



Draft Law () of 2007
on
**TENDERS, BIDDING &
GOVERNMENT STOREHOUSES**

In the name of the People:

I, President of the Republic:

- Having reviewed the Constitution of the Republic of Yemen,
- and with the approval of Parliament;

(Hereby decree the following)

Chapter One

Naming, Definitions, Purposes and Scope of the Law

Article 1: This Law shall be called the Tenders, Bidding & Government Storehouses Law.

Article 2: For the purpose of this law, terms and phrases henceforth shall have the meaning assigned against each, unless the context requires or evidence proves otherwise:

The Republic:	The Republic of Yemen
The High Authority:	High Authority for Tender Control.
The High Committee:	The High Tender Committee.
The regulations:	The Executive Regulations of this Law.
The entity:	The Ministry's headquarters, any administrative unit, authority, body or establishment, other central bodies, units with autonomous and dependent budgets, or specialized funds.
Administrative Unit:	The Capital's Municipality, a governorate, and a directorate, according to the definitions of the local government law.
Tender Committee:	Tender committees at the central government (ministries' headquarters, public establishments, authorities, and other central bodies and their branches thereof), local tender committees at administrative units, and tender committees at entities with autonomous or dependent budgets, and specialized funds.
Pre-qualification:	A set of technical, administrative and legal processes, based on

	which competition is open by means of advertisement through proper media for all who are willing to certify that they possess the financial and technical ability to satisfactorily perform the required work or deliver consulting services.
Expression of interest in participation:	A set of administrative, technical and legal processes, employed by the entity to invite consulting firms to express their interest in participation in delivery of the announced consulting services through a tender, according to rules of competition.
Tender:	A set of administrative, technical and legal processes, employed by the entity to procure goods and works done through a competitive manner, according to tender documents, for the purpose of identifying the best bid based on the evaluation criteria and scoring designed for the announced tender in accordance with the provisions of this Law.
Open Tender:	A tender, where competition is open for those willing to participate in qualifications according to the conditions set in the tender documents, through an announcement to be published by the concerned entity in government-owned media or any other media in compliance with the terms prescribed in this Law.
Limited Tender:	A set of technical, administrative and legal processes, employed by the entity to conduct an open tender except that the invitation to submit bids is distributed to a number of technically pre-qualified potential bidders or among a limited number of bidders, which in no case may be less than three, in accordance with the provisions of this Law.
Shopping:	A set of administrative, technical and legal procedures, employed by the entity to receive quotations for the simplified and expeditious procurement of standard goods or simple works or services below the threshold value set forth in the executive regulations.
Direct Purchase Order:	A set of administrative, technical and legal processes, employed by the entity to negotiate and conclude a direct procurement contract with a specific vendor for the supply of goods or services in accordance with the provisions of this Law.
Tender Documents:	The documents setting out the financial and legal terms and conditions, technical designs and specifications, tables and other requirements (as per the nature and type of each activity), which enable bidders to participate. These documents shall contain the standards and criteria based on which qualification and technical and financial analysis and evaluation will be carried out, and a decision is made.
Contracting or Purchase Contract:	A contract between the entity and the contractor, whereby the contractor undertakes to perform works or provide services for money, or between the entity and the vendor, according to the provisions set forth in this law, and other applicable laws.
Vendor:	Any natural or legal person.
Contractor or Vendor:	Any person who undertakes, according to the contract, to perform works or sell things for money.
Consultant:	Any person, qualified to deliver consulting services, who is selected according to the provisions set forth in this law and bid invitation conditions.

Purchasing:	Goods, supplies and other materials.
Bid:	The tender submitted by a bidder for the purpose of competition, in accordance with the procedures set forth in this law.
Consulting services:	Technical services, or economic, financial, administrative or legal studies, carried out by expert consultants who are qualified for the works to be done, either in the area of preparation, designing, supervision of execution, evaluation or delivery process.
Other services:	Transportation, maintenance, cleaning or other services except consulting services.
Works:	Different construction, installation or assembly works, and all works explained in the document.
Two-Stage Tender:	A set of administrative, technical and legal processes, employed by the entity to conduct an open tender involving a first stage where bidders submit technical proposals based on preliminary specifications and bidding documents after which the specifications and bidding documents are finalized for the second stage of the proceeding where final bids with proposals are submitted.
Two-Envelope Procedure:	A set of administrative, technical and legal processes, employed by the entity to conduct a tender involving mission of two separate technical and financial proposals. The use of two-envelope procedures will be limited to the procurement of consulting services.
Public Auction:	A set of technical, administrative and legal processes, employed by the entity to conduct a public auction for those interested in purchasing assets, materials or other property to be sold, by means of an advertisement published in government, or other, media, according to the conditions set forth in this law.
Limited Auction:	A set of technical, administrative and legal processes, employed by the entity to conduct a public auction, except that it is open for a limited number of auctioneers, who are notified by the entity in accordance with the conditions set forth in this law.
Annual estimates and procurement plan:	An annual plan, developed by the entity and includes required purchases within the annual capital spending and current operation programs.
Storehouses:	Locations acquired, prepared and equipped for the storage and protection of the entity's property, records and supplies.
Storekeeper:	The persons directly responsible for the storehouse and for the storage, arrangement, recordkeeping and distribution of materials, items and equipment under their responsibility.
Inventory:	A mandatory annual or spot itemized record, full or partial, of storehouses' content.

Article 3: This law aims to achieve the following:

- a- Protection of public funds, maintaining the state's property and assets and fighting corruption in bids and auctions.
- b- Fairness and equality in treatment of bidders in bids and auctions.
- c- Integrity, transparency and accountability, and streamlining and defining

procedures in bids, procurements and storehouses.

- d- Economic effectiveness in bid and auction activities.
- e- Effective supervision and monitoring of bid, procurement and storehouse activities to safeguard and protect public funds and interest
- f- Encouraging contractors, suppliers and consultants to develop their performance professionally and economically.

Article 4: The provisions of this law shall apply to the following:

- a- Ministries' headquarters.
- b- Public establishment and authorities and other central bodies and their branches thereof at local units, specialized funds and other units covered by the state's general budget.
- c- Administrative units of the local authorities.
- d- Public sector units.
- e- Units with autonomous or dependent budgets.
- f- In the case of supply of goods, contracting works and service delivery contracts, made in accordance with certified credit and grant agreements, unless these agreements specify otherwise.

Article 5:

- a. Mixed sector units where 50% or more of the capital is owned by the State shall lay out their own rules and regulations that manage bid and auction activities. These rules and regulations shall not be effective until they have been approved by each authorized entity, and endorsed by the Cabinet.
- b. Mixed sector units where less than 50% of the capital is owned by the State shall lay out their own rules and regulations that manage bid and auction activities, to be approved and endorsed by the bodies concerned at each unit as per their founding laws.
- c. The Ministry of Defense shall lay out rules and regulations of its own to manage supplies and military works. These rules and regulations shall not be effective until they have been approved by the Cabinet.
- d. The High Authority may supervise bid and auction activities at the bodies mentioned in sections (A, B and C) of this Article.
- e. If the value of bids conducted by the sector units referred to in section A of this Article exceeds the threshold identified in the regulations, the approval of these bids shall be within the scope of the High Tender Committee jurisdiction.

The entities referred to in this article shall implement the provisions of this Law and its Executive Regulations until the entity-specific rules and conditions have been approved, provided that these rules and regulations conform to the goals and principles of this Law.

Chapter Two

Tenders and Their Procedures

Article 6: All entities subject to the provisions of this law shall ensure equal opportunity and treatment, and fair competition to all competitors in bids and auctions.

Article 7:

- a. Specialized committee of experts in technical, financial and legal matters at the same entity or other entities, or by the assistance of other experts, shall set and review

technical specifications and bidding documents, detailed technical requirements, and the estimated cost of each item, according to the nature of the required work. The committee shall refer these matters to the Special Tender Committee for final approval before distribution to bidders. Tender guidelines for different tenders and their standard documents, which have been approved by the Cabinet based on the nature and type of the purchase operation to be concluded without prejudice to the provisions of this law.

