

Regulation No. (4) of 2001 on Supplies and Works of Aqaba Special Economic Zone Authority

Published on Page 399 of the Official Gazette Issue 4474 dated 31/01/2001

Issued pursuant to Article (56) of the Law No. 32 of 2000 on Aqaba Special Economic Zone

Article 1 - This Regulation shall be cited (Regulation on Supplies and Works of Aqaba Special Economic Zone Authority of 2001) and shall come into effect as of the date of publication hereof in the Official Gazette.

Article 2 - The following words and expressions, wherever stated in this law, shall have meanings designated hereunder unless the context otherwise implied:

Law	: Law on Aqaba Special Economic Zone.
Authority	: The Authority of Aqaba Special Economic Zone.
Board	: The Board of Commissioners.
Chief Commissioner	: The Chairman of the Board.
Commissioner	: The member of the Board.
Directorate	: The Directorate of Financial Affairs of the Authority.
Financial Director	: The Director of the Directorate.
Department	: The Department of Supplies and Works in the Directorate.
Committee	: Committee on Supplies and Works formed under this Regulation.
Supplies	: Movable properties belonging to the Authority and the services relating thereto, such as maintenance, insurance, etc.
Works	: Construction of buildings, roads and engineering structures of all kinds owned by the Authority, and the maintenance, restoration and supervision of execution, and operation thereof, and all necessary equipment, materials, services and technical consultancy.
Contractor	: Any natural or legal person contracting with the Authority for delivery of supplies, provision of services, or execution of works thereto, and the supply of necessary materials for such works.

Article 3 -

- a - The Chief Commissioner shall be responsible for securing the supplies for which the Authority stands in need or executing the works necessary therefor, and shall assume supervision and organization of the activities of the Directorate in a manner ensuring carrying out the duties thereof.
- b - The Financial Director shall be responsible for the workflow of the activities of the Directorate and for assuming the responsibilities thereof in following up the supply and work affairs of the Authority.

Article 4 -

- a - The Directorate shall have the competence of processing all transactions relating to the delivery of supplies or provision of services to the Authority, or execution of works for it in accordance with the provisions of this Regulation, the instructions issued hereunder and the resolutions of the Board passed in this respect.

- b - A department of supplies and works shall be created in the Directorate which shall have its own personnel, where the head of the Department shall be appointed by decision of the Chief Commissioner upon a submission made by the Financial Director.

Article 5 -

Purchase of supplies and execution of works in the Authority shall take place by any of the following ways:

- a - Public tenders.
- b - Solicitation of offers by special invitations.
- c - Negotiation and outsourcing.
- d - Direct purchase or execution.

Article 6 -

Principles and rules of purchase of supplies and execution of works for the Authority shall be defined under instructions to be issued by the Board for this purpose, provided that to set out the powers to purchase in accordance with the provisions of this Regulation.

Article 7 -

Subject to the Instructions on Classification of Contractors and Qualification of Consultants in effect, the classification of construction contractors and qualification of consultants in all types of works shall be made in categories or degrees according to the financial, technical and administrative qualifications, equipment and expertise in execution of works for the Authorities, under instructions to be issued by the Board for this purpose, provided that to define the established conditions and procedures in the process of classification, the method of applying for classification by contractors without discrimination between them in the classification process for whatever reason. The instructions shall be published in the Official Gazette.

Article 8 -

- a - A committee called (Committee on Supplies and Works) shall be formed in the Authority by resolution of the Board based on the submission made by the Chief Commissioner consisting of five commissioners and officers of the Authority, where a chairman and a vice chairman shall be nominated to the committee.
- b - The Committee shall assume the responsibility for purchase of supplies and execution of works in accordance with the provisions of this Regulation and the instructions issued by the Board for this purpose.
- c - The Committee shall report to the Board as to all activities and procedures thereof.
- d - The head of the Department shall act as the secretary of the Committee, who shall furnish invitation for and organize the meetings thereof, record the minutes and adopted resolutions, keep the records and files of the Committee, and all matters relating to the activities thereof.

Article 9 -

- a - The Committee shall hold a meeting whenever needed by invitation of the Chairman or Vice Chairman thereof, in case of absence of the former, and the meeting thereof shall be legal with the attendance of at least four members, provided that the Chairman or the vice Chairman is to be present.
- b - Resolutions of the Committee shall be unanimously passed or by a majority that is not less than three present members.

Article 10 -

Head of the Department shall be responsible for keeping the books, records and files of purchase, tenders and transactions related thereto, as well as for auditing the tender forms, announcing and following up the same, and ensuring the publication thereof before opening tenders.

