

JORDANIAN GOVERNMENT PROCUREMENT REGIME

Preface

The Government Procurement Regime in Jordan is governed primarily by two Main Legislation: The Government Construction Regulation No. 71 of 1986, issued pursuant to Article 114 and 120 of the Constitution and the Supplies Regulation No. 32 of 1993, issued pursuant to Article 120 of the Constitution, and the instructions issued pursuant thereto.

The two Regulations are the default authority for all government procurement of construction and technical services and supplies respectively. Article (3) of Supplies Regulation provides that **‘this Regulation shall apply to all government entities whose budget is part of the Central Government Budget, and to all government entities which do not have a special Supplies Regulation, as well as to all government entities the Cabinet deems to be subject to this legislation.’**

At present, many government entities whose budgets are part of the General Budget, such as municipalities and government departments and directorates, have their own procurement regulations. Procurement by municipalities and rural councils is governed by Municipalities and Rural Council Supplies and Constructions Regulation No. 55 of 1989, issued pursuant to Article 59 of the Municipalities Law No. 29 of 1955, and the Administration of Rural Council’s Law No. 5 of 1924. Amman Municipality, however, has its own Procurement Regulation.

Moreover, some government departments and directorates have their own special procurement legislation. Many of the government corporations (which enjoy financial and administrative autonomy) self refer in their laws to the Main procurement legislation, while a few such entities have special legislation governing their own procurement. As exception to the general tendency for government entities to refer to the main regulations in absence of special legislation, some entities such as state Universities refer to the procurement legislation of a similar key institution, i.e., the University of Jordan, rather than central government procurement regulation

Although the government procurement regime in Jordan is not governed by a single general legislation, government procurement methods and principals contained in the various procurement legislation are to a large extent uniform. As this study will point out, there are no major substantial inconsistencies between the provisions in the Main two government regulations and the procurement provisions in special procurement regulations. Although not mandated by law, in practice the main procurement regulations have served as model legislation for special procurement legislation adopted by various departments and entities. This conclusion is based on an examination of the content of the special legislation in comparison with the Main procurement legislation.

For the purposes of this study, we have answered the majority of the questions in accordance with the two Main regulations for the reasons indicated above.

Nonetheless, we have indicated the differences, if any, when necessary and referred to other applicable legislation in accordance with each question.

1st. Legal Framework

1. **What are the laws, regulations, decrees, administrative rulings, decisions, policy guidelines and other instruments governing government procurement? Please provide a summary of the subject areas dealt with by each of these instruments.**

Schedule (1)
Central and Sub-Central Level

| Title | Number & Date | Description |
|--|--------------------------|---|
| Property Lease for Government Purposes Regulation | No. 70 for the year 1973 | Regulates property leasing by ministries, governmental agencies and public establishments. |
| Government Constructions Regulation | No. 71 for the year 1986 | 1.Regulates governmental construction and technical services. 2. Sets out the jurisdiction and competence of the Government Tenders Directorate. 3. This reg. applies to all governmental entities except the armed forces, public security department, Amman's municipality, local government councils, and public universities. |
| Construction Contractors Law | No. 13 for the year 1987 | 1.Regulates the construction and operation and maintenance of various construction projects. 2. Sets out Contractor's licensing and qualification measures. 3. Regulates the Construction Contractors' Association. |
| Standard Construction Contract – Part (1) General Rules, Part (2) Special Rules. | | Standardized contract for all construction projects. |
| Qualification Instructions for Engineering/Architectural Firms and Consulting Firms. | For the year 1996 | 1. Sets out types of qualification and qualification procedures thereof. 2. Sets out the qualification basis which include: specialties of these firms, expertise, technical staff, and its equipment according to special appendices prepared for this purpose. |

| | | |
|---|--------------------------|--|
| Classification Instructions for Construction Contractors | For the year 1992 | <ol style="list-style-type: none"> 1. Sets out classification rules, requirements and procedures including the jurisdiction and competence of the Classification Committee. 2. Entitles the Minister of Public Construction to specify the various rules that apply to each class of contractors such as limitations on the amount and or the number of projects that each class can participate in at the same time. |
| Amman's Municipality Supplies and Constructions Regulation. | No. 12 for the year 1988 | <ol style="list-style-type: none"> 1. Regulates supplies and constructions procurement procedures including rules of tendering, receiving, paying, and selling of supplies. 2. Regulates constructions procedures e.g. direct execution and tendering procedures. |
| General Instructions for Amman's Municipality Constructions & Supplies Tendering. | | Regulates documentation of tenders including invitation notices, submission, receipt, opening, consideration and awarding of contracts. |
| Public Security Consumer's Cooperative Regulation | No. 84 for the year 1974 | <ol style="list-style-type: none"> 1. Aims to enable the beneficiaries (Public Security Employees) to procure food and other supplies at a convenient rate. It creates a special Board empowered to decide the types and methods of procuring these supplies. 2. Procuring is governed by a Supplies Regulation and is executed through Tenders Committees or Procuring Committees. 3. The Cooperative may procure these supplies from domestic as well as foreign suppliers. |
| Public Security Supplies Instructions | No. 1 for the year 1996 | <ol style="list-style-type: none"> 1. Sets out the general conditions for entering into a tender and contracting with Contractors, e.g., bid bonds, performance guarantees. 2. Sets out tender procedures, i.e., invitation, opening, receiving and awarding of tenders, in addition to penal conditions. |
| Municipalities and Rural Councils Supplies and Constructions Regulation. | No. 25 for the year 1989 | <ol style="list-style-type: none"> 1. Regulates local government councils' procurement procedures, e.g., supplies' procurement, receiving, distributing, selling... 2. Regulates constructions procurement, e.g., formation of tenders committees... |
| Supplies | No. 32 for the year | 1. Sets out the scope of application of its |

| | | |
|---|-------------------------|--|
| Regulation | 1993 | <p>rules. It applies to all governmental entities covered under the General Budget and to all entities that do not have its own supplies regulations and to any other entity as stipulated by the Ministers' Council.</p> <p>2. Defines the General Supplies Dept. jurisdiction and responsibilities and specifies the general rules for supplies' procurement including procuring from a foreign supplier.</p> <p>3. Sets out the rules for creating the various tender committees under this regulation, e.g., Central Committee, Local Committee and Special Committee.</p> <p>4. Sets out tender procedures and rules, e.g., receiving, warehousing...</p> |
| Tenders Procedures and Participation Conditions Instructions | No. 1 for the year 1994 | <p>1. Sets out tendering procedures, e.g., invitation notices as well as identifies the general conditions for participation in governmental tenders, i.e., bonds and guarantees, invitation notices, submission, opening, selecting and awarding of contracts.</p> <p>2. Specifies the contractors' liabilities and force majeure.</p> <p>3. Sets out sampling and testing procedures as well as supplies' receiving procedures.</p> |
| Preparation of Entities Supplies Requirements Lists and Procurement Orders Instructions. | No. 2 for the year 1994 | Sets out the mechanism for preparing the annual supplies requirement lists and the preparation of the procurement orders thereof. |
| Government Warehouses Management and Inventory Inspection Instructions. | No. 5 for the year 1994 | <p>1.Regulates government warehouses management and warehousing procedures, e.g., inventory testing and receiving.</p> <p>2. Regulates inventory control and inspection procedures.</p> |
| Ministries and Governmental Agencies Supplies Procurement through Ways other than Tendering Instructions. | No. 1 for the year 1995 | Regulates the entities' ability to procure supplies through ways other than tendering, provided that the value of these supplies does not exceed JD 5000. |
| Fiscal Regulation | No. 3 for the year 1994 | Regulates the Government expenditures including payments due as a result of a tender awarding and sets out the prerequisites of making any such payments |

| | | |
|--|--|---|
| | | thereof. |
| Fiscal Affairs Implementation Instructions. | No. 1 for the year 1995 | Specifies in detail the process of implementing the rules included in the Fiscal Regulation. |
| Municipalities Fiscal Regulation | No. 4 for the year 1955 | Regulates the municipalities expenditures rules including payments due as a result of a procurement. |
| Municipalities & Rural Councils Supplies and Constructions Regulation. | No. 55 for the year 1989 | Sets out the rules for supplies and services and constructions procurement including procurement procedures. |
| Rural Councils Fiscal Regulation | No. 34 for the year 1985 | Asserts the implementation of the Municipalities Fiscal Regulation rules on townships as well. |
| Jordan University Supplies and Constructions Reg. | No. 21 for the year 1987 [each public university has its own regulations concerning supplies and constructions procurement] | Sets out the supplies and constructions rules and procedures. |
| Jordan University Supplies and Constructions Regulation Implementing Instructions. | | Specifies in detail the rules pertaining to supplies and constructions procurement set out in the Reg. |
| Military Constructions Regulation | No. 4 for the year 1995 | Regulates the Jordanian military constructions and services procurement rules and procedures. |
| Military Supplies Regulation. | No. 3 for the year 1995 | Regulates the Jordanian military supplies' procurement rules and procedures, including the formation of the Central Tendering Committee and its jurisdiction. |
| General Intelligence Dept. Supplies Regulation. | No. 84 for the year 1966 | All supplies procurements are executed through committees formed from the Intelligence Dept. and one representative from the General Accountant Office except "covert procurements" which are executed through Intelligence Dept. officers. The General Intelligence Director decides whether procurements are covert or not and sets out the procedures thereof, provided that such procedures are accepted by the Prime Minister. |

| | | |
|---|--------------------------|---|
| General Intelligence Dept. Fiscal Regulation | No. 85 for the year 1966 | All fiscal affairs are run according to the discretion of the Director and the approval of the Prime Minister thereof. All these procedures are deemed “confidential.” |
| Government Constructions Tendering Instructions | No. 71 for the year 1987 | Sets out the tendering procedures and participation conditions, e.g., invitation notices, time limits, tenders submission and opening, and awarding of contractors rules, as well as contractors qualifications conditions. |
| High Committee for Procurement Regulation | No. 50 for the year 1994 | Provides for establishing a High Committee for procurement entitled to oversee procurement procedures of the various entities. |

