

Measures for the Qualification Accreditation of the Bidding Agencies of Engineering Construction Projects

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The Measures for the Qualification Accreditation of the Bidding Agencies of Engineering Construction Projects, which were deliberated and adopted at the 114th executive meeting of the Ministry of Construction on December 30th, 2006, are hereby promulgated and shall come into force as of March 1st, 2007.

Minister of Construction Wang Guangtao
January 11th, 2007

Measures for the Qualification Accreditation of the Bidding Agencies of Engineering Construction Projects

Article 1 For the purpose of strengthening the administration of the qualification for the bidding agencies of engineering construction projects and safeguarding the legitimate rights and interests of the parties concerned in the bidding and tendering activities of engineering construction projects, these Measures are formulated in accordance with the Bidding Law of the People's Republic of China, the Administrative License Law of the People's Republic of China and other relevant laws and administrative regulations.

Article 2 These Measures apply to the qualification accreditation of the institutions that engage in the bidding agency business of various kinds of engineering construction projects within the borders of the People's Republic of China.

The term "engineering construction projects" (hereinafter referred to as "projects") as mentioned in these Measures refers to civil engineering, building engineering, installation engineering of lines, pipes and equipment and decoration and finishing projects.

The term "bidding agency business of engineering construction projects" (hereinafter referred to as "project bidding agency business") as mentioned in these Measures means that a project bidding agency engages in the agency business of the bidding of the prospecting, design, construction and supervision of a project and the purchase of the important equipment (except for electromechanical equipment) and materials that are related to the construction of the project.

Article 3 The competent department of construction under the State Council shall be responsible for the administration of the qualification accreditation of the project bidding agencies of the

whole nation.

The competent departments of construction of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administration of the qualification accreditation of the project bidding agencies within their respective regions of administration.

Article 4 An institution engaging in the project bidding agency business shall obtain the qualification for project bidding agencies accredited by the competent department of construction under the State Council or that of the people's government of a province, autonomous region or municipality directly under the Central Government according to law, and engage in the corresponding project bidding agency business within the scope authorized by the qualification.

Article 5 The qualifications of project bidding agencies shall be classified into Grade A, Grade B and the grade of temporary accreditation.

A project bidding agency of Grade A may undertake the bidding agency business of all kinds of projects.

A project bidding agency of Grade B may only undertake the bidding agency business of the projects whose gross investment is 100 million yuan or less.

A project bidding agency of grade of temporary accreditation may only undertake the bidding agency business of the projects whose gross investment is 60 million yuan or less.

Article 6 A project bidding agency may undertake the project bidding agency business of the provinces, autonomous regions or municipalities directly under the Central Government other than the place where it is located.

No entity or individual may restrict or exclude any project bidding agency from conducting project bidding agency business according to law.

Article 7 The qualification for a project bidding agency of Grade A shall be accredited by the competent department of construction under the State Council.

The qualification for a project bidding agency of Grade B or the grade of temporary accreditation shall be accredited by the competent department of construction of the people's government of the province, autonomous region or municipality directly under the Central Government of the place of its industrial and commercial registration.

Article 8 An institution applying for the qualification for a project bidding agency shall satisfy the following requirements:

(1) it is an intermediary organization established according to law and has independent corporate capacity;

- (2) it is not subordinate to or has no interest relationship with any administrative organ or any other state organ;
- (3) it has a fixed business place and the facilities that can meet the needs for conducting project bidding agency business;
- (4) it has a sound organizational structure and rules and regulation on internal management;
- (5) it has corresponding professional force for compiling bidding documents and organizing bid evaluation;
- (6) it has the experts in technology and economy that may be selected as the members of the bid evaluation committee; and
- (7) other requirements as prescribed in any law or administrative regulation.

Article 9 An institution applying for the qualification for a Grade A project bidding agency shall, in addition to satisfying the requirements prescribed in Article 8 of these Measures, also satisfy the following requirements:

- (1) it shall have obtained the qualification for a Grade B project bidding agency for three years or more;
- (2) its accumulated project bid winning money in the latest three years shall be 1600 million yuan or more (based on the bid winning notice, the same hereinafter);
- (3) it shall have 20 or more full-time staff who have the professional title of medium-grade or above; in particular, it shall have 10 or more personnel who have certified professional qualification in engineering construction (among whom, the number of certified cost engineers shall be 5 or more), and 10 or more personnel who have been engaging in project bidding agency business for three years or more;
- (4) the personnel in charge of technology or economy shall be a full-time staff of the institution, have 10 years or more of experience in project management and have the professional title of senior-grade in technology or economy or have certified professional qualification in engineering construction; and
- (5) its registered capital shall be 2 million yuan or more.

