

Decree No. (84) of 2021

Amending some provisions of the executive regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

After reviewing Decree Law No. (36) of 2002 regulating tenders and auctions

Government purchases and sales, as amended,

And the executive regulations of the law regulating government tenders and procurement issued by decree

No. (37) of 2002,

Based on the proposal of the Prime Minister, and after the

approval of the Council of Ministers,

We have drawn the following:

Article One

1- The title of Decree No. (37) of 2002 issuing the executive regulations of the law regulating government tenders and purchases is amended to be "Decree No. (37) of 2002 issuing the executive regulations of the law regulating tenders, auctions, purchases and sales."

Governmental

2- The title of the executive regulations of the law regulating government tenders and procurement issued by Decree No. (37) of 2002 is amended to be "the executive regulations of the law regulating tenders."

Government auctions, purchases and sales.

3- The title of Chapter Two of the Executive Regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002 is amended to be the Tender Board

And bids

4- The phrase "the disposing entity" will replace the phrase "the procuring entity" and the phrase "the disposing entity" will replace the phrase "the procuring entity" wherever it appears in the executive regulations of

the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002.

second subject

The texts of Articles (3), (4), (8) shall be replaced by clause (h), (16), (24), (25), (27), (29),

(33), (35), (40), (43) Item (a) of the second paragraph, (44), (45), (47), (48), (51), (76) The second paragraph, (80), (96) Clause (D), of the Executive Regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002, the following texts: Article (3):

The provisions stipulated in these regulations apply to the purchase of goods, construction and services, and the disposal of funds owned by entities subject to the provisions of the law.

Article (4):

The contract to purchase goods, construction, services, or dispose of funds owned by government agencies

shall be through one of the methods stipulated in the law. The disposing

if the purchase or disposal for the contract party must submit a reasoned request to the Council to obtain its approval

is in any method other than the contracting method through local public tender.

Or public auction.

Article (8) Clause (H);

H- Reasons for rejecting, suspending or excluding any bid, offer, proposal or quotation. Article (16):

The Council may undertake pre-qualification work for large, complex or special projects that require separate pre-qualification, and the Council may seek the assistance of technicians from other parties or consulting offices. Article (24):

The Council or the disposing party may re-evaluate and classify suppliers and contractors and update the data of the pre-qualification register on a periodic basis, and they may - depending on the circumstances - at any time request the supplier or contractor to prove its eligibility again and evaluate it according to the same foundations and standards that were used in the pre-qualification, and it shall be deleted from the register. By decision of the Council, the name of the supplier or contractor who fails to prove its eligibility again within the period specified for that. Article (25):

The supplier or contractor may submit a request to the council or the managing authority to have his name included or reclassified in the pre-qualification register within the specified dates. Article (27):

The Council or the disposing party - as the case may be - is obligated to inform all suppliers or contractors participating in the pre-qualification or pre-qualification procedures of the decisions taken regarding their applications.

Article (29):

Decisions regarding pre-qualification, whatever their type, will be announced on the Council's website for a period of seven days for each decision, and suppliers or contractors participating in the pre-qualification will be notified of this at their addresses provided in the pre-qualification request.

Article (33):

Before announcing the tender, the disposing party prepares documents called "tender documents."

The tender documents are uploaded to the Council's electronic system so that suppliers and contractors wishing to participate can purchase the documents electronically at an amount equivalent to the actual cost of these documents, which the Council sets according to the value of each tender, provided that the documents are sold centrally through the Council only.

