



Implementation Regulations on the PRC Government Procurement Law

(Draft for Public Comment)

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Chapter I General Principles

Article 1 These regulations are enacted according to the Government Procurement Law of the People's Republic of China (hereinafter the Government Procurement Law).

Article 2 The term "Fiscal Funds" as mentioned in Article 2 of the Government Procurement Law includes funds that are listed in the government budget and other money managed by the Treasury.

Borrowed money that uses fiscal funds as the payment resources, or that are secured by state-owned assets possessed or used by public institutions and bodies, shall be deemed fiscal funds.

The term "Procurement with Fiscal Funds" as mentioned in Article 2 of the Government Procurement Law refers to the procurement where whole or partial payment is made using fiscal funds.

Article 3 The term "Catalogue for Centralized Procurement" as mentioned in Article 2 of Government Procurement Law refers to the catalogue, which classifies the categories of goods, projects, and services that shall be obtained through centralized procurement; the term "procurement threshold standards" as mentioned in Article 2 of the Government Procurement

Law refers to the minimum monetary value for goods, projects, or services that come from the Catalogue for Centralized Procurement and are mandated for purchase through government procurement.

Article 4 The term “good” as mentioned in Article 2 of Government Procurement Law refers to an article in any form or in any category, including tangible goods and intangible goods. The right of exclusive use of trademark, copyrights, patent rights, and other intellectual property rights shall be deemed as goods.

The term “project” as mentioned in Article 2 of Government Procurement Law refers to the fresh construction, reconstruction, expansion, decoration, demolition, repairs, etc. of buildings and structures, and the exploration, design, construction, inspection and control, etc. related to a construction project.

The term “services” as mentioned in Article 2 of Government Procurement Law refers to the target of government procurement other than goods and projects, including various professional services, information net development services, finance and insurance services, transportation services, and maintenance and repair services.

Where a government procurement item includes different procurement targets, the attribute of the item shall be decided by the procurement target that takes the largest proportion of the fund for the procurement item.

Article 5 Where the method of bidding is employed in a government procurement of projects, the Tendering and Bidding Law shall be applied; where there are no corresponding provisions under the Tendering and Bidding Law, the Government Procurement Law shall be applied.

Where the method of bidding is not employed in a government procurement of projects, procurement shall be dealt with according to Government Procurement Law and these regulations.

Article 6 Where a procuring entity determines the procurement demand and where the procuring entity or procurement agent enacts bidding documents, negotiation documents, price inquiry documents, and other procurement documents, it shall not designate specific suppliers or specific brands of goods, enact technical specifications that point to specific products, or include unreasonable restrictive conditions.

No entity or individual shall, in breach of the provisions of Government Procurement Law and these regulations, designate a supplier for the procuring entity or intervene in government procurement activities by any other means.

Article 7 The term “centralized procurement” as mentioned in Article 7 of the Government Procurement Law refers to the activity where a procuring entity obtains the goods, projects, and services listed in the Catalogue for Centralized Procurement by entrusting a centralized procurement institute as its agent, conducting centralized procurement at the department level, or conducting procurement by itself in accordance with the law. The term “decentralized procurement” as mentioned in Article 7 of the Government Procurement Law refers to the activity where a procuring entity undertakes to procure itself, or entrusts a government

procurement institute as its agent to procure, goods, projects, and services that are not listed in the Catalogue for Centralized Procurement or goods that exceed the prescribed procurement thresholds.

Article 8 The People’s Government at the provincial level may authorize the local People’s Government at the county level or above, in accordance with the Catalogue for Centralized Procurement and Procurement Threshold Criteria, to enact a corresponding Catalogue for Centralized Procurement and Procurement Threshold Criteria, which shall be applied in its region. The aforementioned People’s Government at the county level or above, however, shall not reduce the scope of Catalogue of Centralized Procurement.

Article 9 The State Council’s finance departments shall focus on the state’s goal for economic and social development and work with the State Council’s relevant departments to enact government procurement policy and a government procurement product list, via prioritized purchase, mandated purchase, or other measures, to support products that save energy or protect the environment, national indigenous innovation products (NIIPs), and products made by small and medium-sized enterprises (SMEs) and enterprises located in underdeveloped regions or ethnic minority regions.

Procuring entities and entrusted procuring agencies shall conduct procurement strictly in accordance with the government procurement catalogue and implement all relevant policies.

Article 10 The term “domestic goods” as mentioned in Article 10 of the Government Procurement Law refers to the final product that is produced within China’s borders, and of which the share of domestic production cost exceeds a certain percentage of the final good.

Domestic manufacturing costs = (Product ex-factory price - Price of imports) / Product ex-factory price

The term “domestic projects and services” as mentioned in Article 10 of the Government Procurement Law refers to projects or services provided by Chinese citizens, legal persons, or other organizations.

The specific criteria for determining the domestic goods, projects, or service shall be enacted by the State Council’s relevant departments along with the State Council’s finance departments. The procurement policy and measures on the domestic goods, projects, and services shall be enacted by the State Council’s finance departments along with the State Council’s relevant departments.

The term “cannot be acquired under reasonable commercial terms ” as mentioned in Article 10 of the Government Procurement Law refers to the circumstance where the minimum price offered for the domestic good, project, or service that satisfies the requirement of the procurement document is 20 percent higher than the non-domestic good, project, or service.

Article 11 Where a procuring entity procures an imported product, it shall file a report with the finance department under the People’s Government at the county level or higher for its review and approval before carrying out the procurement activities.

The term “imported product” as mentioned in the preceding paragraph refers to products that enter into China’s territory through Customs declaration and release and are produced outside of China’s Customs jurisdiction.

Article 12 Government procurement items, procurement procedural documents, procurement results, and other information concerning government procurement shall be open to the public except those related to state secrets or business secrets.

Information concerning government procurement shall be published through the media designated by the finance department under People’s Government at the provincial level or above. Where the value of procurement is larger than RMB 5 million, the information on those government procurement items shall be published through the media designated by the State Council’s finance department.

Article 13 The term “procurement personnel and other related person has interest with the supplier” as mentioned in Article 12 of the Government Procurement Law refers to the situation in which the procurement personnel and other related person:

- (i) currently or in the latest 3 years before the occurrence of the procurement, has an employment relationship with the supplier;
- (ii) currently or in the latest 3 years before the occurrence of the procurement, served as the financial advisor, legal advisor, or technology advisor for the supplier;
- (iii) currently or in the latest 3 years before the occurrence of the procurement, is the controlling shareholder or actual controller of the supplier;
- (iv) has the relationship of lineal consanguinity, relationship of collateral consanguinity, or relationship by marriage with the legal representative or principal of the supplier,
- (v) has other relationship of interest with the supplier that influences or may influence the legality of the government procurement.

Where a supplier believes that procurement personnel or another related person has an interest with another supplier, it is entitled to ask the procuring entity or its designated procurement agent to withdraw along with explanatory reasons.

