Royal Decree

No. 2008/36

Promulgating the Tender Law

We, Qaboos bin Said, Sultan of Oman,

After perusal of the Basic Statute of the State promulgated by Royal Decree No. 101/96;

And Royal Decree No. 48/76 regarding the execution of foreign and domestic financial transactions;

And Royal Decree No. 39/82 on the protection of public funds and avoidance of conflicts of interest;

And Royal Decree No. 84/86 promulgating the Law and Regulations governing Government Tenders;

And in pursuance of the public interest,

Have decreed as follows:

Formatted: Font: Bold, Complex Script Font: Bold

Formatted: Centered

Article (1)

The provisions of the attached Law shall apply to matters relating to tenders.

Article (2)

The Chairman of the Tender Board shall issue the Executive Regulations of the attached Law, as well as the necessary regulations and decisions for its implementation. Until such regulations and decisions are issued, the existing regulations and decisions shall continue to be applied insofar as they do not conflict with the provisions of the attached Law.

Article (3)

Royal Decree No. 84/86 referred to above, and anything that contradicts the provisions of the attached Law, shall be repealed.

Article (4)

This Royal Decree shall be published in the Official Gazette and shall come into force after six months from the date of its publication.

Issued on: 16 Rabi' Al-Awwal 1429 AH

Corresponding to: 24 March 2008 AD

Qaboos bin Said

Sultan of Oman

TENDER LAW

PART ONE

DEFINITIONS AND GENERAL PROVISIONS

Article 1

For the purposes of implementing this law, the following terms and expressions shall carry the meanings ascribed to them below, unless the context requires otherwise :

Board: The Tender Board.

Chairman of the board: The Chairman of the Tender Board.

Secretariat general: The executive arm of the Tender Board.

Secretary general: The Secretary General of the Tender Board.

Bid: The offer submitted in a tender, procurement by negotiation (practice), or competition.

Concerned entity: Any Government unit or Government-owned company that falls under the jurisdiction of this law.

The Regulation: The Executive Regulation of the Tenders Law.

Article 2

The provisions of this Law apply to units of the State's administrative apparatus, public authorities, and public institutions, with the exception of security and defence units and units that are subject to the special law governing the Financial System Law of the Diwan of Royal Court, or any other Government entity explicitly exempted by a provision in any other law.

Article 3

All procurement of supplies; execution of works; transportation; provision of services, consultancy studies, and technical works; and the purchase or lease of real property shall be carried out by public tender.

Notwithstanding the above, contracting may also be executed using any of the following methods:

(a) Limited tender.

(b) Procurement by negotiation (practice).

(c) Direct award.

(d) Competition.

Article 4

Public tenders, limited tender, procurement by negotiation (practice) and competition are subject to the principles of publicity, equal opportunity, equality, and freedom of competition.

Article 5

It is not permissible, when applying the provisions of this Law, to split similar supplies, works or services (i.e. to divide contracts) for the purpose of evading these provisions.

Article 6

Employees of entities subject to this law, along with their spouses and relatives up to the second degree, are barred from submitting bids or offers to these entities, whether directly or indirectly. Furthermore, and without contravening the Law on the

Protection of Public Property and Avoidance of Conflict of Interest (Royal Decree 112/2011), contracting with them for the purchase of goods, execution of works, or provision of services is also prohibited. An exemption to this prohibition may be granted for the purchase of their books or artworks, or for commissioning such works from them, in cases of necessity. This requires a justified decision from the head of the concerned entity for values up to five thousand Omani Rials, and from the Tender Board for amounts exceeding this threshold, provided the individual does not participate in any aspect of the assignment process.

Article (6 bis)

Contractors and consultants are prohibited from engaging in any activities related to a project in which they hold a direct or indirect interest.

Article 7

The implementation of this law's provisions, including the requisite rules and procedures, shall be detailed in the Executive Regulation.

PART TWO

THE TENDER BOARD

Article 8

Responsibility for tenders shall be vested in a Tenders Board formed by a decision of the Council of Ministers. The Board shall have the following powers: [

powers: [

(a) Determining the method of announcing tenders in accordance with the data and specifications provided by the concerned entities

.

(b) Reviewing reports prepared by the Secretariat General and issuing decisions thereon.

(c) Establishing tender committees throughout the Sultanate of Oman and defining their mandates, in coordination with the concerned entities.

(d) Approving the regulation that outlines the general conditions for classifying and registering suppliers, contractors, and consultancy offices, and setting registration fees subsequent to the Ministry of Finance's approval.

