

CENTRAL TENDERS COMMITTEE

ARTICLE 1

A public tenders committee shall be set up with the title CENTRAL TENDERS COMMITTEE

.Ascribed there to and shall be attached to the Council of Ministers

This committee shall receive and decide public tenders and shall award such tenders .to the most suitable tendered in the light of the procedure outlined herein

ARTICLE 2

Ministries and government department shall not import commodities and /or commission contractors to carry

Out some works except by way of public tender through the central tenders committee specified in the preceding article A public tender could be restricted for participating by contractors whose names are approved in lists prepared by the .authorities concerned and approved by the central tenders committee

All provisions governing public tenders shall apply to restricted tenders (the fore .(goings accepted

ARTICLE 3

Excepted from the provisions of the preceding article, a government authority could independently import

Commodities and / or commission the execution of works direct or by way of tenders and not through the central tenders committee if the value of the contract is no in (excess of KD 5000 (Modified by Law No 81/77

.Such a contract shall more than once in one calendar month

Also, one transaction shall not be parceled in to several monthly deals. The value of each being within the limits of KD 5000

The Central Tenders Committee shall, if the value is in excess of the limit outlined in the preceding paragraph, allow a government authority to import a commodity and / or to commission the execution of work b direct labor if it is deemed in the public interest because of the type of goods of the nature of the required works or the .urgency, etc

The Central Tenders Committee shall be issued on the strength of a memorandum .sent by the government authority applying for such

ARTICLE 4

:THE Central Tender Committee shall be constituted as follows

members appointed for a term of two years by a decree from the Council of 1.6 Ministers, subject to reappointment. The Council of Ministers shall fix their

remunerations and shall appoint a Chairman and a Deputy Chairman to the
.Committee from amongst the said members
.A representative from the Ministry of Finance 2
.A representative from the legal department 3
(A representative from the Planning Board (ministry of planning 4
.A representative from the Government authority for which the tender has been let 5
A representative from the Government from the Government authority which will 6
.supervise the execution of the tender
Qumran at contract tender Committee meetings shall not be there unless site
members, at least, or present, and which should include the chairman or the Deputy
.Chairman and the representative of the legal Department

ARTICLE 5

A Tender participating in public tenders shall have to meet with the following
:prerequisites

He shall have to be Kuwait merchant whether an individual or a firm registered :1
.with Kuwait Commercial Registry and Kuwait Chamber of Commerce and Industry
He could be a foreigner provided he has a Kuwaiti merchant acting as a partner or
agent established by an official authenticated contract and providing the central
.Tenders Committee drafts special statutes for major project
He shall have to be registered in the Category List of approved Contractors or :2
.suppliers as per the provisions of the herein after mentioned articles

ARTICLE 6

The Secretariat of the Central Tenders committee shall prepare a registration list for
supplies applying for registration. Those to be entered in the importers list shall have
.to meet prerequisites specified in Para 1 of the preceding article

ARTICLE NO 7

The Central Tenders Committee shall entrust the matter of classification of
;contractors for public tenders to a committee comprised of
A representative from the Central Tenders Committee. Elected by this committee. 1
.As chairman of the classification committee
.A representative from the Ministry of Public Works 2
A representative from the ministry of communication post, Telephones an 3
telegraphs
A representative from the ministry of Electricity & water 4

.A representative from the ministry of Finance 5
The Central Tenders Committee shall appoint a Secretary to the Classification
.Committee
The Committee could, in the course of its work, make use of the services of
.technicians and experts of the various State establishments

ARTICLE 8

.The classification Committee shall classify the contractors in the following categories

CATEGORY 1

Shall be formed of contractors who are able to carry out major constructional projects
.of high engineering standards, the initial cost which being in excess of K.D 1 Million
Contractor in his category could participate in all types of public tendering within the
.limit of KD 5 Million unless the value of a tender let exceeds this amount
However, this category of contractors shall not participate in tenders worth less than
.KD 500.000

CATEGORY 2

Shall be formed of contractors whose technical and financial potentialities permit their
.participating in tender worth not in excess of KD 1 million
The contractors under this category shall not be permitted to simultaneously execute
.several jobs if the total value of the remaining works is in excess of KD 1 million

