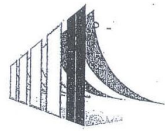


Law No. () of 2016
on Public Tenders

- After having reviewed the Constitution,
- The decree on the Kuwaiti Income Tax No. (3) of 1955, as amended,
- The Amiri Decree No. (12) of 1960, for the law of regulating the Fatwa and Legislation Department of the Government of Kuwait,
- Law No. (5) of 1961, regulating the legal relationships with foreign element, as amended,
- Law No. (30) of 1964, regarding the establishment of the State Audit Bureau, as amended,
- Law No. (37) of 1964, regarding public tenders, as amended,
- Law No. (32) of 1968, regarding cash, the Central Bank of Kuwait and the banking profession, as amended,
- Law No. (19) of 1973, regarding the preservation of petroleum sources of wealth,
- The Law Decree No. (31) of 1978, regarding the rules of the preparation of public budgets and supervision of their implementation and the final account, as amended,
- Decree Law No. (6) of 1980, regarding the establishment of the Kuwait Petroleum Corporation,

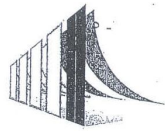
State of Kuwait



National Assembly

- Decree Law No. (38) of 1980, regarding the promulgation of Civil and Commercial Procedure law, as amended,
- Decree Law No. (67) of 1980, regarding the promulgation of civil law, as amended,
- Decree Law No. (68) of 1980, regarding the law of Commerce, as amended,
- Law No. (58) of 1982, regarding approval on the Unified Economic Agreement between the Gulf Cooperation Council (Article 3 of the Agreement),
- Law No. (1) of 1993, regarding the protection of public funds, as amended,
- Law No. (11) of 1995, regarding the Judicial Arbitration in Civil and Commercial Matters as amended by Law No. 102 of 2013,
- Law No. (81) of 1995, regarding approval on the agreement for the establishment of WTO,
- Law No. (25) of 1996, regarding the disclosure of commissions that are offered in the contracts entered into by the State,
- Law No. (66) of 1998, regarding abolition of the provisions which prevent from the subordination of some public authorities and public institutions to the control of the State Audit Bureau or the Public Tenders Law,

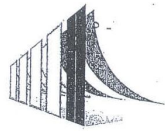
State of Kuwait



National Assembly

- Law No. (19) of 2000, regarding supporting and encouraging the national manpower to work in the non-governmental authorities as amended,
- Law No. (5) of 2003, regarding approval on the Unified Economic Agreement between the GCC countries,
- Decree No. (266) of 2006, regarding the establishment of the Central Agency for Information Technology, as amended by the Decree (322) of 2006,
- Law No. (98) of 2013, regarding the National Fund for the care and development of small and medium sized enterprises, as amended,
- Law No. (116) of 2013, regarding the promotion of direct investment in the State of Kuwait,
- Law No. (116) of 2014, regarding the partnership between the public and private sectors,
- Law No. (20) of 2014, regarding the electronic transactions,
- Law No. (23) of 2015, regarding the financial controllers body,
- Law No. (1) of 2016, regarding the promulgation of the Companies Law, and
- The Amiri Decree issued on 11/10/1964, regarding the identification of military materials to the Ministry of Defense and the security forces, which are excluded from the application of the provisions of Law No. (37) of 1964, regarding public tenders.

State of Kuwait



National Assembly

The National Assembly approved the following law, which we have ratified and issued:

Part One

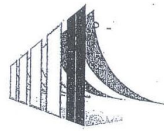
Definitions and scope of application of the law

Chapter One (Article 1)

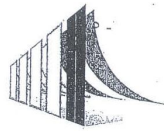
Definitions

In the application of this law, the following phrases and words shall bear the meanings corresponding to each of them:

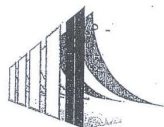
- **Public Authorities:** Ministries, government departments, public authorities and institutions with attached or independent budget, and companies wholly owned by Kuwait Petroleum Corporation.
- **Competent Minister:** State Minister for Ministers Council Affairs or the minister assigned by the Council of Ministers thereof.
- **Agency:** The Central Agency for Public Tenders.
- **Chairman:** Chairman of the Board of the Central Agency for Public Tenders.
- **Board:** The Board Director of the Central Agency for Public Tenders
- **The relevant authority:** The public authority requesting the tender.
- **The competent authority for procurement:** The Central Agency for Tenders or public authority that conducts the procedures to obtain any procurement.



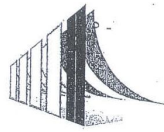
- **Procurement systems management:** the Ministry of Finance's Department competent to develop policies and systems of public procurement and follow up their application.
- **Budget:** Budget of the relevant authority.
- **The official currency:** Currency Unit determined by the State.
- **The national product:** Each product is produced in the State of Kuwait, or is national in origin, in accordance with the provisions of Article III of the Law No. 58 of 1982, regarding approving the Unified Economic Agreement between the GCC countries and the Law No. 5 of 2003 and Law No. 81 of 1995 referred to.
- **Public Tender** is a set of actions taken by the competent authority for procurement, according to this law to carry out procurement processes or the relevant authority obtaining the services or any work required in accordance with this law and subject to the principle of openness, equality and competition.
- **The tender documents or the bidding documents:** documents issued from the relevant authority or the competent authority for procurement, which offers bids or offers on the basis of which, according to this law, including, as the case: instructions to bidders, technical specifications, maps, designs, and the terms of reference and work programs, and bills of quantities, and the terms of the contract, forms of guarantee letters, and evaluation criteria.



- **The supplier, contractor or undertaker:** any actual or probable in a procurement contract with the relevant authority, whether a natural or legal person, and the term "undertaker", depending on the context, includes any person, natural or corporate, who supplies goods, implement works or provides services.
- **The main contractor:** Contractor contracted with a public authority.
- **The Subcontractor:** Is the contractor classified and registered, who signs a contract with the main contractor for the implementation of some of the works of the project after the approval of the relevant authority.
- **Moment Investment Process:** The daily investment operations handled by public authorities which fall within its competence in nature and need to momentary decision, such as dealing in bonds and securities.
- **Procurement, procurement process, or public procurement procedures:** the actions carried out by any of the competent authorities for procurement, according to this law, for the supply of items or services or perform construction, according to one of the procurement methods set forth in this law.
- **The supply of items:** the procurement of goods and commodities of all kinds, and services that accompany their supply.

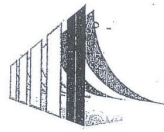


- **Contracting:** The works construction of buildings, structures or facilities, rebuilding, restoration or renovation of the same, such as preparation of the site, excavation and installation of equipment or materials, finishing, operation and maintenance, as well as ancillary services that come with the construction, including soil tests, engineering and geological investigations, surveying and aerial photography and other services that are offered, based on the construction contract, and the facilities also include roads, bridges, tunnels, sidewalks, parking, stations and networks of electricity, water, sewer and storm drains, airports, ports, passageways, canals, land reclamation and railways.
- **Services:** The items that can be purchased, rather than goods and contracting, and they include benefits of things and people that can be evaluated financially, and may be the object of handling including transport services.
- **RFP for services:** The document used primarily for obtaining services in accordance with this law, which includes the terms of reference for the required services, description of the bidding procedures, the conditions to be fulfilled therein, and the standards of offers.
- **Bid:** An obligation issued by the supplier, contractor or undertaker at the request of a public authority or its declaration, and it includes technical, time and financial statement for the things, for which it is required to contract (items – Construction – ordinary Services) in



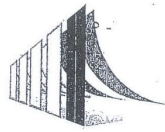
consistency and fulfillment of the documents of offering whatever its style.

- **Alternative Bid:** It is another bid which differs in the technical specifications than the submitted original tender, for reasons beyond the control of the bidder, force majeure, or non-availability of a minimum of manufacturers or suppliers, not less than the technical specifications offered in the tender and be consistent with the declared terms.
- **Prequalification documents:** All documents relating to the prequalification and include the invitation to participate in the qualification and qualification requirements and bases.
- **Collective procurement:** Procurement procedures that may be undertaken by the Ministry of Finance on behalf of several government agencies; also the term "collective procurement" includes the paper or electronic manuals of collective procurement issued by the Ministry of Finance, to be used by the competent procurement authorities, which include certain items, with determining their specifications and fixing their prices, without specifying their quantities, based on contracts entered into with suppliers.
- **Electronic practice:** means the procurement method through the international network of real-time information used by government agencies to choose the winning bid and involve the use of electronic means, in order that the bidders, for more than one time,



and during several rounds, would provide prices or values of the non-price components in the tender and their quantity to measurable.

- **Framework Convention:** any agreement between one or more of the competent procurement authorities and one or more of the undertakers and that the purpose of which is to establish the terms and conditions of contracts that will be awarded during a given period, in particular with regard to the expected prices and quantity depending on the circumstances.
- **Small or medium project:** is the economic project, which uses a limited number of laborers and its capital doesn't exceed a fixed amount according to what is stipulated in the National Fund for the care and development of small and medium enterprises Law No. (98) for the year 2013.
- **Collusion:** any arrangement between two or more parties before or after the bid, aiming to achieve an unlawful purpose, including the impact on the illegal acts of another party, or for the allocation of the procurement contracts between bidders, or to determine the bidding prices in non-competitive and artificial levels, with an intent to deprive the relevant authority of the benefits of free and open competition.
- **Website:** Official website of the Central Agency for Tenders on the international network for information, dedicated for the dissemination of announcements and information regarding public



procurement system and other information based on this law and regulation.

- **Non-compulsory Total:** In the concept of variation orders expense ratio, it is a collection of the absolute values of variation Orders, whether upward or downward, as stipulated in the mainstream of the Audit Bureau of No. (2) for the year 1989.

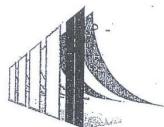
Chapter Two

The scope of application of the law

(Article 2)

First: Taking into account the provisions of international and regional treaties and agreements in force in the State of Kuwait, the provisions of this law shall be applicable with regard to regulating the procurement of items, contracting and services operations, which are made for the account of the public authorities, and the public authorities, not in cases other than those stipulated in this law, may not import items or assign contractors for the implementation of works or contract to purchase or rent things or provide services only through the agency, provided that the offering and contracting would be in accordance with the provisions of this law.

Second: The provisions of this law shall apply to the import of radio and television programs service contracts .



Third: Specialized committees will be established in some public authorities to carry out procurement, contracting and services, and some procurement operations in these authorities are excluded according to the following:

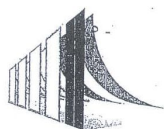
1- Defense, National Guard and Interior Affairs:

A decree, based on the proposal of the Prime Minister, will be promulgated regarding forming specialized committees for procurement affairs of military materials for each of Ministry of Defense, Ministry of Interior and National Guard; and the Decree shall determine these materials, the formation of committees and the mechanism and operational procedures and supervision thereon.