- b. The Special Committee referred to in section (A) of this Article shall define the bidding method, either through one technical and financial envelope or two separate technical and financial envelopes. It shall also specify in the bidding documents whether the tender requires pre-qualification, request for proposal or post-qualification, as the case may be.
- c. The Special Committee referred to in section (A) of this Article shall be fully responsible for the correctness and validity of specifications, bidding documents, technical requirements and estimated cost.
- d. In the case of two-envelope (technical and financial) bidding, the technical envelope shall be opened first. If the technical proposal is unacceptable, the financial envelope shall not be opened. The bid shall be excluded. This procedure shall be limited to the procurement of consulting services.

The Executive Regulations shall determine the method of Special Tender Committee formation, and specify conditions where the assistance of experts from other entities subject to this Law may be used, or of external experts.

Article 8: All entities subject to the provisions of this law shall not approve tendering any project unless it is included in the investment program of the State general budget.

Article 9: All entities subject to this law shall:

- a) Follow procedures for inviting consulting service proposals, and contractor, vendor or supplier pre-qualification for projects, works, machinery and equipment that require skills and technical and financial capability only available among a limited number of contractors or suppliers, or for projects, goods and works whose cost exceed the threshold specified in the Executive Regulations.
- b) 1- Contractor and supplier registering and classification for projects whose value exceeds the financial threshold specified in the Executive Regulations, profession practice certificate, tax card, value-added-tax registration certificate, and other certificates required by effective laws, are to be included in bidding documents, and are defined in tender documents and requirements.
2- The certificate-issuing authority shall keep special records for classification and registration in accordance with laws and regulations. Foreign companies shall produce only the similar certificates issued by authorities in their countries, after having certified them by the concerned authorities.
3- In tenders where pre-qualification is not required, the tender committee at the entity may conduct post-qualification procedures for the winning bid, according to rules and criteria to be identified in advance and specified in the tender documents for contracting works and goods and before the contract-rewarding decision.
- c) Demonstrate transparency during qualification procedures, according to the Executive Regulations.

All those who seek qualification shall produce valid documents and information so as to enable the entity to offer them the appropriate qualification. Whenever the entity

discovers that the information provided by qualification-seekers are false or inaccurate, it may withdraw the seeker's qualification and add him/her to the black list.

Article 10: The entities subject to this law, when in need of consulting services, shall post an advertisement in a proper media outlet to receive information from consultants willing to offer the advertised consulting services. The Executive Regulations detail the required procedures.

Article 11: The entity may advertise a contest for architectural designs and town planning in order to acquire the best design with or without the award of prizes. The design is selected by a panel to be formed for this purpose. The Executive Regulations specify the duties of the panel, how it takes decisions and the transparency of its procedures.

Article 12: A. Contracting for goods, works, maintenance, repairs and consulting and other services shall be concluded through an open tender to be advertised inside the Republic or inside and outside the Republic, depending on the nature of each tender.

B. If complete technical specifications are not available, due to the complicated nature of materials or works the entity seeks to procure through an open tender, it may use the two-stage procedure, as follows:

- 1- In the first stage, the bidding documents shall outline the purpose, expected performance, broad specifications and other broad features and specifications of the equipment or works to be procured, and qualifications required to perform the contract, and call upon bidders to submit technical bids without a bid price, as well as comments on the proposed contract conditions.
- 2- The procuring entity shall conduct a technical review of the technical proposals using experts from the entity or, as appropriate, other experts from any other body.
- 3- During the technical review, the procuring entity may also engage in discussions with any or all bidders with a view to understanding the proposals or to indicate changes required to make them acceptable and seek the bidder's willingness to make such changes, provided that a record of all such discussions, stating the attendees, describing the subject matter, and summarizing the conclusions, shall be created, included in the file relating to the tender and become part of the official records of the procuring entity.
- 4- Any changes to the specifications of the equipment to be procured, or the qualifications required to perform the contract, shall be notified to all bidders together with an invitation to submit a revised technical bid within a time period to be specified in the notice.
- 5- At the end of the first stage, the procuring entity may:
 - (a) Reject the bids which do not, and cannot be changed to, meet the basic requirements, minimum performance or required completion time, or have any other weaknesses which make the bid substantially non-responsive;
 - (b) Modify the technical specifications, evaluation criteria, and contract conditions in order to maximize competition and articulate appropriate evaluation methodology in order to consider various options put forth by the bidders.

- 6- In the second stage, the procuring entity shall invite bidders whose bids have not been rejected to submit final bids with prices according to the revised bidding documents.
- 7- The Executive Regulations will define the procedures to be followed during the two-stage tendering methods.

Article 13: A. A limited tender for goods, works or services should be used as a second step after using an open tender, either through inviting pre-qualifications for works and goods, or expressing interest in consulting services. The Executive Regulations shall set forth the controls in this regard.

B. Contracting for the purchase of supply of goods, execution of works, maintenance or repairs, or delivery of consulting or other services, may be done through a limited tender, shopping or direct purchase order, if conditions set forth in this law are met. The Executive Regulations shall provide for the financial ceiling for each method.

C. The Executive Regulations shall specify the procedures for contracting consulting services, and standard documents to be used.

Article 14: Without prejudice to the terms and conditions of open tenders, a limited tender for the procurement of goods, works or services shall be used in the following cases:

1. The value of the procurement does not exceed the financial ceiling of the limited tender;
2. It is relevant to bidders who have been pre-qualified;
3. The nature of the tender is limited to a few suppliers, contractors, consultants, technicians or experts. The decision shall be for cause, and the invitation to submit bids shall be extended to those who practice the required activity, enjoy the required financial and technical capability and are listed with the entity.
4. If two open tenders have been conducted without achieving positive results.

In all cases, approval of the tender committee concerned shall be sought before using this method. The committee shall ensure that the prices are close to market prices.

Article 15: The Shopping procurement method, to be conducted in accordance with the following procedures, may be used for the procurement of standardized goods, simple works, and other services:

- a- Quotations shall be requested from as many bidders as practicable, but from at least three bidders unless the item in question is not available from three suppliers.
- b- The entity shall include clear statements on quality, quantity, payment and delivery terms, and any other requirements set forth in the Executive Regulations.
- c- Bidders shall be given adequate time to prepare and submit their quotations. Each bidder is permitted one quotation, which may not be altered or negotiated.
- d- A purchase order shall be placed with the bidder that provided the lowest-priced quotation meeting the other requirements, concerning quality, quantity and delivery, of the procuring entity.

The Executive Regulations shall specify the ceiling for the shopping.

Article 16:

- a- Without prejudice to the terms and conditions of open tenders, limited tenders and the shopping method, and the direct purchase order for the procurement of goods, works or services shall be used in the following cases:
- 1) The value of the procurement does not exceed the financial ceiling of the direct purchase order;
 - 2) The items, which are spare parts for equipment and machinery, have only one known source of supply;
 - 3) The required technical works can only be done by a certain technician or specialist;
 - 4) Two shopping methods for the procurement of goods, works or services have been conducted without achieving positive results; and
 - 5) In emergency cases, such natural disasters, that require immediate action.
- b- Simple civil works and procurements may be carried out if the involvement of the beneficiary community will result in enhancing the economy, quality or sustainability of the goods and service to be procured, or if the objective of the project is to create employment and involvement of the beneficiary community. The procedures concerned shall be defined in the Executive Regulations.

In all cases, approval of the tender committee concerned shall be sought before using this method. The committee shall ensure that the prices are close to market prices.

Article 17: The special tender committee at entities, which has affiliate financially-autonomous bodies or establishments or executive units, may order them to implement the required works by a direct purchase order in the following cases:

1. Natural disasters that require immediate action;
2. Potential risks at the execution site.
3. The required works are of small value, scattered or located in a remote area, a situation that makes qualified companies unwilling to submit reasonably-priced quotations.

