

- (3) delivery of all the certifications required under the Transactions of Public Bodies (Enforcement of Bookkeeping and Payment of Taxes) Law 5736-1976.
- (b) Participation in a tender may be made subject to further substantive conditions, including conditions that refer to the potential participant's experience, qualifications, the extent of his activity, whether he meets the requirements of unofficial Israel standards, the importance of the place where his business activity is carried on, and whether he has recommendations.

Negotiations with proponents in a tender

7. (a) A Ministry's contract for the performance of a transaction in respect of goods or real estate, the performance of work or the acquisition of services may be concluded by way of negotiations with those proponents in a tender, whose bids were found to be suitable, if it is one of the following:
- (1) a contract for the implementation of a venture of special technological complexity, or of a venture which requires significant financial strength;
 - (2) a contract for the implementation of a combined venture of construction and of a transaction for the acquisition of real estate rights;
 - (3) a contract enumerated in paragraphs (2) to (7) of regulation 4;
 - (4) a contract enumerated in paragraphs (14), (14a) or (15) of regulation 3;
 - (5) a contract for the acquisition of real estate rights for use by the Ministry.
- (b) A Tenders Committee's decision to conduct negotiations is conditional on that having been mentioned in the tender documents and - in a public tender - also in the newspaper announcement.
- (c) The Tenders Committee shall negotiate with the participants whose proposals were found to be the most suitable, with full attention to fairness and giving an equal chance to all participants with whom negotiations are conducted; the contents of the negotiations shall be recorded in minutes.
- (d) When the negotiating stage has been concluded, the Tenders Committee shall make its decision, or it may give all the participants with whom it negotiated an opportunity to submit their final proposals by a date set by the committee.
- (e) The other provisions of this Chapter, except for regulations 15(b) and 17(b), shall apply to a contract made in accordance with this regulation.

Tenders Committee

8. (a) One or more Tenders Committees shall be appointed in each Ministry; the committee shall be headed by the Director General of the Ministry or by his representative, and its members shall include the Accountant of the Ministry or his representative, and also the Legal Adviser of the Ministry or his representative; the committee shall not have more than five members.
- (b) The Minister or the Director of a reference unit - if the Minister authorized him to do so - may appoint one or more Tenders Committees for a reference unit that is not under the authority of the Director General; the Tenders Committee's composition shall be as said in subregulation (a), *mutatis mutandis*.
- (c) The Minister or the Director General - if so authorized by the Minister - may appoint a separate Tenders Committee for a unit in his Ministry, if the volume or character of that unit's activity justifies doing so; the Tenders Committee's composition shall be as said in subregulation (a), *mutatis mutandis*.
- (d) The Accountant General may appoint inter-Ministerial Tenders Committees for subjects common to several Ministries; an aforesaid committee shall be

headed by the Accountant General or his deputy, and its members shall include the Directors General of the Ministries concerned, the Legal Adviser of one of the Ministries concerned, the Accountant of one of the said Ministries, or the representatives of each of those persons.

- (e) The Accountant General may appoint a special Tenders Committee for central tenders or special matters; the committee shall be headed by the Accountant General or his deputy, and its members shall include an additional representative of the Accountant General and the Legal Adviser of the Ministry of Finance or his representative.

Classification of contracts

- 9. (a) Every decision by an ordering unit to enter into a contract without a tender or by way of closed tender, as well as every decision to conduct negotiations with participants in a tender, shall be brought before the Tenders Committee in order to classify the contract according to regulations 3, 4, 5 or 7, and it shall be subject to the committee's approval, in the light of the provisions of regulation 42; this provision shall not apply to contracts said in regulations 3(1), (2), (8), (9) and 4(1).
- (b) The Tenders Committee may make its approval under subregulation (a) subject to conditions, including conditions on the public or other publication of the process by which the party to the contract is selected, and on the conduct of negotiations as part of that process.

