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Committee on Government Procurement

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CHECKLIST OF ISSUES FOR PROVISION OF INFORMATION RELATING TO ACCESSION TO THE AGREEMENT ON GOVERNMENT PROCUREMENT

Replies by Jordan

The following communication, dated 23 November 2000, has been received from the Permanent Mission of the Hashemite Kingdom of Jordan with the request that it be circulated to Parties.

Introduction

1. The Government Procurement Regime in Jordan is governed primarily by two Main Legislation: The Government Works Regulation No. 71 of 1986, issued pursuant to Articles 114 and 120 of the Constitution and the Supplies Regulation No. 32 of 1993, issued pursuant to Article 114 of the Constitution, and the instructions issued pursuant thereto, hereinafter referred to as "National Procurement Legislation". The two central procuring entities implementing these regulations are the Government Tenders Directorate (GTD) of the Ministry of Public Works and Housing and the General Supplies Department (GSD) of the Ministry of Finance.

2. The two regulations are the default authority for all government procurement of construction and engineering (technical) services and supplies respectively. Article 3 of Supplies Regulation provides that "this Regulation shall apply to all government entities whose budget is part of the Central Government Budget, and to all government entities which do not have a special supplies regulation, as well as to all government entities the Cabinet deems to be subject to this legislation". Article 31 of the Government Works Regulation provides that: "the provisions of this Regulation shall apply to all entities except: the Armed Forces, Public Security Department, Amman Municipality, Municipalities and Rural Councils, and Jordanian universities".

3. At present, many government entities whose budgets are part of the General Budget, such as municipalities and government departments and directorates, have their own procurement regulations. Procurement by municipalities and rural councils is governed by Municipalities and Rural Council Supplies and Works Regulation No. 55 of 1989, issued pursuant to Article 59 of the Municipalities Law No. 29 of 1955, and the Administration of Rural Council's Law No. 5 of 1924. Amman Municipality, however, has its own procurement regulation.

4. Moreover, some government departments and directorates have their own special procurement legislation. Many of the government corporations (which enjoy financial and administrative autonomy) self refer in their laws to the Main procurement legislation, while a few such entities have special legislation governing their own procurement. As an exception to the general tendency for government entities to refer to the main regulations in the absence of special

legislation, some entities such as state universities refer to the procurement legislation of a similar key institution, i.e., the university of Jordan, rather than central government procurement regulation.

5. Although the government procurement regime in Jordan is not governed by a single general legislation, government procurement methods and principals contained in the various procurement legislation are to a large extent uniform. As this Checklist will point out, there are no major substantial inconsistencies between the provisions in the Main two government regulations and the procurement provisions in special procurement regulations. Although not mandated by law, in practice the Main procurement regulations have served as model legislation for special procurement legislation adopted by various departments and entities. This conclusion is based on an examination of the content of the special legislation in comparison with the Main procurement legislation.

6. For the purposes of this Checklist, the majority of the questions are answered in accordance with the two Main regulations for the reasons indicated above. Nonetheless, the differences, if any, are indicated when necessary and referred to other applicable legislation in accordance with each question. The scope of supplies covered by the Supplies Regulation No. 32 of 1993 covers both supplies of goods and services except engineering consultancy services (technical services) that are covered by the Government Works Regulation No. 71 of 1986 that also covers works (constructions).

7. With respect to the need for training or other capacity-building efforts relating to the items of the Checklist, Jordan will be submitting its needs for technical assistance at a later stage.

I. LEGAL FRAMEWORK

1. *Is there a single central law on procurement? If so, please specify?*

The government procurement regime in Jordan is not governed by a single central law.

2. *What are the other laws, regulations, decrees, administrative rulings, decisions, policy guidelines and other instruments governing government procurement? Please provide a summary of the subject areas dealt with by each of these instruments. Please also explain the main differences (if any) that exist between their application at the central and sub-central levels of government and at other types of entities.*

Schedule (1) Central and Sub-Central Level

Title	Number and Date	Description
Property Lease for Government Purposes Regulation	No. 70 for the year 1973	Regulates property leasing by ministries, governmental agencies and public establishments.
Government Works Regulation	No. 71 for the year 1986	<ol style="list-style-type: none"> 1. Regulates governmental works and engineering (technical) services. 2. Sets out the jurisdiction and competence of the Government Tenders Directorate. 3. This regulation entitles the Government Tenders Directorate to follow up on the classification and qualification of contractors and qualification of consultants in coordination with the competent entities and maintain information pertaining to such and to their activities. <p>This regulation applies to all governmental entities except the armed forces, public security department, Amman's municipality, local government councils, and public universities.</p>
Construction Contractors Law	No. 13 for the year 1987	<ol style="list-style-type: none"> 1. Sets out Contractor's registration requirements of the Contractors' Association. 2. Regulates the Construction Contractors' Association.
Standard Works Contract – Part (1) General Rules, Part (2) Special Rules		Standardized contract for all works projects.
Qualification Instructions for Engineering/ Architectural Firms and Consulting Firms	For the year 1996	<ol style="list-style-type: none"> 1. Sets out types of qualification and qualification procedures thereof. 2. Sets out the qualification basis which include: specialties of these firms, expertise, technical staff, and its equipment according to special appendices prepared for this purpose.

Title	Number and Date	Description
Classification Instructions for Construction Contractors	For the year 2000	<ol style="list-style-type: none"> 1. Sets out classification rules, requirements and procedures including the jurisdiction and competence of the Classification Committee. 2. Entitles the Minister of Public Works and Housing to specify the various rules that apply to each class of contractors such as limitations on the amount and or the number of projects that each class can participate in at the same time.
Amman's Municipality Supplies and Works Regulation	No. 12 for the year 1988	<ol style="list-style-type: none"> 1. Regulates supplies and works procurement procedures including rules of tendering, receiving, paying, and selling of supplies. 2. Regulates works procedures, e.g. direct execution and tendering procedures.
General Instructions for Amman's Municipality Works and Supplies Tendering		Regulates documentation of tenders including invitation notices, submission, receipt, opening, consideration and awarding of contracts.
Public Security Consumer's Cooperative Regulation	No. 84 for the year 1974	<ol style="list-style-type: none"> 1. Aims to enable the beneficiaries (Public Security Employees) to procure food and other supplies at a convenient rate. It creates a special Board empowered to decide the types and methods of procuring these supplies. 2. Procuring is governed by a Supplies Regulation and is executed through Tenders Committees or Procuring Committees. 3. The Cooperative may procure these supplies from domestic as well as foreign suppliers.
Public Security Supplies Instructions	No. 1 for the year 1996	<ol style="list-style-type: none"> 1. Sets out the general conditions for entering into a tender and contracting with Contractors, e.g., bid bonds, performance guarantees. 2. Sets out tender procedures, i.e., invitation, opening, receiving and awarding of tenders, in addition to penal conditions.
Municipalities and Rural Councils' Supplies and Works Regulation	No. 25 for the year 1989	<ol style="list-style-type: none"> 1. Regulates local government councils' procurement procedures, e.g., supplies' procurement, receiving, distributing, selling... 2. Regulates works procurement, e.g., formation of tenders committees.

Title	Number and Date	Description
Supplies Regulation	No. 32 for the year 1993	<ol style="list-style-type: none"> 1. Sets out the scope of application of its rules. It applies to all governmental entities covered under the General Budget and to all entities that do not have its own supplies regulations and to any other entity as stipulated by the Ministers' Council. 2. Defines the General Supplies Department jurisdiction and responsibilities and specifies the general rules for supplies' procurement including procuring from a foreign supplier. 3. Sets out the rules for creating the various tender committees under this regulation, e.g., Central Committee, Local Committee and Special Committee. 4. Sets out tender procedures and rules, e.g., receiving, warehousing...
Instructions of Tender Procedures and Conditions of Participation and its amendments	No. 1 for the year 1994	<ol style="list-style-type: none"> 1. Sets out tendering procedures, e.g., invitation notices as well as identifies the general conditions for participation in governmental tenders, i.e., bonds and guarantees, invitation notices, submission, opening, selecting and awarding of contracts. 2. Specifies the contractors' liabilities and <i>force majeure</i>. 3. Sets out sampling and testing procedures as well as supplies' receiving procedures.
Instructions for Preparation of the Departments Supplies Requirements Lists and Organization of the Purchasing Requests Related Thereto	No. 2 for the year 1994	Sets out the mechanism for preparing the annual supplies requirement lists and the preparation of the procurement orders thereof.
Instructions for Administration and Organization of Government Warehouses and Stock Control	No. 5 for the year 1994	<ol style="list-style-type: none"> 1. Regulates government warehouses management and warehousing procedures, e.g., inventory testing and receiving. 2. Regulates inventory control and inspection procedures.
Instructions for Ministries and Governmental Agencies Supplies Procurement through Ways other than Tendering	No. 1 for the year 1995	Regulates the entities' ability to procure supplies through ways other than tendering, provided that the value of these supplies does not exceed JD 5000.

Title	Number and Date	Description
Fiscal Regulation	No. 3 for the year 1994	Regulates the Government expenditures including payments due as a result of a tender awarding and sets out the prerequisites of making any such payments thereof.
Fiscal Affairs Implementation Instructions	No. 1 for the year 1995	Specifies in detail the process of implementing the rules included in the Fiscal Regulation.
Municipalities Fiscal Regulation	No. 4 for the year 1955	Regulates the municipalities expenditures rules including payments due as a result of a procurement.
Municipalities and Rural Councils' Supplies and Works Regulation	No. 55 for the year 1989	Sets out the rules for supplies and services and works procurement including procurement procedures.
Rural Councils' Fiscal Regulation	No. 34 for the year 1985	Asserts the implementation of the Municipalities Fiscal Regulation rules on townships as well.
Government Works Tendering Instructions	No. 71 for the year 1987	Sets out the tendering procedures and participation conditions, e.g., invitation notices, time-limits, tenders submission and opening, and awarding of contractors rules, as well as contractors qualifications conditions.
High Committee for Procurement Regulation	No. 50 for the year 1994	Provides for establishing a High Committee for procurement entitled to oversee procurement procedures of the various entities. This regulation is not implemented as such Committee is not yet established.

Schedule (2)
Public Corporations

Name of Corporation	Procurement Legislation	Notes
Public Transport Corporation	<ul style="list-style-type: none"> - Supplies Regulation No. 21 for the year 1980. - No Constructions Regulation. 	<ul style="list-style-type: none"> - The Supplies Regulation is issued in accordance with Article 16 of the Public Transport Corp Law No. 21 of 1975, which was repealed. - Article 16 of the Public Transport Corp. Law No. 16 for the year 1985 requires the issuance of a constructions reg. It has not been issued up to this date.

