

## **UNOFFICIAL TRANSLATION**

**In accordance with the provisions of Section (14), Paragraph (1) of the Coalition Provisional Authority Order No. (87) 2004, We have issued the following regulations:**

No (1) 2007

Regulations for the Execution of Governmental Contracts

Article (1): These instructions aim to form the general principles for the execution of the general contracts that the governmental departments and the public sector agree upon with Iraqi and non-Iraqi sides. In addition, to point out the execution methods of the general tenders as well as the supply and consultant contracts. Further, to designate specialized authorized units to open the bids, and determine to whom the contract is awarded. The procedures of disapproving its decision with the administrative court are stated in (Second/B/1) Section (2) of the order No. (87) -2004.

The above contracts procedures are to be characterized with transparency, integrity, and fairness in competition, in addition to the other related provisions.

Article (2): The provisions of these instructions cover all the contracts that are signed by the governmental departments represented by their ministries, the departments that are not related to a ministry, the regions and governorates, with the Iraqi and non-Iraqi sides in order to execute the state general projects tenders, or the consultant contracts, or to supply them with different committees and services.

Article (3): First – The contractual sides should complete the following requirements before preparing the bids documents:

- A) A brief study regarding the project estimated cost or the required work in order to make use of it as a measure when analyzing the bids and knocking down of the contracts.
- B) The specialized units confirm the availability of allocated amounts within the state general budget for the execution of the contract. It should be pointed out within the tender documents to the special classification of the project within the plan.
- C) There must be a previous approval about the technical economic feasibility study concerning the projects and the works approval by

the authorized sides, when discussing the project in order to enter it within the plan in accordance with the instructions No.(1) – 1984 and its amendments issued by the abolished planning council.

- D) All the conditions, specifications, quantity schedules, maps and other aspects that are necessary for the execution must all be completely, prepared in order to avoid any additions during the execution of the projects. Also, follow up the provisions stated in the state general budget and any related instructions concerning the execution of the projects on the basis of complete project (Turn key), taking into consideration the provisions of article (14) of this instructions regarding the execution of the different contracts.
- E) When executing the public work duties, there must be an approval of the specialized sides about the site of the project and the land for the project or for the works must have been designated.
- F) When executing the public works tenders, all legal and financial problems on the work site, if any, should have been eliminated.
- G) The site must be prepared to start with the work in all or part according to the time program assigned for the work.
- H) Taking all the necessary actions that may be needed according to the nature of the required project.

Second- The value of one collection of general contract documents is estimated by a relative price in accordance with its importance and in seriously participating in it. And a contractor who has previously joined a repeated tender has the right to submit the previous purchasing receipt accompanied with the tender documents.

Third: The advertisement should be issued for three times in at least three wide spread official newspapers, on condition that the newspaper issued by the Ministry of Finance must be one of these papers.

In addition, the advertisement regarding the tender must also be shown on the ministry electronic site and on its advertisement board, and also with the commercial attaches in the Iraqi Embassies regarding the general advertisement tenders.

Article (4): One of the following procedures must be adopted when executing the general contracts in their different sorts:

First- General Tenders: This is conducted by an advertised invitation to all who have the desire to participate in the execution of the projects whose values are not less than ID (50,000,000) (Fifty Million Iraqi Dinner) or any other amount determined by the concerned sides. The procedures that are to be taken into consideration when a tender is to be given are the publicity, competition basis and in a justified way as far as possible.

Second- Limited Tenders: This is conducted by an advertised invitation to all who have the desire and have the qualifications to participate in the execution of the contracts which values are not less than ID( 50,000,000) (Fifty Million Iraqi Dinner) upon two stages:

First stage: It includes the presentation of the special documents concerning the qualified participants in the tender. These documents are evaluated so as to choose the qualified of contractors to participate in the second stage.

Second stage: an invitation for not less than six qualified contractors to participate in the tender in order to evaluate their bids.

Third- Direct invitation: This is conducted through an invitation for not less than (3) contractor and/or companies and/or other agencies that have the technical and financial capability for executing the contracts. This is to be carried on after securing the proper approval whenever it is necessary, when there are certain reasons for that as secrecy in the execution or speed in completion or/ for security reasons, or any other reasons that leads to follow up this method, taking into consideration the instructions and directions that will be issued by the Ministry of Planning and Development Corporation.