The Executive Regulations shall set forth similar works and the controls in this regard.

Article 18: Under no circumstances shall a procurement of goods, works or services be divided with the intent to alter the tender and contracting methods.

Article 19: The tender contracts and attached documents shall define the parties to the contract, its subject, specifications, implementation location, date of fulfillment, in-kind and cash obligations on each party during each stage of implementation, liquidated damages during implementation or payment, implementation guarantees, and cases of contract termination.

Article 20:

- a) In the case of international tenders, the invitation to bid shall be published in widely-circulated English and Arabic media and posted on the entity's website. The invitation shall include information sufficient to allow the entity to assess the responsiveness of bids.
- b) Those who have bought the bidding documents can seek clarification of the bidding documents during the document sale period. The procuring entity shall respond to any request promptly and without delay within a reasonable time and prior to the deadline for the submission of bids. The response shall be distributed to all who have bought the documents, without referring to the source of the request. The Executive Regulations shall define the required

procedures.

- c) Bids shall be opened at the time and place indicated in the advertisement and bidding documents. The time of bid opening shall coincide with the deadline for submission of bids with the presence of bidders or their official representatives.
- d) The bids shall be evaluated according to the criteria and methodology specified in the bidding documents. The evaluated cost of each bid shall be compared with the evaluated cost of other bids to determine the lowest evaluated bid.
- e) The Executive Regulations shall set the methods for the preparation and sale of documents; means of advertisement; how to prepare and submit bids; opening of bid envelopes; procedures of bid analysis, evaluation and decision-taking; cases for bid exclusion; types of securities required for each tender; means of collection and reimbursement of securities; means of collection of liquidated damages and sold items' fees; means of dispute settlements; means of contracting and execution of contracts; and other tender-related measures.

Article 21: No negotiations shall be carried out with bidders, whatever the reason is. During analysis and evaluation, if some bids are found to include reservations, the following steps shall be taken:

- a) Bids that include reservations on the main specifications, terms and requirements specified in the bidding documents shall be excluded.
- b) Conducting a financial review of secondary reservations, other than those specified in section (A) of this Article, and adding it to the total value of the bid. Bids rankings are then re-arranged in accordance with this result. The Executive Regulations shall set forth the controls for this section.

Article 22:

- a) After evaluation of bids, the tender shall be awarded to the bid offering the lowest price that complies with all the technical, financial and legal terms and requirements of the tender.
- b) Prior to the expiry of the period of bid validity, and after having obtained any required approvals, the entity shall notify the successful bidder of the selection of its bid for award. At the same time, notice shall be given to the other bidders, specifying the name of the successful bidder and the price of the bid.
- c) The entity shall allow all bidders to submit complaints to the authorities specified in this law within ten days, starting from the date of their official notification of the name of the successful bidder.
- d) If the bidder whose bid has been accepted fails to sign a contract, if required to do so, or fails to provide any required security for the performance of the contract within the prescribed time limit, the entity shall select the second successful bidder from among the remaining bids that are in force.
- e) The Executive Regulations shall define all details and procedures on bid selection.

Article 23: The tender may be cancelled before the opening of envelopes by a decision for cause taken by the chairman of the entity after the approval of the special tender committee. In this case, securities and the amount of the bidding documents shall be reimbursed to bidders, who return the bidding documents.

Article 24: The tender may be cancelled after the opening of envelopes by a decision for cause taken by the entity chairman after the approval of the special tender committee. All bidders shall be notified in writing in the following cases:

- a) If all bids include unacceptable reservations.
- b) If the committee proves that the least bid price is 10% over market price and estimated value.
- c) If the goods, works or services are no longer required and will not be tendered.
- d) If it is concluded that there is collusion among the bidders.

The Executive Regulations shall set forth the controls in this regard.

Article 25: The bidder may withdraw its bid before opening the first envelope and get back the bid security. The bidder may also submit a bid in the same tender if it is re-announced.

Article 26: Without prejudice to the previous articles, the one single bid can be opened and if it proves, after analysis and evaluation, to be in conformity with terms, specifications and other requirements set forth in the bidding documents, and within the estimated cost, it may be considered according to the procedures specified in this law and its Executive Regulations.

Article 27: The entity, after having obtained the approval from the tender committee concerned, may amend the contract up or down at any stage of the contract execution, provided that the value of the amendment does not exceed 10% of the value of the original contract in supply or service contracts, and 20% of the value of the original contract in works contracts. The following rules shall be observed:

- a) Amendment is confined to cases of extreme necessity, where justifications and compelling reasons exist, with no way to avoid them.
- b) The additional works are categorized under the same contracted items of works, goods or services, and at the same contract prices.
- c) The additional works do not include new items of works, goods or services not already included in the contract, even if it is within the mentioned percentage.

Article 28:

- a) The entity shall, after having obtained the approval of the tender committee concerned, confiscate the security and terminate the contract with the contractor or supplier, if it is established that it uses cheating or collusion, or bribes or colludes with a staff member, either by itself or by the help of another party, directly or indirectly, to unrightfully win the contract or other benefits or dodge any of the commitments set forth in the contract. The entity shall take the following procedures against it:
 - 1- Stop working permanently at the project.
 - 2- Review the executed works, prepare a report on the validity of execution and on the harms done, and determine finished works, the works left or unfinished, the cost of harms caused by it, the cost of stopping the work, the cost of executing the works left, make full calculations, and debit the remaining from the contractor's dues from the entity.
 - 3- Ban any dealings with it, prepare a detailed report for the Ministry of Finance, and notify the Ministry of Finance and other authorities concerned with issuing professional practice permits or rating and qualification certificates.
- b) The authorities concerned with issuing professional practice permits or rating and qualification certificates, as soon as they receive the report referred to in item (3) of the previous section, shall take the following procedures:
 - 1- Assign a team of experts to list the works done by the contractor, supplier or consultant at the entities that have contracted it before and

check with these entities the correctness and validity of such works.

- 2- If this review proves the validity of execution of all works, except the works on which a report was prepared by the entity concerned, it shall be banned for one year at all entities subject to the provisions of this law and the entities that have their own regulations.

But if the works, in full or part, are invalid, its business is suspended and rating and qualification certificate is withdrawn, without prejudice to the right of the entity or other entities concerned of claiming damages. The affected party may make recourse to court.

Article 29:

- a) If it is established that any member of the tender committees, technical committees, special committees or inspection and receiving committees, has abused his or her official powers, directly or indirectly, by colluding with a contractor or supplier, revealing tender secrets, accepting supplies that do not conform with the specifications, or signing payment certificates or receiving works certificates that do not conform with the specifications, the entity shall refer him or her to the public prosecutor's office to take legal action according to effective laws.
- b) In all cases, crimes of cheating, manipulation and bribery shall be referred to the courts for appropriate action.

Article 30: In case of the insolvency of the contractor, supplier or consultant, provisions in the effective laws shall apply.

Article 31:

- a) In case of the death of the contractor, supplier or consultant, the entity shall assign a special committee, with the presence of a representative of the deceased's heirs, to list the finished works and their cost and determine the paid amounts to date, the unpaid amounts, and the remaining works based on the contract, and the heirs, upon their request and their financial and technical capability, may be allowed to continue the execution of the works according to the conditions and specifications set forth in the contract and attached documents, provided that they appoint a legal representative accredited by the competent court within a period that does not exceed one month after the date of the death, to complete the unfinished works. In the case they are unable or unwilling to complete the works, the entity shall settle their payments, and execute the remaining part through a tender. The method of which the tender committee concerned shall determine according to procedures set forth in this law and its Executive Regulations.
- b) If the contract is concluded with a partnership, and one of the partners dies, the remaining partners shall be committed to perform the contract.