Name of Corporation	Procurement Legislation	Notes
Central Bank of Jordan	<ul style="list-style-type: none"> - Supplies Regulation for the Central Bank of Jordan No. 8 of 1970 issued pursuant to the Central Bank of Jordan Law No. 93 of 1966. - No regulations for construction services. 	<ul style="list-style-type: none"> - Procurement of supplies is conducted in accordance with the Supplies Reg. for the CBJ. - Construction services are conducted in accordance with the Government Constructions Regulation No. 71 of 1986.
The Ports Corporation	Regulation for the Ports Corp. Supplies and Works No. 77 of 1981	<ul style="list-style-type: none"> - Issued pursuant to Article 15 of The Ports Corp. Law No. 28 of 1978. This Law has been repealed. - Article 15 of the new Law No. 36 of 1985 provides that the MC may issue regulations to regulate procurement procedures. No such regulations have been issued up to this date. - Supplies Reg. and the Govt. Works Reg. apply pursuant to Articles 3 and 31 respectively (default provisions).
<ul style="list-style-type: none"> - Jordan Securities Commission - Depository Center - Amman Stock Exchange 	<ul style="list-style-type: none"> - No construction services regulation. - Supplies Regulation No. 93 of 1998. 	<ul style="list-style-type: none"> - Article 81 of the Securities Law No. 23 of 1997 provides that the MC may issue regulations to regulate procurement procedures. No such regulations have been issued up to this date. - Construction services procurement is conducted in accordance with the Government Works Regulation No. 71 of 1986.
Jordan University Supplies and Works Regulation	No. 21 for the year 1987 [each public university has its own regulations concerning supplies and works procurement]	Sets out the supplies and works rules and procedures.
Jordan University Supplies and Works Regulation Implementing Instructions		Specifies in detail the rules pertaining to supplies and works procurement set out in the Reg.

- **The main differences that exist between their application at the central and sub-central levels of government and at other types of entities.**

Procurement procedures for municipalities and rural councils are governed by special regulations, the Municipalities and Rural Councils Supplies and Works Regulation No. 55 for the year 1989. The main differences between these procedures and the procedures followed by the central government entities pursuant to the Supplies Regulation and the Government Works Regulation are:

- (a) One regulation governs the sub-central entities' procurement procedures in both supplies and works. Moreover, this regulation is issued pursuant to the Municipalities Law whereas the Supplies Regulation and the Government Works Regulation are issued pursuant to Articles 114, 120 of the Constitution respectively.
- (b) Municipalities and rural councils follow the same procurement methods as central government entities, i.e., open tendering, selective tendering, and limited tendering. Nonetheless, the Supplies Regulation provided four circumstances where selective tendering may be used and nine circumstances where limited tendering may be used. On the other hand, the Municipalities Regulation provided nine circumstances where selective tendering may be used and four circumstances where limited tendering may be used.
- (c) There are some variances in relation to the amounts and the jurisdiction of procurement committees thereof.

In conclusion, there are no substantial differences between procurement regulations at the central and sub-central levels of government.

3. *To what extent will the provisions of the Agreement be applied directly or need to be transposed into the relevant law? In the event of direct application of the Agreement over conflicting provisions of domestic law, please indicate the relevant legal basis.*

The most common practice is that after signing and acceding to an Agreement, the Government of Jordan would refer such Agreement to the Parliament for ratification. When ratified by the Parliament, an Agreement passes as a Law. Thereafter, the Parliament refers it to the King for endorsement. (Article 31 of the Constitution.)

In the event that the Agreement is passed as a Law, it shall be directly applicable and binding to all entities that are subject to the Agreement. Accordingly, the Government of Jordan will issue a legislation that reflects Jordan's obligations under the Agreement on Government Procurement.

II. SCOPE AND COVERAGE

4. *Please summarize the organization of the government in your country at each level.*

Under the Jordanian Constitution H.M. the King is the head of all authorities: the Executive Authority, the Legislative Authority and the Judicial Authority.

The Executive Authority consists of the Prime Minister, the Council of Ministers and the various Ministries and Government Departments (Central Government). At the sub-central level, it consists of the various municipalities and rural councils.

The Legislative Authority consists of the Senate and the House of Deputies. The Judicial Authority consists of Religious, Special and Civil Courts.

5. *Please list all central government entities (ministries, departments, agencies, etc.) procuring goods, services and construction services.*

1. Ministry of Defense
2. Ministry of Interior
 - Public Security Department
 - Civil Defense Department
 - Civil Status and Passports Department
3. Ministry of Justice
4. Ministry of Health
5. Ministry of Foreign Affairs
6. Ministry of Industry and Trade
7. Ministry of Planning
 - Statistics Department
8. Ministry of Municipal and Rural Affairs and the Environment
9. Ministry of Information
 - Jordan News Agency
 - Press and Publication Department
10. Ministry of Youth
11. Ministry of Tourism and Antiquities
 - Antiquities Department
12. Ministry of Finance
 - Customs Department
 - Income Tax Department
 - Budget Department
 - Lands and Surveys Department
 - General Supplies Department
13. Ministry of Awqaf Islamic Affairs and Holy Places
14. Energy and Mineral Resources Ministry
15. Ministry of Culture
 - National Library
16. Ministry of Agriculture
17. Ministry of Public Works and Housing
 - Government Tenders Directorate
18. Ministry of Education
19. Ministry of Labor
20. Ministry of Social Development
21. Ministry of Water and Irrigation
22. Ministry of Post and Telecommunication
23. Ministry of Transport
 - Meteorological Department

6. *What entities at the sub-central level of government (states, provinces, municipalities, etc.) procure goods and services?*

In Jordan the main sub-central entities are municipalities and rural councils. These entities procure goods and supplies in accordance with the Municipalities and Rural Councils' Supplies and Works Regulation No. 25 of 1989, except for Amman Municipality which has its own supplies and constructions regulations.

7. *Which are the enterprises owned or controlled by the government that are subject to the rules on government procurement? Which are the other entities or categories of entities (Annex 3-type of entities) owned and controlled by the government that engage in procurement? Specify.*

Public corporations that have a special law which accords them financial and administrative autonomy, such as:

- The Central Bank of Jordan
- Hedjaz Jordan Railway
- Social Security Corporation
- Telecommunications Regulatory Commission
- Jordan's Securities Commission
- Postal Saving Fund
- Institute of Public Administration.

8. *Do entities listed in response to questions 5, 6 and 7 apply in their procurement the main law (if one exists), other legislation provided by the federal or central level of government or are they autonomous from federal or central level of government in their procurement rules and practices? Where any of these entities are not subject to the main procurement law, please list the entities concerned and indicate which laws, regulations, etc., they are subject to. How will you government ensure the implementation of the Agreement by such entities below the central/federal government level?*

Please see *Schedules 1 and 2* in question 2 above. Entities that are listed in question 7 above and not listed in *Schedule 2* in question 2 apply the National Procurement Legislation.

Entities below the central level of government are not autonomous from central state level government in the implementation of the Agreement. Once the Agreement is passed as a Law, it shall be directly applicable and binding to all government entities that are subject to the Agreement.

9. *Are there any general exceptions from the scope of application of the national procurement rules, for instance for essential national defense or security reasons? Please provide details.*

Article 12(b) of the Military Supplies Regulation No. 3 for the year 1995 provides that the Prime Minister, pursuant to a recommendation from the Chief of Staff may, in exceptional or expeditious circumstances, form a special committee from at least three senior officers which may procure supplies without applying the rules of the said Regulation.

Article 2 of the General Intelligence Department Supplies Regulation No. 84 for the year 1966 provides that all supplies' procurements for the Department shall be executed by committees formed from the Intelligence Department and one representative from the Audit Bureau, except "covert procurements" which shall be executed through the Intelligence Department officers only. The General Intelligence Director decides whether procurements are covert or not and sets out the procedures thereof, provided such procedures are accepted by the Prime Minister.

10. *Please provide available statistics on the procurement by government entities in your country in the last two years, including, to the extent available, a breakdown by entity and by categories of products and services.*

Please see attached Schedules 1, 2 and 3.

Schedule No. 1: Volume of Procurements of Goods and Services Procured by the Central Procuring Entity (GSD)
Classified According to Types of Items

[Values in Million JD]

Year	Medical Supplies and Their Accessories	Medical Laboratories Equipment	Medical Prescriptions	VACCINATION	Agricultural Veterinary Supplies	Stationary Publications & Stamps	Furniture & Utensils	Clothing & textile	Cleaning & Hospitality Services	Insurance Services	Maintenance & Internal Transportation Services	Batteries & Oil & Greases	Telecom municatio n Equipme nt	Computers & Accessories	Vehicles Machines & Tires	Office Equipme nt	Supply & Primary Materials	TOTAL
1995	7.000	5.500	12.900	0.620	0.400	3.700	1.700	0.270	7.900	2.750	0.714	0.495	8.00	2.440	5.870	5.490	5.640	71.380
1996	6.070	2.460	14.540	0.240	0.251	2.080	1.400	0.343	2.470	1.615	0.281	0.443	3.855	0.463	5.217	3.900	3.950	53.779
1997	2.562	4.970	21.030	0.550	0.750	2.131	2.540	0.737	9.625	1.016	0.710	0.807	5.117	1.882	4.466	3.466	3.469	65.828
1998	2.400	4.790	17.360	0.741	0.700	4.893	2.261	0.584	5.050	1.283	0.283	0.197	0.733	0.922	7.230	4.760	3.831	61.000
1999	4.170	5.069	19.499	0.267	0.247	1.819	1.755	0.672	7.302	0.972	0.236	0.197	2.515	1.249	2.905	2.858	3.439	55.541

Schedule No. 2: Volume of Procurements of Works and Engineering (Technical) Services Procured by the Central Procuring Entity (GTD)
in Different Fields of Works
[Values in Million JD]

Year	Fields of Works						
	Roads	Buildings	Water Pipes and Sewage	Electromechanics	Infrastructure	Other Works	Total
1995	66.7	57.8	48.7	11.5	-	0.9	186
1996	11.4	40.4	48.5	12.7	-	3.1	116
1997	7.2	47.0	25.7	0.3	13.5	1.6	95
1998	7.0	77.0	89.6	0.6	0.4	1.8	176
1999	15.4	41.9	2.3	-	-	2.7	62

Schedule No. 2 [Volume of Procurements of Works and Engineering (Technical) Services Procured by the Central Procuring Entity (GTD)
in Different Developmental Areas]
[Values in Million JD]

Year	Developmental Areas									
	Transport	Education	Water Pipes and Sewage	Health	Energy	Housing	Telecommunications and Media	Defense and Security	Others	Total
1995	68.3	11.9	53.9	1.6	0.6	7.5	13.7	0.0	28.2	186
1996	21.5	7.0	49.3	16.8	0.3	2.1	0.1	0.0	19.1	116
1997	13.8	30.1	35.7	2.2	2.4	1.8	0.7	0.0	0,8	95
1998	13.9	24.8	90.0	24.8	1.0	9.2	0.4	0.0	13.1	176
1999	35.7	5.3	7.3	1.3	-	0.2	2.8	0.3	9.3	62

III. NATIONAL TREATMENT AND NON-DISCRIMINATION

11. *Identify the specific provisions in the legislation which reflect the national treatment and non-discrimination commitments of Article III of the Agreement.*

There are no explicit provisions in the National Procurement Legislation that reflect the national treatment and non-discrimination commitments of Article III of the Government Procurement Agreement.