CATEGORY 3

Shall be formed of local contractors who are allowed to participate in tenders,
providing the total value of the works they are simultaneously executing is not in
.excess of KD 500.000

CATEGORY 4

Shall be formed of local contractors who are allowed to participate in tenders.
Provided the total works executed at the same time is not worth in excess of KD
.250.000

ARTICLE 9

The Classification Committee shall have the contractor registered in the category
conforming to his financial and technical status and the jobs previously executed by

him. And shall have to issue its decision within one calendar month from the date of application for classification. Any application shall be considered rejected unless a decision has been issued by the Committee within the said period
The Committee shall notify the applicant in respect of its appeal to the Central Tenders Committee in respect of the decision given by the Classification Committee rejecting his registration or enjoining his classification under a category inferior to the one applied for. The decision of the Central Tenders Committee in this respect shall be final

ARTICLE 10

A contractor shall not permit, unless he/she is a category contractor, to enter in general contracts worth in total in excess of the ultimate permissible limit
Also no tenders shall be awarded to him if the value of the said added to the value of the works yet to be completed at the time of atoning the tender, be in excess of the maximum permissible figure, taking into consideration the provisions of Article 8

ARTICLE 11

Not one person, or a group of persons, shall be permitted at his time of classification to register under more than one name and/or to submit more than one bid per tender. Excepting alternative offers where the conditions of the tender so permit
As for person having shares in separate companies being independent in finance, body corporate, engineers, staff and general administration set up, such a person could upon classification, have himself registered although each of his independent companies might have been registered

ARTICLE 12

A Contractor, after a lapse of one year following classification, could apply to the Classification Committee for reconsideration of the category he is registered under and to upgrade him to a higher category, A decision given by the committee in this respect is subject to appeal before considered final
A contractor, upon the ending of each year, could reiterate this request. Such requests for reconsideration of classification shall be subject to provisions of Article 9 hereof

ARTICLE 13

The Government shall not be responsible for establishing special letters of credit
Allocating special provisions for importing commodities from abroad unless this is

deemed necessary under the circumstances, by the government authority concerned and unless such has been specified in the tender conditions

**(PART II
PROCEDURE GOVERNING LETTING OF TENDERS
AND FILLING OF APPLICATIONS
ARTICLE 14**

The government authority concerned, prior to letting a public tender for the supply of a commodity or for the execution of works, shall make a draft detail specification about each and every article of work giving the necessary instruction to the contractors, complete detail drawings, accurate detailed bills of quantities showing unit items procedure to be followed in carrying out the contract and the penalties liable to be imposed in the event of a violation to the provisions of the contract and/or in the event of delay in execution, as well as the form of Tender and General Conditions of Contract

ARTICLE 15

The Central Tenders Committee, on the strength of the request made by the Government authority concerned, shall advertise the tender in the Official Gazette. The minimum possible period for validity, after the tenders are opened, shall be specified, so that such will not be in excess of 90 days

ARTICLE 16

The advertisement shall show the date and time for the return of the tender, the validity period, the product to be supplied and/or the work to be executed, the cash fees per copy of the terms and conditions of tender and the authority to which the tenders are to be submitted. This authority shall be the Main Office of the Central Tenders Committee

ARTICLE 17

The tender documents which include the terms and conditions of tender, bills of products or works etc, shall be prepared before the tender advertisement is published, so that these could be handed over upon request to any party after paying the scheduled cash fees to the authority specified by the Central Tenders Committee

ARTICLE 18

The government authority requesting a restricted tender shall produce a list of Contractors to which the tenders shall be confined and shall offer such list to the Central Tender Committee with a view to directing an invitation for participation

ARTICLE 19

The Central Tenders Committee shall notify the Government authority connected with the tender and shall forward a copy of the official Gazette in which the advertisement has been run, to the latter authority

ARTICLE 20

A Tenderer shall neither be a member of the Central Tenders Committee nor an official of the Government authority requesting the tender. The term Tenderer in applying the provisions of this article, shall cover the partner, agent, (client) official and member of the Board of Directors of the tendering firm or establishment

ARTICLE 21

Tenders shall be submitted in the official tender documents issued to tenderers

ARTICLE 22

Tenders shall be returned duly filled in and completed in all aspects according to the conditions outlined in the tender documents and in exact conformity with the implications of such documents. The tenderer shall and effect any alteration (lit: amendment) in the tender documents

