

# **Standards for Qualifications of Tenderers and Determination of Special or Large Procurement**

*Promulgated on May 17, 1999*

*Last Amended on Oct. 29, 2015*

## **Article 1**

This Standards is prescribed pursuant to paragraph 4 of Article 36 of the Government Procurement Act (hereinafter referred to as the “Act”).

## **Article 2**

In conducting a procurement, an entity may, based upon the characteristics of the procurement and actual needs, prescribe basic qualifications of tenderers according to the following and state explicitly such qualifications in the tender documentation:

1. Qualifications relevant to the supply of the subject of the procurement; and /or
2. Qualifications relevant to the ability of performing the contract.

## **Article 3**

When prescribing the basic qualifications relevant to the supply of the subject of the procurement pursuant to subparagraph 1 of the preceding Article, an entity may, based upon the characteristics of the procurement and actual needs, select the certifying documents that shall be attached to the tender according to any or all of the following:

1. Proof of registration or establishment of the supplier, such as certificate of company registration or commercial registration, certificate of registration required by law for a non-profit-making juristic person, institution or organization, certificate of factory registration, approval certificate for registration, practicing license, practicing certificate, accreditation certificate, or other certificates issued by government entities or institutions authorized by government entities certifying that the supplier is lawfully established or registered.
2. Proof of tax payment of the supplier, such as business tax statement, income tax statement.
3. Proof of membership to an industrial or commercial organization in accordance with the Act of Industrial Organization or the Act of Commercial Organization, such as membership certificate.

In lieu of the certificates referred to in subparagraph 1 of the preceding paragraph, suppliers may submit the printout of data that are open to the public at the website of

competent entities. Although the contents of proof documents submitted by a supplier differ from the requirements of tender documentation, an entity may use, as a replacement, the supplier's printout of updated data that are open to the public at the website of a competent authority prior to the time-limit for tendering, provided that the data is in consistent with the requirements of tender documentation.

Where the certificates referred to in subparagraph 1 of paragraph 1 are issued by different classifications in accordance with certain conditions or with a limit on contract value pursuant to the provisions of other laws and regulations, those provisions shall apply.

Where an entity requires that only suppliers with designated business category in their certificates of registration or establishment referred to in subparagraph 1 of paragraph 1 be entitled to participate in tendering, the business category so required must not improperly restrict competition, and shall be based upon the categories of main, medium, small or extra small of the business category codes compiled by the Ministry of Economic Affairs. If the designated business category does not require special permission, it is deemed that a supplier's registration covers the designated business category, provided that the business registration specifies that the supplier may conduct any business that is not prohibited or restricted by laws.

Where the certificate of tax payment referred to in subparagraph 2 of paragraph 1 is a certificate of business tax payment, it shall be a business tax payment receipt or the latest sales revenue and tax report approved and affixed with an official seal by the responsible tax-assessing authority. If the supplier is unable to provide the most recent certifying documents in time, the tax payment receipt of the immediate preceding period may be used in replacement. Newly established suppliers who have not reached the time limit for filing their first tax payment may use, as a replacement, the approval letter of business establishment issued by the responsible assessing authority of business tax. Where unified invoice system is mandatory to the supplier, the relevant documents in relation to the purchase of unified invoice shall also be submitted. Certificate of no outstanding taxes issued by the responsible tax-assessing authority within the same period specified above, may be used as a replacement of certificate of tax payment of business tax or income tax.

The proof of membership to industrial or commercial organizations referred to in subparagraph 3 of paragraph 1 shall not, unless otherwise provided for in laws or regulations, be restricted to those submitted by organizations from designated regions; where the tenderers are foreign suppliers, such certificates may be waived.

#### **Article 4**

When prescribing the basic qualifications relevant to the ability of performing the contract pursuant to subparagraph 2 of Article 2, an entity may, based upon the characteristics of the procurement and actual needs, select the certifying documents or articles that shall be attached to the tenders of suppliers according to any or all of the following:

