he may delegate such power in cases where the purchase value does not exceed 3,000,000 riyals.
5. The head of a government agency shall have the power to award tenders for the sale of movables and he may delegate such power.
6. The delegation of powers shall follow the chain of command.

Part 4: Concluding and Executing Contracts

Chapter 1: Contract Drafting and Execution Terms

Article 55

1. Contracts and their annexes as well as related documents shall be drafted in Arabic. Another language may be used in addition to Arabic provided that Arabic is the language used for contract interpretation and execution, determination of its specifications and schemes, and related correspondence.
2. Where the contract value does not exceed 300,000 riyals, a government agency's correspondence with the contractor shall suffice in lieu of a contract.

Article 56

1. The term of continuing service contracts, such as maintenance, operation, cleaning, and catering contracts, shall not exceed five years, and the term may be extended in certain contracts, upon the Ministry's approval.
2. In all contracts, the period of execution shall be proportionate to the size and nature of the works and to the annual appropriations of the project.
3. A continuing service contract shall contain terms and conditions concerning level of performance and ongoing evaluation to allow the government agency, in cases of unsatisfactory performance, to terminate the contract or reduce payments. The Regulations shall determine the procedures required to implement the provisions of this Article.

Article 57

The Regulations shall determine the types of contracts that government agencies may use.

Article 58

Contracts may contain provisions concerning the transfer of know-how training, and operational skills to government agency employees.

Article 59

1. A contract shall be concluded between a government agency and the winning bidder after the bidder is notified of the awarding decision and submits the final letter of guarantee.
2. In public construction contracts, a contractor shall be allowed to commence execution of the contract within 60 days from the date of being notified of the awarding decision, unless otherwise stipulated in the tender documents.

Article 60

1. Prior to concluding any of the contracts specified by the Regulations, a government agency shall submit said contracts to the Ministry for review. The Ministry shall review the contracts within 15 working days from the date of receipt thereof. If the Ministry does not respond within said period, the contracts shall be deemed approved. This Article shall not apply to agencies with no appropriations in the General State Budget.
2. The Regulations shall specify the rules for the application of this Article.

Chapter 2: Final Guarantee

Article 61

1. The awarded bidder shall submit a final guarantee of 5% of the contract value within a period of 15 working days from the date of being notified of the awarding decision. The government agency may extend such period for a similar period. If the final guarantee is not submitted during the specified period, the initial guarantee shall not be returned to the bidder, and the government agency shall proceed to negotiate with the next best bidder, in accordance with the provisions of the Law. The guarantee percentage may be increased upon the Minister's approval.
2. A local small- or medium-sized bidder shall pay to the government agency a fine equal to the initial guarantee if the bidder withdraws the proposal during the bidding validity period, or if the bidder fails to submit the final guarantee upon being awarded the tender. If the bidder fails to pay the specified fine within 60 days from the date of withdrawing the proposal or from the deadline for submitting the final guarantee, the bidder shall be banned from

contracting with government agencies for one year.

3. A final guarantee shall not be required in the following cases:
   a) If the value of the works and procurements does not exceed 100,000 riyals.
   b) Intra-government contracts.
   c) Contracting with a non-governmental organization or society, or any other non-profit entity.
   d) Contracting with a company the State owns at least 51% of its capital.
   e) If the contractor delivers all the items covered by the tender awarded thereto and the government agency makes a final acceptance thereof within the period specified for submission of the final guarantee; or if the contractor delivers part of the items and that part is accepted, and its price is sufficient to cover the final guarantee; in which case, an amount equal to the guarantee shall be retained until the contractor fulfills the contractual obligations.
   f) If the contractor is assigned additional works.
4. A final guarantee shall be retained until the contractor fulfills the contractual obligations and makes a final delivery of the project, in accordance with the contract terms and conditions.

Article 62

In contracts of continuing services, the final guarantee shall be reduced annually in proportion to the work completed, provided that such guarantee is not less than 5% of the value of the remaining work.

Article 63

Guarantees shall be accepted in any of the following forms:

1. A letter of guarantee from a local bank.
2. A letter of guarantee from a bank outside the Kingdom, submitted through a local bank.
3. Any other form prescribed by the Regulations.

The Regulations shall specify the guarantees' terms, conditions, and templates.

Chapter 3: Payments

Article 64

The value of contracts shall be paid in Saudi riyals. A government agency may designate other currencies in the tender documents, subject to the Ministry's prior approval.

National Center for Archives & Records

Article 65

The total value of a contract shall be inclusive of all expenses incurred in the execution thereof, in accordance with its terms and conditions, including fees and taxes paid by the contractor. No exemption shall be allowed, nor shall a contractor's profit or the income of the contractor's employees be exempted from tax, nor shall it be paid on their behalf, except as exempted by law.