This exception also applies to military installations contracting.

2- The Central Bank:

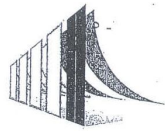
The Agency has the competence for the tenders of construction and maintenance of buildings of the Central Bank, and everything else is excluded from the competence of the Agency; and they are handled by the Committee on Contracts of the Bank and in accordance with instructions issued by the Governor of the Central Bank, in order that they shall subject to the supervision of the State Audit Bureau in accordance with the rules of its competence, and in accordance with Law No. (32) for the year 1968 concerning cash, the Central Bank of Kuwait and the organization of banking business, as amended.

**3- Kuwait Petroleum Corporation and its wholly owned companies:**

Regarding cases of typical procurement (items – contracting – Services) the Agency shall be competent for the procurement contracts implemented inside the State of Kuwait and contracts with a value is more than Five Million Kuwaiti Dinars, according to the provisions of this law. In the Kuwait Petroleum Corporation, a procurement unit will be established to be competent for the contracts whose value are not exceeding Five Million Kuwaiti Dinars, taking into account in their actions the provisions of this law, in order that the minutes of the procurement contracts would be referred to both of the Agency, the State Audit Bureau, and the Ministry of Finance.

By virtue of the provisions of Article (152) of the Constitution, the provisions of this law exclude the extraction and the purchase and sale of oil and its derivatives, gas and petrochemical products, transportation and specialized services associated with the drilling and maintenance of oil wells, and they shall be the competence of procurement unit in Kuwait Petroleum Corporation, taking into account in their actions the provisions of this law. The Executive Regulation shall regulate the provisions and procedures of the undertaking of the unit of its activity.

4- The Moment investment operations of the public authorities and institutions



Excluded from the competence of the Agency the moment investment operations carried out by public authorities and institutions according to their respective competence.

In all cases, the provisions of this law and regulation apply as there was no special provision regarding the work of each of these public authorities.

Part Two

Institutional regulation of public procurement agencies

Chapter One

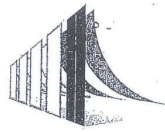
Public procurement agencies at the decentralized level

(Article 3)

The sector of procurement in the public authorities

First: Procurement Unit in the Public Authority:

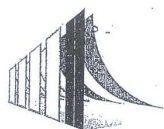
- 1- Subject to the competences of the Central Agency for Public Tenders, the public authority will be responsible for performing the procedures for public procurement process, starting from planning until completion of the contract as defined in this law and its Regulation.
- 2- The public authority will establish an organizational unit, and then to do the planning for procurement of such authority and the preparation of these processes and their implementation in accordance with the provisions of this law.



Second: The Procurement Committee in the Public Authority:

The head of the relevant authority shall form the procurement committee, consisting of (five) members at least, to be selected from among the staff and people of the authority, with appropriate qualifications and experience in accordance with what is determined by the procurement systems department of Ministry of Finance, in this regard. This committee shall have competence for the following:

- a) To prepare invitations, announcements and requests for suggested proposals and other documents relating to procurement procedures.
- b) To offer the public tenders, receive bids and give decisions with regard thereto, award tenders in the cases that fall under the powers of the relevant procurement authority.
- c) To study and evaluate bids and proposals, and make recommendations thereon, in order that the head of the competent authority would present them to the Central Agency for Public Tenders.
- d) To suggest contract documents.
- e) To perform any other duties or tasks assigned to it according to the regulation or by the head of the relevant authority.



Chapter Two

The agencies competent for the affairs of the public procurement

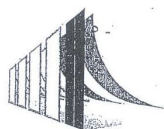
At the central level

(Article 4)

The Central Agency for Public Tenders

The Central Agency for Public Tenders is a public authority with legal personality, being have an attached budget, to be attached to the Council of Ministers, and it shall be competent for the following:

- 1) To offer the public tenders (and similar methods of contract), receive bids and decide thereupon, award and cancel the same, extend and renew the administrative contracts, as well as Variation Orders, classification and supervision of the prequalification, and the authorization to the public authorities to conduct contract in any one of methods and in accordance with procedures set forth in this law.
- 2) With no prejudice to the Law No. (5) of 1961 referred to, the provisions of the preceding clause shall apply to contracts that are inside the State regarding procurement works belonging to a public authority and are found in a foreign country, whether Kuwaiti or foreign contractor.
- 3) Any other competences stipulated in this Law.



(Article 5)

The board of Directors of the Agency

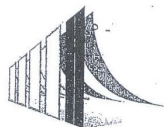
The Board of Directors of the Agency is consisting of:

- a- (Seven) members, for their nomination, a decree shall be issued, based on the nomination of the competent minister, after the approval of the Council of Ministers for four non-renewable years, and among of them, the chairman and vice-chairman will be appointed on full time, in order that the period of the three members of the board formed for the first time will expire two years after the appointment, without including the chairman and vice-chairman. A decree will be issued for determining the members whose membership period expires, and the appointment of replacements for four years, and the Council of Ministers shall determine their rewards.

And it requires the members to be Kuwaitis with integrity and with experience and specialization in engineering and petroleum, medical and economic affairs and in the areas related to the work of the Agency, and should not have been issued with respect to whom a final judgment of the declaration of their bankruptcy or conviction of a felony or involving moral turpitude or dishonesty offense.

- b- A representative for the Department of Fatwa and Legislation.
- c- A representative for the Ministry of Finance.

State of Kuwait



National Assembly

- d- A representative for the competent authority for planning affairs in the State.
- e- A representative for the Public Authority for Manpower.
- f- A representative for the government authority which will supervise on the execution of the tender.

The selection of the representative of each authority listed in items b, c, d, e, and f shall be on a periodical basis, with a maximum of four years to the representative of the authority.

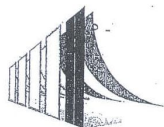
The Board of Directors shall have the power to take assistance of any of the experienced persons as selected by it, either from the relevant authorities or from other, so as to clarify any of the matters relating to the undertaking of its competences, without that he would not have a right to vote.

(Article 6)

The correctness of convention of the board

The Board of Directors is convened at the invitation of the chairman or his deputy in his absence, and it is required for the correctness of convention of the board of directors to attend at least a majority of its members, including the chairman or his deputy, and that the meeting shall be at headquarters of the Central Agency for Public Tenders.

Unless there is a provision in the law determines a special majority, the Board shall issue its decisions by a majority of its members, and the



views of other members shall be stated in the minutes of the meeting, and in conditions of equality, the side on which the chairman exists would be overbalanced.

The decisions of the Agency shall be published in the Official Gazette and in the website and other means of publication determined by the Agency, and the executive regulation shall determine the rules and the duration of the publishing of decisions.

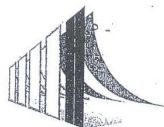
In the absence of the chairman or not being able to carry out the duties of office for any reason and on a temporary basis, was not possible or permissible for the vice chairman to administer the works of the session. The Board in the first subsequent meeting shall assign one of its members the acts of the chairman by proxy for this session.

(Article 7)

The Technical Sector of the Agency

The agency shall form a technical sector, and it includes engineers, quantity surveyors and persons with experience from different disciplines, provided that the experience of each one of them wouldn't be less than ten years, and shall be competent as follows:

1. To put the technical standards for the classification of contractors and undertakers of contracting, in accordance with the financial and technical capabilities.



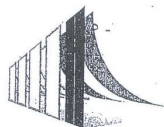
2. To assess applications of classification, determine the classification category for contractors, and raise recommendations in this regard to the classification committee to decide thereon.
3. To study and evaluate the bids or the technical recommendation to the public authority, based upon the request of the Board.
4. To study the estimates of the cost of the tender project and compare them with the estimates the relevant authority, based upon the request of the Board.
5. To study the variation orders, present reports on them to the Board to decide.
6. Any another competence stipulated in this Law.

The technical sector may be assisted - with the approval of the Board, with technical or financial specialists, or one of the experienced persons, as selected by it, either from the relevant authority or other so as to clarify any of the matters relating to the undertaking of the its competence, as requested by the tender.

(Article 8)

Presidency of the sectors of the Agency

A general secretary, by a decree, shall be appointed for the Agency, and he shall preside all sectors and have for the staff of all disciplines prescribed for the Undersecretary of Ministry, as stated in the law and order of civil service. referred to.



And to be assisted by a number of assistant general secretaries of competence and expertise related to the work of the Agency. A decree shall be issued for their appointment and determination of their grades. The competent minister determines the competences of each one of them. at the suggestion of General Secretary.

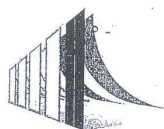
Chapter Three

Procurement System Department in the Ministry of Finance

(Article 9)

The procurement system department in the Ministry of Finance, within the general framework of its functions in accordance with the provisions of this law, shall be competent to put the procurement systems and policies, follow up their application by the competent procurement authorities, and so that its tasks in this regard shall include:

- a- To prepare the policies of public procurement and the systems required with regard thereto, and to issue, directives, instructions and technical notes, and guidelines for the implementation of this law.
- b- To express an opinion on the forms of tenders and the drafting of model contracts, as well as prequalification forms prepared by the competent authorities.
- c- To collect the information on public procurement activities and monitor the implementation of this law and Regulation.



- d- To develop the means to improve the functioning of public procurement system, including the use of communication and information technology systems in the procurement operations, and carry out coordination and cooperation with the competent authority to supervise the information technology, by establishing an official website on the International Network for Information as a gateway for the public procurement system, to be used in a mandatory manner in publishing the announcements and other information, based on this law and regulation.
- e- To prepare programs for training and other means to develop the human and professional resources in the field of public procurement.

All competent procurement authorities shall comply with full cooperation with the procurement system department, and disclose to it what is possessed by them of information on any works or actions concerning the public procurement, so as to enable the said Department to perform its functions.

Part Three

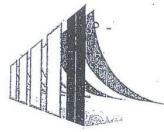
Procurement Procedures and Contracting Methods

Chapter One

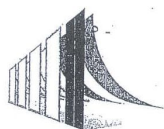
General provisions on procurement procedures

(Article 10)

Method of Communication and the use of electronic means in the procurement processes



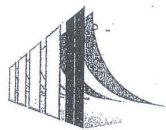
- 1- All documents, notifications, decisions and other communications referred to in this law should be written for submission or processing by the relevant authority or the Board to any tenderer or a bidder or by him to this authority.
- 2- The competent procurement authorities shall have a right to work on the use of recent communication and information technology, including electronic means, to the greatest extent possible in carrying out procurement procedures in accordance with this law and regulations, so as to achieve more competition and transparency in the procurement processes.
- 3- When making procurement operations by electronic means, the competent procurement authority shall be obliged to the following:
 - (a) ensure that the procurement procedures that will be done would use systems and programs for information technology, including those associated with the documentation of information, be available on a public basis and interoperable for use with other information technology programs and systems available also on a public basis.
 - (b) maintain the use of means which ensure non-affecting the requests of participating in tenders and bidding, including the means of determining the time of their receiving, and preventing the illegal reviewing on them.