Article 10 An institution applying for the qualification for a Grade B project bidding agency shall, in addition to satisfying the requirements prescribed in Article 8 of these Measures, also satisfy the following requirements:

- (1) it shall have obtained the qualification for a project bidding agency of the grade of temporary accreditation for one year or more;
- (2) its accumulated project bid winning money in the latest three years shall be 800 million yuan or more;
- (3) it shall have 12 or more full-time staff who have the professional title of medium-grade or above; in particular, it shall have 6 or more personnel who have certified professional qualification in engineering construction (among whom, the number of certified cost engineers shall be 3 or more), and 6 or more personnel who have been engaging in project bidding agency business for three years or more;
- (4) the personnel in charge of technology or economy shall be full-time staff of the institution, have 8 years or more of experience in project management and have the professional title of senior-grade in technology or economy or have certified professional qualification in engineering

construction; and

(5) its registered capital shall be 1 million yuan or more.

Article 11 A newly established project bidding agency that satisfies the requirements prescribed in Article 8 and those of Items (3), (4) and (5) of Article 10 may apply for the qualification for a project bidding agency of the grade of temporary accreditation.

Article 12 An institution applying for the qualification for a project bidding agency shall provide the following materials:

- (1) report on its application for the qualification for a project bidding agency;
- (2) Application Form for the Qualification for a Project Bidding Agency and the electronic document;
- (3) business license for enterprises as legal persons;
- (4) articles of association for a project bidding agency and rules and regulations on inner management;
- (5) photocopies of the identity certificates of its full-time staff, labor contracts, professional title certificates or certified qualification certificates in engineering construction, credentials on the payments for social insurance and certificates on the agency of personal archives;
- (6) post-holding documents, resumes and other materials of its legal representative and personnel in charge of technology and economy, as for a person in charge of technology or economy, it is also necessary to provide the certificate on his experience in project management;
- (7) certificate on the business place and the list of major office equipment;
- (8) certificate on financial contribution and the audited financial report of the previous year (including financial statement and explanations, the same hereinafter);
- (9) list of the experts of bid evaluation; and
- (10) other relevant materials as requested by any law and regulation.

An institution applying for the qualification for a Grade A or Grade B project bidding agency shall also provide effective certificates on its project bidding agency achievements (project bidding agency contracts, bid winning notices and evaluation opinions of the bidders).

A project bidding agency shall be responsible for the authenticity of the materials provided by it.

Article 13 An institution applying for the qualification for a Grade A project bidding agency shall send an application to the competent department of construction of the people's government of the province, autonomous region or municipality directly under the Central Government of the place of its industrial and commercial registration.

The competent department of construction of the people's government of the province, autonomous region or municipality directly under the Central Government shall finish the preliminary examination within 20 days since the date of the acceptance of the application and file the opinions of preliminary examination and the application materials with the competent department of construction under the State Council.

The competent department of construction under the State Council shall, with 40 days since the date when the competent department of construction of the people's government of the province, autonomous region or municipality directly under the Central Government accepts the application materials, finish the examination and publicize the examination opinions for 10 days.

Article 14 The specific implementation procedures for the qualification accreditation of the project bidding agencies of Grade B and the grade of temporary accreditation shall be determined by the competent departments of construction of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government according to law.

The competent departments of construction of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall file the lists of the accredited project bidding agencies of Grade B and the grade of temporary accreditation with the competent department of construction under the State Council for archival purpose within 15 days since the lists are determined.

Article 15 The qualification of a project bidding agency shall, before it is accredited, be evaluated by the expert committee organized by the competent department of construction.

Article 16 A project bidding agency qualification certificate includes an original and a duplicate, which are uniformly printed by the competent department of construction under the State Council. Both the original and the duplicate have the same legal effect.

The valid period of the qualification certificate for a Grade A or Grade B project bidding agency shall be 5 years, while that for the grade of temporary accreditation shall be 3 years.

Article 17 In case a Grade A or Grade B project bidding agency, upon the expiration of the valid period of its project bidding agency qualification certificate, needs to extend the valid period, it shall send an application for qualification extension to the original qualification-licensing organ.

As for a Grade A or Grade B project bidding agency that abides by the relevant laws, rules, regulations and technical standards within the valid period of its qualification, has no record of misconduct in its credit file and satisfies the prerequisites on achievements and full-time staff, upon the consent of the original qualification-licensing organ, the valid period of its qualification may be extended for another 5 years.

