Interpretation of the Construction Law of the People's Republic of China  
  
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The Construction Law of the People's Republic of 一九九七年十一月一日China was passed by the Standing Committee of the Eighth National People's Congress, the highest legislative organ of China. Of the 127 members of the Standing Committee who attended the meeting at that time, 123 voted in favour of the law, four abstained and no one objected. This is the first law enacted in our country to regulate construction activities, and it is also an important economic law, which has legitimately received the enthusiastic attention and active support of the members of the highest legislative organ.   
  The date on which the construction law will come into force 一九九八年三月一日is that China's construction activities must follow this legal track.   
  This article mainly introduces the basic content of construction law and some key issues in order to help understand and apply construction law.   
  
  First, the construction law must be formulated  
  
  This refers to the necessity of formulating an architectural law in our country. This necessity is the basis of legislation, and also determines the purpose of legislation and the content of legislation, and there are the following aspects of specific analysis.   
         1． A wide range of architectural activities requires a unified rule of conduct  
  In a wide range of production and life, human beings are always inseparable from architectural activities. At the Second United Nations Conference on Human Settlements, China proposed that human settlements is the most basic need for human survival, and that the enjoyment of adequate housing for all is the most basic right of human beings. Of course, like housing, human beings are inseparable from the use of houses in production, which can be said to be one of the most basic conditions of production. With the development of social economy, the expansion of the field of production and operation, and the improvement of material and cultural living standards, people need to use more houses, and the requirements for houses will also increase, so that the scope of construction activities is becoming more and more extensive and more important. Therefore, it is necessary to establish uniform rules in construction activities to ensure orderly progress and to provide people with more and better houses. For example, the conditions for engaging in construction activities, the rules of conduct to be followed in construction activities, and the liability for violating these rules should have clear and specific provisions, and these provisions are universally binding, that is, everyone must comply with them. This requires the formulation of laws for construction activities, the integration of construction activities into the track of the legal system, and the promotion of the healthy development of the construction industry.   
         2． In construction activities  
 , intricate socio-economic relations have been formed, which involve a wide range of issues and are directly related to their respective rights and obligations, for example, there are construction units, construction enterprises, survey units, design units and project supervision units involving parties to construction activities, etc. Between them, they can be investigated and designed by construction projects, contracted, construction, construction, building material supply, project supervision, etc. Project acceptance and other matters and the formation of a multi-faceted relationship of rights and obligations, interconnected, but also mutual checks and balances, it is manifested in the tendering and contracting of the existence of competition to obtain contracts, the existence of material supply is the interests and responsibilities can not be separated, the existence of project supervision is the supervision of the supervision unit on behalf of the construction unit, and so on. This series of different contents, the relationship between different parties, should be formed in accordance with the rules determined by the law, and the adjustment of this relationship should also be based on recognized authoritative rules, not the will of a party, or the unilateral decision of a certain department, only in this way can the economic relations in construction activities be justly and effectively coordinated, the legitimate rights and interests of the parties concerned, and the normal progress of construction activities, so it is necessary to formulate an construction law. The economic relations in construction activities may be formed and adjusted in accordance with the law, and adjusted according to law.   
         3． Maintaining the order of the construction market must be legislated  
  The construction market is a very important market, and its order is directly related to whether the construction industry can develop healthily and whether construction activities can be carried out normally, of course, more serious is the chaos of the construction market, which will cause harm to people's lives and property, and even cause tragic consequences. In recent years, it has been reflected in various forms: a large number of violations of law and regulation in the construction field; in some areas, the judicial departments have accepted a considerable proportion of the cases involved in the construction; a large number of construction teams that do not have the qualification conditions or do not have the qualification conditions at all have entered the construction market; they have subcontracted construction projects backwards, exploited layer by layer, seriously harming the interests of construction units, resulting in many problems in construction projects; selling licenses, arbitrarily borrowing names, overcharging fees, colluding and colluding, overstepping the level of design, construction, and forcibly subcontracting. Illegal designation of building material suppliers; unauthorized construction, arbitrary violation of construction management regulations, etc. For these violations of laws and regulations to disrupt the order of the construction market, it is necessary to rectify the governance, its powerful means is to establish market rules in the form of law, establish the legal order of the construction market, and maintain the order of the construction market on the premise of strict law enforcement, all of which shows that it is necessary to formulate a construction law and take the construction law as the basic norm to establish a standardized and orderly construction market. In this way, it is really necessary for the construction industry itself, for the people, and for the country.   
         4． The quality and safety of construction projects must be guaranteed by law  
  The quality and safety of construction projects, in the long run, is a hundred-year plan, people pay special attention to, earnestly hope to obtain satisfactory quality, in a relatively safe environment to engage in production and life; from the current situation, people pay more attention to the quality and safety of construction projects, which is due to the continuous occurrence or exposure of many construction quality and safety accidents in recent years, especially frequent collapses, many casualties, The tragic image of property damage has awakened hundreds of millions of people. For example, in June 1994, a dormitory building in Longgang, Shenzhen, collapsed, killing eleven people and seriously injuring seven people; in December 1995, a building in Deyang, Sichuan Province, collapsed, killing seventeen people and seriously injuring six people; in March 1997, Putian, Fujian Province In July 1997, a dormitory building in Changshan, Zhejiang Province, collapsed, killing thirty-six people and seriously injuring three people, these unfortunate events and other similar incidents have aroused strong reactions from people, in addition to a large number of quality diseases that often cause people's dissatisfaction and worry, so that the quality of construction projects is widely required in society to ensure and improve the quality of construction projects, prevent quality accidents, and ensure the safety of users. In this case, legal means are necessary means, and they must be based on reality and targeted, so not only should the construction law be formulated, but also the focus should be on ensuring the quality and safety of construction projects in legislation.   
         5． Construction activities must be managed according to law  In the management activities of the state for social and economic affairs, in the system of the socialist market economy, it is necessary to implement the management of construction activities according to law, which requires first of all that there is a law to follow, and it is required that there be a construction law in the field of construction that reflects the will of the state, which is universally binding, and is used as a basis for managing construction activities, including the power of management, the scope of management, the management system, the conditions for management, the procedures for management, etc., all acting in accordance with the law. Where there are provisions in the law, it should be managed with due diligence, while those not authorized by the law should be prevented from being arbitrary in management and causing inappropriate interference. Under the guarantee of the law, the construction industry should be enabled to move forward in accordance with the requirements of the socialist market economy.   
  The above five points are the necessity of formulating the construction law, of course, this is only the main point, in reality there are a large number of facts, can more powerfully prove that in the sustainable development of China's economy, construction activities are more important today, the formulation of construction law has many important significance, it is not only the needs of the construction industry itself, but the urgent need to safeguard the interests of the state, the social public interest, the interests of the people, this need should be reflected in the form of law.   
  Second, the legislative guiding principles  
  
  Of construction law is an important industrial legislation, in this law embodied in the will of the country and the interests of the people, to adapt to the requirements of the socialist market economic system, to establish is to ensure the healthy development of the construction industry order, so the   
  
legislative guiding principles of the construction law mainly have the following points:  
  1. The purpose of legislation is to promote development  In the first article of the Construction Law, the purpose of formulating this law is clearly stated, or the starting point and purpose of the legislation. It refers to strengthening the supervision and management of construction activities, that is, to put construction activities under the supervision of the state, manage them according to law, and effectively strengthen them; to maintain the order of the construction market, it is to affirm that construction activities are a market activity, which should abide by the rules of the market, be carried out in an orderly manner, and do not allow acts that undermine the market and disrupt the order, otherwise they will be restricted and punished; to ensure the quality and safety of construction projects, which is the premise for promoting development. In short, in the construction law, the purpose of the concentrated embodiment is to make the construction industry move forward healthily, so it is indicated here as   
"healthy place" One intention is that the development of the construction industry should adhere to the correct direction, use the correct method and the right means to pursue development, and cannot go into the crooked way and treat construction activities with improper means, which is difficult to achieve development; the other intention is that unhealthy and improper phenomena in the construction industry should be resolutely excluded, that is, they are not allowed by law. Therefore, to understand and apply the construction law, we should consciously put the building activity into a healthy track, and this track is regulated in accordance with the building law.   
       2． Reasonable determination of the scope of application of the construction law  The scope of application of a law is the scope within which the provisions in this law are effective, or in other words, what is the object of adjustment of this law, including who, where, and what acts. The determination of the object of adjustment of the law is mainly based on the needs of the legislation, the characteristics of the object of adjustment, and the feasibility of legislation.   
  Regarding the scope of application of the Construction Law, it was determined after extensive solicitation of opinions and repeated deliberations in the legislative process, and the specific provisions are specified in Article 2 of the General Provisions of Chapter I of the Construction Law, which first stipulates that the construction activities in China and the implementation of supervision and management of construction activities should comply with the Construction Law; and the construction activities are specifically defined as the construction of various types of housing buildings and their auxiliary facilities and the installation of lines, pipelines and equipment supporting them. Therefore, this definition mainly considers the following situations: First,  
  the term construction in the construction law, if it refers to buildings, it should refer to housing construction, or the result of construction activities is all kinds of houses. In the laws of some countries or regions, similar definitions of buildings are made, that is, the characteristics of buildings are roofs, columns in the middle, and walls around them, which is clearly a variety of different types of houses.   
  Second, in addition to referring to the building, the word architecture also means a kind of construction activity, or construction activity, in the construction law is called construction, installation activity, it and the word construction is different, construction can start from the investment project, until the completion of the use, play a benefit. And architecture is a stage in the construction process, that is, the stage of construction.   
  Third, the word architecture was introduced into Chinese from Japanese, which is a polysemantic word in Chinese, and can only be used in law according to the defined scope, and should not be arbitrarily interpreted beyond the meaning determined by the law, otherwise it will cause misunderstanding or misinterpretation of the law.   
  Fourth, all kinds of housing construction refers to civil housing buildings, industrial housing buildings, public housing buildings, including single-family houses and multi-family houses in residential buildings; production plants, warehouses, power stations, water towers, chimneys, etc. in industrial buildings; hotels, banks, refrigerators, passenger stations, etc. in commercial buildings; schools, hospitals, theaters, stadiums, exhibition halls, etc. in cultural, educational and health buildings, as well as office buildings, conference halls, railway stations, etc., which should be listed within the scope of various types of housing construction.   
  Fifth, the auxiliary facilities and supporting lines, pipelines, and equipment of various types of housing buildings refer to those facilities and equipment that enter the house or are closely linked to the house, and can be shown to be based on the house, rather than those facilities and equipment that have nothing to do with the house and can exist independently.   
  
         3． Adhere to the quality and safety of construction projects as the focus of legislation  The formulation of the construction law is rooted in actual needs, has a strong pertinence, it requires that people's strong desire for the quality of construction projects be reflected in this law, that is, adhere to the principle of quality first; adhere to the construction products as a special product, we must have a century-old plan to consider; we must pay full attention to the current problem of low quality of construction projects, and formulate targeted legal norms. Therefore. The legislative focus of the construction law should be based on quality and safety, and the quality of construction projects is expressed in two aspects, one is expressed in the process of construction activities, that is, the activities carried out at various stages in accordance with construction procedures; the other is expressed in building products, that is, the status of the results of construction activities. To control the quality of construction projects, it is necessary to make the entire process of construction activities and to make the products of the building meet the requirements of the relevant laws, regulations, technical standards, design documents and engineering contracts in the current state for safety, use, economy, etc. In particular, it should be emphasized that in construction projects, the standards for protecting human health, personal and property safety are mandatory standards, which must be implemented in accordance with the standardization law of the People's Republic of China. Therefore, in the general provisions of the Construction Law, it is specifically stipulated that construction activities should ensure the quality and safety of construction works and comply with national construction safety standards. This provision embodies   
the purpose of legislation, and also directly determines or affects the content of many provisions in this law, making it reflect the vital interests of the people, and protecting the safety of the lives and property of all kinds of housing users with legal norms, which will also effectively promote the solution of existing problems.   
         4. Based on supporting the construction industry to a higher level  This means that the construction industry should reach a higher level and move towards modernization in the development, so   
the basic provisions have been made in the construction law, mainly to determine:  The state supports the development of the construction industry and   
supports the research of building science and technology;          In the development process of the construction industry, the level of housing building design should be improved;  in the construction activities, it is necessary to encourage energy conservation and environmental protection;  
  in the development of construction undertakings, as well as in the construction process of engineering projects, we should advocate the use of advanced technology, advanced equipment, advanced technology, new building materials;  
  in the construction industry, management should be strengthened, the management level should be improved, and modern management methods should be promoted;  
          Although these contents are stipulated in the general provisions, they have an impact on the entire construction law, guide the direction of the construction industry, and determine many related provisions, which people should follow when carrying out construction activities.   
  
         5  
． Emphasize that construction activities must be carried out in accordance with the law to attach importance to legality  This refers to the formulation of the construction law, attaches great importance to the economic facts in the construction activities as a legal relationship, uses legal forms to regulate people's behavior in construction activities, for a behavior is allowed or not allowed, whether it is encouraged or restricted, whether it can be rewarded or punished, etc., must be based on the law, legally protected, illegal sanctions, Therefore, in the general provisions of the Construction Law, it is stipulated that the construction activities shall comply with laws and regulations, and shall not harm the public interest and the legitimate rights and interests of others; no unit or individual shall obstruct or obstruct the construction activities carried out according to law. These provisions and many provisions in this law clearly reflect the principle of legality, for example, construction work should be obtained according to law, construction activities should be qualified according to law, contracting and contracting of construction projects must be legal, construction safety production management must be constrained by law, etc., the legality of the construction law is to incorporate construction activities into the legal order, contrary to this order, that is, illegal, harmful to the public interest, infringing on the legitimate rights and interests of others, All should be excluded from the normal and protected scope of construction activities, which is the principle of legislation on construction activities, and only by adhering to this principle can the construction industry develop healthily under the protection of the law.   
         6  
． Unified supervision and management of the construction industry according to law  This refers to the principle of unified supervision and management of construction activities determined by the Construction Law, which is conducive to strengthening management and implementing unified and effective supervision and management measures. The content of supervision and management mentioned here refers to the various matters in which the state exercises its management functions, and does not mean that it can interfere in the business of the construction enterprise itself; the power to exercise supervision and management must be based on the power granted by law, not self-determined power, which is its own; the scope of unified supervision and management is limited to construction activities, and the content involved in construction activities is defined by law, that is, it is legally said to have specific content, and it cannot be arbitrarily interpreted, expanded or reduced. As for the functions of other relevant departments in unified supervision and management, they should cooperate with each other and assume their respective responsibilities in accordance with the provisions of relevant laws. For example, the construction of railway stations on railways, as housing construction, should be supervised and managed according to construction activities, but as part of transportation facilities, the relevant departments will also exercise their functions according to law. Therefore, for construction activities, it is necessary to be uniformly supervised and managed by the statutory departments of the state, but this supervision and management is considered from the perspective of industry management, as for taxation and finance, the construction industry must be subject to a unified tax law and unified financial and economic discipline, which is self-evident.   The above-mentioned legislative guiding principles of the Construction Law are mainly or are   
provided for in the General Provisions  
, and these principles are implemented in all chapters of the Construction Law.   Third, the legal qualification to engage in construction activities  to enter the construction market, to engage in construction activities, must have certain qualifications, which is to ensure the quality of construction projects and maintain market order of the key measures. In the construction law, there are four main aspects   
  
of   
  
the provision:  
  Scope of Examination and Approval Of Qualifications  In accordance with the provisions of the Construction Law, it includes construction enterprises, survey units, design units and project supervision units engaged in construction activities. In this way, several major aspects of participation in construction activities are required to have certain qualification conditions, which are generally independent of each other, especially the construction enterprise and the supervision unit cannot be combined, and in all aspects, they can be further classified and divided into several independent enterprises or units, which should have certain qualification conditions.   
  
         2． Qualification conditions are prescribed by law  This means that qualification conditions are a statutory condition and should not be a condition arbitrarily determined. After the legal provisions have been made, in essence, it is to measure the ability of those enterprises or units in terms of capital status, personnel quality, technical equipment, construction performance, management level, etc. with unified standards, comprehensively evaluate them, and only those who meet certain standards can enter the construction market and undertake projects, so as to lay an important foundation for ensuring the orderly development of the construction industry and ensuring the quality of construction projects.   
         3  
． Division of qualification levels  Due to the construction enterprises, survey units, design units and project supervision units engaged in construction activities, there are many types, technical differences, and strong professionalism. Therefore, it is necessary to divide into different qualification levels according to the different qualification conditions of their respective qualifications, so that those enterprises or units with strong economic strength, high technical level, good reputation and strong management ability undertake construction projects with higher requirements, while those enterprises or units with more general technology, management and reputation undertake general construction projects. This kind of management is relatively scientific, but also to safeguard the legitimate rights and interests of the construction unit, so it is affirmed in the law, and must generally   
abide by the management of qualification levels. Therefore, the Construction Law stipulates that construction enterprises, survey units, design units and project supervision units engaged in construction activities can only engage in construction activities within the scope of their qualification level permits after passing the qualification examination and obtaining the corresponding level of qualification certificates. If they do not pass the qualification examination, or contract the project beyond the qualification level, they will be visually illegal and will be punished.   
         4． Professional and technical personnel qualifications.   This is a provision corresponding to the qualification review of construction enterprises, survey units, design units and project supervision units, the division of qualification levels, is a separate provision for professional and technical personnel, the purpose is to ensure the quality of professional and technical personnel, of course, but also fully attached importance to the key role of professional and technical personnel in construction activities, to the quality of people, the quality of people's work to ensure the quality of construction projects, therefore, the construction law stipulates that professional and technical personnel engaged in construction activities, The corresponding professional qualification certificate shall be obtained in accordance with law, and the construction activities shall be carried out within the scope permitted by the professional qualification certificate. Such provisions are necessary to promote and guarantee the improvement of the quality of professional and technical personnel in construction engineering and the formation of a qualified technical team. －。   
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． It is necessary to exclude the behavior of disrupting the qualification level system  Construction enterprises and survey, design, and project supervision units must have statutory qualification conditions to contract projects within the scope of the qualification level, which is a very necessary, scientific and reasonable system in construction activities, not only to establish it, but also to maintain it, reflected in many aspects of construction activities, so it is stipulated in the Construction Law:          Where the construction project is subject to open bidding, the bidder shall be selected among the bidders who have the corresponding qualifications and conditions (Article 21 of the Construction Law);  
  where the construction project is directly contracted, the contracting unit shall contract the construction project to the contracting unit with the corresponding qualification conditions (Article 22 of the Construction Law);  
  The unit contracting the construction project shall hold the qualification certificate obtained in accordance with law, And contract projects within the business scope permitted by its qualification level (Article 26 of the Construction Law);  
  it is prohibited for construction enterprises to exceed the business scope permitted by the qualification level of the enterprise or to contract projects in the name of other construction enterprises in any form (Article 26 of the Construction Law);  
  it is prohibited for construction enterprises to allow other units or individuals to use the qualification certificates and business licenses of the enterprise in any form. Contracting projects in the name of the enterprise (Article 26 of the Construction Law);  
  Where two or more units with different qualification levels carry out joint contracting, they shall undertake the project in accordance with the business license scope of the unit with a low qualification level (Article 27 of the Construction Law);  
    
          The project supervision unit shall undertake the project supervision business within the scope of supervision permitted by its qualification level (Article 34 of the Construction Law).   
  The above provisions, as well as a number of other provisions not listed here, indicate that enterprises or units engaged in construction activities must be qualified entities, determine their legal capacity for rights in business in accordance with statutory conditions, encourage competition among qualified persons, and prohibit the use of improper and fraudulent means to impersonate qualified enterprises or units, for example, by   
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affiliation", "Joint venture" means to make the unqualified charged When qualified, low-level people act as high-level ones, thus contracting projects with false professional qualifications; for example, by lending, transferring or even forging qualification certificates, allowing illegals to use legal names, it is even more blatantly fraudulent, undermining the order of the construction market. Therefore, whether it is a construction enterprise, a design unit, a survey unit, a project supervision unit, a construction unit, or a construction unit or a relevant department, it should abide by the legal provisions on construction qualifications and attach importance to consolidating the foundation for the development of the construction industry by legal means.   4. Rules of conduct for contracting and contracting construction projects.   This part occupies an important position in the construction law, because the construction market is an important part of the entire large market, construction products are a commodity, the contracting and contracting of construction projects, that is, the transaction between the buyer and the seller or Party A and Party B, it seems to establish trading rules according to the characteristics and actual needs of this transaction, that is, the rules of conduct that should be followed in the contracting and contracting. However, there are many such rules, and it is necessary to fix their basic and key parts in the form of law and ensure their implementation with coercive force, which is embodied in three aspects of the construction law:  
  