- 4- An official website belonging to the Agency, shall be established on the International Network of Information, as a gateway for information for all public procurement operations made through the Agency, so that it would be the main source for this information. This law, regulations, instructions, technical directives and other information relating to the procurement system shall be published on this website. All competent authorities for procurement and tenders should publish the announcements and other information relating to these operations on the site referred to.
- 5- The bids may be submitted by electronic means, if it is provided for in the tender documents.

Periods
(Article 11)

Each competent procurement authority shall determine the deadline for submitting bids for any procurement process or prequalification requests, or for responding to any call announced to express the desire to participate in a limited tender, so as to allow sufficient time for all tenderers wishing to submit bids, requests for qualification or offers to provide services, for reviewing the announcement directed to them and respond to it, and so that the time required for the same is determined, according to the instructions and the minimum requirements as set out in the regulation.



(Article 12)

Setting Specifications

The technical specifications shall afford equal opportunities for tenderers and do not entail the unjustified obstacles before the opening of public procurement for competition.

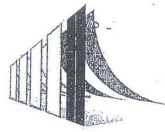
The regulation shall specify the general rules and principles that should be taken into account in setting technical specifications.

Chapter Two

Contracting Methods

(Article 13)

- 1) Subject to the competences of both of the Agency and the relevant authority in the contract in accordance with the provisions of this law, it shall be contracted by way of public tender, either in one or two phases.
- 2) The exception may be, by a decision of the Board – based on a causing memo of the relevant authority – contracted by the following ways:
 - a- The limited tender, and to be called to a number of suppliers or contractors specialist at the technical and financial aspects and are registered with the Agency.
 - b- The public of limited practice (competitive negotiation or solicitations) and within which to invite specialists for the required purpose or a number of them, in order that each one of



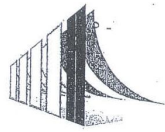
them, after being notified of the determined, specification, would submit one or more financial proposal, and in accordance with the terms of the practice for selecting the best proposals.

- c- The direct order, by which the desired purpose would be obtained from of the market directly, by assigning works or supplying items to the contractor or supplier directly by the relevant authority.
 - d- It is permissible to resort to tenders of collective procurement, electronic practices, and framework procurement agreements, according to the conditions and circumstances of the contract and in accordance with the provisions regulating those methods in this law and its implementing regulations.
- 3) In no case, the public or limited tender would be transferred to a public or limited practice or a direct contract.

(Article 14)

Contracting by the public tender

For the purposes set forth In this law, the contract would be made through an internal public tender, to be called to inside Kuwait, or an external public tender, to be announced inside the country and abroad. The announcement shall be in the Official Gazette in the Arabic language and one foreign language at least for external tenders, and other wide-



spread media may be added to them, also the announcement shall be made on the website.

All tenders shall subject to the principles of publicity, and equal opportunity and free competition in accordance with the procedures set out in this law and its implementing regulation.

(Article 15)

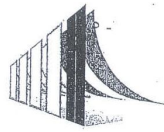
Stages of contract by way of public tender

First: The public tender may be performed on one stage with two technical and financial proposals or with a financial proposal only, to be made as per the requirements of the contract required to be conducted; also, they may be preceded, in the proper cases, by the prequalification procedures.

Second: The public tender may be performed on two stages and it would be done when it is not possible to determine the technical and contractual aspects of the procurement process in a full form for obtaining competitive bids.

The tender documents in the first stage shall clarify the purpose and expected performance and outline specifications and other necessary characteristics in equipment or works and qualifications required to perform the contract, and the tenderers are invited to submit technical offers on the basis of these documents.

Third: the authority competent to the tender, at the end of the first stage, would reject the offers that do not meet the basic requirements or



minimum performance or condition concerning completing the implementation of the contract at a certain time, and it is not possible to make changes in them for fulfilling the same, or where the weaknesses make them non-consistent with the tender conditions substantially.

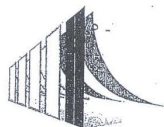
The competent procurement authority in the second phase, would invite the tenderers whose technical offers have not been rejected, to submit their final bids inclusive of prices.

Fourth: The tender procedures set out in this law on tender procedures shall be applied in two stages, to the extent not inconsistent with the provisions of this Article.

(Article 16)

Contract by way of Limited Tender

- 1) The contract would be made by the limited tender in the contracts that require, as per their nature, limitation of the subscription to the suppliers, contractors, technicians or experts specialized in the technical and financial aspects by themselves, either internally or abroad, in order that, with regard to them, the conditions of technical and financial competence, and good reputation are provided, and their names shall be listed in a list prepared by the relevant authority, from among the registered or approved contractors with the Agency in this regard, after they are qualified, if necessary and the announcement in the official Gazette, with a statement of principles and standards relied upon by the relevant



authority in their selection and qualification, in order that this list would be presented to the Board for approval, rejection or modification. Each interested party whose name is not stated in the list, shall have a right to appeal before the Board against the decision for exclusion for enlisting him in it.

- 2) The announcement of the limited tender procedure shall be published before issuance of the tender documents to the announced tenderers at least with a period of 30 (thirty) days, in order that the opportunity would be available to others eligible for such tender, to request incorporating them to participate in the competition for the tender, and the competent procurement authority should announce its decision before the deadline for the tender. The announcement also shall determine the deadline and the means by which the other tenderers may ask for participation in the tender.

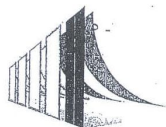
The limited tenders - with the exception of the above – shall subject to all provisions governing public tenders.

(Article 17)

Contract by way of public practice

(Competitive negotiation or solicitations)

The contract would be by way of public practice by a decision of the Board, based on a causing memo of the relevant authorities, due to the nature of the items or the business or to the circumstances of urgency required to be performed or purchased by way of the practice, and in



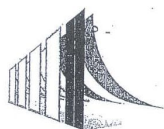
accordance with the conditions laid down by the executive regulation without prejudice to the nature of the practice and procedures.

(Article 18)

**Contract of the relevant authority by a permission of the Agency
by way of limited practice or direct order**

First: The relevant authority may hold performing the procurement processes by way of limited practice or direct order, provided that they obtain permission from the Agency, based upon a written causing request. The Board's decision on this request shall be issued by the majority of two thirds of attendants, in the following cases:

1. Items that are not manufactured or imported, or existing only with authorities or persons by themselves or when there is a sole undertaker, being have the technical capacity and capabilities to provide the required purchases or being have an exclusive right to produce goods, execute work or perform the required services, and there is no suitable replacement for him.
2. Items whose nature or purpose of getting them require that they would be selected or purchased from places of production.
3. Technical works which, according to their nature, require to be performed by technicians, specialists or experts by themselves.
4. For obtaining additional quantities of some goods from their original supplier or additional equipment or services by the original



undertaker who carried out, in order that those goods, equipment or additional services would take partially the place of goods or services or in case of the required purchases in the collective purchase manual.

5. Existing equipments, or to increase and expand the same.
6. If the required goods can be obtained from the point of products with social objectives including any authority which markets products of individuals with special needs or if the goods are of products of a national, non-profit association or of product of the small and medium enterprises sponsored by the State.

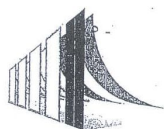
Second: When the competent procurement authority has a desire to use the direct purchase method, based on any of the above clauses, it must prepare in writing a description of its needs and any requirements of quality and quantity of required purchases, and the conditions and time of delivery; and it shall request from the supplier or undertaker to provide a written offer, and it may enter into negotiations with the offerer.

In all cases, the contract should be written.

(Article 19)

Contract of the relevant authority without permission of the Agency

First:- The public authorities which subject to the provisions of this Law, may contract for any one of the purposes set forth in this



Law, without permission from the Agency and by the proper method, and in accordance with the circulars issued by the Ministry of Finance as per the needs of the relevant authority, if the value of contract doesn't exceed KD 75,000 (Seventy Five Thousand Kuwaiti Dinars).

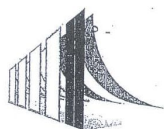
The contract may not be made in this form for the same items or works, in excess of the quorum during the fiscal year.

In this regard, it may cooperate with the procurement systems department, according to the rules and regulations of the collective procurement performed by the said Department.

In the application of the provisions of previous paragraph, it is not permissible that the one deal is divided into deals, with a view to reducing its value to the limit which distancing him to subject to the competence of the Agency. In order that the relevant authority shall provide the Ministry of Finance with periodic reports for each six months on the contracts made within this quorum.

By a resolution of the Council of Ministers, for increase of the mentioned value of contract, it would be re-considered for each five years, up to a maximum of 20% if the need arises.

Second: The Board, in cases of extreme necessity, must take into account the urgency and decide immediately for the request the relevant authority, for the emergent works, whenever the value of the required works exceeds the quorum referred to, and the relevant



authority should promptly notify the agency of what was performed by it of initial procedures, accompanied by the documents and justifications that called for it, and cases of extreme necessity are as follows:

- 1) In cases of extreme urgency, provided that this arises from the circumstances that it was not possible for the competent procurement authority to expect, and it wouldn't be due to the slowdown on its part previously, or not beyond its control.
- 2) In the event of a disaster resulted in an urgent need for goods, works or services that makes it impractical to use one of the other methods of procurement, because of the time it takes to use those methods.

Chapter Three

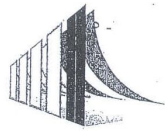
Other methods for procurement

(Article 20)

Tenders of collective procurement

The procurement systems department – upon instructions issued by Ministry of Finance to the public authority – shall work to meet the needs of these authorities of goods, works and services with common usage with it, on the basis of information that the Ministry of Finance collects about these goods, services and works, in order to offer them in collective tenders for the benefit of the public authorities benefiting from these goods, services and works. The procedures set out in this law and the

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executive regulation, shall be followed in offering and awarding the tenders.

(Article 21)

Use of the collective procurement manual

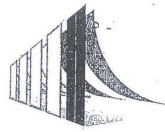
The Ministry of Finance shall collect information on goods, services and public works, which are stereotype and of common use with the public authorities, make standardization for these goods, services and works, and request individual quotations for the items of goods, services and works – referred to – to be effective for a period specified by the department in the request for proposals, and these prices shall be listed in the purchase manual which it prepares and provides to the relevant authority. These authorities, in accordance with instructions issued by the department, may conduct direct purchase on the basis of specifications and prices contained in this manual.

(Article 22)

Electronic Practice

The electronic practice may be used for purchasing the ready-made goods easily available in the market, the typical small works or small non-advisory services. These procedures apply for the price and other criteria for evaluating the offers and their features, whose quantity is measurable in an arithmetical way, it is possible to re-evaluate them, and re-classify the new values within an electronic environment, and they would be reviewed using an electronic device that follows automatic methods of evaluation.