Schedule (2)
Public Corporations

| Name of Corporation | Procurement Legislation | Notes |
|---------------------------------|--------------------------------|---|
| Vocational Training Corporation | N/A | Article 13(b) of the Vocational Training Corp. Law No. 11 for the year 1985 provides that the Corp. shall apply the Supplies Regulation No. 32 for the year 1993 and the Government Constructions Regulation No. 71 for the year 1986 until separate regulations are issued in that regard. No such regulations have been issued up to this date. |
| Social Security Corporation | N/A | Article 76 of the Social Security Law No. 30 for the year 1978 requires the Ministers’ Council to issue regulations to govern the Corporation’s procurement procedures. However, such regulations have not been issued up to this date. The Corp. applies the Supplies Reg and the Govt. Construction Reg. de facto. |

| | | |
|-------------------------------------|---|---|
| Public Transport Corporation | -Supplies Regulation No. 21 for the year 1980. -No Constructions Regulation. | -The Supplies Regulation is issued in accordance with article 16 of the Public Transport Corp Law No. 21 of 1975, which was repealed. Therefore, the validity of this regulation is highly questionable. -Article 16 of the Public Transport Corp. Law No. 16 for the year 1985 requires the issuance of a constructions reg. It hasn't been issued up to this date. |
| Free Zones Corporation | N/A | Article 17 of the Free Zones Corp. No. 32 of 1984 provides that the Minister's Council may issue regs. To govern procurement procedures, and until the issuance of such regs the regs of the Aqaba Free Zone shall apply. To this date no regs. were issued. |
| Agricultural Marketing Organization | N/A | Article 16 of the Agricultural Marketing Organization provides that the Minister's Council may issue regs to regulate procurement procedures. Such regs haven't been issued up to this date. The Org. applies the Supplies Reg. and the Govt. Constructions Reg. pursuant to articles (3) and (31) respectively (default provisions). |
| Industrial Cities Corporation | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Institute of Public Administration | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Radio & TV Corporation | N/A | -Article 9 of the Radio & TV Corp. Law No. 43 of 1985 provides that the MC may issue regs to regulate procurement procedures. Such regs. Have not been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Jordan Investment Corporation | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant |

| | | |
|---|--|--|
| | | to articles (3) and (31) respectively (default provisions). |
| Judicial Institute | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Civil Service Consumer Corporation | -Supplies Regulation for the Civil Service Consumer Corporation No. 10 of 1980 -No Constructions Reg. | -this supplies reg is issued pursuant to Law No. 60 of 1976 which was repealed by the Law No. 31 of 1984, therefore these regs are no longer valid. -Article 16(a) of the 1984 Law provides that the MC may issue regs to regulate procurement procedures. Such regs have not been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Natural Resources Authority | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Housing & Urban Development Corporation | N/A | -Article 26 of the Law No. 28 of 1992 provides that the MC may issue regs to regulate procurement procedures. Such regs. Have not been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Water Authority | N/A | -Article 32 of the Water Authority Law No. 8 of 1988 provides that the MC may issue regs to regulate procurement procedures. Such regs have not been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Jordan Valley Authority | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Hedjaz Jordan Railway | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively |

| | | |
|---|--|--|
| | | (default provisions). |
| Aqaba Railway Corporation | -Article 14 of the Aqaba Railway Corp. No. 22 of 1972 refers to the Supplies and Constructions Regulation of the Telecommunications Corporation. | -The Telecommunications Corp. has been transferred into a private corporation. -Accordingly, Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Telecommunications Regulatory Commission | N/A | -Article 89(a) of the Telecommunications Law No. 13 of 1995 requires the MC to issue regs to regulate procurement procedures. Such regs have not been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Orphans Fund Corporation | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Civil Aviation Authority | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Economic & Social Organization for Retired Servicemen | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Royal Geographic Center | N/A | -Article 17 of the Royal Geographic Center Law No. 18 of 1986 provides that the MC may issue regs to regulate procurement. Such regs have not been issued up to this date. -the Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Private Telecommunications Commission | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Institute for Standards & Metrology | N/A | -Article 27 of the Draft Law of 1999 provides that the MC may issue regs. to regulate procurement. So far such regs have not been issued since the Draft Law has not been passed yet. |

| | | |
|--|--|--|
| | | - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Aqaba Region Authority | N/A | -Article 22 of the Aqaba Region Authority Law No. 7 of 1987 provides that the MC may issue regs to regulate procurement. No such regs have been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Central Bank of Jordan | -Supplies Regulation for the Central Bank of Jordan No. 8 of 1970 issued pursuant to the Central Bank of Jordan Law No. 93 of 1966. -No regs for construction services. | -Procurement of supplies is conducted in accordance with the Supplies Reg. for the CBJ. -Construction services are conducted in accordance with the Government Constructions regulation No. 71 of 1986. |
| Cities & Villages Development Bank | N/A | -Article 23 of the Cities & Villages Dev. Bank No. 63 of 1985 provides that the MC may issue regs to regulate procurement procedures. No such regs have been issued until this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to Articles (3) and (31) respectively (default provisions). |
| General Corporation for Environmental Protection | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| The Ports Corporation | Regulation for the Ports Corp. Supplies & Constructions No. 77 of 1981 | -Issued pursuant to Article 15 of The Ports Corp. Law No. 28 of 1978. This Law has been repealed. -Article 15 of the new Law No. 36 of 1985 provides that the MC may issue regs to regulate procurement procedures. No such regs have been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Jordan Securities Commission | -No construction services regulation. | -Article 81 of the Securities Law No. 23 of 1997 provides that the MC |

| | | |
|---|--------------------------------------|--|
| (Previously Amman Financial Market) | -Supplies Regulation No. 93 of 1998. | may issue regs to regulate procurement procedures. No such regs have been issued up to this date. -Construction services procurement is conducted in accordance with the Government Constructions Regulation No. 71 of 1986. |
| Investment Encouragement Dept. | N/A | -Article 37 of the Investment Encouragement Law No. 16 of 1995 provides that the MC may issue regs to regulate procurement procedures. No such regs have been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| National Aid Fund | N/A | -Article 13 of the National Aid Fund Law No. 36 of 1986 provides that the MC may issue regs to regulate procurement procedures. No such regs have been issued up to this date. - Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Postal Saving Fund | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Agriculture Credit Corporation | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Zakat Fund Directorate | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Export Development & Commerce Corporation | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| High Education Council | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |
| Development & Employment Fund | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively |

| | | |
|------------------------------|-----|---|
| | | (default provisions). |
| Jordan Cooperative Institute | N/A | Supplies Reg. and the Govt. Constructions Reg. apply pursuant to articles (3) and (31) respectively (default provisions). |

2. To what extent will the provisions of the Agreement be applied directly or need to be transposed into the relevant law? In the event of direct application or the Agreement otherwise prevailing over conflicting provisions of domestic law, please indicate the relevant legal basis.

The Jordanian Constitution is the supreme law in the country. Thereafter, the legal hierarchy composes of Laws, then Regulations, then Instructions, then Administrative Rulings and Decrees.

§33 Provide that the King shall be entitled to declare war, make settlements, sign conventions and agreements. Agreements that incur the Treasury certain expenses or affects the rights of the Jordanian citizens shall not be operative unless passed by the Parliament.

Accordingly, and since government affect the rights of Jordanians, the Government Procurement Agreement needs to be passed by the Parliament in accordance with the Constitution.

The most common practice is that after signing and acceding to an Agreement, the Government would refer such Agreement to the Parliament for ratification. When ratified by the Parliament, an Agreement passes as a Law. Thereafter, the Parliament refers it to the King for endorsement. (§31 of the Constitution).

In the event that the Agreement is passed as a Law, it shall be directly applicable and binding to all entities whether central or sub-central.

B. Scope and Coverage

3. Please summarize the organization of the government in your country at each level. List all central government entities (ministries, departments, agencies, etc.) procuring goods, services and construction services.

See attached chart.

4. What entities at the sub-central levels of government (states, provinces, municipalities, etc.) procure goods and services

In Jordan the main sub-central entities are municipalities and rural councils. These entities procure goods and supplies in accordance with the Municipalities and Rural

Councils Supplies and Constructions Regulation No. 25 of 1989, except for Amman Municipality which has its own supplies and constructions regulations.

5. Are entities below the central level of government autonomous from federal or central state level government in the implementation of the Agreement? How will your government ensure the implementation of the Agreement by such entities?

Entities below the central level of government are not autonomous from central state level government in the implementation of the Agreement. Once the Agreement is passed as a Law [as elaborated in (2)], it shall be directly applicable and binding to all government entities whether central or sub-central.

6. Are there other categories of entities (Annex 3-type entities) owned or controlled by the government that engage in procurement? Specify. Do these categories of entities apply, in their procurement, legislation provided by the central and sub-central levels of government or are they autonomous in their procurement rules and practices?

[Please note that we were not able to obtain Annex 3, therefore this answer presumes that such entities include government corporations and public universities]

Such entities are created by a special law and have a separate legal personality, as well as both administrative and financial autonomy.

Generally, these entities have their own financial regulations in addition to supplies and constructions procurement regulations as well. Nonetheless, some of these entities have regulations regarding procurement, yet these regulations are insufficient on their own to set out the rules for procurement. Some of these entities do not have any regulations that govern procurement as well. Such entities follow the Supplies Regulation No. 32 for the year 1993 and the Government Constructions Regulation for the year 1986 and the Fiscal Regulation No. 3 for the year 1994 in carrying out their procurements. [For more information *see* schedule (2) on Government Corporations in (1) above]

In addition to these governmental entities there are eight public universities created by special laws and acquire a legal personality as well as financial and administrative autonomy. Most universities have their own procurement regulations. In the absence of such legislation, these universities refer to the University of Jordan procurement regulations.

7. What are the main differences (if any) that exist between the laws and government procurement practices at the central and sub-central levels of government and for other types of entities?

Procurement procedures for municipalities and rural councils are governed by special regulations, the Municipalities & Rural Councils Supplies and Constructions Regulation No. 55 for the year 1989. The main differences between these procedures and the procedures followed by the central government entities pursuant to the Supplies' Regulation and the Government Constructions Regulation are:

F:\Central Files\Task Tracking\POL\IBLAW Deliverables\WTO\4.4.48 Government Procurement Agreement. Check list of issues\TO# Government Procurement Agreement. Check list of issues\Jordanian Government Procurement Regime.doc

- One. One regulation governs the sub-central entities' procurement procedures in both supplies and constructions. Moreover, this regulation is issued pursuant to the Municipalities Law whereas the Supplies Regulation and the Government Constructions Regulation are issued pursuant to §§114, 120 of the Constitution respectively.
- Two. Municipalities and rural councils may procure goods through a purchase order for up to JD 100 or JD 200 [based on the category] whereas a central government entity may procure goods through an order for up to JD 5000.
- Three. Municipalities and rural councils follow the same procurement methods as central government entities, i.e., open tendering, selective tendering, and limited tendering. Nonetheless, the Supplies Regulation provided four circumstances where selective tendering may be used and eight circumstances where limited tendering may be used. On the other hand, the Municipalities Regulation provided nine circumstances where selective tendering may be used and four circumstances where limited tendering may be used.
- Four. There are some variances in relation to the amounts and the jurisdiction of procurement committees thereof.
- Five. As for supplies tendering procedures including qualification measures and invitation procedures, selecting procedures, and awarding procedures, they are very similar between the central government entities and the sub-central government entities.
- Six. As for constructions tendering procedures, they are also very similar.