Fourth- The single tender method: This is conducted by an invitation to one bidder for the monopolized contracts that are restricted for the supply or executing works, or special maintenance, for the works that have been contracted for them, after securing the fundamental approvals.

Fifth- Purchasing committees: This method is employed as regards the commodities and services whose values are less then ID

(50,000,000) (Fifty Million Iraq Dinars) or any other amount appointed in the current budget.

- The above mentioned methods for each of the national and the international contracts are confirmed according to the nature and importance of the contract. A priority is given to the national tenders at 10% rate when they are committed in the international tenders, taking into consideration the special instructions of the execution of the state general budget.

Article (5):

First: The following procedures are to followed up when advertising for the bidding of the general contracts.

- A) Title (name) of the tender, its number, address and the classification recorded in the budget.
- B) A brief description of the project, with indicating the details of the required commodities and services.
- C) The basic principles of the contract that is going to be signed and how to pay the salaries and the amount of money that is agreed upon later on, as the percentages, the fixed amounts, the paid up amounts or any other ways out of the recognized methods.
- D) The advertisement period for the tender or for the direct invitation is as shown below:
  - 1- A period of (15-60) days regarding the supply contracts and consultant services according to the importance of the contract
  - 2- A period of (28-60) days for the general works contracts to be confirmed according to the contract importance.
- E) Clarify the data and the place of the submitting the bids, and the expiration period, the place and data of selling the tender documents.
- F) Specify government ownership of the designs, maps and specifications prepared by the party to which admits invitation was headed directly when contracting with it, with the exception of the private cases at the approval of the relevant minister. These parties must prevent disclosure of any information regarding the nature of the contract, except

after getting a private authorization for that from the relevant Ministry.

- G) Asking the contractor to join their tender with similar works if they have any.
- H) Asking the contractors to clarify their technical staff capabilities and the specialized full-time employees and the past-time ones during the execution of the different projects.
- I) Asking these contractors to submit a written program for the required work.
- J) The bidding closing date and the opening date of the bids.
- K) Determine the meeting date of the special conference regarding the questionnaire of participants in the bid, which must be at a date not less than (7) days of the closing date of the tender.
- L) The purchase price for the tender documents is non-refundable.
- M) The grade and the classification of the required tender as related to the public works project contracts that are to be executed. The foundation certificate and the professional practice certificate as regards the companies and the officially licensed offices.
- N) The cost price for the supply contracts is determined in the light of the place of arrival (CF, CIP, FOB, etc). Taking into consideration the instructions of the high authorities and the contractual basis that relates to the subject.
- O) Determining the delay penalties in the light of the contractual provisions (shipping delaying penalties, handing over penalties).
- P) The capability of the owner of the work to increase or to decrease the supplied materials, commodities and services.
- Q) The responsible authority is not obligated to accept the lowest price.
- R) Instructions to the contractor must be indicated in the tender documentation.
- S) Any other information or documents required according to the nature of the work to be executed or the materials to be supplied or the consultants must also be included.

Second- Re-advertisement for the tender is to be repeated in the following circumstances:

- 1- If the bids are not submitted within the tender-advertised period or in case where a single bid submitted during such period.
- 2- If the amount given for the best bid exceeds the estimated cost of the project or the work planned to be executed.

Third- The following procedures are to be followed up in case of re-advertisement:

- 1-Get the approval of the concerned Minister or the chief of the agency which is not connected to any Ministry or by any authorized person while informing the Ministry of Planning and Development Cooperation of such.
- 2- Inform the contractors who have participated in the past bid of such.
- 3-The same serial number of the past bid will be adopted for the new tender and that is to be pointed out in the new advertisement.
- 4- Inform the concerned sides as to the re-advertisement.
- 5- In case of re-advertisement for the 2<sup>nd</sup> time, one sole bid is acceptable upon the following basis:
  - A- The cost amount of the tender must be within the cost as mentioned in the plan.
  - B- It must be consistent with the technical specifications and the required provisions as mentioned in the tender advertisement.
- 6- In case that the price of the best bid after the second advertisement happened to be more than the cost mentioned within the plan, then the Ministry of Planning and Development Cooperation should be informed in order that it may postpone the execution of the project to the next year or make use of the allocated amounts for the execution of other projects, or study the possibility to increase the cost.

