

Regulations for Electronic Procurement

Promulgated on July 17, 2002

Chapter 1 General Principles

Article 1

These regulations are prescribed pursuant to paragraph 2 of Article 93.1 of the Government Procurement Act (hereinafter referred to as the “Act”).

Article 2

The terms used in these regulations are defined as follows:

1. government procurement card: the credit card, debit card or stored-value card that is issued to an entity by a credit card business institution for use in payment of government procurement prices and fees.
2. electronic instrument: a proof that is provided with an electronic signature and that attests to receiving of electronic tender documentation, acquiring of tender documentation, receiving of electronic tenders, electronic bid bond certificate and electronic guarantee bond certificate, opening of tenders, awarding of tender, placing of orders, and making of payment.
3. electronic bid bond certificate: an electronic document that has been electronically signed or certified by the issuing bank to serve the purpose of a bid bond.
4. electronic guarantee bond certificate: an electronic document that has been electronically signed or certified by the issuing bank to serve the purpose of a guarantee bond

Article 3

Where entities and suppliers engage in procurement by using electronic means (hereinafter referred to as “electronic procurement”), the signature or seal required by the tender documentation shall be met by using an electronic signature.

Article 4

Entities and suppliers engage in electronic procurement shall file an application for a certificate with the certification authority designated by the responsible entity.

Article 5

Entities and suppliers engage in electronic procurement shall use the information system designated by the responsible entity and register necessary information thereon.

Chapter 2 Invitation to Tender and Awarding of Tender

Article 6

An entity conducting public dissemination, sale or public viewing of the tender documentation by use of the information system designated by the responsible entity may elect not to prepare additional written documentation.

Where an entity permits a supplier to use an electronic means to acquire the tender documentation (hereinafter referred to as “electronic acquirement of tender documentation”) or to submit a tender (hereinafter referred to as “electronic submission of tender”), it shall be prescribed in the notice of invitation to tender and the tender documentation.

Article 7

The electronic tender documentation may be provided by an entity to suppliers by charging a fee to cover necessary costs and expenses, and the amount of the fee shall be determined by the procuring entity. Where there are additional written documents, the fee charged for the electronic tender documentation shall not be higher than that of the written documents.

Article 8

An entity’s electronic tender documentation may not be reproduced, published or modified in any form, except where permission of the procuring entity has been granted.

Article 9

An entity may convert a portion or whole of the file of the electronic tender documentation to one or several self-extracted compressed files, and the content of which after decompression shall remain the same as that before compression.

Article 10

An entity may prescribe in the tender documentation the file format to be used by suppliers in electronic submission of tender or the format by which suppliers may print out the electronic tender documentation for use in preparing their tenders. However, where the file format or printing format adopted by a supplier does not affect reading, recognizing or use, the entity shall not reject it.

The file format or printing format prescribed by an entity referred to in the preceding paragraph shall not restrain competition among suppliers.

Article 11

Where an entity allows suppliers to adopt electronic submission of tender, the entity may prescribe in the tender documentation that the signing of a contract shall be based on the electronic tender, or that it shall be undertaken within a period after awarding of contract based on written documentation.

The content of the written documentation referred to in the preceding paragraph shall be the same as that of the electronic tender. Where there is a discrepancy between the two, the latter shall prevail.

Article 12

A supplier adopting electronic submission of tender shall, prior to the time-limit for receipt of tenders, transmit all electronic documentation of its tender to the information system designated by the responsible entity.

Article 13

For a supplier conducting electronic submission of tender, the bid bond or guarantee bond to be deposited or the guarantee to be provided pursuant to Article 30 or paragraph 2 of Article 37 of the Act may take the form of an electronic bid bond certificate or an electronic guarantee bond certificate issued by a bank.

The format of the certificates referred to in the preceding paragraph shall be disclosed by the responsible entity at a designated information system.

Article 14

A supplier's electronic tender shall contain no computer viruses, can be opened normally and shall not affect reading, recognizing or use.

Article 15

An entity allowing suppliers to adopt electronic submission of tender may conduct electronic opening of tenders and electronic awarding of tender.