In conclusion, there are no substantial differences between procurement laws and procedures at the central and sub-central levels of government.

8. Please list the categories of services and construction services sectors covered in the GATS Schedule of Specific Commitments of your country.

See attached schedule.

9. Are there any general exceptions from the scope of application of the national procurement rules, for instance for essential national defence or security reasons? Please provide details.

§12(b) of the Military Supplies Regulation No. 3 for the year 1995 provides that the Prime Minister, pursuant to a recommendation from the Chief of Staff may, in exceptional or expeditious circumstances, form a special committee from at least three senior officers which may procure supplies without applying the rules of the said Regulation.

§2 of the General Intelligence Department Supplies Regulation No. 84 for the year 1966 provides that all supplies' procurements for the Department shall be executed by committees formed from the Intelligence Department and one representative from the Audit Bureau, except "covert procurements" which shall be executed through the Intelligence Dept. officers only. The General Intelligence Director decides whether

procurements are covert or not and sets out the procedures thereof, provided such procedures are accepted by the Prime Minister.

§11 of the High Committee for Procurement Regulation No. 50 for the year 1994 provides that despite any other legislation, all contracts related to procurement by the Armed Forces, security forces, and the national airline carrier "Royal Jordanian" shall be concluded directly with the manufacturers, producers or suppliers without mediation of agents, distributors or consultants. The Ministers' Council may also apply this article to any entity as it deems appropriate.

10. Please provide available statistics on the procurement by government entities in your country in recent years, including, to the extent available, a breakdown by entity and by categories of products and services.

Supplies:

According to the statistics of the Department of Public Supplies, including the following:

- 1- A statement of procurement statistics allocated according to classification of goods for the year 1999 (*see* attached schedule No.1).
- 2- A statement of procurement statistics allocated according to classification of goods for the year 1998 (*see* attached schedule No.2).
- 3- A schedule defining the volume of procurements for the years (1995, 1996, 1997, 1998) classified according to classes of supplies (*see* attached schedule No. 1/A).

Public Constructions and Governmental Technical Services

According to the statistics of the Ministry of Public Constructions and Housing/ the Department of Public Tenders, the Annual Book of the year 1998:

- 1- A schedule specifying the allocation of the amount of work values that was awarded during the years (1996, 1997, 1998) according to the Committee awarding the tender, e.g. Subsidiary Committees, Department Committees, Special Committees, Central and Local Committees (*see* attached schedule No. 4).
- 2- A schedule specifying the allocation of tender values that were awarded during the years (1996, 1997, 1998) according to the Committee awarding the tender, e.g. Subsidiary Committees, Department Committees, Special Committees, Central and Local Committees (*see* attached schedule No. 5).
- 3- A schedule specifying volume of central tendering during the years (1996, 1997, 1998) (*see* attached schedule No. 6).
- 4- Schedule defining central tenders' values in different fields of work during the years (1996, 1997, 1998) (*see* attached schedule No. 7).

- 5- A schedule defining the volume of central tender works in different developmental areas during the years (1996, 1997, 1998) (*see* attached schedule No. 8).
- 6- A schedule specifying the entities contributing in the execution of central tenders and their allocation of the value of tenders during the years (1996, 1997, 1998) (*see* attached schedule No. 9).
- 7- A schedule defining the allocation of public tenders according to different sectors from January 1, 1999 till December 31, 1999, (*see* attached schedule No. 10).

Schedule No. (1) [Procurement Statistics Allocated by Classes of Items for the Year 1998]

| | Medical supplies & their Accessories | Medical & laboratorial equipment | Medicines & Prescriptions | Vaccination Supplies | Agricultural & Veterinary Supplies | Stationery & Publications & Stamps | Furniture & Utensils | Clothing & Textiles | Cleansing & Hotel Services | Insurance Services | Maintenance & Internal Transport Services | Spare parts Oils & Greases | Telecommunication Equipment & their Accessories | Computers & their Accessories | Vehicles & Machines & Tires | Printing & Calculators Equipment & Machines | Supply & Primary Materials | Total of awarding decision |
|----|--------------------------------------|----------------------------------|---------------------------|----------------------|------------------------------------|------------------------------------|----------------------|---------------------|----------------------------|--------------------|---|----------------------------|---|-------------------------------|-----------------------------|---|----------------------------|----------------------------|
| nt | 4169412 | 5068919 | 19498807 | 266873 | 246195 | 1818721 | 1754713 | 671258 | 7301122 | 971675 | 235680 | 197024 | 2515215 | 1248921 | 2904613 | 2858132 | 3438578 | 55541885 |

Schedule No. (2) [Procurement Statistics Allocated by Classes of Items for the Year 1999]

| | Medical supplies & their Accessories | Medical & laboratorial equipment | Medicines & Prescriptions | Vaccination Supplies | Agricultural & Veterinary Supplies | Stationery & Publications & Stamps | Furniture & Utensils | Clothing & Textiles | Cleansing & Hotel Services | Insurance Services | Maintenance & Internal Transport Services | Spare parts Oils & Greases | Telecommunication Equipment & their Accessories | Computers & their Accessories | Vehicles & Machines & Tires | Printing & Calculators Equipment & Machines | Supply & Primary Materials | Total of awarding decision |
|------|--------------------------------------|----------------------------------|---------------------------|----------------------|------------------------------------|------------------------------------|----------------------|---------------------|----------------------------|--------------------|---|----------------------------|---|-------------------------------|-----------------------------|---|----------------------------|----------------------------|
| nt) | 2389488 | 4782432 | 17358994 | 740775 | 70050 | 4892626 | 2260845 | 583892 | 5049970 | 1832266 | 282386 | 196608 | 732851 | 921209 | 7228675 | 4756553 | 3830636 | 61047193 |

Schedule No. (3) [Volume of Procurements Classified According to Types of Items]

| Year | Medical supplies & their Accessories | Medical & laboratorial equipment..... | Medicines & Prescriptions | Vaccination & Agricultural & Veterinarian Supplies | Stationery & Publications & Stamps | Furniture & Utensils | Insurance Services & Maintenance | Spare parts Oils & Greases | Telecommunication Equipment | Computers & their Accessories | Vehicles & Machines & Tires | Office Equipment | Supply Materials | Total |
|------|--------------------------------------|---------------------------------------|---------------------------|--|------------------------------------|----------------------|----------------------------------|----------------------------|-----------------------------|-------------------------------|-----------------------------|------------------|------------------|-------------|
| 1995 | 7.0 | 5.4 | 12.8 | 0.447 | 3.7 | 1.7 | 3.4 | 7.9 | 7.9 | 2.4 | 5.9 | 5.5 | 5.9 | 70.1 |
| 1996 | 6.1 | 2.5 | 14.5 | 0.275 | 2.4 | 1.7 | 4.4 | 0.433 | 3.9 | 4.5 | 5.2 | 3.8 | 3.9 | 53.8 |
| 1997 | 2.56 | 4.96 | 21 | 1.2 | 2.13 | 3.27 | 11.3 | 0.806 | 5.11 | 1.88 | 4.46 | 3.46 | 2.46 | 64 |
| 1998 | 3.4 | 5.7 | 18.3 | 0.740 | 4.8 | 2.2 | 7.1 | 1.9 | 0.732 | 0.921 | 7.2 | 4.7 | 3.8 | 61 |

Schedule No. (4) [Allocation of Amount of Work Values Awarded According to the Committee]

| Committee → | Subsidiary | Department | Special | Governorate | Local | Central | Total |
|--------------------|-------------------|-------------------|----------------|--------------------|--------------|----------------|--------------|
| Year ↓ | | | | | | | |
| 1996 | 0.27 | 0 | 7.2 | 12.3 | 60.3 | 116.0 | 196 |
| 1997 | 0 | 0.2 | 0.3 | 7.7 | 62.0 | 95.0 | 168 |
| 1998 | 0 | 0.14 | 100.0 | 7.6 | 60.0 | 176.0 | 344 |
| Total | 0.27 | 0.34 | 110.2 | 27.2 | 182.3 | 387 | 708 |

Schedule No. (5) [Allocation of tenders awarded Through Tendering Committees According to Different Fields of Works]

| Year | Fields of Works | | | | | | Total |
|--------------|------------------------|------------------|-------------------------------|-------------------------|-----------------------|--------------------|--------------|
| | Roads | Buildings | Water Pipes and Sewage | Electromechanics | Infrastructure | Other Works | |
| 1996 | 37.7 | 68.0 | 50.9 | 19.5 | - | 19.9 | 196 |
| 1997 | 26.1 | 78.6 | 25.0 | 9.8 | 16.6 | 11.4 | 168 |
| 1998 | 25.9 | 104.4 | 190.0 | 2.0 | 0.4 | 21.8 | 344 |
| Total | 89.7 | 251.0 | 265.9 | 31.3 | 17.0 | 53.1 | 708 |

Schedule No. (6) [Volume of Central Tendering]

| Type of Tender | Year | | |
|-------------------------|-------------|-------------|-------------|
| | 1996 | 1997 | 1998 |
| Value of Total | 196 | 168 | 344 |
| Value of Central | 116 | 95 | 176 |

Schedule No. (7) [Allocation of Central Tenders' Values in Different Fields of Works]

| Year | Fields of Works | | | | | | Total |
|--------------|-----------------|--------------|------------------------|------------------|----------------|-------------|------------|
| | Roads | Buildings | Water Pipes and Sewage | Electromechanics | Infrastructure | Other Works | |
| 1996 | 11.4 | 40.4 | 48.5 | 12.7 | - | 3.1 | 116 |
| 1997 | 7.2 | 47.0 | 25.7 | 0.3 | 13.5 | 1.6 | 95 |
| 1998 | 7.0 | 77.0 | 89.6 | 0.6 | 0.4 | 1.8 | 176 |
| Total | 25.6 | 164.4 | 163.8 | 13.6 | 13.9 | 6.5 | 387 |

Schedule No. (8) [Volume of Central Tender Works in Different Developmental Areas]

| Year | | | | | | | | | | Total |
|--------------|-------------|-------------|------------------------|-------------|------------|-------------|------------------------------|----------------------|-------------|------------|
| | Transport | Education | Water Pipes and Sewage | Health | Energy | Housing | Telecommunications and Media | Defense and Security | Others | |
| 1996 | 21.5 | 7.0 | 49.3 | 16.8 | 0.3 | 2.1 | 0.1 | 0.0 | 19.1 | 116 |
| 1997 | 13.8 | 30.1 | 35.7 | 2.2 | 2.4 | 1.8 | 0.7 | 0.0 | 0.8 | 95 |
| 1998 | 13.9 | 24.8 | 90.0 | 24.8 | 1.0 | 9.2 | 0.4 | 0.0 | 13.1 | 176 |
| Total | 49.2 | 61.9 | 175.0 | 43.0 | 3.7 | 13.1 | 1.2 | 0.0 | 40.2 | 387 |