Article (35):

Bidding documents must include, in particular, the following information and data:

- A- Instructions related to preparing bids.
- B- Standards and procedures related to evaluating the eligibility of suppliers or contractors and related to proving their eligibility again.
- C- Include the evaluation criteria upon which the disposing authority relies to select the winning bid, the cost of maintenance, operation, licenses, and other operational costs, if any, specifying the time period for these costs and determining their appropriate relative weight.
- D- Requirements related to documentary evidence or other information that suppliers or contractors must provide to prove their eligibility.
- E- The nature of the goods, construction or services to be purchased, the technical characteristics required to be available, including technical specifications, maps, drawings and designs as the case may be, the quantity of goods, any ancillary service that must be performed, the location where the construction will be carried out or the services will be provided, and the specific time. To deliver goods or to carry out construction or to provide Services.
- F - Requiring that the machines, equipment, or devices to be supplied be of new manufacture, and if the disposing party wishes to accept bids or offers for remanufactured or rehabilitated machines, equipment, or devices, this must be explicitly stated.
- G- Include the cost of initial construction work if the nature of the project requires this. H- Terms and conditions of the purchase contract.

I- In the event that alternatives are permitted for the characteristics of the goods, constructions, or services, or for the contractual terms and conditions, or for any other requirements specified in the tender documents, a statement shall be included in this regard, as well as the manner in which the alternative bids will be evaluated and the basis for comparison between them.

J- The method by which the bid price is set and the elements that must be included in the price. K- A statement of the permissibility of submitting more than one price or proposal if the nature of the project so requires.

L- The currency in which the bid must be placed. Price - the language in which bids must be prepared.

N- Any requirements related to the bid guarantee, implementation guarantee, and any other guarantees.

Q-The method and place of submitting bids and the deadline for submitting them. P- The period necessary to submit requests to extend the submission of bids, provided that it is in sufficient time, as required The nature of each tender.

Q - The means by which suppliers or contractors may seek clarification regarding the tender documents, and a statement of whether the acting party intends to hold a meeting of suppliers or Contractors.

R- The period of time during which the bids are valid. S- Place, date and time of opening bids.

The procedures that will be followed in opening and examining bids.

U- The name and job title of one or more employees of the disposing entity authorized to communicate directly with suppliers or contractors and to receive correspondence directly from them regarding procedures. the purchase.

Bids. T- A statement of the right of the disposing party to reject all T-1

Any procedures that are required once the bid is accepted in order for the purchase contract to become effective, including: That's editing the contract.

X - Any other requirements determined by the disposing authority in accordance with the provisions of the law and the provisions of these regulations that are related to the preparation and submission of bids and purchasing procedures. Y- Establishing the right to file a grievance and reconsider any illegal action or decision related to procedures the purchase.

Z- Stipulate that purchase operations are subject to the provisions of the law, these regulations, and any other relevant decisions

Purchasing procedures.

Article (40):

If the disposing party holds a meeting for suppliers or contractors, it must prepare a minutes of the meeting and upload it to the Council's electronic system, including the requests that were submitted at the meeting for clarification of the tender documents, and its responses to these requests. Suppliers or contractors who purchased tender documents may obtain a copy of this record when necessary. Article (43) Clause (A)

of the second paragraph: A- The initial guarantee

and the independent pricing certificate. Article (44):

The supplier or contractor may amend or withdraw his bid before the deadline specified for submitting bids.

The amendment or notification of withdrawal shall be acceptable if it is deposited in the tender box, delivered to the

Council or submitted by the electronic system before the deadline specified for submitting bids. Article

(45):

The supplier or contractor may submit more than one price or proposal if the tender documents include this. However, if the documents do not include this or provide for the submission of only one price or proposal, the lower price or proposal must be taken into account, without prejudice to the conditions and specifications stipulated in the documents.

Tender. Article

(47):

The Council or any committees appointed by it shall open the bid envelopes at the place and time specified in the tender documents

or at the deadline in the event of an extension, and the Chairman of the Council or the Committee, as the case may be, must

Take the following:

A- Allow all suppliers or contractors participating in the tender to attend the bid opening session, whether attendance is physical or virtual.

B- Announcing the name and address of each supplier or contractor whose bid is opened, and the value of the bid, and communicating this information to the suppliers or contractors participating and absent from the tender upon their request.

C- Preparing the minutes of opening the envelopes and having them signed by the members of the Council or the members of the committee formed by the Council, as the case may be.

D- Marking the forms by commenting on all bids in which it becomes clear to the Council or committees that they are not eligible for acceptance, are missing some of the required documents, or have documents that are defective in

form or content attached to them.