Any tender invitation of this provision is considered null and void unless the Committee unanimously agrees to entertain it on account of considerations bearing of the public interest

ARTICLE NO 23

Should the tender documents permit submitting alternative offers and should be tenderer be desirous of submitting one or more alternative offers, then he shall have to obtain further set of official tender documents for each alternative offer, and shall have to legibly insert on each set of documents to the effect that said represents an alternative offer

ARTICLE 24

Pricing of all tenders shall be in the official currency, unless it is otherwise specified in the tender documents. The total sum shown in the form of tender shall be the figure considered by the Central Tenders committee regardless of any figure which might appear in the General Summary or which might occur in any other place in the tender documents. This in also regardless of any errors which the tenderer might commit whilst calculating his total sum. The tenderer shall not be permitted to effect any amendment to the said sum after handing in his tender

In the event that arithmetical error exceeds 5% of the total sum, the tender shall be ruled out unless the Committee unanimously approves the said for consideration bearing on the public interest

In the event of a discrepancy between the inserted in words and that in figures, then the Central Tenders Committee shall consider that which is the lowest

ARTICLE 25

Tenders shall not be accepted unless fixed total price are shown

ARTICLE 26

The tenderers shall return the tender document at the time and date specified and in the method prescribed in such documents

The documents shall be delivered in the respective official envelopes, duly sealed with sealing wax. The name of the sender shall neither be shown nor shall any mark or reference identifying the sender be affixed

Worn, damaged or mutilated envelopes shall not be accepted

In the event of the official tender envelope being damaged, misplaced or mutilated, the tenderer shall have to secure another replacement envelope in order to submit tender. Otherwise, the tender shall not be entertained unless the Committee unanimously decides to accept it on account of considerations bearing on the public interest

ARTICLE 27

The tender shall have to deposit with his tender (attached to the form of Tender) the initial guarantee in the form of an approved cheque or a letter of guarantee from a local bank or an insurance company approved by a local bank

The guarantee shall remain valid to cover the duration of the tender. Neither cash (guarantees nor unapproved cheques shall be entertained/ARTICLE (28

When the successful tenderer submits the final guarantee and signs the contract, the initial guarantee would be refunded to the unsuccessful tenderers

ARTICLE 28

When the successful tenderer submits the final guarantee would be refunded to the unsuccessful tenderers

ARTICLE 29

In case where the tender documents specify submitting samples of the goods or products, the tender shall not be acceptable unless accompanied by the required samples or by a receipt against delivery of the samples to the authority specified in the conditions of tender

In the event of (a tenderer) supplying local products requiring technical testing to establish suitability, specimens shall be submitted for testing and the result shall be forwarded to the Central Tenders Committee in the session scheduled for deciding the tender

ARTICLE 30

The tender shall remain valid and un retractable from the time of issue until the end of its validity. Any reduction in the rates will not be considered after the tender has been issued

ARTICLE 31

The public tender box shall be kept at the main office of the Central Tenders Committee

The size of the box shall be sufficient to hold the envelopes of all the tenders and its slot opening shall be wide so as to permit depositing of envelopes and shall be of the type that does not permit retrieving the envelopes through the slot openings

The box in question shall have three locks and the key of the first lock shall be kept by the chairman of the committee. The Deputy Chairman of the committee shall keep the key of the second lock and the secretary shall keep the third key of the third lock. The tender box shall not be opened except when the Committee is in session and when quorum is present

(PART III CONTRACTING PROCEDURE SECTION 1

PROCEDURE FOR OPENING OF ENVELOPES AND TECHNICAL TESTING

ARTICLE 32

The slot opening of the tender box shall be closed on the day and hour specified in the tender documents and shall be sealed with sealing wax until the seal is broken by the Tenders Committee

ARTICLE 33

.Any tender received after the time set for closing the box shall not be entertained

ARTICLE 34

The tender box shall be opened in the meeting room of the Central Tender Committee when the said Committee is in session. If quorum is not present the box shall not be opened and a report shall be drafted about the condition of the box to ascertain the soundness of the seals and to avoid depositing any further tenders. The meeting shall be adjourned and the members shall reconvene on the nearest .possible date