Article 32: If the contractor, supplier or consultant delays in execution of the contracted works, goods or services at the dates specified in the contract, the entity shall take the following procedures in order:

- a) Notify it of the start of calculating liquidated damages and application of penal conditions set forth in the contract from the date of the deadline specified in the notification.
- b) Applying liquidated damages and penal conditions set forth in the contract.
- c) Terminate the contract and evaluate the remaining works, and assign another party to complete the unfinished works with the same specifications at its

expense, and confiscate the performance security. Assignment shall be made in accordance with one of the methods set forth in this law and based on a decision by the tender committee concerned.

Article 33: In case the entity violates its commitments set forth in the contract, the contractor, supplier or consultant may demand compensation that equals the liquidated damages that could have been applied to him had it been responsible for the delay or an extension of the execution period that equals the delay period caused by the entity. The procedures set forth in sections (A and B) of the Article 34 shall be applied. The Executive Regulations sets forth the procedures in this regard.

Article 34: Without prejudice to the provisions of Articles 28 and 30 of this law, the entity may take the following procedures, before terminating the contract with the contractor, supplier or consultant, after having obtained the approval of the tender committee concerned and in conformity with the contract conditions and documents:

- a) Settle disputes between the two parties amicably, preserving the rights and commitments of both parties, through direct negotiations.
- b) If the two parties have not reached an amicable settlement, they may take recourse to arbitration according to the Yemeni arbitration law. The arbitration parties shall include in the arbitration agreement a commitment to continue the works without any stop during arbitration.
- c) If the two parties have not agreed on arbitration, the entity may terminate the contract, and deduct from the performance bond or other amounts owed, or to be owed, to the contractor, supplier or consultant by the entity or any other entities subject to this law, all losses incurred during the dispute period. The affected party may make recourse to court.

Article 35: The contractor, supplier or consultant may not assign the contract in full to another party. It may also not assign part of the contract to another executor unless after the approval of the tender committee concerned, which takes its decision based on information and justifications. The contractor and sub-contractor shall be in full joint liability to all the works, errors, negligence or breaching of the contract terms by the contractor. In all cases, the value of the assigned works may not exceed 30% of the value of the contract, and the terms and conditions set forth in this law and its Executive Regulations shall apply to the sub-contractor.

Article 36: A bidder may not submit more than one proposal in a tender whether unilaterally, or within a group of partners, or within a joint venture. In this case, the tender committee concerned shall exclude all bids submitted by it and confiscate their bonds, or terminate the contract and confiscate the performance guarantee, if the entity discovers this after contracting it, unless one of the bidders is a sub-contractor of another bid, or the bidding documents have allowed the submission of alternative bids.

Article 37: The entity may confiscate the bid bond in any of the following cases:

- a) If the successful bidder fails to guarantee the performance within the prescribed time limit after having been notified that its bid was accepted.
- b) If any of the bidders requests to withdraw its bid after the opening of envelopes within the bid validity period.

Article 38:

- a) The location of executing the works, goods, installations, operation, and consultant and other services, specified in the bidding documents, and for which the tender was conducted, the bids submitted and the decision made,

- may not be changed.
- b) Notwithstanding the provisions of the previous section, the execution location may be changed in cases of extreme necessity, combined with compelling justifications to be approved by the tender committee concerned and the approval of the second party to the contract, provided that no additional financial obligations result from this change. If the change results in amendments imposed by the new location, the provisions set forth in Article 27 of this law shall apply.
 - c) If the change of the execution location effects amendments in specifications and conditions, and adds new items, goods or services, not included in the contract or exceed the percentage set forth in Article 27 of this law, the bid is re-tendered according to the provisions of this law and its Executive Regulations. The entity shall bear financial losses incurred by the second party after signing the contract.

Article 39: Prices proposed by bidders for goods, works, and consultant and other services shall include all costs necessary to execute the obligations, transportation costs, insurance on materials, equipment, supplies and labor and any other related items during the execution in accordance with effective laws, taxes and customs duties and any other legal taxes, unless they are exempted according to a law that is effective at the time of submitting the bid.

Article 40:

- a) A preliminary and final inspection and receipt committee, comprising no less than three members and formed by a decision by the entity chairman, shall inspect and take delivery of the goods, works, consultant and other services, or maintenance works and repairs, to verify they comply with conditions and technical specifications on which the tender is based. The committee members shall be experts from entity or any other entity according to the nature of the tender.
- b) The inspection and taking delivery of goods, works, consultant or other services, or maintenance works or repairs may be assigned to an expert, depending on the approval of the tender committee concerned and the following of procedures set forth in this law and its Executive Regulations.
- c) Any one who takes part in preparing specifications, bidding documents, analysis and evaluation procedures or supervision may not be member of the inspection and taking delivery committee, but may be used upon the approval of the tender committee concerned at the entity.

Article 41: All entities subject to the provisions of this law shall complete analysis of the tender and take decisions within a period of time that does not exceed the bid validity period specified in the tender announcement.

Chapter Three

High Authority for Tender Control

Article 42:

- a) By force of this law, a high independent body, called High Authority for Tender Control, shall be established as a legal identity that shall be financially and administratively independent and subject to the supervision of the President of the Republic.
- b) The authority shall be domiciled in the Capital, Sana'a. It may establish branches in governorates upon a decision by the authority's chairman after obtaining approval from the Board.

Article 43:

- a) The High Authority shall be run by a Board, composed of a chairperson and six members, who are appointed by a Presidential Decree upon nomination by the Shura Council of a 14-person list. The list shall include representatives of the business and industrial sectors, the civil society and the Judicial Services. The Executive Regulations shall define the executive procedures, while the Shura Council Presidency shall specify controls and procedures governing the nomination process.
- b) Without prejudice to section (A) of this Article, the President shall appoint a nominee from the list, referred by the Shura Council, in replacement of a Board member in case his or her seat becomes vacant.

Article 44:

- a) Each Board member shall meet the following conditions:
 1. Have a university degree;
 2. Have at least 15 years of experience in their field of expertise starting from the date of graduation from university;
 3. Have not been convicted by court or other tribunal in a crime or any other offense of honor or integrity; and
 4. Submit a statement of financial disclosure.
- b) Term of membership to the Board shall be four years.
- c) The Board member may not hold any other public sector employment.

Article 45: The Chairperson shall be elected at the first meeting of the Authority. The Executive Regulations shall set forth the term of office and other matters relating to meeting arrangements and decision making.

Article 46: The High Authority shall perform the following duties and responsibilities:

- a) Control and supervision to ensure the validity of tenders and auctions, consideration of reports referred by the public tender committees at all entities subject to the provisions of this law on tender and auction activities, taking legal procedures and making related decisions in accordance with the provisions of this law, and other applicable laws.
- b) Development of policies and legislations related to tenders and auctions, and reviewing the financial ceiling of each level in collaboration with competent authorities and referring them to the Cabinet.
- c) Consideration and conclusion of complaints submitted by bidders and auctioneers, and taking necessary procedures in accordance with the provisions of this law.
- d) Issue directives, guidelines and instructions related to tenders and auctions in accordance with the provisions of this law and its Executive Regulations, and disseminate them to all tender committees at the central and local levels. The tender committees must abide by them.
- e) Assign teams of experts to carry out field inspection visits, whenever necessary, to the entities subject to the provisions of this law at any stage of the tender or auction to ensure the validity of its procedures. These teams may have the right to obtain any information and documents that enable them to perform their duties.
- f) Refer violations and breaching of tender and auction procedures that may be made by any of the entities subject to the provisions of this law to the public prosecutors to take the required legal action.

- g) Without prejudice to Section (f) of this Article, the Authority may suspend the Chairperson or member of any tender committee if it established that he or she has been involved in any violation of the provisions of this law and its Executive Regulations, and take necessary action.
- h) Notify the high anti-corruption committee of any corruption case in the tender and auction area.
- i) The High Authority may by an internal resolution decide to open one or more of its regular meetings to public observation.
 - 1. If the High Authority decides to open a regular meeting to public observation, a notice stating the time, place and subject matter of the meeting shall be published in the Government newspapers in advance;
 - 2. The High Authority, by majority vote, may decide that a portion of a meeting open to public observation be closed.
- j) The High Authority shall establish a website for the purposes of communicating its work to the public.
- k) The High Authority shall forward to the President regular reports on its activities.