  
    
  
 Basic rules  First, the contracting and the contracting parties shall conclude a contract. This is the prevailing rule, which should be in writing, so that the rights and obligations of both parties are clearly determined, the relationship of economic interests is expressed, and the conclusion of the contract must comply with the relevant laws and regulations, reflecting the principles of fairness, voluntariness, equality and mutual benefit.   The second is to fully perform the contract. That is to say, they should conscientiously perform their respective obligations in accordance with the matters stipulated in the contract, and of course, the rights of both parties should be guaranteed; if the contract is not performed, the party in breach of contract shall bear the liability for breach of contract. Therefore, the construction law specifically   
stipulates the liability for breach of contract  
, that is, in view of the current widespread phenomenon of breach of contract in construction activities, legal means should be used to promote both parties to abide by credit and attach importance to the contract.   Third, bidding and bidding shall follow the principles of openness, fairness and equal competition and be conducted in accordance with law. Bidding and bidding is a kind of transaction method in the market economy, the construction market should be actively promoted, the buyer sets the target, the seller is invited to compete through the bidding quotation, and then the preferred contractor is selected, this process should be more transparent, fair treatment of each bidder, protect fair competition, otherwise it will be difficult to play an active role in bidding and bidding, so in the construction law on the bidding and bidding activities Basic provisions are necessary. Since China will formulate the law on bidding and bidding relatively quickly, in order to avoid duplication and facilitate connection, it also stipulates that if there is no provision in the construction law, the provisions of the law on tendering and bidding shall be applied, that is, the provisions in the construction law shall be implemented in accordance with the construction law, and if there is no provision, the law of bidding and bidding shall be implemented.   
  Fourth, the use of improper means is prohibited. The Construction Law stipulates that both parties to the contract are issued, the purpose of which is to maintain fair and legal competition, protect legitimate trading behavior, and rectify the corrupt style in contracting and contracting. For the contracting party, the Construction Law stipulates that the contracting unit and its staff shall not accept bribes, kickbacks or other benefits in the contracting of construction projects;   Fifth, the cost of construction projects is stipulated according to law. This means that in the construction market, the project cost should also be agreed upon by the buyer and seller in accordance with the requirements of the market economy and within the framework of the relevant provisions of the state. The national provisions mentioned here are, first of all, the provisions in the price law, or the provisions made in accordance with the principles of the price law, and are not a kind of government pricing, because in the construction law it is very clear that the construction cost is the price agreed upon by the two parties, not the price determined by the government by the two parties. In the case of public bidding and contracting, the agreement on its cost should be formed in the course of competition, and should not be determined by the government, nor should the government directly intervene in the specific price, so the provisions on bidding and bidding should be implemented in this regard.   
  Regarding the allocation of project funds, the main amount and time limit should be implemented in accordance with the provisions of the contract, and the problem of arrears of project funds in reality, or the problem of project advances, should be resolved in the conclusion of contracts and the performance of contracts, and the conclusion of contracts in accordance with the law and the emphasis on credit will promote the gradual elimination of some abnormal phenomena and the pace of standardization.   
         2.   The Construction Law mainly stipulates from the following five aspects:  
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1) About the method of contract issuance  In the Construction Law, bidding and contracting are encouraged, and direct contracting can only be implemented when it is not suitable for bidding and contracting, which is to determine that bidding and contracting are in a priority position in the law. Therefore, this provision is due to the fact that the tendering and contracting are in line with the requirements of the market economy   
and embody the principle of fair competition. Construction projects by the contract issuing party to release information, all have the corresponding qualifications, meet the bidding requirements of the unit, not limited by the region and department, can apply for bidding, and the contracting party can be in a wider range, competitive quotations, the selection of the best contracting unit, the project to the credibility of the better, strong technical ability, higher management level, reasonable quotation of the contracting unit implementation, this is a good way to issue contracts, should be legally advocated and affirmed. As for the direct contract issuance, which is limited to specific conditions and difficult to carry out open competition, it is still needed in reality, so it is both allowed and restricted in law.   
  (2) Bidding procedures  
  According to the legal nature and characteristics of public bidding, the Construction Law stipulates the basic procedures for open bidding to ensure that bidding is conducted openly and fairly, and the main content is:          First, where a construction project is subject to open bidding, the contract issuing unit shall issue a bidding announcement in accordance with legal procedures and methods. Such an announcement may also be referred to as a tender advertisement, which serves to give bidders access to tender information and marks the beginning of tendering.   
  The second is to provide bidding documents. The main contents of the bidding documents provided by the contract issuing unit are: the main technical requirements of the bidding project, the main contract terms, the standards and methods of bid evaluation, the procedures for bid opening, bid evaluation and bid determination, etc. The bidding documents should be carefully prepared to ensure the smooth progress of bidding and bidding, of course, there will be some other content in the bidding documents, which will be decided by the preparation unit according to needs, but the above statutory content is indispensable.   The third is to open bids openly at the time and place specified in the bidding documents. This is due to the fact that bidding is determined by the characteristics of equal competition, the opening of bids should be presided over by the bidding unit, all bidders should participate, the relevant departments and supervision units should be present, after the tender is opened, the main content of the bid should be read out, after the opening of the bid, any bidder is not allowed to change the content and quotation of the bid, nor is it allowed to add preferential conditions, after the bid is opened, the standards and methods of bid evaluation and bid determination cannot be changed.   The fourth is to evaluate and determine bids. This means that after the opening of bids, the bids shall be evaluated and compared in accordance with the evaluation criteria and procedures specified in the bidding documents, and among the bidders with the corresponding qualifications, the successful bidders shall be selected on the basis of merit. These provisions show that the evaluation of bids should be carried out in accordance with the criteria and procedures for determining the evaluation of bids in advance, and the evaluation of bids should ensure fairness and scientificity; bid determination, also known as bid determination, is to finally determine the implementing unit among qualified bidders, and these acts can only emphasize their legitimacy and carry out in a standardized manner in order to achieve the purpose of bidding.   
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) The main body of bidding  
  Bidding is a legal way for buyers and sellers to independently deal in the construction market, if from the perspective of the bidding party, it is the owner or the construction unit as the buyer who chooses the contracting unit, so the main body of the bidding should be the construction unit, so the construction law stipulates that the opening, evaluation and bid determination of the construction project are organized and implemented by the construction unit according to law. And accept the supervision of the relevant administrative departments. This provision indicates that the opening of bids should be presided over by the construction unit, not by a person other than the construction unit, which is the right of the construction unit and should be respected; the bid evaluation should also be organized and implemented by the construction unit, such as the establishment of a bid evaluation team or a bid evaluation committee, which should be organized by the construction unit. Instead, it should not be designated by other units, and if there is a disagreement in the evaluation of the bid and the winning unit cannot be assessed, it should be handed over to the construction unit to consider; the calibration, which refers to the final determination of the contracting unit, the negotiation with the winning unit before the bid, the signing of the contract with the winning unit after the bid, etc., should be the construction unit, not other subjects, which is statutory and cannot be changed. As for the construction units, in the process of bid opening, bid evaluation and bid determination, they must act in accordance with the law and accept the supervision of the relevant administrative departments. What is the relevant administrative department is, according to the provisions of the law, only the departments that stipulate in the law have the responsibility of supervising the opening, evaluation and calibration of tenders have the right to exercise supervision, rather than being decided by some departments to intervene.   
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4) The restriction of contract issuance  This is to standardize the contracting behavior, but also to protect the legitimate rights and interests of the contracting unit, to maintain the normal order of the construction market, the provisions in the construction law mainly have the following:  
          First, if the construction project is tendered and contracted, the contract issuing unit shall award the construction project to the contracting unit that has won the bid in accordance with law. Because the winning contracting unit was selected in accordance with the legal procedures for bidding, evaluation and bidding, a series of legal relationships were formed in this process, and after winning the bid, it enjoyed the legitimate rights and interests of contracting the construction project, and the contract issuing unit should not change this established interest.   
  Second, the government and its subordinate departments must not abuse their administrative power to restrict the contract issuing units from awarding contracts to the designated contracting units for construction projects that are tendered and contracted. This legal provision shows that it is also of practical significance to exclude improper interference by government departments in the issuance of tenders and contracts, and to respect the rights and obligations determined by the trading method of tendering and bidding, which is also of practical significance from the perspective of opposing unhealthy trends.   Third, in accordance with the contract, if the building materials, building components and equipment are procured by the project contracting unit, the contracting unit shall not designate the contracting unit to purchase   
the building materials, building components and equipment used for the project, or designate a production plant or supplier. This regulation is   
important and has multiple meanings, which restricts the contract issuing unit from taking advantage of its advantageous position and violating the contract; protects the rights determined by the contracting unit in the contract, and is also conducive to clarifying its responsibilities; and prevents the use of designated production plants and suppliers to seek improper benefits and affect the quality of the project.   
  (  
5) Provisions on the form of contracting  This is actually also a provision of the form of contracting, or the form of economic relations between contracting and contracting. Due to the different contents of the contract and the contracting environment, a variety of forms of contracting have been formed, and the construction law has made basic provisions in this regard:  First, it is stipulated that the general contracting of construction projects is advocated, and it is forbidden to dismember and issue contracts for construction projects. This is to advocate that a construction project be organized and implemented by a contracting unit, and its unified command and planning, in order to obtain better benefits and higher efficiency.   
  The second is to stipulate that in the general contracting, it can be a turnkey contract or a sub-general contract, so Article 24 of the Construction Law stipulates that the contracting unit of the construction project may contract the survey, design, construction and equipment procurement of the construction project to a general contracting unit of the project, and can also contract one or more items of the survey, design, construction and equipment procurement of the construction project to a general contracting unit. According to this provision, the construction unit is Party A and the general contracting unit is Party B. Party A may enter into a contract with one Party B or may enter into a contract with several Party B.   Third, it is forbidden to dismember and issue contracts, that is, it is forbidden to dismember construction projects that should be completed by one contracting unit into several parts and issue contracts to several contracting units. Because, theoretically, the artificial and irrational division of a whole into several parts would cause waste and reduce efficiency; and from the facts reflected in practice, the result of the dismemberment project is mutual ridicule, higher costs and chaotic management, and this harmful practice should be prohibited.   
         3  
． The contracting  
  of construction projects refers to the acquisition of contracts through bidding and bidding, and the organization and implementation of the act of fully performing the contract, so the Construction Law has   
made   
a number of basic provisions in light of the actual situation in China:   First, the contracting unit can only contract the project within the scope of the business permitted by its qualification level. And it is not allowed to allow others to borrow their own name or borrow the name of others themselves, and to contract projects beyond the qualification level.   Second, large-scale construction projects or construction projects with complex structures may be jointly contracted by two or more contracting units; the parties to the joint contracting shall bear joint and several liability for the performance of the contracting contract. This kind of responsibility means that each contracting unit of the joint contract is obliged to assume all the responsibilities of the joint contract, and after the contracting unit has fulfilled its obligations, it has the right to claim compensation from the other contracting units of the joint contract.   
  Third, subcontracting is prohibited. This is a very clear legal provision, which is a legal measure taken in the construction market due to the drawbacks and serious consequences of subcontracting. The subcontracting of layers in construction projects has caused layers of exploitation and embezzled a large amount of project funds, resulting in cutting corners, poor quality of projects, fraud and other bad consequences, seriously infringing on the interests of the state, the public interest, the interests of construction units, and even endangering people's life, health and property safety, so this must be prohibited, including direct subcontracting and disguised subcontracting. Therefore the building law provides. It is forbidden for the contracting unit to subcontract all the construction projects it has contracted to others, and it is forbidden for the contracting unit to dismember all the construction projects it has contracted and then subcontract to others in the name of subcontracting.   Fourth, it is stipulated that the construction of the main structure of the construction project must be completed by the general contracting unit itself. This is because the general contracting unit is selected through a series of procedures, the construction unit gives its trust, but also because of the ability of the general contracting unit itself to become the party B that concludes the contract, in order to ensure the quality of the project, so it should be stipulated that the main project should be completed, which is the statutory responsibility; so it is also conducive to preventing subcontracting.   Fifth, there are provisions on subcontracting. First of all, the general contracting unit can subcontract part of the project, but it must be agreed by the construction unit, and the way of consent is agreed in the general contracting contract, or approved by the construction unit; if the subcontracting is carried out without the consent of the construction unit, it is regarded as illegal subcontracting; the second is that the general contracting unit and the subcontracting unit bear joint and several liability for the construction unit on the subcontracting project, which is a provision that aggravates the liability, and their original general contracting unit is responsible for the construction unit in accordance with the provisions of the general contracting contract. The legal relationship between the subcontracting unit and the responsibility of the general contracting unit in accordance with the provisions of the subcontract remains unchanged; the third is that the subcontracting unit is prohibited from subcontracting the project it has contracted, which is conducive to shifting the work content of the subcontract to the subcontracting unit with professional technology and special construction equipment, subtracting the intermediate level; the fourth is that the qualification of the contracting unit already mentioned above must be compatible with the level of the construction project undertaken.   
  Fifth, the construction permit system  
  In the construction law to establish this system, the purpose is to ensure the quality of construction projects, to avoid blind construction of projects that do not have construction conditions  
, which is also conducive to the construction of the project as soon as possible and the construction administrative department to supervise and manage, its main content has four items:  
  
  1  
. Obtaining a construction permit  
  
  means that before the construction project starts, the construction unit must apply for a construction permit, but there are two cases that are exceptions in law, one is except for small projects below the quota determined by the competent administrative department for construction under the State Council; the other is to approve the construction report in accordance with the authority and procedures stipulated by the State Council, and no longer receive the construction permit.   
  
  
         2． Construction Permit Conditions  The Construction Law stipulates eight conditions, including the procedures that must be completed before construction, the documents that must be possessed, and the conditions that must be met, for example, the approval procedures for the land for construction projects, urban planning permits, demolition and relocation progress in line with construction requirements, construction drawings and technical data that meet construction needs, etc. These conditions are in line with the requirements, that is, the construction permit is issued  
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         3． The limitation period of the construction permit  
  mainly stipulates that the construction unit shall start construction within three months from the date of obtaining the construction permit, and if it cannot start construction on schedule for any reason, it shall apply for an extension, and the extension shall be limited to two times, each time not exceeding three months, that is, the maximum extension of half a year, for those who do not start construction and do not apply for extension, or exceed the extension time limit, the construction permit shall be revoked by itself. The validity of such a stipulation in time for construction permits is mainly due to the fact that the construction conditions of the construction project are subject to change; For the suspension of construction of construction projects, the suspension of construction and then the resumption of construction, the approval of the commencement report and the failure to start or the suspension of construction, the relevant limitation issues are all stipulated in the Construction Law, and the starting point is to effectively supervise.   Sixth, the legal norms of the quality management of construction projects  This part is the key content of the construction law, in the several issues already mentioned above, the qualification is to regulate the main body of the construction market, the contracting and contracting is to regulate the market behavior of Party A and Party B, the construction permit is to supervise and manage the implementation of the project, and to standardize the quality management of the construction project, it should be to grasp the key links of construction activities.   The norms on the quality management of the project in the Construction Law mainly include:  
  l   
Adhere to the standard  
  The quality of construction projects will not only affect the use of building products for a long time, but also the quality problems will endanger the safety of life and property; there are many factors that affect the quality of construction projects, such as design, materials, environment, construction technology, technical measures, management systems, quality of employees, etc. will play a role in the quality of quality; construction projects also have the characteristics of unity, that is, it is designed according to the intention of the construction unit, the same type of project, Projects will also vary depending on the location, etc. Despite the many characteristics of the quality of construction works, safety standards remain a top priority in quality and must be upheld and adapted to the need to ensure safety. Therefore, the Construction Law stipulates that the quality of construction project survey, design and construction must meet the requirements of the relevant national construction project safety standards, and the specific management measures shall be stipulated by the State Council; when the national standards for the safety of construction projects cannot meet the requirements of ensuring building safety, they shall be revised in a timely manner.   
  The Construction Law stipulates that the construction unit shall not require the architectural design unit or the construction enterprise to violate laws, administrative regulations and construction project quality and safety standards in the engineering design or construction operation to reduce the quality of the project for any reason. At the same time, the design unit and the construction enterprise are also granted the right to refuse the construction unit's request, and it is clearly stipulated that the architectural design unit and the construction enterprise shall refuse the construction unit's request to reduce the quality of the project in violation of the provisions of the preceding paragraph.   
  Regarding survey and design, from the same legal point of view, it is also stipulated that the project quality and safety standards should be met, and the Construction Law stipulates that the survey and design documents shall comply with the provisions of relevant laws and administrative regulations and the quality, safety standards, construction engineering survey, design technical specifications and contracts; Its quality requirements must meet the standards set by the state.   
         2  
． Establish a statutory quality responsibility system  
  This is to take the construction law as the basic norm, establish a responsibility system for project quality, so that all parties involved in the survey, design and construction of construction projects bear corresponding responsibilities, so as to help strengthen quality management, improve and improve the quality of projects. The provisions made in this regard in the Construction Law are mainly as follows:  
  First, if the construction project is subject to general contracting, the quality of the project shall be the responsibility of the general contracting unit; because the general contracting contract for the project is signed between the general contracting unit and the construction unit, the general contracting unit shall be responsible for the full performance of the contract.   Second, if the general contracting unit subcontracts the construction project to other units, it shall bear joint and several liability for the quality of the subcontracted project and the subcontracting unit. This legal provision makes it clear that the subcontractor is responsible for the quality of the subcontracted works, and the general contractor is equally liable, and by increasing the liability of both of them in the form of joint and several liability, the general contractor is prevented from shirking responsibility after subcontracting, and at the same time preventing the subcontractor from shirking responsibility to the general contractor.   Third, the survey and design units of construction projects must be responsible for the quality of their survey and design. This is to say that after contracting the survey and design business, the survey and design unit must carry out relevant operations in accordance with the provisions of laws and administrative regulations, the project quality and safety standards, the current technical specifications and the survey and design contracts, and be responsible for the quality of the survey and design documents prepared. Such provisions play an important role in strengthening the control of the quality of survey and design, and ensuring the quality of survey and design.   Fourth, the construction enterprise is responsible for the construction quality of the project. This provision increases the responsibility of construction enterprises, and in fact gives the power to manage the quality of construction, preventing improper interference or even illegal interference in the construction of the project by units or individuals that do not assume this responsibility.   
  
         3  
． Legal measures to ensure the quality of construction  
  This is a number of provisions made by the Construction Law in order to ensure the quality of project construction, in response to some irregular practices in reality, the main ones are:  
          Construction enterprises must follow the engineering design drawings and construction technical standards, and must not cut corners. For example, in many projects, the construction is not carried out according to the drawings, the standards are lowered without authorization, the cutting corners are serious, and the disasters of size and size must be   
made.   The modification of the engineering design shall be the responsibility of the original design unit, and the construction enterprise shall not modify the engineering design without authorization. This is a rule that must be carefully observed by construction enterprises, and it is also a necessary measure to prevent random design changes, disrupt construction, and cause accidents.   
  Construction enterprises must inspect building materials, building components and equipment in accordance with engineering design requirements, construction technical standards and contracts, and unqualified ones shall not be used. This provision is aimed at the fact that the quality of building materials, equipment, etc. is not guaranteed, or the decision to strengthen the control of construction quality is required, giving the construction enterprise the right to re-inspect and check to prevent inferior building materials and equipment from entering the site and causing quality accidents, of course, this also makes the construction enterprise bear a clear responsibility, that is, the use of unqualified building materials, building components and equipment in the construction of the building, Construction companies are responsible.   The architectural design unit shall not designate a production plant or supplier for the building materials, building components and equipment selected in the design documents. This provision is to show that for building materials, building components and equipment, technical indicators can be indicated in the design documents to determine quality requirements, but production plants and suppliers cannot be designated, and the purpose is to be able to select good quality products and prevent inferior products from being used for building construction through abnormal supply relations.   
  