12. *Please provide details of any provisions in national legislation according domestic supplies and suppliers treatment more favourable than that accorded to foreign supplies or suppliers or according supplies or suppliers of any country more favourable treatment than those of any other country.*

Supplies:

Under the Supplies Regulation No. 32 for the year 1993:

Article 12 provides that if specifications, quality degree, criteria and other conditions in the supplies offered and required for purchasing, become equal, the concerned authority of purchasing should consider:

- (a) Giving priority to the supplies produced in Jordan, provided that their prices should be calculated according to the preferential differential prices decided by the Cabinet.
- (b) Giving priority to the supplies offered by the bidder residing in Jordan permanently.

Article 13 grants preference to suppliers from countries that have signed special protocols and/or agreements with Jordan.

Works and Engineering (Technical) Services:

Regarding government works and engineering services according to the Government Works Regulation No. 71 for the year 1986 and amendments thereof:

Article 6(d) of the Government Works Regulation No. 71 for the year 1986 stipulates that when tendering for works and/or engineering services, only Jordanian contractors and consultants may carry out any construction project and/or render engineering services thereto, provided they satisfy the conditions stipulated in the tender. However, if it was necessary to invite foreign contractors and/or consultants, or if the project is financed by a foreign development loan, then the rules of Construction Contractors Law and the rules of the Jordan Engineers Association shall apply.

Article 16(a)(1) of the Construction Contractors Law No. 13 for the year 1987 provides that only Jordanian contractors may carry out any construction project. In case of special-nature projects however, it is permitted for foreign contractors to participate in executing these projects in joint venture or consortia with their Jordanian counterparts.

Article 16(a)(2) permit the Diplomatic missions in Jordan to construct and/or maintain their official buildings through local or foreign contractors provided Jordanian missions are granted reciprocal treatment.

Article 16(b) regulates the creation of a technical committee entitled to decide whether or not a certain project is of "special-nature" and sets out the basis for foreign participation and the form of such participation, and make recommendations to the Ministers' Council for final decision.

Article 16(c) permits foreign contractors to participate in executing projects financed by foreign development loans in association with their local counterparts or individually if necessary.

Article 6(e) of the Government Works Regulation No. 71 for the year 1986 indicates that all tenders shall provide for the usage of domestic products in all works, and stipulates however, that such products shall meet the required standards, and that the Jordanian Standards Rules shall be used to compare between the various products.

13. Please provide details of any provisions in national legislation allowing a locally established supplier to be treated less favourably than another locally established supplier on the basis of its degree of foreign affiliation or ownership or discriminating against locally established suppliers on the basis of the country of production of the good or services being supplied.

Supplies:

There are no provisions in the Supplies Regulation No. 32 of the year 1993 that accord a locally established supplier less favourable treatment based on the degree of foreign affiliation or ownership in selecting or awarding contracts to such suppliers.

Works and Engineering (Technical) Services:

Article 17 of Contractors Classification Instructions of 1992 sets out the conditions for the classification of Jordanian constructions companies affiliated with foreign companies. It provides that a Jordanian construction company affiliated with a foreign partner may only be classified upon meeting the following requirements:

- (1) The Jordanian partner shall meet at least 60 per cent of the classification conditions.
- (2) The classification conditions for the foreign partner shall be three-times those of the Jordanian companies' requirements. The foreign partner shall meet these conditions as a prerequisite for classification.
- (3) The company shall meet the classification requirements regarding the availability of certain technical, administrative and financial capability in accordance with the Instructions. And that the foreign partner's tools and equipment shall be continuously and actually located in Jordan throughout the term of classification as well as the foreign partner's engineers shall be registered with the Jordan Engineering Association.
- (4) The foreign partner shall transfer its share of the company's capital in hard currency to Jordan.

14. Please specify to what extent, if at all, more favourable treatment is granted to any sectors of the economy, regions or specific categories of suppliers or supplies.

There are no provisions in the National Procurement Legislation that award any sectors of the economy or regions or specific categories of suppliers any favourable treatment in the selection of tenders.

15. *Please specify any provisions requiring or allowing the use of offsets or measures with similar effect, such as domestic content, licensing of technology, investment, counter-trade or similar requirements in the qualification or selection of suppliers, products or services or in the evaluation of tenders and award of contracts.*

Supplies:

Article 18 of the Tenders Instructions No. 1 of 1994 issued in accordance with the Supplies Regulation No. 32 of the year 1993 requires any tenderer to submit a vocational licence/professions practicing permit that entitles the supplier to practice or deal with manufacturing, selling or supplying the required supplies; and a commercial register that details all the conditions stipulated by the Ministry of Industry and Trade, as a pre-requisite to participate in any tender. Accordingly, foreign suppliers may only participate through local presence as a local agent, regional office or an established Jordanian juridical entity.

Under Article 12 of the Supplies Regulation No. 32 of the year 1993 priority is given to supplies produced in Jordan provided that their prices should be calculated according to the preferential differential prices decided by the Cabinet.

Article 13 of the Supplies Regulation No. 32 for the year 1993 provides that in accordance with the rules of this Regulation, the procuring entity may procure goods and/or services in accordance with the Commercial Protocols and Agreements signed between Jordan and other Arab or foreign countries or entities.

Works and Engineering (Technical) Services:

Under the Investment Promotion Regulation No. 1 of 1996 and the Jordanian Engineers Association Law No. 15 of 1972 there is a 50 per cent foreign equity limitation in the construction and engineering services sectors. Any non-Jordanian contractor or engineering consultant willing to establish a Jordanian entity may not own more than (50 per cent) in such entity.

However, Article 16(c) of the Construction Contractors Law No. 13 for the year 1987 and the Jordanian Engineers Association Law No. 15 of 1972 provide that foreign contractors/engineering firms may undertake projects in Jordan only through a joint venture or consortia with a Jordanian firm. Foreign engineering firms may participate only in projects which demand expertise and knowledge not found in a Jordanian firm. Foreign contractors may participate only in projects of a special nature or in projects financed by foreign development loans. Foreign contractors may undertake projects financed by foreign development loans individually if so dictated by public interest.

IV. ELEMENTS SPECIFIC TO PROCUREMENT PROCEDURES

16. *Please provide a general description of your existing procurement methods and procedures, including the main procurement methods used and a brief description of each method, and the extent to which qualification of suppliers and open, selective and limited tendering for each level of government is used.*

Supplies:

According to the Supplies Regulation No. 32 for the year 1993:

Article 15 provides that the main procurement method shall be open tendering. Yet it permitted the following methods as well:

(A) Selective tendering in any of the following cases:

- (1) In case of urgent emergency need for supplies difficult to expect or predict where tender invitation is not possible.
- (2) In case the number of sellers, producers or suppliers of such supplies did not exceed three.
- (3) If the value of the supplies required does not exceed (5,000) five thousand dinar.
- (4) If the number of offers is not sufficient or suitable, and the authority invited for the tender is satisfied that it is necessary to purchase the supplies through requesting of proposals.

(B) Limited tendering (direct purchasing of supplies by negotiation with sellers, producers and suppliers) in any of the following cases:

- (1) If the required supplies prices were determined by the official authorities.
- (2) If the required supplies are needed to meet an emergency case that it is not possible to conduct tender invitation or requesting of proposals according to the request of the concerned minister.
- (3) If it is not possible to obtain the supplies except from one source only.
- (4) If the supplies required to be purchased are spare parts, or complementary parts or tools that are not available in more than one source, with the same degree of efficiency according to a technical report from specialists and experts.
- (5) Purchasing scientific materials such as films and manuscripts and as such.
- (6) If the purpose of the supplies required is to unified the item in the department, or to reduce variation therein, or to save possessing spare parts according to the concerned Minister request.
- (7) Purchasing services including maintenance, repair, replacement or testing provided that the work volume shall not be known at the time of purchasing.
- (8) If adequate offers can not be obtained through tender, requesting of proposal, the prices are not reasonable, or the complete quantity of the supplies required can not be obtained.
- (9) If there is a legal text or international agreement stating that the supplies should be purchased directly.

Article 14 permits purchasing supplies from abroad directly in the following two cases, provided that the concerned authority in purchasing should justify its decision:

- (1) If the required supplies are not available in Jordan, and it is not possible to purchase them through correspondence.
- (2) If the concerned authority in purchasing decided that purchasing such supplies directly from abroad is to the interest of the Government.

Article 13 permits procurement pursuant to commercial protocols and/or agreements between Jordan and other countries and/or entities.

Works and Engineering (Technical) Services:

According to the Government Works Regulation No. 71 for the year 1986:

Article 5 provides that the main procurement methods shall be: (1) Open tendering; (2) Selective tendering; (3) Limited tendering; and (4) Direct execution.

Article 6 seems to suggest that the main procurement method shall be tendering, provided however, that no invitations shall be made unless the funds for any project are already allocated. It also provides that the general policy shall be ensuring competition and providing a fair opportunity for all qualified contractors.

Article 19 provides that in the event a tender was announced and no reasonable number of suppliers applied, or the prices submitted were not reasonable, or the submitted tenders were conditional or incomplete, the Tender Committee shall furnish a report in that regard to the competent entity. The competent entity may decide to re-announce the tender or seek limited tendering.

Article 20 sets out the circumstances where limited tendering may be utilised. These circumstances include the following:

- (a) In case of exceptional and/or expeditious circumstances where tendering would not be feasible.
- (b) In case of unifying tools and equipment or reducing the variances of such, or in case of reducing the obtainment of spare parts, or in case of curtailing the need of expertise in utilising such tools and/or equipment.
- (c) In case of procuring spare parts or accessories or machines or tools or supplies that are not available at more than one supplier at the same quality standards.
- (d) In case of contracting on engineering services or providing scientific or specialized professional services.
- (e) In case of performing the works outside Jordan.
- (f) If the supplier is a governmental entity or a scientific entity, or the prices were fixed by the government, provided that a reasonable number of suppliers shall be invited if possible.

17. *Identify the provision in your country's legislation requiring non-discrimination as regards the qualification of suppliers in terms of Article VIII and selection of suppliers in terms of Article X. Indicate any exception to this requirement. What are the provisions ensuring non-discriminatory access of new suppliers to existing qualification lists?*

Supplies:

There are no pre-qualification requirements in the Supplies Regulation No. 32 of 1993. However, post-qualification is used in services tenders and some goods tenders such as computer and communication systems.