Article 47: The High Authority shall perform its duties and responsibilities in full independence, transparency and neutrality. No party may interfere in its affairs in any form. Such interference shall be a punishable crime.

Article 48:

- a) The High Authority shall maintain a technical bureau that is charged with performing technical and administrative duties for the Authority. It shall consist of staff and experts who have experience, competence and qualification in the field of tenders and auctions. The Authority bylaws shall set forth the bureau's duties and responsibilities, and shall be issued by force of a Prime Minister decree upon presentation by the Chairperson after the consent of the Board members.
- b) The High Authority staff members shall not hold other private or public sector employments.
- c) The technical bureau shall be headed by an Executive Director, to be nominated by the Authority and appointed by a Chairperson resolution for a renewable 5-year term.

Article 49: Benefits and remunerations for the Chairperson, Board members and the Authority staff members shall be issued by force of a Prime Minister decree, based on a Chairperson referral, after the Cabinet approval.

Article 50: The High Authority shall have a separate budget that shall be prepared in accordance with the rules of preparing the State general budget.

Article 51:

- a) The High Authority Chairperson and Board members may not engage in tenders, auctions or contracting, directly or through third parties, with entities subject to the provisions of this law for the execution of contracting works, goods or consulting services.
- b) The High Authority Chairperson and any Board members, upon the referral of a subject matter to the Authority in which they or their relatives to the fourth

degree have direct or indirect interest, shall notify the Board in writing of this interest and shall not attend discussions the Authority shall hold on this subject matter. His or her absence shall not affect the Board meeting quorum. Any violation of the provisions of this section shall lead to termination of Authority membership by force of law.

Article 52: Without prejudice to section (B) of Article 51 of this law, Board membership shall not expire except in the following cases:

1. The member does not meet any of the conditions set forth in Article 44 of this law.
2. Resignation.
3. Death.
4. The member is absent without a reasonable cause from four consecutive meetings or six meetings at the aggregate during the year.
5. It is established that the member has disclosed confidential information to which he or she has access through or in connection with his or her Board membership.
6. It is established the member has directly or indirectly abused his or her official powers for personal gain or benefit.
7. He or she is sentenced under a final court decision to a term in prison for a criminal act of abuse of official powers, fraud, corruption, theft or other similar criminal act, which has made him or her unworthy of performing the respective function.

Article 53: Violations that shall render heads and members of tender committees at the entities subject to investigation according to the provisions of this law jointly liable, shall include:

1. Ignoring or delaying to reply the High Authority queries within the time limits set forth in the Executive Regulations;
2. Taking any actions that can disrupt implementing or slacken the High Authority's reports or amending its recommendations, notes or suggestions;
3. Non submitting the documents that the High Authority has required;
4. Blocking the High Authority's representatives from carrying out the checks, inspections and revisions on the tender documents that shall be decided.

Article 54: Without prejudice to the law governing the Central Organization for Control and Auditing, the High Authority may request that the Central Organization for Control and Auditing check and review any violations concerning tenders and auctions that could have been made by the entities subject to the provisions of this law and refer them to the Public Prosecutor for investigation and notify the High Authority of the results.

Chapter Four

The High Tender Board

Article 55: By force of this law, an independent committee shall be established as a legal identity that shall be named The High Tender Board, enjoy financial and administrative autonomy, report to the Cabinet, and be domiciled in the Capital, Sana'a.

Article 56:

- a) The High Tender Board shall consist of a Chairperson and four members who

shall be appointed by a Presidential Decree based on a referral by the Prime Minister after the Cabinet approval, and who shall meet the following conditions:

1. Have a university degree;
 2. Have at least 15 years of experience in their field of expertise starting from the date of graduation from university;
 3. Have not been convicted by a final court decision in a crime or any other offense of honor or integrity; and
 4. Submit a financial disclosure statement.
- b) Term of membership to the Board shall be four years.
- c) The Board member shall not hold any other public or private sector employment.

Article 57: The High Tender Board, regarding the tenders and auctions whose value is within its financial authority and which are referred to it by tender committees at the Ministries' headquarters, public establishments, bodies and other central authorities, and local tender committees in governorates and the Capital, shall perform the following duties and responsibilities:

1. Approve the tender documents after ensuring that the technical specifications are sufficient and valid, and issue its approval on the tender before announcing it.
2. Assign representatives to attend Board meetings to open tender and auction envelopes.
3. Examine the results of analysis and evaluation from different technical, financial and legal perspectives, and the recommendations referred to it after concluding the tender or auction.
4. Examine its technical committee's reports containing the conclusions of examinations and reviews carried out by the technical committee on subject matters referred to it, and make the appropriate decision for each issue separately.
5. Finalize decision procedures in tenders and auctions, and approve the contract final wording.
6. Record its decisions in official minutes to be communicated to the authorities concerned in writing, and advertising such minutes in a widely-circulated daily or any other means of advertisement.
7. Refer regular reports on its activities to the Cabinet and the High Authority.
8. Prepare training and qualifying programs for heads and members of tender committees and supporting staff.
9. Perform any other duties assigned to it by the Cabinet in conformity with the nature of its duties.

Article 58: The High Tender Board shall have by-laws that shall specify its meetings and decision-making and shall be issued, based on a referral by its head, by force of a Prime Minister decree after the Cabinet approval.

Article 59:

- a) The High Tender Board shall have a technical Secretariat, with its duties, competences and rules of the competitive recruitment of its administrative and technical staff to be defined, based on a referral by the Chair of the High Tender Board, by force of a Prime Minister decree after the Cabinet approval.
- b) The High Tender Board shall have supporting departments, whose duties and

responsibilities shall be specified in by-laws that shall be issued, based on a referral by the Chair of the Board, by force of a Prime Minister resolution after the Cabinet approval.

- c) Technical organ staff may not hold other public or private employment.

Article 60: Benefits and remunerations for the Chairperson and members of the High Tender Board, during their tenure, and the Secretariat staff members shall be issued, based on a referral by the Chairperson, by force of a Prime Minister decree after the Cabinet approval.

Article 61: The High Tender Board shall have a separate budget that shall be prepared in accordance with the rules of preparing the State general budget.

Article 62: Without prejudice to section (B) of Article 65 of this law, High Tender Board membership shall not expire except in the following cases:

1. The member does not meet any of the conditions set forth in Article 56 of this law.
2. Resignation.
3. Death.
4. The member is absent without a reasonable cause from four consecutive meetings or six meetings at the aggregate during the year.
5. It is established that the member has disclosed confidential information to which he or she has access through or in connection with his or her membership on the Board.
6. It is established the member has directly or indirectly abused his or her position for personal gain or benefit.

Article 63: The High Tender Board shall perform its duties and responsibilities in full independence, transparency and neutrality. No party shall interfere in its affairs in any form. Such interference shall be a punishable crime.

Article 64: The High Tender Board shall invite the entity Chairperson, or his or her deputy, to attend its meetings when examining a tender pertaining to the entity, without having a countable vote in decision taking. It may also invite any expert or professional to attend its meetings without having a countable vote.

Article 65:

- a) The High Tender Board Chairperson and members shall not engage in tenders, auctions or contracting, directly or through third parties, with entities subject to the provisions of this law for the execution of contracting works, goods or consulting services.
- b) The High Tender Board head and any member, upon the referral of a subject matter to the Board in which they or their relatives to the fourth degree have direct or indirect interest, shall notify the Board in writing of this interest and shall not attend discussions the Board shall hold on this subject matter. His or her absence shall not affect the Board meeting quorum. Any violation of the provisions of this section shall lead to termination of Board membership by force of law.
- c) The High Tender Board head or any member shall submit to the Prime Minister, prior to performing his or her duties, a discloser of interest statement that fully identifies any contract with an entity in which he or she has an ownership or other financial interest. Such discloser shall be submitted once

every six months.