Fourth- The provisions of the above mentioned paragraphs of this article are applicable to the civil contract tenders (construction), the engineering, the electrical, the mechanical, the supplies and the service consultant tenders.

Article (6): The time period of the contract and its extension.

First- The contractor must execute all of the contract provisions during the period assigned in the contract. This period begins as of the date of the starting the work or as of the date of signing the contract or any other period designated within the contract. The following reasons must be followed up when extending the period of the contract.

A- If any increase or changes take place in the works a related to different tenders, or about the quantities required to be supplied whether it is in amount or quality which have an effect in the execution of the agreed upon program as it becomes impossible to complete it within the period agreed upon.

B- If the delay in the execution of the contract is caused by reasons or procedures related to the contracted side, or any other legally authorized side or to any reasons related to other contractors being employed by the contracted side.

C- If any exceptional cases happened after being contracted, where by the contractor has nothing to do with it, and it was not possible to know it before hand or to avoid it, and which causes a delay in the completion of the work or the supply of the required material in accordance with the contract.

Second- For the application of this article, it is required that the contractor submit a written request addressed to the contracted side or to an authorized side during a (15) days period for the supply contracts and (30) day for the public works, and consultants contracts, starting from the date that causes the contractor to submit this demand for extending the period of the contract. He must give full and exact explanation for any case that he asks for such an extension.

The contracted side must look into this demand during a period not exceeding (30) days as regards the supply contracts, and (60) days as regards to public works and consultant contracts. This period starts from the date of receiving the contractors demand, and no other demands are accepted after the issuance of the preliminary receiving certificate, which is mentioned in the contract provisions.

Third- Its not permitted in any case that the approved extensional period granted to the contractors by the contracted side to exceed a quarter of the agreed upon contracted period or any other period stipulated in the law of the general budget. In case there is an exceeding of this period, then a fast execution committee is

formed for the execution of the contract which includes the defaulted contractor and representatives of the contracted side for the purpose of clearing up the accounts between the two sides, with imposing upon the defaulted contractor the rate of administrative burden which accounts to 20%, or withdraw the work and executes it on the account of the defaulted side. In all cases, if the account of the defaulted contractor is found to be, indebted then he is asked for the difference of the spent amounts for executing contract, while if his account a credit then nothing is paid back to him.

Article (7):

First- The concerned directorate, after signing the contract and receiving the guarantee performance bond, will take the necessary measures to open an irrevocable letter of credit through one of the Iraqi reliable banks in accordance with the special banking certificate, where by the certificate should include all the financial provisions related to the supply process and the other conditions that are agreed upon between the two contracted sides in accordance with the unified international practices regarding the letters of credit.

Second- The process of Opening a letter of credit needs to abide by the following:

- A) Fixing the duration of the letter of credit in accordance with the contract terms.
- B) It is not permitted make any changes or extensions regarding the irrevocable letter of credit, unless offer securing the agreement of both contracted parties.
- C) It is not permitted to abolish the irrevocable letter of credit unless that is done by a written demand through the client himself on condition that the beneficiary (the seller) agrees with that, or it is done by a demand from the correspondent bank to abolish the letter of credit based on the beneficiary demand after taking into consideration the approval of the purchaser (the one who asked to open the letter of credit).
- D) The types of trade sells (FOB, CIT, C&F, ExWorks, etc..) must be according to the contract provisions.
- E) In case there is an advance payment within the irrevocable credit, then the irrevocable letter of credit should be received with same amount and similar currency, which must cover the advanced payment on condition that the letter of credit

have been issued through a reliable bank or through an Iraqi reliable bank.

- F) In case of opening a confirmed letter of credit on the beneficiaries demand (the seller) where by it is required that the beneficiary will bear the confirmation charges.
- G) All the expenses and interests arises upon the opening an irrevocable letter of credit inside the country are born by the seller (the one who asked to open the letter of credit). And all expenses and interests arises from opening the letter of credit (out side the country) will be born by the seller (the beneficiary).
- H) The bond must cover all risks.