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The executive regulation shall organize the controls of regulating this method of contracting.

(Article 23)

Framework procurement agreements

The competent procurement authority may conclude framework procurement agreements in any one of the two following conditions:

- a- When there is a need to contract repeatedly for obtaining goods or services or for implementing small works.
- b- When the competent procurement authority, because of the nature of any goods, services or required works, expects that the need will arise to purchase them in the future urgently.

The different materials, services or works shouldn't be included in the collective procurement manual, which is issued by the Ministry of Finance, according to Article (21) of this law.

The Executive Regulation provide the controls and procedures of contract, according to the Framework procurement agreement.

Part Four

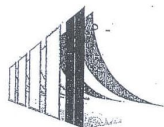
Selection of the contractor and the qualification of the tenderers

Chapter One

(Article 24)

Lists and Registration

The general secretariat of the Agency shall register the suppliers, contractors, undertakers and technicians classified the Agency in lists



prepared by it for that, and persons listed in these lists shall have the conditions stipulated in this law and its executive regulation.

Also a record is prepared for registering the names of persons being banned from dealing with any one of public authorities, either the prohibition by law or pursuant to administrative decisions in application of its provisions, and it is prohibited to make contract with those registered in this record, and the agency shall undertake to publish these records by way of internal newsletters, and on the website of the Agency.

The Executive Regulation shall clarify the procedures and dates of submission of applications for registration and approval from the board and grievance procedures of the decisions issued in their regard.

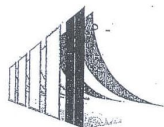
Classification Committee and its competences

(Article 25)

A committee will be formed by a decision of the Central Agency for Tenders, which shall undertake the classification of contractors for public tenders, to be composed of:

- 1- a member of the board, to be elected by the members of the Board and he shall be head of classification committee.
- 2- A representative for the Ministry of Electricity and Water.
- 3- A representative for the Ministry of Public Works.
- 4- A representative for the Public Authority for Housing Welfare.
- 5- A representative for Kuwait Petroleum Corporation.
- 6- A representative for the Ministry of Finance.

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7- A representative for the Public Authority for regulating the telecommunications and information technology.

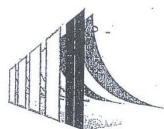
The degree of any of them shall not be less than Assistant Undersecretary of Ministry. The Classification Committee shall have a right to take assistance in its works, as selected by, of any one of the technicians and experts in various state agencies, and the Classification Committee shall be re-formed for each three years. The Agency shall appoint a secretary for this committee.

(Article 26)

The Classification Committee classifies contractors for public tenders into four categories depending on their financial and technical capabilities, and the executive regulation of this law shall show the dates for submitting applications, procedures of registration and classification, and the terms of each of them, and classification categories, and consideration therein, and the dates and procedures for appeal of decisions made in their regard. The classification shall be re-considered periodically. Also, the classification does not dispense of the procedures of qualification of the tenderers. The relevant authority shall take these actions to ensure that the tenderers are qualified to perform the contract.

The government authorities must provide the Agency with reports of the final completion of contracts that have been concluded via the Agency.

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(Article 27)

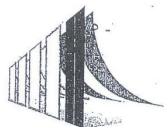
The Committee of Classification shall register the contractor in a category which is consistent with his financial and technical status and his precedent works. It shall issue its decision within a month of submitting the application for classification. It shall be considered rejected every application in which no decision is issued by the Classification Committee during this period. The Classification Committee shall notify the applicant of its decision within a week of its issue. It may appeal to the Classification Committee of the classification decision rejecting its registration or classification in a category less than what is demanded it, and within two weeks from the date of notification of the decision.

In the case of the Commission's refusal of his request, he shall have a right to appeal to the Board within one week from the date of notification to him. The Board's decision shall be final.

(Article 28)

The tenderer – unless he is one of the contractors of first category – shall not be permitted to contract in general contracts with a total value of more than the maximum licensed to him; also, it is not permitted to award him with tenders whose total – if their value is added to what is remained with him of works at opening the envelopes – exceeded the total maximum.

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(Article 29)

It is not allowed to register one person or a group of persons collectively, at classification by more than one name, or to submit a tender with more than one bid and that except for alternative bids as allowed by the conditions of the tender.

The person who has the shares in separate companies from each other and each company takes its legal personality finances, its engineers and employees, and the general administrative apparatus, he may at classification, register himself or record both his independent companies.

The bid of the tenderer violator of this Article shall be legally considered.

(Article 30)

The contractor, after passing one year from its classification, may demand the classification committee to reconsider the category to which it belongs and raise it to a higher category.

The period of time required to move from the second category to the first category shall be at least five years.

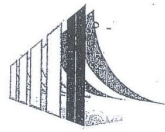
Chapter Two

(Article 31)

General conditions in the contractor

By virtue of the provisions of Law No. (1) for the year 2016 and Law No. (116) for the year 2013, referred to and what is determined by the relevant international conventions, the person who submits a bid in the

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public or limited tender or in cases of practice and direct contracting, shall be as follows:

First: To be a Kuwaiti - individual or company - registered in the commercial register.

Second: To be registered in the register of suppliers or contractors or as per the nature of the tender or practice or direct contracting.

It may be a foreign bidder, and in this case, the bidder shall not be subject to the provisions of each of Clause 1 of Article 23 and the provisions of Article 24 of Law Decree No. 68 of 1980 referred to.

The offering may be limited to the national companies in the conditions of the typical business or where insufficient disciplines are available in the local market.

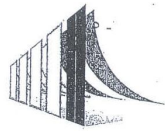
Also, the offering may be restricted to foreign companies as requested by the relevant authority, so when you need to implement the required technical disciplines are not available in sufficient numbers locally and are difficult with good competition.

Chapter Three

(Article 32)

Prequalification

The tenderer is not considered eligible for the award of the tender, or to subscribe in the tender in the event of a pre-qualification of bidders, but if it meets the conditions stipulated in the tender documents or in the pre-



qualification requirements. The executive regulation shall determine the qualification controls and procedures.

Part Five

Offering the tender and submitting the bids

Chapter One

Competences of the relevant authority

(Article 33)

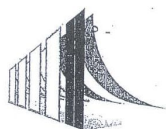
The government authorities shall prepare and publish their annual plans binding to the contracts of supply, contracting and services, and they shall be committed to prepare a schedule for tenders and qualifications that will be offered by them throughout a minimum of ninety (90) days before offering them, with an overview of the tender or qualification, and therefore, the contracting shall be prohibited with a purpose of to the exhaustion of funds; also, the contracting shall be prohibited in the last month of the fiscal year, except in exceptional cases necessitated by the need of work, with the consent of the minister supervising the competent government authority.

(Article 34)

The authority, before the offering for the contract, shall obtain the necessary approvals and licenses relevant to the subject of the contracting from the concerned authorities, in accordance with the laws and decrees, which states that.

The Agency monitors the availability before the announcement of the contract request.

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(Article 35)

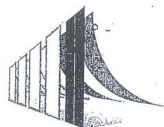
The Agency - at the request of the relevant authority – shall announce the tender (and the like) in the Official Gazette and on its website. The Agency determines the appropriate period for submission of tenders from the date of announcement in the Official Gazette. The least possible period of validity of tenders, after they are opened, would be determined, so that this period will not exceed (90) ninety days; and the announcement shall show the due date for filing tenders (closing date) and the duration of their effectiveness, the product or work required to be supplied or executed, the corresponding cash for a copy of the tender, and the authority to which the tenders are submitted (Agency's headquarters).

(Article 36)

Based on the annual plans declared by the relevant authorities, the contracting shall be within the limits of the necessary actual needs of the workflow or production on the basis of realistic and objective studies prepared by the relevant authority, taking into account the storage levels, previous historical requirement rates, and release rates and prescriptions. It is not permitted to contract on items that there are types in the stores, being similar or substitute thereto and fulfill the purpose, unless they are designated actually or on credit for use by authority. The competent authority in that will take assistance of automated systems for storage.

The relevant authority, before offering, shall clarify the provision of the designated funds and ensure the availability of financing for releasing the value of the work invoices in a timely manner prescribed by

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the law. The Agency shall control their availability before the announcement of the tender request.

(Article 37)

It will be observed before offering that items would be divided into homogeneous groups, observing the classification manual and the numbering of commodity stock, as decided by the Board of Standards and Measurements, approved to the Public Authority for Industry in the State of Kuwait. To achieve equal opportunities, it must be avoided the reference to the type or description or number in the lists of suppliers or those classified by name, nor it may be mentioned a particular mark or specifications that apply to special or distinctive forms, otherwise, the procedure would be void.

Also, it is not permitted that the minimum limit of the classified manufacturers or suppliers wouldn't be less than three manufacturers or suppliers.

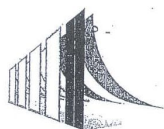
This does not apply to what is required by circumstances for supply of spare parts, required operating supplies themselves or any materials or items whose nature or circumstances of their supply require the same.

In case of violation, every stakeholder shall have a right to object and appeal in accordance with the rules set forth in this law.

Chapter Two

Announcement of invitation for tender or for submitting bids or prequalification requests

(Article 38)



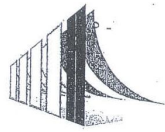
The announcement of the invitation for tender, or for submitting bids or prequalification requests shall be published in the Official Gazette, as well as on the website of the Agency, in advance no later than (30) thirty days from the deadline. Also the announcement shall determine the deadline. In addition, the announcement may be published in one of the periodic commercial publications, appropriate artful or professional magazines. The regulation shall specify the cases in which the dissemination of announcements through the International Network for information on the website of public procurement is considered fulfilling the requirements for publishing stipulated in this law. Also, the regulation shall determine the content and details of invitation for prequalification, or for participation in the public tender, as well as the conditions under which the publishing would be done in one foreign language - at least – in beside the Arabic language.

Chapter Three

The tender documents and the bid details

(Article 39)

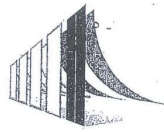
- 1) before offering the supply of items or the contracting of works in the public tender, and after the preparation of the final designs and the separation of design works from the construction works, the relevant authority shall prepare the tender documents and put the detailed specifications for each item or performance of each work, the scope of the procurement process, the time for execution of the contract and its place, and the criteria for evaluation of bids. Also,



it shall put the necessary instructions to contractors, drawings, and accurate bills of quantity which show the individual items and prices schedules, taking into account the international standards and specifications of government procurement.

- 2) The regulations determines the cases requiring fees for the provision of tender documents for those wishing to participate, which should reflect only the cost of copying and distribution of the tender documents.
- 3) In the case the tenders are offered by the method of two technical and financial proposals, the documents must include full and clear technical requirements for this method. Also, they should include the principles and criteria of evaluation by which comparison will be done between financial proposals, the procedures to be followed in the implementation of the contract, and the sanctions that can be imposed in case of breach of the provisions of the contract, or delay in its implementation.
- 4) In cases where the offering is done on a basis of samples, their weight, size or volume shall be stated, and in case of the items that need to be supplied inside containers, they type, capacity and specifications of these containers shall be indicated.