Works and Engineering (Technical) Services:

Qualification measures are governed by the Government Works Regulation No. 71 for the year 1986.

Article 4 requires the Government Tenders Directorate to oversee contractors and consultants qualification process in coordination with other relevant entities.

Article 23(e) requires the Minister to issue construction contractors classification schedules and publish them in the Official Gazette.

In addition, the Constructions Contractors Law No. 13 for the year 1987 regulates the registration requirements for contractors.

Article 3 requires all contractors to be licensed by the Ministry in order to be able to practice in Jordan. After fulfilling the licensure requirements, contractors must register their companies, firms or offices at the Ministry of Industry and Trade and the Contractors' Association. Article 4 provides that contractors may not be classified until after licensure and registration with the Ministry and the Association.

Construction Contractors Licensing Instructions for the year 1996 regulate the licensing procedures.

Article 3 provides that contractors shall not practice their profession pursuant to licensing until after fulfilling the classification procedures in accordance with the Constructions Contractors Association Law.

Article 6 requires the applicant to meet the following qualifications as a pre-requisite for licensure: The applicant shall be:

- (a) an Engineer registered in the Jordan Engineers Association; or
- (b) must have a community college degree in the works field and have practiced in this field for at least five years; or
- (c) a full-time partner who has previously worked in a classified constructions company and was a founding partner for over two years before quitting.

The Engineering Offices and Consulting Companies Qualification Instructions for the year 1996 regulate qualification procedures for consulting offices. Article 4 sets out these procedures as follows:

- (a) The Government Tenders Directorate shall announce in the newspapers for all interested consultants to apply for qualification.
- (b) Qualification shall be on a yearly basis.
- (c) When examining the qualification applications, previous performance and changes that have occurred on the situation of the consultants must be taken into account. Consultants must notify the Directorate with any changes that occurs in their situation within one month from the date of the change.
- (d) Qualification decisions shall be posted at the bulletin board located in the Directorate. Consultants may challenge these decisions within 30 days of the date of posting them.

- (e) The Directorate may at any time ensure that the consultants still meet the requirements. The Directorate may review its decision in the event that a consultant no longer fulfils these requirements.

There are different conditions and requirements for classification of Jordanian construction companies with foreign affiliation as explained in question 13 above.

18. *In situations where qualification procedures and selective tendering may be used, to what extent do entities allow suppliers to become qualified during the procurement process? To what extent do entities maintain permanent lists of suppliers?*

Supplies:

Although no qualification procedures are used, generally the central procuring entity (GSD) maintains a list of suppliers who meet the requirements set out in Articles 18 and 24 of the Tenders Instructions No. 1 of the year 1994 (i.e. vocational licence, required data and documents that show the bidder's experience and technical and financial capability, and a commercial register). Nevertheless, post qualification is used in services tenders and some goods tenders as mentioned in question 17 above.

Works and Engineering (Technical) Services:

According to the Government Works Regulation No. 71 for the year 1986:

Article 23 requires all entities to abide with the classification schedules in all government works. It further provided that:

- (a) All contractors in all types of works shall be classified into categories or classes according to their financial, technical, and managerial qualifications, as well as their equipment and expertise in executing works. The Ministers' Council shall pass Instructions to regulate the classification rules and conditions.
- (b) The Council of Ministers shall form a committee to study the classification applications of contractors for the various types of works.
- (c) The Minister shall publish the contractors classification schedules in the Official Gazette. He may amend such schedules by adding, omitting contractors or by amending their classification.
- (d) Contractors classification schedules shall be acknowledged in all government works in the Kingdom.

Article 4 of the Government Works Regulation entrusted the Government Tenders Directorate with the authority to follow up on the classification process of contractors.

Article 7(c) of the Government Works Tenders Instructions provides that any tender invitation shall include the categories and classes of contractors and/or consultants permitted to participate in this tender.

Article 17(c) of the same Instructions requires all Committees to abide with the contractors and consultants classification and qualification instructions whether they are Jordanian or non-Jordanian.

The Engineering Offices and Consulting Companies Qualification Instructions of 1996 issued pursuant to Article 4 of the Government Works Regulation defines "qualification" as the general qualification in each specialty according to the basis and instructions issued by the Government Tenders Directorate for the purposes of participating in engineering services tenders.

Accordingly, only classified local contractors and qualified local consultants may participate in government works and engineering (technical) services tenders that are funded by the General Budget. Classification is required only for local contractors, while qualification applies to both local and foreign contractors. Foreign contractors are required to be qualified for participation in a specific tender. Lists are only maintained for local qualified consultants and local classified contractors. Contractors and consultants are not permitted to be classified during the procurement process since only contractors and consultants who are classified are permitted to apply for tenders.

19. *What are the conditions and circumstances foreseen in your legislation allowing the use of the limited tendering method under Article XV of the Agreement? What measures exist in order to ensure that this method is not used with a view to avoiding maximum possible competition or in a manner which would constitute a means of discriminating among foreign supplies/suppliers or in favour of domestic supplies/suppliers?*

Supplies:

Article 15(b) of the Supplies Regulation No. 32 for the year 1993 identifies the circumstances where an entity may utilise the limited tendering method as explained in question 16 above. All procuring entities are obliged to abide with the provisions set out in Article 15 of the Supplies Regulation No. 32 for the year 1993 as in question 16 above.

Works and Engineering (Technical) Services:

The Government Works Regulation No. 71 for the year 1986 specifies the circumstances where an entity may pursue limited tendering for works procurement as opposed to the main method which is open tendering, as explained in question 16 above.

20. *Article XIV of the Agreement allows for negotiation under certain conditions. Are entities allowed to proceed to negotiations? If so, which categories and what are the conditions imposed?*

Supplies:

Negotiations are not allowed in the course of any tender. However, in practice negotiations are carried out in very limited cases mainly where the most successful bid price is substantially above the market or budget levels.

Works and Engineering (Technical) Services:

Negotiations are not allowed in the course of any tender.

21. *Article XI sets out the minimum time-periods for tendering and delivery. What are the rules and practices regarding time-periods in your legislation? Does the legislation reflect the various minimum time-periods as set out in the Agreement? If not, give information on any different time-periods which have been established in your national legislation.*

Supplies:

Article 7 of the Tenders Instructions No. 1 for the year 1994 regulates tenders announcing as follows:

- (a) The director general or secretary general should announce tenders serially numbered on an annual basis, in not less than three local newspapers, for more than one day, in addition to the other media that he may find appropriate.
- (b) The announcement should include details about tender's number, kind of supplies, the closing date for purchasing tender's invitation, the deadline for submitting offers, the price of the tender's invitation, and, any other matters that the director general or secretary general may find indispensable for announcement.
- (c) Upon the request of more than one bidder, or upon a certain necessity, the director general or secretary general may extend the date of submitting offers for an appropriate period. Whereas he may announce that in the same media used for announcing for the tender previously.
- (d) The director general or secretary general should announce the tender that has been decided to be re-invited for.

Time-limits for tendering and delivery specified in Article XI of the Agreement on Government Procurement are generally similar to a certain extent to those practiced in Jordan. In practice, tendering time for tenders funded from the General Budget is a minimum of 30 days. Tendering time for international tenders is a minimum of 40 days. However, these time-limits may change according to the nature of the tender.

Works and Engineering (Technical) Services:

According to the Government Works Regulation No. 71 for the year 1986:

Article 7(a) provides that the procuring entities shall give a sufficient time-limit for contractors and consultants to consider the tender's documents and submit their tenders.

Furthermore, Article 8(b) of the Government Works Tenders Instructions No. 71 for the year 1987 provides that there shall be a sufficient time-limit between the date of announcing the tender invitation and the date of submitting the tenders to enable the tenderers to consider and prepare their tenders. Stipulated that the time for distributing the tender invitations shall not be less than seven days and there shall be at least seven days between the last date of selling the tender invitation and documents and the last date for submitting the tenders.

Article 8(d) permits the Head of the Committee to extend the last date of submitting the tenders provided that such extensions are announced in the newspapers or notified to the participants.

Article 17(a) provides that in the event where the tender invitation and documents do not specify a time-limit for the tenderer to abide by his offer, the time-limit shall be 90 days from the date of submitting the tender.

22. *Briefly describe the procedures for the submission, receipt and opening of tenders and awarding of contracts, in particular the procedures and conditions guaranteeing regularity of the openings and consistency with the non-discrimination provisions of the Agreement. How is the information on the proceedings related to the receipt, opening and evaluation of tenders maintained by entities?*

Supplies:

These procedures are governed by the Supplies Regulation No. 32 for the year 1993.

Article 23 of this Regulation decrees the issuance of Instructions to regulate these procedures. Accordingly, all these procedures are governed by the Tenders Instructions No. 1 for the year 1994 and amendments thereof.

Articles 18-39 of the Instructions regulate the purchase of tender invitation, preparation and submission of the offers by bidders.

Article 18:

- (a) The bidder who wishes to purchase the invitation, should submit a certified copy of a valid professions practicing permit, that entitles him to practice manufacturing, selling, or supplying the required supplies, or deal therewith, he also should submit the extract of the commercial register that details all the conditions stipulated by the Ministry of Industry and Trade, to be entered in the commercial register, whereas the concerned employee should request these documents at the time of selling any tender's invitation, or once or more a year.
- (b) The bidder, who participates for the first time in department's tenders, is obliged to enclose a certified copy of the professions practicing permit and the extract of commercial register, with his offer.

Article 19: The bidder should pay the specified (non-refundable) fees for purchasing the tender's invitation with all documents and enclosures, against a duly issued receipt.

Article 20: The bidder should prepare his offer according to the documents of invitation after thoroughly reading and understanding the contents thereof. In case that the documents package is incomplete, or the bidder found missing documents therein, he should apply for the missing documents from the department which invited for the tender; the bidder should be responsible for all consequences for not checking and completing documents properly.

Article 21: When the invitation contains an indication that the supplies to be purchased should conform to the sample(s) available in the department or in any place specified by the invitation, the bidder should have to view and thoroughly examine the sample before submitting his offer; provided that the bidder's claim of not viewing and performing the required matching or examination should not constitute and excuse to elude from responsibility; and sample viewing should be already implied.

Article 22: The bidder should prepare his offer and prices based upon the enclosed schedules and forms to the invitation, and should seal and sign all of the tender's documents, submitting them enclosed in full with his offer. The bidder is entitled to add any documents or information that might be in-dispensable to clarify his offer, he should also state his complete and precise address in his offer including the post office box number, telephone, facsimile and telex to be used for correspondence purposes with respect to the tender. The bidder should notify the department in writing about any change to update his address, whereas all correspondences that used the last available address and sent by mail should be considered as if they have been delivered actually on time.