Schedule No. (9) [Entities Contributing in the Execution of Central Tenders and their Allocation of the Value of Tenders]

| Year | The Contractor/ The Consultant | | | |
|--------------|--------------------------------|-------------|-------------|------------|
| | Local | Foreign | Consortium | Total |
| 1996 | 83.4 | 11.0 | 21.7 | 116 |
| 1997 | 152.2 | 0.1 | 2.3 | 155 |
| 1998 | 110.0 | 45.4 | 20.8 | 176 |
| Total | 345.6 | 56.4 | 44.8 | 447 |

Schedule No. (10) [Allocation of Public Tenders According to Different Sectors]

| Sector | Allocation of Tender Values According to Value and Number | | | |
|------------------------------------|---|-------------|-------------|-------------|
| | Value | Rate | Number | Rate |
| Telecommunication and Media | 3156636 | 02.28 | 10 | 00.74 |
| Housing | 212421 | 00.15 | 3 | 00.22 |
| Education | 13002447 | 09.41 | 149 | 10.98 |
| Health | 4559277 | 03.30 | 142 | 10.46 |
| Energy | 619735 | 00.45 | 13 | 00.96 |
| Transportation | 51882471 | 37.55 | 694 | 51.14 |
| Security and Defense | 2499266 | 01.81 | 29 | 02.14 |
| Others | 48997031 | 35.46 | 239 | 17.61 |
| Water Pipelines and Sewage | 13248057 | 09.59 | 78 | 05.75 |
| Total | 138177341 | 100% | 1357 | 100% |

C. National Treatment and Non-Discrimination

11. Identify the specific provisions in the legislation which reflect the national treatment and non-discrimination commitments of Article III of the Agreement.

There are no explicit provisions in the national legislation that reflect the national treatment and non-discrimination commitments of Article III of the Government Procurement Agreement.

12. Identify any provisions in national legislation according domestic supplies and suppliers treatment more favourable than that accorded to foreign supplies or suppliers or suppliers of any country more favourable treatment than those of any other country.

Regarding government constructions and technical services according to the Government Constructions Regulation No. 71 for the year 1986 and amendments thereof:

Constructions :

The general rule is that only Jordanian contractors and consultants may participate in any governmental construction services tenders.

§6(d) of the Government Constructions Regulation No. 71 for the year 1986 stipulates that when tendering for constructions and/or technical services, only Jordanian contractors and consultants may carry out any construction project and/or render technical services thereto, provided they satisfy the conditions stipulated in the tender. However, if it was necessary to invite foreign contractors and/or consultants, or if the project is financed by a foreign development loan, then the rules of Construction Contractors Law and the rules of the Jordan Engineers Association shall apply.

§16(a)(1) of the Construction Contractors Law No. 13 for the year 1987 provides that only Jordanian contractors may carry out any construction project. In case of special-nature projects however, it is permitted for foreign contractors to participate in executing these projects in joint venture or consortia with their Jordanian counterparts.

§16(a)(2) permit the Diplomatic missions in Jordan to construct and/or maintain their official buildings through local or foreign contractors provided Jordanian missions are granted reciprocal treatment.

§16(b) regulates the creation of a technical committee entitled to decide whether or not a certain project is of “special-nature” and sets out the basis for foreign participation and the form of such participation, and make recommendations to the Ministers’ Council for final decision.

§16(c) permits foreign contractors to participate in executing projects financed by foreign development loans in association with their local counterparts or individually if necessary.

§6(e) of the Government Constructions Regulation No. 71 for the year 1986 indicates that all tenders shall provide for the usage of domestic products in all constructions, and stipulates however, that such products shall meet the required standards, and that the Jordanian Standards Rules shall be used to compare between the various products.

Supplies:

According to the Supplies Regulation No. 32 for the year 1993:

§12 grants preference to local supplies over foreign supplies provided they meet all in quality, standards and other requirements. It awards local suppliers preference over foreign suppliers as well.

§13 grants preference to suppliers from countries that have signed special protocols and/or agreements with Jordan.

13. Identify any provision in national legislation allowing locally established supplier to be treated less favourably than another locally established supplier on the basis of its degree of foreign affiliation or ownership or discriminating against locally established suppliers on the basis of the country of production of the good or services being supplied.

There are no provisions in the national legislation that accord a locally established supplier a less favorable treatment based on the degree of foreign affiliation or ownership in selecting or awarding contractors to such suppliers. There are only provisions that accord national supplies, suppliers, and foreign suppliers who reside permanently in Jordan a more favorable treatment as indicated in (12) above.

Special Note on Jordanian Construction Companies with Foreign Affiliation

Article 17 of Contractors Classification Instructions of 1992 sets out the conditions for the classification of Jordanian constructions companies affiliated with foreign companies. These conditions are more stringent than those for Jordanian companies. Accordingly, the Jordanian legislation discriminates against locally established construction companies on the basis of foreign affiliation or ownership in regard of classification requirements.

Article 17 provides that a Jordanian construction company affiliated with a foreign partner may only be classified upon meeting the following requirements:

- 1- The Jordanian partner shall meet at least 60% of the classification conditions.
- 2- The classification conditions for the foreign partner shall be three-times those of the Jordanian companies' requirements. The foreign partner shall meet these conditions as a prerequisite for classification.
- 3- The company shall meet the classification requirements regarding the availability of certain technical, administrative and financial capability in accordance with the Instructions. And that the foreign partner's tools and equipment shall be continuously and actually located in Jordan throughout the term of classification as well as the foreign partner's engineers shall be registered with the Jordan Engineering Association.

4- The foreign partner shall transfer its share of the company's capital in hard currency to Jordan.

14. Please specify to what extent, if at all, more favourable treatment is granted to any sectors of economy, regions or specific categories of suppliers or supplies.

There are no provisions in the national legislation that awards any sectors of the economy or regions or specific categories of suppliers any favorable treatment in the selection of tenders.

15. Please specify any provisions requiring or allowing the use of offsets, such as domestic content, licensing of technology, investment, counter-trade or similar requirements in the qualification or selection of suppliers, products or services or in the evaluation of tenders and award of contracts.

Supplies:

§13 of the Supplies Regulation No. 32 for the year 1993 provides that in accordance with the rules of this Regulation, the procuring entity may procure goods and/or services in accordance with the Commercial Protocols and Agreements signed between Jordan and other Arab or Foreign countries or entities.

Constructions:

§16(c) of the Construction Contractors Law No. 13 for the year 1987 provides that foreign contractors and consultants may execute construction projects in joint venture or consortia with Jordanian contractors in the event that such projects are financed by foreign development loans. Foreign contractors may execute these projects individually for the public beneficiary.

4th. Elements Specific to Procurement Procedures

16. What are the main procurement methods used? Please provide a brief description of each method.

Constructions and technical services:

According to the Government Constructions Regulation No. 71 for the year 1986:

§5 provides that the main procurement methods shall be: (1) Open tendering; (2) Selective tendering; (3) Limited tendering; and (4) Direct execution.

§6 seems to suggest that the main procurement method shall be tendering, provided however, that no invitations shall be made unless the funds for any project are already allocated. It also provides that the general policy shall be ensuring competition and providing a fair opportunity for all qualified suppliers.

Accordingly, it can be concluded that limited tendering is an exception to the general rule. This is confirmed in §20, which specifies the circumstances where limited

tendering may be utilized. These circumstances include *inter alia*, exceptional circumstances and expeditious circumstances as well.

Supplies:

According to the Supplies Regulation No. 32 for the year 1993:

§15 provides that the main procurement method shall be [open] tendering. Yet it permitted the following methods as well:

1) Selective tendering in any of the following:

- One. Under expeditious circumstances.
- Two. If there is no more than three suppliers for the required supplies.
- Three. If the value of the supplies do not exceed JD 5000.
- Four. If only an insufficient number of suppliers participated in the tender.

2) Limited tendering (direct procurement accompanied with negotiations) in any of the following:

- One. If the prices of these supplies are fixed by the government.
- Two. In exceptional circumstances where tendering would not be feasible.
- Three. If it is only possible to procure the supplies from one supplier.
- Four. If these supplies are spare parts or accessories or supplies that are not available at more than one supplier in the same quality as determined by a technical report prepared for this purpose.
- Five. In case of procuring scientific supplies such as films and manuscripts.
- Six. If the purpose behind procuring these supplies is to unify the sorts and classes or reducing them consequent to the competent Minister's request.
- Seven. In case of procurement of services, such as maintenance or repair services, provided that the volume of such services is not known at the time of procurement.
- Eight. If a tender was announced and it was not possible to obtain reasonable offers or reasonable prices or the required amount of the procured supplies.
- Nine. If there is a law or an international agreement that requires direct procurement.

§14 permits another method of procurement, i.e., direct procurement from a foreign supplier in the following circumstances:

- One. If such supplies are not available in Jordan and a decision is made to procure them by mail [from a foreign country].
- Two. If the procuring entity determined that it is more beneficial to seek direct procurement.

In such event, the Prime Minister assigns a public employee [works for the procuring entity] to procure such supplies jointly with a Jordanian diplomatic attaché in the specified foreign country.

§13 permits procurement pursuant to commercial protocols and/or agreements between Jordan and other countries and/or entities.

17. Identify the provision in your country's legislation requiring non-discrimination as regards the qualification of suppliers in terms of Article VIII and selection of suppliers in terms of Article X? Indicate any exception to this requirement. What are the provisions ensuring non-discriminatory access of new suppliers to existing qualification lists?

Construction and technical services:

Qualification measures are governed by the Government Constructions Regulation No. 71 for the year 1986.

§4 requires the Government Tenders Directorate to oversee contractors and consultants qualification process in coordination with other relevant entities.

§23(e) requires the Minister to issue construction contractors classification schedules and publish them in the Official Gazette. The Minister may amend such schedules any time he/she regards appropriate by adding or omitting any contractor(s) or by changing their categories.

In addition, the Constructions Contractors Law No. 13 for the year 1987 regulates the licensing requirements for contractors.

§3 requires all contractors to be licensed by the Ministry in order to be able to practice in Jordan. After fulfilling the licensure requirements, contractors must register their companies, firms or offices at the Ministry of Industry and Trade and the Contractors' Association. §4 provides that contractors may not be classified until after licensure and registration with the Ministry and the Association.