Article 66

A government agency may make an advance payment to the contractor in return for a bank guarantee of an equal value, as specified by the Regulations.

Article 67

A contractor's entitlements shall be paid in accordance with the provisions of the Regulations.

Chapter 4: Price Adjustment and Change Orders

Article 68

Prices of contracts or framework agreements shall not be changed, either by increasing or decreasing them, except in the following cases:

1. Changes in the prices of main items or services covered by the tender, as specified by the Regulations.
2. Adjustment of tariffs, fees, or taxes.
3. If, in the course of contract execution, unforeseen financial difficulties arise.

The Regulations shall determine the conditions and procedures necessary for the implementation of the provisions of this Article.

Article 69

A government agency may, in accordance with its actual needs, issue change orders to increase the contract value by no more than 10%, or decrease such value by no more than 20%, in accordance with the Regulations.

Chapter 5: Contract Assignment and Subcontracting

Article 70

A contractor may not assign the contract, or part thereof, to another contractor, operator, or supplier without obtaining the written approval of the government agency and the Ministry. The Regulations shall specify the terms and conditions for the assignment of a contract or part thereof.

Article 71

1. A contractor may not subcontract another contractor, operator, or supplier without obtaining the written approval of the government agency. The Regulations shall specify the terms and conditions for subcontracting.
2. A government agency may directly pay a subcontracted contractor, operator, or supplier. The Regulations shall set relevant terms and conditions.
3. In all circumstances, a contractor shall be jointly liable with the subcontracted contractor, operator, or supplier, for the execution of the contract in accordance with its terms and conditions.

Chapter 6: Fines and Extension of Contracts

Article 72

A contractor who fails to execute a contract by the set date shall be subject to a fine not exceeding 6% of the value of a supply contract or 20% of the value of other contracts. Said percentages may be increased upon the Minister's prior approval, provided that bidders are notified of such increases prior to submitting their proposals.

Article 73

A contractor who fails to fulfill the contractual obligations in continuing service contracts shall be subject to a fine not exceeding 20% of the value of the contract, in addition to deducting the value of non-executed works. Said percentage may be increased upon the Minister's prior approval, provided that bidders are notified of such increase prior to submitting their proposals.

Article 74

Contracts may be extended and fines may be waived in the following cases:

1. If the contractor is assigned additional work. In such case, the extension period shall take into consideration the volume and nature of such work and the date of assignment.
2. If the project's annual appropriations are insufficient to complete the work within the specified time.
3. If the delay is attributable to the government agency or to exigent circumstances.
4. If the delay is attributable to reasons beyond the contractor's control.
5. If the government agency orders suspension of the work, or part thereof, for reasons not attributable to the contractor.

The Regulations shall set the controls and procedures for contract extension and fine waiver.

National Center for Archives & Records

Chapter 7: Partial Withdrawal and Execution at the Contractor's Expense

Article 75

A government agency may withdraw part of the works or procurements and have such part executed at the contractor's expense if the contractor fails to fulfill the contractual obligations after being warned. The Regulations shall specify the requirements for the implementation of this Article.

Chapter 8: Termination of Contracts

Article 76

1. A government agency must terminate a contract in the following cases:
   a) If it is established that the contractor has, personally or through others, directly or indirectly, bribed an employee of the agencies subject to the Law; obtained the contract through bribery, fraud, deceit, forgery, or manipulation; or engaged in any such acts in the course of executing the contract.
   b) If the contractor becomes bankrupt, files for bankruptcy, is proven insolvent, or is placed under receivership, or if the contractor is a company which has been dissolved or liquidated.
   c) If the contractor assigns the contract without the written approval of the government agency and the Ministry.
2. A government agency may terminate the contract in the following cases:
   a) If the contractor delays commencement of work, procrastinates in executing the contract, or violates any of the contract's terms and conditions, and the contractor fails to rectify the situation within 15 days from the date of receiving a written notification.
   b) If the contractor dies, the contract shall be terminated, entitlements settled, and guarantees returned. The government agency may continue contracting with the heirs of the deceased upon their approval, provided they have the technical qualifications and the guarantees necessary to execute the contract.
   c) If the contractor subcontracts another contractor without the written approval of the government agency.
3. Upon terminating a contract, a tender may be held for the remaining part through the same tendering process. The government agency may hold a limited tender and invite bidders with the next best bids to submit new proposals which shall be assessed in accordance with the provisions of the Law.
4. The Regulations shall set the conditions and procedures for the implementation of the provisions of this Article.