Third- The import license for the materials or the equipments that are to be imported must be in accordance with the contract provisions.

Fourth- The concerned directories must follow up the shipping process, and complete the testing and receiving processes with the necessity of preparing the basic needs for the unloading and storage.

Fifth- The necessity to complete the procedures of customs clearing up and receive the materials once it arrived.

Sixth- The necessity to complete the procedures of the customs clearing up and have the goods existed out after providing the customs with the detailed information regarding the shipped goods for the purpose of receiving them in the correct manner.

Seventh- Make sure that the unloading and the initial receiving of the received materials and equipments be no more than (48) hours from the date of their arrival to the stores.

Eighth- It is necessary to follow up the procedures of the completion of the engineering exam for the received materials, and the issuance of the examination and acceptance certificate within a reasonable period as of the material receiving date.

#### Article (8):

First- An administrative court is to be formed by decision of the Minister of Planning and Development Cooperation. The court will be specialized as to government contracts. It will be headed by a judge named by the Supreme Council of Judges with member representing the Ministry Of Planning And Development Cooperation whose grade should not less than a director general

and a representative of the Iraqi Contractors Union and a secretary whose title is not less than a superintendent.

The court must issue its decisions to resolve disputes during a period not exceeding 120 days as of the date of registering the complaint therewith.

Second- A) A committee is to be formed in each Ministry or any other agency that is not related to any Ministry including the governorates. Its members are specialist experienced groups and it is connected with the Minister. Its job is to give decisions regarding the protests and the complaints.

B) The duty of this committee is to study the protests and the complaints that are submitted to the concerned Minister office, within (7) days as of the date of the issues of the transferring letter and to give its recommendation to the concerned Minister within a period not exceeding (15) days as of the date of registering the complaints with the Ministers office. The concerned Minister must give his decision about the case within a week as of the date of receiving the report of the committee.

Third - Submitters of bids have the right to protest before the court as to the transferring the contracts issued by the bids analysis committee that is formed within the governmental directorate, during a 15 days period as of the date issuance of the concerned Ministries decision regarding case of the compliant.

Fourth- The court decisions are subject to be appealed for with the Court of Appeal /Baghdad region/ Karkh, as if it is a Court of Cassation.

Fifth- The duties adhered to the court are practiced by it in accordance with the order No. (87) – 2004 which is issued by the CPA with regards to solving the disputes, the court will be guided by the civil code of procedure No. (83) – 1969 in what ever case that is not stipulated in these instructions.

Sixth- The Contract General Directorate within a Ministry takes into consideration the following up of the decisions issued by the court in lining up with the concerned parties.

Article (9): The procurement office in each Ministry as they are stipulated in section (2/1/1) of the order No. (87) – 2004 and being created in each Ministry or other agencies not related to any Ministry take over the process of following up the execution procedures of the

general contracts that are being contracted for with these parties. These departments practice their duties according to the contract law issued by CPA No. (87) – 2004. They must coordinate work with the general inspector directorate of the concerned Ministry, or that of the region or the appointed governorates.

They must follow up the adopted measures of the Governmental Contract Directorate in the Ministry of Planning and Development Cooperation as regards these cases.

Article (10): First- All the contracted parties or any other persons who have participated in the contract process are prohibited from revealing any information to any person who have not any relation with the contractual process.

Second- The contractual parties must abide by the confined duties as shown in the CPA order, in addition to the other job obligation stipulated by the laws. Those failing to comply will bear all legal consequences.

Third- The contractors responsibilities include falling in the related documents that are prepared by the concerned parties, with the special information regarding their financial beneficiaries before practicing the duties adhered to them.

Article (11): The formation of the committee for opening and analyzing the bids and their duties:

First- A committee is to formed in each Ministry or any agency not related to a Ministry, for the opening the bids. This committee is to be headed by an employee whose grade is not less than a director general, with numbers representing the following directorates (Legal, Finance, the contractual party), in addition to an employee with an engineer title and a secretary whose job title is not less than superintendent with two reserve members.

Second- It is permissible to form a bids-opening committee with the directorate general that are related to a Ministry or the other agencies that are not related to a Ministry. Each of these committees is formed as it is stipulated in Paragraph first of this Article.

