

- (8) a contract in consequence of a tender, of a request for proposals or of a given undertaking' all if they were done before Mandatory Tenders Regulations (Amendment) 5757-1977 (hereafter: 1977 regulations) went into effect, in accordance with rules and practices followed before the said regulations went into effect;
- (9) a contract for the realization of an option included in a contract concluded before the 1977 regulations went into effect;
- (10) a contract, the value of which does not exceed NS 400,000, if made in accordance with procedures approved by the Legal Adviser of the fund.

Tenders Committee

- 40D. (a) The Director General may - with approval by the Sick Fund Council or by a subcommittee empowered for this purpose - appoint one or more Tenders Committees for the sick fund with at least three members each, including the Legal Adviser, the fund's Accountant or their representatives (hereafter: Tenders Committee); for purposes of regulations 3(28) and 23 the Tenders Committee shall be deemed an Exemption Committee.
- (b) if two or more Tenders Committees were appointed for a sick fund, then -
- (1) the division of competences between them shall be prescribed by whoever appointed them;
 - (2) the person who appointed them may refrain from including the Legal Adviser or his representative in a certain Tenders Committee.

Reporting

- 40E. The Tenders Committee shall report -
- (1) to the sick fund's internal auditor - exemptions from obligatory tenders granted under paragraphs (3) to (6) of regulation 40C;
 - (2) to the Director General, the internal auditor and the Sick Fund Council - exemptions granted under regulation 40C(7) and also contracts exempt of tenders that are worth more than NS 1 million;
 - (3) to the Director - exemptions granted under regulation 40C(7), within 30 days.

CHAPTER SEVEN: MISCELLANEOUS PROVISIONS

Linkage

41. The amounts stated in these regulations shall be linked to the consumer price index published by the Central Bureau of Statistics; the adjustment shall be made at the beginning of every fiscal year.

Contracts by tender to be preferred

42. Ministries, Government companies, Government subsidiaries, bodies corporate established by Law and sick funds shall give preference, as far as is justified and reasonable under the circumstances of the case, to the making even of contracts enumerated in regulations 3, 4, 5, 7 and 25 by way of tender, and they shall do all in their power to prevent a matter from becoming urgent, as said in regulation 3(2).

Confidentiality

43. No person shall disclose any information, which he obtained by virtue of his position in connection with a tender, published or about to be published, except to persons entitled to receive the information.

International treaty

44. These regulations shall apply to the extent that they do not contradict any obligation of the State under an international treaty.

Saving of Laws

45. The provisions of these regulations shall add to, and not derogate from the provisions of any enactment.

Effect

46. (a) These regulations shall be in effect from the day on which the Law went into effect.
(b) Regulation 3(23) shall be in effect until the end of one year after the day on which the Law went into effect.
(c) Regulation 3(26) shall be in effect until the end of two years after the day on which the Law went into effect.
(d) Regulation 25(29) shall be in effect until the end of five years after the day on which the Law went into effect.

MANDATORY TENDERS REGULATIONS (DEFENSE ESTABLISHMENT CONTRACTS) 5753-1993

By my powers under sections 3, 4 and 5 of the Mandatory Tenders Law 5752-1992 (hereinafter: the Law), in consultation with the Minister of Finance and with the approval of the Knesset Constitution, Law and Justice Committee, I make these regulations:

CHAPTER ONE: INTERPRETATION

General definitions

1. In these regulations -
 - "tender" - a public tender or a closed tender;
 - "closed tender" - various forms of tender, in which only certain proponents are asked to submit proposals;
 - "tender documents" - as said in regulation 12;
 - "amount of transaction" - the amount stated in the contract, including taxes;
 - "project" - a task on subjects of development, production or construction, composed of a group of subsystems that combine to constitute a single system;
 - "supplier" - a supplier of goods, performer of work or provider of services.

CHAPTER TWO: MINISTRY OF DEFENSE

Definitions

2. In this Chapter -
 - "Ministry of Defense" - includes the Israel Defense Forces (I.D.F.)
 - "the Director" - the Director General of the Ministry of Defense;
 - "Ministry of Defense Rules" - administrative rules prescribed by the Director, and for the implementation of these regulations - by the Director in consultation with the Accountant General;
 - "reference unit" - a unit in the Ministry of Defense, within the meaning of "reference unit" in the State Service (Discipline) Law 5723-1963, which is managed as a separate accounting unit, its management and operations being mainly guided by business considerations;
 - "ordinary tender" - a tender the winner of which was chosen as said in regulation 14(c);
 - "extraordinary tender" - as said in regulation 7;
 - "Exemption Committee" - a committee for exemption from tender, appointed under regulation 8;
 - "Accountant General" - the Accountant General in the Ministry of Finance.