National Center for Archives & Records

Article 77

A government agency may terminate a contract if public interest so requires, or if termination is agreed upon with the contractor, upon the Ministry's approval, in accordance with the terms and conditions set in the Regulations.

Article 78

Upon terminating a contract pursuant to Articles 76(1), (2/a), or (2/c) of this Law, the final guarantee shall be confiscated, without prejudice to the government agency's right of recourse against the contractor to claim compensation for the damage incurred. The committee set forth in Article 88 of this Law shall be provided with a copy of the termination decision in order to consider barring said contractor from government contracts.

Chapter 9: Contractor Performance Assessment

Article 79

A government agency shall, upon completion of the contract, assess the contractor's performance using the contractor performance assessment form. The results of the contractor performance assessment shall not be announced until the assessment decision becomes final. The Regulations shall determine the required rules and procedures for implementation thereof, and any action to be taken in case of poor performance.

Part 5: Sale of Movables

Article 80

A government agency may assign redundant movables to other agencies and their affiliated entities, provided it notifies the Ministry thereof. The agency owning the movables shall inform other agencies through the Portal of the movable items and their quantities and designate a period for expressing interest in them. If no agency expresses interest within the designated period, the movables may be sold by way of public auction if their estimated value amounts to or exceeds 200,000 riyals, after announcement on the Portal and the agency's website, in accordance with public tender announcement rules.

Article 81

Movables whose estimated value is less than 200,000 riyals shall be sold either at public auction or in any other manner the government agency deems to be in the best interest of the State Treasury, provided that said agency allows the participation of as many bidders as possible.

Article 82

1. In sealed-bid auctions, a bidder shall submit, along with the proposal, an initial guarantee amounting to 2% of the proposal value.
2. The awarded bidder shall, within 15 working days from the awarding date, raise the guarantee to 5% of the proposal value. If the bidder fails to do so, the initial guarantee shall not be returned. Such guarantee shall not be released until the value of purchased movables and transportation costs are paid in full. The guarantees shall be returned to unsuccessful bidders.
3. In public auctions, the awarded bidder shall submit a guarantee amounting to 5% of its value. A cashier's check or cash may be accepted as a guarantee in such auctions.

Article 83

If no proposal is submitted for an announced auction, another announcement shall be made. If no proposal is submitted after the second announcement, the authorized person may offer the sale of such items to relevant dealers. If no fair price is offered, such movables may be donated to non-governmental associations and societies, or to any non-profit entity, provided the Ministry is notified thereof.

Article 84

The Regulations shall specify auction procedures and the formation of sale committees.

Article 85

A government agency may secure some of its needs by leasing or by exchanging its movables for new ones, in accordance with the Regulations.

Part 6: Review of Complaints, Violations, and Appeals

Article 86

1. Pursuant to a decision by the Minister, one or more committees shall be formed for a term of three years, each composed of at least five specialists. Said decision shall designate the committee chairman and deputy and shall name one or more substitute members. Membership of such committees may be renewed. A decision issued by the Minister shall specify committee work procedures and determine remunerations of committee members and secretary.
2. The committee shall consider the following:
   a) Appeals filed by bidders against the awarding decision or any decision or action taken by the government agency prior to the awarding decision.

National Center for Archives & Records

b) Appeals filed by contractors against performance assessment decisions.

c) Price adjustment requests, in accordance with Article 68 of this Law.

3. Committee decisions shall be binding to government agencies.
4. An appellant shall submit a guarantee, equal to half the amount of the initial guarantee. Such guarantee shall be returned if the appeal is successful.

Article 87

1. A bidder may file an appeal with the government agency against any decision it takes prior to the awarding decision within five working days from the decision issuance date. The bidder may also file an appeal with the government agency against the awarding decision within the suspension period referred to in Article 53 of this Law.
2. The government agency shall decide on the appeal within 15 working days from the date of filing. An appeal not decided on during said period shall be deemed denied.
3. An appellant may, within three days from the date of being notified of the denial of the appeal or from the lapse of the period referred to in paragraph (2) of this Article without a decision on the appeal, file an appeal with the committee provided for in Article 86 of this Law.
4. The committee referred to in Article 86 of this Law shall decide on filed appeals and shall notify the concerned parties of its decision within 15 working days from the date of filing. The committee may extend such period for a similar period.
5. A government agency shall not proceed with contracting without observing the following:

   a) The lapse of the suspension period without receiving any appeal.

   b) If an appeal is received and accepted, any action taken by the government agency which violates the provisions of the Law shall be rectified if possible; otherwise, the tender shall be canceled. If rectification results in another bidder winning the tender, only the disqualified bidder may appeal the disqualification decision before the government agency and shall do so within a period equal to the suspension period. Such appeal shall be subject to the provisions of this Article.

   c) If an appeal is received and denied, and the period specified in paragraph (4) of this Article lapses without the committee deciding on the appeal.