- d) The High Tender Board shall make available to the High Authority and the Central Organization for Control and Auditing all data and official documents upon official request.
- e) Head and members of the High Tender Board and High Tender Board staff shall not use any Confidential Information that is part of the High Tender Board official records, except in the conduct of their official duties. They shall not disclose Confidential Information, directly or indirectly, to any person outside the High Tender Board except in accordance with the provisions of this Law.
- f) The High Tender Board shall establish a website for the purposes of communicating its work to the public.

Fifth Chapter

High Tender Board: Duties

Article 66:

- a) By force of a decision by the Minister or the entity Chairperson, a tender board shall be established at the headquarters of each Ministry, establishments, public authorities and other central bodies, under the Chairmanship of the Minister or the entity Chairperson, and shall consist of four experts from the entity who shall meet the following conditions:
 - 1. Have a university degree;
 - 2. Have at least five years of experience in their field of expertise starting from the date of graduation from university;
 - 3. Have not been convicted by a final court decision in a crime or any other offense of honor or integrity; and
 - 4. Submit a statement of financial disclosure.
- b) Term of Board membership mentioned in the previous section is four years.

Article 67:

- a) By force of decision by the governor a tender board shall be established at each branch of the establishments, public authorities and other central bodies in the capital and governorates, under the Chairmanship of the head of the branch, and shall refer a copy of its decisions to the governor, and shall consist of four staff members who meet the following conditions:
 - 1. Have a university degree;
 - 2. Have at least five years of experience in their field of expertise starting from the date of graduation from university;
 - 3. Have not been convicted by a final court decision in a crime or any other offense of honor or integrity; and
 - 4. Submit a statement of financial disclosure, according to the law.
- b) Term of membership of the board mentioned in the previous section is four years.

Article 68: By force of a decision by the Governorate General Manager, a tender board shall be established at each branch of the establishments, public authorities and other central bodies in the governorates, under the Chairmanship of the head of the branch, and shall consist of four staff members who shall meet the following conditions:

1. Have a university degree;
2. Have at least five years of experience in their field of expertise starting from the date of graduation from university;
3. Have not been convicted by a final court decision in a crime or any other offense of honor or integrity; and
4. Submit a statement of **financial disclosure**, according to the law.

Term of membership of the mentioned committee is four years.

Article 69: Each tender committee at the central authority units shall select a secretary who shall be appointed by force of a decision by the board head and whose duties and responsibilities shall be set forth in the by-laws.

Article 70: The composition of the local Tender Committee established in the capital and governorates shall be as follows:

1. The Governor-Head of the Local Council (Head of the Committee)
2. Secretary general of the Local Council (Deputy Head)
3. Heads of specialized committees members
4. General Manager of the executive organ concerned member

Article 71: The composition of the local tender committee established at each District shall be as follows:

1. General Manager of the District/Head of the local Council (Head of the Committee)
2. Secretary general of the local Council (Deputy Head)
3. Heads of specialized committees members
4. Manager concerned member

Article 72: Without prejudice to Article 57 of this law, committees, established in accordance with the provisions of the previous articles concerning tenders and auctions whose value lies within its financial authority, shall assume the following duties and responsibilities:

1. Review technical committees' reports, ensure that the technical specifications are sufficient and valid, and approve the tender documents and estimated costs before inviting bidders if it lies within its financial authority, otherwise it shall be referred to the higher level committee with recommendations.
2. Approve the tender method to be used.
3. Review bid opening procedures, reports on the analysis and technical, financial and legal evaluation, and recommendations.
4. Deciding on tenders and auctions that lie within its authority or refer them to the higher committee with recommendations.
5. Approve the contract wording after finalizing decision-making procedures.
6. Implement directives and instructions issued by the High Authority.
7. Record its decisions and business results in official minutes to be communicated to the authorities concerned in writing, and publish such minutes in any appropriate media outlet.
8. Refer to the High Authority periodic reports on all tender activities.
9. Any other duties required by the nature of its activity or lie within its powers.

Article 73: Technical committees shall be established in the capital, governorates and districts as affiliates to local tender committees and shall be charged with helping these committees technically in specific assignments. It shall consist of technical experts from executive bodies

in accordance with the requirements of each tender.

Article 74: Local tender committees in the Capital, governorates and districts shall have a secretariat for each of them that shall be formed by a decision of the head of the administrative unit and whose duties and responsibilities shall be specified in the Executive Regulations.

Article 75:

- a) Each committee shall take a decision on starting tender or auction procedures according to the financial authority set forth in the Executive Regulations.
- b) Financial ceilings for tender committees shall be divided into three categories as follows:

First category: Ascribed to the High Tender Board.

Second category:

- At central authority units: Ascribed to tender committees at Ministry headquarters, establishments and other central bodies. Higher ceiling rates shall be referred to the High Tender Board.
- At local authority units: Ascribed to the local tender committee in the capital or the governorate. Higher ceiling rates shall be referred to the High Committee.

Third category:

- At central authority units:
 1. Ascribed to branches of establishments, public authorities and other central bodies in governorates and the Capital. Higher ceiling rates shall be referred to the tender committee at the headquarters of these agencies.
 2. Ascribed to branches of establishments, public authorities and other central bodies in governorates. Higher ceiling rates shall be referred to the tender committee at the entity branch in the capital or the governorate.

- At local authority units:

Ascribed to local tender committees in governorates. Higher ceiling rates shall be referred to local tender committees in governorates.

Article 76:

- a) The Executive Regulations shall specify the financial ceiling for each of the above-mentioned categories in the previous Article.
- b) The High Authority and the High Committee shall review the above-mentioned financial ceilings and refer them to the Cabinet for approval.

Chapter Six

Complaints

Article 77:

- a) Any bidder who has taken part in a tender may, in accordance with the provisions of this law and the Executive Regulations, submit a written request to the Chairperson of the entity to review its decision and provide a statement of reasons for this decision or overturn it. Submission of such a request shall be prior to the signing of the contract. Any request to overturn the decision shall be rejected unless it is verified by documents.
- b) 1. If the review application submitted by the bidder includes a request to overturn the award decision, the Chairperson of the tendering entity shall stop the tender procedures and reply in writing to the complaint within five days

from the date of receiving the application, explaining the reasons for rejection. In case of acceptance of the review application, corrective action shall be taken.

2. If the review application includes a request for a written explanation of the decision taken by the entity, the Chairperson of the entity shall reply in writing within five days explaining the reasons for awarding the contract.

The Executive Regulations shall set forth other measures for reviewing complaints submitted to the entity.

- c) A bidder that is likely to suffer loss or injury due to a breach of responsibility imposed on a procuring entity pursuant to this Law may seek review from the High Authority at any stage of the tender proceedings in accordance with the provisions of this law.
- d) The High Authority may not examine complaints in any of the following cases:
 - 1- If the complaint does not define the specific violation it claims the procuring entity has made.
 - 2- If the complaint is not submitted within ten days from the date on which the procuring entity's decision was communicated to the unsuccessful bidders.
 - 3- If the complaint is established to be malicious, in which case the submitting party will be debarred for up to one year.
- e) The High Authority shall be committed to the objectives of this law as it examines the complaints, and publish its related decisions separately, taking into consideration the confidentiality of business information of some complainants. The High Authority shall establish a schedule to examine complaints in the capitals of the governorates on a regular basis, but at least once a quarter. The Executive Regulations shall set forth the procedures to be taken by the High Authority when examining complaints.
- f)
 - 1. The bidder may take recourse to the Courts to ask for a review of the entity's decisions, or to interfere in case the entity fails to take a decision within the time limit defined in the Executive Regulations.
 - 2. The competent court shall receive complaints on decisions taken by the High Authority in accordance with the provisions of this law and other applicable laws.