1. Proof that a supplier has the requisite capability to manufacture, supply or undertake a work, such as documents showing that the supplier has had completed the manufacturing, supply or undertaking a work similar to the subject of procurement, samples required by the tender documentation, description of the equipment, technology, financial resources, human resources or places that are necessary for performing the contract, presently owned or to be acquired after being awarded with the contract, or documents demonstrating the supplier's ability on quality control, etc.
2. Proof that a supplier has the requisite capability to fulfill contracts as scheduled, such as statements on the total volume of uncompleted portions of all on-going contracts up to the date of tendering, a list of circumstances where the supplier fails to perform such contracts within the time-limit, explanations on the delay situation and the liabilities for such delay, a list of litigation cases in which the supplier has been involved in the liability to pay compensation up to the date of tendering and explanations thereof, issued by an attorney, or statements explaining whether and how the supplier is able to fulfill the contracts within the time-limit, if awarded the contract, etc.
3. Proof of professional skills of a supplier or those of its employees and personnel, such as certificates of professional competence, special skills or approval, licenses, examination certificates, qualification certificates, assessment certificates or other similar documents, approved and issued by government entities or organizations authorized by such entities.
4. Proof that a supplier has the requisite capability for repair, maintenance or after sales services, such as the proof that maintenance personnel had taken professional training, the proof that the supplier has already established, possessed or promised to establish, within a time-limit after the contract is awarded, its own or sub-contracted service station or shop, etc.
5. Proof of credibility of a supplier, such as the proof, issued by a clearing house or a financial institution within the last six months before the deadline for

tendering, that the supplier is not a debarred customer, and the proof of the recent 3 years concerning record of no bouncing checks, financial statements audited by an accountant, or credit certificates issued by a financial institution or a credit investigation agency, etc.

6. Any other requirements as prescribed in laws and regulations or by the responsible entity.

The number of personnel with special skills required by the proof referred to in subparagraph 3 of the preceding paragraph shall be in accordance with the requirements of laws and regulations.

Where the proof of record of no bouncing checks referred to in subparagraph 5 of paragraph 1, reveals that there was a record of bouncing check, and the check has been paid, it shall be deemed as a record of no bouncing checks. Where there is an evidence showing that the supplier is a debarred customer or has record of bouncing checks before the time-limit for tendering, an entity shall handle the case by evidence.

## **Article 5**

In conducting a special or large procurement, an entity may, based upon the characteristics of the procurement and actual needs and in addition to the basic qualification set out in Article 2, prescribe specific qualifications of tenderers according to any or all of the following, and shall state explicitly such qualifications in the tender documentation:

1. Suppliers who are well experienced or possessing actual achievements. The scope may include contracts of construction works, property or services which are the same or equivalent to the subject of the procurement in nature and completed within five years before the deadline for tendering. The single contract amount or quantity of the aforesaid must not be lower than two-fifths of the budget amount or quantity of the subject of the procurement, or the accumulated contract amount or quantity must not be lower than the budget amount or quantity of the subject of the procurement. The inspection and acceptance certificate or the proof of normally functioned condition after use issued by the procuring entity may be included.
2. Suppliers who employ substantial manpower. The scope may include the proof of having the professional and general human resources relevant to the subject of the procurement at present.
3. Suppliers who have sufficient financial resources. The scope may include the

proof that their paid-in capital is not less than one tenth of the budget amount of the subject of the procurement, or the financial statements audited by an accountant or an auditing entity and all attachments thereof for the previous fiscal year or for the latest year, and the content of which is in conformity with any or all of the following requirements specified in the tender documentation:

- (1) The equity is not less than one twelfth of the budget amount of the subject of the procurement.
- (2) The current assets are not less than the current liabilities .
- (3) The total liabilities do not exceed 4 times of the equity, except for government-owned enterprises conducting the privatization policy.

4. Suppliers who have substantial equipments. The scope may include self-owned equipments that are necessary for completing contracts of construction works, property or services which are the same or equivalent to the subject of the procurement in nature. Where the suppliers do not possess those equipments themselves, they may instead submit a proof of lease, lease commitment, purchase, or purchase commitment after being awarded with the contract.

5. Suppliers who hold the international or national quality management certification documents.

6. Any other requirements as prescribed by the responsible entity.

The time period, quantity, value or proportions referred to in subparagraphs 1 and 3 of the preceding paragraph shall not be narrowed down, but may be loosened up by an entity depending on the characteristics of the procurement and actual needs. The term " paid-in capital " referred to in subparagraph 3 denotes the total amount of capital stock of a limited company, an unlimited company, or an unlimited company with limited liability shareholders. The amount of private investment according to relevant promotional laws shall be deducted from the total liabilities referred to in item 3 of subparagraph 3.