The offering will be based on the typical samples of the relevant authority in cases where it is not possible to give the subject of the contract an accurate description; in such case, a form thereof will be sold to the bidders.



In the contracting of works, the necessary technical drawings shall be prepared.

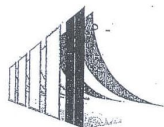
The form of the tender and the conditions of the contract shall include the deposit payments, authorizations in contracting, and other general conditions.

- 5) All the tenderers participating in the purchasing procedures shall be notified of any amendments, or clarifications to the prequalification documents or to the tender documents without delay, in order that the tenderers would have the opportunity to take the amendments or clarifications into account, at preparing the prequalification requests or the bids. And if the providing of opportunity to the tenderer requires the same, the relevant authority shall postpone the deadline for submission of pre-qualification requests or bids. Any modification in the tender documents or postponement of the deadline for submission of bid shall be announced immediately in all means of publishing and media adopted in the Agency.
- 6) The Executive Regulation indicates the procedures and conditions of offering the public and limited tenders and practices, bidding, and rules of publishing all of that by using the means of communication and information technology.

Chapter Four

Bidding and confidentiality

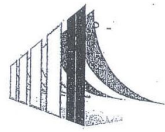
(Article 40)



- 1) The bid shall be submitted in writing and signed in the official documents of the tender issued to the tenderers, and it is not permissible that they are converted to others.
- 2) The bids should be returned, filled and complete at all aspects, as per the conditions set forth in the tender documents. Also, the tenderer shall not make any modification in the the documents of the tender.
- 3) The documents shall be supplied in the respective official envelopes, and they shall tightly closed. The torn, damaged or distorted envelopes will not accepted; and in case of damage, distortion or loss of the official tender envelope, the tenderer must obtain another envelope instead thereof to submit the bid in it, subject to the provision of the fourth clause of this article.
- 4) It is not allowed to receive any bid incoming after the deadline for submission of bids.
- 5) It is not allowed to receive any bid having a mark or sign.
- 6) It is allowed to use the electronic means to complete the previous procedures, as a whole or in part, provided that they meet all the previous requirements and conditions, where it is appropriate to the subject of the tender.

Every bid that violates the provisions of clauses (2), (3) would be considered void, unless the members of the Board deems to accept it unanimously for considerations related to public interest.

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The Executive Regulations controls and procedures for delivery and receipt of the tender documents.

Providing Samples

(Article 41)

In the cases in which the tender documents stipulates the necessity of providing samples for goods or items, the bid will not be considered acceptable, except if it is accompanied with the required samples.

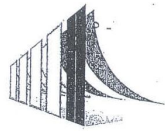
The Board may assign the technical sector in the Agency to check up the samples at the technical aspects in the submitted bids, and the extent of their compliance with the stated terms and conditions, as well as the verification of the terms of the availability of technical competence. The department shall have a right to take opinion of the experience persons, as deemed proper by it. The technical sector shall submit the report of the results of his research and recommendations to the Board of the Agency.

The Executive Regulation shall indicate the conditions and procedures for delivery and examination of samples.

Confidentiality of the documents

(Article 42)

All bid documents enjoy confidentiality until the date of opening the envelopes and decide thereon, and all employees of the competent procurement authority shall maintain such confidentiality and not disclose details of any bid or any work of the tender. Every one who reviews these



documents or any of the procedures of tender, by virtue of his job, shall comply with all of that. The person who is responsible for the disclosure of the conditionality of bid would be liable to the disciplinary accountability, without prejudice to any procedure prescribed by another law.

Chapter Five

Documents of the technical and financial proposals

(Article 43)

The terms of offering tenders which require a technical proposal and a financial proposal, shall include a provision that the bids should be submitted in two sealed envelopes, one for technical proposal and the other for the financial proposal.

The Executive Regulation shall specify the details, contents and attachments of each of the technical envelope and the financial envelope.

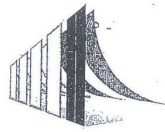
Chapter Six

Pre-tendering Meeting

(Article 44)

In cases where the competent procurement authority decides to hold a session for inquiries in respect of any tender or practice, the announcement for the session shall include the date and venue of its convention, to be attended by the desiring persons of those who have purchased the document of the tender or practice.

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The relevant authority shall circulate the replies immediately to all tenderers, without disclosing the source of demand.

The Executive Regulation shall indicate the controls and procedures for the pre-tendering meeting.

Chapter Seven

The initial payment (Bid Bond)

(Article 45)

Submission of the initial deposit payment

The bid should be accompanied by initial deposit payment (Bid Bond), and if the tender is as per the method of two technical and financial proposals, the tenderer should enclose with his technical bid the initial payment provided for in the announced tender conditions. This deposit payment shall be with a certified cheque or guarantee letter from a bank authorized in the State of Kuwait, issued in the name of the bidder, and in favor of the Agency, and being not associated with any restriction or condition. The bids not accompanied with this payment will not be taken into consideration, even though they are technically acceptable.

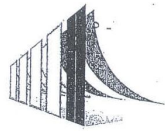
The payment shall be valid for the effective duration of the bid.

The Executive Regulation shall specify the terms and conditions for the initial payment and the procedures to be followed in its regard.

Chapter Eight

The provisions of the bid validity

(Article 46)



Period of bid validity

The bid shall remain in force and it is not permissible to deviate from it, from time of its release until the end of its period of validity. No modification to the prices will be taken into account after the submission of tender.

The tender should be awarded and the contract shall be signed within a period not exceeding three months from the date of the expiration of the period of bidding.

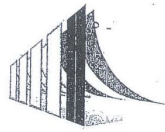
If it is not possible for the Board to make decision on the bids within its specified period of validity, it should ask the bidders to accept the validity of their bids for another similar period at the most, and that it shall be done by a letter addressed by each of them to the Board to approve on the extension with the renewal of the period of the initial payment. The bid of the person who doesn't accept the extension of its period of validity will be excluded.

(Article 47)

Providing alternative bids

If the tender stipulates allowing to submit alternative bids, and the tenderer has a desire to submit one or more alternative bids, he shall obtain another group of the official documents of tender for each alternative bid being submitted by him; and he shall write clearly on each group of these documents that they represent an alternative bid.

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The bid of the tenderer violator of this Article shall be legally considered void.

Part Six

The procedures of decision on the tender and signing the contract

Chapter One

(Article 48)

Opening the envelopes

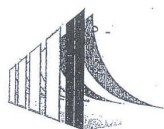
The envelopes of bids shall be opened at the time and place set forth in the tender documents in a public session in the presence of bidders or their representatives, and they shall be disseminated live on the website of the Agency.

The Executive Regulation shall specify the date, place and procedures for opening the envelopes.

(Article 49)

Referral of the technical bids and causation of their exclusion

The Agency shall refer the envelopes of technical bids to the relevant authority to study them and submit recommendation with regard thereto to the Agency within a period of (30) thirty days from the date of referral to it. The relevant authority - in cases of major and technically complex projects – shall have a right to demand extending this period up to a maximum (60) sixty days for reasons acceptable to the Agency.



The envelopes shall be returned, and the Board shall have a right to take assistance of the technical sector at the Agency, to express an opinion if necessary. The financial envelopes of these proposals shall be opened only after the receipt of the technical recommendation on them. The financial envelopes of the unacceptable technical proposals shall be returned to their owners without opening them.

The relevant authority shall show in sufficient detail the deficiencies and violation of the conditions and specifications in the bids that the study result in non-technical acceptance of the same.

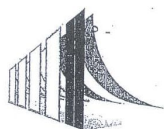
(Article 50)

Examining the technical proposal and examining the samples

The Board may decide to refer the technical proposals of the acceptable bids to the special technical committee formed for this purpose. The technical committee shall solely study them or take part in the same with the relevant authority as deemed fit by the Board.

In the case of supply of items which require a technical examination to ascertain the suitability, samples should be submitted for examination and the test result shall be presented to the Board at the session fixed for a decision in the tender.

Expiration of a period of time - prescribed by the Executive Regulation – should be observed for accepting or excluding the technical proposals, and it shall be published on the website of the Agency, and all in accordance with the controls prescribed by the Executive Regulation.



(Article 51)

Opening of the financial envelopes

The applicants of the technically accepted proposals shall be notified of the date and venue of the convention of the session of opening the financial envelopes.

The Board meets on the date and place specified in the Executive Regulation for the opening of the financial envelopes, The Board undertakes opening the envelopes directly at the same procedures set forth in the Regulation with regard to the opening of the technical envelope, after verifying the integrity of the financial envelopes, the presence of No. of the tender and the signing of the previously proved stamp of Agency on every envelope in the session of opening the technical envelopes.

(Article 52)

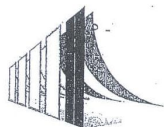
Announcement of the price lists

The Agency announces the price lists of tender by electronic means and any other means enabling tenderers to review them. The executive regulation shall indicate the period of announcement and any other preferences.

(Article 53)

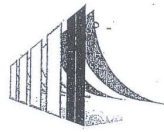
Principles of Evaluation

And the criteria for the comparison of tenders



- 1- The Board – upon the submission of the relevant authority – shall approve the system of determining the criteria against which the comparison is made between the bids, in order that these criteria would be objective and quantifiable when it is possible, and be cost shall be the primary criterion in case of comparison between proposals.
- 2- In cases of contract in which the technical nature requires evaluating the proposals by the points system, the tender documents shall include elements and principles of evaluation, and in this case the evaluation points and the minimum technical acceptance would be determined, the priority of bids would be ordered by dividing the financial value of each bid on the total obtained technical points, and it is not allowed to amend these conditions after offering the tender.
- 3- The technical sector in the relevant authority shall undertake the calculation of the cost of technical proposals and make comparison among them, after unifying of the principles of comparison so as to the financial aspect - by assessing the non-priced elements with a cash value – in order that the booklet of conditions would disclose these elements, the most noticeable of which is the terms of providing warranty and maintenance, spare parts, operating requirements, the terms of payment and delivery and other non-priced elements which affect on determining the compared financial value of the bids, according to the circumstances and

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nature of the subject of the contract, and it shall submit its recommendation of award to the Board to decide with regard to the same.

- 4- The Board is guided, if necessary, before deciding on the bid, by the last prices previously handled locally or externally, and by the market prices, and by any other elements deemed useful in clarifying the extent of high or low value of the bids

Also it will be guided by comparison of the quantities provided in the tender with the rate of quantities in contracts approved in previous tenders.

The Executive Regulation shall prescribe the most prominent elements of assessment that must be included in the booklet of conditions.

