

Regulations Governing Assistance for Small and Medium Enterprises Participating in Government Procurement

Promulgated on April 26, 1999

Last Amended on April 24, 2002

Article 1

This Regulations is prescribed pursuant to Paragraph 2 of Article 97 of the Government Procurement Act (hereinafter referred to as the "Act").

Article 2

The term "small and medium enterprises" referred to in paragraph 2 of Article 97 of the Act shall be identified in accordance with the Statutes For Development of Small and Medium Businesses.

Article 3

In conducting a procurement, an entity may, depending on the characteristic and the scale of the procurement, prescribe that the tenderer must be a small or medium enterprise or encourage the tenderer to invite small or medium enterprises for subcontracting, to the extent not contrary to provisions of laws and regulations and the treaties or agreements to which this nation is a party.

In conducting a procurement of a value not reaching the threshold for publication, small and medium enterprises shall be awarded in principle except that such small and medium enterprises are incapable to carry out the procurement in question, that their competitiveness is inadequate, or, that their tendering prices are unreasonable, or that circumstances prescribed in each subparagraph of paragraph 1 of Article 22, subparagraph 1 and 3 of paragraph 1 of Article 104, and each subparagraph of paragraph 1 of Article 105 of the Act.

Article 4

The responsible entity shall, acting with the Ministry of Economic Affairs discuss with the National Assembly, the Presidential Office, the National Security Council, the five Yuans and all the first level entities under each Yuan and all municipal, and

county (city) governments to set the percentage of the targeted value of annual procurement of respective entities and their subordinate entities that will be contracted or sub-contracted to the small and medium enterprises, and publish them in the Government Procurement Gazette within two months from the beginning of each fiscal year.

The percentage of the targeted value referred in the preceding paragraph may be determined separately in accordance with the nature of each entity.

Article 5

In conducting a procurement, an entity shall prescribe that a tenderer must state in the its tender whether it is a small and medium enterprise. Where a tenderer is not a small and medium enterprise, it shall state the estimated items and value that will be sub-contracted to the small and medium enterprises.

The entity may check and verify whether the supplier is a small or medium enterprise, if necessary. The Ministry of Economic Affairs shall provide necessary assistance for matters inquired by the entity.

Article 6

The award information sent by the procuring entity to the responsible entity shall specify whether the winning supplier is a small and medium enterprise. When the winning supplier is not a small and medium enterprise, the estimated value that will be sub-contracted to small and medium enterprises shall be specified.

When an entity procures from small and medium enterprises and fails to send the award information to the responsible entity in accordance with the provision of the proceeding paragraph, the entity shall report to the responsible entity no latter than one month after the end of each fiscal year.

Article 7

In the event that the winning supplier increases or reduces the value sub-contracted to small and medium enterprises during the term of contract performance, the entity may report such change to the responsible entity within one month after the end of each fiscal year to adjust the value sub-contracted by the small and medium enterprises for

that year.

Article 8

When there are small and medium enterprises participating in a joint tender, the contract value awarded to such small and medium enterprises shall be determined in accordance with the value of the items carried out by such small and medium enterprises.

Article 9

The responsible entity shall, acting with the Ministry of Economic Affairs, publish the total procurement value of the National Assembly, the Presidential Office, the National Security Council, the five Yuan and all first level entities under each Yuan, and all municipal, county (city) governments and their subordinate entities, and the value as well as the percentage of such total value contracted or sub-contracted by small and medium enterprises, in the Government Procurement Gazette within two months after the end of each fiscal year.

For the percentage referred to in the preceding paragraph, any entity fails to reach the percentage of the targeted value provided in Article 4 shall review it for future improvement.

Article 10

This Regulations shall take effect May 27, 1999.

The amendment to this Regulations shall take effect on the date of promulgation.

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

