

Law 3 of 1997 on Government Bids, Tenders and Warehouses

The Law consists of 60 articles. Government organizations and Ministries of general character are liable for the implementation. The Law has been in force since the date of issuance, January 14, 1997.

Article (3)

The Law aims at:

- i. Setting-up overall regulation for State's bids, tenders, procurement, sales, and warehouses; and facilitating the procedures thereof;
- ii. Organizing, preparing, and implementing the agreements of contracting in accordance with administrative and financial regulations;
- iii. Setting-up an accurate supervising and monitoring regulation for state's bids, procurement, sales, and warehouses.

The most important articles are as follows:

Article (4)

The provisions of the Law shall apply to the following authorities:

- i. Ministries, bodies, and organizations and their branch offices which are covered by the general budget of the State except for the Ministry of Defense, which has a special system;
- ii. Public sector units of service that are independent and have supplementary budgets;
- iii. Administrative units and local councils in the governorates and the municipality.

Article (5)

The bidding committee, within the competent authority, shall identify all the implementer's specifications, detailed rules, tendering conditions, items/works lists and their accessories; it shall specify the forms and all the required documents before announcing the bid.

Article (6)

All authorities shall guarantee equitable and fair treatment for all competitors in bidding; and the bidder, importer, or contractor shall be entitled to raise a grievance to the chief of the relevant authority or to a person of a higher post or resort to legal proceedings when mistreated or hurt.

Article (8)

Contracting for procurement of items, tasks, maintenance, repair, implementation of public works contracts, assignment to do works, and services or transport shall be conducted through public bids announced inside or outside the Yemeni territory according to the nature of each bid.

Article (9)

A bid must be announced within the Yemeni territory only if related to any of the following:

- a. Construction works of a nature and size which the local contractor can carry out;
- b. Procurement of equipment or material made locally or from state organizations, the public sector, mixed sector or local private sector units.

Article (11)

Without any prejudice to public bidding conditions, purchase shall be made through limited bidding in the following cases:

- a. If the procurement, service, or tasks are too confidential to offer in a public tender or if there are conditions raised relevant to public security;
- b. If procurement, services or tasks are too urgent to wait for the procedures of public bidding, provided that offers are close to market prices and the relevant committee agrees on the same;
- c. If procurement, service, or tasks are related to a limited number of persons or companies, i.e. it is unfeasible to offer it for public bidding;
- d. If the concerned procurement, service, or tasks have received two public tenders without achieving a positive result.

Article (12)

While taking the conditions of the public and limited bidding into consideration, purchase may be conducted by practice in the following cases:

- i. If the product or work is limited to only two sources;
- ii. If the project is located in a remote area where contractors are not interested to work;
- iii. Bids which have not received offers or received one offer with unacceptable conditions and prices and there is no room to re-announce them in another bid whether public or limited;
- iv. Tasks whose nature requires purchase from only two sources.

Article (13)

While bearing in mind the proximity of the contracted prices with the market prices, and the approval of the competent committee, purchase shall be made through direct order in the following cases:

- a. Purchasing the items imposed by urgent need, provided purchase shall be limited to the smallest amount needed until the purchase procedures can be carried out by other means;
- b. If the items are required by a sole government source;
- c. If supplies which are state-financed are secured since no purchase could be made through bidding;
- d. Purchasing items whose production or importation is the monopoly of one agency, company or person;
- e. If items are spare parts for equipment and machinery which have a sole agent or contractor;
- f. If procurement is too simple to bear limited bidding or practice;
- g. If works are technical and their implementation requires specific technicians and specialists.

Article (18)

The bid shall go to the lowest offer if it meets all the bidding conditions, or it turns-out to be the most appropriate offer after negotiation.

Article (20)

Bids may be cancelled after opening the envelopes following a decision by the relevant officer or by recommendation from the bidding committee in the following cases:

- a. If only one offer is submitted or only one offer stays after disregarding other offers;
- b. If most offers are accompanied by unacceptable provisos;
- c. If the committee verifies that the lowest offer has more value than the market's.

Article (22)

The bidding and state procurement committees may accept the sole offer, provided the acceptance is clear and justified.

Article (24)

The competent authority may terminate the contract and confiscate the final security in the following cases:

- a. deceit and duplicity;
- b. bribing;
- c. Delay of implementation within specified deadlines.

With no prejudice to the relevant authority's right to claim required compensation from the contractor, and in case the contractor is legally proven insolvent or bankrupt, the contractor shall receive the whole value of what he/she has achieved or imported; any claims to be paid to the relevant authority shall be deducted from the final security.

Article (33)

Bids, procurement, or contracting with a public or limited tender or by practice, may not be accepted except for those who hold the certificates qualifying them for practice in bidding. The certificates should be issued by the Ministry of Construction, Housing and Urban Planning in respect to contractors and by the Ministry of Supply and Trade in connection with importers and entrepreneurs. Both ministries have to hold records classifying and qualifying different contractors, importers, and exporters.

Article (49)

In case the government is in charge of increasing or decreasing the prices of goods or services related to the components of the contracts and timing of the contracts execution, the competent committees may modify the value of the remaining part of the contracts from the date of effect, provided modifications shall not be more/less than 20 percent of the contract's value.

Article (52)

The Ministry of Finance shall financially and procedurally supervise and monitor the implementation of the Law, and the Ministry of Construction and Housing shall technically supervise and monitor the work contracts.

January 14, 1997