         4． The completion and acceptance  of construction projects is a necessary procedure for comprehensively inspecting the quality of the project, and it is also an important part of inspecting the performance of the contracting contract, so the main conditions for completion acceptance are made in the Construction Law  
 The provisions are that the construction project that is delivered for completion and acceptance must meet the specified quality standards of the construction project, have complete engineering technical and economic information and a signed project warranty, and have other completion conditions of the state; the construction project can only be delivered for use after the completion and acceptance of the construction project; if the acceptance is not accepted or the acceptance is unqualified, it shall not be delivered for use. These provisions are to strictly control the final result of the quality of the project, even if it is difficult to check the internal quality from the surface due to the concealment of the quality, it is also necessary to review its complete information and engineering warranty to clarify the responsibility. For irresponsible behavior in the completion and acceptance of the project, the Construction Law also stipulates that the department responsible for the completion and acceptance of the project and its staff shall order corrections and give administrative sanctions to the responsible personnel if the unqualified construction project is accepted according to the qualified project, and if it constitutes a crime, it shall be investigated for criminal liability according to law; if the loss is caused, the department shall bear the corresponding compensation liability. Such provisions are necessary and conducive to enhancing the sense of responsibility of the completion and acceptance department and its staff to conscientiously perform their duties.   
  
         5． Establish a statutory project warranty system  The quality of construction projects has been legally valued, and control has been strengthened in the construction process, but due to the complexity of the construction project, it is difficult to use appearance inspection, especially one-time appearance inspection, it is difficult to fundamentally observe the quality of the project, so a quality warranty system should be established to make up for it, that is, after the completion and acceptance of the construction project, within the specified period of time, if there is a quality defect, the contracting unit will be responsible for maintenance. In this regard, the Construction Law   
makes the following provisions:  First, it stipulates that the quality warranty system shall be implemented for construction projects. This provision indicates that the quality warranty system has become a statutory system, a system that must be implemented in construction activities.   
  Second, the scope of the warranty shall include the foundation engineering, main structure engineering, roof waterproofing engineering and other civil engineering works of the construction project, as well as the installation of electrical pipelines, water supply and sewage pipelines, heating and cooling system engineering and other projects. The scope of these projects is relatively broad, especially those that include quality assurance and those that are prone to quality defects.   Third, the duration of the warranty shall be determined in accordance with the principle of ensuring the normal use of the building within the reasonable life expectancy of the building and safeguarding the legitimate rights and interests of the user. This is the requirement to reasonably determine the warranty period, not too short. Of course, it is not an indefinite extension.   Fourth, in the Construction Law, it is specifically stipulated that within the reasonable service life of the building, the quality of the foundation engineering and the main structure must be ensured; when the construction project is completed, the roof and wall surface shall not be left with quality defects such as leakage and cracking; the construction enterprise shall repair the quality defects that have been found. This provision is not only a quality requirement, but also the basis for warranty, especially the current quality of the common disease, the masses react strongly, should be clearly included in the scope of warranty.   
         6. The right to quality complaints  
  Construction quality problems should be a matter supervised by all sectors of society, especially when quality accidents occur frequently and quality defects exist in large quantities, more supervision by the masses is needed, so the Construction Law stipulates that any unit and individual has the right to report, accuse and complain to the construction administrative department or other relevant departments for quality accidents and quality defects of construction projects.   Seventh, the legal norms of construction project supervision  The construction law is the first law   
to make   
systematic provisions for the supervision of construction projects, and after the formulation of the construction law, the legal status of construction project supervision is formally determined, which has become a statutory system, and the main provisions in the construction law are:  
  
  1  
 ． The State implements a system of supervision of construction projects. Because this is a common and effective system of supervision and management of the implementation of construction projects that is needed in our country, it is legally stipulated to be implemented, and if there are some construction projects, it is also necessary to enforce this system, and its specific scope can be stipulated by the State Council.   
         2． The main body of project supervision  
  This shall be in accordance with Article 12 of the Construction Law; the project supervision unit established in Article 13 shall undertake the project supervision business within the scope of supervision permitted by its qualification level. The project supervision unit shall be an independent intermediary institution with legal personality, so the Construction Law stipulates that the project supervision unit shall objectively and impartially perform the supervision task according to the entrustment of the construction unit; at the same time, it is stipulated that the project supervision unit shall not have an affiliation or interest in the contracting unit of the supervised project and the building materials, building components and equipment supply units. This shows that the project supervision unit, as an independent subject, must be separated from the relevant unit or industry that hinders its impartial performance of its duties; this separation, one is statutory; the other is strict, there can be no subordination relationship, and other interests cannot exist.   
  
  
         3  
  
． The responsibility of construction  project supervision Construction project supervision is for specific projects, belongs to micro supervision and management activities, it represents the interests of construction units, but the protection of such interests must be based on the law, the construction law makes provisions for this legal relationship, mainly the following content:  
  1 ． Conclusion of supervision contracts. That is, for construction projects that are supervised, the construction unit entrusts the project supervision unit with the corresponding qualifications and conditions to supervise; the construction unit and the project supervision unit entrusted by it shall conclude a written entrustment supervision contract.   
         2． The statutory authority of project supervision. First of all, it clarifies the basis and scope of the exercise of authority by the project supervision, that is, the construction project supervision shall supervise the construction unit on behalf of the construction unit in terms of construction quality, construction period and use of construction funds in accordance with laws, administrative regulations and relevant technical standards, design documents and construction project contracting contracts. The second is to stipulate two rights of the project supervision personnel: first, if the project supervision personnel believe that the project construction does not meet the engineering design requirements, construction technical standards and contractual agreements, they have the right to require the construction enterprise to make corrections; second, if the project supervision personnel find that the engineering design does not meet the construction project quality standards or the requirements stipulated in the contract, they shall report to the construction unit and ask the design unit to make corrections.   
  
         3． The project supervision unit shall not transfer the project supervision business. This is because the project supervision unit is a specific subject in the construction market, and other institutions and personnel cannot be replaced; the construction unit and the supervision unit are a specific relationship of entrustment and service, and once the contract is concluded, it should no longer be transferred by itself, not to mention that this contract also contains the trust of the construction unit in the specific supervision unit; the supervision and management behavior undertaken by the supervision unit should only be implemented by itself, which is conducive to the realization of the purpose of supervision; the supervision business prohibits the transfer, which is also the rule required to maintain the order of project supervision. At present, some supervision units only undertake supervision business, but do not implement it themselves, and the drawbacks caused by them also explain the need to establish rules that cannot be transferred. If the project supervision unit illegally transfers the supervision business, the provisions of the Construction Law are to order corrections, confiscate the illegal gains, order the suspension of business for rectification, reduce the qualification level, and revoke the qualification certificate if the circumstances are serious.   
  
         4． Responsibility of the project supervision unit. The main provisions of the Construction Law are: if the project supervision unit does not perform its supervision obligations and causes losses to the construction unit, it shall bear the corresponding compensation liability; if the project supervision unit colludes with the contracting unit to seek illegal benefits and causes losses to the construction unit, it shall bear joint and several liability for compensation with the contracting unit; if the project supervision unit colludes with the construction unit and the construction enterprise, it shall be ordered to make corrections. Fines, lowering the qualification level or revoking qualification certificates, confiscating illegal gains, constituting criminal liability for crimes.   Eighth, construction safety production management system  Regarding safety production management, the state has formulated some relevant laws, some of which are common in various industries, and the construction law has made a number of provisions in combination with the characteristics of the construction industry, mainly as follows:  
  1. 2. Establish and improve the responsibility system for safe production and the system of mass prevention and mass governance;  
  3. The design of the construction project shall comply with the building safety regulations and technical specifications formulated in accordance with the provisions of the state to ensure the safety performance of the project;  
  4. When preparing the construction organization design, the construction enterprise shall formulate corresponding safety technical measures according to the characteristics of the construction project;  
    
  
 5. Where the construction site may cause damage to the special working environment of adjacent buildings and structures, the construction enterprise shall take safety protection measures;  
  
  
  6. The legal representative of the construction enterprise is responsible for the safe production of the enterprise, the safety of the construction site is the responsibility of the construction enterprise, and the general contracting unit is responsible for the implementation of the general contracting of the construction;  
  7. Construction enterprises must apply for accident insurance for employees engaged in hazardous operations and pay insurance premiums;  
  8. For decoration projects involving changes in the main body of the building and load-bearing structures, a design plan should be proposed before construction, and no construction shall be carried out without a design plan;  
  The demolition of the house shall be undertaken by the construction unit with the conditions to ensure safety, and the person in charge of the construction unit shall be responsible for the safety.   Nine, the implementation of the construction law  the formulation of the law must be implemented, the most important points in the implementation of the three points:  First, the construction law is a national law, must be taken seriously, can not be ignored, otherwise will be punished;  second, serious study, especially in the construction industry practitioners, must study the law, understand the law, the use of law;          Third, we must correctly interpret and publicize the law, and we should not misinterpret or circumvent the law.   
   
   
   
  
   
  
   
   
 

The content of the chapter "General Provisions" of the law is the provision of several important issues of principle of this law, and has the function of summarizing and guiding the provisions of other chapters. In addition to the legislative purpose of this Law (Article 1), the scope of application (Article 2), and the competent administrative authority for unified supervision and management of construction activities throughout the country (Article 6), the general provisions of this Law are also stipulated separately, and the construction activities must ensure the quality and safety of construction projects, construction activities must be carried out in accordance with the law, and the basic principles of legal construction activities protected by law (Articles 3 and 5), as well as the state's adoption of support for the development of the construction industry, The Guidelines for Supporting the Research and Popularization and Application of Construction Science and Technology (Article 4) are stipulated.   
  