(e) Re-evaluating the suppliers, contractors, and consultancy offices mentioned in paragraph (I) of Article (10 bis 1) of this law, informing them of reports received by the Board from relevant bodies concerning violations or performance shortcomings in their assigned works, and imposing legally stipulated penalties.

(f) Exercising any other powers conferred upon it by any other law.

Article 9

The Board is authorized to suspend a supplier, contractor, or consultancy office from engaging in business with bodies subject to this law for a duration it deems fit based on the circumstances of the case, in any of the following instances:

(a) Submission of data or information subsequently proven to be false.

(b) Utilization of deceitful methods to secure a contract.

(c) Failure to fulfill a fundamental condition or obligation under a prior contract with any entity subject to this law.

Article 10 - Repealed.

Article 10bis- Repealed.

Article 10bis 1- Repealed.

Article 11

The Board's operations are confidential. Personnel within the Board's Secretariat General are obliged to maintain this confidentiality and are prohibited from disclosing any information concerning the Board's work without the Chairman's permission.

Article 12

For a Board meeting to be valid, a majority of its members must be present, including either the Chairman or his deputy.

Board decisions are adopted by an absolute majority of the members present. In the event of a tied vote, the side which includes the presiding Chairman shall prevail.

The Deputy Chairman shall assume the Chairman's role in presiding over Board meetings in the Chairman's absence or if an impediment prevents him from doing so.

Article 13

A Board member may, in circumstances deemed necessary by the Board, delegate authority to another legal representative from his Government unit to attend a Board session. Such delegation may not occur more than twice for any single session.

Article 14

Any Board member who possesses a direct or indirect interest in a floated tender must disclose this interest to the Chairman and recuse himself from the tender deliberation.

In all cases, a member must recuse himself if he, his spouse, or a relative up to the second degree is the owner of the bid in question, holds a share in it, serves on the board of directors of the bidding company, or is an employee, agent, or guarantor for it.

Article 15

Notwithstanding the provisions of Article 8, an internal committee within the concerned entity shall assume the Board's competences for tenders with a value not exceeding three million Omani Rials.

The head of the concerned entity may establish sub-tender committees within its general directorates, directorates, or offices in the governorates and regions, to be chaired by directors general or heads of those directorates and offices. These committees shall exercise the Board's authority for tenders, works, and services valued up to fifty thousand Omani Rials. Decisions of a subcommittee are final for tender values not exceeding ten thousand Omani Rials; for values exceeding this amount, its recommendations must be presented to the head of the concerned entity for approval.

The concerned entity must forward copies of evaluations and tender award decisions for the tenders it is authorized to float, announce, and open bids for, to the Board.

PART THREE

PUBLIC TENDER

Article 16

Public Tender: means the set of procedures publicly announced in accordance with the provisions of this law and its regulations, and it may be local or international.

International Tender: means a tender in which participation is permitted by international companies and establishments not registered in the Sultanate of Oman.

Local Tender: means a tender in which participation is restricted to those registered in the commercial register or any professional register in which the Board decide to list their names in specific cases.

Chapter One

PROCEDURES PRIOR TO BIDDING

Article 17

The concerned entity, with the assistance of the competent technical body, shall determine the estimated cost of the required supplies, works, or services. This cost estimate shall be submitted to the Board to serve as a benchmark for comparing the prices offered by tender participants.

Article 18

Tender announcements shall be published in a widely circulated daily newspaper in both Arabic and English, with sufficient lead time before the deadline for supply, execution, or service provision to allow for re-tendering if necessary. Announcements may also be made through electronic means and on the bulletin boards of the Board or the concerned entity, in Arabic and English. For tenders valued over half a million Omani Rials, the announcement must also be published in the Official Gazette. The Board may, by a justified decision, overlook any publication irregularities if the public interest so demands.

Article 19

A minimum period of forty (40) days shall be allotted for the submission of bids, commencing from the date of the initial tender announcement. Upon request from the concerned entity and in cases specified in the regulation, the Board may reduce this period, provided it is not less than fifteen (15) days, in accordance with cases specified in the Regulation, this does not apply to annual supply tenders unless they are being re-tendered.

Article 20

The validity period for bids in tenders not requiring chemical analysis of samples is ninety (90) days. For tenders requiring chemical analysis, this period may be extended by the time needed for the analysis. The period may be reduced for annual supplies and urgent works and contracting. In all cases, the validity period shall be no less than sixty (60) days, and shall be determined according to the nature of the tender.