Third- A contract committee shall be formed in each region or governorate, headed by the chief of the region or the governor or who ever be may designate as his representative. Its members are the heads of the concerned directorates including the auditing department and a secretary whose job title is not less than a

superintendent. Its duty is to open the bids that are advertised within the region or the governorate.

Fourth- A bid-opening committees may be formed within the departments of any region or governorate. Any of such committees is to be formed on similar basis as of that mentioned in Paragraph third of this Article.

Fifth- The bid-opening committees must follow the following procedures when carrying on their duties:

A) The bids are to be kept in the special box of the concerned department backed by a receipt prepared in two copies. One copy is handed over to the contractor the second copy is kept with concerned department. In addition to that the following information are to be registered in special register;

- 1- The name of the tender and its number as it is mentioned in its documents.
- 2- The name of the contractor and his official representative with his full address inside Iraq and / or outside Iraq.
- 3- The name of the officially authorized bearer of the bid, his address and signature.
- 4- The time and date of submitting the bid.
- 5- The additional attachments being send with the bid if any.
- 6- The bids may be sent by registered letters within a period enough that they are received before the closing date of the tender. The secretary of the committee have to register these bids as soon as he receives them in accordance with Para (A) of this clause.

B) The bids opening committee must meet directly after the ending of the identified closing date of the tender or at the beginning of the official starting hour of the next day when a necessity arises for that. The committee starts the opening of the bids publicly with the attendance of the contractors representatives, in a previously specified place. This is to be recorded in official minutes wherein the following should be specified.

- 1- To make sure of rightness of the stamps over the bids covers.

- 2- Show up in the committees official report the bids that are not accompanied by the primary paid-in-advance bond amounts.
- 3- Show up in the committees official report the bids that are based upon the reduction of a certain percentage rate or a fixed amount, out of the other bids that are being submitted for this bid.
- 4- Opening the alternative bids being submitted for technical and financial reasons over the past ones and banishing the old ones, if these bids are being presented during the advertisement period of the tender, and to turn the old ones back to thier owners.
- 5- Fixing the number of the pages of which each respective bid consists
- 6- Put a clear mark around each scratch, erase, addition or correction that appeared in the quantities schedule priced, with the signature of the chief and members of the committee.
- 7- Put a horizontal line beside each paragraph, which is not priced within the priced quantity schedule with the signature of the chief and the members of the committee.
- 8- Make sure the person who handed over the bid has signed all the pages of the priced quantity schedule and any attachments if any.
- 9- It is not allowed to take into consideration any of the bids that are presenting to the contracting parties through the inter-net unless these bids are consolidated and being through registered post letters in accordance with the agreed upon procedures of these instructions with the covering of all required documents to be committed in the bid. Other wise such bids will be disregarded.
- 10- It must be pointed out in the report the remarks or the preservations that are shown in the bid and the attachments.
- 11- Audit the samples being presented with the bids and fixed their general features and their trade marks if any.

- 12- Mark all the pages of the bid with the committees stamp and mark all the priced quantity schedule with the signature of all committee members.
  - 13- Point out clearly to any information or details that are not given with the bid, and that they must have been given in accordance with tender instructions.
- C- After the finishing up with the opening of all bids as specified within this instructions, the chief of the committee will carry out the following:
- 1- Show the contractors prices on the advertisement board as they are mentioned in their bids, emphasizing that the declared prices are subject to audit and analysis.
  - 2- The committee report is prepared and signed by its chairman, its members and the representatives of the contractors with clarifying any notices about the committees work if any.
- D- The bids and their attachments are sent to the auditing and the bids analyzing committee through a special report.
- Sixth- A committee or more is to be formed in each directorate with its needs for the studying and analyzing the technical and financial aspects of the bid. A committee is headed by a specialized and experienced employee whose job title should not be less than a director or chief engineer. The member of this committee should be a specialized technician. The committees have the right to ask for help of other specialized parties who are well experienced with the nature of the tender. The chief of the directorate must change the whole members of the committee alternatively each six months, or as of the nature of the required work within the directorate. The committees recommendations are subject to the approval of the concerned Minister or by whom who is authorized to do so.
- Seventh- The committee of auditing, analyzing and giving of the tenders must follow the following procedures:
- A-Refuse the tenders that are not accompanied by the primary required paid in advance bond amount.
  - B-Refuse the tenders that are based on the reduction of a certain percentage or fixed amount out of any other submitted tenders in this bidding, and to