Work of the Tenders Committee

- 10. (a) Decisions of a Tenders Committee shall be adopted by the vote of a majority of its members, shall be reasoned and shall be recorded in minutes which shall be signed by the committee members present at the meeting; a majority of Tenders Committee members constitutes a quorum at committee meetings.
- (b) The position taken by the Legal Adviser or by his representative on the committee shall be decisive on points of Law; the position of the Accountant or of his representative on the committee shall be decisive on questions of budget.
- (c) If a committee member, his relative or a body corporate in which he is an interested party has a personal interest in a matter before the committee, then he shall not participate in the discussion and another member shall be appointed to take his place for that matter; for this purpose -
"relative" - spouse, sibling, parent and offspring, as well as a parent or spouse of any of these;
"interested party" - within its meaning in the Securities Law 5728-1968.
- (d) A Tenders Committee may consult one or more experts in the course of its work.

Exemption Committee

- 11. The Director General of the Ministry of Finance shall appoint a three member Exemption Committee, its members including the Accountant General or his representative, and the Legal Adviser of the Ministry of Finance or his representative; regulations 9(b) and 10 shall apply, mutatis mutandis, to the matter of the Exemption Committee.

Approval of Exemption Committee

- 12. (a) A decision of a Tenders Committee to grant exemption from a tender - except on a contract which requires the Accountant General's approval under

regulation 3 - or its decision that a contract requires a closed tender, all when the value of the contract exceeds NS 400,000, and - for purposes of the acquisition of a real estate right - NS 1,500,000, requires approval by the Exemption Committee.

- (b) The Accountant General may determine categories of contracts, for which approval of the Exemption Committee under subregulation (a) will be required only if the value of the contract is NS 700,000 or more.
- (c) The Exemption Committee shall make its decisions under these regulations within 21 days after the day on which it received a request; if no decision has been made by that time, then the Tenders Committee's decision shall be in effect, on condition that it was approved by the Director General of the Ministry, and in respect of a Tenders Committee in a reference unit said in regulation 8(b) - by the person authorized to do so under the said subregulation.

Reporting decisions

- 13. (a) A unit that places an order shall report to the Tenders Committee a decision to enter into a contract without a tender or by way of a closed tender under regulations 3(1), 3(8) and 4(1); Ministry Director Generals shall report their decisions under regulation 3(2) to the Accountant General.
- (b) Tenders Committees shall report to the Exemption Committee any grant of exemption from tender under paragraphs (3) to (7), (9) to (27) and (29) of regulation 3 or under regulation 5, as well as their decision that a contract requires a closed tender under regulation 4(2) to (7), or that it may be carried out by way of negotiations in accordance with regulation 7, all when the decision does not require approval by the Exemption Committee under regulation 12, or approval by the Accountant General under regulation 3.

Exemption for foreign transactions

- 14. (a) In addition to the provisions of regulations 3 and 5, a Tenders Committee may exempt a contract from mandatory tender, if the transaction is with a resident of a foreign country or if the contract is for a transaction to be carried out abroad, all if it is one of the following:
 - (1) a transaction for the acquisition of goods, in respect of which the Director of the ordering unit certified that - to the best of his knowledge - goods of the type to be acquired cannot be found in Israel; the contract requires approval by the Accountant General, and in his absence by a person authorized by him;
 - (2) a contract by a representation or branch of the Ministry in a foreign country, for its own use.
- (b) A contract aforesaid in subregulation (a) shall be made after several applicable offers have been examined; grounds for the decision which and how many proponents to select shall be recorded in minutes.

Publication of public tender

- 15. (a) When a Ministry wishes to enter into a contract that requires a public tender, the Tenders Committee shall publish notice thereof in a daily newspaper that appears in Israel in Hebrew and on an Internet site; the address of the Internet site shall be published with reasonable frequency in two of the three most widely distributed newspapers in Israel, as said in section 1A(b) of the Planning and Building Law 5725-1965.
- (b) a newspaper advertisement shall also be published in a widely distributed daily

newspaper or in one published at least once a week in Israel in the Arabic language.

- (c) The following shall, inter alia, be specified in the newspaper advertisement:
 - (1) the nature of the proposed contract and a description of its subject, including any option to expand the contract;
 - (2) the proposed period of the contract, including any option for its extension;
 - (3) preconditions under regulation 6, if any, for participation in the tender;
 - (4) the time and place where additional particulars and the tender documents may be obtained, and the payment for the tender documents, if any;
 - (5) the last date and the place for the submission of proposals.
- (c) When the advertisement has been published in the press, then the Tenders Committee may also publish the contents of the advertisement in one or more foreign countries, or by despatching it to at least two proponents whose places of residence are in a foreign country.