  Article 1  This Law is formulated in order to strengthen the supervision and management of construction activities, maintain the order of the construction market, ensure the quality and safety of construction projects, and promote the healthy development of the construction industry.   
  【Interpretation】This article is a provision on the legislative purpose of this Law.   
  The legislative purposes of this Act are:  
  1. Strengthen the supervision and management of construction activities. The construction industry is one of the basic industries of the national economy, and together with industry, agriculture, commerce and transportation, it constitutes the five major material production departments of the national economy. Through its own production activities, that is, the construction of various types of buildings and structures and the installation of their supporting lines, pipelines and equipment, the construction industry provides people's production and life with various buildings such as residences, factories, warehouses, office buildings, schools, hospitals, shops, stadiums (halls) and other buildings, creating wealth for society. Since the establishment of New China, especially in the more than ten years of reform and opening up, with the development of the national economy and society, China's construction industry has also developed greatly. In the early days of the founding of the People's Republic of China, There were only more than 200,000 organized construction teams in China, and by the end of 1995, the number of employees in the construction industry had reached more than 32 million. During the Eighth Five-Year Plan period, 6.4 billion square meters of houses were completed nationwide, of which 4.5 billion square meters were urban dwellings. While providing the necessary material conditions for the development of other construction undertakings and the improvement of people's living standards, the construction industry has also driven the development of other related industries (according to the calculation of relevant departments, every 1 yuan output value of China's construction industry can drive related industries to complete 1. 76 yuan output value), has become the pillar industry of China's national economy. But at the same time, we should also see that in the development process of China's construction industry, there are still some problems that cannot be ignored, and some are quite serious. In the construction market, the main body behaves irregularly, bribes are paid in the project contracting activities, or the contracted projects are subcontracted layer by layer, layer by layer, and a group of contractor teams that do not have the qualifications and conditions for engaging in construction activities contract the project through "affiliation" or other illegal means, leaving serious hidden dangers in construction quality and destroying the normal order of the construction market The quality of housing construction projects is inferior, and even the vicious accidents of house collapses and collapses frequently occur, and the society reacts strongly; the staff of some construction administrative departments do not conscientiously perform their supervision and management duties, neglect their duties, and engage in favoritism and fraud, thus opening a convenient door for illegal acts in construction activities We must attach great importance to the various problems existing in the development of the construction industry and take effective measures to effectively solve them. Through the formulation of the Construction Law, which stipulates the code of conduct that must be observed in the supervision and management of construction activities and the compulsory force of the law, it provides a legal basis and legal guarantee for strengthening the effective supervision and management of construction activities, which is an important purpose of formulating this Law.   
         2． Maintain order in the construction market. The "construction market" mentioned here refers to the construction unit or owner (contracting party) of the construction project, the legal person or natural person (the contractor) engaged in the survey, design, construction, supervision and other business activities of the construction project, as well as the relevant intermediary agencies as the main body of the market, with the survey, design and design of the construction project. The work results of construction and other construction activities or the contracting and trading activities of construction projects with the supervision services of project supervision as the object of market transactions. It includes both the tangible markets in which there are usually trading floors and fixed trading venues that have been built in some places, where the contract issuer and the contractor carry out contracting transaction activities, and also the intangible market in which the contracting party and the contracting party mainly carry out contracting transaction activities through advertising, communication, intermediary and other means.   In the period of implementing the planned economy, construction activities were mainly arranged by the state plan, construction projects were determined by the state plan, and the production activities of surveying and designing units and construction enterprises engaged in construction activities were mainly carried out in accordance with the national plan. Since the reform and opening up, the construction industry has become the first industry to enter the market. In the transition period from the planned economy to the socialist market economy, because the original management system and management means of the construction industry are far from being able to meet the needs of reform, opening up and market development, and the new management model has not been effectively established, some chaotic phenomena have appeared in the construction market, endangering the quality and safety of construction projects and affecting the healthy development of the construction industry. The "Decision of the CPC Central Committee on Several Issues Concerning the Establishment of a Socialist Market Economy" points out that the market economy is an economy based on the rule of law and a normal market economic order, which needs to be established and maintained by relying on legal norms. General Secretary Jiang Zemin also clearly pointed out in his report to the 15th National Congress of the Communist Party of China that it is necessary to "improve market rules and strengthen market management" and "  
build a unified, open, competitive, and orderly market system as soon as possible." 。 Through the formulation of the construction law, the establishment of the basic rules that must be observed in the operation of the construction market, the requirement that all aspects involved in the construction market activities must be followed as a whole, and the violation of the statutory rules of the construction market shall be investigated for legal responsibility according to law, which is very necessary for the construction of an orderly market order for the construction market to compete in the market and ensure the healthy development of the construction industry under the conditions of the market economy, which is another important purpose of formulating the construction law.   The basic rules for the operation of the construction market stipulated in this Law for the maintenance of the normal order of the construction market include: (l Market entry rules. In accordance with the relevant provisions of Chapters II and III of this Law, construction enterprises, survey units, design units and project supervision units that enter the construction market to engage in construction activities, regardless of their size or the nature of ownership, must meet the statutory qualification conditions, and according to the registered capital, professional and technical personnel, technical equipment and completed construction project performance and other qualification conditions, they are divided into different qualification levels, and after passing the qualification examination and obtaining the corresponding level of qualification certificates, Only within the scope of business permitted by its qualification level can engage in construction activities. It is forbidden for any unit or individual that has not obtained the construction industry qualification certificate in accordance with the law to enter the construction market in any form to engage in construction activities, and the violators will be banned according to law and investigated for their legal responsibility. (2) Market competition rules. In accordance with the relevant provisions of Chapters III and IV of this Law, except for construction projects that are not suitable for bidding and contracting, most other construction projects shall be tendered and contracted in accordance with law; the bidding and bidding activities for construction projects shall follow the principles of openness, fairness and equal competition, and the contracting units shall be selected on the basis of merit; it is forbidden to contract projects by any form of unfair competition such as bribery and kickbacks; and the government and its subordinate departments shall not abuse their administrative power. Restrict the contracting units from contracting the construction projects that are tendered and contracted to the designated contracting units; prohibit subcontracting and illegal subcontracting. (3) Market trading rules. In accordance with the relevant provisions of this Law, the contracting party and the contracting party of the construction project shall conclude a written contract in accordance with the law to clarify the rights and obligations of both parties; the cost of the construction project shall be   
agreed upon in the contract by the contracting party and the contracting party in accordance with the law; the contracting unit shall not illegally designate the contracting unit to purchase building materials, building structure accessories or designate production plants or suppliers for the project.   
         3. Ensure the quality and safety of construction projects. Construction projects have the characteristics of high cost, once completed, it will exist for a long time and be used for a long time, and its quality problems are more important than other products. Quality problems in construction projects, especially in the main structure of buildings or hidden projects, will cause huge economic losses due to difficulties in making up. At the same time, construction projects, as places for people to live or use by the public, if there are quality problems that endanger safety, may cause major personal injuries and property losses, and there are many bloody lessons worth learning at home and abroad. "Century-old plan, quality first", this is the basic principle that must be adhered to in construction activities. The Construction Law regards ensuring the quality and safety of construction projects as the legislative purpose and legislative focus of this Law, and makes a number of important provisions from the general provisions to the sub-provisions, which are of great significance for ensuring the quality and safety of construction projects.   
         4． Promote the healthy development of the construction industry. As the superstructure, law serves the economic base and the development of social productive forces. The ultimate purpose of formulating the Construction Law, establishing the basic norms that must be observed in engaging in construction activities, and strengthening the supervision and management of construction activities according to law is to promote the healthy development of the construction industry and meet the needs of socialist modernization. The promotion of the "healthy development" of the construction industry mentioned here not only includes the requirements for the construction industry in terms of development speed and economic benefits, but more importantly, the requirements for the construction industry in ensuring the quality and safety of the project. It is necessary to make China's construction industry truly achieve sustained, stable and rapid development on the basis of "good quality and high efficiency", which is in line with the requirements of this Law for the healthy development of the construction industry.   Article 2  Engaging in construction activities within the territory of the People's Republic of China and carrying out supervision and management of construction activities shall comply with this Law.   "Construction activities" as used in this Law refers to the construction of various types of housing buildings and their ancillary facilities and the installation of lines, pipelines and equipment supporting them.   【Interpretation】This article is about the scope of application of this Law.   1. The scope of application of law, also known as the scope of effect of law, includes the temporal effect of law, that is, when and when the law becomes effective; the spatial effect of law, that is, the geographical scope of the application of law; and the effect of law on persons, that is, the application of law to whom (refers to natural persons, legal persons and other organizations with the qualification of subjects of legal relations). With regard to the temporal effect of the Construction Law, article 85 of this Law provides for it. This article provides for the territorial scope of application of this Law and the scope of application of the subject's conduct.   2. The provisions of the first paragraph of this Article on the scope of application of this Law shall have two meanings:  
  1 ． The territorial scope (or scope of spatial effects) to which this Law applies is within the territory of the People's Republic of China, that is, within all areas covered by the sovereignty of the People's Republic of China. The general principle of the scope of legal space effects applies to all areas under the jurisdiction of the organ that formulated it. As a law enacted by the Standing Committee of the National People's Congress, the standing body of the highest organ of power in our country, the Construction Law naturally extends to all areas of the People's Republic of China. Of course, according to the provisions of the Basic Laws of the two Special Administrative Regions of Hong Kong and Macao, only the national laws listed in Annex III of the two Basic Laws can be applied in these two Special Administrative Regions. The Construction Law is not included in Annex III of the two Basic Laws, and therefore the Construction Law does not apply to the Hong Kong Special Administrative Region, which has resumed the exercise of sovereignty in China, and the Macao Special Administrative Region, which is about to resume the exercise of sovereignty. The construction legislation of Hong Kong and Macao shall be formulated by the legislatures of the two Special Administrative Regions themselves.   
         2． The scope of the application of this Law includes all entities engaged in construction activities and government organs at all levels that have the responsibility to supervise and manage construction activities in accordance with law. (1  
) All entities engaged in construction activities as used in this Law include state-owned enterprises and public institutions, enterprises and public institutions under collective ownership, and Sino-foreign equity joint ventures engaged in activities such as surveying, designing, constructing, supervising, etc. of construction projects. Sino-foreign cooperative ventures, foreign-funded enterprises, partnership enterprises, private enterprises and individuals who may engage in construction activities according to law, regardless of their economic nature and scale, shall abide by the provisions of this Law as long as they engage in construction activities provided for in this Law, and violations of the provisions of this Law shall be prosecuted by law. (2  
) Administrative organs administering according to law is the basic requirement for the building of the socialist legal system. The report of the 15th National Congress of the Communist Party of China clearly pointed out that   
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all government organs must be administered according to law  
." 。 Government organs at all levels that are responsible for supervising and managing construction activities in accordance with the law, including the competent administrative departments for construction and other relevant competent departments, shall supervise and manage construction activities in accordance with the provisions of this Law. This includes conducting qualification examinations of construction enterprises, surveying units, design units and project supervision units engaged in construction activities in accordance with the provisions of this Law, and issuing qualification level certificates in accordance with law; supervising whether the bidding and bidding activities of construction projects conform to the principles of openness, fairness and fairness and whether they comply with legal procedures, but shall not organize bidding on behalf of construction units; supervise and manage the quality of construction projects and the safe production of construction projects in accordance with the law; and impose administrative penalties for violations of this Law. Organs with supervision and management responsibilities for construction activities and their staff who fail to perform their duties in accordance with the law, neglect their duties or abuse their powers will be prosecuted by law.   3. Paragraph 2 of this Article defines the scope of construction activities to which the provisions of this Law apply in the form of a definition of the construction activities referred to in this Law. That is, the scope of construction activities applicable to this Law is the construction of various types of housing buildings and their ancillary facilities and the installation of lines, pipelines and equipment supporting them.   
         1． Construction activities in a broad sense include the construction of various civil engineering activities and the installation of related facilities and equipment, including the construction of various types of housing construction activities, as well as the construction of railways, highways, airports, ports, mines, reservoirs, communication lines and other professional construction projects and their equipment installation activities. In the Draft Construction Law submitted to the Standing Committee of the National People's Congress for deliberation, the construction activities to which this Law applies were stipulated to refer to the new construction, expansion, reconstruction, and building decoration and decoration activities of the installation of lines, pipelines, and equipment within the scope of civil construction projects and the construction industry. In this way, the construction activities of professional construction projects such as railways, highways, airports, ports, mines, reservoirs, and communication lines are all included in the scope of application of the Construction Law. In its deliberations on the draft, the legislature considered that the scope of application of the provisions of the draft was too broad. Housing construction is quite different from the construction activities of professional construction projects such as railways, highways, airports, ports, mines, reservoirs, and communication lines. Professional engineering construction also has its own competent departments, and it is difficult for this Law to fully apply to the construction activities of various professional construction projects and solve the problem of supervision and management of them. Since housing construction involves thousands of households and all aspects of society, and the problems existing in practice are also quite prominent, the scope of application of this Law should be stipulated to be applicable to the construction of all kinds of housing buildings and their ancillary facilities, including civil housing, industrial housing and housing construction as a place of public activities, and the installation of their supporting lines, pipelines and equipment. As for the construction activities of railways, highways, airports, ports, mines, reservoirs, communication lines and other professional construction projects, the State Council may separately formulate specific applicable measures in accordance with the relevant principles provided for in this Law and in accordance with the characteristics of each professional construction activity. In the course of soliciting opinions on the provisions of the draft by the legislative working body of the Standing Committee of the National People's Congress, many localities, departments, and experts have also proposed that in order to ensure that the provisions of the Construction Law can grasp the key points, conform to reality, and be practical, they should be limited to construction activities applicable to all kinds of housing construction. In addition, the construction legislation of some countries and regions also clearly stipulates that the scope of application is applicable to all kinds of housing construction activities. After repeated and careful study, the Law Committee of the National People's Congress, in the Construction Law (Revised Draft) proposed to the NPC Standing Committee, revised the provisions of the draft, limiting the scope of construction activities provided for in this Law to "refers to the construction of various types of housing buildings and their ancillary facilities and the installation of their supporting lines, pipelines, and equipment." "The Standing Committee of the National People's Congress agreed with the amendments made by the Law Committee.   
         2． The term "housing construction" of all kinds referred to in this article refers to buildings with roofs, beams and walls for people's production and life, including civil residences, factories, warehouses, and office buildings. Theaters, gymnasiums, school buildings and other types of housing. "Ancillary facilities" referred to in this article   
refers to auxiliary building facilities such as walls and water towers built in conjunction with the building of the house. The "installation activities of supporting lines, pipelines and equipment" referred to in this article refers to the installation of electrical, communication, gas, water supply, drainage, air conditioning, elevators, fire protection and other lines, pipelines and equipment supporting buildings.   
         3． Building renovation activities, if they are renovations in the construction process, are part of the construction activities, and the provisions of this Law apply and do not need to be listed separately. The decoration of a completed building shall be carried out in accordance with the provisions of Article 49 of this Law if it involves a change in the main body or load-bearing structure of the building; the decoration that does not involve the change of the main body or load-bearing structure shall not fall within the scope of adjustment of this Law. In addition, for architectural decoration activities that do not include building decoration content, because they do not involve the safety and basic use functions of buildings, they can be completely different according to the different hobbies and aesthetic tastes of users, and do not need to be regulated by law, so the adjustment scope of this law does not include architectural decoration activities.   Article 3  Construction activities shall ensure the quality and safety of construction projects and conform to the national safety standards for construction projects.   【Interpretation】This article stipulates the principle of ensuring the quality and safety of the project that must be followed in construction activities.   It is of great significance that the Construction Law stipulates in the General Provisions that ensuring the quality and safety of the works as a basic principle that must be followed in construction activities. (l) The quality of construction projects is a major matter of human life, and the collapse of buildings due to quality problems often causes vicious accidents in which many people are killed and injured, and there are many bloody lessons worth learning at home and abroad in this regard. (2) Construction projects are usually very expensive, and once the quality problems of their main structure or hidden projects occur, they will cause huge economic losses due to difficulties in making up. For example, in 1995, a building in Putuo, Shanghai, was forced to carry out blasting and demolition due to the use of substandard building materials, causing direct economic losses of more than 2 million yuan alone. (3) A major aspect of construction activity is the provision of housing for urban and rural residents. In real life, the masses buy or assign a house, which is not an easy thing, it is a major event in life. The quality of housing is directly related to the vital interests of the masses, and even affects the image of the party and the government, and affects social stability.   Judging from the current situation in Our country, the quality of construction projects is more prominent. The construction quality of some housing construction projects is poor, and there are a large number of quality diseases such as roof leakage, poor pipelines, uneven ground, empty drums or cracks in the wall, and poor operation of elevators, and the masses are very dissatisfied. It is reported that in   
1995, the quality pass rate of residential projects counted by the relevant departments was   
82  
%, and according to this calculation, the residential area completed in the country in that year was 2. The area of unqualified residential buildings should be more than 45 million square meters, and if each house is calculated, nearly 900,000 residents have moved into unqualified new homes that year. According to the relevant departments, the buildings built in the 50s generally need to be repaired after 15   
years, and now the buildings of the building, which have not yet been inhabited, need to be repaired in many places, and even just built to become dangerous houses. In recent years, vicious accidents such as house collapse caused by poor construction quality, resulting in major personal injuries and property losses, have continued to occur. According to the statistics of relevant departments, between 1986 and 1995, there were 237 house collapse accidents and 723 deaths in the country5亿平方米, in 1997 In March and 50平方米July, another major accident occurred in Kamata, Fujian, and Changshan County, Zhejiang Province, where staff dormitory buildings collapsed, killing more than 30 people each. The problem of poor construction quality and continuous major accidents has aroused widespread concern in society. Some national newspapers have continuously published reporter articles in response to major quality accidents in housing construction, proposing, "In the face of frequent collapse accidents, some people ask, is our living space safe?" "If the construction industry has forgotten the basis of the survival of the 'centenary plan', then how can the people live in a house?" "In view of the vital importance of ensuring quality and safety in construction activities, the Construction Law shall make the quality and safety of construction works the legislative focus of this Law, in addition to the provisions of principles in the General Provisions, in the chapter "Quality management of construction works" and other relevant chapters, A number of statutory measures to ensure the quality and safety of construction projects are clearly stipulated. These provisions of the law must be strictly implemented in all aspects.   Second, the basic requirements for ensuring the quality and safety of construction projects in construction activities must comply with national construction engineering safety standards. The national construction engineering safety standards mentioned here include national standards and industry standards related to the safety of construction projects. According to the Standardization Law of the People's Republic of China, "national standards shall be formulated for technical requirements that need to be unified nationwide." National standards shall be formulated by the competent administrative department for standardization under the State Council. For technical requirements that do not have national standards and need to be unified in a certain industry across the country, industry standards can be formulated. The industry standard shall be formulated by the relevant industry competent department of the State Council and reported to the competent administrative department of standardization under the State Council for the record, and the industry standard shall be abolished after the national standard is promulgated. (Article 6 of the Standardization Law) also provides. "National standards and industry standards are divided into mandatory standards and recommended standards. The standards for ensuring human health, personal and property safety and the standards for compulsory enforcement stipulated by laws and administrative regulations are mandatory standards." "Mandatory standards that must be implemented. (Articles 7 and 14 of the Standardization Law) In accordance with the provisions of this Law and the Standardization Law, all national and industrial standards on the safety of construction projects formulated in accordance with the law, including the technical specifications, technical requirements and methods for the survey, design, construction and acceptance of construction project safety included in national standards or industry standards, are mandatory standards, and all relevant parties must strictly follow them. The construction unit of the construction project shall not, for any reason, require the architectural design unit or the construction enterprise to violate the provisions of the national standards and industry standards on the safety of the construction project and reduce the quality of the project in the course of engineering design or construction operations; the survey, design and construction enterprises of the construction project must conduct survey, design and construction in accordance with the requirements of the relevant national or industry safety standards for construction projects; and the construction project supervision unit must also supervise the project in accordance with the safety standards. Of course, the national or industry standards related to the safety of construction projects are the basic requirements for ensuring the safety of construction projects, and the contracting party and the contractor of construction projects can stipulate in the contract that the engineering quality requirements are stricter than the national standards or industry standards, but the quality requirements of the national or industry safety standards must not be lower than the quality requirements of the national or industry safety standards.   Article 4 The  State shall support the development of the construction industry, support the research of building science and technology, improve the level of housing architectural design, encourage energy conservation and environmental protection, and advocate the use of advanced technologies, advanced equipment, advanced processes, new building materials and modern management methods.   【Interpretation】This article is about the provisions of the state's policy of supporting the development of the construction industry, supporting the research and popularization of construction science and technology, and encouraging energy conservation and environmental protection in construction activities.   First, the state supports the development of the construction industry. To maintain the sustainable development of China's economy and society, objectively require the construction industry to provide more industrial, commercial, cultural, educational, tourism and other industries needed for all kinds of housing construction, especially with the improvement of the people's living standards, changes in the consumption structure, the demand for housing will continue to grow, which requires residential construction must have greater development. The Ninth Five-Year Plan for National Economic and Social Development and the Outline of Long-term Goals for 2010 adopted by the Fourth Session of the Eighth National People's Congress in March   
1995 clearly stated that "By 2000, according to the 1995 price, the added value of the construction industry reached more than 500 billion yuan, and the pass rate of the project quality reached more than 90%. It is necessary to   
"speed up the construction of urban housing, improve the quality of housing, and build 1 billion square meters of urban housing in five years  
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"The development of the construction industry has a strong driving force, which can drive the development of building materials, construction machinery, metallurgy, chemical industry, light industry and many other industries." The relevant departments have calculated that for every 1 yuan output value completed in the construction industry, it can drive the related industries to complete the output value of 1.76 yuan. Many countries in the world regard the construction industry as the pillar industry of their own economic development, and take measures to vigorously support and promote its development. The "Ninth Five-Year Plan for National Economic and Social Development and the Outline of Long-term Goals for 2010" adopted by China's National People's Congress put forward that the construction industry should be regarded as the basic industry of the national economy and vigorously revitalized to promote the growth of the entire economy. This is the correct policy decision made by the central authorities after seriously and scientifically analyzing and studying the history, current situation, and development trend of China's economic and social development, as well as the historical experience of the economic development of some developed countries. In the form of law, the construction law confirms the basic policy of the state to support the development of the construction industry. People's governments at all levels and relevant departments shall, in accordance with the provisions of the law, comprehensively apply policies and measures in the fields of finance, credit, taxation, and prices to support and promote the sustained, healthy and rapid development of the construction industry.   Second, the state supports the research of building science and technology, and advocates the use of advanced technology, advanced equipment, advanced technology, new building materials and modern management methods. Science and technology are the primary productive forces. Modern science and technology have penetrated widely into all fields of economic and social life and have become a powerful driving force for promoting economic and social development. Similarly, the sustained, healthy and rapid development of the construction industry also urgently needs to rely on modern science and technology. Judging from the current situation of China's construction industry, although no small achievements have been made in the research of building science and technology, some new technologies, new equipment and new processes in building survey, design and construction have been popularized and applied, which has played an important role in promoting the development of the construction industry, but from the perspective of the entire industry, the level of science and technology is not high, and many construction enterprises, whether it is technical equipment, construction technology or management methods, are still relatively backward, labor intensity is large, labor efficiency is low, and the building materials used are relatively backward. Vigorously carrying out the research and popularization of construction science and technology, and accelerating the pace of adopting advanced technologies, advanced equipment, advanced processes, new building materials and modern management methods, is an important and urgent task before us. The Construction Law establishes the principle of state support for construction science and technology research, and also requires the government and relevant departments to formulate corresponding specific policies and take effective measures to implement them. The competent administrative department of construction of the State Council issued a document in 1994, proposing that the construction industry should be in the "Ninth Five-Year Plan" During the period, the focus should be on the promotion and application of high-efficiency steel and prestressed concrete technology, high-strength concrete technology, thick diameter steel reinforcement connection technology, new formwork and scaffolding application technology, commodity concrete and bulk cement application technology, building energy saving technology, new building waterproofing engineering technology, fly ash comprehensive utilization technology, hard PVC plastic pipe application technology, and modern management and computer applications10 new technology. Construction enterprises should also fully understand the important role of scientific and technological progress in enhancing the competitiveness of enterprises and improving the economic efficiency of enterprises; in combination with the actual situation of enterprises, vigorously carry out scientific and technological research, strengthen technological transformation of enterprises, and strive to adopt new technologies, new equipment, and new processes in construction activities; respect knowledge and talents, give full play to the enthusiasm of enterprise scientific and technological personnel, and strengthen cultural education and technical training for all employees, and improve the scientific and cultural knowledge and technical level of employees. In enterprise management, efforts should be made to adopt modern management methods to improve the level of enterprise operation and management, so that the human, material, and financial resources of enterprises can be rationally allocated, and all kinds of resources can be fully and rationally used, so that the economic returns of enterprises can be continuously improved.   Third, the state supports and encourages the improvement of the level of housing architectural design. The design of housing buildings should be based on the national conditions of our country and the different characteristics of various places, under the premise of ensuring safety and meeting the different functional requirements of different housing buildings, and strive to be beautiful, generous, economical and practical. Urban housing architecture should be coordinated with the overall style of the city, both modernization and attention should be paid to maintaining the national style. It is necessary to learn from the advantages of excellent foreign housing architectural design and continuously improve the level of housing architectural design in China.   Fourth, the State encourages energy conservation and environmental protection in construction activities.   
         l. Energy is the material foundation for the development of the national economy. To meet the growing demand for energy demand for economic development and the improvement of people's living standards, one depends on energy development and the other relies on energy conservation. From the situation that China's energy development is limited by both resource reserves and construction funds, we should put energy conservation in the first place. It is of great significance to vigorously emphasize energy conservation in all sectors of the national economy. Adopted by the 28th Session of the Standing Committee of the Eighth National People's Congress and coming into force on January 1, 1998, the Energy Conservation Law clearly stipulates: "Energy conservation is a long-term strategic policy for the country's economic development." (Article 4 of the Energy Conservation Law), and specifically stipulates: "The design and construction of buildings shall adopt energy-saving building structures, materials, appliances and products in accordance with the provisions of laws and administrative regulations, improve thermal insulation performance, and reduce energy consumption for heating, cooling and lighting." (Article 37 of the Energy Conservation Law) In the "Outline of China's Energy Conservation Technology Policy" jointly issued by the State Planning Commission, the State Economic and Trade Commission and the State Science and Technology Commission in May 1996, more specific provisions were made on building energy conservation. The "outline" proposes,   
"Building energy conservation should first ensure and improve the quality of the building and the indoor thermal environment, to achieve the requirements of the winter room temperature during the heating period, and strive for the summer room temperature of urban buildings to be lower than, at the same time, New heating residential buildings in cold areas should fully implement the building energy-saving design standards, and the energy-saving rate is not less than 30% compared with the general residential design in the early 1980s. By 2000, it is required to implement the new energy-saving standards for new heating public buildings, and the energy-saving rate will reach 50  
%. For civil buildings with central heating, heat meters and related adjustment equipment are installed, charged according to the table,   
which began to be promoted in 1998 and promoted in key urban construction projects in 20001997年11月1日. For existing heating and air-conditioning buildings, energy-saving technology transformation is carried out in batches in a planned manner. Rural building promotion energy-saving demonstration project. At the same time, the outline also puts forward specific requirements for the recent building energy-saving work from the aspects of attaching importance to building energy-saving design, actively promoting the use of new building materials, developing energy-saving walls and roofs, strengthening energy-saving standardization work, giving priority to the use of energy-saving heating and air conditioning and lighting systems, and strengthening building energy-saving science and technology research. In the design and construction of buildings and other links, we should do a good job in building energy conservation in accordance with the relevant provisions of the state and the requirements of energy-saving technical standards.   
         2． Protecting the environment is the basic national policy of our country. The Constitution stipulates: "The State shall protect and improve the living environment and the ecological environment, and prevent pollution and other public hazards." The Environmental Protection Law stipulates: "All units and individuals have the obligation to protect the environment." 。 (Article 6 of the Environmental Protection Law) To implement the policy of protecting the environment in construction activities, we should mainly do a good job in two aspects: First, we must cherish and economize the use of various natural resources, especially we must pay great attention to the economical use of land, occupy as little land as possible, and do not occupy cultivated land; do a good job in protecting vegetation, preventing soil erosion, and doing a good job in afforestation work in light of the specific conditions of project construction. Second, it is necessary to strictly implement the provisions of laws and regulations such as the Law on the Prevention and Control of Air Pollution, the Law on the Prevention and Control of Water Pollution, the Law on the Prevention and Control of Environmental Pollution by Solid Waste, and the Law on the Prevention and Control of Environmental Noise Pollution, and take effective measures to prevent and control the pollution of the surrounding environment by waste gas, waste water, waste residue and other wastes and construction noise generated in construction activities. From the actual situation, construction activities should pay special attention to strengthening the management of the construction site, achieve civilized construction, prevent and control pollution of the surrounding atmospheric environment due to dust, and prevent and control the pollution of the surrounding environment due to construction noise such as construction machinery vibration, friction and impact. Regarding the prevention and control of environmental pollution by construction noise, it was adopted by the Twenty-second Session of the Standing Committee of the Eighth National People's Congress, and a special chapter has been set up from the "Law on the Prevention and Control of Environmental Noise Pollution" that has been implemented. The law stipulates in the chapter "Prevention and Control of Noise Pollution from Construction Construction" that "where construction noise is discharged into the surrounding living environment within the urban area of the city, it shall comply with the environmental noise emission standards for the boundary of the construction site stipulated by the state." "Within the urban limits of the city, mechanical equipment is used during the construction of the building. Where environmental noise pollution may be generated, the construction unit must declare to the competent administrative department of environmental protection of the local people's government at or above the county level where the project is located, the project name, construction site and time limit, the environmental noise value that may be generated, and the environmental noise pollution prevention and control measures taken before the project starts 15 days before the start of the project. "In the concentrated area of noise-sensitive buildings in urban areas, it is forbidden to carry out construction work that produces environmental noise pollution at night, except for emergency repair, emergency operation, and continuous operation due to production process requirements or special needs." 18℃"Where 30Ccontinuous operation is necessary due to special needs, it must be certified by the people's government at or above the county level or the relevant competent department." "The nighttime operation time specified in the preceding paragraph must be announced to nearby residents." (Articles 28 to 30 of the Environmental Noise Pollution Prevention and Control Law) These provisions of the law must be strictly implemented by construction enterprises, and violators will be prosecuted by the law.   Article 5 When  engaging in construction activities, laws and regulations shall be observed, and the public interest or the lawful rights and interests of others shall not be harmed.   No unit or individual may obstruct or obstruct construction activities carried out in accordance with law.   【Interpretation】This article is about the provisions that construction activities shall comply with the law and that construction activities carried out in accordance with the law shall be protected by law.   1. Construction activities shall comply with laws and regulations.   
         1． The laws referred to here refer to normative documents formulated by the NPC and the NPC Standing Committee in accordance with legislative procedures; the regulations referred to here refer to the administrative regulations formulated by the State Council in accordance with the provisions of the Constitution and the Organic Law of the State Council, and the people's congresses and their standing committees of provinces, autonomous regions, and municipalities directly under the Central Government, as well as the municipalities where the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government are located and the larger municipalities approved by the State Council, and the People's Congresses and their Standing Committees of larger cities in accordance with the Constitution and the Constitution. Local regulations formulated in accordance with the provisions of the Organic Law of Local People's Congresses at All Levels and Local People's Governments at All Levels also include regulations formulated by the People's Congresses of special economic zones and their Standing Committees in accordance with the authorization of the National People's Congress. In terms of potency level. The effectiveness of laws is second only to that of the Constitution and is higher than that of administrative regulations and local regulations, and neither administrative regulations nor local regulations shall conflict with laws; the effectiveness of administrative regulations is higher than that of local regulations, and local regulations must not conflict with laws and administrative regulations; in terms of scope of application, laws and administrative regulations shall be applied nationwide, while local regulations shall only be applied within the scope of local administrative regions or special zones under the jurisdiction of their formulating organs.   
         2. Laws (laws in a broad sense also include regulations) are norms of conduct formulated or recognized by the state and guaranteed by the coercive power of the state, which is the embodiment of the overall interests of society and the basic guarantee for establishing and maintaining normal social order and economic order. In his report to the Fifteenth National Congress of the Communist Party of China, General Secretary Jiang Zemin pointed out: "Governing the country according to law is the party's basic strategy for leading the people to govern the country, an objective need for developing the socialist market economy, an important symbol of the progress of social civilization, and an important guarantee for the country's long-term peace and stability." In the process of carrying out socialist modernization, we must vigorously strengthen the building of the legal system and ensure that "there are laws to follow; laws must be followed, law enforcement must be strict, and violations of the law must be investigated." All members of society should abide by the relevant provisions of the law when carrying out all activities, and of course, engaging in construction activities is no exception.   A country's legal system consists of a multitude of basic and separate laws that regulate different social relations. Construction activities involve a multifaceted relationship, in addition to complying with the provisions of the special law specifically applicable to construction activities, that is, the construction law, but also complying with other relevant laws and regulations. For example, in terms of construction land, the provisions of the Land Administration Law and the Urban Real Estate Management Law and relevant administrative regulations should be complied with; the provisions of the Urban Planning Law and relevant laws and regulations should be complied with when carrying out construction activities in urban planning areas; in terms of environmental protection, the provisions of laws and regulations such as the Environmental Protection Law, the Air Pollution Prevention and Control Law, the Water Pollution Prevention and Control Law, the Solid Waste Pollution Prevention and Control Law, and the Environmental Noise Pollution Prevention and Control Law should be observed; in construction activities, ancient cultural relics are discovered. In the process of contracting and contracting construction projects, it is necessary to comply with the provisions of the laws and administrative regulations on bidding and bidding and the anti-unfair competition, and to conclude contracting contracts, it is necessary to comply with the provisions of laws and administrative regulations on contracting; in the labor relations between construction enterprises and employees, it is necessary to comply with the provisions of the "Labor Law" and relevant laws and regulations.   2. The construction activities shall not harm the public interest or the legitimate rights and interests of others.   
         11996年10月29日． The social public interest refers to the common interests of all members of society, and the law protects the social public interest from damage. Generally speaking, acts that harm the public interest are acts that are expressly prohibited by law. However, the law cannot be all-encompassing, and some acts in construction activities, even if they do not violate the provisions of the law, if they are detrimental to the public interest and obstruct the social public order, they must not be carried out in accordance with the principle that construction activities must not harm the social public interest. 1997年3月1日起  
         2． The legitimate rights and interests of others, here mainly refer to the civil rights and interests of others who may be damaged due to construction activities, including both the property rights of others and the personal rights of others. The "others" mentioned here include citizens, legal persons, and other organizations. The lawful rights and interests of others are protected by law, and those engaged in construction activities must not harm the lawful rights and interests of others, and where damage is caused to the lawful rights and interests of others, they shall bear civil liability such as removing the obstruction, restoring the original state, and compensating for losses in accordance with law; where the circumstances of harming the lawful rights and interests of others are serious and constitute a crime, they must also be investigated for criminal liability in accordance with law. From a practical point of view, in the construction activities to implement the principle of not harming the legitimate rights and interests of others, especially pay attention to the handling of neighborly relations, must not affect the normal traffic, lighting, drainage and other rights and interests of neighboring others because of their own construction activities, and must not affect the normal life of others due to construction noise, so that others' right to physical health can be damaged.   3. No unit or individual may obstruct or obstruct construction activities carried out in accordance with law. Legally carried out construction activities are protected by law and are not hindered or obstructed by any unit or individual. For example, in the construction activities carried out as a result of national construction, the units or individuals that should be relocated, after receiving reasonable resettlement and compensation in accordance with the law, should and must not ask for the relocation, make unreasonable demands, refuse to relocate, and obstruct and obstruct the normal progress of construction activities.   Article 6 The  competent administrative department for construction under the State Council shall exercise unified supervision and management over construction activities throughout the country.   【Interpretation】This article is about the provisions of the administrative authority that exercises unified supervision and management over construction activities. 1. The term "competent administrative department for construction under the State Council"   as used in this Article refers to the Ministry of Construction in accordance with the current institutional set-up of the State Council. The "construction activities" mentioned here refer to the   
"construction of various types of housing buildings and their ancillary facilities and the installation of their supporting lines, pipelines and equipment" as stipulated in the second paragraph of Article 2 of this Law  
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 , the competent administrative department for construction under the State Council shall exercise unified supervision and management over housing construction activities throughout the country, and its specific responsibilities shall be determined in accordance with the law and the relevant provisions of the State Council. Of course, the unified supervision and management of construction activities by the competent administrative department for construction under the State Council does not preclude other relevant departments of the State Council from exercising necessary supervision and management over relevant construction activities in accordance with the division of duties stipulated by the State Council. For example, in carrying out construction activities related to housing construction projects such as railway stations, civil aviation terminals, hydropower station plants, etc., which are part of various professional construction projects, the competent railway departments, the competent departments of civil aviation and the competent departments of water conservancy shall also supervise and manage the relevant housing construction projects in accordance with their respective responsibilities. As for matters such as land use, environmental protection, urban planning, and cultural relics protection involved in housing construction activities, they shall be implemented in accordance with the provisions of the relevant laws; the competent administrative departments provided for by the relevant laws shall supervise and manage them.   Third, the competent administrative department of construction and the relevant competent departments of supervision and management of construction activities must be carried out in accordance with the provisions of laws and administrative regulations, and their main tasks include: reviewing the qualifications of construction activity practitioners in accordance with the law; supervising the operation of the construction market in accordance with the statutory rules, maintaining the market order of equal competition; supervising the quality and safety of construction projects in accordance with the law; and imposing administrative penalties for illegal acts in accordance with the law. The competent administrative departments for construction and relevant competent departments must conscientiously perform their supervision and management duties in accordance with the provisions of the law. Those who do not perform supervision and management duties in accordance with the provisions of the law, neglect their duties, consult for personal gain, or abuse their powers or violate the law in administration will be investigated for legal responsibility in accordance with law. At the same time, when supervising and managing construction activities, the competent administrative departments for construction and the relevant competent departments shall follow the requirements of transforming government functions under the conditions of the socialist market economy and separating the responsibilities of administrative enterprises, and must not interfere with the autonomy of legal persons and construction enterprises in construction projects, let alone participate in the business activities of the construction market.   
   