Article 14 Government procurement activities may, wholly or partially, be carried out through electronic systems to ensure their openness, uniformity, safety, smoothness, efficiency, and ease.

Chapter II Parties Concerned in Government Procurement

Article 15 The parties concerned in the government procurement are entitled to enjoy relevant rights granted by relevant laws in the government procurement activities, concurrently undertake obligations according to law, and consciously accept the administration and supervision from the finance department.

Article 16 The term “procurement item for general use by the government” mentioned in Paragraph 2, Article 18 of the Government Procurement Law refers to standard products that can be generally used by procuring entities and that may be procured on a large scale. The term “special requirements for an item from a department or system concerned” mentioned in Paragraph 2, Article 18 of the Government Procurement Law refers to the item that has been listed in the Catalogue for Centralized Procurement but is not generally used and only adapted to the use of certain departments or certain systems. The term “special requirements for the item from the entity” mentioned in Paragraph 2, Article 18 of the Government Procurement Law refers to items that are listed in the Catalogue for Centralized Procurement, but that need to be ordered according to the professional requirements of the procuring entity, and for which it is inappropriate to conduct centralized procurement and difficult to procure in large amounts.

As to the general item which has been listed in the Catalogue for Centralized Procurement, the procuring entity shall entrust the centralized procurement institute as its agent to conduct the procurement, unless it has been reported and approved by the finance department at the same level because of the existence of special circumstance. The centralized procurement institute shall not further delegate the procurement item entrusted by the procuring entity to another entrusted procurement agency. Items for which there are special requirements from the department or system concerned shall go through centralized procurement by the department. The procurement of general items shall be implemented by entrusting a centralized procurement institute. Items for which the procuring entity has special requirement may be procured by the procuring entity itself according to law.

Article 17 The procurement agents as mentioned by these regulations refer to the centralized procurement institutes that have been established by the government and the procurement agents whose qualifications have been accredited.

The term “the procurement agents whose qualification have been accredited” mentioned in the preceding paragraph refers to the social intermediate institutes whose qualifications have been accredited by the finance department under People’s Government at the provincial level or above, and that carry out the procurement agent business for goods, projects, and services procured by the government.

The finance department under People’s Government at provincial level or higher shall publish a public notice on the list of the procurement agents that have been accredited through the designated media and issue qualification certificates to government procurement agents.

The rules on the accreditation of the government procurement agents shall be formulated by the State Council’s finance department.

Article 18 The main responsibilities of the centralized procurement institutes include:

- (i) Being entrusted by the procuring entity to organize the implementation of the procurement of the general items listed in the Catalogue for Centralized Procurement;
- (ii) Determining, after negotiation with the procuring entity, the procurement demand, technical specification, supplier qualification or conditions, and other business terms, etc;

- (iii) Being entrusted by the procuring entity to participate the inspection and acceptance of the contract;
- (iv) Conducting follow-up tracking on the effect of the implementation of the government procurement items that it has organized;
- (v) Enacting internal supervision and management rules and operation manuals;
- (vi) Being entrusted by the procuring entity to serve as its agent to procure the items of non-centralized procurement.

Article 19 Local People's Government at the county level or above may, in light of the need of the government's centralized procurement, establish a centralized procurement institute and file a report to People's Government at the next higher level for archival purpose.

The centralized procurement institute shall be legally established, independent of other agencies, and directly affiliated to the same level People's Government. It shall not have any affiliation relationship or interest relationship with other departments, legal persons, or organizations.

Article 20 The centralized procurement institutes shall satisfy the following conditions:

- (i) Have the capacity to bear civil liabilities independently;
- (ii) Have certain professionals who have the practice qualification for government procurement;
- (iii) Have a stable business premise and the facilities or offices required to carry out the government procurement bid invitation business as an agent;
- (iv) Have a sound internal management system, business operation process, and procurement business database.

Article 21 Where a procuring entity entrusts the procurement agent to conduct the procurement, it shall sign a written entrustment agreement with the procurement agent.

The agreement shall specify clearly the specific matters, delegated powers, and period of the entrusted procurement, and clarify respective rights and obligations for both the purchaser and the procurement agent.

The procurement agent shall carry out the entrusted procurement activities in the delegated scope and safeguard the procuring entity's legitimate rights and interests.

The procurement agent shall not carry out business travel or other activities, regardless of any excuse/reason, on/with the supplier in the course of conducting the agent work.

Article 22 The People's Government at the provincial level or higher may, in the light of the real need for a government procurement item, approve a department or a system to establish a special institute in charge of the centralized procurement affairs.

Where no special agency has been established for the centralized procurement affairs for the department or the industry sector, a department or a system shall designate one internal agency in charge of the centralized procurement affairs.

Article 23 A procuring entity or procurement agent shall conduct the examination on whether the supplier satisfied with the conditions stipulated at Paragraph I, Article 22 of the Government Procurement Law. The supplier shall provide the following materials:

- (i) Business license for a legal person or other organization, proof of identity for a natural person;
- (ii) Audited financial statement to prove its financial status rendered by an accounting firm, and other materials on whether it fulfilled tax or social security contributions in accordance with law;
- (iii) Written statement of having committed no serious violation of laws in business activities;
- (iv) Other materials stipulated by the State Council's finance department.

Where the procuring entity has special requirements for the procurement item, it shall demand the supplier to provide relevant materials or statement according to pre-announced format requirements and be subject to a special review.

Article 24 A procuring entity or procurement agent shall stipulate the qualification conditions and documents to be provided to prove the qualification, and the rules on and criteria of qualification review in the bidding documents, negotiation documents, and other procurement documents, unless the procuring entity or agent conducts preliminary review of the qualification according to Article 25 of these regulations.

Article 25 Where a procuring entity or procurement agent, according to the stipulation of these regulations or in light of the real need of the procurement item, conducts preliminary review of the qualification of the suppliers, the public notice on the qualification preliminary review shall be published at the media designated by the finance department at the provincial level or higher, and the public notice period shall be no less than 5 working days.

The public notice on qualification preliminary review shall include the name of the procuring entity; the procurement item and its content; the demand for the procurement item; the content, criteria, and methods of the qualification preliminary review; the time and address to provide the required documents on the supplier's qualification.

Suppliers shall provide the documents to prove their qualification in accordance with the requirement of the public notice and in the period set forth by the public notice.

The procuring entity or the procurement agent shall organize a review committee to conduct a preliminary review of the supplier's qualification.

Article 26 The term “record of serious violation of law” mentioned in Item 5, Paragraph I, Article 22 of the Government Procurement Law includes:

- (i) Administrative penalty decision imposed by an administrative agency higher than the county level against the supplier, its legal representative, director, member of supervision board, or senior managers for illegal activities that happened in the course of business operation, except the punishment of admonishment and fines less than RMB 10,000.
- (ii) Criminal verdict rendered by all level of courts against the supplier, its legal representative, director, member of supervision board, or senior managers for illegal activities that happened in the course of business operation.