- refuse any reduction in the price to be submitted after the closing date of the tender.
- C-The process of analyzing the tenders must be carried out secretly and as quickly as possible. The final report must be presented to the responsible authority to award the tender before at least (30) days starting as of the ending date of the expiring period of the tenders.
- D-It is not permissible to send the tenders outside Iraq to analyze them, but the consultants who are existing outside Iraq must send their representatives to Iraq to carry on the required analysis, unless the nature of the work requires otherwise, taking into consideration the approval of the concerned Minister or the high authorities in accordance with the approved authorization. The original document may be kept by the responsible authority.
- E-In case that there are certain deductions with certain rates or fixed amounts, the reserve amounts being shown within the quantitative schedule must be offset as to the contractors' prices for the purpose of comparison and analysis.
- F-The prices of all tenders must be calculated for on a uniform basis. This must be stipulated within the bidding documents.
- G-The price that is taken into consideration is that which is mentioned in writing when it differs with that which is written in numerals and also the price of a unit is to be taken into consideration in case of error in the bid.
- H-If a certain item or more are not priced within the submitted contract then the cost of this item or items will none the less be considered within the total cost of the bid.
- I-The following notes are followed to appoint the best tenders.
- 1- Rejecting that bid which is at rate less than 25% of the estimated cost or more.

- 2-Rejecting a bid that does not have the required technical specifications, even if it was the lower in cost as regards other tenders.
  - 3-Rejecting an inefficient contractor in accordance with experience of the state with him for previous contracts that he had carried on.
  - 4-The financial efficiency through submitting final accounts approved by a charter accountant for the last year.
  - 5-The volume of financial obligation during the year.
  - 6-The ability to confine by the completion and handing over.
  - 7-An acceptable register of performing past works.
  - 8-The availability of technical and skillfulness capabilities for the execution of the contract (Engineering and Technical Staff and Special Equipment).
  - 9-A list of carried out works or similar works if any.
- J-According to the tenders regulations, a priority rate is given to the tender offer for weighing the finance and technical aspects of the tender. These rates should be confined at the time of preparing the tender documents.
- K- In case of any disagreement occurs in the ideas of those who are analyzing the tenders, then this difference in the opinions should be shown in the first report.
- L- Give the nominated contractor to be given the work and the basis taken into consideration by the committee to support this nomination.
- M- Confirm that the prices of the items within the nominated tender are in balance and confirm with the estimated cost of the project.
- N- It is prohibited to negotiate the prices with the nominees.
- O- The analysis committees may supplement the bid for short-listed contractors, as to missing data of minor importance.

P- The contractual parties may release the amounts paid in advance before the ending of the duration of the bidding or before taking the decisions of giving the tender to a contractor, and that is done upon the demand of the contractors who do not expect the tender to be given to them, but in all cases such amounts are kept for the first three nominated contractors.

Eight- A) The giving of the tender to the contractor is considered valid as of the date of the approval of the concerned Minister, or the approval of the chief of the agency that is not connected with a Ministry or by the chief of the region or the governor who ever is authorized.

B) Taking into consideration the procedures and methods being mentioned within the general contract execution regulations issued by the Council of Ministers regarding the execution of the public works, the consultants contracts and the supplies contracts in accordance with the instructions of the Ministerial councils and the special instructions regarding the state general budget.

Article (12): Legal bonds.

A) The advance bond amount that are submitted by the participants in the tenders are not accepted unless they take the form of a letter of credit, certified cheque, a guaranteed bank or security loan bonds that are issued by the government of Iraq.

B) The primary bond amounts are limited by a fixed rate in between (1.5%) and (3%) out of the estimated cost for the contracts of the supplies of the goods and services for and the general contracts in their different forms taking into consideration in following up this limitation the importance of the work. It is not permitted to limit the amounts on the basis of a hundred rate percentage or the value of the bid. That this rate should be reduced with the increased price of the bid amount.

C) The paid in advance bond amounts guarantee the perfect execution at rate of 5% (five percent) of the contract price to be added to it the general reserve amount of the contract. This amount is not to be released until the issuance of the final approval certificate and the clearance of the final accounts.