   
   
   
   
    
   
   
 

This chapter is about the provisions of the building permit system, a total of eight articles, divided into two sections: construction permits and qualifications for construction projects.   
  
  Section 1  Construction Permits for Construction Works  
  
  This section is about the provisions on construction permits for construction works, a total of five articles, which stipulate the following:  
  2. The implementation of the construction permit system for the relevant construction projects and the scope of construction projects for which an application for a construction permit shall be obtained in accordance with the law (Article 7);  
  3. The conditions that the construction unit shall have to apply for a construction permit and the period for the competent administrative department of construction to issue a construction permit (Article 8);  
  1. Duration, extension and repeal of construction permits (Article 9);  
  Reporting system for the suspension and resumption of construction of construction works under construction for any reason (Articles 10 and 11).   
  Article 7  Before the start of construction projects, the construction unit shall, in accordance with the relevant provisions of the State, apply to the competent administrative department for construction of the people's government at or above the county level where the project is located to obtain a construction permit; however, except for small projects below the quota determined by the competent administrative department for construction under the State Council.   
  Construction projects that approve the commencement report in accordance with the authority and procedures prescribed by the State Council shall no longer receive a construction permit.   
  【Interpretation】This article is about the implementation of the construction permit system for the relevant construction projects and the scope of construction projects for which an application for a construction permit shall be obtained in accordance with the law. 1. "  
Construction works"  as used in this Article refers to all kinds of housing construction projects (including the construction of their ancillary facilities and the installation of supporting lines, pipelines and equipment) that are included in the scope of application of this Law in accordance with the provisions of Article 2 of this Law.   The implementation of a construction permit system for construction works is the practice adopted by many countries to supervise and manage construction activities, and many countries have provided for this in their construction legislation. This system refers to the system in which the relevant administrative departments authorized by the state to examine whether the project meets the statutory necessary conditions for starting construction before the construction of the construction project begins, issue a construction permit to the construction project that meets the conditions, and allow the project to start construction. The implementation of the construction permit system for relevant construction projects in China is conducive to ensuring that the projects that start construction meet the statutory conditions and can be carried out smoothly after the start of construction; at the same time, it is also convenient for the relevant administrative departments to fully grasp and understand the basic situation of the number, scale, construction team and other relevant construction projects within their jurisdiction, timely supervise and guide each construction project according to law, and ensure that construction activities are carried out according to law.   
  2. Paragraph 1 of this Article stipulates the scope of construction projects subject to the construction permit system. According to the provisions of this paragraph, not all construction projects must apply to the competent administrative department for construction under the State Council to obtain a construction permit before starting construction, and small projects below the quota determined by the competent administrative department for construction under the State Council do not need to obtain a construction permit. Due to the characteristics of small construction projects such as low investment, small construction scale, and relatively simple construction, it is not necessary to apply to the construction administrative department to obtain a construction permit, and the construction administrative department cannot actually manage it. Therefore, this Law authorizes the competent administrative department for construction under the State Council to determine a quota according to the actual situation, and the construction of small projects below the quota does not require an application for a construction permit.   
  In accordance with the provisions of this paragraph, for construction projects that implement the construction permit system, before the construction begins, the construction unit shall, in accordance with the relevant provisions of the State, apply to the competent administrative department for construction of the people's government at or above the county level where the project is located to obtain a construction permit. This provision includes the following: (  
1) A building permit must be obtained before the start date. According to the relevant provisions of the competent department of state planning, the date of commencement of construction refers to the time when the permanent project plan specified in the construction project or the individual engineering design documents begins construction, and the time when the permanent project officially breaks the ground and starts the construction, and the preparatory work before this, such as geological exploration, leveling the site, demolition of old buildings, temporary buildings, temporary roads for construction, water, electricity and other projects, is not officially started. Where a construction unit starts construction without applying for a construction permit before starting construction in accordance with law, it is an illegal act and shall be investigated for administrative legal responsibility in accordance with the provisions of Article 64 of this Law. (2) The construction permit is applied for by the construction unit. The "construction unit" referred to here refers to any unit or individual who invests in the construction of the project, that is, the "owner" of the construction project. (3) The competent administrative department for construction of the people's government at or above the county level shall be the organ for the examination and issuance of construction permits. The competent administrative department for construction shall perform this duty in accordance with law, and issue construction permits for construction projects that meet the statutory requirements for commencement of construction after examination, and shall not issue construction permits to those that do not meet the requirements.   3. Paragraph 2 of this Article stipulates that construction projects that have been approved in accordance with the authority and procedures prescribed by the State Council may no longer receive construction permits. The commencement report is a document for the construction unit to apply to the competent planning administrative department for permission to start construction in accordance with the relevant provisions of the state. In order to avoid the phenomenon that the start of the same construction project will be repeatedly examined and approved by different government administrative departments, this article stipulates that construction permits will no longer be obtained for construction projects that implement the system of approval of the start report. As for which construction projects implement the   
system of examination and approval of the commencement report, the relevant administrative departments shall implement the examination and approval authority and approval procedures for the commencement report in accordance with the relevant provisions of the State Council. In accordance with the relevant provisions of the State Planning Commission, the construction unit must also meet certain conditions when applying to the competent planning administrative department for approval of the commencement report, such as the project legal person has been determined, the preliminary design and total budget of the project have been examined, approved and approved, the project capital and other construction funds have been implemented, the overall network plan of the project has been prepared, the construction unit of the main project of the project has been selected through bidding, the project legal person and the project design unit have signed a drawing agreement, and the project land acquisition, demolition and construction site have been obtained The work of "four links and one level" has been completed, and the large-scale and special equipment or materials required for project construction have been planned and arranged, etc., which are basically consistent with the conditions for applying for a construction permit stipulated in Article 8 of this Law.   Article 8  When applying for a construction permit, the following conditions shall be met.   
  (1) Have gone through the approval procedures for the land for the construction project;  (2) the construction project in the urban planning area has obtained a planning permit;  
  (3) if it is necessary to demolish, the demolition progress meets the construction requirements;  
  (4) the construction enterprise has been identified;  
  (5) there are construction drawings and technical data to meet the construction needs;  
          (6) There are specific measures to ensure the quality and safety of the project;  
  (7) the construction funds have been implemented;  
  (8) other conditions stipulated by laws and administrative regulations.   
  The competent administrative department for construction shall, within 15 days from the date of receipt of the application, issue a construction permit to the application that meets the conditions.   
  【Interpretation】This article is about the conditions that should be met for applying for a construction permit and the period for the issuing authority to issue the permit.   
  1. In accordance with the provisions of Article 7 of this Law, a construction permit is a document issued by the competent administrative department for construction granting permission to start construction work, which has certain legal effect, and any construction project for which an application for a construction permit should be obtained in accordance with this Law cannot be started without a construction permit. At the same time, this article also stipulates that the application for the collection of a construction permit shall meet certain conditions, including:  
  
    
 The approval procedures for the land for the construction project have been completed. Handling the land use approval procedures is a necessary procedure for the construction project to obtain the land use right according to law, and only when the land use right is obtained in accordance with the law can the construction project start. According to the relevant provisions of China's Land Administration Law, the approval procedures for land for construction projects include the following: (1) The construction unit holds the approved design task letter or preliminary design, annual capital construction plan and other relevant documents to apply for construction land to the land management department of the local people's government at or above the county level where the expropriated land is located; (2). The land management departments of local people's governments at or above the county level shall examine and approve applications for construction land, delineate the scope of land use, and organize construction units, expropriated units and relevant units to agree on compensation and resettlement plans for the requisitioned land in accordance with law, and report them to the people's governments at or above the county level for approval; The people's government at or above the county level where the expropriated land is located shall issue a letter of approval for construction land, and the land management department shall allocate the construction land once or in stages according to the construction progress; (4) After the completion of the construction project, when the competent department of the construction project organizes the relevant departments to accept and accept it, the land management department of the people's government at or above the county level shall verify the actual land use, and after the completion of the construction project in the urban planning area, the competent administrative department of urban planning shall verify the actual land use in conjunction with the land management department. After approval, go through the land registration formalities and issue state-owned land use certificates.   
         2． Planning permits have been obtained for construction works in urban planning areas. This is a prerequisite for the start of construction in urban planning areas. According to the relevant provisions of China's Urban Planning Law, for construction projects in urban planning areas, the construction unit must first obtain a planning permit for the construction land of the project before going through the land use approval procedures in accordance with the law. The so-called "planning permit" refers to the statutory certificate that the construction unit submits an application to the urban planning administrative department with relevant approval documents before applying to the land management department for requisition or allocation of land, and the urban planning administrative department confirms that the location and scope of the construction project conform to the urban planning according to the planning and design requirements proposed by the urban planning department. It is required that the construction project in the urban planning area must obtain a planning permit when it starts construction, which can not only ensure that the land use of the project conforms to the urban planning, but also enable the construction unit to use the land in accordance with the plan.   
         3.  Where demolition is needed, the progress of demolition and relocation meets the construction requirements. Demolition refers to the demolition and relocation of the original buildings, structures and other attachments in the construction project area for the purpose of the new construction project. Demolition is divided into large-scale demolition, demolition of entire houses and partial demolition of one house. The construction projects that need to be demolished in advance have a direct impact on whether the entire construction project can be carried out smoothly. When the construction project begins, the progress of the demolition must meet the requirements of the start of the project, which is the basic condition to ensure the normal construction of the construction project.   
         4． Construction companies have been identified. Construction enterprises are specifically responsible for the implementation of construction work units, its personnel quality, management level, amount of funds, technical equipment and construction performance, etc. directly affect the progress, quality and safety of its construction projects. At present, there are nearly 100,000 construction enterprises in the country, and according to the provisions of the relevant administrative departments, the qualification level of the construction general contracting enterprise is divided into the first and second levels, and the qualification level of the construction contracting enterprise is divided into the first, second, third and fourth levels. Before the start of the project, the construction unit must have determined the construction enterprise that has the qualifications and conditions suitable for the construction scale and technical requirements of the project through bidding and contracting or direct contract issuance in accordance with the law.   
         5． There are construction drawings and technical information to meet the construction needs. Construction drawings are drawings drawn for construction purposes based on building technical design documents. According to the infrastructure procedure, the construction drawings include two parts: civil engineering and equipment installation. Technical information includes project specifications, structural calculation books and construction drawing budgets. Construction drawings and technical data are the technical basis for engineering construction operations and are an important factor in ensuring the quality of construction projects during the construction process. Therefore, in order to ensure the quality of the project, there must be construction drawings and technical information to meet the construction needs before the start of construction.   
         6． There are specific measures to ensure the quality and safety of the project. The quality of construction projects is often directly related to personal and property safety, which is a crucial issue, and the quality of the project must be placed in the first place in the construction work. At the same time, due to the fact that the construction of buildings is mostly open-air, high-altitude operations, the construction environment and conditions are relatively poor, there are many factors that endanger safety in engineering construction, and construction safety must also be highly valued. To this end, the Law places the assurance of the quality and safety of construction projects at the core and makes a number of important provisions. This article regards "specific measures to ensure the quality and safety of the project" as one of the necessary conditions for the start of the project, which is also an important statutory measure to ensure the quality and safety of the project.   
         7． Construction funds have been secured. Since construction activities require more capital investment and occupy funds for a long time, it is necessary to have sufficient construction funds in the construction process of construction projects, which is an important material guarantee to ensure the smooth progress of construction. According to the provisions of this article, when applying for a construction permit, there must be construction funds that have been implemented, so as to avoid the construction activities from being unable to continue due to lack of funds after the start of the project, and at the same time, it can also prevent the occurrence of some construction units requiring construction enterprises to advance funds or contract with funds; construction permits cannot be issued for construction projects where the source of construction funds is not implemented and funds are not guaranteed.   
         8． Other conditions provided for by laws and administrative regulations. In addition to the above seven conditions, a construction project application for obtaining a construction permit shall also meet the conditions for the start of construction projects stipulated by other laws and administrative regulations. The purpose of such provisions is to connect with the provisions of other laws and administrative regulations and avoid omissions. "Law" refers to the general term for normative documents formulated and promulgated by the National People's Congress and the Standing Committee of the National People's Congress, including relevant resolutions and decisions made by the National People's Congress and its Standing Committee. "Administrative regulations" refers to normative documents related to state administrative management activities formulated by the State Council in accordance with the Constitution and laws.   2. Paragraph 2 of this Article stipulates the time limit for the competent administrative department of construction to issue a construction permit, that is, the competent administrative department of construction shall issue a construction permit to an application that meets the conditions within 15 days from the date of receipt of the application. That is to say, after receiving the application submitted by the construction unit for the collection of the construction permit, the competent administrative department for construction shall complete the examination within fifteen days, issue a permit to the applicant unit that meets the conditions stipulated in the first paragraph of this article, and notify the construction unit if it does not meet the conditions after review, and shall not issue a construction permit. At the same time, in accordance with the provisions of China's Administrative Procedure Law, if the construction unit believes that the construction project for which it applied for the issuance of a construction permit meets the construction conditions stipulated in the first paragraph of this article, and the competent administrative department for construction refuses to issue the construction permit or the competent administrative department for construction does not reply within 15 days provided for in this Law, it has the right to apply for administrative reconsideration to the administrative organ at the level above the issuing organ, and if it is dissatisfied with the reconsideration decision, it may file an administrative lawsuit with the people's court, and the construction unit may also directly file an administrative lawsuit with the people's court.   Article 9 The  construction unit shall start construction within three months from the date of receiving the construction permit. If, for any reason, the construction cannot be started on schedule, an extension shall be made to the issuing authority; the extension shall be limited to two times, and each time shall not exceed three months. If the construction does not start and does not apply for an extension or exceeds the time limit for extension, the construction permit shall be abolished on its own.   【Interpretation】This article is about the validity period and extension of construction permits.   
  The construction permit for construction projects is a construction permit made by the relevant administrative department according to the application of the construction unit for construction projects that meet the statutory conditions for starting construction  
, and the construction permit can only be valid for a certain period of time. The provisions of this article include the following three contents:  
    