Article 78:

- a) The High Authority, and all entities subject to the provisions of this law, shall consider the following when deciding on complaints:
 - 1- neutrality and independence when deciding on complaints, and transparency in its decisions;
 - 2- using any person inside or outside the entity to take part in examining the complaint to help take the right decision; and
 - 3- Comply with the provisions of this law and take into consideration the objectives it has been built on in such a way that serves competition and equality with no discrimination or favoritism.
- b) The High Authority, or the entity, shall issue its decisions on complaints for cause and publish them in a proper media outlet. The complainant may make recourse to court if it is not convinced in the decision.

Chapter Seven

Auctions and Related Procedures

Article 79: Selling of all assets, items, or any other properties whose nature necessitates selling them by public auction or those items discarded and cannot be made use of by the entity itself or any other entity subject to this law shall be made through a public auction to

be advertised only inside the Republic or inside and outside the Republic as per the nature of each auction.

Sale may be made via a limited auction if conditions set forth in this law are met. The Executive Regulations shall define the financial ceiling for sale via a limited auction.

Article 80: Sale through a public auction shall be made through advertisement to those willing to buy the assets, items, or any other properties required to be sold and such sale shall be effected through closed envelopes. Auction shall start publicly among bidders after opening the envelopes and selecting the highest price offered. The Executive Regulations shall specify related procedures.

Article 81: Sale by way of a limited auction shall be in either of the following cases:

1 -The value of the item (s) does not exceed the financial ceiling of sale through a limited auction.

2 -If two open auctions have been conducted without achieving positive results.

3 -If the assets, items and other properties required to be sold concern a limited number of persons, whereby selling such assets, items or properties via a public auction shall not yield benefit.

In all cases, the approval of the competent tender committees shall be sought before resorting to this method of sale.

Article 82: Sale via a limited auction shall be made through notifications addressed to a limited number of persons registered with the entity to give way to open competition for selling the assets, items, or any other properties through closed envelopes. Auction shall start publicly among bidders after opening the envelopes and selecting the highest price offered. The Executive Regulations shall specify the executive procedures.

Article 83: Under no circumstances shall the assets and items required to be sold be divided with the intent to alter the sale method.

Article 84: Auction committees are tender committees and they are subject to the provisions defining their functions and duties set forth in articles 57 and 72 of this law. In the area of auctions, they undertake the following tasks and duties:

1 - Revision and approval of classification minutes of items intended for sale.

2 -Revision and approval of assessment minutes of items intended for sale.

3 -Identification of method of sale.

4 -Approval of advertisement method for sale.

5 - Determination and approval of the bid bond.

Article 85: New assets and items and those purchased with no purpose for sale shall not be sold except upon the approval of Minister of Finance or whoever he delegates. After having obtained such approval, the executive procedures for sale shall be completed according to this law and the Executive Regulations.

Article 86:

- a) A specialized committee of experts and professionals from the entity itself- possibly from another entity or of individuals- shall be formed to classify items intended to be sold, prepare related documents, and assess the selling price in a secret manner. The Committee shall not include any of those who have made the purchase or prepared related procedures. The results of such committee's work shall be reported to the competent tender committee for approval before offering them for auction.

- b) The Specialized Committee referred to in section (A) of this Article shall refer to the prevailing market prices when assessing the basic price for items intended to be sold.
- c) The Special Committee referred to in section (A) of this Article shall be fully responsible for the correctness and validity of classification, pricing, and bidding documents. The Executive Regulations shall determine the method of Special Tender Committee formation, and specify circumstances where the assistance of experts from other entities subject to this Law, or of external experts, shall be sought.

Article 87: The pre-approval of the competent tender committee shall be obtained when selling any item or set of items not exceeding the financial ceilings. A decision of approval shall be issued prior to undertaking any executive procedures for sale. Tender committees of the administrative units shall obtain approval of the central authorities prior to commencing the disposal of public properties through sale or mortgage.

Article 88: The tender committee shall pay attention to appropriate venue and timing when determining the date for auctioning the assets, items or any other properties.

Article 89: The Executive Regulations shall specify steps to prepare the sale documents, advertisement, the sale procedures and the decision; types of guarantees required, how to collect them and reimbursement conditions; methods of collecting the amounts of sold items and penalties; dispute settlement; conclusion and performance of contracts and any other sale-related procedures.

Article 90:

- a) A committee of at least three members for the sale via a public auction shall be formed from amongst the members of the tender committee concerned to be selected by the head of the tender committee.
- b) The committee referred to in paragraph (A) above shall:
 - 1- open the bid envelopes;
 - 2- Start the public auction with the highest price offered by bidders.
 - 3- If it comes to the knowledge of the sale committee that the sale amount is lower than the estimated cost of assets and items intended to be sold, it may suspend the sale procedures and refer a detailed report to the tender committee concerned that may follow up the sale procedures later after a period of time to be determined by it.

In all cases, the tender committee concerned shall announce the successful bidder based on the highest price offered during the auction.

Article 91: Heads and members of the tender committee concerned, classification and assessment committee, and the sale committee, whatever their ranks are, and the staff of the entity, and their relatives up to the fourth degree shall not enter public or limited auctions as bidders.

Article 92: Amounts of sold items or rental values shall be remitted to the Central Bank and its branches or any other bank designated by the Central Bank as follows:

- a) Central authority organizations and their branches in the administrative units shall remit these amounts to the respective revenue account;
- b) Administrative units shall remit these amounts to the respective revenue account (general acc./ local authority); Any action, other than the act of

remittance, in respect of these amounts or part thereof shall be deemed a violation and its perpetrator shall be penalized according to the provisions of this law and applicable laws.

Chapter Eight

Code of Conduct

Article 93: Chairperson and members of the High Authority, head and members of the High Tender Board, heads of entities, heads and members of tender committees and other committees set forth in this law, and any other party concerned with tender and auction procedures, and preparation for related execution and control shall be fully responsible for the enforcement of the provisions of this law and the Executive Regulations.

Article 94: Those in charge of and associated with the work of tenders and auctions, and control thereof, whatever their ranks are, and bidders for procurements, contracting works, and consulting and other services shall comply with the code of conduct, and highest standards of ethical conduct in executing the tasks and works assigned to each, and through all the stages of tenders and auctions, to avoid legal responsibility and penalties set forth in applicable related laws.

Article 95:

1. Those in charge of and associated with the work of tenders and auctions, and through all stages, shall comply with the following:
 - a) Practicing functional duties with the highest degree of impartiality and objectivity to ensure fair competition for all bidders and attentive care for public interest pursuant to the provisions of this law.
 - b) At all times, avoiding conflict of interest, and its likely occurrence in carrying out the functional duties specified by law.
 - c) Not committing any corrupt or fraudulent act or abetting such act.
 - d) Maintaining the secrecy of data and information accessed to during tender and auction procedures, including those related to bidders.
2. Those in charge of, or associated with, the work of tenders and auctions shall not be involved in any tender or auction procedures and actions that shall be completed, if he or she or any of his or her relatives of first degree has a direct or indirect interest in such matter, and in such case, he or she shall withdraw from completing the procedures of this tender or auction until it is finalized and he or she shall notify, in writing, the higher level at the entity and the High Authority.
3. No staff member of any entity shall join or participate in any work of tender or auction related to his or her entity.
4. Those in charge of or associated with the work of tenders and auctions shall provide the High Authority, the National High Anti-Corruption Authority, the Central Organization for Control and Auditing and any other related party of all required data and information.
5. Staff members of the High Authority and those in charge of, or associated with, the work of tenders and auctions shall comply with the professional code of conduct set forth in this law and the Executive Regulations.

Article 96: Those in charge of or associated with the work of tenders and auctions in entities subject to this law and those in control thereof, whatever their ranks are, shall maintain the secrecy of documents, records, information and deliberations and shall not disclose any of them until a final decision is made in this respect by the competent tender committee. If a bidder influences any of those in charge of, or associated with, the work of tenders and auctions, throughout their

stages, in order to obtain secret information, its bid shall be rejected and the entity shall reserve the right to undertake the legal action vis-à-vis the bidder. Any person who has disclosed secrets or provided information to bidders shall be penalized according to the applicable laws and Executive regulations.