Chapter Two

Re-tendering or canceling the tender

(Article 54)

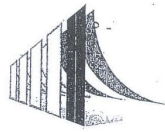
The sole bid

The Board may accept the sole bid, if it conforms to the conditions and appropriate in terms of price, and the bid would be considered sole, even if other bids are submitted in violation of the conditions.

However, the Board, with approval of two thirds of its present members, may re-tender, if there are reasons that require the same.

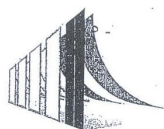
(Article 55)

Cancellation of the Tender



The tender - before deciding on it – may be cancelled with a reasoned decision of the Board of the Agency with the majority of two thirds of its members and based on a reasoned letter from the relevant authority, and the cancellation shall be made with a reasoned decision of the relevant authority in the conditions of its performing the actions - in the following cases:

- 1- If all bids are accompanied with substantial reservations.
- 2- If the value of the lowest bid exceeds the estimated value of the contract or exceeds the amount of available funds to finance the procurement contract, and then guided by the recent prices prevailing in the market.
- 3- If all the submitted bids are not substantially in conformity with the conditions contained in the tender documents.
- 4- If there is no need for the subject of contract (Items – Services – Contracting), including no interest in to continue the proceedings.
- 5- If it is proven that there is collusion between tenderers or parties related to the tender.
- 6- If the successful tenderer withdrew, and it was not possible or proper to re-award the tenderer next to him.
- 7- If a serious failure or an error is discovered in the tender documents, including no remaining of the purpose to continue the proceedings.



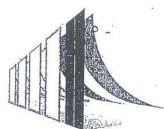
The rejection of all bids and the reasons of the same shall be recorded in the procurement procedures register.

All participants in the tender should be notified as soon as possible of its cancellation; and the amounts of purchasing the tender documents shall be returned to their owners.

All decisions of cancellation shall be published in all means of publication in which the announcement of the tender was made, and in the website of the Agency.

Chapter Three
Procedures of Awarding
(Article 56)
General Provisions

- 1- The Agency, in the cases that do not require a technical examination of the tender, shall award the tender immediately to the owner of the bid which is consistent with the requirements of the tender documents of the least price, and in accordance with the controls and procedures prescribed by the Executive Regulation.
- 2- Regarding the tenders with the technical and financial proposals, which require a highly complex technology, a high engineering level and accurate technical specifications with high cost, the tenders are awarded in these cases to the tenderer who meets the technical requirements and his bid was of less cost, after evaluating the bids at all technical and financial aspects, and in this case, the



Board shall disclose the result of deciding on the technical bid after the full completion of the technical evaluation process. The person affected by the decision of assessment may appeal of it. in accordance with the provisions of this law if it is relevant.

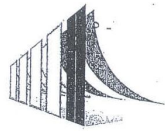
(Article 57)

Pricing and correcting errors

All bids shall be priced in the official currency, unless the tender documents otherwise provide. The total price indicated in the form of the bid shall be the price which will be adopted by the Board, regardless of any numbers may appear in the general summary or elsewhere in the tender documents and notwithstanding any errors committed by the tenderer during calculation of his total price. The tenderer will not be allowed to make any amendment to this price after submission of his bid. If the arithmetical error exceeds 5% of the total price, the bid would be excluded, unless the Board, by unanimity of the views of the present members, deems to accept it for considerations related to the public interest.

If the amount written in figures differs from the amount written in letters, the Board would take the least amount into account. If it is found when checking in any bid that individual prices and details do not match the overall price, the total price shall prevail unless the error of the increase on the sum of the individual prices and details as significant, hence, in such case. the right total with will be taken into consideration.

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The Executive Regulation shall determine the controls and procedures of pricing.

(Article 58)

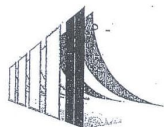
Tenders with abnormally low prices

The tender will be awarded to the tenderer who offered the lowest Total price, if his bid is in line with the requirements of tender documents, however, with a decree issued by the Board by the majority of two thirds of its present members, the tender may be awarded to a tenderer who submitted a higher total price, if the prices of the lowest tenderer are significantly low and they are less, with a unjustified percentage, than the estimated value of the budget of the tender approved by the relevant authority.

The Board must be guided by the recent prices previously handled locally or externally, and by market prices, and what is taken by it of procedures shall be denoted in its minutes to be aware of the market prices.

Before rejecting the lowest bid, a written request shall be directed to the low bidder or the best low proposals, one by one, if necessary, to show the details of the constituent elements of the bid, which are considered relevant to its lowness.

The Executive Regulation shall determine the controls and procedures of reviewing.



(Article 59)

The multiplicity of similar tenders

In case several similar tenders are offered for the same relevant authority and its documents stipulates non-awarding more than one tender to one tenderer, the next bidders would be accepted for the implementation of tenders at the least price offered in these bids.

It shall be taken into account as much as possible that the relevant authority would offer these tenders in groups and on intermittent intervals. The decision of excluding the bids and awarding the tender shall include the reasons on which it was built.

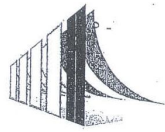
(Article 60)

Price budget

If it is found upon checking that some individual prices are exaggerated by increase or decrease, the Board or its delegate would amend it with the winning tenderer before awarding the tender within the limitation of the total price of the tender, based on a reasoned memo from the relevant authority.

If the bidder doesn't accept the amendment or rejects correction to an arithmetic error apparent in the bid, the Board, with a reasoned decision, may exclude his bid and consider him withdrawn; and the initial payment (Bid Bond) would be confiscated, and the tender would be awarded to the next bidder, provided that he shall meet all conditions of

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the award, unless there is a reason in the light of which the tender would be cancelled or re-offered.

(Article 61)

Dividing the tender

and taking into account the small and medium enterprises

If the prices between two or more bids are equal, and the tender can be divided, the Board may divide the announced amounts among the equal bidders, provided their consent on the same, and non-damaging the interests of the work.

But, in the conditions in which the tender can not be divided, and the prices of proposals are equal, the polling shall be made among them.

The Executive Regulation shall prescribe the controls of granting preference to the bids submitted by the owners of small or medium businesses - if any - when they are in conformity with the requirements and specifications.

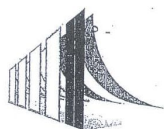
(Article 62)

National Product Preference

Taking into account the international conventions and regional agreements with the State of Kuwait, and the application of the principle of reciprocity, the priority in the procurement of public authorities shall be given to the national product.

The Board or the relevant authority in the tenders of supply - or their equivalent - shall award to the proposal of national product, if it

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corresponds to the specifications and conditions and the submitted prices were not more than the lowest prices offered for similar imported products with a percentage indicated by the Executive Regulation, and in accordance with the resolutions issued in this regard.

It is conditional that the products referred to in the preceding paragraph shall conform to the specifications of the Authority Specifications and Standards of the Gulf Cooperation Council countries, approved by the procuring State or the applicable specifications in the state - if any - If there is no any of them, the international specifications shall be applicable.

After awarding of the tender, it is not allowed to replace the national product based upon which the awarding was made, with an imported product, without the consent of the Board.

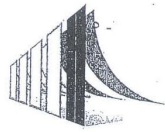
(Article 63)

Notification to the relevant authorities and the winner of the result of the tender

The Agency shall notify the relevant authority of the result t of the tender, and the relevant authority shall respond commenting on the award during a period not exceeding ten days from the date of receipt of the notification.

The Agency, after the approval of the State Audit Bureau on the awarding, shall notify the successful tenderer in writing - with acknowledgment of receipt – of the acceptance of its bid and of the

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awarding of the tender to him, within one week, and a copy of this letter shall be sent to the relevant authority.

The decision shall be published in the Official Gazette and on the website of the Agency immediately after its issuance.

The Executive Regulation shall determine controls and procedures of the notification.

(Article 64)

Refrain from contracting

The awarding of the tender and the notification to the successful tenderer thereof will not be resulted in any right towards the State, in case of deviation from contracting, with a reasoned decision of the Board of the Agency on its own, after taking the opinion of the relevant authority or upon a reasoned memo of this authority; and the decision shall be made – in the two cases – by the majority of two thirds of its members, according to the provisions of this law. The successful tenderer shall not be considered contracting, except from the date of signing of the Contract.

Chapter Four

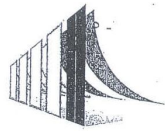
The final payment (Performance Bond)

(Article 65)

Submitting the final payment

The relevant authority shall notify the successful bidder in the tender, for submitting the final payment after ten days from the awarding. If he doesn't submit it within one month as of his notification, it will be

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permissible to consider him withdrawn, unless the relevant authority decides extending the time for a similar period and for one time only.

The final payment shall be made with a letter of guarantee from a bank authorized in the State of Kuwait, issued in the name of the successful tenderer, in favor of the relevant authority, not attached with any conditions or reservation, to be effective as of the date of its issuance, till after the expiration of the period of the execution of the contract with three months; but, if the tender conditions stipulate a longer period. The value of the final payment shall be estimated with a percentage of the total value of the contract, to be determined by the executive regulation and to be stipulated in the tender documents.

The final payment shall be a guarantee for the implementation of the contract, and it shall be returned immediately after the completion of implementation without request, unless it is due for covering any rights to the public authority, resulting from the implementation of the contract.

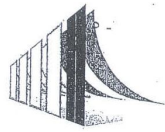
The relevant authority shall provide the Agency with a report stating the expiration of the contract, and what was applied thereto of fines imposed by the contractors and suppliers, if any.

The Executive Regulation shall specify the terms and conditions of the final payment and the procedures to be followed with regard thereto.

(Article 66)

Confiscation of the initial payment

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If the successful tenderer defaults to sign the contract within the time limit set for him, or provide the final payment (performance bond). or withdraws for any other reason at any stage of the tender stages, he would forfeit his initial payment, in addition to afflicting any other penalty imposed by the Board according the provisions of this Law.

(Article 67)

Execution of the contract before paying the payment (guarantee)

The final payment shall not be paid, if the owner of the accepted bid supplies all things awarded to him for supplying them, and being accepted finally by the relevant authority during the period of time specified for paying the final payment.

(Article 68)

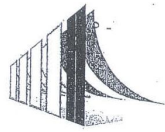
Failure to sign the contract

The public authority, owner of the project, shall request the successful tenderer to attend for signing the contract within (30) thirty days as of the date of submission of the final payment.

If he doesn't attend at this time to sign the contract without acceptable reasons, he would be considered having withdrawn with losing the final payment, unless the relevant authority has decided to renew the period of time to a similar term, if the delay is because of it or for an excuse being accepted by it.

With preserving the right of the successful tenderer to receive the compensation for damages afflicted him after he had submitted the final

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payment, if the delay in signing the contract and its implementation is without justification or due to a mistake from the relevant authority.