Article 18 In case a project bidding agency of the grade of temporary accreditation, upon the expiration of the valid period of its project bidding agency qualification certificate, needs to continue engaging in the project bidding agency business, it shall reapply for the qualification for a project bidding agency of the grade of temporary accreditation.

Article 19 In case a project bidding agency is under any of the following circumstances within the valid period of its qualification certificate, it shall go to the original qualification-licensing organ to handle the formalities for the modification of its qualification certificate within 30 days since

the date of the occurrence of the circumstance, and the original qualification-licensing organ shall handle the modification formalities within 2 days:

- (1) the change of any item of industrial and commercial registration;
- (2) the change of the personnel in charge of the technology or economy; or
- (3) other circumstances under which it is necessary to modify the qualification certificate as stipulated by law.

Where the modification is handled by the competent department of construction of the people's government of a province, autonomous region or municipality directly under the Central Government, the department shall report the modification situation to the competent department of construction under the State Council for archival purpose within 15 days since the date when the modification formalities are handled.

Article 20 A project bidding agency applying for the modification of its qualification certificate shall submit the following materials:

- (1) application form for the modification of qualification certificate;
- (2) photocopy of the business license for enterprises as legal persons;
- (3) photocopies of the original and the duplicate of its qualification certificate; and
- (4) evidential materials on issues concerning the modification of qualification.

Article 21 As for the merger of a project bidding agency, the institution which survives after the merger or which is newly established may inherit the higher qualification grade of all the parties involved before the merger, provided that it shall comply with the corresponding qualification requirements.

Where a project bidding agency is split up, only one of the project bidding agencies that survive after the split-up can inherit the qualification of the former project bidding agency, provided that it shall comply with the qualification requirements of the former project bidding agency. The project bidding agency to inherit the qualification of the former project bidding agency shall be determined by all the parties concerned in the split-up through negotiation; and the qualification of any other project bidding agency that survives after the split-up shall be reapplied for in accordance with the provisions of these Measures.

Article 22 A project bidding agency shall, at the same time when it obtains a new project bidding agency qualification certificate, surrender the former qualification certificate to the original license-issuing organ for cancellation.

Where a project bidding agency needs to supplement (including adding, changing and re-issuance due to loss) the project bidding agency qualification certificate, it shall apply to the qualification-licensing organ with such materials as the application form for supplementing qualification certificate. Where its qualification certificate is lost, before applying for reissuing the certificate, it shall publish a lost notice on a public news medium. The qualification-licensing organ shall handle the application within 2 days.

Article 23 A project bidding agency shall conclude a written contract with the bidder, conduct agency within the scope stipulated in the contract and collect charges in accordance with the relevant provisions of the state; where it conducts agency beyond the contract, it shall undertake the corresponding civil liabilities according to law.

Article 24 A project bidding agency shall, within the valid period of its qualification certificate, properly keep the documents on project bidding process and results.

No project bidding agency may forge or hide any document on project bidding process and results.

Article 25 No project bidding agency may conduct any of the following behaviors in conducting project bidding agency activities:

- (1) having a relationship of administrative subordination, cooperative management or any other interested relationship with a bidder or tenderer participating in the project bidding;
- (2) engaging in the bidding agency business and tendering consultation business of a same project;
- (3) undertaking project bidding agency business beyond the scope authorized by its qualification;
- (4) acting as the agency under the circumstance that it is fully aware of the fact that the entrusted issue is illegal;
- (5) undertaking project bidding agency business by adopting such means as bribery, offering kickback or offering any other illegitimate interests;
- (6) transferring project bidding agency business without obtaining the written consent of the bidders;
- (7) leaking the information or materials related to the bidding or tendering activities that should be kept secret;
- (8) damaging national interests, public interests or the legitimate rights and interests of other persons by collaborating with the bidders or tenderers;
- (9) refusing to correct as ordered by the relevant administrative department of supervision according to law or falsifying to cover the truths;
- (10) altering the documents on project bidding agency results approved by the bidders and affixed with the official seals of the bidders without authorization;
- (11) altering, reselling, leasing, lending or illegally transferring the project bidding agency qualification license in any other forms; or
- (12) other behaviors prohibited by any law or regulation.

Where a project bidding agency that applies for qualification upgrading or re-applies for the qualification for the grade of temporary accreditation commits any of the behaviors prescribed in the preceding paragraph within the previous year since the date the application is made, the qualification-licensing organ shall not approve the application.