Article 27 The finance department under People’s Government at the provincial level or higher shall set up a database of government procurement suppliers to facilitate the procuring entity or procurement agent to organize the government procurement activities. The specific rules shall be formulated by the State Council’s finance department.

No unit or individual may use the database of government procurement suppliers for the purpose of closing off a region or industry or for obstructing or restricting suppliers from legally entering the government procurement market.

Article 28 The finance department under People’s Government at the county level or higher shall publish in the designated media the name of blacklisted suppliers and time period during which such blacklisted suppliers shall be prohibited from participating in government procurement activities.

Procuring entities or procurement agents shall not accept or invite those suppliers who have been prohibited from participating in government procurement activities to participate in government procurement activities.

Article 29 Where the suppliers participate government procurement in the form of organizing a consortium, and where, in light of the special requirements of the procurement item, the procuring entity stipulates special conditions for the suppliers, at least one of the parties joining the consortium shall satisfy the special conditions set forth by the procuring entity. As to the consortium composed by suppliers having the same level qualification conditions, the qualification degree of the consortium shall be determined based on the lowest qualification degree among consortium members.

No member of the consortium may participate in the same government procurement activities either in its own name separately or organize another consortium with other suppliers.

Procuring entities or procurement agents shall not force the suppliers to organize a consortium to participate in government procurement and shall not restrict competition among suppliers.

Chapter III Methods of Government Procurement

Article 30 The specific monetary criteria for the procurement item by local People's Government at the county level or higher that should go through the public bidding process can be enacted by the same level People's Government which has been authorized by People's Government at the provincial level.

Article 31 With approval from the finance department under People's Government at the county level or higher, the procuring entity may procure a good or service item whose monetary value exceeds the threshold for public bidding through non public bidding, where one of following circumstance exists:

- (i) Public bidding failed, and there is no unreasonable provision under the document calling for bidding, the bidding process is in line with relevant statutory requirements, and restart the public bidding may affect the implementation of the procurement item;
- (ii) The procurement item is unique, and the number of qualified suppliers is less than three;
- (iii) There is urgent need for the procurement, and the use of public bidding is very difficult to meet the work needs.

The finance department shall render a decision of approval or not in 7 working days from receiving the application. Where the procurement is so complicated that it is unable to made a decision in the aforementioned period, the review period may be appropriately extended, but the extended time shall be no longer than 7 working days, and the reasons for the extension shall be provided to the applicant.

Article 32 Procurement items listed in the Catalogue for Centralized Procurement that are of small value or sporadically needed may be procured through agreement or through pre-determined sources. The centralized procurement institute as an agent shall, through public bidding, determine the supplier that will negotiate the price with the procuring entity or will become the source of supply, clarify the conditions of the products or services that win the bidding, and record in the agreement. The procuring entity shall select the supplier and the product or service from among those that are eligible to negotiate the price or are one of the supply sources.

Article 33 All types of government procurement methods may be implemented through electronic means. Online bidding and electronic reverse auctions apply to procurement through bidding inquiry.

Article 34 The State Council's finance department shall strengthen the unified lead and organization of the government procurement information construction and build a nationwide unified electronic government procurement management and transaction platform.

Article 35 The procuring entity may purchase goods, projects, or services below the public bidding threshold through public bidding or non-public bidding. Where the procurement is

conducted via non-public bidding, Article 29, 30, 31, and 32 of the Government Procurement Law shall apply in selecting the appropriate procurement method.

Article 36 Where only one supplier (including a sale dealer or agent dealer) has made a substantive response to the public notice of bidding for procurement item, or where a qualification preliminary review that has been published through the media designated by finance departments under people's governments at the provincial level or higher, the said supplier shall be deemed as the only supplier as prescribed by Item I, Article 31 of Government Procurement Law.

Article 37 Where a procuring entity repetitiously procured the goods or service item of the same category in one fiscal budget year through ways other than public bidding, and the accumulated amount of the procurement value exceeds the prescribed monetary threshold for public bidding, it shall be deemed as avoiding public bidding by disaggregating the goods or services into parts, except those procurement items whose budgets have been adjusted before the procurement was carried out or those that have been legally approved to use non-public bidding methods.

Chapter IV Procedures for Government Procurement

Article 38 The procuring entity shall draw up implementation plans for government procurement in accordance with Catalogue for Centralized Procurement, procurement monetary value threshold, and approved government procurement items and budget funds and report to the finance department under the people's government at the same level.

Article 39 Where the procurement of goods or services is to be made by means of public bidding, a reasonable time allotment shall be guaranteed for bidders to make bidding documents, which shall be no less than 20 days from the day when the documents for calling bids are sent out to the deadline for the bidders to tender their bids. Where any one of the following circumstance exists, the aforementioned time slot may be shortened appropriately, however, it shall be no less than 10 days:

- (i) The procuring entity or procurement agent has published preliminary bidding notice for whole package of government procurement items in the present year in media designated by the finance department, and the period has exceeded 20 days from the preliminary notice published to the notice published for specific procurement item;
- (ii) The procuring entity or the procurement agent has published preliminary bidding notice of specific procurement item in the present year, and the period has exceeded 20 days from the preliminary notice published to the formal bidding notice of procurement item published;
- (iii) It is the second or later batch of a procurement item with same procurement criteria purchased by the procuring entity or the procurement agent, and preliminary bidding notice on the procurement in several batches has been published in advance on media designated by finance department.

- (iv) Public bidding has failed, and a new round of public bidding is needed.

Article 40 Where the procurement of goods or services is to be made by means of invitation-based bidding, procuring entity and the invited suppliers have come to a written agreement on shortening the period of tendering bid documents. The time slot may be shortened appropriately but shall be no less than 10 days from the day when documents for calling bids are sent out to the deadline for suppliers to tender their bids.

Article 41 In an invitation-based bidding, the procuring entity shall determine which supplier will be invited through one of the following ways:

- (i) Conducting preliminary review on the suppliers' qualification according to the requirements of Article 25 of these regulations and selecting randomly three or more suppliers from the eligible ones;
- (ii) Selecting randomly three or more suppliers from the eligible ones in a supplier database established by the finance department under the people's government at the provincial level or above.

Article 42 Bid invitation documents shall clearly prescribe the content of substantive responses that bidding documents should contain. Where a bidding document fails to respond completely to the substantive clause prescribed in the bidding invitation document, the tender for bids shall be deemed invalid.

Where bid invitation documents for competitive negotiation or quotations inquiry contain substantive requirements, the preceding paragraph shall apply.

Article 43 Documents for calling bids may prescribe that bidders shall pay a bid deposit. Where a bidder fails to pay a bid deposit, the tender for the bid shall be determined as invalid.

Deposits may be paid in the form of check, bill of exchange, cashier's check, or letter of guarantee. The monetary value of the deposit shall be no more than 1% of the budget of the procurement item with a maximum amount of RMB 100,000.

The procuring entity or the procurement agent shall on its own initiative return the bid deposit to failed bidders within 5 working days of the bid-winning notice being sent out, and return the bid deposit to the winning bidder within 5 working days after the procurement contract is signed.