Conducting closed tender

- 16. (a) If a Ministry wishes to enter into a contract that requires a closed tender, then the Tenders Committee shall approach several factors from a classified list of appropriate potential proponents (hereinafter: list of proponents) in the Ministry's name.
- (b) The list of proponents shall be drawn up by types of contracts, shall be updated from time to time, and it shall be published or available for public inspection at a time and in a manner prescribed in the Finance and Business Rules.
- (c) Any person who wishes to be included in a list of proponents for a certain type of contract shall submit written application to the Tenders Committee, accompanied by all the necessary particulars and documents, and he shall be included in the list if the Tenders Committee finds him fit to be included; the Tenders Committee shall inform the applicant of its decision and the reasons for it.
- (d) If the list of a certain category of proponents includes no more than ten proponents, then the Tenders Committee shall approach all of them; if the list includes more than ten proponents, then the committee shall approach at least five of them; the ones who are asked to submit proposals shall be chosen, as far as possible, in rotation, all in a fair manner that yields the greatest benefit to whoever conducts the tender.
- (e) Every factor included in the list of proponents for a certain type of contract, who meets the conditions for participation in the tender, may participate in the tender - at the times and on the terms set in it - in addition to those approached by the committee.

Tender documents

- 17. (a) Documents of a public tender shall be delivered to all applicants, but it may be prescribed that the documents shall be delivered against payment.
- (b) Tender documents shall also include the following:
 - (1) the conditions of the tender, including conditions for participation in it;
 - (2) the text of the participant's proposal;
 - (3) the text of the contract, including a time table and terms of payment, as well as the plans and specifications that relate to the contract's implementation; it is permissible to include only the main points, if

- including the text of the entire contract is difficult, because of the nature of the tender;
- (4) if surety is required - the type of surety, its conditions, amount and period;
 - (5) some or all particulars on the criteria said in regulation 22, according to which the winning proposal will be chosen;
 - (6) any other document or information, which in the committee's opinion is necessary for the orderly and fair conduct of the tender, and in order to assure receipt of a proposal that will yield the greatest benefit to the Ministry, including a demand for any document or information on the proponent's qualification, experience or capability.
- (c) The Tenders Committee may decide not to deliver all tender documents, but to display some or all of them for inspection in a place designated by it; if it so decides, then the time and place for the inspection of documents shall be stated in the newspaper advertisements.

Submission of proposals

18. Persons interested in participating in a tender shall deliver their full and complete signed proposals to the Tenders Committee in a well sealed envelope (hereinafter: tender envelope), and that in the manner, at the time, in the place and in the number of copies specified in the conditions of that tender; if the conditions of the tender did not specify the number of copies, then proposals shall be delivered in two copies.

Tender box

19. (a) Until they are opened - on the last date for the submission of proposals or thereafter - tender envelopes shall be kept in one or more locked boxes designated for keeping tender documents (in these regulations: tender box).
- (b) The Director General of a Ministry, and for reference units said in regulation 8(b) the person authorized for that purpose under the said subregulation, shall appoint from among the employees of his Ministry persons qualified to open a tender box; the tender box shall be opened in the presence of the Tenders Committee or of at least three persons selected by the Tenders Committee from among those qualified as aforesaid.
- (c) If the value of the contract was estimated before the tender was published, then the estimate shall be kept in the tender box until it is opened as said in this regulation.
- (d) Minutes shall be kept at the time a tender box is opened, recording also the number of envelopes found in the box, their contents, identification, the estimate if such was prepared, and - as far as possible - also the price offered or requested, as the case may be.

Examination of proposals

20. (a) The proposals shall be examined by the Tenders Committee within a reasonable period of time after the tender box was opened.
- (b) The Tenders Committee shall not consider proposals that were not found in the tender box on the last date for the submission of proposals.
- (c) If proposals are found to include clerical or arithmetic errors, the chairman of the Tenders Committee may correct them; the correction shall be made in the course of the committee's examination of the proposals and shall be recorded in the minutes; proponents shall be informed of the corrections.
- (d) The Tenders Committee shall disqualify proposals if they are incomplete, mistaken or based on incorrect assumptions or on misunderstandings of the