Article 26 The competent department of construction under the State Council and those of the provinces, autonomous regions and municipalities directly under the Central Government shall strengthen the administration of project bidding agency qualification by checking the practitioners, business performance, market behaviors and agency quality of project bidding agencies.

Article 27 Where a project bidding agency, after obtaining the project bidding agency qualification, does not satisfy the corresponding conditions any more, the competent department of construction shall order it to correct within a certain time limit in accordance with the petition of any interested party or on the basis of its functions and duties; where the agency fails to correct within the prescribed time limit, the qualification-licensing organ may cancel its qualification. A project bidding agency whose qualification has been cancelled may, in light of its actual conditions, apply to the qualification-licensing organ for re-ratifying its project bidding agency qualification.

Article 28 In case of any of the following circumstances, a qualification-licensing organ or any of its higher organ may cancel a project bidding agency qualification in accordance with the petition of any interested party or on the basis of its functions and duties:

- (1) the qualification is approved by the staff of the organ by misuse of authority or neglect of duty;
- (2) the qualification is approved by going beyond the legitimate authority;
- (3) the qualification is approved by violation of the legal procedure;
- (4) the application for qualification approved does not satisfy the corresponding conditions; or
- (5) other circumstance under which the project bidding agency qualification may be cancelled according to law.

A project bidding agency qualification certificate obtained by such illegitimate means as deception or bribery shall be cancelled.

Article 29 In case of any of the following circumstances, a qualification-licensing organ shall write-off a project bidding agency qualification according to law and announce the qualification certificate null and void, and the project bidding agency shall surrender the qualification certificate to the qualification-licensing organ in a timely manner:

- (1) the project bidding agency fails to apply for qualification extension upon the expiration of the qualification certificate;
- (2) the project bidding agency is terminated according to law;
- (3) the qualification certificate is cancelled, withdrawn or revoked; or
- (4) other circumstances under which the qualification shall be written-off as prescribed by any law or regulation.

Article 30 The competent department of construction shall set up credit archives for project bidding agencies and publicize them to the society.

A project bidding agency shall, in accordance with the relevant provisions, submit authentic, accurate and complete information on its credit archives to the qualification-licensing organ.

The information on the credit archives of a project bidding agency shall include its basic information, performance, project quality, safety, and the situation on its breach of contract, etc. The behaviors prescribed in Paragraph 1 of Article 25 of these Measures, the illegal acts that have been complained about, reported and handled and the administrative penalties, etc, shall be recorded into its credit archives as misconducts.

Article 31 Where a project bidding agency applies for the qualification for a project bidding agency by concealing the relevant information or providing false materials, the qualification-licensing organ shall reject its application or not grant administrative license and give an admonition, moreover, this institution may not re-apply for the qualification for a project bidding agency within one year.

Article 32 Where a project bidding agency obtains the qualification for a project bidding agency by such illegitimate means as deception or bribery, the qualification-licensing organ shall give an admonition and impose a fine of 30,000 yuan upon it; moreover, this institution may not re-apply for the qualification for a project bidding agency within three years.

Article 33 Where a project bidding agency fails to handle the formalities for the modification of qualification certificate in a timely manner, the original qualification-licensing organ shall order it to handle the formalities within a certain time limit; if it fails to do so, the organ may impose a fine of not less than 1,000 yuan but not more than 10,000 yuan upon it.

Article 34 Where a project bidding agency fails to provide the information on its credit archives in accordance with the relevant provisions, the original qualification-licensing organ shall give it an admonition and order it to correct within a certain time limit; if it fails to do so, the organ may impose of fine of not less than 1,000 yuan but not more than 10,000 yuan upon it.

Article 35 Where a project bidding agency undertakes a project bidding agency business without obtaining the project bidding agency qualification or beyond the scope authorized by the qualification, this project bidding agency business shall become null, and the original qualification-licensing organ shall impose a fine of 30,000 yuan on it.

Article 36 Where a project bidding agency alters, resells, leases, lends or illegally transfers its project bidding agency qualification certificate by any other means, the original qualification-licensing organ shall impose a fine of 30,000 yuan on it.

Article 37 Where any project bidding agency commits any of the behaviors listed in Item (1), (2), (4), (5), (6), (9), (10) or (12), it shall be imposed upon a fine of 30,000 yuan.

Article 38 These Measures shall come into force as of March 1st, 2007. The Measures for the Qualification Accreditation of the Bidding Agencies of Engineering Construction Projects (Order No.79 of the Ministry of Construction) shall be abolished simultaneously.