If, as a part of competitive procurement or a bidding inquiry procurement process, any deposit is charged to the suppliers who participated in the negotiation or bidding, the relevant provisions on bid deposit under these regulations shall apply as reference.

Article 44 Two approaches may be used for evaluating the government procurement bidding: minimum bid evaluation price method and comprehensive evaluation method.

Procuring entities or procurement agents shall clarify the specific evaluation approach, factors considered in evaluation, and detailed rules and criteria in documents inviting bidding. Content that has not been specified in the document inviting bidding shall not be taken as the basis in evaluation.

Article 45 The period for public selling of bid invitation documents shall be no less than 5 working days.

Article 46 In the procurement through bidding, where fewer than three suppliers submit effective bidding documents before the submission deadline, or there are fewer than three qualified suppliers after opening the bid, or fewer than three suppliers respond to a substantive clause of the documents calling for bidding, unless the procurement task has been cancelled, a procuring entity or procurement agent shall report to finance department under the people's government at county level or above. The finance department shall handle the situation according to different circumstances listed as follows:

- (i) Where the documents calling for bidding have no unreasonable provisions and the bidding process complies with relevant statutes, in light of the fact of the procurement item, the finance department shall approve the procurement through competitive negotiation, price inquiry, or single-source purchase. If a competitive negotiation or a price inquiry is adopted for the procurement, the procuring entity or procurement agent shall rearrange procurement activities in accordance with the relevant statutes.
- (ii) Where the documents inviting bidding have unreasonable provisions and the bidding process violates relevant statutes, the procuring entity or procurement agent shall be charged with modifying the documents and rearranging their bidding.

Article 47 The phrase "quotations of the bidders are higher than the budget" prescribed by Item (iii), Paragraph I, Article 36 of the Government Procurement Law refers to the situation where the quotation offered by each supplier participating in bids is higher than the budgets. It shall be deemed that "quotations of the bidders are higher than the budget" if there are fewer than three suppliers that meet the budgets, because other suppliers' quotations are higher than the procurement budget.

Article 48 In a procurement through bidding, the procuring entity or procurement agent shall publish procurement budget before opening the bid. Otherwise, it shall be prohibited from using the "quotations of the bidders are higher than the budgets, and beyond the purchase's capacity to pay" as grounds for invalidating the bidding.

Article 49 The term "having the same level of quality and service" as mentioned in Item (v) of Article 38 and item (iv) of Article 40 under the Government Procurement Law means that the products quality and services offered by suppliers are able to meet the minimum requirements as prescribed by the procurement documents.

Article 50 Where a single-source purchase is used to conduct the procurement, the procuring entity or procurement agent shall get prior approval from the finance department at the same administrative level.

Before getting approval from the finance department, the procuring entity or procurement agent shall publish the procurement information and the sole supplier's name on media designated by finance department, the period of public notice shall be no less than 5 working days, unless it falls into the circumstances which are prescribed by Item (ii),(iii) of Article 31 under the Government Procurement Law and Article 46 of these regulations.

Article 51 The finance department of the people's government at the provincial level or above shall establish a database on government procurement evaluation experts in accordance with the profession-based categories stipulated by the State Council's finance department.

Article 52 Government procurement evaluation experts shall abide by the principles of fairness, integrity, objectiveness, and selection based on merit to evaluate independently in accordance with the stipulation of the procurement documents, and bear legal liability for their own evaluation opinions.

Experts shall make a note on the evaluation report and specify the reason where they have different opinion on the procurement documents or evaluation report. Otherwise, it shall be deemed as consent to the evaluation report.

No bid evaluation committee, negotiating group, or inquiry group may change, without authorization, evaluation procedure, methods, factors, detailed rules and standards set by procurement documents. Where, in their minds, any provision of the procurement document violates relevant laws, regulations, or rules, the member of the aforementioned committee/group shall refuse to participate in the evaluation and make a statement to the procuring entity or procurement agent.

The procuring entities or procurement agents shall evaluate the experts' professional technology levels, professional ethics, and their performance of evaluation.

Article 53 Prior to or in the process of evaluation, any procuring entity, procurement agent, or its staff shall not conduct a preferential or misleading interpretation or give statements to the bid evaluation committee, competitive negotiating group, or inquiry group.

Article 54 The procurement agent shall submit an evaluation report to the procuring entity within 5 working days after evaluation concludes. The procuring entity shall select the bid-winner or the successful suppliers from the candidate list according to the priority order recommended in the evaluation report within 5 working days.

Before the bid-winning notice or the transactions-concluding notice is issued, if the procurement agent discovers that the bid evaluation committee or negotiating or inquiry group has failed to evaluate in line with the methods, factors, detailed rules, and criteria set forth by procurement documents, it may, with written consent from the procuring entity, demand the original committee or group to conduct a new round of evaluation, and notify all suppliers participating in the procurement with reasons stated in written form. The new evaluation opinion shall be the final opinion.

If the procuring entity or a supplier dissents from the calculation made by bid evaluation committee or negotiating or inquiry group, the procurement agent shall organize a bid evaluation

committee or negotiating or inquiry group to conduct a review. After the review, if the result of the bid or transaction needs to be changed, a modification notice shall be published in the original media that disseminated the original result.

Paragraph II and III shall be applied as reference where a procuring entity organizes procurement by itself.

Chapter V Government Procurement Contract

Article 55 The procuring entity shall sign government procurement contracts with the winners of the bid or the successful suppliers in accordance with the issues set forth in the procurement documents, in which the procurement target, specification, value, quantity, quality standard, and other substantive content shall comply with the procurement documents.

Government procurement contracts shall reference government procurement policies regarding energy conservation and environmental protection, indigenous innovation, and policies that support SME development, etc.

Article 56 No procuring entity may charge the supplier with deposits to secure the performance of the contract; neither shall it turn deposits paid by bid-winners or transaction-concluding providers into contract performance bonds.

Article 57 The major provisions of the government procurement contract shall include name of parties, object of the contract, price or remuneration, quantity, quality, time limit and place of performance, and dispute resolution mechanism, etc.

Article 58 No procurement projects that are subject to the preferential or compulsory government procurement incentive policies may be performed in the form of sub-contract.

Article 59 No gifts or kickbacks may be accepted when determining the contract value or subject matter of the contract in the conclusion of government procurement contracts or related agreements.

Article 60 The bid-winners or transaction-concluding suppliers shall enter into government procurement contracts with the procuring entity after a bid-winning notice or transactions-concluding notice is issued, unless there is an uncontrollable or unexpected situation.

If bid-winners or transaction-concluding suppliers give up the bid they have won or the transaction they have concluded, and reject to enter into contracts with the procuring entity, the bidding deposit shall be confiscated by the procuring entity and turned in to the state treasury at the same level. Where there are any damages incurred thereof, they shall bear the liability of compensation, and the activity shall be put on blacklist of suppliers' malicious conduct. The procuring entity may determine the next candidate in turn as the new bid-winner or transaction-concluding supplier and enter into government procurement agreement with it.

