

Regulations for Coverage and Handling of Special Military Procurement

Article 1

This Regulations is prescribed pursuant to paragraph 2 of Article 104 of the Government Procurement Act (hereinafter referred to as the "Act").

Article 2

The term of “weapons” referred to in chapeau of paragraph 1 of Article 104 of the Act means free moving machine guns, Tommy guns, handle-blocked guns, rifles, self-loading rifles, pistols, radiation and chemical weapons, rocket systems, tanks, artilleries, armored vehicle systems, infantry multiple operating weapon systems, electronic combat systems, naval ships, under water weapon systems, submarines, aviation or related weapon systems, high function detection or photo systems, satellite systems, automatic weapon systems and any other fatal arms that can fire metal, bullet, or flame.

The term of “ammunition” referred to in chapeau of paragraph 1 of Article 104 of the Act means various kinds of bombs, bullets and other fatal or destructive bombs or explosives used in the weapons referred to in the preceding paragraph.

The term of “war supplies” referred to in chapeau of paragraph 1 of Article 104 of the Act means radar, communication equipment, information equipment and related software, chemicals, transportation and conveyance equipment by land, sea or air, fuel and lubricant, food supplies, coverlets and clothes, loading and folding facilities, camping facilities, medical equipment and medicine, water purifying facilities, maps, photos, model instruments, documents and graphs, building construction and related materials, materials or facilities required for the production or use of weapons, ammunition or war supplies and any other materials that may effect the combat readiness.

The term of “procurement related to national security or national defense” referred to in chapeau of paragraph 1 of Article 104 of the Act means the procurement that is necessary to be conducted for the defense or prevention of invasion by external forces, intelligence activities, subversive or destructive activities, etc.

Article 3

The term “this nation is confronted with a war or in mobilization for a war” referred to in

subparagraph 1 of paragraph 1 of Article 104 of the Act means that the Ministry of National Defense issues an order for combat readiness alert under the relevant military regulations, or mobilizes the reserve forces depending on the actual need, when the nation is facing apparent military threats.

The term “in a war” referred to in subparagraph 1 of paragraph 1 of Article 104 of the Act means that the Ministry of National Defense issues an order for combat readiness under the relevant military regulations when the nation is being blockaded by military force or has been attacked by the enemy.

The term “confidential or strictly confidential” referred to in subparagraph 2 of paragraph 1 of Article 104 of the Act means that the level of secrecy including confidential, strictly confidential and absolute confidential prescribed in the Regulations for Scope, Categories and Classification of Military Secrecy and National Secrecy.

The term “there is an emergency which may jeopardize an important military mission” referred to in subparagraph 3 of paragraph 1 of Article 104 of the Act means that during the period of ordinary combat readiness, any sudden and temporary shortage of weapons, ammunitions or combat materials which jeopardize the ordinary course of combat readiness and, unless immediate procurement is conducted, the military alert, combat readiness or military mission will be affected.

Article 4

When the provisions of the Act do not apply to procurements conducted by the military entity in accordance with subparagraph 1 of paragraph 1 of Article 104 of the Act, the Ministry of National Defense shall issue an order, with a copy to the responsible entity, specifying the articles not applicable to. The Act shall apply in the event of failure to specify such articles in the order.

Article 5

In conducting procurements referred to in the proceeding Article, the military entity shall meet the following requirements:

1. Before conducting a procurement, the entity shall report the case to the head of the entity or the personnel authorized by the head for approval regarding the necessity to conduct the procurement in accordance with the order referred to in the proceeding

Article.

2. In conducting a procurement by limited tendering procedures, the entity shall, in principle, invite two or more suppliers for price competition except for a sole source product, supply or contracting.
3. If there is insufficient time for the entity to sign a contract with the supplier, an agreement in writing, by fax or telex shall be obtained in advance.
4. If there is insufficient time to confirm the total price of the contract with the supplier, the unit price and the limit of the total price of the contract shall be confirmed in advance.
5. Conditions of payment shall uphold the security for the use of public fund.
6. The processing documents shall include the wordings of “war procurement pursuant to subparagraph 1 of paragraph 1 of Article 104 of Government Procurement Act”.
7. The award data provided by the entity in accordance with Article 62 of the Act shall state explicitly the fact that the procurement is conducted pursuant to subparagraph 1 of paragraph 1 of Article 104 of the Act.

Article 6

In conducting procurements referred to in subparagraph 2 of paragraph 1 of Article 104, the entity shall meet the following requirements:

1. A procurement of a value reaching the threshold for supervision shall be conducted with an approval from the Ministry of Defense.
2. All of the qualified suppliers that have passed qualification evaluation shall be invited to tender.
3. All tenderers shall sign a confidentiality affidavit and the winning tenderer shall sign a confidential contract.
4. The opening of tender will be conducted in private.

5. The processing documents shall include the wordings of “confidential procurement pursuant to subparagraph 2 of paragraph 1 of Article 104 of Government Procurement Act”. These documents shall be kept confidential by units at each levels involved through the whole process and the date and conditions to declassify them shall be specified.
6. The award data provided by the entity in accordance with Article 62 of the Act shall state explicitly the fact that the procurement is conducted pursuant to subparagraph 2 of paragraph 1 of Article 104 of the Act.

Article 7

In conducting procurements referred to in subparagraph 3 of paragraph 1 of Article 104, the entity shall meet the following requirements:

1. A procurement of a value reaching the threshold for supervision shall be conducted with an approval from the Ministry of Defense or its authorized entity.
2. The tender specification, qualification of suppliers, the time-limit for tendering or for conducting pre-qualification review may be prescribed according to the special characteristics and actual needs of the respective procurements.
3. The processing documents shall include the wordings of “emergent procurement pursuant to subparagraph 3 of paragraph 1 of Article 104 of Government Procurement Act”.

Article 8

Relevant requirements in this Regulations shall apply to a procurement conducted by military entities where two or more circumstances provided in paragraph 1 of Article 104 of the Act are applicable to the procurement.

Article 9

This Regulations shall take effect May 27, 1999.

Note: In case of discrepancies between the Chinese version and this English version, the Chinese version shall prevail.