Construction Contractors Licensing Instructions for the year 1996 regulate the licensing procedures.

§3 provides that contractors shall not practice their profession pursuant to licensing until after fulfilling the classification procedures in accordance with the Constructions Contractors Association Law.

§6 requires the applicant to meet the following qualifications as a prerequisite for licensure: The applicant shall be:

- One. An Engineer registered in the Jordan Engineers Association.
- Two. Must have at least the first college degree in Engineering and have practiced in the constructions' field for at least 3 years.
- Three. Must have an associate degree in the constructions' field and have practiced in this field for at least 5 years.
- Four. A full-time partner who has previously worked in a classified constructions company and was a founding partner for over 2 years before quitting.

The Engineering Offices and Consulting Companies Qualification Instructions for the year 1996 regulate qualification procedures for consulting offices. §4 sets out these procedures as follows:

- One. The Tenders Directorate shall announce in the newspapers for all interested contractors to apply for qualification.
- Two. Qualification shall be on a yearly basis.
- Three. When examining the qualification applications, previous performance and changes that have occurred on the situation of the contractors must be taken into account. Contractors must notify the Directorate with any changes that occurs in their situation within one month from the date of the change.
- Four. Qualification decisions shall be posted at the bulletin board located in the Directorate. Contractors may challenge these decisions within 30 days of the date of posting them.
- Five. The Directorate may at any time ensure that the contractors still meet the requirements. The Directorate may review its decision in the event that a contractor no longer fulfils these requirements.

Please note that there are different conditions and requirements for classification of Jordanian construction companies with foreign affiliation. The classification requirements for such companies are more stringent than those of Jordanian companies. [See (13) above].

18. In the case of selection and qualification procedures of Article X and Article VIII(d), to what extent do procuring entities use permanent lists of suppliers or select suppliers on a contract-by-contract basis?

Procuring entities in Jordan do not use permanent lists of suppliers. The closest thing to such lists is the classification schedules used in construction services.

Constructions:

According to the Government Constructions Regulation No. 71 for the year 1986.

§23 requires all entities to abide with the qualification schedules in all government constructions. It further provided that:

- One. All contractors in all types of constructions shall be classified into categories or classes according to their financial, technical, and managerial qualifications, as well as their equipment and expertise in executing constructions. The Ministers' Council shall pass Instructions to regulate the classification rules and conditions.

§7(a)(3) of the Government Constructions Tenders Instructions provides that any tender invitation shall include the categories and classes of contractors and/or consultants permitted to participate in this tender.

§17(c) of the same Instructions requires all Committees to abide with the contractors and consultants classification and qualification instructions whether they are Jordanian or non-Jordanian.

Please note that there are different conditions and requirements for classification of Jordanian construction companies with foreign affiliation. The classification

requirements for such companies are more stringent than those of Jordanian companies. [See (13) above].

Supplies:

As for supplies, there are no lists of suppliers or select suppliers. The only requirement is that each supplier must submit a vocational license that shows that this supplier is entitled to manufacture, sell, supply or otherwise trade with the required goods. Therefore, it is a contract-by-contract process.

19. What are the conditions and circumstances foreseen in your legislation allowing the use of the limited tendering method under Article XV of the Agreement? What measures exist in order to ensure that this method is not used with a view to avoiding maximum possible competition or in a manner which would constitute a means of discriminating among foreign suppliers in favour of domestic suppliers?

Supplies:

§15(b) of the Supplies Regulation No. 32 for the year 1993 identifies the circumstances where an entity may utilize the limited tendering method as follows:

- One. If the prices of these supplies are fixed.
- Ten. In exceptional circumstances where tendering would not be feasible and consequent to the competent Minister's request.
- Eleven. If it is only possible to procure the supplies from one supplier.
- Twelve. If these supplies are spare parts or accessories or supplies that are not available at more than one supplier in the same quality as determined by a technical report prepared for this purpose.
- Thirteen. In case of procuring scientific supplies such as films, manuscripts and alike products.
- Fourteen. If the purpose behind procuring these supplies is to unify the sorts and classes of these supplies or reducing them, consequent to the competent Minister's request.
- Fifteen. In case of procurement of services, such as maintenance or repair services, provided that the volume of such service is not learned at the time of procurement.
- Sixteen. If a tender was announced or selected and it was not conceivable to obtain reasonable offers or reasonable prices or the required quantity of the procured supplies via these tenders.
- Seventeen. If there is a law or an international agreement that requires direct procurement.

Constructions and technical services:

The Government Constructions Regulation No. 71 for the year 1986 specifies the circumstances where an entity may pursue limited tendering for constructions procurement as opposed to the main method, i.e., open tendering. These circumstances include:

§19 provides that in the event a tender was announced and no reasonable number of suppliers applied, or the prices submitted were not reasonable, or the submitted tenders were conditional or incomplete, the Tender Committee shall furnish a report in that regard to the competent entity. The competent entity may decide to re-announce the tender or seek limited tendering.

§20 sets out the circumstances where limited tendering may be utilized. These circumstances include the following:

- One. In case of exceptional and/or expeditious circumstances where tendering would not be feasible.
- Two. In case of unifying tools and equipment or reducing the variances of such, or in case of reducing the obtainment of spare parts, or in case of curtailing the need of expertise in utilizing such tools and/or equipment.
- Three. In case of procuring spare parts or accessories or machines or tools or supplies that are not available at more than one supplier at the same quality standards.
- Four. In case of contracting on technical services or providing scientific or specialized professional services.
- Five. In case of performing the constructions outside Jordan.
- Six. If the supplier is a governmental entity or a scientific entity, or the prices were fixed by the government, provided that a reasonable number of suppliers shall be invited if possible.

§21 sets out the required procedures for limited tendering in constructions and technical services.

A) Constructions procedures:

- One. A decision from the Minister's Council pursuant to the competent Minister's recommendation if the amount of the constructions exceeds JD100000, provided that such recommendation shall be accompanied with a recommendation from a technical committee created by the Minister for this reason.
- Two. A decision from the competent Minister pursuant to a recommendation from a technical committee or the entity's tender committee if the amount of the constructions does not exceed JD 100000.
- Three. A decision from the Secretary General [undersecretary] pursuant to a recommendation from a technical committee, or a decision from the Governor pursuant to a recommendation from the governate tenders' committee, if the amount of constructions does not exceed JD 30000.

B) Technical services procedures:

- One. A decision from the Minister's Council pursuant to the competent Minister's recommendation if the amount of such services exceeds JD 50000, provided that such recommendation shall be accompanied with a recommendation from a technical committee created by the Minister for this regard.

- Two. A decision from the Minister pursuant to a recommendation from a technical committee if the amount of such services does not exceed JD 50000.
- Three. A decision from the competent Minister pursuant to a recommendation from a technical committee if the amount of such services does not exceed JD 20000.
- Four. A decision from the Secretary General [undersecretary] pursuant to a recommendation from a technical committee if the amount of such services does not exceed JD 10000.

C) The competent Minister may decide to procure construction services or technical services by any means he/she considers appropriate provided that the amount of such services does not exceed JD 5000.

20. Article XIV of the Agreement allows for negotiation under certain conditions. Are entities allowed to proceed to negotiations? If so, which categories and what are the conditions imposed?

Supplies:

§15 of the Supplies Regulation No. 32 for the year 1993 permits the procuring entities to use negotiations. §15(b) provides that an entity may procure supplies through limited tendering or negotiations in the following circumstances:

- One. If the prices of these supplies were fixed.
- Two. In exceptional circumstances where tendering would not be feasible and consequent to the competent Minister's request.
- Three. If it is only possible to procure the supplies from one supplier.
- Four. If these supplies are spare parts or accessories or supplies that are not available at more than one supplier in the same quality as determined by a technical report prepared for this purpose.
- Five. In case of procuring scientific supplies such as films, manuscripts and alike products.
- Six. If the purpose behind procuring these supplies is to unify the sorts and classes of these supplies or reducing them, consequent to the competent Minister's request.
- Seven. In case of procurement of services, such as maintenance or repair services, provided that the volume of such service is not learned at the time of procurement.
- Eight. If a tender was announced or selected and it was not conceivable to obtain reasonable offers or reasonable prices or the required quantity of the procured supplies via these tenders.
- Nine. If there is a law or an international agreement that requires direct procurement.

Constructions:

Government entities may procure construction services through negotiation in the same circumstances as in limited tendering. §§19-21 of the Government Constructions Regulation No. 71 for the year 1986 regulates these circumstances. [See §§19-21 in (19) above].

21. Article XI sets out the minimum time-limits for tendering and delivery. What are the rules and practices regarding time-limits in your legislation? Does the legislation reflect the various minimum time-limits as set out in the Agreement? If not, give information on any different time-limits which have been established in your national legislation.

Supplies:

§7 of the Tenders Instructions No. 1 for the year 1994 grants the procuring entities full discretion in determining the time-limits for selling the tenders' invitations and for submitting the tenders. It also grants the General Director [of the procuring entity] or the General Secretary [of the Ministry] discretion in extending such time-limits pursuant upon request of one or more tenderers.

Constructions:

According to the Government Constructions Regulation No. 71 for the year 1986:

§6 awards the procuring entities full discretion in determining such time-limits. §6(b) provides that the procuring entities shall give a sufficient time-limit for contractors and consultants to consider the tender's documents and submit their tenders.

Furthermore, §8(b) of the Government Constructions Tenders Instructions No. 71 for the year 1987 provides that there shall be a sufficient time-limit between the date of announcing the tender invitation and the date of submitting the tenders to enable the tenderers to consider and prepare their tenders. Stipulated that the time for distributing the tender invitations shall not be less than 7 days and there shall be at least 7 days between the last date of selling the tender invitation and documents and the last date for submitting the tenders.

§8(d) permits the Head of the Committee to extend the last date of submitting the tenders provided that such extensions are announced in the newspapers or notified to the participants.

§17(a) provides that in the event where the tender invitation and documents do not specify a time-limit for the tenderer to fulfil its obligations under the tender, the time-limit shall be 90 days from the date of submitting the tender.

22. Briefly describe the procedures for the submission, receipt and opening of tenders and awarding of contracts, in particular the procedures and conditions guaranteeing regularity of the openings and consistency with the non-discrimination provisions of the Agreement. How is the information on the proceedings related to the receipt, opening and evaluation of tenders maintained by entities?

Supplies:

These procedures are governed by the Supplies Regulation No. 32 for the year 1993.

§23 of this Regulation decrees the issuance of Instructions to regulate these procedures. Accordingly, all these procedures are governed by the Tenders Instructions No. 1 for the year 1994 and amendments thereof.