Where the procuring entity changes the result of the winning bid or the concluded transaction, or rejects to enter into government procurement contract with the supplier with the reason out of those stipulated in the procurement documents, it shall bear legal liabilities according to law.

Article 61 The procuring entity or procurement agent shall in a timely manner organize the inspection and acceptance of government procurement projects in line with the criteria and methods set by procurement documents and government procurement contracts.

Article 62 The procuring entity shall in a timely manner pay bid-winners or transaction-concluding suppliers for the procurement in line with government procurement contracts. The government procurement payment process shall be operated to abide by the rules on the administration of fiscal funds payment. Where the procurement funds have been listed in the budget of the Treasury, it shall abide by the rules on the administration of state treasury's centralized payment mechanism.

Article 63 Procurement documents may be stored and filed in electronic versions, but the content shall be precise and consistent with the original record of the procurement document.

Chapter VI Queries and Complaints

Article 64 The procuring entity or purchase agent shall respond to the suppliers' inquiries within 3 working days, but the reply content shall not involve any business secret of the procurement projects and other suppliers.

Article 65 Where any supplier believes that its rights and interests have been injured under any of the following conditions the supplier may raise a written query to the procuring entity or procurement agent:

- (i) The procurement documents have restrictive and biased clauses;
- (ii) The procurement documents are not supplemented, clarified, or revised in accordance with required procedures;
- (iii) The procuring personnel or relevant personnel have conflicts of interest or benefits with suppliers and failed to withdraw from the procurement proceedings;
- (iv) The purchasing process was conducted in violation with the relevant provisions;
- (v) Collusion exists among parties concerned in the government procurement;
- (vi) Other suppliers won the bid or concluded the transaction with false materials;
- (vii) Other issues in the procurement documents and process, or the result of bid winning or transaction-concluding, has incurred harm to the rights and interests of the supplier.

Article 66 The term “supplier” as mentioned in Article 52 of the Government Procurement Law refers to the supplier who directly participates in the challenged procurement activities.

The term “procurement documents” mentioned in Article 52 of the Government Procurement Law refers to the notice of procurement projects, documents calling bidding, documents on the preliminary review of qualification, competitive negotiation documents, price inquiry documents, and the supplementary, modification, and clarification documents for the procurement documents.

The term “procurement process” mentioned in Article 52 of the Government Procurement Law refers to the various procedures from the public notice on the procurement information to the public notice of the bid-winning or transaction-conclusion, including procedures related to the issuance and selling of procurement documents, bid opening, bid evaluation, clarification, negotiation, and price inquiry.

Article 67 The calculation of the challenge period as mentioned in Article 52 of the Government Procurement Law shall be handled in the following methods:

- (i) Where the challenge is pointed to the procurement documents, the period shall start from the day of receiving the procurement documents by the supplier, and the challenge shall be raised before the bid deadline or the deadline of sending out the negotiation documents or the responsive documents for inquiry of quotations;
- (ii) Where the challenge is pointed to procurement procedures, the period shall start to run from the date that the procurement procedure ends;
- (iii) Where the challenge is pointed to the bid-winning or transaction-concluding results, or any member of the bid evaluation committee, negotiation group, or price inquiry group, the period shall start to run from the date when the bid-winning or transaction-concluding result was publicly released.

Article 68 The procuring entity or the procurement agent shall issue a receipt after receiving a written challenge from suppliers and shall give replies with a legal basis and reasons within 7 working days from the day the receipt was issued. The written reply shall be delivered to the supplier that raised the challenge and other suppliers that have interest in the result of the challenge, but the replies shall not involve business secrets of other relevant suppliers.

Article 69 Where the procuring entity or the procurement agent believes that the challenge has sufficient grounds, the challenge shall be handled according to the circumstances below:

- (i) If the issue challenged by the supplier falls under the scope of Items (i) or (ii) of Article 65 of these regulations, it shall be corrected in a timely manner, and all the suppliers participating the procurement activities shall be informed through public announcement or by a written notice;
- (ii) If the issue challenged by the supplier falls under the scope of Items (iii) through (vi) of Article 65 of these regulations, the procurement procedure or the result of the

purchase shall be determined to be invalid, and the procurement activities shall be reorganized and shall be filed on record with the finance department at the same level;

- (iii) If the issue challenged by the supplier falls under the scope of Item (vii) of Article 65 of these regulations, the procuring entity or the procurement agent shall handle the challenge according to the specific situation and its influence or possible influence on winning the bid or successful terms in the bid, using the two preceding paragraphs as reference.

Article 70 The procurement agent shall reply to the suppliers' queries or challenges within the scope of the procuring entity's entrusted matters. If the matters of inquiry or challenge lie outside the scope of the procuring entity's entrustment, the procurement agent shall inform the supplier to raise the inquiry or challenge with the procuring entity.

Article 71 Where a supplier raises a challenge or complaint, it shall attach its real name. The query or complaint shall be raised based on specific issues and shall contain facts sufficient to prove that the supplier's rights and interests have suffered injury. The supplier shall not raise a false, malicious query or complaint.

Matters that the supplier complains about shall be issues already challenged.

Article 72 If a complaint accepted by a finance department has already been accepted by other administrative departments under the people's government, the finance department may terminate the complaint-handling procedure.

Article 73 The finance departments under the people's government at county level or above are the departments in charge of accepting and handling suppliers' complaints about government procurement activities financed by the budget at the same level, and shall be supervised and directed by the higher-level finance departments under the People's Government.

If the project raised in a complaint is included in both the central government's budget and the local government's budget, the finance departments in charge of the procuring entity's budget shall be in charge of handling the complaint.

Article 74 The supplier shall submit the complaint letter in person to the agency that accepts the complaint and provide a corresponding number of copies according to the quantity of suppliers complained of and the suppliers related to the complaint. The complaint letter shall include the following major contents:

- (i) Name, address, and contact information of the supplier who raised the complaint and relevant materials to prove the aforementioned facts;
- (ii) Name, address, and contact information of the subject of the complaint;
- (iii) Specific matters complained of, and factual basis and legal ground;
- (iv) Information on the submission of challenge, the disposition of the challenge, and relevant materials to prove the aforementioned facts.

If the person who raised the complaint is a natural person, that person shall sign his or her name on the letter. If the person who raised the complaint is a legal person, the complaint letter shall be signed and sealed by the legal representative and affixed with the official seal of the legal person. If the person who raised the complaint is another organization, the complaint letter shall be signed and sealed by chief person-in-charge and affixed with the official seal of the organization.

Article 75 The phrase “after receiving the complaint” as mentioned in Article 56 of the Government Procurement Law means after the finance department has received a qualified complaint letter. If the complaint materials are incomplete or unclear, the finance department shall notify the person who raised the complaint to correct or supplement it within 5 working days after the complaint is received by the finance department. The notification shall clearly specify the items that need to be corrected or supplemented and the correction period. Where the person who raised the complaint fails to correct within the prescribed time, the complaint shall be regarded as abandoned. The time needed for correcting or supplementing materials shall not be counted into the time limit for the handling of the complaint.