Article 23: The offer should be submitted in duplicate (the original and the duplicate copy) handwritten or printed legibly without erasure, altering, dropping or addition. If such editing is necessary, the bidder should sign in red ink next to this erasure, altering, dropping or addition, taking into consideration writing the prices in figures and words. The bidder should, also, quote the unit price and total price for every item in addition to the offer's total value (for the total of applied items). The prices should be considered inclusive for packing and wrapping; otherwise the tenders committee should be entitled to disregard the offer.

Article 24: The bidder should submit the required data and documents that show his experience and technical and financial capability, and the level of his services, as well as any other necessary requirements, when required, to prove his ability to meet his obligations and requirements of the tender, as per a certain form prepared for this purpose, for tenders require that.

Article 25: The bidder should submit the offer on two separate identical copies with the bid bond in one sealed envelope, unless otherwise requested in the tender's invitation with the name of the department who has invited for the tender thereon, in addition to the department's address: P.O. Box, the name and permanent address of the bidder, in addition to tender's reference number in a legible script, and, the closing date. Otherwise, the tenders committee may disregard the offer.

Article 26: The offer should be deposited by the bidder in the tenders' box at the department that has invited for the tender, before the expiration of the specified period, preferably, well ahead of the closing date to avoid any emergency. Every offer that should not be deposited before the closing date should be denied returned closed to its source. In case of not writing the sender's address or adequate information concerning the tender, the department may open that envelope to examine the contents and address if any, to be returned.

Article 27: Offers that are sent directly to the department by means of cable, facsimile, telex or telephone are not acceptable, unless otherwise explicitly stated in the invitation.

Article 28: Offers that are not duly signed and sealed or submitted incomplete and ambiguous in a manner that impedes awarding, should be disregarded.

Article 29: The bidder should enclose original copies or any catalogues, bulletins, know-how or statistical information that introduce the supplies either in Arabic or English, to his offer. The committee should disregard the offer in case of not enclosing the said materials; and the bidder should not be entitled to submit objection thereon.

Article 30: The bidder should submit the required samples in his offer, in case samples were immovable, he should specify the place and time for viewing them; otherwise, tenders committee may disregard the offer.

Article 32: The bidder is obliged to keep his offer valid and irrevocable for a period of (...) days from the closing date, unless otherwise explicitly stated.

Article 33: Offers should be accepted to supply quantities in whole or in part of the required supplies, an item, or more, unless otherwise stipulated in the tenders invitation.

Article 34: When the supplies delivery date was not specified in the tenders invitation, the bidder should exactly specify the delivery date. In case that the delivery date was not specified in either cases, it should be considered an immediate delivery (immediate is understood to be within one week from the date of signing the purchase order "the agreement").

Article 35: The bidder should state in his offer the country of origin for the quoted supplies, name of the manufacturing company, brand, trade name model and catalogue number or the brochure concerning the quoted supplies.

Article 36:

- (a) Enclosed with his offer, the bidder should submit a separate table of the spare parts recommended by the manufacturing company to be used for (...) years in normal conditions, indicating the item number as it is stocked in the manufacturing company, the quantity, and unit price. The total pricing should be binding to the bidder for the

specified period, and the department should be completely free to purchase them within this period in the pricing stated in the aforesaid table, while these spare parts should be brand new and original 100 per cent.

- (b) The bidder should be obliged to provide workshops and spare parts for the supplies that require so, for a minimum of 8 eight years or for the average operating life, unless otherwise stated in the invitation, the bidder should, also be obliged to enclose with his offer the escalation clause for the spare parts pricing, after the expiration of the period set forth in subparagraph (a) hereof, as it is in the county of origin.

Article 38: The bidder's offer should be considered a confirmation that he has not submitted his offer according to his relation with another bidder who applied for an item quoted in his offer, in all cases one bidder is not entitled to submit two separate independent offers for the same supplies either in his name or in his partnership's name, in this case both offers should be disregarded, and the bidder should have to resubmit one specified offer; the bidder could also, enclose some alternative choices in separate documents with his offer, provided that the value of the bid bond should be proportional to the offer's value or the substitute choice whichever the highest.

Article 39:

- (a) The bidder's offer should constitute, with the approved tender's documents after getting notified with awarding, and after the purchase order has been issued by the department, a legally binding agreement unless otherwise stated in the awarding decision and purchase order.
- (b) The bidder's offer should guarantee that the supplied items are brand new (100 per cent) and free of manufacturing or material defects and of up-to-date model, and its production is still continuous, unless otherwise explicitly stated in the contract.

Articles 40-43 of the Instructions regulates *opening* of tenders.

Article 40: Offers should be opened publicly in the place, date and hour specified in the tenders' announcement and in the presence of all the committee's members as for the supplies of common usage, and in the presence of the majority of the committee's members or four of them including its head, for the supplies of special usage, whereas every offer must be signed thereby. The tender's committee is also entitled to recite the total prices for each offer, whereas every bidder or his representative may attend the process of offers opening.

Article 41: A schedule (offers opening minutes) should be prepared by the secretary in which he registers the name of all bidders who participated in the tender with serial numbers. The bid bond value and its kind should also, be registered for every offer with any information the head of tenders committee might consider suitable. Minutes should be signed immediately after opening all offers in addition to stating the number of bidders that have participated in the tender in words, whereas any modifications therein, should be justified in writing, and consolidated by the signature of the tenders committee.

Article 42: Offers or any modifications thereon should not be accepted after the specified date and time of the closing date.

Article 43:

- (a) If the tenders' committee found that the participating bidders are less than the expected number, the committee should decide to extend the period of offers submission (re-tendering), or to change the tender into purchase by requesting for

proposals, in this case offers should be returned closed to bidders who submitted them against their or their representatives signature.

- (b) Upon the conviction of tenders committee of the uselessness of extension it may open the so far submitted offers, and make the necessary study and awarding, in case of finding the offered prices and supplies suitable.

Articles 44-51 regulate the *studying and evaluating of offers* procedures.

Article 44: Submitted offers should be conveyed to special tables therefore.

Article 45: Tenders committee or director general should specify the persons or parties that constitute the technical committee, which should study offers with respect to necessary technical, financial and legal affairs; and then submit its proper recommendation for the tenders committee.

Article 46: Any offer that is not consolidated by the bid bond should be rejected.

Article 47: Offers (Bids) submitted for the invitation should be studied into ascending price order according to the following:

- (a) Offers should be studied with respect of technical aspects in such a way that technical standards, should be specified according to the required supplies specifications on a table prepared for this purpose, and all offers should be subjected to the same criteria, with respect to bidder's commitment (in his offer) with the specifications and conditions of tenders invitation.
- (b) Bidders financial and technical competency to fulfil the tender's obligations should be considered.
- (c) Study of the offers should start with the lowest price offer and graduate into ascending order until finishing up the study of all the submitted offers.
- (d) In case that the offer has fulfilled all conditions, specifications and quality, the technical committee should recommend to award the tender on the tenderer submitted lowest prices.
- (e) Prices of the required supplies stated in the invitation should be compared to specify the lowest congruent, provided that the value of any appendages or spare parts that are not required to be priced in the invitation should be disregarded. Whereas, tenders committee should be entitled to accept appendages and spare parts in the winner offer after awarding it.
- (f) In the case that the requirements were not available in the lowest price offer, the study should go to the offer follows it in price, till it reaches to the suitable offer for awarding, provided that reasons of disregarding (offers with low prices) should be stated explicitly.
- (g) When defects or non-conformity is found in all offers (bids), it should be possible to purchase the offered supplies that satisfy the requirements of the beneficiary department that enjoy quality and suitable prices (the optimal offer).
- (h) Continuation of spare parts and maintenance availability and any other matters required by Supplies Act and the applied instructions should be considered.

- (i) The privileged price granted to national products should be considered in the studying process.

Article 48: In the case that a mistake was found in the offer concerning the total price, the unit price should be considered, and if more than one price for the unit price was found, the problem should be submitted to tenders committee to be settled down according to the implying evidences. The committee could disregard the offer in case of the evidence absence, and in case that there was a difference between the total price stated in figures and total price stated in words, the lowest price should be considered, unless otherwise tenders committee found sufficient evidences to approve the highest option.

Article 49: In the case that specifications, prices, conditions, and quality were all the same, the preference should be given to the bidder whose offer includes additional advantages, then the offer provides national products, then the offer of the bidder permanently resides in the Hashemite Kingdom of Jordan, then the shortest delivery time in the case it serves the interests of the beneficiary department.

Article 50: The Tenders' Committee is entitled to disregard the offer of the bidder who breaches his obligations before concluding the agreement, or the contracts already concluded with him, or who should not abide by the contract's terms, elude or cheat, and provided that violations have been committed in more than one agreement, or more than two times in a single agreement; and the committee should be entitled to deprive him from participating in tenders for the period it specifies.

Article 51: Before awarding the tender, tenders committee should consider the competency and experience of the bidder in the field of providing the required supplies, his goodwill, facilities provided by him or the service that he provides, spare parts, workshops, and solvency; whereas the committee could disregard his offer upon the absence of these requirements either wholly or partially.

Articles 52-64 regulate the procedures pertaining to *awarding* the tender.

Article 52: Tenders should be awarded to winners, with stating reasons according to the following:

- (a) The lowest conformity: If the lowest conformity offer includes the quality in the required supplies and conforming to the specifications and terms in the invitation.
- (b) The lower conformity: If there were some inconsistent offers and some conforming offers, the awarding should be assigned to the lower conforming.
- (c) The optimal: In the case of finding inconsistency in all of the submitted offers, tenders committee might choose the optimal offers with respect to quality, pricing, kind, and conditions that satisfy the required purpose only if the committee finds that up to the beneficiary's departments interest.
- (d) Any other reason that cope with the provisions of Supplies Act, provided that they are sufficiently justified.

Article 53: The tenders committee should reserve the right to disregard any offer that is insufficiently clear to be awarded or implying more than one interpretation.

Article 54: With respect to any offer, the tenders committee is entitled to award from any offer an item or more or any part thereof, unless otherwise the bidder has stipulated, moreover the committee may reject all the offers submitted thereto.

Article 55: The tenders committee may decrease or increase the required quantities invited for before awarding, without referring to the bidder, or after awarding, by the approval of the contractor, provided that the total increase or decrease should not exceed (25 per cent) twenty-five per cent either before or after awarding.

Article 56: The tenders committee may disregard any offer submitted by a bidder who had previously proven to be incapable or failed to satisfy obligations or had impersonated the capacity of representing an establishment or corporation, or claimed that he is the agent in sales affairs, or had hidden his agency on its behalf; either the representation was in favour of a Jordanian or a foreign establishment or corporation.