Exemption from mandatory tender

3. The Ministry of Defense shall not be obligated to hold a tender for a transaction, if it is one of the following:
 - (1) a transaction, the value of which does not exceed NS 10,000, or a transaction the value of which exceeds NS 10,000 but does not exceed NS 25,000, if in the

- budget year in which the transaction is performed no previous transaction was performed without tender between the Ministry of Defense and that same contracting party on an identical subject; the Ministry of Defense may digress from the said amounts by up to 10%;
- (2) a transaction for the acquisition of goods or services or for the performance of work, with the only supplier of those goods or services in Israel or with the only factor with the technological or scientific capability or infrastructure for the performance of that work or service, all when a professional factor in the Ministry of Defense designated for that purpose gave his opinion that that supplier is the only one in Israel, and when a tender with the participation of proponents from foreign countries is out of the question;
 - (3) a transaction with the proponent of an innovative idea, for the testing or initial development of that idea;
 - (4) a transaction with the only potential buyer in Israel of certain surplus goods, if a professional factor in the Ministry of Defense designated for that purpose gave his opinion that that buyer is the only one in Israel;
 - (5) a transaction, the performance of which involves use of a production line, which - because of defense considerations - should be maintained continuously, there being reason to believe that holding a tender in respect of the said transactions would result in that line being shut down;
 - (6) an additional transaction, which constitutes a continuation of a first transaction within three years after the date of the first transaction, for purposes of economy and efficiency and on terms that are not less favorable than the first transaction for whoever placed the order (hereinafter: continuing transaction); the aggregate value of all continuing transactions shall not exceed the value of the first transaction; if the aggregate value of all continuing transactions exceeds 50% of the value of the first transaction, then the continuing transaction requires approval by the Director; the Director may, under special circumstances and for reasons that shall be recorded, approve a continuing transaction even if it is being concluded more than three years after the date of the first transaction, and even if the aggregate value of all continuing transactions exceeded the value of the first transaction; in this paragraph, "value of the first transaction" - its value at the time of each of the continuing transactions;
 - (7) a transaction for the exercise of an option of the Ministry of Defense, which was included in the terms of a contract concluded after a tender; an aforesaid transaction, made after more than three years passed since the conclusion of the contract that included the option, requires approval by the Tenders Committee;
 - (8) continuing transactions between the same parties within the framework of a single project, until the conclusion of that project;
 - (9) a transaction entered into for purposes of uniformity, economy or efficiency with a subcontractor or subsupplier of a person, with whom a contract was voided for any reason whatsoever, in order to complete the voided contract, provided the transaction is not on worse terms for the party that placed the order, than was the voided contract;
 - (10) a transaction entered into for purposes of uniformity, economy or efficiency with a planner in respect of engineering plans for an addition to or a change of an installation which he planned, provided the terms of the transaction are not worse for the party that placed the order, than were those of the transaction for planning the original installation (hereafter in this subregulation: original transaction) and that it does not amount to more than 50% of the

- original transaction at its value, as revalued for the date of the additional transaction;
- (11) a transaction for the acquisition or maintenance of components for existing assemblies in possession of the Ministry of Defense, with the producer of the assembly or with the original producer of the component who is the only party authorized by the producer of the assemblies, or a transaction for the maintenance of aforesaid assemblies with the producer of the assembly or with the only party authorized by him, all when performance of the transaction with another supplier would be liable to interfere with the assembly's orderly operation;
 - (12) a transaction in which making the contract is urgent, also in order to respond to operational or training requirements in the I.D.F., that urgency making it impossible to hold a tender on this transaction without causing real damage; notification of the exemption from mandatory tender shall be delivered to the Director;
 - (13) a transaction for the purchase of vital goods or services, the importation of which is expected to pose difficulties during an emergency, and for which - because of national defense considerations - there should be more than a single supplier in Israel, and in respect of which it is necessary to prevent the creation of a monopoly, which could have an adverse effect on the continuity of supply to the Ministry of Defense; notification of the exemption from mandatory tender shall be delivered to the Director;
 - (14) a transaction with a local authority for services within the tasks of the local authority, as defined by Law;
 - (15) a transaction with a Government company, a Government subsidiary or a mixed company, within their meanings in the Government Companies Law 5735-1975, or with any other body corporate said in section 60 of the aforesaid Law (hereafter in this subregulation: Government company), with the Director's approval and on condition that all the following requirements are met:
 - (a) the Government company constitutes - in accordance with its memorandum and by-laws, and in accordance with the Government decision that established it - an arm for the implementation of direct and defined tasks of the Government, and the transaction is intended to implement those tasks; or the company carries out a task or service imposed on it by enactment, or it supplies a vital service or commodity to the public, and the transaction is intended for the performance of that task or service;
 - (b) the transaction is being carried out for a unique purpose, which will be achieved in the best and most appropriate manner if it is performed by the Government company because of the Government's control of the company; for this purpose, "control" - within its meaning in the Securities Law 5728-1968;
 - (c) there is only one Government company for the performance of the tasks said in paragraph (a); if there are several, then a closed tender shall be held between them;
 - (d) the Government company assumed the obligation that its transactions with other parties, which stem from the transaction with the Ministry of Defense, will be made by way of public tenders, unless the conditions specified in this regulation and in regulations 4 and 5 obtain, and if those conditions obtain, then the transactions shall be made in accordance with the said regulations, as the case may be;