Article 11 -

Supplies shall be provided to the Authority and works shall be executed for it upon placing a tender for this purpose under an invitation which is to contain conditions set by the Committee under which the method of settlement of the prices of such supplies or the cost of works and procedures of acceptance thereof from the suppliers and contractors, as well as the terms for supply or execution thereof, the penalties imposed for delay in supply or execution and cases of total or partial exemption there from, the prices of tender copies and exemption there from, and all matters relating to the executive procedures for tender awarding shall be defined.

Article 12 -

Method of placing and announcing tenders shall be defined by instructions to be issued by the Board for this purposes, provided that to contain the conditions and procedures relating to the tender, and namely:

- a - Types of required supplies or works.
- b - The term for submitting proposals and method of submittal thereof.
- c - The guarantees or deposits that each participant in the tender shall have to provide.
- d - The price of the tender copy and the place and date for opening proposals.

Article 13 -

- a - Financial provisions shall be made for placing the tender before proceeding with the procedures for placement thereof.
- b - At placing any tender, consideration shall be given to ensuring that the conditions, specifications and procedures thereof realize the principle of competition between the qualified entities capable of participating in submitting proposals and carrying out the required obligations set forth in the invitation for tender, where an adequate and sufficient period of time shall be given to such entities to consider the documents of the tender and submit proposals for the same.

Article 14 -

Similar supplies intended to be purchase during the fiscal year may not be divided into several transactions where every competent entity in the Authority shall have to identify the need thereof for annual supplies within a period not exceeding the first day of April of that year to secure the purchase thereof under one invitation whenever possible.

Article 15 -

All documents related to the tenders, contracts and agreement to be concluded for the same, and all documents, transactions and correspondence relating thereto shall be accepted in both Arabic and English.

Article 16 -

- a - Methods of depositing and opening proposals shall be defined under instructions to be issued by the Board for this purpose, provided that to contain the procedures to be observed at opening proposals.

- b - The Committee may allow the submittal, opening, awarding and endorsement of proposals by electronic means in accordance with conditions and principles to be defined under instructions to be issued by the Board for this purpose without conflict with the provisions of this Regulation.
- c - The bidder in any tender, except for engineering and consultancy service tenders, shall enclose with the proposal a certified bank guarantee issued by a bank or financial institution licensed in Jordan or a certified cheque, the amount of either shall be defined in the invitation for tender.

Article 17 -

The Committee may make a submission to the Board for canceling the tender and re-placement thereof, or engaging the Department with the purchase of supplies or execution of works by means of solicitation of proposals, negotiation, outsourcing or direct purchase and execution in accordance with the provisions of this Regulation in any of the following cases:

- a - If the number of submitted proposal was inadequate.
- b - If the proposed prices were unreasonable.
- c - If the proposals were incomplete, conditional, or in violation of the conditions of the tender.

Article 18 -

- a - Subject to all condition required in the invitation for tender in terms of quality, term for supply or execution, extent of capacity of the awarded entity to comply with the same, the Committee may award the tender to the best and most suitable proposals without limiting the same to the lowest prices.
- b - If the Committee found that the proposed prices in any tender were high or inadequate to the estimated amounts allocated for purchase of supplies or execution of the works in question, it shall, upon procuring the approval of the Chief Commissioner, take any of the following procedures:
 - 1 - Directly negotiate with the bidder with the lowest price proposal then those who follows to decrease the prices to the amount that the Committee deems to be adequate, provided that the same shall not result in any amendment to the conditions and requirements of the original proposal.
 - 2 - Cancel the tender and directly negotiate with those who participate therein to procure suitable prices and condition, and outsource the delivery of supplies or execution of works to that who submitted the best prices and conditions.
 - 3 - Cancel the tender and solicit proposals.
 - 4 - Re-place the tender.
- c - Resolutions of the Committee passed in relation to any of the cases set forth in Clause (b) of this Article Shall be subject to endorsement by the Board.

Article 19 -

- a - No member of the Board or the personnel of the Authority may directly or indirectly participate in tenders placed by the Authority, and no one of them may in any case have an interest in such tenders.
- b - No person, including the members of the Committee, may consider or award any tender of the Authority, purchase supply or execute works for it if he/ she has any interest, whether direct or indirect, with any of the bidders or those to whom the tender is awarded.