ARTICLE 35

Upon opening the tender box, the Central Tenders Committee shall open all the .tenders and enter the said in schedule prepared for the purpose

ARTICLE 36

Tenders not accompanied by the initial guarantee specified in article 27 hereof shall .not entertained

ARTICLE 37

In the event of any discrepancy or inconsistency being witnessed in the tender, the Central Tenders Committee shall decide acceptance or rejection according to the .provisions outlined in part 2 hereof

ARTICLE 38

All accepted tenders shall be referred to the competent Government authority so that the technical personal will study the said and submit recommendations in connection .therewith to the Central Tenders Committee within the period defined therefore
The committee may, in cases not requiring technical study, award the tender .Forthwith to lowest tenderer

ARTICLE 39

The Central Tenders Committee may decide referring the accepted to a special technical committee formed for the purpose. Such Committee could independently study the tenders and/or could study such tenders with the Government authority .concerned, as deemed appropriate by the Central Tenders Committee

ARTICLE 40

If the documents had been prepared by Consulting Engineering, such Consulting Engineers shall have to study the tenders and release recommendations in connection therewith and in collaboration with Government authority concerned

ARTICLE 41

The recommendations of the authorities specified in the three preceding articles shall not be binding in so far as the Central Tenders Committee shall decide the question of rewarding the tenders regardless of any recommendation the committees decision issued for rewarding the tender contrary to the recommendations of the technical body hereto fore referred to shelled a majority of 2/3 of the members of which the committee is comprised

SECTION 2

PROCEDURE TO BE FOLLOWED IN DECIDING ON A TENDER AND SIGNING A CONTRACT

ARTICLE 42

The decisions of the Central Tenders Committee shall be issued by the majority of the members resent unless the law specifies otherwise

ARTICLE 43

MODIFIED BY THE LAW NO 18/70) The Central Tenders Committee shall award) (the tender to) the tenderer with the pro requisites of the tender documents. Nevertheless, the Committee could award the tender to a tenderer who submitted a higher bid if the sum of the lowest tenderer was unreasonably low and does not import reassurance so far as the tenderer concerned. With regard to tenders for supply, the Tenders Committee shall give the priority when awarding such tenders to lowest offer who is offering local products and complies with document requirements, provided that the pries should not exceed than other lowest offer of similar products .(from aboard by 10% (Ten percent

The Committee prior to awarding a tender shall have to ascertain the availability of adequate financial provisions to cover the value of the awarded tender

ARTICLE 44

If the Central Tenders Committee believes that a strong justification exists for preferring a tenderer who submitted a high price with out the conditions in the

preceding article being met, this matter shall be referred to the Council of Ministers
.for a decision in connection therewith

The Council of Ministers shall neither bind it self to accept the lowest price not the
.technical recommendations without having to produce any reasons

ARTICLE 45

If upon checking the tender it is found that unit rates and details do not conform to
the total sum, then the total sum shall be considered, unless the error reflects an
increase in excess of the total of the unit rates in which case the correct total of the
unit rates in which case the correct total shall be considered without prejudice to the
.provisions of Article 24 hereof

ARTICLE 46

If it is found upon verification that some of the unit's rates are not reasonable, the
Committee or technical personnel seconded by the Committee shall amend the said
together with the successful tenderer prior to awarding the tender to him and within
.the limit of the total figure of the tender

ARTICLE 47

Upon deciding a tender, THE Committee shall have to consult latest rates previously
applied, locally or aboard, as well as the prices ruling on the local market. Also the
committee if it deems appropriate to annul the tender due to high rates shall have to
.establish in its minutes the procedure adopted for determining the market prices
Annulling of the tender shall be by a decision from the Council of Ministers on the
.strength of a recommendation released by the Central Tenders Committee

ARTICLE 48

The tender shall be relit if only one bid is received for some or all the products or
work although it might be in fulfillment of the requirements. A tender shall be
considered a sole tender if received together with other tenders contrary to the
conditions or not meeting with the requirements which disqualify entertaining.
Nevertheless, in the event of urgency, a sole tender could be accepted by virtue of a
.decision issued with the approval of 2/3 of the Tenders Committee members

ARTICLE 49

If only one tender is submitted after the tender has been relit, the Committee shall
.discuss its rates and suitability and give a decision in respect there of