 The construction permit is valid for three months. The construction unit shall start construction within three months from the date of receiving the construction permit, and   
the "commencement" here shall not include the preliminary preparatory work for the commencement of construction works, such as survey and design, leveling of the site, preliminary demolition, construction of temporary buildings and roads, and water and electricity projects.          2.  Extension of the construction permit can be requested. If the construction unit is unable to start construction on schedule for any reason, it shall apply to the issuing authority for an extension, and the original licensing authority shall, after review, decide whether the construction project can be postponed. However, such extensions can only be extended twice at most, each time not for more than three months.   
         3． Abolition of construction permits. The construction permit of the construction unit shall be abolished by itself in two cases: (  
l) the construction unit has not started construction during the validity period of the construction permit, and the construction unit has not applied to the original licensing authority for extension; (2) the construction unit has not started construction after applying for two extensions.   Article 10 Where  the construction project under construction is suspended for any reason, the construction unit shall, within one month from the date of suspension of construction, report to the licensing authority and do a good job in the maintenance and management of the construction project in accordance with the regulations.   When the construction project resumes construction, it shall report to the issuing authority; before the project that has been suspended for one year or more resumes construction, the construction unit shall report to the issuing authority for verification of the construction permit.   【Interpretation】This article is a provision on the reporting system for the suspension and restoration of construction works.   1. Paragraph 1 of this Article stipulates that if the construction project that has officially entered the construction stage is suspended for any reason, the construction unit shall do the following work:  
    
 Within one month from the date of suspension of construction, the construction unit shall report to the original licensing authority the basic situation of the suspension of construction, such as the reason for the suspension and the current status of the project.   
         2  
． At the same time, the construction unit shall also do a good job in the maintenance and management of the construction project in accordance with the regulations, so as to prevent the project from suffering losses during the suspension of construction and ensure that the project can be carried out smoothly when the project resumes construction. The construction unit shall send a special person to be responsible, regularly check the quality of the suspended construction project, and solve the problems in time to ensure the quality of the completed construction part of the project. At the same time, the construction unit should also supervise the construction unit to do a good job in the safety management of the construction project, in the process of stopping work, to prevent the occurrence of safety accidents caused by scaffolding, construction iron frame, external wall baffle rot, fracture, fall, collapse, etc., and take practical measures to eliminate unsafe hidden dangers. The   
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provisions" of this paragraph include the relevant provisions of the laws formulated by the National People's Congress and its Standing Committee, the administrative regulations formulated by the State Council, and the local regulations formulated by the local people's congresses and their Standing Committees, as well as the relevant provisions made by the relevant administrative departments of the State Council.   2. Paragraph 2 of this Article stipulates that when the construction of a suspended construction project resumes construction, the construction unit shall do the following work:  
  The relevant situation of resuming construction shall be reported to the issuing authority.   
         2． Before resuming construction of a construction project that has been suspended for one year, the construction unit shall apply to the issuing authority for verification of the construction permit, and may continue construction after the original licensing authority has passed the verification.   Article 11 Where a  construction project that has been approved in accordance with the relevant provisions of the State Council and the commencement of construction report cannot be started on time or the construction is suspended for any reason, the situation shall be reported to the approving authority in a timely manner. If, for any reason, the work cannot be started on schedule for more than six months, the approval procedures for the commencement report shall be re-handled.   
  【Interpretation】This article is a provision on the issue of construction works that have been approved for commencement report that cannot be started on time or that construction is suspended.   1. Construction projects that have been approved in accordance with the relevant provisions of the State Council for construction are generally large and medium-sized construction projects, and if such projects cannot be started or suspended in accordance with the construction period determined by the approved commencement report for any reason, in addition to reporting the relevant situation to the organ that approved the commencement report in a timely manner, the maintenance and management of the construction project shall also be done in accordance with the relevant provisions.   2. Where a construction project that is approved in accordance with the relevant provisions of the State cannot be started on schedule for more than six months for any reason, it shall apply again to the department for examination and approval of the commencement report determined in accordance with the relevant provisions of the State Council for the approval of the commencement report of the construction project.   
  Section 2  Qualifications for The provisions  
  on the qualifications of construction activities in this section are three articles, including the following:  
  
    
 2. The conditions that construction enterprises, survey units, design units and project supervision units engaged in construction activities shall have (Article 12);  
  Construction enterprises, survey units, design units and project supervision units engaged in construction activities shall be divided into different qualification levels according to the conditions they have, and shall engage in construction activities within the scope permitted by their qualification levels (Article 13);  
  
  
  Professional and technical personnel engaged in construction activities shall obtain a professional qualification certificate in accordance with law and engage in construction activities within the scope permitted by the professional qualification certificate (Article 14).   
  Article 12  Construction enterprises, survey units, design units and project supervision units engaged in construction activities shall meet the following conditions:  (1) have a registered capital that conforms to the provisions of the State;  (2) have professional and technical personnel with legal qualifications suitable for the construction activities they are engaged in;         (3) Have the technical equipment necessary for engaging in relevant construction activities;  (4) Other conditions stipulated by laws and administrative regulations.   【Interpretation】This article is about the conditions that units engaged in construction activities should have.   
  First, the construction project is a century-old plan, its survey, design, construction of the technical requirements are more complex, the quality of the construction project is directly related to the safety of people and property. Therefore, for units engaged in construction activities, including construction, survey, design and project supervision of construction projects, they must have corresponding qualifications in terms of funds, technology and equipment. Many countries have made clear provisions in their construction legislation on the qualifications that must be possessed to engage in construction activities. Judging from the current actual situation in China, the outstanding manifestation of the chaotic order of the construction market is that some units and individuals that do not have the corresponding conditions that should be possessed to engage in construction activities enter the construction market through improper means to engage in construction activities and contract construction projects. It has seriously disrupted the normal order of the construction market, caused hidden dangers in the quality of construction projects and even led to vicious accidents with major personal injuries and property losses. In order to establish and maintain the normal order of the construction market and establish the access rules for entering the construction market to engage in construction activities, this article stipulates the construction enterprises engaged in construction activities. Survey units, design units and project supervision units must meet certain conditions.   2. In accordance with the provisions of this Article, construction enterprises, survey units, design units and project supervision units engaged in construction activities shall meet the following four conditions.   
  
         1  
． There is a registered capital that complies with the provisions of the state. Construction enterprises, survey units, design units and project supervision units engaged in construction activities must have sufficient funds in the process of carrying out construction activities, which is the material guarantee required by these enterprises and units to carry out normal business activities. A certain amount of funds is the premise for the establishment of construction enterprises, survey units, design units and project supervision units. According to the provisions of this article, construction enterprises, survey units, design units and project supervision units must have a registered capital that complies with the provisions of the State. That is to say, when applying for the establishment of registration, construction enterprises, survey units, design units and project supervision units should meet the quantitative standard of registered capital stipulated by the state. This Law does not provide for the specific amount of the minimum registered capital that construction enterprises, survey units, design units and project supervision units shall have engaged in construction activities, and this shall be implemented in accordance with the provisions of other relevant laws and administrative regulations. China's Company Law clearly stipulates the minimum registered capital for the establishment of various types of limited liability companies and the minimum registered capital for the establishment of joint-stock limited companies, and when establishing a limited liability company or a joint-stock limited company engaged in construction activities, its registered capital must comply with the provisions of the Company Law.   
  
         2  
． There are professional and technical personnel with legal qualifications suitable for the construction activities they are engaged in. Construction enterprises, survey units, design units and project supervision units must have professional and technical personnel with statutory professional qualifications that are suitable for the construction activities they are engaged in, which is a very important condition for the establishment of construction enterprises, survey units, design units and project supervision units, which is determined by the nature of the construction activities themselves, and enterprises and units engaged in construction activities not only need to understand the operation and management of management personnel, but also need to have professional and technical personnel suitable for the construction activities they are engaged in. According to the provisions of this article, first of all, construction enterprises, survey units, design units and project supervision units must have professional and technical personnel suitable for the construction activities they are engaged in, such as registered architects, registered   
structural   
engineers and registered   
supervisors; secondly, these professional and technical personnel must have statutory professional qualifications, that is, pass the national unified examination and be approved for registration according to law.   
         3.  Have the technical equipment necessary for engaging in related construction activities. Having technical equipment related to its construction activities is an important material guarantee for construction enterprises, survey units, design units and project supervision units to carry out normal construction, survey, design and supervision work.   
         4． Other conditions provided for by laws and administrative regulations. In addition to the above three conditions, construction enterprises, survey units, design units and project supervision units shall also meet other conditions stipulated by laws and administrative regulations. It should be noted that the "other conditions" mentioned here only refer to the conditions stipulated by laws and administrative regulations, excluding departmental rules issued by the relevant administrative departments of the State Council, nor including the provisions of local regulations. Because the issue of market access rules is involved, laws and administrative regulations should make unified provisions.   Article 13  Construction enterprises, survey units, design units and project supervision units engaged in construction activities shall be divided into different qualification levels in accordance with the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and completed construction project performance, and only after passing the qualification examination and obtaining the corresponding level of qualification certificates may they engage in construction activities within the scope permitted by their qualification level.   【Interpretation】This article is a provision that units engaged in construction activities shall divide the qualification level according to the statutory conditions and shall engage in construction activities within the scope of their qualification level.   First, there are many types of construction projects, and the construction scale and complexity of technical requirements may vary greatly from construction project to construction project. The situation of construction enterprises, survey units, design units and project supervision units engaged in construction activities is also different, some units engaged in construction activities have strong capital, more professional and technical personnel, complete relevant technical equipment, and strong economic and technical strength, while some units have relatively weak economic and technical strength. Generally speaking, the larger the construction scale of the construction project, the higher the technical complexity, and the higher the requirements for the economic and technical strength of the construction unit contracting the project, otherwise it will be difficult to ensure the construction quality of the project. To this end, in the supervision and management of construction activities in many countries, the units engaged in construction activities are divided into different qualification levels according to their different economic and technical conditions, and the scope of construction activities that units with different qualification levels can engage in is made Clearly defined. Practice has proved that this is an effective measure to establish and maintain the normal order of the construction market and ensure the quality of construction projects. Judging from the actual situation in China at present, the quality of many construction projects is inferior, which has a lot to do with the fact that the units contracting the project do not have the corresponding qualifications. Some units with lower qualifications have contracted large-scale and complex construction projects that exceed their economic and technical strength through various improper means, leaving serious hidden dangers in quality, and some have also caused major quality accidents, bringing great losses to the lives and property of the state and the people. This article stipulates that the effective supervision and management measure of qualification level management is affirmed in the form of law, and stipulates that units engaged in construction activities shall be divided into different qualification levels according to the economic and technical conditions such as registered capital, professional and technical personnel, technical equipment and completed construction project performance, and after passing the qualification examination and obtaining the corresponding level of qualification certificates, they can engage in construction activities within the scope permitted by their qualification level. This provision of the law must be resolutely implemented.   2. In accordance with the provisions of this Article, the qualification levels of construction enterprises, survey units, design units and project supervision units engaged in construction activities mainly include:  
  
  Registered capital owned. The   
"registered capital" mentioned here   
refers to the total amount of funds declared and determined by the unit engaged in construction activities when registering in accordance with the relevant provisions of the state. Having a certain amount of registered capital is the material basis for market entities to engage in production and business activities and bear property responsibilities externally, and units engaged in construction activities are of course no exception, and Article 12 of this Law has clearly stipulated that units engaged in construction activities must have a registered capital that meets the provisions of the state. "Leather bag companies  
" without capital cannot enter the construction market to engage in construction activities. On the basis of meeting the statutory minimum registered capital limit, the amount of registered capital owned by the unit engaged in construction activities is the basic indicator of its economic strength. Therefore, this article stipulates that the amount of registered capital owned shall be regarded as a major condition for dividing the qualification conditions of the units engaged in construction activities.   
         2． Have professional and technical personnel. The "professional and technical personnel" mentioned here include, in addition to registered architects and registered supervisors who have obtained the relevant professional qualification certificates in the construction industry as provided for in Article 14 of this Law In addition to others, it also includes professional and technical personnel who have obtained relevant technical titles in accordance with the conditions and procedures stipulated by the State. At the same time, when determining the corresponding qualification level according to the professional and technical personnel owned by the unit engaged in construction activities, it is necessary not only to look at the number of professional and technical personnel it has, but also to examine its structure, that is, to examine its different professions and the high, medium and low levels The proportion of professional and technical personnel. The number and structure of professional and technical personnel owned by units engaged in construction activities is an important indicator of their technical strength, and of course it has become a basic condition for dividing the qualification level of relevant construction units.   
         3． Technical equipment possessed. To engage in construction activities, it is necessary to have corresponding technical equipment. The status of the relevant technical equipment owned by the unit engaged in construction activities is another important indicator of the technical strength of the unit engaged in construction activities, so this law also takes it as one of the conditions for dividing the qualification level of the units engaged in construction activities.   
         4． Completed construction works. Through the examination of the performance of the construction projects completed by the unit engaged in construction activities in the past, it can comprehensively reflect the actual situation of the technical level and management level of the unit, and this law also takes it as a condition for dividing the qualification level of the unit engaged in construction activities.   As for how to classify the units engaged in construction activities, as well as the specific standards for the qualification levels and conditions of each qualification, this Law does not make specific provisions, and shall be made by the State Council or the relevant competent department authorized by the State Council in accordance with the principles stipulated in this Law Specific provisions. At present, the relevant competent departments have made some provisions on the qualification level of units engaged in construction activities, for example, the relevant departments have divided enterprises engaged in civil construction project construction into four qualification levels, and have made provisions for the standards of each qualification level, according to this provision, the standard for obtaining first-class qualification construction enterprises is: the registered capital of the enterprise is more than 30 million yuan, and the original value of fixed assets for production and operation is used More than 20 million yuan; the engineering, economic, accounting, statistics and other personnel with professional titles of the enterprise are not less than 350 people, of which no less than 50 people with intermediate and senior titles; the enterprise should have the corresponding construction machinery and equipment and quality inspection and testing means; the enterprise is nearly 10  
 He has undertaken more than two construction projects with a unit project construction area of more than 25 floors or a single span of more than two construction projects, and the quality of the project is qualified.   3. In accordance with the provisions of this Article, the qualification level of the unit engaged in construction activities shall be examined in accordance with the statutory conditions and the relevant specific standards stipulated by the State, and after passing the examination, the qualification certificate of the corresponding level shall be issued. As to which competent department is responsible for conducting the qualification level review and issuing qualification certificates, this law does not make provisions, and this shall be carried out in accordance with the division of duties stipulated by the State Council. As for the procedures for qualification review, this law does not stipulate, usually the construction enterprises, survey units, design units and supervision units engaged in construction activities should grow an application, and the qualification management department shall conduct a comprehensive review of the registered capital, professional and technical personnel, technical equipment and actual performance of the qualification management department according to the application materials, and if the review meets the relevant qualification level standards, the qualification management department will issue a certificate of the corresponding qualification level.   4. In accordance with the provisions of this Article, construction enterprises, survey units, design units and supervision units engaged in construction activities may only engage in construction activities within the scope of their qualification level permitted by law. The qualification level of construction enterprises, survey units, design units and project supervision units engaged in construction activities is a sign reflecting the economic, technical ability and level of these units engaged in construction activities, and stipulates that units engaged in construction activities can only engage in relevant construction activities within the scope of their qualification level approved by law, which is an important measure to ensure the quality of construction projects and maintain the normal order of the construction market, and all units engaged in construction activities must be strictly implemented. For example, according to the current relevant regulations, an enterprise with a grade IV qualification for civil building construction can only undertake the construction of buildings with a floor below 8 floors and a span below, and a construction enterprise with a grade IV qualification that exceeds this scope to undertake engineering business is an illegal act and will be investigated for legal responsibility in accordance with the relevant provisions in the chapter on legal liability of this Law.   Article 14 Professional  and technical personnel engaged in construction activities shall obtain the corresponding professional qualification certificate in accordance with law and engage in construction activities within the scope permitted by the professional qualification certificate.   【Interpretation】This article is about the provisions of professional and technical personnel engaged in construction activities in accordance with the scope of the license of the qualification certificate.   1. The professional and technical personnel engaged in construction activities referred to in this Article refer to technical personnel who work directly in professional and technical positions such as survey, design, construction technology, and project supervision of construction projects. The technical requirements of construction engineering are relatively complex, and their quality problems directly involve the safety of the public's personal and property, which is of great importance. Therefore, this article specifically stipulates that professional and technical personnel engaged in construction activities shall obtain the corresponding professional qualification certificate in accordance with the law and engage in construction activities within the scope permitted by the professional qualification certificate. 25000平方米  2. In accordance with the provisions of this Article, professional and technical personnel engaged in construction activities shall obtain the corresponding professional qualification certificates in accordance with law. "Obtained in accordance with law" as used in this article 30米refers to obtaining the corresponding professional qualification certificate in accordance with the conditions and procedures provided by relevant laws and administrative regulations. At present, the law does not have specific provisions in this regard. In   
1995, the State Council   
promulgated the Regulations of the People's Republic of China on Registered Architects, which specifically stipulates the conditions and procedures for obtaining the qualifications of registered architects. Administrative regulations for other professional and technical personnel engaged in construction activities to obtain professional qualification certificates shall be formulated separately.   According to the Regulations of the People's Republic of China on Registered Architects issued by the State Council, a registered architect refers to a person who has obtained a certificate of registered architect in accordance with the law and is engaged in housing architectural design and related business. The Regulations specify the conditions and procedures for obtaining the qualification of registered architects, and the scope of practice of registered architects.   3. In accordance with the provisions of this Article, after the professional and technical personnel engaged in construction activities have obtained the professional qualification certificate in accordance with the law, they can undertake the corresponding engineering tasks within the scope of the qualification certificate permit, and shall not exceed the scope of the qualification certificate permit. Without registered professional and technical personnel, the corresponding business cannot be performed. 18米  According to the regulations of the People's Republic of China on Registered Architects issued by the State Council, registered architects are divided into first-level registered architects and second-level registered architects, and the scope of practice of first-level registered architects is not limited by the scale of construction and the complexity of the project, and the scope of practice of second-level registered architects shall not exceed the scale of construction and the complexity of the project stipulated by the state.   
    