The Council shall refer the bids, after opening their envelopes, to the managing authority or any other party to evaluate the bids in accordance with the criteria and weights contained in the tender documents.

In the event that bids are submitted in two envelopes, the disposing authority shall evaluate and analyze the technical bids in accordance with the criteria and weights contained in the tender documents, and send a copy of the evaluation report to the Council, specifying the technically acceptable bids. The disposing authority shall notify the suppliers or contractors whose technical bids were not accepted immediately. It receives the Council's decision issued approving the results of the technical evaluation, and the Council opens the financial bid envelopes at least two weeks after the date of

Notification, unless the disposing party submits a reasoned request accepted by the Council to open it before this date.

Article (48):

Arithmetic errors discovered during the evaluation of bids are corrected, so that errors are corrected in the tables of quantities and the total price of the bid is adjusted accordingly, and the bidder is notified of this correction. If he refuses to accept the amendment, the Council may exclude his bid from the evaluation, unless this bid is the lowest price and has the best conditions.

Article (51):

The Council may study and evaluate the bids or refer them to the disposing authority or any other

A committee or other body to study and evaluate it and submit recommendations regarding it to the Council for decision.

The Council, or the disposing party, after the Council's approval, may suspend bids after opening or examining their envelopes.

The disposing authority shall notify the holders of pending bids of the reasons for the suspension after receiving the bids from the Council within a period not exceeding five working days.

In all cases, bids marked with suspension may not be evaluated unless the Council decides to raise them

Comment about it.

In all cases, the Council has the right to re-evaluate. Article (76), second paragraph:

With the approval of the Council, the period specified for the performance of the implementation guarantee in the two previous cases may be extended to a maximum of ten days. If the winning bidder does not perform the implementation guarantee within the period specified for him, he will be considered withdrawn from the tender and his initial guarantee will be confiscated. The Council may impose on him any of the other penalties mentioned in Article (55) of the law, and in this case the Council may re-invite the tender or award it to another supplier or contractor.

Article (80);

The disposing authority may amend the quantities or volume of works in the contract by increase or decrease, so that the total value of the increase or decrease does not exceed 15% of the contract value, and this may not be exceeded.

Obtaining council approval. ^{after} Ratio except

When making an increase in the quantities or volume of unpriced works, whether made through the main contractor or one of the subcontractors, the disposing party must request at least three quotations to ensure the competitiveness of the price.

Article (96) Clause (D);

D - Any action or decision issued by the entity acting in violation of the provisions of the law shall be annulled, in whole or in part, unless implementation of the contract begins.

Article Three

The phrase "and bids" is added after the word "tenders" and the phrase "and sales" is added after the word "purchases" to Article One of Decree No. (37) of 2002 issuing the executive regulations of the law regulating government tenders and purchases.

Article Four

A new clause numbered (f) is added to Article (32), and a second paragraph is added to Article (39) of the executive regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002, and new articles numbered (4) bis are added to the same list. (13) bis,

(41) bis, (51) bis, (80) bis, (101), (102), the following texts:

Article (32) Clause (F):

F- Their commercial register must include commercial activity for the goods, construction, or services for which the contract is to be contracted.

Article (39), second paragraph:

The disposing authority may issue appendices to the tender documents a sufficient period of time before the deadline for submitting bids, provided that in all cases this period is not less than a week in order to enable all suppliers and contractors participating in the tender to amend their bids in accordance with these appendices. Article (4) bis:

The Council's website shall be the main platform for announcing the issuance of local tenders

Public auctions and pre-qualification work. The managing authorities must publish announcements according to a mechanism issued by a circular from the Council.

Article (13) bis:

The Council may exclude previously qualified suppliers or contractors if it has conclusive evidence from any governmental body indicating its inability to carry out the work subject to the qualification, or that it has previously violated its contractual obligations in any project inside or outside the Kingdom, or that it deliberately provided incorrect information. Incorrect information about his financial, technical, or administrative conditions, or that the volume of his contractual obligations within the Kingdom has become high in a way that exceeds his financial, technical, or administrative capabilities, which affects the implementation of the work.