ARTICLE 50

If two or more tenders have show even rats, the Committee could divide the quantities advertised between the parties who submitted even rates, provided they are agreeable to this and provided such a procedure is not detrimental to the work .interest. Otherwise lots will be cost

ARTICLE 51

The tenders Committee shall notify the successful tenderer, document ally, regarding the acceptance of his tender and a copy of such letter shall be forwarded to the .Government authority concerned

ARTICLE 52

Awarding the tender and notify the successful tenderer respectively shall not entitle the contractor to any rights form the State, in the event of retracting the awarding of the tender by virtue of a decree of the Council of Ministers and as per the provisions .hereof

The tendered shall not be considerer under contract except from the date on which .signature is affixed on the contract referred to in the following article herein

ARTICLE 53

The Government authority letting the tender (employer) shall ask the successful tendered to present himself for signing the contract within the said lapse specified. If the contractor fails to present himself within the lapse for concluding the contract, he .shall then be considered withdrawn

ARTICLE 54

The successful tenderer shall be requested prior to signing the contract to present the final guarantee to the Government authority concerned, failing to present such a guarantee, he shall be considered withdrawn. The final guarantee shall remain valid .for the whole duration of execution of the contract

.The tenders Committee shall assess the final guarantee to be provided

ARTICLE 55

If the successful tender fails to present himself for signing the contract within the lapse defined and/or if he fails to provide the final guarantee or withdraws for any other reason without presenting a reason acceptable to Central Tenders Committee, he shall then forfeit his initial guarantee and shall be liable to any other penalty

imposed by the committee, e.g. crossing his name off the list of approved contractors and suppliers permanently or for a certain period
The tenderer reserves the right to appeal the decisions indicated in the preceding paragraph to the Council of ministers

ARTICLE 56

In the event of the withdrawal of the successful tenderer, the Central Tenders Committee shall consider on the strength of the request of the Government authority concerned, the question of annulling the tender, relating and/or awarding the same to the second lowest tenderer as per the provision hereof

(PART IV)

CONCLUDING PROVISIONS

ARTICLE 57

The penalties to be imposed by the Central Tenders Committee on contractors and suppliers shall be as follows

- .A. Serving a warning
- .B. Reducing the category
- C. Removal from the approved list permanently or for a certain period these penalties shall not prejudice the contractual rights of the contracted Government authority as per the contract conditions

ARTICLE 58

The Committee shall issue its decision exacting appropriate penalty (to fit the Contractor's offence) after calling the contractor and hearing his defense. The absence of the contractor shall not hinder issuing decision

A contractor against whom a penalty had been issued could appeal against such a decision to the Council of Ministers as per the provision of Article 62 hereof

ARTICLE 59

Until classification of contractors and registration of suppliers have been completed in the light of the provisions of article 8 and 9 hereof, the ruling classification in state ministers, each within the scope of its jurisdiction, shall apply

The Central Tenders Committee shall define the period during which the provisions specified in the preceding paragraph shall remain valid providing such a period shall not be in excess of six months from the date of the constitution of such a Committee

ARTICLE 60

The Tenders Committee shall advertise the tender price on the notice board and its main office where the tender envelopes were opened. All the decisions of the central tenders committee shall be published in the official gazette, unless the committee .decides to defer publishing such decisions

ARTICLE 61

The Central tenders Committee shall have a secretary appointed by a decree from .the Council of Ministers

ARTICLE 62

Any party concerned could appeal to the Central Tenders Committee against decisions issued by the latter and the Committee shall convenes to urgently discuss such complain. If half of the members present believe that the complaint has any grounds, the matter shall be referred to Council of Ministers for a peremptory .decision

ARTICLE 63

The Central Tenders Committee shall prepare the general conditions for contractors for works and suppl and shall, at its discretion, commission any authority with a view .to drafting these conditions

ARTICLE 64

Amendments in excess of 5% of the total value of the tender shall not introduce, as .an increase or decrease, except with concurrence of the Central Tenders Committee

ARTICLE 65

Purchase of military equipment for the ministry of Defense and Security forces which are defined by a decree are exempted from the provisions of this law. This exemption .also applies to contracts of military installations in emergencies

ARTICLE 66

The Ministers each by virtue of the authority vested in him are to implement this law which shall be in force from the date publication in official Gazette