(Article 69)

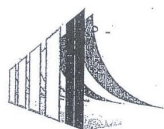
Returning the initial payment

When the tenderer, who wins the tender, provides the final payment and signs the contract, the initial payment paid by him shall be returned to him; also, the initial payments shall be returned to their owners of the tenderers who didn't won the awarding of the tender.

(Article 70)

The confiscation of the final payment after contracting

In all cases of termination of the contract, as well as in case of implementing it at the expense of the contractor, because of serious errors of him, the final deposit payment shall become a right to the relevant authority; also, it shall have a right to deduct what is payable to it of fines stipulated in the contract and the value of each loss incurred by it, from any amounts due or accruing to the contractor with it. In the case they are not sufficient, it would resort to deduct them from his dues with any other governmental entity, whatever the reason of maturity, without the need to take any legal actions, all without prejudice to the right to charge him judicially with what can not be received by it of rights through administrative measures.



(Article 71)

Subcontracting

- 1- The contractor may subcontract with a contractor, and he would assign him with a part of his obligations regarding the execution of the contract according to competences set forth in the tender assets, after obtaining the prior written consent of the relevant authority with regard to each subcontract.
- 2- The subcontracting will not limit the responsibility of the original contractor for the execution of the contract, and be subcontracting would be on condition that the subcontractor shall be eligible for the implementation of the obligations of the original contractor under the original contract with the public authority.

(Article 72)

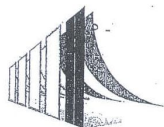
The withdrawal of the successful tenderer

In the case of the withdrawal of the successful tenderer, the Agency - based on a reasoned request from the relevant authority – shall consider to cancel the tender or re-offer it or the possibility of sending it to the next-price tenderer. The withdrawn tenderer shall be punished by the confiscation of the initial payment. In the case of repetition of his withdrawal for more than two times, the provision of Article (85), paragraph (b, c) of this law shall be applied to him.

(Article 73)

Promulgation of the decisions

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The Agency shall announce the reasons of the decisions of awarding, cancellation or exclusion of the bids in the Official Gazette and the website of the Agency.

Part Seven

(Article 74)

Variation Orders

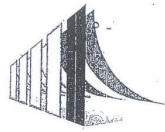
The relevant authority shall not be allowed to issue variation orders in the tender of the contracts which are subject to the provisions of this law, that the non-compulsory total of their value exceeded, by increase or decrease, (5%) five percent of the total value of the contract, without the consent of the Agency's Board on the application within a period not exceeding one month from the date of submission. The consent shall be issued with a reasoned memo from the relevant authority, accompanied by the opinion of the authority supervising implementation, if any.

(Article 75)

Modifying the contract prices

The contract prices may not be modified – by increase or decrease - in case of the change of the prices of major materials involved in the items of tender – whose prices are globally determined - only in accordance with an equation provided for in the documents and the concluded contract, and it shall be presented to the Agency for approving what was done thereof.

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The Board is guided by indicators of global prices of these materials or decisions specifying their prices issued by the official authorities in the State.

(Article 76)

Financial provision of the variation orders

In all cases where variation orders are issued in accordance with the two previous articles, a financial provision shall be available with the relevant authority.

Part Eight

Considering complaints and grievances

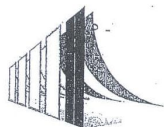
First: Complaints

(Article 77)

Procedures of complaints and deciding in them

Procedures for submitting a complaint and deciding thereon shall be as follows :

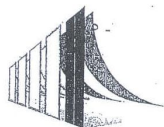
- 1- Any tenderer suffered from loss or damage as a result of breach of any of the authorities competent in the procurement or tenders of any obligation under the provisions of this law or the regulation issued accordingly, may submit, in accordance with the provisions of this law, a complaint at any stage of the procurement, requesting to reconsider procedure from which he is affected him, or non-taking action, if the damage resulted from it.



- 2- Any interested party shall have a right to submit a complaint with the competent procurement authority of any shortcoming that afflicts the preparation of technical documents of the tender or its general conditions in breach of the rules of equality, justice and equal opportunities until the closure of the bidding; and the competent procurement authority shall decide on the complaint within seven (7) business days from the submission thereof, and its decision shall be recorded in the minutes of the meeting, it shall notify the complainant in writing thereof as soon as it is issued.

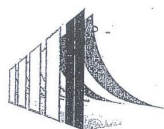
The referred authority shall take necessary action to avoid mistakes, if they are proven, and take necessary action to correct and ensure the safety of the tender procedure.

- 3- In the case the matter is related to procurement procedures which have not yet resulted in a contract of procurement, or the procurement contract resulted from them has not yet entered into force, the complaint should be submitted to the head of the relevant authority, if these procurement procedures are entirely within its competence, or to the Head of the Agency, if the procedures are issued from one of its committees or from it.
- 4- The complaint must be submitted in writing. The head of the competent procurement authority will not consider the complaint unless it is submitted during a period of (7) Seven Days from the date of publication of the decision or action. Subject of the



complaint, or the notification of the relevant persons, whichever is earlier.

- 5- Once the complaint is submitted, the head of the competent procurement authority, the Board or the committees of the Agency - according to competence to the subject – may suspend the procurement procedures the purchase, and within (7) seven business days, after the date of submitting of the complaint, issue a written decision with regard thereto, including the reasons on which the decision was built.
- 6- In case the decision is issued in favor of the complainant by accepting his complaint, the decision shall include the necessary corrective measures from the relevant authority or from the Board, each according to its competence, and take necessary measures for the safety of the tender.
- 7- Any decision regarding the complaint shall be recorded in the register of the procurement procedures.
- 8- Complaints of decisions issued by the Agency should be submitted to the Board to decide thereon.
- 9- The executive Regulation shall regulate the procedures for submission of the complaint and deciding thereon, in accordance with the provisions of this law.

**Second: Grievances****(Article 78)**

A committee for grievances shall be established by a resolution of the Council of Ministers, to be attached thereto. It consists of (five) members and it shall be formed of specialized legal, financial and technical experts. Duration of membership in the committee shall be for three years, to be non-renewable. It shall be competent to hear the grievances present before it. In case of acceptance of the complaint, the decision shall contain the necessary corrective actions, of which the head of the Agency would be notified within seven days from the date of referral of the complaint to them.

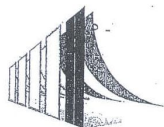
Any concerned party may appeal before the Grievance Committee of the Board's decisions within seven working days from the date of publishing the same or notification to the relevant person, whichever occurs first.

The Executive Regulation shall organize the procedures of submitting grievances and deciding thereon and the notification to the appellant thereof, in accordance with the provisions of this law.

(Article 79)**Jurisdiction and procedures of lawsuit**

The General Assembly of the Court of First Instance shall determine a courtroom or more rooms of the administrative circuit, with a competence to consider the cases related to the public tender (and alike)

State of Kuwait



National Assembly

of the public procurement processes, and what is associated therewith, and can be subdivided therefrom of administrative disputes.

In the Court of Appeal, a specialized circuit or more shall be arranged, to consider the appealed judgments issued by the administrative circuit referred to in the first paragraph, and the verdict shall be decisive, and may not be challenged by any method of appeal.

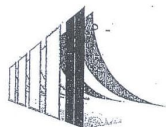
The court of First Instance shall mandate one or more judges to adjudicate on a temporary basis, and without prejudice to the origin of the right, in the matters which include fears of the passing of time, related to the cases and disputes referred to in the first paragraph, as well as temporary execution complaints, and issue orders on petitions and temporary orders, and the payment orders relating thereto.

The Civil and Commercial Procedure law and its complementary Laws shall be applied to the lawsuits which are filed under the provisions of this law, unless a provision for the same is specifically mentioned.

(Article 80)

An exception to the rules relating to the declaration of judicial papers set forth in the Civil and Commercial Procedure Law, the judicial papers relating to the civil, commercial and administrative disputes stipulated in this Law, may be declared by way of fax or e-mail.

The Minister of Justice - in coordination with the General Authority for Regulation of the communications and information technology – will issue a decision for the conditions and controls in terms

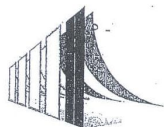


of organizing the declaration procedures, and the type of systems and programs used in the conduct of this declaration, the forms and shape of the papers of requesting for attendance, notifications, and the reply thereto, and the method of payment of legal fees prescribed with regard thereto. The invalidity will be resulted from the violation of the provisions of this Article.

(Article 81)

For exception to the provisions of articles (49, 59.91) of the Civil and Commercial Procedure Law, the following shall be excluded:

- 1- The judgment shall be delivered – upon the request of defendant – by considering the lawsuit as void, if the defendant is not requested to appear within (30) thirty days from the date of submission of the pleading to the Clerks' Department, and it is due to the act of the plaintiff.
- 2- If the plaintiff or the defendant did not attend in the first session or any other session, the court ruled in the case, and only decided to non-suit it, after verifying the validity of declaration, and the court decides non-suiting if the parties attended and agreed to non-suit, and in the event of default by the plaintiff or the appellant for the second time the court shall, instead of non-suiting, consider it as if null. If the absent litigant attended before ending the session, the non-suiting shall be considered as if null.



- 3- The court adjudicates by considering the lawsuit as if it is null, if the parties did not attend after proceeding in it or if either party is not declared of the proceeding in the lawsuit within (30) thirty days of its non-suiting, and this period shall include the term of non-suiting, if it is repeated, even if it is associated. This time would not be considered taken into account, except by arrival of the declaration to the litigant before it is expired.
- 4- The case may be suspended upon agreement of the litigants not to proceed with it for no more than (60) days from the date of approval of the court on their agreement, and this moratorium shall not have an impact of any mandatory time limit prescribed by law to be set.

If one of the litigants doesn't announce proceeding in the lawsuit within (15) fifteen days following the end of the term - whatever the duration of the moratorium - said the plaintiff would be considered abandoning his case and the appellant abandoning his appeal.

Part Nine

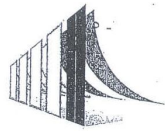
Preventing conflicts of interest, accountability and sanctions

Chapter One

(Article 82)

Preventing conflicts of interest

The Executive Regulation ensures system and controls to prevent conflicts of interest adhered to by all participants in the decision-making concerning the competences of the Agency or as fall within the



competences of the relevant authorities directly, and it shall publish them on its website and through other available means of publication, and this regulation includes, in particular the following:-

- 1- Obliging the member of the Board, the staff of the Agency and the staff of the relevant authorities or any person who participates in the work of tenders to refrain from participation in all procedures, if they have any direct or indirect interest in the transaction at hand. The direct interest means that the member, the person, the spouse or one of his relatives to the second degree is a bidder in the tender or has a share in it, or be a board member of the authority submitting the bid or an employee, agent, or sponsor for it.
- 2- The same prohibition shall be effective on contracts concluded by way of practice or direct order.