§§18-39 of the Instructions regulates the *purchase of tender documents* and the *preparation and submission* of the tenders.

§18 demands each tenderer to submit a valid certified copy of the following documents: the vocational license which demonstrates that the tenderer is licensed to produce, sell, supply or otherwise trade in the required supplies; the Commercial Register.

§19 requires the tenderer to pay the price of the tender documents.

§20 states that the tenderer shall prepare his/her offer in accordance with the documents of the tender invitation. In case such documents are incomplete, he/she shall request the missing document(s). The tenderer shall be responsible for examining the documents and ensuring that they are complete.

§21 In case the tender invitation requires that the goods match a certain model kept at the entity's location the tenderer shall make sure to inspect such model and shall be deemed to so have done.

§22 requires the tenderer to prepare the offer on the schedules and appendices attached to the tender documents and to sign and affix the tenderer's seal upon each page. The tenderer may attach further documents and/or information he/she deems appropriate. The tenderer's full address shall be stated in the tender and the tenderer shall notify the entity, in writing, of any changes thereto. All correspondence at this address shall be deemed received by the supplier.

§23 states that any offer shall be prepared in two copies typed or printed. Prices are deemed to include packaging cost.

§24 requires the tenderer to submit, upon request, documents pertaining to his/her experience, technical and financial capability, and any other requirements that indicates his/her capability to fulfill his/her contractual obligations pursuant to the tender requirements. Such information shall be submitted in accordance with a special form prepared for this purpose.

§25 requires the tenderer to submit his/her tender in two copies together with the bid bond, if any, in one sealed envelope unless otherwise required in the tender invitation. The envelope shall contain the name and address of the entity, name and address of the tenderer, the tender's number, and the final date of submission. If the envelope does not contain any of this information, the Tender Committee may dismiss such tender.

§26 states that each tender shall be deposited in the Tenders' Chest at the entity's location within the specified time limit.

§27 states that tenders made directly to the entity by telegram, fax, telex or phone shall not be accepted unless otherwise provided in the tender invitation.

§28 provides that tenders that are not signed or sealed or that are incomplete or ambiguous shall be dismissed.

§29 asserts that the tenderer shall submit with his/her tender the original copy of any catalog, brochure or technical information or statistics that describe the offered supplies, either in Arabic or in English. In the event that such copies are not submitted, the tender committee may dismiss the offer.

§30 in the event that the tender invitation required submission of models, the tenderer shall submit such models. In case such models were immovable, the tenderer shall specify their place and the time that they can be viewed, otherwise the Tender Committee may dismiss its tender.

§34 states that in the event the tender invitation did not specify the date of supplying, the tenderer shall specify such date. In case such date was not specified, it shall be within one week from signing the procurement order [agreement].

§35 stipulates that the tenderer shall state in his/her tender the supplies' country of origin, the name of the manufacturer, the trade mark, the trade name, the model and the catalog number or the bulletin pertaining to the offered supplies.

§39 asserts that the tenderer acknowledges that by submitting his/her tender he/she agrees that by the entity's issuance of the procurement order and after its receipt it constitutes together with the tender's documents a binding contract unless otherwise provided in the award order and the procurement order. It further states that the tenderer warrants that the supplies are brand new free of any defects in manufacturing or in substance, and that they are of a new model and their production has not stopped, provided that the production year is the same year of submitting the offer.

Moreover, if there is any variation in the model that matches or is superior to the requirements of the tender invitation, the new alternative shall be accepted without amending the price thereof.

§§40-43 of the Instructions regulates *opening* of tenders.

§40 states that tenders shall be opened by the Tenders Committee in full quorum in case of supplies for public use, and by the attendance of four of its members in case of supplies for private use. Tenders shall be opened in public at a specified date, time and place in accordance with the invitation. The Committee shall sign each tender. The Committee may read aloud the total prices for each tender. Each tenderer and/or his/her representative may attend the tender opening.

§41 requires the Secretary [of the Committee] to organize a report [minutes] that includes the names of all the participant tenderers and the amount and type of the bid bond and any other information deemed necessary by the head of the Committee.

§43 provides that in the event that the number of participating tenderers is less than three or less than the anticipated number, the Committee may extend the date of submission or may seek limited tendering. In such event, tenders shall be returned in a sealed fashion to its owners.

§§44-51 regulates the *selection* procedures.

§47 identifies the basis on which a tender shall be considered. These basis include the following:

- One. All tenders shall be considered from the technical side, which shall be determined in accordance with the required conditions, as stipulated in the invitation.
- Two. The committee shall take into account the tenderer's financial and technical qualifications as well as its ability to perform its obligations under the tender.
- Three. Consideration shall start with the tender with the least price and so on until all tenders are considered.
- Four. If a tender fulfills all the conditions, standards and quality the Committee shall recommend awarding the tender to the tenderer with the least price.
- Five. Tenders' prices shall be compared to determine the tender with the least price provided that the amounts of any additions or spare parts not required in the invitation shall be dismissed.
- Six. In the event that the lowest tender does not fulfill the invitation's requirements, the Committee shall move to the next lowest tender. In any case, the Committee shall clearly explain the reasons for dismissing any lesser-priced tender.
- Seven. In the event that all tenders do not match the requirements or are incomplete, the Committee may award the tender to the most convenient supplier.
- Eight. When considering a tender, the Committee shall take into account the availability of spare parts and maintenance and other matters required by the Supplies Regulation and any other Instructions thereof.
- Nine. The Committee shall also take into account the preferential price awarded to domestic supplies.

§49 states that in case all the standards, prices and quality were equal, the Committee shall favor the tender that includes additional benefits, then the tender that includes domestic supplies, then the supplier who resides permanently in Jordan, then the shortest delivery period.

§50 The Committee may dismiss a tender if the supplier breaches his/her obligations before finalizing the contract, or does not abide with the conditions of the contract or delays the performance of the contract, provided that such violations occur in more than one contract or more than twice in the same contract. The Committee may as well deprive such supplier from participating in any tenders for the period it deems appropriate.

§51 states that before awarding any tender, the Committee shall take into account the supplier's qualification, expertise, and its commercial reputation. Moreover, the

Committee shall take into account the assistance or the service he/she provides, the availability of spare parts and maintenance workshops, and his/her financial capability. The Committee may dismiss any tender for the lack of all or some of these requirements.

§§52-64 regulates the procedures pertaining to *awarding* the tender.

§52 sets out the basis for awarding a tender. It also requires the Committee to explain the reasons on which it has based its decision. The basis for awarding any tender as specified in §52 shall be as follows:

- One. The matching tender with the least price: If the tender with the least price matches the requirements then it shall be selected for award.
- Two. The cheapest of the matching tenders: If there are non-matching tenders, and other matching tenders, the non-matching tenders shall be excluded and the cheapest of the matching tenders shall be selected for award.
- Three. The most appropriate tender; in case all tenders do not match the requirements, the Committee may select the most appropriate tender.
- Four. Any other reason in accordance with the provisions of the Supplies Regulation provided that such reason shall be clearly stated.

§54 entitles the Committee to award one part or more of a tender unless otherwise provided by the supplier. The Committee may dismiss all the tenders as well.

§55 entitles the Committee to decrease or increase the quantities required in the tender prior to awarding it without the tenderer's prior consent, or with his/her consent if after awarding the tender, provided that such reduction or increase does not exceed 30% of the original amount.

§60 provides that in the event that the prices offered in all the tenders were deemed high, the Committee may re-invite the tender or procure the supplies through limited tendering or direct procurement in accordance with the Supplies Regulation. It may also dismiss the procurement totally or partially. In the event of re-inviting the tender, a supplier who has already bought the tender documents is entitled to receive the new tender documents free of charge.

§61 requires the Secretariat of the Tenders Committee to post the names of the suppliers who were awarded the tender on a special bulletin board designated for this purpose, or by any other means as determined by the General Secretary [undersecretary], for four working days, to enable the unsuccessful tenderers to challenge such decision. Nonetheless, the Committee may reduce such period for 48 hours in exceptional circumstances.

§62 states that the Committee shall review all the challenges and issue its decisions thereof, then refer the award decision for endorsement by the competent entity.

§64 entitles the Committee to cancel any tender invitation at any time or any stage without any reason. It may also reject all or some of the tenders without any recourse against it. Tenderers shall have no recourse against the Committee for any loss or

damage incurred as a result of participating in the tender, and the Committee shall not be liable for any obligations thereto.

Constructions :

Governmental constructions and technical services are governed by the Government Constructions Regulation No. 71 for the year 1986. §16 of this Regulation decreed the issuance of Instructions to regulate the procedures thereof. Accordingly, these procedures are governed by the Government Constructions Tenders' Instructions No. 71 for the year 1987.

Purchase of tender documents and the preparation and submission of the tenders:

§6 of these Instructions requires the head of the Committee to ensure that all the requirements for announcing a tender as specified in these Instructions, and all the tender documents are available before announcing any tender invitation.

§7 requires any tender invitation to include the subject matter and location of the project in addition to summary description of the project; the price of the tender documents; the category of contractors and/or consultants permitted to participate; the last date on which a contractor can purchase the tender documents and the date, time and location for submitting the tenders; and the amount and source of financing in case of [foreign] financed projects.

§8 provides that a tender invitation shall be announced in Arabic in two daily newspapers. However, it may be announced in English in addition to Arabic in case of inviting foreign contractors and consultants to participate.

In case of special invitation tenders, the invitation may be mailed by certified mail or by hand. Moreover, it requires that there shall be a sufficient time between the date of announcing the tender and the date of submission, provided that the time of distributing the copies of the tender documents shall not be less than seven days. In addition, there shall be at least seven days between the last date of selling the tender's documents and the date of submission. The head of the Committee may extend the date of submission, provided that such extension shall be announced in the newspapers or notified to the participants.

§10 provides that each supplier shall sign its tender and submit the required copies in a sealed and stamped envelope. All tenders shall be deposited within the time limit in the Tenders' Chest designated for this purpose. The supplier may submit any amendments to its tender or a new tender before the last date of submission as well. In case the envelopes were too big to be deposited in the chest, the supplier may submit it to the Secretary of the Committee. In case a tender was submitted by mail, it shall be by certified mail only.

§10 requires foreign suppliers to include in their tender the name of their Jordanian partner, or representative or the license certificate of its registered office in Jordan.

§11 provides that there shall be a special chest for tenders. Such chest must carry three different locks, the Head of the Committee keeps one key, the Secretary one key, and another member keeps the third key.

§12 regulates the procedures pertaining to *opening* the tenders.

It asserts that the Tender Chest shall be opened at the date and time specified in the invitation in a public session. All participant suppliers may attend this session if they opt to.