Article 57: The tenders committee should disregard the offer that did not abide by the specifications, general conditions and instructions, special conditions as well as the applied provisions of Supplies Act; or if its applicant was not efficient, qualified, nor had been stated to be deprived from participating in tenders for the period specified by tenders committee.

Article 58: If a contradiction or conflict occurs between regulations and general conditions and between special conditions, special condition should be considered.

Article 59: Specifications stated in the invitation or the awarding decision should constitute the minimum acceptable limit, and the specifications of the submitted samples should not cancel the specifications stated in the invitation or the awarding decision, unless otherwise the specifications of samples were of superior specifications in comparison.

Article 60: In the case that the tenders committee find that the offered prices were high, it should re-invite for the tender or, purchase by requesting for proposals or by direct purchasing, in accordance with the provision of Supplies Act, the committee is also entitled to disregard the purchasing process wholly or partially; meanwhile on re-tendering, the bidder who purchased the tender's invitation previously could obtain it free of charge.

Article 61: The Secretariat of the tenders committee should have to announce the name of winning bidders by affixing them on a special announcing board, or following the method devised by the director general or secretary general to be accessible for a period of four working days for any objections submitted by any participant bidder. In some exceptional cases, the tenders committee may shorten the period of objection to a minimum period of not less than forty-eight hours.

Article 62: The tenders committee should consider the objections forwarded to it, and should issue decisions concerning them, then it should submit the awarding decision for approval by the concerned authority.

Article 63:

- (a) The director general or secretary general should formulate, through the employees of the department, the decisions of the tenders committee, as well as numbering them with an annually classified serial reference. Having approved these decisions, they should be further formulated into agreements (purchase orders) signed by both parties, whereas copies of these agreements (purchase orders) and decisions should be circulated on the concerned authorities to execute them.
- (b) A copy of the tenders committee's decisions should be circulated on General Supplies Department/Central Register Section.

Article 64: The tenders committee is entitled to cancel any invitation any time, or during any phase without mentioning reasons, it is also entitled to disregard all or some submitted offers, provided that no bidder should have the right to claim any consequent loss or harm, as a result of submitting his offer; furthermore, no financial or non-financial liabilities should be imposed on the committee thereunder.

In practice, offers are opened by the Central Tender Committee every Monday and Wednesday at a fixed time throughout the year. During the evaluation and study process, the Central Tender Committee may contact tenderers for further clarification on technical issues that are to be submitted in writing by the tenderer, provided that such clarifications do not affect the substance of the offer. All tender documents including tender's number, offers, technical committees' reports, minutes of meetings, correspondence with tenderers, bonds and performance guarantees, ..., etc., are maintained in the tender file.

Works and Engineering (Technical) Services:

Governmental works and engineering services are governed by the Government Works Regulation No. 71 for the year 1986. Article 16 of this Regulation decreed the issuance of Instructions to regulate the procedures thereof. Accordingly, these procedures are governed by the Government Works Tenders' Instructions No. 71 for the year 1987.

Purchase of tender documents and the preparation and submission of the tenders:

Article 6 of these Instructions requires the head of the Committee to ensure that all the requirements for announcing a tender as specified in these Instructions, and all the tender documents are available before announcing any tender invitation.

Article 7 requires any tender invitation to include the subject-matter and location of the project in addition to summary description of the project; the price of the tender documents; the category of contractors and/or consultants permitted to participate; the last date on which a contractor can purchase the tender documents and the date, time and location for submitting the tenders; and the amount and source of financing in case of [foreign] financed projects.

Article 8 provides that a tender invitation shall be announced in Arabic in two daily newspapers. However, it may be announced in English in addition to Arabic in case of inviting foreign contractors and consultants to participate.

In case of special invitation tenders, the invitation may be mailed by certified mail or by hand. Moreover, it requires that there shall be a sufficient time between the date of announcing the tender and the date of submission, provided that the time of distributing the copies of the tender documents shall not be less than seven days. In addition, there shall be at least seven days between the last date of selling the tender's documents and the date of submission. The head of the Committee may extend the date of submission, provided that such extension shall be announced in the newspapers or notified to the participants.

Article 10 provides that each supplier shall sign its tender and submit the required copies in a sealed and stamped envelope. All tenders shall be deposited within the time limit in the Tenders' Chest designated for this purpose. The supplier may submit any amendments to its tender or a new tender before the last date of submission as well. In case the envelopes were too big to be deposited in the chest, the supplier may submit it to the Secretary of the Committee. In case a tender was submitted by mail, it shall be by certified mail only.

Article 10 requires foreign suppliers to include in their tender the name of their Jordanian partner, or representative or the license certificate of its registered office in Jordan.

Article 11 provides that there shall be a special chest for tenders. Such chest must carry three different locks, the Head of the Committee keeps one key, the Secretary one key, and another member keeps the third key.

Article 12 regulates the procedures pertaining to *opening* the tenders.

It asserts that the Tender Chest shall be opened at the date and time specified in the invitation in a public session. All participant suppliers may attend this session if they opt to.

Article 13(a) provides that the Committee shall dismiss any tender in the following events:

- (a) If such tender did not include any required bond(s).
- (b) Any tender that has reservations or conditions that contradict with the underlying tender conditions.
- (c) In case there is any scraps or additions or omissions so as to render the tender ambiguous.

Article 13(b) specifies the instances where the Committee may dismiss a tender. This include:

- (a) In case a tenderer did not sign its tender.
- (b) In case a tenderer did not write the unit's prices in words in addition to numbers.

Article 14 regulates the tender's committee procedures in the studying and evaluation of offers as follows:

- (a) The Committee shall follow the following procedures when examining and evaluating offers.
 - (1) Organize minutes for each of its sessions. Such minutes shall be signed by the members of the Committee.
 - (2) Preliminary examine the offers to ensure compliance of the tenderer with the conditions of the tender invitation in terms of his classification, completion of his offer and the non-existence of any conditions that contradict with conditions of the tender invitation.
 - (3) Whenever necessary, refer the offers to a technical committee to study them and prepare a report within the specified time-period.
- (b) When evaluating offers, the Committee shall verify the tenderer's qualification, financial capability and compliance of his offer to the tender invitation conditions and his capability in fulfilling the obligations incurred by the new tender in addition to the volume of his previous obligations in terms of the grade of his classification.
- (c) The Committee may reject any offer if its prices were largely below cost price or the current prices or prices estimated by the relevant entity provided grounds for rejection shall be stated in detail.

- (d) The Committee may summon any tenderer to request any information or analysis for items prices stated in his offer without prejudice to rights of other tenderers. The Committee shall record the results of such discussions in the session's minutes.
- (e) Where the study proves that certain tenderers are not eligible to be awarded the tender, the Chairman of the Committee may decide to return guarantees for such tenderers.

Article 15 regulates the *awarding* procedures.

It asserts that the Committee shall award the tender to the tenderer with the best offer. The award decision, following certification, shall be notified to the entity and the entity notifies the supplier. An award decision shall not be amended unless by a subsequent decision from the same Committee.

23. *Please identify the provisions in your legislation setting the parameters for the prescription of technical specifications by entities as part of the evaluation criteria.*

Supplies:

Article 4 of the Tenders Instructions No. 1 for the year 1994 provides that the beneficiary department should verify the existence of actual need to purchase the required supplies. The said beneficiary department should also verify that the required supplies are not available in the Central Procuring Entity (GSD), excluding the cases of emergency that do not permit such procedures before sending the purchase order to GSD that is concerned with inviting for the tender. The said GSD should proceed as follows:

- (a) review the specifications of supplies requested to be purchased, to assure their generality, precision and unambiguity. For this purpose, GSD may consult experts, technicians or any other body to make sure of that.

Article 37 of the Tenders Instructions No. 1 for the year 1994 provide that in case tenders invitation included a trademark or certain specifications for any supplies, the bidder should not be bound to these specifications or trademarks which merely serve as a guideline to the specifications, characteristics and usage of the required supplies. The bidder could, also, submit the substitutes that have the same equivalent advantages, characteristics and applications that lead to making use of them in the same manner that the nominated materials may act. In this case the required specifications should be considered to be general specifications, to get the required results with respect to the procuring entity.

The following articles regulate the set out of technical committees:

Article 22 of the Supplies Regulation No. 32 for the year 1993:

- (a) Central Tenders Committee or the special tenders committee formed according to this act, may ask for assistance from experts and technicians from government employees or other personnel to make use of their expertise in considering the bids introduced to it, and all departments are required to cooperate completely with these committees in this respect.
- (b) The minister based on the director general's submission may grant the experts, technicians and the technical committee members financial bonuses suitable for the works assigned to them by the central tenders committee.

Tenders Instructions No. 1 for the year 1994 and its amendments:

Article 3 refers to definition of the technical committee as the committee constituted by tenders committee of experts and technicians either by personal names or by representatives of other departments and authorities.

Article 45 stipulates the following:

The tenders committee or the director general should specify the persons or parties that constitute the technical committee, which should study offers with respect to necessary technical, financial and legal affairs; and then submit its proper recommendation for the tenders committee.

Article 47 provides for the following:

Offers (Bids) submitted for the invitation should be studied into ascending price order according to the following:

- (a) Offers should be studied with respect of technical aspects in such a way that technical standards, should be specified according to the required supplies specifications on a table prepared for this purpose, and all offers should be subjected to the same criteria, with respect to bidder's commitment (in his offer) with the specifications and conditions of tenders invitation.
- (b) Bidders financial and technical competency to fulfil the tender's obligations should be considered.
- (c) Study of the offers should start with the lowest price offer and graduate into ascending order until finishing up the study of all the submitted offers.
- (d) In case that the offer has fulfilled all conditions, specifications and quality, the technical committee should recommend to award the tender on the tenderer submitted lowest prices.
- (e) Prices of the required supplies stated in the invitation should be compared to specify the lowest congruent, provided that the value of any appendages or spare parts that are not required to be priced in the invitation should be disregarded. Whereas, tenders committee should be entitled to accept appendages and spare parts in the winner offer after awarding it.
- (f) In case that the requirements were not available in the lowest price offer, the study should go to the offer follows it in price, till it reaches to the suitable offer for awarding, provided that reasons of disregarding (offers with low prices) should be stated explicitly.
- (g) When defects or non-conformity is found in all offers (bids), it should be possible to purchase the offered supplies that satisfy the requirements of the beneficiary department that enjoy quality and suitable prices (the optimal offer).
- (h) Continuation of spare parts and maintenance availability and any other matters required by Supplies Act and the applied instructions should be considered.
- (i) The privileged price granted to national products should be considered in the studying process.

Article 51 stipulates the following:

Before awarding the tender, tenders committee should consider the competency and experience of the bidder in the field of providing the required supplies, his goodwill, facilities provided by him or the service that he provides, spare parts, workshops, and solvency; whereas the committee could disregard his offer upon the absence of these requirements either wholly or partially.