The opening of tenders and awarding of tender referred to in the preceding paragraph may be conducted not in public, and the procuring entity may conduct it without notifying tenderers to be present. The monitoring of these proceedings may be conducted by monitoring units based on the written documents pursuant thereto.

Article 16

The tender documentation and the electronic tender may, where there are any difficulties in handling characters or graphical files, take the form of a scanned electronic documentation instead.

Where an electronic tender contains scanned documentation, the entity may notify the supplier to present written documentation for verification.

Article 17

During the course of an entity's procurement, the interactions between the entity and suppliers concerning notification, explanation, price reduction, price competition, negotiation, modification of the original tender and resubmission of price offer may be handled by means of electronic data transmission.

Article 18

During the course of an entity's electronic procurement and in the circumstance where the information system designated by the responsible entity is temporarily out of service for some reason, such circumstance shall be handled as follows:

1. at the stage of invitation to tender and price inquiry: the entity shall wait until the system has recovered and then transmit the electronic tender documentation;
2. at the stage of acquirement of the tender documentation: suppliers shall make a request of the tender documentation using other means provided therein, or they shall wait until the system has recovered and then proceed to make electronic acquirement of tender documentation; the entity may, by taking into consideration the extent to which an individual case is affected, publish a notice to extend the time-limit tendering;

3. at the stage of submission of tender: suppliers shall submit their tenders using other means provided by the tender documentation, or they shall wait until the system has recovered and then proceed to conduct electronic submission of tenders; the entity may, by taking into consideration the extent to which an individual case is affected, publish a notice to extend the time-limit tendering;
4. at the stage of opening of tenders: the entity shall wait until the system has recovered and then proceed to open tenders, or it shall defer opening of tenders; an exception of this provision will be given where it is certain that there exists no electronic tender;

Chapter 3 Payment

Article 19

An entity making payment for procurement prices and fees may use the government procurement card.

Article 20

The contract signed between an entity and a card-issuing institution shall contain the following:

1. the form and appearance of the government procurement card;
2. where the government procurement card is used to make payment in foreign currency, the method for calculation of exchange rate;
3. handling of questions and inquiries regarding an account;
4. the procedure for reporting, reissuing or replacement of a missing or damaged government procurement card and the responsibilities and obligations of both parties;
5. the government procurement card may not be used for cash advance or financing;
6. the credit limit of the government procurement card;
7. when a card holder is conducting procurement for official business, the record of using the government procurement card related thereto shall not affect the card holder's personal credibility;

8. causes for relieving an entity from the responsibility of payment; and
9. others as determined by the responsible entity.

Article 21

The holder of the government procurement card shall be designated by an entity, and this individual shall be responsible for keeping the card in good care as long as it is under his or her custody. Where the qualification of a cardholder has been revoked, the entity shall notify the card-issuing institution to suspend his or her card, and the original cardholder shall, within the period specified by the head of the entity or the personnel authorized by the head, make a clear-payment report.

Article 22

An entity shall assign an authorized limit on the government procurement card based on the cardholder's status and the characteristics, supplier and amount of the subject of the prospective procurement.

The assignment of an authorized limit referred to in the preceding paragraph shall be approved by the head of the entity or the personnel authorized by the head.

Article 23

The holder of the government procurement card may, within the authorized limit, use the card to make payment for prices and fees of procurement.

The card holder shall, after receiving the statement of account from the card-issuing institution, enclose the statement with relevant procurement documents, mark all vouchers with words "paid by the government procurement card" and then make a clear-payment report.

After the documents referred to in the preceding paragraph have been reviewed by the entity's comptroller (accounting) unit and approved by the head of the entity or the personnel authorized by the head, the procedure for payment shall be undertaken.

Chapter 4 Supplementary Provisions

Article 24

The responsible entity may charge a fee to the user for access to the information system for electronic procurement; the standard of fees shall be determined by the

responsible entity.

Article 25

These regulations shall take effect from the date of promulgation.

Note: In case of discrepancies between the Chinese version and this English version, the Chinese version shall prevail.