   
   
   
   
 

This chapter consists of three sections and fifteen articles, which stipulate the basic principles of contracting and contracting activities for construction projects and the specific code of conduct that should be observed for contracting and contracting activities.   
  
  Section 1  General Provisions  
  
  This section consists of four articles, which stipulate the basic principles that should be complied with by the contracting and contracting activities of construction projects, including:  
  2. The contracting and contracting parties to the construction project shall conclude a contract in accordance with the law and fully perform the obligations stipulated in the contract (Article 15);  
  2. The bidding and bidding activities for the awarding and contracting of construction projects shall follow the principles of openness, fairness and equal competition (Article 16);  
  4. Principles prohibiting any form of bribery in the contracting and contracting activities of construction works (Article 17);  
  The cost of the construction project shall be agreed upon by both parties to the contract in accordance with the law and the contract issuing unit shall allocate the project payment in a timely manner in accordance with the contract (Article 18).   
  Article 15 The  contract issuing unit and the contracting unit of a construction project shall conclude a written contract in accordance with law to clarify the rights and obligations of both parties.   
  The contract issuing unit and the contracting unit shall fully perform the obligations stipulated in the contract. Those who fail to perform their obligations in accordance with the contract shall bear the liability for breach of contract in accordance with law.   
  【Interpretation】This article is divided into two paragraphs, which respectively stipulate the principle that the contracting and contracting parties of construction projects shall conclude contracts in accordance with law and fully perform their contractual obligations.   
  1. Paragraph 1 of this Article stipulates that the contract issuer and the contracting party shall conclude a contract in accordance with law.   
         1． The awarding of contracts for construction projects refers to the act of the construction unit (or general contracting unit) of the construction project handing over all or part of the construction project tasks (survey, design, construction, etc.) to the unit with the legal qualification to engage in construction activities through bidding or other means, and paying remuneration as agreed. The contracting of construction projects, that is, the symmetry of the contracting of construction projects, refers to the behavior of units with legal qualifications to engage in construction activities, through bidding or other means, to undertake construction project tasks and obtain remuneration according to agreement.   
         2． The contracting unit for a construction project is usually the construction unit of the construction project, that is, the unit that invests in the construction of the construction project (i.e. the "owner"). According to the Interim Provisions on the Implementation of the Legal Person Responsibility System for Construction Projects issued by the State Planning Commission in April 1996, large and medium-sized construction projects of operational capital construction invested by state-owned units must be established as a project legal person during the construction stage. The project legal person may establish a limited liability company (including a wholly state-owned company) and a joint-stock limited company in accordance with the provisions of the Company Law, and the project legal person shall be responsible for the whole process of project planning, fund raising, construction and implementation, production and operation, debt repayment and asset preservation and appreciation. According to this regulation, the project legal person established according to law shall be responsible for the contracting of construction projects for commercial housing construction projects (such as industrial and commercial housing used as production and operation facilities, commercial housing as real estate projects, etc.) invested and constructed by state-owned units. For non-operational housing construction projects invested and constructed by state-owned units, the construction unit shall be responsible for the contracting of the project as the contracting party. In addition, if the construction project is subject to general contracting, and the general contracting unit subcontracts part of the project within the scope prescribed by law with the consent of the construction unit, the general contracting unit of the project shall become the contracting unit of the subcontracted project.   
         3． The contracting unit of construction projects refers to the units that undertake the survey, design, construction and other business of construction projects, including the units that implement general contracting for construction projects and the units that contract subcontracting projects.   
         4． The contract concluded between the contracting unit of the construction project and the contracting unit referred to in this article refers to the contracting contract for the construction project, that is, the agreement between the contracting party to complete the specific project delivered by the contracting party on schedule, and the contracting party to accept and pay remuneration on schedule. The contract for construction works is a general concept, which includes survey contracts, design contracts, construction contracts and equipment installation contracts for construction works. The construction project contracting contract may be concluded by the construction unit and a general contracting unit, and then the general contracting unit shall conclude a subcontract with each subcontracting unit, or the construction unit may sign a contract with the survey, design, construction and installation unit engaged in construction activities. In construction activities, it is of great significance for the establishment and maintenance of the normal order of the construction market and the legitimate rights and interests of all parties to the construction activities to be clearly stipulated in the form of a contract, and to ensure their implementation by law.   
         5． "In accordance with law" as used in this article, it refers to laws formulated by the National People's Congress and its Standing Committee and administrative regulations formulated by the State Council. Since the reform and opening up, China has formed a relatively complete contract legal system. Among them, the laws applicable to construction project contracting contracts mainly include the provisions on contracts in the General Principles of Civil Law and the Economic Contract Law, and the administrative regulations mainly include the Regulations on Contracts for Survey and Design of Construction Projects and the Regulations on Contracting Contracts for Construction and Installation Projects. The conclusion of a contract for construction projects in accordance with the law shall comply with the following provisions of laws and administrative regulations:  (l  
 The subject qualifications of the construction project contracting contract should be legal. Both parties shall have the qualifications of the subject of civil legal relations and the ability to perform the contract. Because construction projects generally have high cost and complex technology, and their quality problems often involve public safety and other characteristics, the state has special requirements for the qualifications of construction project contractors. In accordance with the provisions of this Law, construction enterprises, survey units, design units and project supervision units engaged in construction activities shall meet the conditions prescribed by law and be divided into different qualification levels according to the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and completed construction project performance Things architectural activities. A project contract concluded beyond the qualification level of the contractor is an invalid contract. For construction projects for which contracting and contracting shall be carried out by means of bidding and bidding in accordance with law, the contracting party shall be selected by means of bidding and bidding, and a contracting contract shall be signed with it.   (2  
) The conclusion of the contract shall implement the principles of equality, mutual benefit and consensus. The contracting and contracting parties to construction works are of equal legal status, and neither party may take advantage of its advantageous position in certain respects to impose its will on the other. The content of the contract should be the true intention of the parties. From a real-life point of view, attention should be paid to preventing the contract issuer from using the construction market to oversupply the construction force and forcing the contracting party to accept certain unfair conditions (such as requiring the contracting party to implement capital contracting and advance contracting).   In addition, according to the provisions of the Economic Contract Law, the contracting contract for major construction projects belonging to the state shall be signed in accordance with the procedures stipulated by the state and the investment plan and plan task letter approved by the state. (Article 18 of the Economic Contract Law)  (  
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) The form of the contract should be legal. Contracts can be divided into oral contracts and written contracts according to the manner in which they are concluded. A contract concluded by the expression of intent of the parties in oral form is called an oral contract; The conclusion of contracts in oral form has the characteristics of simplicity, speed and ease of action, and is a form of contract that exists in large quantities in actual life, such as the contractual relationship for the sale of goods generated between consumers shopping in stores and stores, which is a typical oral contract. However, because there is no necessary proof for contracts in oral form, once a contract dispute occurs, it is often difficult to adduce evidence, which is easy to produce the phenomenon of shirking responsibility and pulling each other off, and it is not easy to distinguish responsibility. Since the rights and obligations of the agreed parties are clearly recorded in writing, the written form of the contract can prompt the parties to perform the contractual obligations in a timely and correct manner, and when a contract dispute occurs, it is also convenient to distinguish the responsibilities and correctly resolve the dispute. As a result, our laws impose strict limits on the scope of oral forms of economic contracts. According to article 3 of the Economic Contract Law, only an economic contract that is settled immediately (such as a contract for the sale of goods in which the other party immediately pays the full price at the same time as one party delivers the goods) can be used orally, and other economic contracts should be in writing. Construction project contracting contracts generally have the characteristics of large amount of contract subject matter (due to the high cost of construction projects), complex contract content, and long performance period, and for the sake of prudence, it should be written. To this end, this article reiterates, inter alia, the provision that the contracting party and the contractor for construction works shall conclude a written contract.   (4  
) The contract for the contracting of construction projects shall make a decision on the rights and obligations of the contracting party and the contracting party Clearly defined. In accordance with the provisions of the Economic Contract Law, in the construction project survey and design contract, the time for the two parties to submit the survey and design basic materials, design documents (including the estimated budget), the design quality requirements and other cooperation conditions shall be stipulated. In the construction and installation contract, the scope of the project, the construction period, the opening and completion time of the intermediate delivery project, the project quality, the project cost, the delivery time of technical data, the responsibility for the supply of materials and equipment, the allocation and settlement, the acceptance of the delivery of the work, and the mutual cooperation between the two parties shall be clearly stipulated (Article 18 of the Economic Contract Law). In the Regulations on Contracts for Survey and Design of Construction Projects and the Regulations on Contracting Contracts for Construction and Installation Projects promulgated by the State Council, the rights and obligations of the parties to the contracting contract for construction projects are more specifically stipulated. In addition, the State Administration for Industry and Commerce and other departments have also issued a model text for the contracting contract for construction projects, which makes more detailed and exemplary provisions on the respective rights and obligations of the contracting party and the contracting party for construction projects, and the contracting party and the contracting party can voluntarily adopt it.   2. The contract issuing unit and the contracting unit shall fully perform the obligations stipulated in the contract. The so-called full performance of the obligations stipulated in the contract means that the parties shall fully perform their respective obligations in accordance with the requirements of the quality, quantity, construction period, cost and settlement method of the relevant projects agreed in the construction project contracting contract, and neither party shall change or terminate the contract without authorization.   3. Those who fail to perform their obligations in accordance with the contract shall bear the liability for breach of contract in accordance with law.   
         1  
． Economic contracts are the most common form of horizontal economic ties between market entities under the conditions of a market economy. A contract is an agreement voluntarily reached by the parties, and once established, the parties shall keep their commitments and fully perform their obligations under the contract. If the parties can say nothing but not believe it. If the contract is reversed and the contract is not fulfilled, then the market trading activities will have no security to speak of, and it will be impossible to establish a normal market economic order. Therefore, all countries in the market economy have given legal effect to contracts established according to law, and the coercive force of the law has guaranteed the full performance of contracts. China's Economic Contract Law also clearly stipulates:   
"When an economic contract is established according to law, it is legally binding, and the parties must fully perform the obligations stipulated in the contract." "(Article 6 of the Economic Contract Law) Whoever fails to perform his obligations in accordance with the contract shall bear the liability for breach of contract in accordance with law.   
         2． The so-called liability for breach of contract refers to the civil legal liability that the parties to the contract should bear for non-performance or improper performance of contractual obligations. The main forms of liability for breach of contract include compulsory actual performance, compensation for losses and payment of liquidated damages. China's General Principles of Civil Law stipulates that "if one of the parties fails to perform its contractual obligations or the performance of contractual obligations does not meet the agreed conditions, the other party has the right to demand performance or take remedial measures, and has the right to claim compensation for losses." "The liability of one party for breach of contract shall be equivalent to the loss suffered by the other party as a result." It also stipulates that "the parties may stipulate in the contract that if one party violates the contract, it shall pay a certain amount of liquidated damages to the other party." (Articles 111 and 112 of the General Principles of the Civil Law) The Economic Contract Law makes specific provisions on the liability for breach of the contracting contract for construction projects. Article 34 of the Law stipulates that the liability of the contracting party for breach of the construction project contract is: "1. If the quality of the survey and design is inferior or the survey and design documents are not submitted on time and the construction period is delayed, the survey and design unit shall continue to improve the design and reduce or waive the survey and design fee until the loss is compensated. ”“2． Because the quality of the project does not conform to the provisions of the contract, the contracting party has the right to request free repair or rework or reconstruction within a time limit, and if it is overdue after repair or rework or reconstruction, the contracting party shall pay the overdue liquidated damages. ”“3． The delivery time of the project does not comply with the provisions of the contract, and the liquidated damages for overdue shall be reimbursed. "The liability of the contracting party for breach of the construction project contract is:" Failure to provide raw materials, equipment, sites, funds, technical information, etc. in accordance with the time and requirements stipulated in the contract shall, in addition to the extension of the project date, also reimburse the contractor for the actual losses caused by the suspension of work and the nest work. ”“2. If the construction is stopped or postponed in the middle of the project, measures shall be taken to make up for or reduce the losses, and at the same time compensate the contractor for the losses and actual costs caused by the suspension, nesting, reverse transportation, mechanical and equipment relocation, and backlog of materials and components. ”“3． The rework, suspension or modification of the survey or design due to changes in the plan, inaccurate information provided, or failure to provide the necessary survey and design working conditions on time, additional costs will be paid according to the actual workload consumed by the contractor. ”“4． The project has not been experienced, used in advance, found quality problems, and take responsibility for themselves. "5 Exceed the date specified in the contract to accept or pay the construction fee, and pay the overdue liquidated damages."   Article 16 The  bidding and bidding activities for the awarding and contracting of construction projects shall follow the principles of openness, fairness and equal competition, and select the contracting units on the basis of merit. Where there are no provisions in this Law on tendering and bidding for construction projects, the provisions of the relevant laws on tendering and bidding shall apply. 【Interpretation】This article is about the basic principles that should be followed in the bidding and bidding activities of construction projects and the provisions on the application of law.   
  1. Paragraph 1 of this Article stipulates the basic principles that shall be followed in the bidding and bidding activities of contracting and contracting construction projects.   
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． Tendering and bidding is a competitive transaction method commonly used when buying and selling bulk goods or contracting construction projects under the conditions of market economy. The so-called bidding and bidding activities for the contracting and contracting of construction projects refers to the fact that the contracting party (bidder) of the construction project adopts an appropriate method to publish the relevant information of the proposed project (such as the content and main technical conditions of the project, the qualification requirements of the contractor, etc., but does not indicate the cost of the project), indicating that the contractor who will choose the qualified contractor will sign the construction project contract with him, and the contractor (bidder) who intends to contract the project will submit his own project quotation and other contracting conditions to the bidding party and participate in the bidding competition After the bidding party has reviewed and compared the quotations and other conditions of each bidder, the successful bidders are selected from among them and the project contracting contracts are signed with them.   
  The most significant feature of the contracting and contracting of construction projects by means of bidding and bidding is that the competition mechanism is introduced into the contracting and contracting activities of construction projects, compared with the allocation of construction tasks to construction enterprises through administrative means under the conditions of planned economy, or the contracting and contracting of construction projects using the method of "  
one-to-one" negotiation. It has obvious superiority, which is mainly manifested in: (  
l) the bidding party selects a contractor with low quotation, strong technical force, reliable quality assurance system and good reputation as the winning bidder through comprehensive comparison of the quotations and other conditions of each bidding competitor, and signs a contract with it, which is obviously conducive to ensuring the quality of the project, shortening the construction period, reducing the project cost, and improving the investment efficiency; (2). Bidding and bidding activities are required to be carried out openly in accordance with legal procedures, which is conducive to blocking the "black hole" of corrupt and unfair competition behaviors such as bribery and bribery in the contracting of construction projects 。 It is precisely because bidding and bidding have obvious superiority and meet the requirements of market competition that it has become the main method that China should vigorously promote and adopt in the contracting and contracting activities of construction projects, especially for engineering projects built with state-owned funds, except for some specialities of the project itself that are not suitable for direct contracting by means of bidding and contracting, bidding and contracting should be carried out according to law.   
         2． The principles of openness, fairness and equal competition are the basic principles that should be followed in the bidding and bidding activities of contracting and contracting construction projects. The so-called "openness" means that the relevant information of the bidding and bidding activities should be disclosed, and the bidding party shall publish the information on the bidding of the construction project by publishing advertisements or other appropriate forms in the news media, and in the bidding documents publicly provided, the main technical requirements of the bidding project and the qualification requirements for the bidders should be stated. To give all eligible contractors the opportunity to compete in the tender. At the same time, the procedures for bidding and bidding activities should be open, including the time and place of obtaining the bidding documents, the deadline for bidding, the time and place of bid opening, and the standards and methods for evaluation and bidding, etc., which should be open and transparent, so that all aspects can supervise and "black box operations" are not allowed. The so-called "justice" means that the bidding party shall strictly follow the open bidding conditions and procedures in the bidding process, strictly evaluate and determine the bid according to the immediate evaluation standards, treat each bidder fairly, and must not favor one over the other, and be close to each other. The so-called "equal competition" means that in addition to the bidding party to strictly follow the above principles of openness and fairness, the bidders must also carry out competition by legitimate means, and must not pay bribes to the bidders and their staff, provide kickbacks and other acts of unfair competition, so as to ensure the equality of competition.   2. Paragraph 2 of this Article is a provision on the application of law to the bidding and bidding activities of construction projects.   This Law makes some principles for the bidding and bidding activities of contracting and contracting construction projects, and other codes of conduct that must be followed in the bidding and bidding activities of construction projects, such as which construction projects must be compulsorily subject to bidding and bidding, and the specific legal procedures that must be observed for bidding and bidding, etc., which need to be made in the special bidding and bidding law Stipulate. The formulation of the Law on Bidding and Bidding has been included in the legislative plan of the NPC Standing Committee, and the State Planning Commission has drafted a draft of the Law on Bidding and Bidding for examination and approval by the State Council; at present, the Legislative Affairs Bureau of the State Council, together with relevant departments, is stepping up its efforts to study and revise it, and when the revision is mature, it will be submitted to the NPC Standing Committee for deliberation in accordance with legislative procedures.   In connection with the tendering and bidding activities of construction projects, the provisions of the relevant law on tendering and bidding shall be applied; the construction law and other laws related to tendering and bidding have provisions, because for the bidding and bidding activities of construction projects, the provisions of the construction law belong to the provisions of the special law, and other provisions of the law on tendering and bidding belong to the provisions of the general law, and the relevant provisions of the construction law shall be applied on a priority basis in accordance with the principle of the superiority of the special law over the general law. The laws on tendering and bidding mentioned here include both the tendering and bidding laws to be enacted and the provisions on tendering and bidding in other laws (such as the Anti-Unfair Competition Law).   Article 17 The  contract-issuing unit and its staff shall not accept bribes, kickbacks or other benefits in the contracting of construction projects.   The contracting unit and its staff shall not use improper means such as bribing the contracting unit and its staff, providing kickbacks or giving other benefits to contract the project.   【Interpretation】This article is about the prohibition of bribery (including providing, receiving kickbacks or other illegal benefits) in the contracting of construction projects.   1. The contracting and contracting of construction projects is a market transaction and shall be carried out in accordance with the statutory market trading rules. The awarding and contracting of most construction projects shall be tendered and bid in accordance with the principles of openness, fairness and impartiality, so as to give full play to the role of the market competition mechanism. For a small number of construction projects that are not suitable for contract issuance and contracting in the form of bidding and bidding, the contracting party and the contracting party shall also negotiate and sign the contracting contract in accordance with the normal trading rules, and implement direct contract issuance. Bribery in any form in the contracting and contracting activities of construction projects is a serious violation of market trading rules and undermines the normal market economic order, and must be resolutely prohibited.   
  Judging from the current actual situation in China, the construction market is oversupplied,   
3000 Tens of thousands of employees are looking for food in the construction market, and the competition is very fierce. Under such circumstances, some contract-issuing units and their staff use the power of project contracting in their hands to solicit and accept bribes, kickbacks or other benefits from the contracting party; some construction enterprises, contracting teams, and contracting foremen use unfair competition means of bribing, providing kickbacks, or giving other benefits to the contracting party or its staff to contract projects, which seriously disrupts the normal order of the construction market, induces a large number of economic crime cases, and makes the field of contracting construction projects a high incidence area of economic crimes. In recent years, more than one-third of the cases of bribery and bribery investigated and handled in some areas have occurred in the field of contracting for construction projects, and in some areas, it has even reached 70  
%. According to statistics, since   
1994, among the 101142   
bribery cases investigated and handled by   
procuratorial organs across the country,   
64,270 have occurred in the construction field  
, accounting for 63.5%. In 1995, the number of bribery cases involving the construction industry was even higher, accounting for 88% of all bribery cases investigated and punished. 6％。 Since most of China's current construction projects are built using state-owned funds, the contract issuer colludes with the contracting party and the contracting party to pay bribes and accept bribes, so that the state-owned construction funds fall into the pocket of individuals, resulting in a large loss of state assets. After some contractors who do not have the corresponding qualifications and conditions contract the project through bribery and other means, because they do not have the corresponding technical conditions, they make shoddy manufacturing and cut corners, causing serious hidden dangers in the quality of the project, and even vicious accidents of house collapse, causing major losses to the safety of the life and property of the state and the people. In China's "Anti-Unfair Competition Law" and other laws, there are clear prohibitions on bribery and the provision of kickbacks in market trading activities, and the Criminal Law also pursues criminal liability for bribery and bribery as a criminal act, and it is still of great practical significance to reiterate in the Construction Law that it is prohibited to pay and accept bribes in any form in the contracting and contracting activities of construction projects. 2. The meaning of "rebate"  referred to in this Article is the same as that of the rebate provided for in Article 8 of the Anti-Unfair Competition Law, which means that the party to the transaction secretly gives the other party a certain amount of price discount outside the account, so that the price actually payable by the other party is lower than the price stated on the book. Article 8 of the Anti-Unfair Competition Law stipulates: "Business operators shall not use property or other means to bribe to sell or purchase goods. Where a unit or individual of the other party secretly gives kickbacks outside the account, it shall be punished as a bribe; where the other unit or individual secretly accepts kickbacks outside the account, it shall be punished as a bribe. Articles 163, 164, and 385 to 387 of China's newly revised Criminal Law respectively provide for the pursuit of criminal responsibility for the criminal acts of asking for, accepting, or paying bribes to companies, enterprises, or their staff, as well as for the criminal acts of state-owned units or state functionaries soliciting or accepting bribes. The "  
other benefits"  mentioned in this article have many manifestations in practice, such as secretly giving and accepting information fees, consultant fees, labor fees, giving valuable gifts, and inviting them to go abroad for "investigation" , and even the use of pornographic bribes, etc. In the contracting and contracting activities of construction projects, the act of receiving and providing these benefits is prohibited by law, and violators will be prosecuted by law.   Article 18 The  construction cost of a construction project shall be agreed upon in the contract between the contract issuing unit and the contracting unit in accordance with the relevant provisions of the State. Where a contract is awarded through public bidding, the agreement on its cost shall comply with the legal provisions on tendering and bidding.   The contract issuing unit shall, in accordance with the provisions of the contract, promptly allocate the project funds.   【Interpretation】This article is about the method of determining the cost of construction projects and the provisions that the contracting party shall pay the project payment in a timely manner.   
  1. Paragraph 1 of this Article stipulates the manner in which the cost of construction projects shall be determined.   
         1． The "construction project cost" agreed upon in the contracting contract by the contract issuing unit and the contracting unit referred to in this paragraph shall be understood to refer to the project price paid by the contracting party to the contracting party. Where the whole process of general contracting is carried out for the project, from survey, design to construction, the contract price agreed in the contract is roughly equivalent to the total cost of the construction project; where the construction project is contracted separately, the sum of the contracted price agreed in each contracting contract shall constitute the total cost of the construction project.   
         2． In accordance with the provisions of this paragraph, the cost of a construction project shall be agreed upon in the contracting contract for the construction project by the contracting party and the contracting party. In accordance with the requirements of establishing a socialist market economic system, the prices of goods and services. Including the cost of construction projects, the market-regulated price should be the mainstay, that is, the main body of market trading activities should independently determine the price according to the cost of goods and services and the market supply and demand conditions, so that the rules of market competition and the law of value can play a full role, and establish and gradually improve the mechanism of mainly forming prices by the market under the state macroeconomic regulation and control. The provisions of this article on the construction project cost shall be agreed upon by the contracting party and the contracting party, which give the contracting parties to the construction project as the main body of the construction market transaction activities the autonomy to determine the construction project cost, reflect the requirement that the price is mainly formed by the market, and ensure in the form of law that the method of determining the construction project cost meets the requirements of establishing a socialist market economic system.   
         3． In order to ensure the autonomy of the contract issuer and the contracting party of the construction project to agree on the project cost in accordance with the requirements of the market, and to make the acts of the two parties agreeing on the project cost comply with certain norms, so as to safeguard the legitimate rights and interests of both parties and the normal order of the construction market, this article stipulates that the contracting party and the contracting party shall agree "  
in accordance with the relevant provisions of the state" on the cost of the construction project  
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relevant provisions of the state" mentioned here include the regulations of the State Council and the relevant competent departments of the State Council on the cost of construction projects. The formulation of regulations on the cost of construction projects shall conform to the general requirements of the main market forming prices under the state's macroeconomic regulation and control, and care should not be taken to interfere with the pricing autonomy that should be exercised by both parties to the contract for construction projects.   The cost of construction works, like the prices of other goods and services, shall be composed of elements such as production and operation costs, reasonable profits and taxes that should be included in accordance with law. In 1993, the Ministry of Construction issued the Several Provisions on Adjusting the Composition of Construction and Installation Projects (hereinafter referred to as the "Provisions"), which referred to the new financial system and international practices, and Chinese the Ministry of Construction and the Civil Construction Bank in 1988 The "Division of Construction and Installation Project Costs" formulated in 2005 has been adjusted. The provision lists the various expense items that should be included in the cost of construction works, and divides these cost items into two major items, direct construction costs and indirect costs according to their nature. Among them, the direct project cost includes the wages, various subsidies, employee welfare fees and labor protection costs of the production workers directly engaged in the construction of the construction and installation projects; the material costs composed of various raw materials, auxiliary materials, structural accessories, parts, semi-finished products, etc. consumed during the construction process to form the engineering entity; the construction machinery usage fees and other direct costs and construction site expenses composed of depreciation costs, overhaul costs, fuel power costs and other expenses of various construction machinery. Indirect costs include corporate management fees and financial expenses of construction enterprises. The contract issuer and the contracting party of the construction and installation project shall, in accordance with the above provisions, make a clear agreement on the cost of the construction project in the project contract on the basis of reasonably calculating the cost of the construction project, including the tax that should be included in accordance with the law, and reasonably determining the profit due according to the nature of the project, the difficulty of construction technology, the quality requirements, the market supply and demand situation, and other factors.   
         4． The agreement between the contract issuer and the contractor on the project cost in the contract includes both the agreement on the scope and standard of the project and the agreement on the method of project valuation. As far as the contract for construction and installation works is concerned, the pricing methods agreed upon in the contract are different, mainly fixed total price contracts, fixed unit price contracts and cost plus remuneration contracts. A fixed total price contract means that the contract issuer and the contracting party make an agreement on the total contract price of the project in the contract, except for the special circumstances in which the contract clearly stipulates that the price can be increased, the agreed total contract price shall not be changed in the execution of the contract, and the profits and losses arising from the increase or decrease in the actual execution of the contract shall be borne by the contracting party. A fixed unit price contract means that the contract issuer and the contracting party make a clear agreement on the contract price of the unit project in the contract, determine the total price to be paid to the contractor according to the agreed unit price of the project and the actual completed unit workload, and the agreed unit price shall not be changed in the actual execution of the contract, and the profit or loss arising from the increase or decrease of the unit project cost shall be borne by the contracting party. The cost plus   
remuneration contract refers to the contract price that the contract issuing party and the contractor agree in the contract to use the cost of the project plus the remuneration payable to the contractor as the actual contract price to be paid. Regardless of the valuation method adopted in the construction project contracting contract, it should be stipulated in the contract, and both parties should be executed in accordance with the contract.   
         5． The cost of construction projects is the core issue of the contracting contract between the contracting party and the contracting party. The contract issuer strives to reduce the project cost and save the project investment as much as possible under the premise of meeting the use function and ensuring the quality of the project; and the goal of the contractor is to maximize profits and achieve the best economic benefits in the contracting business activities. For construction projects that are contracted directly, the cost of the project shall be determined by the contracting party and the contracting party through one-on-one negotiation and negotiation, and shall be specified in the contracting contract. The cost of a construction project for which public bidding and contracting is to be carried out shall be determined in accordance with the legal procedures for bidding and bidding prescribed by law on tendering and bidding. Article 20 of this Law has made provisions on the basic procedures for bidding and contracting construction projects, and China's special tendering and bidding laws are being formulated, which will also make decisions on the procedures for bidding and bidding for construction projects, including the procedures for determining the project cost More specific provisions. In accordance with the usual bidding and bidding procedures, the contract issuer does not indicate its own requirements for the cost of the project in the announcements and tender documents issued by the contract issuer in relation to the bidding of the project, but the bidders submit their own bids in their bidding documents. The project quotation and other contracting conditions specified by the bidder in the tender shall constitute its offer to the contracting party for the construction project and shall be binding on the bidder. If the bidder wins the bid, it means that the contract issuer agrees to the various contracting conditions proposed by the bidder, including the project cost, and makes a commitment to the bidder's offer, and the contracting parties shall conclude the project contracting contract on the basis of the project cost reported in the bidding, and if this obligation is violated, it shall compensate the other party for the losses caused thereby.   2. Paragraph 2 of this Article stipulates that the contract issuer shall pay the project payment in a timely manner in accordance with the contract. Paying the project price to the contracting party in accordance with the provisions of the construction project contracting contract is the basic obligation that the contracting party should perform. The contract issuing party shall pay the project price to the contracting party in a timely and full amount in accordance with the provisions of the contract on the time of payment of the project price, the amount payable and the method of payment. Judging from the actual situation, at present, the scale of investment in China is too large, the construction funds are tight, and the construction market is generally in a situation of oversupply, so that some contract issuers take advantage of their favorable position to violate the provisions of the contract and default on the project payments that should be paid to the contracting party, which damages the legitimate rights and interests of the contracting party and disrupts the normal market order, which should be corrected. In addition to making a clear agreement on the project cost in the contract, the contracting party and the contracting party shall also make specific provisions on the payment of the project price according to the specific conditions of the project, such as whether the contract issuing party should pay the project advance payment to the contracting party and the time, amount and deduction method of the project payment (monthly settlement, segmented settlement, After completion of the one-time settlement or other settlement methods) and other matters are clearly agreed. Both parties shall abide by the agreement on the price of the project in the contract, and neither party shall change it without authorization. The contract issuer must pay the contracting party for the project in accordance with the contract, and those who violate the contract shall bear the liability for breach of contract in accordance with law. According to the economic contract law, if the contracting party of a construction project contract pays the project fee beyond the date specified in the contract, it shall pay the contracting party the overdue liquidated damages. The Regulations on Contracting Contracts for Construction and Installation Projects issued by the State Council stipulate that the contracting party "shall not allocate the project payment in accordance with the provisions of the contract and shall be handled in accordance with the relevant provisions of the bank on the method of late payment or the 'method for settlement of the project price'." The "Unified Text Format for Construction Project Contracting Contracts" formulated by the State Administration for Industry and Commerce stipulates that the contract issuer "does not allocate the project payment in accordance with the provisions of the contract, and pays the contractor's liquidated damages of 3/10,000 per day in accordance with the provisions of the bank on the overdue payment method." "The contracting party and the contracting party of the construction project contract may also make specific provisions in the contract on the liability of the contracting party for breach of contract for not paying the project price in accordance with the contract.   Section 2  Contracting    
  This section consists of seven articles, which stipulate the following issues in the contracting of construction projects, and establish the basic code of conduct that should be observed in the contracting activities of construction projects:  
  2. Methods of awarding contracts for construction works (Article 19);  
  2. Basic procedural rules for the issuance of contracts through public tendering (Article 20);  
  4. The organization and implementation unit of bid opening, bid evaluation and bid determination of construction project bidding and accept the supervision of relevant competent departments (Article 21);  
  5. The contract issuing party may only award the project to a unit that has the corresponding qualifications and conditions (Article 22);  
  6. Prohibition of administrative organs abusing administrative power to appoint and issue contracts (Article 23);  
  7. Prohibition of dismemberment of works and awarding of contracts (Article  
  24); It is forbidden for the contract issuing unit to illegally designate to the contracting unit the production plant and supplier of building materials, equipment and structural parts (Article 25).   Article 19  The construction project shall be tendered and contracted in accordance with law, and those that are not suitable for bidding and contracting may be directly issued.   【Interpretation】This article stipulates two ways of awarding contracts for construction projects.   1. In accordance with the provisions of this Article, the contracting of construction works shall be based on tendering and contract issuance.   
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． Bidding and contract issuance means that the contract issuer publishes the relevant information of the proposed project through an announcement or other means, indicating that it will recruit qualified contractors to contract the project, and the contractors shall submit their own project quotations and other contracting conditions in accordance with the requirements of the contracting party, participate in the competition for contracting the project tasks, and finally the contract issuing party will select the winning bidder as the contractor of the project and sign the project contracting contract with it.   The method of bidding and contracting introduces the competition mechanism into the contracting activities of construction projects, which meets the requirements of the market economy and is the most common way to award contracts for construction projects under the conditions of market economy, and its superiority has been elaborated in the interpretation of Article 16 of this Law, and international financial institutions such as the World Bank and the Asian Development Bank require the use of tendering methods for the contracting of projects built with their loans. Of course, the way of bidding and contracting is more complicated, the cost is also relatively high, the time required for the contracting process is relatively long, and for some small construction projects and confidential projects, the method of bidding and contracting is generally not applicable.   According to China's current actual practice, bidding and contract issuance can be divided into three specific forms of bidding: open bidding, invitation to bid and bid negotiation. Public bidding refers to the bidding method in which the contract issuer publicly publishes the bidding announcement through the news media, publicly provides the bidding documents, all qualified contractors have an equal opportunity to participate in the bidding competition, and the contract issuer selects the winning bidder as the project contractor in accordance with the prescribed open procedures and standards. Invitation to tender, also known as limited competitive tendering, refers to the method by which the contract issuer selects several specific contractors according to their own understanding, not by means of announcement, but according to their own understanding, and issues invitations to bid, and these invited contractors bid for competition, from which the successful bidder is selected. Bid negotiation, also known as non-competitive bidding, refers to the method by which the contracting party selects two or more specific contractors, negotiates with them one-on-one, and selects one of them as the contracting party. Among the three bidding methods, the open bidding and contract issuance method obviously best reflects the principle of fair competition, but the procedure is also relatively the most complex and the cost is also the highest. This method is suitable for bidding and contracting of large and medium-sized construction projects. The way of bidding lacks full competition, the procedure is not open, basically belongs to the way of one-on-one negotiation and signing between the contract issuer and each contractor, in the strict sense, it does not have the basic characteristics of bidding and contracting, can not be regarded as a way of bidding and contracting, but a form of direct contract issuance. The "Interim Provisions on the Implementation of Bidding and Bidding for Large and Medium-Sized National Capital Construction Projects" issued by the State Planning Commission stipulates a relatively strict restriction on the use of bid negotiation methods for bidding and contracting, which stipulates that the bidding and contracting of construction projects must be carried out by means of open bidding or invitation to bid, and only those who meet one of the following conditions can use the bidding method:   
  