Article 88

1. Pursuant to a decision by the Minister, one or more committees shall be formed for a term of three years, each composed of at least five specialists. Said decision shall designate the committee chairman and deputy and shall name one or more substitute members. Membership of such committees may be renewed. A decision issued by the Minister shall specify committee work procedures and determine remunerations of committee members and

secretary.

2. The committee shall review the violations of bidders and contractors of the provisions of the Law and concluded contracts.
3. Without prejudice to any penalty provided for in any other law, the committee may issue a decision banning a violator from contracting with government agencies for a period not exceeding five years or lowering the violator's classification, if any, or both.
4. The committee may, instead of imposing the penalty of banning on a violator, impose a fine not exceeding 10% of the total value of the proposal.
5. Committee decisions shall be effective from the date of issuance, unless the Administrative Court orders a stay of their execution.
6. Committee decisions may be appealed before the Administrative Court within 60 days from the date of notification thereof.
7. A summary of the decision shall be published at the violator's expense in a local newspaper or any other appropriate medium, in the following two cases:
   a) If the period specified in paragraph (6) of this Article lapses without the person concerned filing an appeal with the Administrative Court.
   b) If the Administrative Court renders a final judgment upholding the committee's decision.

Part 7: Concluding Provisions

Article 89

Government agencies may contract with one another through direct agreement, provided they execute the works or procurements themselves. They may act on behalf of one another in contracting procedures.

Article 90

A contract shall be directly concluded with licensed persons with no intermediaries. Distributors or agents authorized by original producers shall not be deemed intermediaries.

Article 91

A government agency shall use the approved forms for contracts, tender documents, pre-qualification documents, contractor performance assessment, and any other documents required by the nature of the works or procurements.

Article 92

1. A government agency shall fulfill its contractual obligations. If it fails to do so, the contractor may file a claim for compensation with the Administrative

Court.

2. A government agency may, following the Minister's approval, agree to resort to arbitration, in accordance with the Regulations.
3. The Regulations shall specify other methods for settling disputes that may arise during the execution of contracts.

Article 93

Companies carrying out works and procurements on behalf of government agencies shall comply with the provisions of the Law.

Article 94

Any employee violating any provision of the Law shall be subject to disciplinary action, in accordance with the provisions of the Civil Service Disciplinary Law and Labor Law, and other criminal provisions applicable to employees and workers. A government agency shall have the right to initiate a civil lawsuit against the violator, if necessary.

Article 95

If there arises a need for excluding any of the provisions of the Law, a request to this effect shall be submitted to the Prime Minister to form a committee of not less than three members, including the Minister, the chairman of the Authority's board of directors, and the head of the relevant government agency to review the provisions to be excluded and provide justifications therefor. The committee shall submit its findings to the Prime Minister for a decision.

Article 96

Subject to the stipulations of relevant laws, the Ministry shall draft the following:

1. A regulation governing conflict of interest pertaining to the implementation of the provisions of the Law and Regulations.
2. A regulation governing the code of conduct and ethics of persons in charge of implementing the provisions of the Law and Regulations.
3. A regulation governing the prioritization of local content, local small- and medium-sized enterprises, and companies listed in the Saudi Capital Market for awarding works and procurements, in conjunction with the Authority, the General Authority for Small and Medium Enterprises, and the Capital Market Authority. Said regulation shall include the following:
   a) Methods for prioritizing local content, its calculation, and application to works and procurements, including deciding on a priority percentage in the technical and financial assessment of proposals, or requiring a mandatory percentage of the total contract value for local content.
   b) A method for prioritizing local small- and medium-sized enterprises and companies listed in the Saudi Capital Market in works and procurements, including deciding on a priority percentage in the assessment of proposals

or a fixed price range, or requiring a percentage of the total contract value.

c) Fines imposed on contractors who fail to comply with local content requirements.

The Council of Ministers shall issue the regulations referred to in this Article within 120 days. Said regulations shall enter into force from the effective date of the Law.

Article 97

The Minister shall issue the Regulations within 120 days from the date of publication of the Law in the Official Gazette. The Regulations shall enter into force on the same date the Law enters into force.

Article 98

This Law shall supersede the Government Tenders and Procurement Law promulgated by Royal Decree No. (M/58) dated 4/9/1427H and shall repeal any provisions conflicting therewith.

Article 99

This Law shall enter into force 120 days from the date of its publication in the Official Gazette.

National Center for Archives & Records