Rehabilitation topic,

Article (41) bis:

Bids may be submitted in two envelopes, one technical and the other financial, provided that the tender documents stipulate this, provided that prices are not mentioned in the technical bid envelope. Article

(51) bis:

A permanent or temporary committee called the Bid Analysis and Evaluation Committee shall be formed in each of the disposing entities, which shall be specialized in studying, analyzing and evaluating the bids referred to these entities by the Council, provided that the committee shall submit to the Council a report signed by its members that includes the details and results of the evaluation

Bids. — process Article :

80) Repeatedly:

In cases that, by their nature, require the supplier or contractor to guarantee the safety of what is supplied or implemented, the equivalent of 10% of his dues shall be reserved and disbursed to him after the expiry of the agreed upon guarantee period.

on her.

Article (101):

The disposing party must plan in advance the needs of periodic events and events whose start dates are known in advance, with sufficient time to allow them to be put to tenders, and to conduct evaluation and award work to the winning bidder before their dates arrive. Article

(102):

The Council is responsible for issuing the necessary regulatory decisions and circulars and preparing lists thereof

And review it periodically.

Article Five

Two new chapters will be added to the executive regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002: Chapter Five bis, entitled (Award), and Chapter Seven bis, entitled (Auctions), in accordance with the texts of the following articles:

Chapter Five bis

The award

Article (77) bis:

Upon receipt of the award decision, the disposing authority shall notify the non-winning bidders by registered letter with acknowledgment of receipt that their bids have not won in the tender or auction in which they participated within three working days from the date of its receipt of that decision.

Article (77) bis (1):

The disposing party, after obtaining the approval of the Council, may negotiate with the bidder with the best terms and lowest price to lower his price to the lowest possible price if the price of his bid is higher than the estimated cost allocated for the purchase, without prejudice to the conditions and specifications stipulated in the tender documents through a committee formed for this purpose, provided that The Committee negotiates results for the Council. Article (77) bis

(2):

The contract shall be signed with the winning bidder within a maximum period of thirty days from the date of issuance of a decision

The award.

Chapter Seven bis

Bids

Article (98) bis:

The rules and procedures regulating government tenders and purchases apply to government auctions and sales, all insofar as they do not conflict with the nature of the government auction or sale, and without prejudice to the provisions covered in Chapter Six of the law. Article

(98) bis (1):

The disposing authority shall prepare lists of the items to be sold through auction, including detailed data for those items, provided that they include, in particular, descriptions of the items to be sold, their quantities, types, and technical characteristics, and shall include them in the auction documents. The managing authority must enable those wishing to purchase to inspect the items offered for sale.

Article (98) bis (2):

The disposing authority shall form a committee with experience and expertise to evaluate the items to be sold and determine the estimated price. The disposing authority may seek the assistance of experts from other government agencies or consulting offices.

The estimated price may not be disclosed, however, with the approval of the Council, the estimated price may be announced as the opening price for the auction.

Article Six

1- The phrase “and the phrase (or its equivalent)” included in the deficiency of clause (b) of Article (36) shall be deleted, and the phrase “and the limited tender must be announced in the Official Gazette” contained in the deficiency of clause (b) of Article (36). 55) of the Executive Regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002.

2- Article (28), the second paragraph of Article (60), and Clause (A) of Article (97) of the Executive Regulations of the Law Regulating Government Tenders and Procurement issued by Decree No. (37) of 2002 shall be cancelled, and the remaining provisions of this Article shall be renumbered accordingly.

Article Seven

Ministers - each in his capacity - must implement the provisions of this decree, and it will come into effect from the day following the lapse of three months from the date of its publication in the Official Gazette.

King of the Kingdom of Bahrain

Hamad bin Isa Al Khalifa

Prime Minister Salman
bin Hamad Al Khalifa

Issued at Riffa Palace:

Date: 23 Dhu al-Hijjah 1442 AH Corresponding
to: August 2, 2021 AD