In prescribing qualifications based on the budget amount pursuant to subparagraphs 1 and 3 of paragraph 1, an entity shall specify such budget amount in the tendering notice or tender documentation. For a procurement of services where the period of contract performance exceeds one year, provided that it involves mainly the supply of labor for recurring jobs, the qualifications of which shall be prescribed on the basis of the budget amount of the first year.

## **Article 6**

A procurement of construction work constitutes a special procurement if any of the following circumstances exists:

1. where a structure for construction is over 50 meters in height or over 15 stories;
2. where a structure for construction has a single span of over 50 meters;
3. where a digging depth exceeds 15 meters;
4. where a tunnel for construction exceeds 1000 meters;
5. where it is a underground or underwater construction;
6. where special construction methods or technology are used;
7. where historic structures are renovated, demolished or moved; or
8. any other circumstances as determined by the responsible entity.

## **Article 7**

A procurement of property or service constitutes a special procurement if any of the following circumstances exists:

- 1.the nature of the specifications, manufacturing process, supply or use of the subject of the procurement is special;
- 2.the completion of the subject of the procurement requires personnel having special professional or technical skills ;
- 3.the completion of the subject of the procurement requires special machinery, equipment or technology;
- 4.art works or ancient articles of historical, cultural and memorial value; or
- 5.any other circumstances as determined by the responsible entity.

### **Article 7-1**

Where the content of a procurement involves construction work, property and service, or any two of them, and the procurement has been determined to be one of the aforesaid categories, an entity may, based on the percentage of the other portions in the procurement or other relevant portions, prescribe specific qualifications of tenderers for those portions if they are in conformity with one of the circumstances stated in the preceding two Articles.

## **Article 8**

The thresholds for large procurement are as follows:

1. procurement of construction work: NT\$ 200 million.
2. procurement of property: NT\$100 million.
3. procurement of service: NT\$20 million.

## **Article 9**

Where a large procurement is carried out by adopting multiple award or by dividing the procurement into several segments, the requirements relating to qualifications of tenderers in large procurement shall not apply, provided that the budget amount of each individual item or quantity, or each divided procurement does not reach the threshold for large procurement set out in the preceding Article.

## **Article 10**

Unless otherwise specified in the tender documentation, the qualification documents that must be submitted by the tenderers shall in principle be in photocopy form, yet the entity may notify the tenderers to provide the originals for examination.

Where there is an inconsistency between the size of the photocopy referred to in the preceding paragraph and that of the original, or where the photocopy has not been stated explicitly that it is in conformity with the original or the seal of the supplier has not been affixed thereon, provided that the foregoing matters do not affect the identification of the content or authenticity, the entity shall not refuse to accept those photocopies.

The certifying documents referred to in paragraph 1 may be replaced by electronic data approved by the competent authorities.

## **Article 11**

Where it is necessary to prescribe the qualifications of subcontractors for important items in the subject of the procurement, the relevant qualifications requirements set out in the Act shall apply.

## **Article 12**

Where an entity carries out a procurement that permits foreign suppliers to participate in tendering and prescribes in the tender documentation the qualifications documents that must be submitted by tenderers, foreign suppliers may, provided that they have difficulties in submitting the required qualifications documents, state in the tenders such circumstances occurred in their home countries, or submit equivalent documents instead.

## **Article 13**

In the event of prescribing any specific qualifications for the tenderers, an entity shall evaluate the number of potential qualified tenderers in advance, and review whether there exists any improper restriction on competition.

**Article 14**

When considering the financial, commercial or technical qualifications that are necessary for suppliers to perform contracts, an entity shall take the overall business activities, domestic or foreign, into account, and the activities completed shall not be limited to those for government entities, public schools or government-owned enterprises.

**Article 15**

In prescribing the tender documentation, an entity shall not, unless otherwise prescribed by other laws and regulations, impose restrictions on the place of registration or location of the suppliers.

The restrictions on the place of registration or location of foreign suppliers shall be carried out pursuant to Article 17 of the Act.

**Article 16**

In the event that non-corporate enterprises, established pursuant to the laws that govern the organization of government entities and exempted by laws from application for issuance of approval certificate for registration, certificates of company registration or commercial registration, contracting or business handbooks, proof of tax payment or proof of membership to commercial organizations, participate in tendering, such documents may be waived.

**Article 17**

This Standards shall take effect May 27, 1999.

The amendment to this Standards 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.