

# **Regulation for Selection and Fee Calculation of Social Welfare Service Providers Entrusted by Entities**

*Promulgated on Nov 22,2019*

## **Article 1**

This Regulation is prescribed pursuant to paragraph 3 of Article 22 of the Government Procurement Act (hereinafter referred to as the “Act”).

## **Article 2**

An entity shall conduct the selection of social welfare service providers publicly and objectively. Where the value of the service fee reaches the threshold for publication, the provisions of these regulations shall apply to the method for the selection of providers and the calculation of service fee.

## **Article 3**

The term “social welfare services” referred to in subparagraph 9 of paragraph 1 of Article 22 of the Act means services related to social welfare professional knowledge or skills, including child and youth welfare, women’s welfare, seniors’ welfare, welfare services for people with disabilities, family support, public assistance, social work, voluntary service, domestic violence prevention, sexual assault prevention, sexual harassment prevention, long-term care, community development, and other services related to social welfare.

## **Article 4**

Unless otherwise provided by laws and regulations, an entity that entrusts a provider for social welfare service may prescribe in the tender documentation the following items depending on the characteristic of individual procurement and actual needs:

1. Service required and content of the work involved.
2. Qualification requirement and documents to be submitted by the applying provider.
3. Method and frequency of the service provision.
4. Schedule of work.

5. Qualification requirements, total number and salary of the staffs providing services.
6. Where the service involves the provision of materials, facilities, equipments or places, the specifications, drawings, or requirements related thereto.
7. Where the scope of work and contents of the service are specified, the criteria of evaluating performance, inspection and acceptance items and standards.
8. Proposal on the social welfare service that shall be provided by the provider and the contents thereof, such as schedule of the main project items, quantity, price, detailed plan, and so forth.
9. The ownership of the intellectual property right.
10. The ownership and maintenance duties for the places, facilities, equipments, and properties received .
11. Items for evaluation, evaluation criteria and selection methods.
12. Methods of price negotiation and contract award with regard to the winning provider.
13. Methods for the calculation and payment of fees.
14. Model instructions to tenders and contract terms.
15. Where the provider is required to present briefing during selection, the procedures that shall be followed.
16. Budget or estimate amount.
17. Any other necessary matters.

Unless otherwise provided by laws and regulations, salary of the staffs under subparagraph 5 of the preceding paragraph shall be a fixed price or no less than a certain amount specified in the tender documentation.

## **Article 5**

Unless otherwise provided by laws and regulations, issues regarding the evaluation items referred to in subparagraph 11 of paragraph 1 of the preceding Article may include the following depending on the characteristic of individual procurement and actual needs:

1. The qualification of provider on professional manpower, experience or performance record.
2. The places, facilities and equipments for providing service.
3. The experience and capability of the project manager and major staffs involved in the project.
4. The implementation method of the project.
5. The capability of fulfilling the contract.
6. The price.
7. The completeness and feasibility of the proposal, and the level of understanding of the service items.
8. Any other necessary matters.

#### **Article 6**

For the selection of a provider by entity which publicly invites providers to tender for the provision of social welfare services, and where the tender documentation has prescribed the qualification requirements of the provider, the entity shall first assess the qualification of the provider. Unless the qualification of the provider fulfills the requirements prescribed in the tender documentation, the evaluation process for the provider shall cease to proceed further.

The entity shall notify the provider the result of its evaluation and shall state reasons of rejection to providers that have not been selected.

#### **Article 7**

The number of winning providers selected by the procurement evaluation committee may be more than one.

The relevant regulations for selection of the most advantageous tender of the Act shall apply mutatis mutandis to the selection procedures referred to in the preceding paragraph.

#### **Article 8**

The price negotiation and contract award between the entity and the winning

provider shall be conducted by the following methods, and the method adopted shall be stated in the tender documentation:

1. Where only one winning provider is selected, price negotiation shall be followed.
2. Where two or more winning providers are selected, price negotiation shall be conducted in a sequence according to the ranking of the winning providers, commencing from the provider which attains the first ranking. In the event where two or more providers are of the same ranking, the provider which attains a higher score on the evaluation item that has been assigned the largest share of potential points shall have priority in the price negotiation; however, when there are more than two items that has been assigned the same potential points of large share, the supplier that attains a higher summed score of the evaluation items shall have priority in the price negotiation. If the score is still equal of each supplier, the winning supplier shall be determined by drawing lots.

## **Article 9**

The award of contract referred to in the preceding Article shall be handled in accordance with one of the following methods:

1. Where the tender documentation has stated a fixed price or rate for the service fee, the contract shall be awarded according to the fixed price or rate.
2. Where the tender documentation has not stated a fixed price or rate for services fee, paragraph 2 of Article 53 and Article 54 of the Act shall apply to the award of contract in excess of the government estimate or nullification of tenders.

Where the entity set a government estate mentioned in subparagraph 2 of the preceding paragraph pursuant to the provision of Article 46 of the Act, and the tender price of a supplier participating in price negotiation is reasonable and within the budget amount, the entity may set the government estimate in accordance with the tender price, and award the contract at the tender price.

Where the tender documentation has stated a fixed price or rate for the service fee, the entity may still prescribe that some of it be paid by the price specified in the contract, some of it be paid by work item and quantity actually done or supplied.