Article 20 -

- a - Awarding the delivery of supplies and provision of services to the Authority or execution of works therefor shall be made under the tenders placed for this purpose or by any other method of purchase of execution as follows:
 - 1 - By resolution of the Committee within the limits of powers entrusted thereto by the Board and with a maximum limit not exceeding one million Dinars in accordance with instructions to be drawn up for this purpose.
 - 2 - By resolution of the Board based on a submission made by the Chief Commissioner and recommendation of the Committee if the award amount exceeded one million Dinars.
- b - Resolutions of the Committee on awarding any tender shall be subject to the endorsement of the Chief Commissioner.

Article 21 -

- a - The resolution on awarding shall be served upon contractor to whom the tender has been awarded by registered mail to the address set out in the proposal thereof or by any other means of modern communication that can be documented, provided that the same shall be made within a period not exceeding seven days as of the date of endorsing the resolution on awarding and in all cases before the expiry of the term of validity of the proposed prices.
- b - The participant in any tender, except for engineering and consultancy service tenders, shall enclose with the proposal thereof a bank guarantee in a lump sum to be determined by the Committee provided that not to exceed (5%) of the proposed amount. The person to whom the tender is awarded shall, before signing the award agreement, provide a bank performance bond at (10%) of the award amount, where the tender bonds shall be returned to the bidders to whom no awarding has been made.
- c - Samples submitted by the person to whom the tender has been awarded shall be kept with the Head of the Department while other samples shall be either destroyed or pass to the Authority unless the tender documents otherwise stipulated, and shall be entered in the books and records of the Authority in accordance with the established rules.

Article 22 -

- a - The person to whom any tender is awarded shall sign a contract for the execution thereof in accordance with the resolution on awarding, provided that the contract is to provide for the conditions, specifications and other matters set out in the invitation for tender and the enclosed or annexed documents and drawings. The provisions and procedures provided for in this Regulation shall be deemed as part of the conditions of the contract.
- b - The contractor to whom any tender is awarded may not assign the same or any part thereof in whatever manner to any other person without the approval of the Committee in writing and in accordance with the conditions and guarantees it determines, provided that to have the Board endorse such an assignment.

Article 23 -

- a - If the contractor to whom the tender is awarded, upon serving the resolution on awarding thereupon, failed to sign the contract for execution thereof and provide the required guarantees or deposits pursuant to the provisions of this Regulation within fourteen days as of the date of serving the resolution thereupon, he shall be deemed as abstaining from executing the award and the amount of the guarantee or deposit that he has submitted at participating in the tender shall be confiscated. The Committee may, in such a case, take the following measures of any of them:
 - 1 - Award the tender to the person who submitted the best proposal following to the proposal; of the person abstaining from execution.

- 2 - Cancel and re-place the tender.
 - 3 - Bind the abstaining contractor in any of the two cases set forth in Items (1) and (2) of this Clause to pay the price difference and any amounts incurred upon the Authority or damages that it has sustained due to abstention thereof.
 - 4 - Deprive the abstaining contractor from participating in the tenders of the Authority for a period not less than one year.
- b - The Committee shall carry out any of the measures provided for in this article without having the obligation to serve any notice or warning upon the abstaining or defaulting contractor before taking such measures.

Article 24 -

The Chief Commissioner or the designee thereof may give approval, provided that to have the following included in the invitation for tender and conditions of the contract:

- a - Power of the Authority by decision of the entity with awarding competence to increase or decrease the quantity of any supplies or the size of any works the supply or execution of which is decided to be awarded in favor of the Authority under a tender placed in accordance with the provisions of this Regulation, provided that the prices of quantities of increase or decrease of such supplies or works are to be defined at the prices thereof in the resolution on awarding, and provided that the total costs of the quantity of increase or decrease shall not exceed (25%) of the total amount of the award.
- b - Power of the Authority by decision of the entity pursuant to the award and outsourcing to enter into agreement with the contractor to execute additional works directly relating to the works under executions pursuant to variation orders in accordance with the following principles and conditions:
 - 1 - The variation order shall be limited to modification, addition or change if not set out in the invitation for tender, outsourcing contract or execution agreement, while the actual increase in the size of executed works by the contractor according to the drawings and specifications of the tender shall not be deemed as a variation order.
 - 2 - The variation order shall not exceed (25%) of the total amount of the tender or outsourcing.
 - 3 - To procure the approval of the Board on the variation order in any of the following cases:
 - If it exceeded the percentage referred to in Item (2) of this Clause.
 - If the same resulted in an increase in the original prices of the tender or outsourcing.
 - If it included items for which no prices were set in the tender award or outsourcing.