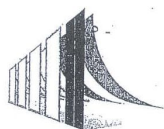
In case of violation, as well as disciplinary accountability of the authority to which the violator belongs, the contract will be cancellable if the awarding is made on the referred bid, with obligating the violator to compensate for the damage caused to the relevant authority or third parties as a result of the cancellation of the contract.

Chapter Two

The accountability of staff of the public authorities

(Article 83)

First: Without prejudice to the competence of the State Audit Bureau in this regard, the public authorities which are subject to the

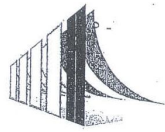


provisions of this law shall promptly refer to the investigation what is discovered by it of negligence or default in the preparation of the documents of tender or practice and the consequent issuance of unjustified variation orders, as well as cases of inaction in awarding procedures and the conclusion of the contract with the successful bid, or committing anything that would breach the provisions of this law.

The referral to the investigation shall be at the request of the relevant authority and it shall issue its opinion or recommendation on the subject, either by preserving it or punishing the in-charge for disciplinary reasons within the (30) thirty days utmost from the date of knowledge of the violation and inform the Agency of the opinion or recommendation in this regard within two weeks from the date of issuance to take necessary decision in this regard.

The investigation may be done at the request of the Agency.

Second: The Agency must decide the request of the relevant authority and notify it of his decision within a maximum period of (15) business days from the date of receipt of the tender papers (and the like) and all the related documents, the documents, details, and clarifications, complete and updated. This period shall be effective only from the date of the arrival of what may be requested by the Agency within seven (7) business days, of new papers, details, or clarifications as deemed by it necessary and required for considering the decision.



The Agency may, under its responsibility and in accordance with the provisions of this law, give a decision on the subject without being bound by the opinion or recommendation of the relevant authority, in order that the decision would be issued in this case by the majority of two thirds of the members of the Board.

Chapter Three

The due conduct of tenderers

(Article 84)

The tenderers and contractors, at all times, must comply with their obligations under the law, the regulation and the procurement contracts to which they are a party and any other systems being applicable to their behavior and activities related to the public procurement.

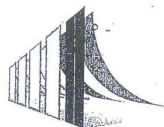
In all cases, it would be considered null and void all the action being done in violation of the provisions of this law and its executive regulations, with responsibility for compensation for damages caused to the relevant authority or third parties as a result of this violation.

The Executive Regulation shall indicate the provisions and controls the due conduct of the tenderers, as well as what is taken of actions in cases of violation.

Chapter IV

Penalties

(Article 85)



(1) Penalties signed by Board on the contractors and suppliers or undertakers of services are:

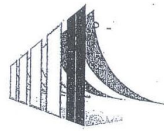
- a- Notice.
- b- Decreasing the category.
- c- Deletion from the Registry and deprivation of participation for a period not exceeding five (5) years, or deletion from the register permanently.

These penalties shall not breach the contractual rights of the relevant authority contracting as per the terms of Contract.

(2) The Contractor, Supplier or Undertaker shall be called with a registered letter, upon the decision of the Agency or the request of the relevant authority.

The penalty shall be signed after calling the contractor, supplier or undertaker and hearing his statements and investigating his defense, and if he rejects to attend before the Board after being summoned by registered letter, it may issue its decision in his absence.

(3) A tenderer who subject to a decision made for signing penalty on him, may appeal this decision within a period of (30) thirty days from the date of issuance, before the Grievance Committee, and the Regulation shall specify the procedures for filing the petition and decision thereon.



- (4) Every contracting company which became non-able to execute the contract or didn't execute it with the required form, shall be deprived of entering in a next tender, till the tender, subject of dispute, is settled.

The Agency shall circulate the penalties issued by it to the relevant authorities.

Part Ten

Model contract and purchase contract

Chapter One

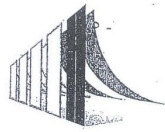
(Article 86)

Model contract

The Agency is committed to cooperate with the Ministry of Finance and the Department of Fatwa and Legislation to develop written model contracts which include the books and conditions under which the contracts are executed, and they shall consist of a booklet of general conditions and a booklet of particular conditions:

First: Booklet of the General Conditions: the forms of the booklet of general conditions determine the administrative requirements and the technical requirements that are applicable to all contracts of supply, works contracting or services.

In this booklet, in particular, the method of calculating the prices shall be determined, application of the terms of reviewing the prices, as well as the method of granting and paying the payments,

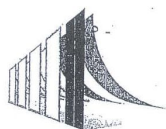


settling the prices of deals in accordance with the accounting systems in force in the State of Kuwait.

Second: Booklet of particular conditions: The forms of the booklet of particular conditions determine the conditions relating to each contract, also, they shall include a reference to all the rules, provisions, procedures and conditions set forth in this law and its executive regulation.

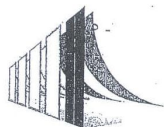
The booklet of particular conditions should include, in particular:

- 1) Method of the conclusion of the contract.
- 2) The explicit reference to the articles of the law and the Executive Regulation as a part of the contract, unless it is otherwise provided specifically.
- 3) The subject of the contract with reference to the place of works.
- 4) Determine the documents listed in the contract according to their priorities.
- 5) The price, taking into account the requirements for determining prices.
- 6) Conditions for the receipt and delivery.
- 7) Payment terms according to the regulatory texts.
- 8) Conditions for termination of the contract.
- 9) The penalties imposed on the contractor.
- 10) All kinds of fines, their maximum limits, provisions and sequence.

**Part Eleven****Final Provisions****(Article 87)****Preference to the National industry and the local contractor**

With taking into account the provisions prescribed by the law for direct investment of foreign capital, the public authority shall control the obligation of foreign contract to purchase not less than 30% of the national industries. If they are not available, they may be purchased from local suppliers registered in the lists of classification of the suppliers at Agency, in order that it would be proved by receipts certified by the authorities from which the purchase was made. These percentages may be increased or decreased by a resolution of the Council of Ministers, based upon the presentation of the Agency.

Also, it shall control the obligation of foreign contractor that he would assigns what is not less than 30 % of the contracting works which are awarded to him, to local contractors of the registered in the lists classification of contractors at the Agency, at different categories, as per the nature of contracting or the contractors registered and classified with Kuwait Municipality, after obtaining the consent of the authority supervising on the execution of contracting. This percentage may be increased or decreased by a resolution of the Council of Ministers, based upon the presentation of the Agency.



(Article 88)

Advance planning for tenders

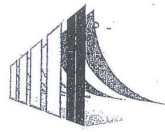
The public authority shall prepare a schedule for tenders and qualifications that will be offered by them throughout a minimum of (90) ninety days before offering them, with a profile of this tender or qualification. The Regulations shall regulate the rules of publishing these schedules.

If it is not possible, the period of qualification or the pricing of tender shall not be less than (90) ninety days as of the date of announcing and offering it for procurement.

Fees

(Article 89)

- 1) To be determined by a resolution of the competent minister - at the suggestion of the Board of the Agency – the fees that should be collected for services provided by the Agency, as well as against the requests submitted to it to provide the tender documents for those wishing to participate in it and the method of determining those fees, which must reflect only the cost of copying and distribution of tender documents.
- 2) To be determined by a resolution of the competent minister, the fees of appeal requests, pursuant to the provisions of this law. The complainant shall be entitled to recover this fee in case the Board decides to accept his complaint in form and substance.



(Article 90)

Agreement among the public authorities

The agreement among the authorities to which the provisions of this law are applicable shall be by the approval of the ministers, to whom the relevant authorities belong, without substantive or procedural subjection to the law of public tenders or the Agency.

(Article 91)

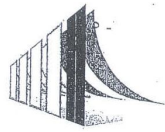
The Executive Regulation and the instructions of Ministry of Finance

- 1) The executive regulation of this law shall be issued by a decree, upon the submission of the competent minister, in coordination with the Minister of Finance, within the (6) six months from the date of publication in the Official Gazette.
- 2) The Ministry of Finance shall issue its instructions to the public authorities with regard to all types of procurement processes, not in contradiction with the articles of this law and its regulation.

(Article 92)

Transitional Provision for employees

The existing staff employed by the Central Tenders Committee at the time of the effectiveness of this law, shall be transferred to the Central Agency for Public Tenders, with their grades and disciplinary and supervisory titles; and they shall be placed on the equivalent of degrees, after the establishment of the new functional structure of the Agency,

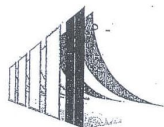


while preserving their right to salaries and bonuses, and the benefits of their previous jobs at a minimum.

(Article 93)

Transparency and adding information

- 1) In addition to publishing this law and the regulation in the Official Gazette in accordance with the provisions in force, this law and the Regulation as well, shall be published in the official gate of the public procurement on the international network of information (Internet). Also, the opportunity must be given for the public to see the instructions, directives and guidance circulars regarding the application of this law and the regulation, by publishing them immediately after they are released on the official portal site referred to.
- 2) The competent authority for tender shall immediately declare, and as determined by the Regulation, the awarding of every contract of procurement, that the regulation requires to publish its awarding, in order that the announcement would include the name and address of the successful tenderer, value of the contract, and any other information as determined by the regulation. The announcement must be published in the official portal site on the Internet.
- 3) The competent procurement authority, according to its competence for awarding any tender, must inform any unsuccessful tenderer, upon his request, of the reasons for non-winning of its bid or the non-success of the prequalification request, or any proposal



submitted by him, in writing within (10) ten business days from the date of his request.

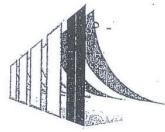
- 4) Each of the Agency and the relevant authority - according to their areas of competence – must prepare a brief summary of procurement procedures according to the information specified in the regulation.
- 5) The public authorities should provide the Agency with data on the companies being incapable in the implementation during the effectiveness of the contract as well as after the end of each contract, with a report that includes the massive violations which caused a damage to the work or to the public money or they subjected to the provisions of Article (85) of this Law, in order that the Agency shall study it.

(Article 94)

Every provision being contrary to the provisions of this law shall be cancelled, unless there is a special provision, as of the date of its introduction; also, the Law No. (37) of 1964 referred to, shall be canceled.

The Implementation of contracting procedures that began under the cancelled law continue – and did not end until the date of commencement of this law - in accordance with the provisions of Law No. 37 of 1964 referred to, until the completion of those procedures.

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(Article 95)

The existing classification shall be applicable, till the contractors are classified and the suppliers are registered, provided that the period wouldn't exceed six months from the date of formation of the Board, in accordance with the provisions of this law.

(Article 96)

This law shall be effective after six months from the date of its publication in the Official Gazette, with the exception of the Fifth Article for the formation of the Board of Agency and the Ninety-first Article for the preparation of executive regulation, they shall be effective with immediate effect from the date of publication of the law.

(Article 97)

The Prime Minister and the Ministers – each one as per his competence - shall execute this law.

Emir of the State of Kuwait

Sabah Al-Ahmad Al -Sabah