§13(a) provides that the Committee shall dismiss any tender in the following events:

- One. If such tender did not include any required bond(s).
- Two. Any tender that has reservations or conditions that contradict with the underlying tender conditions.
- Three. In case there is any scrapes or additions or omissions so as to render the tender ambiguous.

§13(b) specifies the instances where the Committee may dismiss a tender. This include:

- One. In case a supplier did not sign its tender.
- Two. In case a supplier did not write the unit's prices in words in addition to numbers.

§14 regulates the *selection* procedures. §14(a) provides that the Committee shall:

- One. Prepare session minutes for each session and sign it.
- Two. Examine all tenders preliminary to ensure that they meet the requirements such as qualification requirements.
- Three. Refer the tenders to a technical committee if necessary.

§14(b) requires the Committee to examine the tenderer's competence and financial qualification and its ability to perform its obligations in addition to its previous obligations in accordance with its category.

§14(c) entitles the Committee to dismiss any tender if the offered prices were way below cost or prevailing prices or estimated prices provided that it shall state the reasons for dismissal in detail.

§14(d) permits the Committee to call in any supplier in order to discuss any information without prejudice to other suppliers however. The Committee must include the results of such discussion in its minutes.

§14(e) entitles the Head of the Committee to return the bonds to unqualified suppliers.

§15 regulates the *awarding* procedures.

It asserts that the Committee shall award the tender to the supplier with the best offer. The award decision, following certification, shall be notified to the entity and the entity notifies the supplier. An award decision shall not be amended unless by a subsequent decision from the same Committee.

23. Please identify the provisions in your legislation setting the parameters for the prescription of technical specifications by entities as part of the evaluation criteria.

Constructions and Technical Services

According to the Government Constructions Regulation No. 71 for the year 1986:

§23 provides the following:

- 1st- Construction contractors of all types of constructions shall be classified within graded classes in accordance with financial, technical and administrative qualifications, procurement and expertise in undertaking the constructions. The Minister's Council shall issue instructions for this purpose specifying in which requirements, conditions and classes of classification.

- 2nd- The Minister's Council shall, upon recommendation of the Minister, form one committee or more to examine applications of classifying construction contractors for all types of constructions, and the classes and grades thereof. The Minister's Council may, upon recommendation of the Minister, grant awards to the members of the classification committees.

- 3rd- The Minister shall define, upon recommendation of the competent classification committees, classes and fields of competence in which contractors are classified. This classification shall be reviewed in light of actual practice of the contractor, and of change in the basis upon which such contractor was classified in accordance with the recommendation of the competent classification committees.

- 4th- The Minister shall issue schedules of construction contractors' classification and competence and such schedules are to be published in the Official Gazette. The Minister may, however, amend such schedules every now and then by adding names of new contractors, abolishing names of existing ones, or amending the classes or the classes or the fields of work thereof.

According to Government Constructions' Tendering Instructions:

§7(a)(3) provides that the advertising of tendering should include the contractors classes allowed to subscribe in constructions tenders, or the classes and qualification of the consultants allowed to participate in technical services' tenders as the case may be.

§14 provides that the committee should adopt the following procedures when examining and evaluating contracts:

- ? Transferring tenders offers to a technical committee to examine them whenever needed.
- ? When evaluating offers, the committee shall verify the legal capacity and the financial ability of the tenderer, and that his/her tender conforms with the

terms of the invitation, and his capability to fulfil his obligation under the tender in addition to his previous obligations in light of his classification.

Supplies

According to the Supplies Regulation No. 32 for the year 1993:

§22 provides the following:

1st. The Central Tendering Committee or the Special Tendering Committee formed according to this Regulation may seek assistance from governmental or private technicians and experts to avail from their experiences in examining the tenders offers submitted to the Committee. All Departments shall fully cooperate with these Committees in addressing such issue.

2nd. The Minister may, upon recommendation from the director general, grant remuneration to technicians and experts and members of the technical committees. Such awards shall be comparable to the amount of work rendered by these experts and technicians and assigned to them by the Central Tenders Committee.

Tenders Instructions No. 1 for the year 1994 and its amendments

§3 refers to definition of the technical committee as the committee formed by the tenders committee which consists of experts and technicians whether this formation is restricted to personal appointees or to positional appointees.

§45 stipulates the following:

The Tenders Committee or the Director General shall specify the persons or entities of which the technical committee shall be formed. This committee shall study offers from a technical, financial and legal perspective and shall submit appropriate recommendation to the Tenders Committee therefrom.

§47 provides for the following:

Offers submitted for tendering shall be examined sequentially according to the lowest price as regards to the following:

1st. All offers shall be examined technically so as to determine technical criteria according to supplies' specifications required through a schedule prepared for this purpose. All offers are subjected to the same criteria in terms of the obligation of tenderer to abide by the specification and terms of the offer.

2nd. Financial and technical competency of the bidder shall be taken into account as well as his capacity of fulfilling the tenders' obligations.

3rd. The technical committee shall recommend the awarding of tenders to the tenderer with the least prices provided all conditions and specifications of the offer are available.

§51 stipulates the following:

Before awarding a tender, the Tenders Committee shall take into account the efficiency and experience of the tenderer in furnishing needed supplies, his commercial reputation, advances or services supplied, spare parts, and maintenance

shops presented as well as his financial ability. The committee may also dismiss the offer if some or all these requirements were absent.

24. Does your legislation specify any general criteria or requirements, for instance related to the protection of environment of workers to be taken into account in the award of contracts (other than those covered by questions 12-15 above)?

There are no provisions in the legislation that require the procuring entities to take into account such criteria or requirements in the award of contracts. The only mention of such requirements is in the performance stage after the award of contracts, and in case of construction services only. The law requires contractors to ensure the safety of their workers and to protect the environment throughout the project's term.

25. Identify the measures in national legislation ensuring that awards are made in accordance with the evaluation criteria and essential requirements specified in the tender documentation.

Constructions:

§14 of the Government Constructions Regulation No. 71 for the year 1986 requires the Committee when considering the tenders to ensure the tenderer's capacity and financial competence as well as the *compliance of its tender with the requirements specified in the tender documents*.

Supplies:

§47(a) of the Tenders Instructions No. 1 for the year 1994 requires the Committee to *technically examine the tenders in accordance with the requirements specified in the tender documentation* on a special schedule prepared for this purpose.

E. Information

26. Article XIX:1 of the Agreement foresees the publication of laws, regulations, judicial decisions, administrative rulings of general application and procedures regarding government procurement. Please give the name of the publication(s) and indicate the means used for this purpose.

Generally, all laws and regulations in the Kingdom are published in the Official Gazette upon the completion of all constitutional procedures and Royal Assent. Moreover, government procurement requires government budget allocations for each tender. The General Budget Law which regulates such allocations is published in the Official Gazette as well. Despite that, the major reliance concerning government procurement procedures after providing necessary allocations and allowances is on the following 3 regulations:

- 1- Fiscal Regulations.
- 2- Supplies Regulation.
- 3- Government Constructions Regulation.

The Executive Authority upon approval of H.M. the King issues the aforementioned regulations pursuant to §§114, 120 of the Constitution, and published in the Official Gazette.

As for Instructions, they are issued pursuant to Regulations related to government procurement, they shall be published in the Official Gazette so as to allow public access, such as the Tendering Instructions No. 1 for the year 1994 and amendments thereof, and the Government Constructions Tendering Instructions No. 71 for the year 1987.

There are in general no legal instruments that regulate the publishing of Administrative or Ministerial Decisions. This is also related to government procurement. However, such Decisions are published in the Official Gazette if it so provided in these decisions. The problem arises where there is no such provision. In such case, the governmental entity may publish them in the manner they deem appropriate, like attaching them to a billboard or publishing them in daily local newspapers or through other media.

Judicial Decisions of the Court of Cassation and the High Court of Justice on the other hand are usually published in specialized such as the monthly journal of the Jordanian Bar Association and the specialized magazine issued by the Judicial Institution. Public daily newspapers often, but not regularly publish laws and regulations and instructions and decisions as well.

It is also noted that some governmental entities follow in disseminating legislation in the Kingdom a certain method, i.e. it collects all pieces of legislation related to their work and places them in books available for access of entities concerned with such legislation. For example, the General Supplies Directorate publishes manuals that contain relevant laws, regulations, instructions and decisions, as well as forms related to the mechanism of purchasing and administrating general supplies. This also applies to the Ministry of Public Constructions/ Directorate of Public Tenders concerning technical works and services.

27. Article IX:1 of the Agreement foresees the publication of invitations to participate for all cases of intended procurement by entities. Please give the name of the publication(s) and indicate the means to be used for this purpose.

Supplies:

According to the Supplies Regulation No. 32 for the year 1993:

§34 stipulates the following:

The Director General or the Secretary General, as the case may be, shall invite to a tender and shall set a price for the documents of the tender which shall be corresponding to the costs of preparing and printing the invitation and documents attached therewith, and to the value of the tender.

The Director General or the Secretary General may however, distribute the invitation for free to Arabic and Foreign commercial attaché, to companies not residing in the

Kingdom, to entities linked to the Government, and to entities to which delivering the invitation is deemed to be in the favor of the Government.

According to Tendering Instructions No. 1 for the year 1994:

§7 deals with the invitation for tenders:

1st. The Director General or the Secretary General shall publish the invitation with annual serial numbers in at least 3 local newspapers over more than one day, and in other media deemed appropriate.

2nd. The notice of the tender shall set forward an explanation of the serial number of the tender, the types of supplies, the final date for selling tenders invitation, the final date to submitting offers, the price of the invitation and any other matters the Director General or the Secretary General deems the disclosure of which necessary.

3rd. The Director General or the Secretary General may, upon request of more than one bidder, or if he deems necessary, extend the time period for submitting the tenders for an appropriate period of time if convinced of the seriousness of the tenderer's request, and shall publish the extension decision in the same manner used for publishing the invitation of the tender.

4th. The Director General or the Secretary General shall give a notice of any tender that is being re-invited.

Constructions

According to the Government Constructions Tendering Instructions No. 71 for the year 1987:

§8(a) Tenderers are invited to submit their offers by publishing a tender invitation notice once or more in Arabic in at least 2 local newspapers. However, a notice in English may be published in addition to Arabic when inviting contractors or foreign councils to participate in a tender.

§8(b) Special invitations' tenders may be transmitted through registered mail or delivered by hand to contractors or councils that the entrepreneur approves to invite to a tender upon recommendation of the Chairman of the Committee.

28. Please specify the types of information that notices of invitation to tender and tender documents should contain in your country and identify the relevant provisions in your legislation.