## **Article 10**

Where an entity entrusts a provider for its social welfare service, the calculation of service fee shall, according to the type, nature, scale, scope of work, duration of the

work, and so forth, be selected among the following methods and shall prescribe explicitly in the contract the chosen method:

1. Payment by total price or unit price.
2. Monthly, daily or hourly payment.

The service fee calculated according to the methods referred to in the preceding paragraph shall be evaluated and approved by taking into account the fee generally charged. Where additional fees are to be paid after approval, the coverage of the items and amount of such fees shall be stated clearly in the contract.

## **Article 11**

For the service fee calculated by total price or unit price, the service fee may include the following:

1. Direct salary or wage of staff: this includes the actual salary or wage payable to the staff directly, plus a certain percentage of the above amount for fees incurred that are related to the staff for paid leaves and special day-off; bonuses paid not on a regular basis; those which shall be paid by employers by law such as: labor insurance premium, the arrear wage payment fund premium, national health insurance premium, and labor pension; and after-hour work and other relevant fees.
2. Business expense: this includes the costs incurred during the process of implementing the entrusted project, such as the cost or fees of business travel, temporary remuneration, attendance of experts and scholars, speeches and lectures, outside supervision, trainings, meals, transportation, venue rental and arrangement, printing, translation, data collection, teaching materials or materials, writing, usage of intellectual property rights, office expenditure, bills for water, electricity, heater and air-conditioner, maintenance and replacement on furniture, machinery, equipment, etc., depreciation or rental of movables and real estate, cost of mail and telephone, promotion, cost incurred for attending professional conference domestically or internationally held, research cost or professional communication cost for special business purpose, patent, software or hardware for computers and related taxes, certification fees by law, certification fees by the accountant, and so forth.
3. Planning fee or repair expense of service place.
4. Management fee: this includes the costs incurred during the process of implementing the entrusted project, such as the cost or fees of the salary or wage and pension of management and administrative personnel which provides services indirectly, insurance premium, administrative expense, cost incurred in the preparation for commencing and ending of work, profit, risks,

various related taxes, and so on.

5. Business tax.
6. Other fees as determined by the entity.

Where an entity conducts social welfare service procurement, and the contract performance is in conformity with the contract, the entity shall make payment according to the invoice or receipt issued by the provider.

## **Article 12**

The salary or wages payable for the service fee with the method of monthly, daily or hourly payment may be calculated according to one of the following methods. Fees apart from salary or wage may be calculated and paid additionally:

1. The amount of monthly payment is calculated according to the monthly salary rates of the staffs specified in the contract.
2. The amount of daily payment is calculated according to the daily wage rates of the staffs specified in the contract.
3. The amount of hourly payment is calculated according to the hourly wage rates of the staffs specified in the contract.

## **Article 13**

Where there is a fixed price under paragraph 2 of Article 4, an entity shall not request the tenderer to reduce its tender price in the price negotiation.

During the period of contract performance, if there is any revision to the qualification or salary framework of service provider from each category of personnel, the supplier shall submit a revised price composition to the entity for review, covering the requisite capability of timely contract performance is not less than the requirement of the contract.

## **Article 14**

Where an entity entrusts a provider to provide social welfare service, and the provider is responsible for the maintenance and insurance of the venues, facilities and equipment provided by the entity, the latter shall enlist the relevant expenses reasonably.

Where the cost of maintenance, replacement, and insurance of the above venues,

facilities and equipment is hard to estimate, an entity may state in the contract that the entity shall pay the actual amount upon verification, the cap amount and the handling procedures when such cost exceeds the cap, or procure by another procurement.

#### **Article 15**

An entity that entrusts a provider to provide social welfare service, may state in the tender documentation that the provider may be awarded incentive fee for delivering service at better efficiency.

The amount payable referred to in the preceding paragraph shall not exceed 10% of the total contract price or 10% of the cap amount of the contract price.

#### **Article 16**

The contract may prescribe that the provider shall be entitled to receive a partial payment of service fee in advance after signing the contract depending on the characteristic of individual procurement and actual needs. The remaining fee is payable monthly or by installments. The amount and conditions of each payment shall be clearly stated in the contract.

In principle, the advance fee referred to in the preceding paragraph shall not exceed 30% of the total contract price or 30% of the estimated cap of the total price payable, and shall prescribe the circumstances to return the advance fee and handling method in case that the advance fee cannot be returned. Where the contract period is more than one year, the aforementioned total contract price or the estimated cap of the total price payable shall be calculated by the fee of each year.

#### **Article 17**

Where the contract period is longer than a year, the entity that entrusts a provider for social welfare service may prescribe in the contract that the contract price may be adjusted starting from the second year according to a given price index, applicable adjusting items, adjusting method, and the cap amount of adjustment.

#### **Article 18**

An entity that entrusts a provider for social welfare service shall state in the tender documentation the ownership of any intellectual property rights derived from the work of the service provided by the provider, and the legal obligation of the provider to handle and become responsible for matters that involve the infringement of rights of a third party.

The entity may acquire the rights referred to in the preceding paragraph, in part or

in whole, or be authorized to exercise such rights, according to the needs of the entity.

#### **Article 19**

Where it is necessary for an entity to alter part of the content of the entrusted service, the entity may adjust the service fee and the contract period according to the changes on the service items and the quantity.

If an entity requests the supplier to execute additional work other than those covered in the contract, an additional fee shall be determined by negotiation between the entity and the supplier.

#### **Article 20**

These regulations may apply mutatis mutandis to a tender where an entity entrusts a provider for social welfare service not in accordance with subparagraph 9 of paragraph 1 of Article 22 of the Act.

#### **Article 21**

These regulations shall take effect on the date of promulgation.