Article 25 -

Methods of acceptance of the supplies delivered to the Authority and the works executed in its favor, including the procedures of inspection and examination thereof and cases of refusal of acceptance thereof, shall be determined by instructions to be issued by the Board for this purpose.

Article 26 -

- a - Upon acceptance thereof, the supplies shall be immediately entered in the records of the warehouses under duly signed notes of admission.
- b - All records relating to the supplies may be entered either manually or electronically.

Article 27 -

Supplies shall be issued and released from the warehouse, and the supplies in excess of the need or unusable shall be returned using the adopted forms, including electronic forms, in accordance with the instructions to be issued by the Board for this purpose.

Article 28 -

supplies unusable by the Authority or in excess of the need thereof may be sold by resolution of the Board based on a submission made by the Chief Commissioner and recommendation of the Committee.

Article 29 -

- a - Upon a submission made by the Committee, the Chief Commissioner may barter the supplies and materials available with the Authority for any other supplies or material required for the nature of use and interest.
- b - The Chief Commissioner may give approval on presenting supplies of the Authority as a gift in accordance with instructions to be issued by the Board for this purpose.

Article 30 -

- a - Upon a recommendation by the Committee, the Chief Commissioner may approve the destruction of unusable materials and writing them off of the records of the Authority, provided that the recommendation is to contain a list on the materials to be destroyed and the reasons thereof.
- b - Destruction of unusable materials shall take place in presence of at least one member of the Committee.

Article 31 -

Documents of release of disposed supplies in accordance with the provisions of this Regulation, whether by sale, gifting, destruction or any other method, shall be executed and the same shall be written off of the records of the Authority in accordance with the procedures and rules to be defined by the Board under instructions to be issued for this purpose.

Article 32 -

The Board shall issue instructions necessary for supervising the supplies of the Authority and monitoring the procedures and arrangements relating to the organization, keeping and good use thereof for their purposes, defining the duties and responsibilities of warehousemen, and the procedures of taking inventory of the supplies and assets of the Authority.

Article 33 -

- a - If any warehouseman was transferred from the position thereof, the supplies in custody thereof shall be handed over to the new warehouseman under inventories conforming to the records of the warehouse which shall be co-signed by both parties and their line supervisor shall endorse the signatures thereof.
- b - In the event that the handing over procedures set forth in Clause (a) of this Article cannot be made, inventory of the contents of the warehouse shall be made by a committee assigned by the Financial Director based on a submission made by the head of the department and the warehouse shall be handed over to the new person in charge by the committee according to the statements it has executed.
- c - If any excess or shortage appeared in any of the acceptance or inventory taking procedures, separate statements shall be executed for each excess or shortage to be signed by all persons participating in any of such procedures.

- d - The inventory report shall be submitted to the Head of the Department for submittal to the Financial Director for taking appropriate actions in respect thereof.

Article 34 -

Head of the Department or head of any concerned department shall be responsible for the supplies issued to the department thereof and shall monitor the use and benefit thereof and take necessary measures and precaution to protect the assets of the department.

Article 35 -

- a - No erasure, scratch or striking may be made in the books, records, orders or documents relating to supplies or works, nor any addition may be made thereto or between the lines thereof. Any correction of any entry shall be made in red ink and signed by the person who made the same in addition to the signature of the person who delivered or accepted the supplies in which record the error was made.
- b - Books, records, orders or documents may be kept by electronic means in accordance with instructions to be issued by the Board for this purpose to define the methods of keeping, modification and writing off thereof.

Article 36 -

If any of the personnel of the Authority or others caused the loss or destruction of the supplies or works of the Authority, either intentionally or due to error or negligence, the Chief Commissioner may form a committee to investigate the matter if the value thereof exceeded one hundred Dinars for taking an appropriate decision thereon based on the report of the committee. If the value of such supplies or works was less than the said amount, the Financial Director shall take an appropriate decision on this matter based on a submission made by the head of the department.

Article 37 -

The Board may, based on a submission made by the Chief Commissioner, grant a financial reward to the members of technical committees other than the officers of the Authority who study the tender proposals or to the experts whose assistance is sought by the Authority to accept the supplies and works, while the officers of the Authority shall be entitled to this reward if they have participated in considering these proposals outside the official working hours.

Article 38 -

The Chief Commissioner may delegate any of the powers thereof provided for in this Regulation to any of the members of the Board or personnel of the Authority, provided that such an authorization shall be specific and made in writing.

Article 39 -

The Board shall issue instructions necessary for implementing the provisions of this Regulation and shall have the right to resolve on any case not provided for herein without in a manner that is not conflicting with the provisions hereof.

02/01/2001