Supplies

The Instructions of the Tenders Procedures and Participation Conditions No. 1 for the year 1994 issued pursuant to §23 of the Supplies Regulation No. 32 for the year 1993

and amended by Instructions No. 3 for the year 1999 govern the tender invitations requirements.

§3 of these Instructions stipulates the following:

Any invitation for a tender shall include the following documentation:

- 1st. Entering invitation for the tender.
- 2nd. Specifications of required supplies (including forms, sketches, designs and other exhibitions).
- 3rd. General instructions and conditions of tenders.
- 4th. Specific conditions of tendering (if available).
- 5th. Requirements for qualifying bidders (when required).

§7(b) An invitation to a tender shall include an explanation of the tender's number, the types of supplies, the final date in which invitations of tenders and tender documents are sold, the final date in which offers are accepted, the value of the tender and any other matters the Director General or the Secretary General determines to disclose as he seems necessary.

Constructions and Technical Services

According to Government Constructions Tendering Instructions No. 71 for the year 1987:

§4/A. Documents of technical service tenders shall contain the following information and data in addition to any other requirements set by the entity in the tendering invitation.

- 1- General description of the project attached therewith a schedule of the requirements of the department and the purpose of the project's design as well as defining different stages of work in the project.
 - 2- Blueprints of lands and of buildings' projects, and general blueprints for other projects as well as eminent domain decisions and any other relevant requirements.
 - 3- Limits of the costs within which a contractor must work in terms of the costs for the project intended to be designed.
 - 4- Terms of contract and the contract's draft and the method of submitting tenders.
 - 5- Means of defining the time limits of execution of work, consideration and the amount of required bonds.
- 6th. Documents of tenders shall contain the following data and requirements in addition to any other requirements set by the entity in the tendering invitation.
- 1- Description of the project: provided it contains basic information of the nature, size and location of the project for any type of the following required works:
 - Buildings Projects: defining the number and size of the buildings and floors or any other annexed complexes, and also the works and services of the site.

- Roads Projects: defining the type, length, width, number of lines, starting and ending points of the road as well as sewerage works, bridges and intersections.
 - Other Projects: defining information related to the project according to its nature.
- 2- Instructions of the contract: including guidelines and conditions by which contractors and tenderers abide relating to submission of tenders, the amount of bid bonds, basic information about the contractor and qualification thereof, information and documents or other data to be attached to the offer.
 - 3- General conditions of the contracting contract: those are the conditions specified in the construction contract's text issued by the Ministry and by which all departments and councils shall abide to.
 - 4- Specific conditions of the construction contract: the conditions complementary to the general conditions and any amendments thereof, and any other additional conditions required by the contract including conditions related to financing, the mechanism of execution and stages of the project as well as the right of the entity to divide it.
 - 5- Blueprints: they are the detailed blueprints necessary to execute a project as well as the blueprints of the site and land and the regulatory blueprints.
 - 6- Technical specification and schedules of quantities and prices: including the general and specific technical specifications related to a project, and schedules of quantities and prices titled as parts of infrastructure, site, body and complementary occupancy.
 - 7- Contract forms and bonds.
 - 8- Any other annexes to the tenders' documents.

§7/A. A tender invitation shall contain the following:

- 1- Subject matter of the tender, site map with a brief description of the project.
- 2- The price of tender documents.
- 3- The categories of contractors allowed to participate in construction tenders, or the categories and qualifications of the consultants permitted to participate in technical services tenders as the case may be.
- 4- The time limits at which the contractor is allowed to buy a copy of the tender, and the exact date and hour for submitting the offers and the place of submission.
- 5- The amount and sources of finance and its source for financed projects as well.

29. Article IX:1 of the Agreement foresees the publication of the permanent lists of qualified suppliers by entities maintaining such lists. Please give the name of the publication(s) and indicate the means used for this purpose.

As we mentioned before, procuring entities in Jordan do not maintain permanent lists of qualified suppliers. The closest thing to such lists is the classification schedules used for construction services.

Constructions:

The Government Constructions Regulation No 71 for the year 1986 regulates the publication of such lists.

§23 provides that the Minister of Public Constructions shall issue schedules pertaining to the classification of constructions' contractors and their specialties and publish these schedules in the Official Gazette. The Minister may amend such schedules by adding, omitting or by amending the classification of the contractors.

In addition to publishing these schedules in the Official Gazette the Constructions Contractors Association publishes special publications on contractor's classification. The Engineers' Association publishes special publications on consultants' classification as well.

Supplies:

As for supplies §5 of the Tenders' Instructions No. 1 for the year 1994 permits the Minister or the General Secretary to identify the basis and rules necessary for qualifying the suppliers if they deem necessary. Yet up to the moment there is no official classification for suppliers.

Nonetheless, §18 requires suppliers who participate in a tender to submit a vocational license that demonstrates that such supplier is entitled to manufacture, sell, supply, or otherwise trade in the required supplies. Moreover, suppliers must submit a commercial register, which demonstrates that the supplier meets all the conditions required by the Ministry of Industry and Trade.

In addition, §24 requires a supplier to provide the entity, upon request, with information and documents pertaining to its experience, technical and financial capability, and any other requirements that indicate its ability to fulfil its obligations under the tender.

30. Article XVIII:1 of the Agreement foresees the publication of details of contract award notices by entities. Please give the name of the publication(s) and indicate the means to be used for this purpose.

Supplies:

§61 of the Supplies Instructions No. 1 for the year 1994 requires the Secretariat of the Tenders' Committee to publish the selected suppliers' names by posting them on a special bulletin board prepared for this purpose or by any other means as specified by

the Minister or the General Secretary for four working days to enable suppliers to challenge such decision. However, the Tenders' Committee may reduce such period to 48 hours in exceptional circumstances.

The only method used by the government is posting such notices on a board located in the entity's location.

Constructions:

§15(b) of the Government Constructions Tenders Instructions No. 71 for the year 1987 provides that the Committee shall notify the entity with the award notices, which on its part shall notify it to the selected supplier.

There is no publication requirement under these Instructions.

31. Please specify the types of information that notices of contract awards should contain in your country and identify the relevant provisions in your legislation.

Supplies:

There are no provisions that regulate this issue. However, The Public Supplies Department issues certain forms, which became some sort of a de facto requirements followed by most entities. These forms include:

One. Preliminary Contract Award Summary Notice.

Includes the following information: the tender's number, supplier's name and address, a schedule of the required supplies which shows the item's number, name, model, unit, quantity, unit price, total price, delivery period, country of origin, manufacturer, and reason for awarding. It also includes the signature of the technical committee members and the Tenders Committee's members.

Two. Contract Award Decision Notice (Central Tenders Committee).

Includes the following: the tender's number, the number of tenders submitted, the award decision, the total amount, itemization of the procured supplies with the name of each selected supplier for each item, place of delivery, the selected supplier obligations, e.g., bonds, taxes, method of payment, and the Committee's members signatures.

Three. Contract Award Decision Notice (Special Tenders Committee).

Same as (b)

Four. Contract Award Notice.

Includes the following: selected supplier's name and address, award decision number and tender number, total amount, instructions to the supplier to be present at the entity's location to pay the fees within 7 days of receipt of this notice, a schedule of fees and taxes due as a result of the award decision.

Five. Purchase Order.

Includes the following: order's number, supplier's name and address, a schedule of the required items and their prices, a signed pledge by the supplier to perform its obligations under the Order.

32. Please specify the relevant provisions in the legislation enabling, as foreseen in Article XVIII:2, the provision of information to other Parties and unsuccessful tenderers regarding the reasons why a tender was not selected.

Supplies:

There is nothing in the Tenders' Procedures and Participation Conditions Instructions No. 1 for the year 1994 that requires the Committee to provide such information.

Nevertheless, §47 requires the Committee to start the selection process with the tender with the lowest price then move to the next lowest one until it makes its decision. It requires the Committee to identify the reasons for dismissing the tender with the lowest price.

Accordingly, the only instance where the Committee is obliged to identify the reasons for dismissing any tender is in the case of the tenders with the lowest price.

Constructions:

The Government Constructions Regulation and the instructions issued pursuant to this Regulation do not regulate this matter. The instructions only specify the circumstances where the Committee shall dismiss a tender and the circumstances where it may dismiss a tender. Nothing in these instructions requires the Committee to identify the reasons for dismissing any tender or to enable unsuccessful tenderers to look at the reasons of dismissal.

5th. Bid Challenge Procedures

33. Please provide information on existing challenge procedures.

34. Are there specific provisions enabling access of foreign suppliers to challenge procedures?

35. To the extent that this information does not fully respond to the following points, please provide the supplementary information necessary to do do.

(i) The time-limit to launch a complaint contained in the Agreement is "not less than 10 days." What are the limits in domestic legislation?

As a general rule, contract award decisions are considered "administrative decisions," therefore, they are subject to the general rules applicable to administrative decisions, and they fall within the jurisdiction of the High Court of Justice.

The High Court of Justice Law No. 12 for the year 1992 regulates the challenge procedures for all administrative decisions. §9 specifies the Court's jurisdiction.

In case of contract award decisions, a case may be filed against the entity that issued the award decision. Administrative decisions can only be challenged for one or more of the following basis:

- One. The issuing entity's lack of jurisdiction.
- Two. Violation of the Constitution, Laws, Regulations or misapplication or misinterpretation of such.
- Three. If the decision was defective or the procedures of issuing the decisions were effective.
- Four. Arbitrary and Capricious decisions.

A case must be filed within 60 days of the date of notification. However, before challenging the decision in the Court, the plaintiff must exhaust all the administrative challenging methods available. §18 of the Government Constructions Regulation required the Committee to refer its decision to the entity authorized to certify such decision within 7 days of the date of issuing the decision. This entity shall certify the decision within 30 days from the date of receipt. A tenderer who is willing to challenge an award decision must challenge that decision at the issuing entity prior to the certification of that decision.

Supplies:

The Tenders' Procedures and Participation Conditions Instructions No. 1 for the year 1994 sets out the challenge procedures available under these Instructions.

§61 required the Secretariat of the Committee to post the award decision on a bulletin board prepared specially for this purpose for four working days so as to enable unsuccessful tenderers to challenge such decision. This period can be reduced to 48 hours in exceptional circumstances.

§62 states that the Committee shall examine the challenges and issue its decision thereupon then refers the decision to the entity authorized to certify it. This entity on its part must certify the decision within 15 days from the date of receipt or it shall be considered certified by virtue of the law.(§21 of the Supplies' Regulation).

Constructions:

The Government Constructions Tenders' Instructions No. 71 for the year 1987 does not provide any challenge procedures. Nonetheless, it does not prohibit such challenge.

We can conclude from §15 of these Instructions that an unsuccessful tenderer may challenge an award decision in the period between the issuance of the decision and the certification of this decision.