Works and Engineering (Technical) Services:

According to the Government Works Regulation No. 71 for the year 1986:

Article 23 provides the following:

- (a) Construction contractors of all types of constructions shall be classified within graded classes in accordance with financial, technical and administrative qualifications, procurement and expertise in undertaking the constructions. The Minister's Council shall issue instructions for this purpose specifying in which requirements, conditions and classes of classification.
- (b) The Minister's Council shall, upon recommendation of the Minister, form one committee or more to examine applications of classifying construction contractors for all types of constructions, and the classes and grades thereof.
- (c) The Minister shall define, upon recommendation of the competent classification committees, classes and fields of competence in which contractors are classified. This classification shall be reviewed in light of actual practice of the contractor, and of change in the basis upon which such contractor was classified in accordance with the recommendation of the competent classification committees.
- (d) The Minister shall issue schedules of construction contractors' classification and competence and such schedules are to be published in the Official Gazette. The Minister may, however, amend such schedules every now and then by adding names of new contractors, abolishing names of existing ones, or amending the classes or the classes or the fields of work thereof.

According to Government Works' Tendering Instructions:

Article 7(a)(3) provides that the advertising of tendering should include the contractors classes allowed to subscribe in constructions tenders, or the classes and qualification of the consultants allowed to participate in engineering services' tenders as the case may be.

Article 14 provides that the committee should adopt the following procedures when examining and evaluating contracts:

- Transferring tenders offers to a technical committee to examine them whenever needed.
- When evaluating offers, the committee shall verify the legal capacity and the financial ability of the tenderer, and that his/her tender conforms with the terms of the invitation, and his capability to fulfil his obligation under the tender in addition to his previous obligations in light of his classification.

24. *Identify the measures in national legislation ensuring that awards are made in accordance with the evaluation criteria and essential requirements specified in the tender documentation.*

Supplies:

See Article 47 of the Tenders Instructions No. 1 for the year 1994 in question 23 above.

Works and Engineering (Technical) Services:

Article 14 of the Government Works Regulation No. 71 for the year 1986 requires the Committee when considering the tenders to ensure the tenderer's capacity and financial competence as well as the compliance of its tender with the requirements specified in the tender documents.

V. INFORMATION

25. *Article XIX:1 of the Agreement foresees the publication of laws, regulations, judicial decisions, administrative rulings of general application and procedures regarding government procurement. Please give the name of the publication(s) and indicate the means used for this purpose. Please also provide, where available, the address of an Internet website where the legislation referred to in questions 1 and 2 can be found.*

All laws and regulations in the Kingdom are published in the Official Gazette upon the completion of all constitutional procedures and Royal Assent. Moreover, government procurement requires government budget allocations for each tender. The General Budget Law which regulates such allocations is published in the Official Gazette as well.

As for Instructions, they are issued pursuant to Regulations related to government procurement, they shall be published in the Official Gazette so as to allow public access, such as the Tendering Instructions No. 1 for the year 1994 and amendments thereof, and the Government Works Tendering Instructions No. 71 for the year 1987.

There are in general no legal instruments that regulate the publishing of Administrative or Ministerial Decisions. This is also related to government procurement. However, such Decisions are published in the Official Gazette if it so provided in these decisions. In cases where there is no such provision, the governmental entity may publish them in the manner they deem appropriate, like attaching them to a billboard or publishing them in daily local newspapers or through other media.

Judicial Decisions of the Court of Cassation and the High Court of Justice on the other hand are usually published in specialized journals such as the monthly journal of the Jordanian Bar Association and the specialized magazine issued by the Judicial Institution. Public daily newspapers often, but not regularly publish laws and regulations and instructions and decisions as well.

It is also noted that some governmental entities follow in disseminating legislation in the Kingdom a certain method, i.e. it collects all pieces of legislation related to their work and places them in books available for access of entities concerned with such legislation. For example, the General Supplies Department publishes manuals that contain relevant laws, regulations, instructions and decisions, as well as forms related to the mechanism of purchasing and administering general supplies. This also applies to the Ministry of Public Works and Housing/General Tenders Directorate concerning works and engineering (technical) services.

Website addresses:

- General Supplies Department (GSD): <http://www.gsd.gov.jo>
- General Tenders Department (GTD): <http://www.gtd.gov.jo>

26. *Article IX:1 of the Agreement foresees the publication of invitations to participate for all cases of intended procurement by entities. Please give the name of the relevant publication(s) and indicate the media to be used for this purpose. Please also provide, where available, the address of an Internet website where such invitations are published.*

Supplies:

According to the Supplies Regulation No. 32 for the year 1993:

Article 24 stipulates the following:

The director general or the secretary general invites for tenders, as the case requires, and determines the price of the tender's documents proportional to the printing and preparation expenses of the invitation and the documents attached thereto as well as the tender's value. However, he is allowed to distribute the invitation free of charge to the Arab and foreign commercial attaché and the companies not residing in Jordan and the bodies associated to the Government, and parties he deems that it is to the treasury interest to address the tender invitation thereto.

According to Tendering Instructions No. 1 for the year 1994:

Article 7 deals with the invitation for tenders as follows:

- (a) The director general or the secretary general should announce tenders serially numbered on an annual basis, in not less than three local newspapers, for more than one day, in addition to the other media that he may find appropriate. Currently, tender invitations are published in the daily newspapers: Al-Rai (<http://www.alrai.com>), Addustour (<http://www.addustour.com.jo>), and Al-aswaq, and in Alam Al-Ghad weekly newspaper.
- (b) The announcement should include details about tender's number, kind of supplies, the closing date for purchasing tender's invitation, the deadline for submitting offers, the price of the tender's invitation, and, any other matters that the director general or secretary general may find indispensable for announcement.
- (c) Upon the request of more than one bidder, or upon a certain necessity, the director general or secretary general may extend the date of submitting offers for an appropriate period. Whereas he may announce that in the same media used for announcing for the tender previously.
- (d) The director general or the secretary general should announce the tender that has been decided to be re-invited for.

Works and Engineering (Technical) Services:

According to the Government Works Tendering Instructions No. 71 for the year 1987:

Article 8(a): Tenderers are invited to submit their offers by publishing a tender invitation notice once or more in Arabic in at least two local newspapers. However, a notice in English may be published in addition to Arabic when inviting contractors or foreign councils to participate in a tender.

Currently, tender invitations are published in the daily news papers Al-Rai(<http://www.alrai.com>) and Addustour (<http://www.addustour.com.jo>), and in Alam Al-Ghad weekly newspaper. Tenders invitations and tenders documents for engineering (technical) services tenders are provided through the General Tenders Directorate website also.

Article 8(b): Special invitations' tenders may be transmitted through registered mail or delivered by hand to contractors or councils that the entrepreneur approves to invite to a tender upon recommendation of the Chairman of the Committee.

27. *Please specify the types of information that your legislation requires to be included in notices of invitation to tender or in tender documentation, and identify the relevant provisions in your legislation.*

Supplies:

The Instructions of the Tenders Procedures and Participation Conditions No. 1 for the year 1994 issued pursuant to Article 23 of the Supplies Regulation No. 32 for the year 1993 and amended by Instructions No. 3 for the year 1999 govern the tender invitations requirements.

Article 3 of these Instructions stipulates the following:

Any invitation for a tender shall include the following standard documentation:

- Invitation for tendering, including various standard forms.
- Technical specifications of the required supplies (including forms, charts, drawings and any other details).
- Tender's general conditions and instructions.
- Special conditions (if any).
- Bidders' pre-qualifications (upon request).

Article 7(b): The announcement should include details about tender's number, kind of supplies, the closing date for purchasing tender's invitation, the deadline for submitting offers, the price of the tender's invitation, and, any other matters that the director general or secretary general may find indispensable for announcement.

Works and Engineering (Technical) Services:

According to Government Works Tendering Instructions No. 71 for the year 1987:

Article 4/A. Documents of technical service tenders shall contain the following information and data in addition to any other requirements set by the entity in the tendering invitation.

- (1) General description of the project attached therewith a schedule of the requirements of the department and the purpose of the project's design as well as defining different stages of work in the project.
- (2) Blueprints of lands and of buildings' projects, and general blueprints for other projects as well as eminent domain decisions and any other relevant requirements.
- (3) Limits of the costs within which a contractor must work in terms of the costs for the project intended to be designed.
- (4) Terms of contract and the contract's draft and the method of submitting tenders.

- (5) Means of defining the time limits of execution of work, consideration and the amount of required bonds.

Article 4/B: Documents of tenders shall contain the following data and requirements in addition to any other requirements set by the entity in the tendering invitation.

- (1) Description of the project: provided it contains basic information of the nature, size and location of the project for any type of the following required works:
 - Buildings Projects: defining the number and size of the buildings and floors or any other annexed complexes, and also the works and services of the site.
 - Roads Projects: defining the type, length, width, number of lines, starting and ending points of the road as well as sewerage works, bridges and intersections.
 - Other Projects: defining information related to the project according to its nature.
- (2) Instructions of the contract: including guidelines and conditions by which contractors and tenderers abide relating to submission of tenders, the amount of bid bonds, basic information about the contractor and qualification thereof, information and documents or other data to be attached to the offer.
- (3) General conditions of the contracting contract: those are the conditions specified in the construction contract's text issued by the Ministry and by which all departments and councils shall abide to.
- (4) Special conditions of the construction contract: the conditions complementary to the general conditions and any amendments thereof, and any other additional conditions required by the contract including conditions related to financing, the mechanism of execution and stages of the project as well as the right of the entity to divide it.
- (5) Blueprints: they are the detailed blueprints necessary to execute a project as well as the blueprints of the site and land and the regulatory blueprints.
- (6) Technical specification and schedules of quantities and prices: including the general and specific technical specifications related to a project, and schedules of quantities and prices titled in parts of infrastructure, site, skeleton and finishings.
- (7) Contract forms and bonds.
- (8) Any other annexes to the tenders' documents.

Article 7/A. A tender invitation shall contain the following:

- (1) Subject-matter of the tender, site map with a brief description of the project.
- (2) The price of tender documents.
- (3) The categories of contractors allowed to participate in construction tenders, or the categories and qualifications of the consultants permitted to participate in engineering services tenders as the case may be.

- (4) The time-limits at which the contractor is allowed to buy a copy of the tender, and the exact date and hour for submitting the offers and the place of submission.
- (5) The amount and sources of finance and its source for financed projects as well.

28. *Article IX:1 of the Agreement foresees publication of permanent lists of qualified suppliers by entities maintaining such lists. Please give the name of the publication(s) and indicate the means used for this purpose. Please also provide, where available, the address of an Internet website where such invitations are published.*

Supplies:

See answers to questions 17 and 18.