Second- Delay Penalties:

The maximum limit for the delay penalties is limited by the executionary party at a rate of 10% (ten percent) of the contract or the bid value. The executionary party must fix this rate within the contractual provisions, the bid documents, and the instructions given to the bids submitters. The executionary party, must take the necessary measures to hasten the completion of the work before reaching to this limit. These measures include the formation of a committee where by the contractor is represented in it to take the measures of the spending process for the remaining works of the contract, or the work may be withdrawn in accordance with contract provisions.

The following equation is to be followed when calculating the penalty:

$$\frac{\text{The amount of the contract}}{\text{The period of execution}} * 10\%$$

Third- The contracted party with a rationalized decision must impose the delay penalties upon the contractor or withdraw the work from him.

Fourth- The administrative burdens rate is limited not to exceed 20% (twenty percent) of the actual execution cost of the concerned obligation. This rate is adopted when the contracted party takes over by itself or through another party the execution of the contractors obligations. The contracted party must fix that within the contractual provisions and the tender documents.

Article (13): All the Ministries, the agencies that are not connected with a Ministry, the regions and the governorates must comply with the following:

First- All the general public works contracts must include an obligatory rules within the contract provisions for civil, electrical mechanical and chemical engineering works. These rules which are being adopted by the Ministry of Planning and Development Cooperation and that are followed up inside Iraq.

Second- Take into consideration the provisions of the concerned valid laws that are related to the general contracts, and to the instructions of the high authorities regarding them.

Third- All the contracts are to the written in Arabic, Kurdish and English language whenever that is convenient. The Arabic text shall be reliable when there is a different in the explanation.

Article (14): First- All the Ministers and the agencies that not connected to a Ministry must force all the contractual parties related to them to organize their contractual plans with the Directorate General of Governmental Contracts within the Ministry of Planning and Development Cooperation and supply it with the required information.

Second- All the Ministries and the agencies not related to a Ministry must abide by the investment budgets information that are issued by the Ministry of planning and development cooperation or any other instructions issued by the Ministry of finance as regards the financial authorities for the general contracts of the governmental directorates and the public sector, along the mandatory power authorized to the concerned parties, when executing the projects that are included within the budget.

Article (15): The contracted party must not carry on any alterations with the contract after is being signed which may lead to an increase in its price, except when a necessity arises for that and for acceptable reasons. This is to be done then upon the approval of the contracts high committee and by taking into consideration the procedures of the contracts general provisions for the civil engineering, electrical, mechanical and chemical works issued by the Ministry of planning and development cooperation.

Article (16): The government contracts directorate general within a Ministry takes the following:

First- Practicing the authorities given to it in accordance with the general contracts law which is issued by the CPA order No. (27) 2004

Second- The issuance of the regulations that organizes the contractual relations between the state and the those who contracted with it, and the resultant conclusion of the contractors violation of their contractual duties.

Third- The issuance of the general contract provisions and the supply of goods and services provisions.

Fourth- Evaluating the duties and the procedures of the bids opening committee and bid analysis committee within the state directories and change them whenever there is a need for such.

Fifth- Answering the questionnaires of all the state directorate and other contracted parties, and any other cases are related to its duties.

Article (17): The provisions of this regulations do not apply on the state projects and the general contracts that are financed by the international and regional organizations and which are excluded with special agreements or protocols that are concluded with the Iraqi parties  
It is possible to benefit of these instructions for such cases that are mentioned within the agreements or the protocols and which does not contradict with the adopted rules of these organizations

Article (18): The instructions of the execution, the carrying up and the national development plans works for the year 1988, together with bidding instructions (purchase and supply) of the state directorates and the public social sector 2001 become invalid (as of the execution date of this instructions).

**{TRANSLATOR'S NOTE:**

***There is no Article 19 in the original Arabic version for whatever reason.***

Article (20): As to disputes, the general contracts are subject to Iraqi laws and Iraqi law courts according to applicable procedures.

Article (21): These instructions are carried out as of the date of its issuance with the Iraqi Gazette.

***[Signed]***

**Ali Ghalib Baban**

**Minster of**

**Planning and Development Cooperation Ministry**