Article 21

When floating a tender, no condition or article within the standard general conditions for contracts issued in the Sultanate of Oman may be amended without prior approval from the Ministry of Finance and the Ministry of Legal Affairs.

Article 22

The Board may, with the Ministry of Finance's approval, increase the percentage of the advance payment and stipulate this in the tender conditions. The Board retains the right to select an offer that results in a price reduction, provided that the prevailing interest on the advance payment up to its due date is added to the bid values during the comparison process.

Article 23

International companies and establishments not registered in the Sultanate of Oman may participate in international tenders, conditional upon their registration in accordance with the Sultanate of Oman's prevailing regulations within thirty working days from being notified of their bid's acceptance.

Chapter Two

SUBMISSION OF BIDS

Article 24

All bids must conform to the conditions and instructions set forth in the tender announcements and documents.

Article 25

the bid shall be for supplying items to the concerned entity according to the approved standard samples specifications, or drawings, which the bidder is obliged to examine. The act of submitting a bid constitutes an acknowledgment by the bidder that he has reviewed these and will supply the items in conformity with them. If standard samples are not available with the concerned entity, the bidder may be required to submit samples. The actual supply must conform to the technical specifications, even if submitted samples differ, unless the tender conditions explicitly state that the samples are intended for its own sake.

Article 26

Technical and financial offers are to be submitted together in a single envelope. However, the Board may decide, based on the specific nature of a tender, that technical, financial, or other offers be submitted in separate envelopes.

Article 27

The results of the bid envelope opening shall be announced immediately after opening by electronic publication, and may also be disseminated through any other method.

Article 28

Should the Board identify a bid as abnormally low compared to other submissions, it holds the right to verify with that bidder his compliance with the tender conditions and his capacity to perform the contract

Chapter Three

DECIDING ON BIDS

Article 29

A decision on the bids must be made, and notification given in case of acceptance, before the expiry of the bid validity period. If this is not feasible, the concerned entity must, through the Board and in a timely manner, request bidders to extend the validity of their bids for an appropriate duration.

Article 30

If the tender invitation includes a request for credit facilities (financing), the presence of such facilities with the bids will be considered when determining bid priority. The Board may cancel the tender if the necessary financing facilities are not accompanying the bids.

Article 31

The selection of the best bid shall be conducted through a bid comparison based on the technical and financial criteria and principles outlined in the tender documents. If the concerned entity opts to exclude one or more bids, it must provide a reasoned opinion. The Board is not obligated to accept the lowest-priced bid or any other specific bid when making an award decision.

Article 32

The Board shall inform the head of the concerned entity, who must then notify the successful bidder within one week at most from the date of award approval, unless the bidder specified a longer period in his bid, in which case notification must be given sufficiently before its expiry. The notification shall state the requirement to submit a performance bond (or professional indemnity insurance for consultancy firms) within the period stipulated in Article 44, and shall clarify that the Government is not bound until the contract is signed.

Article 33

After the opening of bid envelopes, negotiation with any bidder to modify his bid is prohibited, unless the lowest-priced bid is accompanied by one or more reservations. In such a case, negotiation with the lowest bidder is permitted to seek the waiver of all or some of its reservations to align his bid with the tender conditions as much as possible. If it refuses, negotiation may proceed with the next bidder with reservations. No negotiation for modification may occur with a bidder unless all preceding bidders have rejected such modification.

Article 34

Negotiations under Article 33 may only take place following a Board decision, issued after seeking the opinion of the concerned entity. The final decision on the outcome of the negotiation rests with the Board.

Article 35

In the event of identical prices between two or more bids, the Board may, upon agreement with the concerned entity and if it serves the work's interest, divide the announced quantities among the bidders. This may also be done if the lowest-priced bidder requires delivery periods that are unsuitable for the concerned entity's operational needs.

Article 36

Preference shall be accorded to bids for national products originating from small and medium enterprises that satisfy the conditions and specifications. This preference shall take the form of a price preference margin of up to 10%.

Article 37

A tender must be re-floated if only a single bid is received, even if that bid meets all conditions. A bid is considered sole even if other bids are received but are non-compliant with the tender's terms and specifications. If, upon re-floating, only one bid is again submitted, the Board may accept it upon the request of the concerned entity. For re-floated tenders, the bid submission periods may be reduced by half.