Works and Engineering (Technical) Services:

The Government Works Regulation No. 71 for the year 1986 regulates the publication of such lists.

Article 23 provides that the Minister of Public Works and Housing shall issue schedules pertaining to the classification of constructions contractors and their specialties and publish these schedules in the Official Gazette.

In addition to publishing these schedules in the Official Gazette the Constructions Contractors Association publishes special publications on contractor's classification. The Engineers' Association publishes special publications on consultants' classification as well. Lists of qualified local consultants and classified local contractors are also published on the Government Tenders Directorate website.

Website addresses:

- General Supplies Department (GSD): <http://www.gsd.gov.jo>
- General Tenders Department (GTD): <http://www.gtd.gov.jo>

29. *Article XVIII:1 of the Agreement foresees the publication of details of contract award notices by entities. Please give the name of the relevant publication(s) and indicate the means to be used for this purpose. Please also provide, where available, the address of an Internet website where such notices are published.*

Supplies:

Article 61 of the Tenders Instructions No. 1 of the year 1994 requires the secretariat of the tenders committee to announce the name of winning bidders by affixing them on a special announcing board, or following the method devised by the director general or secretary general to be accessible for a period of four working days for any objections submitted by any participant bidder. In some exceptional cases, tenders committee may shorten the period of objection to a minimum period of not less than forty-eight hours.

In practice, the only method used by the government is posting such notices on a board located in the entity's location. All participants are notified of the result by telephone and the winner bidder is provided by a copy of the award decision.

Works and Engineering (Technical) Services:

Article 15(b) of the Government Works Tenders Instructions No. 71 for the year 1987 provides that the Committee shall notify the entity with the award notices, which on its part shall notify it to the selected supplier.

There is no publication requirement under these Instructions. However, in practice the result of award is announced on the notice board at the premises of the Government Tenders Directorate and is also announced through GTD's internet website.

30. *Please specify the types of information that notices of contract awards should contain in your country and identify the relevant provisions in your legislation.*

Supplies:

Article 63 of the Tenders Instructions No. 1 for the year 1994 and Article 25 of the Supplies Regulation No. 32 for the year 1993 regulate this issue. The General Supplies Department issues certain forms, which became some sort of a de facto requirements followed by most entities. These forms include:

(a) Preliminary Contract Award Summary Notice

Includes the following information: the tender's number, supplier's name and address, a schedule of the required supplies which shows the item's number, name, model, unit, quantity, unit price, total price, delivery period, country of origin, manufacturer, and reason for awarding. It also includes the signature of the technical committee members and the Central Tender Committee members.

(b) Contract Award Decision

Includes, *inter alia*, the tender's number, the number of tenders submitted, the total amount, itemization of the procured supplies with the name of each selected supplier for each item, place of delivery, the selected supplier obligations, such as bonds, taxes, method of payment, and the Central Tender Committee members signatures.

(c) Notification of Award

Includes the following: selected supplier's name and address, award decision number and tender number, total amount, instructions to the supplier to be present at the entity's location to pay the fees and submit the performance guarantee within seven days of receipt of this notice, a schedule of fees and taxes due as a result of the award decision.

(d) Purchase Order

Includes the following: purchase order number and date, supplier's name and address, contract award decision to which a schedule of the required items and their prices is attached, a signed pledge by the supplier to perform its obligations under the purchase order, and the signature of the authorized person of the procuring entity.

Works and Engineering (Technical) Services:

The Government Tenders Directorate sends an award notice to the successful tenderer informing him that he was awarded the tender and requesting him to be present at the entity's location to pay the fees within 10 days as receipt of the notice, and submit the performance guarantee within 14 days of receipt of notice and sign the contract accordingly.

31. *Please specify the relevant provisions in your legislation enabling, as foreseen in Article XVIII:2, the provision of information to other Parties and unsuccessful tenderers regarding the reasons why a tender was not selected.*

Supplies:

There is nothing in the Tenders' Procedures and Participation Conditions Instructions No. 1 for the year 1994 that requires the technical committee to provide such information.

Nevertheless, Article 47 of the above Instructions requires the technical committee to start the selection process with the offer with the lowest price then move to the next lowest one until it makes its decision according to compliance with technical specifications and conditions. It also requires the technical committee to identify the reasons for dismissing the unsuccessful offers.

In practice, unsuccessful tenderers are granted access to the technical committee's report which include the reasons for dismissal.

Works and Engineering (Technical) Services:

The Government Works Regulation and the instructions issued pursuant to this Regulation do not regulate this matter. The instructions only specify the circumstances where the Committee shall dismiss a tender and the circumstances where it may dismiss a tender. Nothing in these instructions requires the Committee to identify the reasons for dismissing any tender or to enable unsuccessful tenderers to look at the reasons of dismissal.

VI. BID CHALLENGE PROCEDURES

32. *Please provide information on existing challenge procedures.*

33. *Are there specific provisions enabling access of foreign suppliers to challenge procedures?*

34. *To the extent that this information does not fully respond to the following points, please provide the supplementary information necessary to do so:*

- (i) *The time-limit to launch a complaint contained in the Agreement is "not less than 10 days" from the time when the basis of the complaint is known or reasonably should have been known. What are the limits in domestic legislation?*
- (ii) *What body is responsible for the challenge procedures? Is this a "court" or an "impartial and independent review body"? If the latter:*
 - *How are its members selected?*
 - *Are its decisions subject to judicial review?*
 - *If not, how will the requirements of paragraph 6 of Article XX be taken into account?*

- (iii) *What is the applicable law by reference to which the challenge body will examine complaints?*
- (iv) *Which rapid interim measures are provided to correct breaches of the Agreement and to preserve commercial opportunities?*
 - *Do these measures include the possibility to suspend the procurement process? On what conditions?*
- (v) *How do challenge procedures provide for correction of the Agreement? What types of compensation for loss or damages suffered can the challenge body order?*
- (vi) *Give any available information on the time-periods for the stages of the challenge process, including to obtain interim measures and a final decision.*
- (vii) *What are the usual costs to conduct a challenge procedure? Are there possibilities foreseen to do so free of charge?*

As a general rule, contract award decisions are considered "administrative decisions", therefore, they are subject to the general rules applicable to administrative decisions, and they fall within the jurisdiction of the High Court of Justice.

The High Court of Justice Law No. 12 for the year 1992 regulates the challenge procedures for all administrative decisions. Article 9 specifies the Court's jurisdiction.

In the case of contract award decisions, a case may be filed against the entity that issued the award decision. Administrative decisions can only be challenged for one or more of the following basis:

- (a) The issuing entity's lack of jurisdiction.
- (b) Violation of the Constitution, Laws, Regulations or misapplication or misinterpretation of such.
- (c) If the decision was defective or the procedures of issuing the decisions were effective.
- (d) Arbitrary and Capricious decisions.

A case must be filed within 60 days of the date of notification. However, before challenging the decision in the Court, the plaintiff must exhaust all the administrative challenging methods available. Article 18 of the Government Works Regulation required the Committee to refer its decision to the entity authorized to endorse such decision within seven days of the date of issuing the decision. This entity shall endorse the decision within 30 days from the date of receipt. A tenderer who is willing to challenge an award decision must challenge that decision at the issuing entity prior to the endorsement of that decision.

Supplies:

The Tenders' Procedures and Participation Conditions Instructions No. 1 for the year 1994 sets out the challenge procedures available under these Instructions.

Article 61 requires the Secretariat of the Committee to post the award decision on a bulletin board prepared specially for this purpose for four working days so as to enable unsuccessful tenderers to challenge such decision. This period can be reduced to forty-eight hours in exceptional circumstances.

Article 62 states that the Committee shall examine the challenges and issue its final decision thereupon then refers the decision to the entity authorized to endorse it. This entity on its part must endorse the decision within 15 days from the date of receipt or it shall be considered certified by virtue of the law. (Article 21 of the Supplies' Regulation.)

Works and Engineering (Technical) Services:

The Government Works Tenders' Instructions No. 71 for the year 1987 does not provide any challenge procedures. Nonetheless, it does not prohibit such challenge.

We can conclude from Article 15 of these Instructions that an unsuccessful tenderer may challenge an award decision in the period between the issuance of the decision and the certification of this decision.

- Under Article 9(B) of the High Court of Justice Law The Court shall have jurisdiction in all compensation claims resulting from administrative decisions and procedures.
- The applicable law by which the Court examines complaints is the relevant applicable Jordanian Law. This can be the Supplies Regulation, the Government Works Regulation or any other legislation depending on the procuring entity.
- As for interim measures, under Article 20 of the High Court of Justice Law, the court, upon the request of the any party to the proceeding, may take any preliminary decisions it deems appropriate upon filing the case or during the proceedings including temporarily suspending the administrative decision. The Court may require the party requesting such measures to post a monetary guarantee as it deems appropriate as a surety against any damages in case the party requesting such measures was proven not rightful in his claim.
- Article 26(B) of the High Court of Justice Law provides that the Court's ruling shall be final and may not be challenged before any entity. If the Court revokes the administrative decision, all procedures, legal and administrative acts performed as a result of the revoked decision shall be deemed void as of the date of issuing the decision.
- As for the costs, Article 16 of the High Court of Justice Law provides that fees for filing any case with the High Court of Justice shall be charged in accordance with the fees stipulated in the Courts Fees Regulation. Article 25 of the Courts Fees Regulation provides that fees for cases filed with the High Court of Justice shall be determined by the Chief of the High Court of Justice provided that such fee is no less than fifty Jordanian Dinars and no more than two-hundred Jordanian Dinars. As for compensation claims, the fee shall be the same as in civil cases.
- There are no specific time-periods for judicial proceedings.

VII. OTHER MATTERS

35. *To what extent is information technology being used in the process of government procurement? Are notices of invitations to tender and/or notices of contract awards published electronically? Please provide the address of such electronic publications.*

Supplies:

The General Supplies Department's website is still under construction.

Works and Engineering (Technical) Services:

The Government Tenders Directorate's website provides information on some tenders. Tenders invitations and tender documents for engineering consultancy services are provided through the website.

36. *Is there a contact point in your country for responding to enquiries from suppliers, other governments and the wider public relating to laws, regulations and procedures and practices regarding government procurement at the central and/or sub-central level? Please provide the address.*

Contact points:

Supplies:

General Supplies Department (GSD)
P.O. Box 7696
Amman 11118, Jordan

Tel.: + (9626) 5153491/6
Fax: + (9626) 5151211

e-mail: gsd@gsd.gov.jo

Works and Engineering (Technical) Services:

Government Tenders Directorate
P.O. Box 1220
Amman 11118, Jordan

Tel.: + (9626) 5858311, 5858314
Fax: + (9626) 5857583, 5857839

e-mail: gtd@gtd.gov.jo