Article 97:

- a) Officials and staff of the entities subject to the provisions of this law shall not submit bids personally, through third parties, or in the name of their partners, either directly or indirectly, to execute any works, procurements, or consulting or other services whatever their nature is and they shall not buy items, supplies, or properties sold by the entity they work for.
- b) No contracts or sub-contracts shall be entered into and between the local authority or the branches of central bodies in the administrative unit and any member of the Local Council of the Administrative Unit, either personally or through third parties or in the name of their partners, either directly or indirectly, to execute any works, procurements, contracts or consulting or other services whatever their nature is or buy items, supplies, or properties sold by the local authority or the branches of central bodies, and contracts concluded in violation of the provisions of paragraphs A and B of this Article shall be deemed null and void without prejudice to the right of the central regulatory body(s) or the Local Council in the Administrative Body to undertake legal actions set forth in the applicable laws and Executive regulations.

Article 98:

1. All bidders and suppliers shall be fully committed to fulfill all obligations specified by the provisions of this law, the Executive Regulations, tender and auction contracts, and other legally binding documents.
2. All bidders and suppliers shall not get involved in corrupt or fraudulent practices or provide assistance with a view to affect tender or auction procedures, including abetment to commit misconduct, or a threat to, directly or indirectly, harm persons, and damage properties, or exercise influence over other bidders with respect to competition or performance of the contract.
3. Bidders shall not engage in collusion, prior to or after bid submission, designed to allocate procurement contracts among bidders, establish bid prices at artificial non-competitive levels or otherwise to deprive the other bidders of the benefits of free and open competition.
4. Any bid, whose owner is established to have offered or approved to offer bribe, or engaged in any of the practices mentioned above in this Article, including an attempt to obtain secret and confidential information, shall be rejected and the entity shall notify, in writing, the bidder, the High Authority, and other authorities concerned with enforcement of related laws, of the rejection decision.
5. Those who prepare the tender specifications and conditions shall not enter into this tender.
6. Bidders and suppliers who are established to have been involved in corrupt and fraudulent practices with respect to any tender and auction procedures shall be subject to legal pursuit and penalties by virtue of applicable laws and Executive regulations.
7. Any bidder or supplier shall be barred from actual participation in any tender or auction if it is proved that he or she:
 - a) Provided false information in the bidding documents about pre-qualifications;
 - b) Collided with any staff member during the process of preparing the bidding or tendering documents;

- c) Interfered, directly or indirectly, to limit competition among bidders through coercion, concealment, collusion, or coordination to pre-determine prices.
- d) Filed a malicious fraudulent complaint;
- e) Was convicted in a crime relating to obtaining or attempting to obtain a contract or subcontract; or
- f) Was convicted in a crime relating to business performance or professional activities.
 - 1- The High Authority may debar any bidder or supplier from participation in any tender or auction for a period to be determined in the Executive Regulations if he or she violates the provisions of this law. The bidder shall be notified, in writing, of the reason for the debarment intended to be put into effect after extensive legal and technical examination, provided that a reasonable time limit shall be given to the bidder to respond to this intended procedure.
 - 2- In the event of debarring any firm from participating in the tender or auction, such debarment shall apply to all other partners who caused it.

Chapter Nine

Storehouses

Article 99: Central authority bodies, their branches in the administrative units, and executive bodies in the administrative units shall each have their own storehouses for the storage of movable assets. Receipt or requisition of these assets shall be made only via the said storehouses and their keepers. The Executive Regulations shall govern storehouse procedures, and related delivery, storage, and requisition methods and accounting.

Article 100: Central authority bodies and their administrative branches in the administrative units and executive bodies in these units shall, depending on the nature of their duties and daily activities, determine the nature and size of the main and branch storehouses in compliance with the provisions of this Law and its Executive Regulations.

Article 101: There shall be, in each entity subject to the provisions of this law, a staff member or a unit charged with controlling storehouses. Such staff member or unit shall report to the purchase and storehouse department and maintain books to exercise control over the assets of such entity. The Executive Regulations shall set forth detailed procedures.

Article 102: At the end of each fiscal year or on changing the storehouse keeper, mandatory and general stock-taking of the contents of each store shall be made and stock-taking may be made partly, wholly, or on the spot, if need arises. Ministry of Finance, Central Organization for Control and Auditing and their branches shall be notified of the stock-taking result, and under normal circumstances, stock-taking shall be made only in the presence of the responsible storehouse keeper. The Executive Regulations shall specify other cases when stock-taking may be made in the absence of the storehouse keeper.

Article 103:

- a) Assets in excess of need, dispensable, obsolete, perishable or not valid for use should not be kept in storehouses, and if found there, they shall be disposed of according to the provisions of this law and its Executive Regulations, provided that such disposal does not result in any harm to the people or the environment.
- b) At the end of each fiscal year, all government entities should identify, through stock-taking process and as per storehouse books specified in the Executive Regulations, useless, stagnant, invalid and perishable items and report them to the committee concerned to issue the appropriate decision according to this law and its Executive Regulations.

Article 104: Annual budgetary statements which include the quantities, and prices of assets and equipment required at each entity for the next fiscal year shall be prepared – along with an account of the remaining storehouse items – in the following dates:

- End of July for bodies of the central authority.
- End of May for administrative units of local authority

Preparation of such estimates and statements of balance should be made in accordance with a standardized commodity classification prepared by Ministry of Finance.

Article 105: Radiant, inflammable, poisonous and explosive materials or any other materials harmful to the environment may not be stored near residential communities, public facilities, or water resources. In all cases storage methods should be in compliance with rules of public safety.

Chapter Ten

General and Final Provisions

Article 106: All entities subject to the provisions of this law should provide Tax Authority and its offices in the administrative units with a copy of tender and auction contracts signed by these entities and any amendments to the contents of these contracts within one month from the date of signing them.

Article 107: Each tender committee mentioned in this law shall hold its meetings on a regular basis, or when necessary, and the incidents and results of such meetings shall be recorded in official minutes to be signed by committee head and members present at such meetings, and kept by the meeting secretary. Such committees shall not decide on any tender or auction presented thereto by way of passage.

Article 108: In case the government is responsible for increasing the prices of materials and services related to the contents of the contracts or part thereof, competent tender committees may, in light of treatments approved by the Cabinet, amend the remaining part of the contract from the date such increase comes into effect, and the Executive Regulations shall govern such matter.

Article 109: Without prejudice to the duties and competences of the Central Organization for Control and Auditing, the High Authority for Tender Control and the provisions of this Law and its Executive Regulations, the Ministry of Finance shall be responsible for monitoring the enforcement of the provisions of this Law and the Executive Regulations from a financial aspect; and the Ministry of Public Works and Roads shall be responsible for monitoring contracted constructions from a technical aspect. The Ministry of Planning and International Cooperation shall be responsible for the coordination of development projects funded fully or partially by foreign loans and grants and the Executive Regulations shall define the required procedures in this regard.

Article 110: The Executive Regulations shall specify all kinds of books, records, documents, forms, and reports; how they are created, kept, and how related entries are added therein.

Article 111: Whoever violates the provisions of this law and its Executive Regulations shall be subject to actions and penalties provided for in applicable laws and Executive regulations.

Article 112: The Executive Regulations of this law shall be issued by virtue of a Prime Minister decree after the approval of the Cabinet in a period not exceeding 6 months from the law promulgation date.

Article 113: Law No. 3 of 1997 on Tenders, Auctions, and Government Storehouses, and any provision contrary to this law shall be abrogated.

Article 114: This Law shall come into effect from the date of its promulgation and shall be published in the Official Gazette.

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Ali Abdullah Saleh
President