Article 38

As an exception to Article 37, the Board may, based on a recommendation from the concerned entity, decide to convert the tender into a procurement by negotiation (practice) with the sole bidder, provided the following two conditions are met:

(a) Operational requirements do not permit re-tendering, or no benefit is anticipated from a re-tender.

(b) The sole bid satisfies the conditions and specifications and is reasonable in price.

Article 39

1. Tenders may be cancelled by a reasoned decision of the Board after publication but before an award decision is made, if the need for the tender has permanently ceased or if the public interest necessitates cancellation. The Board may also cancel tenders based on a recommendation from the concerned entity in any of the following cases:

(a) If a sole bid is submitted or only one compliant bid remains after eliminations.

(b) If all or most bids are accompanied by substantial reservations.

(c) If the value of the lowest bid significantly exceeds the prevailing market value.

2. Tenders may be cancelled after the award decision and before signing the contract by a reasoned decision of the Board if the public interest so requires, or based on a recommendation from the concerned entity, which must explain the reasons for the cancellation request.

Article 40

If a tender is cancelled before the scheduled envelope opening date, the purchase price of the tender documents shall be refunded to the purchaser upon return of the complete document set to the Board. If cancellation occurs after the aforementioned date, the price shall only be refunded to those who actually submitted a bid in the tender.

Article 41

The Board shall exclude a bid by a reasoned decision in any of the following cases:

(a) If the public interest requires it.

(b) If the bid fails to meet the stipulated conditions and specifications.

(c) If the bidder is not registered in the Sultanate of Oman, except for international companies and establishments bidding in international tenders.

(d) If the bid is not accompanied by the full temporary bond.

(e) If the bidder fails to demonstrate a sound financial position.

(f) If the bid documents are incomplete, lack signature, or are not stamped by the bidder.

(g) If a final judgment of bankruptcy or insolvency has been issued against the bidder, or if judicial procedures for such have been initiated.

(h) If the bid involves a violation of the provisions of Royal Decree 39/82 on the Protection of Public Property and the Avoidance of Conflict of Interest.

Article 42

Concerned entities may, during the contract's effective period, issue variation orders to increase or decrease the duration, value, type, quantities, or specifications of the contracted items, works, or services. The total value of all variation orders must not exceed one hundred thousand Omani Rials or 10% of the value of the original bid approved by the Board, whichever is greater, and must use the prices approved by the Board. The cost of all variation orders, whether additions or deletions, shall be aggregated when calculating this limit. If a variation exceeds the stipulated limit, it must be referred to the Board for approval, considering the following:

1. The availability of the necessary appropriation and the contractor's consent to be bound by the contract prices, provided these prices remain appropriate and do not exceed market rates.

2. If the variation order involves new quantities, items, works, or services not included in the original contract but related to its subject matter, a direct agreement may be reached with the contractor in this regard.

Chapter Four

QUARANTEES

Article 43

Each bid must be accompanied by a temporary bond amounting to no less than 1% of the bid's total value. If a bidder withdraws his bid before the expiry of its validity period, the temporary bond shall be forfeited to the Board without the need for notification or further action. The temporary bond shall be returned to rejected bidders immediately after the bid validity period expires, or earlier if the tender is awarded or cancelled. The successful bidder's temporary bond shall be returned upon his submission of the required performance bond.

Article 44

The successful bidder must, within ten working days of being notified of its bid's acceptance, submit a performance bond equivalent to 5% of the total awarded value, or provide professional indemnity insurance in the case of consultancy companies and offices. For contracts with overseas contractors, this period is twenty working days.

The time limits specified above may be extended for an additional period not exceeding ten days.

Article 45

If the winning bidder fails to submit the performance bond within the period specified in Article 44, the Board may, by written notification, cancel the award and confiscate the temporary bond, without prejudice to the concerned entity's right to claim compensation.

Article 46

The accepted bidder shall be exempt from submitting a performance bond if it delivers and the concerned entity provides final acceptance for the contracted items within the period allotted for submitting the performance bond.

PART FOUR

LIMITED TENDER

Article 47

A limited tender may be permitted in cases where the nature of the procurement necessitates restricting participation to specific suppliers, contractors, or consultants, whether located within the Sultanate of Oman or abroad, who meet the required conditions.

Article 48

Suppliers, contractors, and consultancy offices shall be invited to prequalify for participation in a limited tender through a published announcement using appropriate media inside the Sultanate of Oman or internationally.

The final approval of qualifications for suppliers, contractors, or consultancy offices rests with the Board.

Article 49

Entities whose qualifications have been approved for a limited tender shall be invited by official letters or electronic means. The procedures and rules applied to public tenders apply to this type of tender.