After receiving the complaint letter, the finance department shall examine it within 5 working days. If the complaint letter meets the required conditions, the complaint shall be accepted. Otherwise, the complaint shall not be accepted. If the subject of the complaint does not fall under the finance department’s jurisdiction, or should be handled by other administrative organs, the finance department shall inform the person who raised the complaint to forward to the relevant departments having jurisdiction over the case.

Article 76 After accepting the complaint, within 3 working days, the finance department shall forward a copy of complaint letter to the subject of the complaint and relevant suppliers related to the subject of the complaint.

The subject of the complaint shall, within 5 working days after receiving the copy of complaint letter, make a written explanation to the finance department along with evidence, legal basis and other relevant materials. If the subject of the complaint fails to provide explanatory materials, it shall be deemed that he or she agrees with the complaint.

Article 77 The finance department shall handle complaints in the form of written examination. The finance department may, where necessary, investigate, collect evidence, and organize face-to-face cross examinations between the complainant and the subject of the complaint.

The person who raised the complaint, the subject of the complaint, and entities or individuals related to the subject of the complaint shall provide true information and relevant materials when the finance department carries out the investigation.

Where the subject of the complaint may be involved with an important clue to criminal activity, the finance department shall transfer the investigation to a judicial body according to relevant laws and notify in written form to the person who raised the complaint about the transfer and decision to transfer the case.

Article 78 If the person who raised the complaint applies to withdraw his or her complaint after the finance department’s acceptance, the department shall terminate the complaint process unless there are serious illegal circumstances.

Article 79 The complaint shall be dismissed in any of following circumstances:

- (i) The complaint application, after its acceptance, is found not to meet the requirements of acceptance set forth by the Government Procurement Law and these regulations;
- (ii) The reply to the challenge has clear factual and accurate legal basis;
- (iii) The subject of the complaint fall into the scope of state secret or content in the process of procurement has not been disclosed to the public, and the person who raised the complaint failed to provide a legitimate source of the information or failed to provide effective evidence.

Article 80 Upon review by a finance department, where the procurement documents and/or procurement process are determined to violate the Government Procurement Law or these regulations, which affects or possibly affects the result of bidding or transactions, the finance department shall handle the case according to the following conditions:

- (i) Where the bid-winner or transaction supplier has not been determined, the procurement activities shall be determined to be illegal, and shall be re-organized in ways that abide by the regulations;
- (ii) Where the bid-winner or transaction supplier has been determined but the procurement contract has not been signed, or the procurement contract has not been performed even if it is signed, it shall be decided that the bid result and procurement contract are invalid or shall be withdrawn, and the procurement activities demanded to restart according to prescribed procedure, the procuring entity or the person who has brought the complaint is entitled to ask the liable person to compensate for any loss suffered;
- (iii) Where the government procurement contract has been performed, the procurement activities shall be determined as illegal. The procuring entity or the person who raised the complaint is entitled to ask the liable person to compensate for any loss suffered.

Article 81 The finance department shall make decisions about complaints within 30 working days after receiving the complaint and inform the complainant, the person who was complained of, and other parties related to the complaint in written form. The finance department shall also make a public notice about the result of the disposition of the complaint on media designated by the finance department under the people's government at provincial level or higher.

During the disposition of the complaint, should the finance department need to obtain relevant certification, inspection, test, quarantine, identification, and expert review, the time shall not be counted into the period of handling the complaint. The finance department shall notify the person who raised the complaint in written form of the time needed.

Article 82 In the process of handling complaints, where any of the following circumstances exists, the finance department may inform the procuring entity to suspend the procurement activities in writing:

- (i) The procuring entity or the procurement agent considers it necessary to suspend the procurement activities;
- (ii) Suspending the procurement activities will facilitate the handling of complaints;
- (iii) The finance department considered the application from the person who raised the complaint for suspension reasonable and decided to suspend the procurement activities.

Article 83 In the process of handling complaints, where the finance department discovers illegal activity conducted by parties concerned in government procurement, corresponding legal liabilities shall be imposed, and the issues shall be handled separately in accordance with relevant laws.

Chapter VII Supervision and Inspection

Article 84 The finance department under the people's government at the county level or higher shall be responsible for the supervision and examination of government procurement activities at the same level. The content of supervision and inspection are as follows:

- (i) The implementation of relevant laws, regulations, and policies concerning government procurement;
- (ii) The execution of government procurement projects, monetary budgets, implementation plans for procurement, procurement processes, and performance of procurement contracts;
- (iii) The establishment and operation of centralized procurement institutes;
- (iv) The public notice of government procurement, the criteria of procurement, the procurement results, and other government procurement information;
- (v) The qualification of government procurement practitioners;
- (vi) The operation of businesses by accredited government procurement agents;
- (vii) The establishment of procurement files and the storage of procurement documents;
- (viii) Other content stipulated by laws and regulations.

Article 85 Finance departments under the people's government at a higher level shall supervise and guide the work of supervision and administration of government procurement activities by the finance department under the people's government at lower levels.

Article 86 The finance department shall strengthen the review and examination of institutions for centralized procurement. The main content for examination includes:

- (i) The implementation of laws and regulations by centralized procurement institutes, whether there is any violation of laws or disciplines;
- (ii) The implementation of procurement methods and processes;
- (iii) The establishment and completion of the internal management system by centralized procurement institutes;
- (iv) The management of bidding deposit by the centralized procurement institutes;
- (v) The professional qualities and technical skills, as well as the integrity of practitioners working for centralized procurement institutes;
- (vi) The pricing of procurement and the funds saved thereof;
- (vii) The handling of queries by the centralized procurement institutes;
- (viii) The quality of the service conducted by centralized procurement institutes;
- (ix) Other matters stipulated by finance department under the people's government at the provincial level or higher.

The finance department shall enact a work plan for examination, and periodic reviews of the centralized procurement institutes; the results of which shall be reported to the the people's government at the same level and published through media designated by finance department under the people's government at the provincial level or higher.

Article 87 The state shall establish a practice qualification system for government procurement practitioners to accredit and review the practitioners according to the standard of practice qualification, and to implement a system of certified, on-the-job practitioners.

The specific rules on the administration of the accreditation of government procurement practitioners' certification shall be formulated by State Council's finance department along with other relevant departments.

Article 88 The term "standard for a procurement item" as mentioned in Article 63 of the Government Procurement Law, refers to the specification, performance, and other basic requirements determined by the procuring entity according to national standards, industry standards, and the actual need of procurement projects.

The procuring entity shall release a public notice of procurement criteria determined through media designated by the finance department under the the people's government at the provincial level or higher. The procuring entity is forbidden to use procurement criteria to restrict potential suppliers from participating in government procurement.

Article 89 Where the procuring entity finds the activity of a procurement agent in the government procurement process in violation of law, it shall stop the illegal activities in a timely manner and order the agent to correct them within a time limit. If the procurement agent refuses

to correct the activities, the procuring entity shall immediately report to the finance department under the people's government at the same level and let the finance department to handle it in accordance with laws. If the accredited procurement agent refuses to correct the issue, the procuring entity shall terminate the entrustment agreement with the procurement agent.

If the procurement agent finds the activity of a procuring entity in violation of laws, it shall immediately advise the procuring entity to correct it. If the procuring entity refuses to correct it, the procurement agent shall immediately report to the finance department under the people's government at the same level. The finance department will handle it in accordance with laws. The procuring entity shall not alter or terminate the entrustment agreement with procurement agent.

Article 90 If the procuring entity believes its rights and interests suffered damage because of the procurement activities, it may report in a timely manner the information to the finance department under the people's government at the same level. The finance department shall handle it in accordance with laws.

Article 91 Finance departments under the people's government at all levels and other departments that are also responsible for supervision and administration of government procurement according to laws shall strengthen their supervision and administration over government procurement evaluation experts, and establish a examination and evaluation system of the experts' technology level, professional capability and capacity and their fulfillment of working obligations.

The procuring entity and the procurement agent shall put in record the evaluation experts' activities in government procurement in accordance with the preceding paragraph, and provide feedback in a timely manner to the finance department or other relevant departments.

Article 92 The finance departments under the people's government at all levels and other departments that are also responsible for supervision and administration of government procurement according to laws shall strengthen their supervision over suppliers. Any misconduct of the suppliers shall be put in the record of supplier's business ethics performance, and a nationwide system on government procurement suppliers' business ethics record shall be gradually established.

Article 93 The parties concerned with government procurement shall accept supervision from finance departments and other relevant departments also responsible for supervision and administration of government procurement according to laws, provide true information and relevant materials, and shall not refuse to provide or conceal relevant information.

The information and materials related to inspection can be recorded, taped, videotaped, photographed, or duplicated.

Article 94 Other departments under the people's government at all levels responsible for supervision and administration of government procurement activities according to laws and administrative regulations shall, tailored to their respective roles and responsibilities, strengthen the supervision and inspection over government procurement activities, strengthen cooperation with the finance department, and notify relevant information in a timely manner.

Auditing authorities shall strengthen auditing supervision of government procurement activities. The department in charge of supervision and administration of government procurement and the parties concerned with government procurement shall, in their procurement activities, accept the supervision of the auditing authorities.

Supervision authorities shall strengthen their supervision over the state organs and civil servants as well as the other personnel nominated by the state administrative organs that are engaged in the government procurement activities, and shall handle in a timely manner cases that were transferred from the finance department or other departments that are responsible for supervision and administration over government procurement activities.

Chapter VIII Legal Liabilities

Article 95 The amount of fine imposed upon procuring entity or procurement agent as stipulated in Article 71 of the Government Procurement Law shall be from RMB 20,000 to RMB 100,000.

The amount of fine imposed upon procuring entity or procurement agent as stipulated in Article 72 of the Government Procurement Law shall be from RMB 20,000 to RMB 200,000; the amount of fine upon staff of the procuring entity or procurement agent as stipulated in Article 72 of the Government Procurement Law shall be from RMB 2,000 to RMB 20,000.

Article 96 Under one of the following circumstances, the procuring entity shall be ordered to correct illegal activity within a limited time period. Where the circumstances are serious, a disciplinary warning shall be given and the entity may also be fined from RMB 5,000 to RMB 50,000. The persons-in-charge and other persons who are held to be directly responsible shall be given administrative disciplinary punishment by the administrative department in charge or other relevant government organs, and the matter shall be reported.

- (i) Failure to enact an implementation plan for government procurement in accordance with relevant statutes;
- (ii) Failure to conform to the method and procedure stipulated by the Government Procurement Law for self-organized government procurement projects;
- (iii) Failure to legally entrust a centralized procurement institute as its agent to conduct the procurement activities for general use items which have been included in the Catalogue for Centralized Procurement;
- (iv) Failure to determine the bid-winner or transaction-concluding supplier from the candidate list recommended by bid evaluation committees, negotiation groups, or price inquiry groups;
- (v) Substantive content of the government procurement contracts is inconsistent with the procurement document;

- (vi) Charging and accepting deposit for the performance of government procurement contract;
- (vii) Altering, dissolving, or terminating government procurement contract authorization, or increasing the procurement of same subject matter goods, projects of services in the contract with value exceeding 10% of that of the original procurement contract;
- (viii) Purchasing imported product without examination and approval from finance departments;

Where a procuring entity refuses to correct the illegal activities that fall into the scope of Item (ii) through (vii) in the preceding paragraph, the funds arranged in the original budget for the procurement shall cease to be paid.

Article 97 Under one of the following circumstances, the procuring entity or procurement agent shall be ordered to correct illegal activities within a limited time period. Where the circumstances are serious, the procuring entity or procurement agent shall be given a disciplinary warning and may be concurrently fined from RMB 10,000 to RMB 50,000. The persons-in-charge and other persons who are held to be directly responsible shall be given administrative disciplinary punishments by the unit they are affiliated with, superior administrative department in charge, or other relevant government organs, and the matter should be reported:

- (i) Failure to publish the information of government procurement according to prescribed requirements on designated media;
- (ii) Failure to implement preferential or compulsory government procurement policies;
- (iii) Failure to select experts from the government procurement evaluation experts database;
- (iv) Failure to proceed through preliminary qualification review or suppliers selection, during the process of bid-inviting, competitive negotiation, and price inquiry activities, in line with prescribed procedures;
- (v) Failure to forward a copy of the government procurement contract to departments in charge of supervision and administration of government procurement under the people's government at the same level and relevant departments for filing;
- (vi) Failure to organize inspection and acceptance in line with prescribed requirements on the supplier's performance of government procurement contract;
- (vii) Failure to handle the queries raised by suppliers in a timely manner.

Article 98 Where a procuring entity or procurement agent and its staff intentionally make biased or false statements, which mislead the government procurement evaluation experts committee, competitive negotiation group, or inquiry group, the procuring entity or the procurement agent shall be given a disciplinary warning. A fine from RMB 20,000 to RMB 200,000 shall be imposed on the said procuring entity or procurement agent. The staff of the procuring entity or

the staff of the procurement agent shall be fined from RMB 2,000 to RMB 20,000, and administrative disciplinary punishment shall be imposed by administrative departments in charge or relevant organs, and the matter should be reported.

Article 99 Where a centralized procurement institute undertakes profitable business activities, it shall be ordered to correct illegal activities within a time limit, and shall be given a disciplinary warning. The illegal proceeds, if any, shall be concurrently confiscated. The persons-in-charge and other persons held to be directly responsible shall be punished by the the people's government that established the centralized procurement institute or relevant organs in accordance with laws.