PART FIVE

PROCUREMENT BY NEGOCIATION (PRACTICE)

Article 50

In special circumstances or in any of the cases listed below, the procurement of items; execution of works or transportation; or provision of services, consultancy studies, and technical works may be conducted through procurement by negotiation (practice), which involves negotiation to secure the best offers at the lowest prices:

(a) Items under monopoly manufacture or import, items that by their nature or purpose must be sourced from their place of origin, or items available only from a specific source.

(b) Items that cannot be precisely defined by specifications.

(c) Technical and consultancy works or services requiring specific technical knowledge or a specialized skill set.

(d) Animals, birds, and poultry of all kinds.

(e) Supplies, contracting works, and transportation where an urgent emergency precludes following standard tender procedures.

(f) Supplies, contracting works, transportation, and services for which no bids were received in a tender, or where submitted bids were priced unacceptably high, and operational needs do not allow for re-tendering.

(g) Execution of works or provision of services by relevant bodies outside the Sultanate of Oman.

(h) Purchase and rental of real estate.

Article 51

A procurement by negotiation (practice), shall be conducted by a committee constituted by the Board, chaired by one of its members, and including the Secretary General of the Ministry of Finance, a representative of the concerned entity, and a competent employee with job-related and technical expertise commensurate with the procurement by negotiation (practice)'s importance and type. This committee is empowered to decide on the negotiation outcomes and make the award decision.

As an exception to the first paragraph, a procurement by negotiation (practice) relating to the work of the Foreign Ministry conducted outside the Sultanate of Oman shall be undertaken by a special committee composed as follows:

– Undersecretary of the Ministry of Foreign Affairs (Chairman).

– A representative of the Ministry of Finance (Deputy Chairman).

– A representative of the Ministry of National Economy (Member).

– Head of the Projects and Assets Directorate at the Ministry of Foreign Affairs (Member).

– Deputy Head of the Projects and Assets Directorate at the Foreign Ministry (Secretary).

Article 52

Concerned entities may procure what they need and execute their projects through procurement by negotiation (practice) in the cases referred to in Article (50), provided that the value in each case does not exceed Omani Rial one hundred thousand, without prejudice to

Royal Decree No. 48/76 concerning signing external and internal financial transactions. The procurement committee in concerned entities shall be chaired by the Undersecretary of the ministry or his legal deputy and include two specialized employees whose positions and technical experience correspond to the importance and type of the negotiation.

.

.

.

.

Article 53

The supplier is exempt from providing a temporary bond if he delivers the items to be purchased and the concerned entity provides final acceptance immediately upon contract completion.

PART SIX

DIRECT AWARD

Article 54

The Board may, in special cases, authorize contracting by direct award for the execution of works, acquisition of technical or consultancy services, or supply of items or tasks.

Article 55

Concerned entities may contract directly with Government units, authorities and Government companies for works, technical or consultancy services, or supplies. Furthermore, with the approval of their head, they may contract directly with a supplier, contractor, or consultancy office for a value not exceeding ten thousand Omani Rials, provided the prices are appropriate and a justification explaining the necessity is provided.

Article 56

Concerned entities may, in cases of necessity and with the approval of their head, contract directly with a supplier, contractor, or consultancy office for a value not exceeding twenty-five thousand Omani Rials, provided the prices are appropriate and a justification explaining the necessity is provided.

PART SEVEN

COMPETITION

Article 57

A competition is a specialized contracting method used for obtaining studies, designs, masterplans, models, or other artworks essential for a specific project.

Article 58

The concerned entity shall specify in detail the project's objectives, scope, and specifications; the prizes, rewards, or compensation for winners; the ultimate ownership of both winning and non-winning reports, studies, designs, and masterplans; and any other conditions it deems appropriate.

Article 59

The invitation to participate in a competition shall be made through a published announcement, electronic means, or by direct invitation to individuals or entities possessing the necessary expertise and skills for the project or competition purpose.

Article 60

The Board, after coordination with the concerned entity, shall form a specialist committee to evaluate the submitted offers. This committee may summon participants to discuss their submissions.

Article 61

The committee shall document its proceedings in a report detailing the submitted offers, the opinions and criteria used for comparison, and its recommendations for selecting the winning bidder(s) and ranking the other bids. This report, along with the offers, shall be submitted to the Board for a final decision.

Article 62

The provisions of Chapter Four of Part Three of this law do not apply to competitions.