Article 100 Under any of the following circumstances, the centralized procurement institute shall be ordered to correct illegal activities within a prescribed time. Where the circumstance is serious, it shall be given a disciplinary warning. If it refuses to correct the activities, the the people's government that established the centralized procurement institute or relevant organs shall impose administrative disciplinary punishments on the persons-in-charge and other persons held to be directly responsible in accordance with laws:

- (i) Having incomplete internal supervision and administration system, or failing to separate positions and personnel in accordance with the laws;
- (ii) Entrusting other procurement agency to conduct procurement activities for centralized-procurement items;
- (iii) Procurement pricing is found to be obviously higher than average market price, or the quality fails to meet procurement requirement without reasonable grounds.
- (iv) Failure to establish an internal administration system and business database of government procurement according to laws, and the administration is disordered.

Article 101 Where an accredited procurement agent acquires government procurement businesses by means of offering bribery and through other illegal means, it shall be fined from RMB 20,000 to RMB 200,000. The illegal proceeds, if any, shall be confiscated. If the activity constitutes a crime, the unit and personnel concerned shall be liable for criminal charges by judiciary organs.

Article 102 Where an accredited procurement agent, in the course of government procurement business on behalf of governments, violates the provisions of the Government Procurement Law and these regulations, it shall be suspended from its business operations, or its qualification for conducting government procurement shall be revoked, if it is a serious circumstance. Where it constitutes a crime, judiciary organs shall impose criminal liability on the units and personnel concerned.

Article 103 Where the procurement staff or personnel concerned are aware that they have an interest in the suppliers but failed to withdraw according to law, they shall be given a disciplinary warning, may be charged a concurrent fine from RMB 2,000 to RMB 20,000, and may receive administrative disciplinary punishments from their affiliated units and superior

administrative department or relevant organs. Where it is a serious circumstance, their qualification of practicing government procurement shall be revoked.

Article 104 Where a staff of a procuring entity or a procurement agent carries out government procurement activities without a legally acquired qualification to practice government procurement, the procuring entity or procurement agent shall be ordered to correct the illegal activity in a prescribed time and shall be given a disciplinary warning. The personnel involved in illegal government procurement businesses shall be fined from RMB 2,000 to RMB 20,000.

Article 105 Under any of the following circumstances, a supplier shall be put on a blacklist and shall be prohibited from participating in government procurement for one to three years. The illegal proceeds, if any, shall be confiscated. The supplier may be fined from 5% to 10% of the procurement value. Where the circumstances are serious, the supplier's business licenses shall be revoked by the administration department for industry and commerce. Where a crime is constituted, the supplier shall be investigated for criminal responsibility in accordance with laws:

- (i) Offering bribery or other illegal interests to members of bid evaluation committee, negotiating group, or price inquiry group
- (ii) Refusing, without reasonable grounds, to enter into procurement contract with the procuring entity after winning the bid or concluding transaction;
- (iii) Substantive content of the government procurement contracts is inconsistent with that of the procurement documents;
- (iv) Performing the procurement contracts in the form of sub-contract without procuring entity's consent;
- (v) Performing the preferential or compulsory government procurement that enjoys incentive policies in the form of sub-contract without authorization;
- (vi) Failure to perform in line with government procurement contracts and offering false or poor quality products;
- (vii) Alerting or terminating a government procurement contract without authorization.

Where a supplier's activity falls under Item (i) of the preceding paragraph, its winning of a bid or the successful terms thereof shall be invalidated.

Article 106 The term "malicious collusion" as mentioned in Item (iii), Paragraph I, Article 77 of the Government Procurement Law refers to the following activities:

- (i) A supplier obtains another supplier's bidding information from the procuring entity or procurement agent and modifies its bidding documents accordingly;
- (ii) A supplier obtains information about members of the bid evaluation committee, negotiating group, or inquiry group from procuring entity or procurement agent;

- (iii) Suppliers reach consensus to drive the price up or down, allowing one of them to win the bid or conclude the transaction, or predetermine one of them to win the bid or conclude the transaction, with the supplier who wins the bid or concludes the transaction agreeing to compensate the other suppliers later;
- (iv) Two or more suppliers submitted bidding or responsive documents, of which many substantive provisions are identical, and suppliers fail to provide reasonable grounds.
- (v) Other collusive activities as stipulated by laws, regulations, and rules promulgated by the State Council's finance department.

Article 107 If a supplier raises a query or complaint with false materials or fabricated facts, where it is a serious circumstance, it shall be fined from 5% to 10% of the procurement value, be put on a blacklist of suppliers' delinquency, and be prohibited from participating in government procurement for one to three years.

Article 108 Under any of the following circumstances, government procurement evaluation experts shall be given a disciplinary warning and charged a fine from RMB 2,000 to RMB 20,000. Where the circumstance is serious, qualification as government procurement expert shall be revoked. Where it constitutes any crime, the expert shall be subject to criminal liabilities according to law:

- (i) The procurement result harms the procuring entity's rights and interests, due to lack of due diligence in the process of bid evaluation, competitive negotiation, or inquiry of quotations;
- (ii) Accepting bribes or accepting other illegal interests from a procuring entity, procurement agents, or suppliers;
- (iii) Refusing to withdraw on its own initiative when aware of interests in the suppliers;
- (iv) Disclosing without authorization evaluation documents and evaluation information, as well as state secrets and business secrets obtained in the evaluation process;
- (v) Failure to conduct the evaluation in line with the procurement documents and clearly displaying bias.

Article 109 Finance departments under the people's government at county level or higher, and at the same level as procuring entity, shall be responsible for administrative penalties against the activities in violation of the Government Procurement Law and these regulations unless it is otherwise regulated under the Government Procurement Law and these regulations.

Article 110 Where a party concerned in the government procurement violates Article 96, 97, 98, 105, and 108 of these regulations and incurred loss to others, it shall be subject to civil liabilities in accordance with relevant civil laws.

Article 111 Any staff from department in charge of supervision and administration of government procurement that, in the course of implementing supervision and inspection, violates

the Government Procurement Law and provisions of these regulations by abusing power, neglecting duties, or committing malpractice for private gains shall be given administrative disciplinary punishments. Where it constitutes any crime, he or she shall be subject to criminal liabilities according to law.

Chapter IX Supplementary Provisions

Article 112 As to procurement projects of imported mechanical and electrical products that have been examined and approved by finance departments, the tendering and bidding thereof shall be performed in accordance with relevant state regulations.

Article 113 The Government Procurement Law and these regulations may not be applicable to emergency procurement because of serious natural disasters or other force majeure. The State Council's finance department shall enact a separate rule addressing the administration of such procurement.

Article 114 The term "procurement concerning national security and state secrets" as mentioned in Article 85 of the Government Procurement Law refers to government procurement projects for which the state secret protection authority at the same administrative level has issued proof of involving state secrets.

Article 115 People's governments at the provincial level may enact implementation measures in accordance with these regulations.

Article 116 These regulations shall be implemented as of _____