"(1) Only a few qualified bidding units can choose from ;(2) involving the protection of patent rights or being limited by the natural geographical environment; (3) the bidding fee is not worth it compared with the value of the project" and "otherwise stipulated by the State".   
         2． The "bidding and contracting according to law" mentioned in this article refers to the bidding and contracting of construction projects in accordance with the provisions of the laws and administrative regulations on bidding and bidding, including three meanings: First All construction projects for which laws and administrative regulations stipulate that bidding and contracting must be carried out should be tendered and contracted; second, the specific bidding method used for construction projects that carry out bidding and contracting should conform to the provisions of laws and administrative regulations, and all laws and administrative regulations that require open bidding should be used to bid and issue contracts; third, where construction projects are subject to bidding and contracting, they must abide by the provisions of laws and administrative regulations on the procedures for bidding and contracting.   As for which construction projects must be tendered and contracted, this Law does not make specific provisions, and it needs to be stipulated by the Law on Bidding and Bidding and the relevant administrative regulations of the State Council. Generally speaking, in accordance with the requirements of establishing a market economic system, bidding and contracting should be the main form of contracting for construction projects, especially construction projects using state-owned funds; in order to ensure the rational and effective use of state-owned construction funds and improve investment efficiency, we should emphasize the implementation of bidding and contract issuance, which is also a common international practice. To this end, as early as September   
1984, the State Council issued the "Interim Provisions on Several Issues Concerning the Reform of the Construction Industry and the Capital Construction Management System", which clearly stated that it is necessary to   
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vigorously promote the project bidding and contracting system" "  
Change the old method of allocating construction tasks solely by administrative means, and implement bidding and bidding  
". The Ninth Five-Year Plan for National Economic and Social Development and the Outline of Long-term Goals for 2010 adopted by the Fourth Session of the Eighth National People's Congress proposes to "comprehensively implement the bidding and bidding system for project construction" "In accordance with the principles of fairness, openness and justice, market competition is implemented." The "Interim Provisions on the Implementation of Bidding and Bidding for Large and Medium-Sized National Capital Construction Projects" issued by the State Planning Commission stipulates that for large and medium-sized capital construction projects within the state plan approved by the State Council or the State Planning Commission, their "design, construction and installation, supervision and main equipment, material supply, general contracting of projects, and bidding agencies for the main projects, unless there are special requirements for confidentiality or otherwise stipulated by the State Council, must be determined through bidding." It also makes specific provisions on the scope of construction projects that carry out open bidding, invitation to bid or bid negotiation.   2. For construction projects that are not suitable for bidding and contracting, contracts can be issued directly.          1  
． The direct contracting of construction projects refers to the method of contracting contracting for construction projects in which the contracting party directly selects a specific contractor, conducts one-on-one consultation and negotiation with it, and after reaching an agreement on the rights and obligations of both parties, signs a contracting contract for construction projects. This method is simple and easy to save the cost of contract issuance, but it lacks the superiority brought by competition, and under the conditions of implementing the market economy, this method of contract issuance should only be suitable for a small number of special construction projects that are not suitable for contracting by means of bidding.   
         2． This Law does not make specific provisions on the scope of construction projects that are "not suitable for bidding and contracting", and it needs to be stipulated by the Law on Bidding and Bidding and relevant administrative regulations. This should be understood as follows: All construction projects for which laws and administrative regulations stipulate that bidding and contracting must be carried out should be tendered and contracted in accordance with the law; in addition to construction projects, the contracting party may choose to carry out direct contract issuance. The so-called construction projects that are "not suitable for bidding and contracting" can include two situations: first, the nature of the project itself is not suitable for bidding and contracting, such as some confidential projects or housing construction projects with special professional requirements; second, from the perspective of the investment subject of construction projects, the law generally does not need to restrict the way in which private capital invests in the construction of projects. Investors can choose the way to issue the contract, can bid for the contract, or can directly issue the contract.   Article 20 Where a  construction project is subject to open bidding, the contract-issuing unit shall, in accordance with legally prescribed procedures and methods, issue a bidding announcement and provide bidding documents containing the main technical requirements, main contract terms, standards and methods for bid evaluation, as well as the procedures for bid opening, bid evaluation and bid determination.   The opening of tenders shall be carried out in public at the time and place specified in the solicitation documents. After the opening of bids, the bids shall be evaluated and compared in accordance with the evaluation criteria and procedures specified in the bidding documents, and among the bidders with the corresponding qualifications, the successful bidders shall be selected on the basis of merit.   【Interpretation】This article is about the basic procedural rules that the contracting party shall abide by when the construction project is subject to public bidding and contract issuance.   First, the implementation of open bidding and contract issuance for construction projects must be open, fair and just to ensure equal competition. Otherwise, public bidding will lose its original meaning and cannot play its due role. In order to ensure that open bidding is open, fair and just, this article stipulates the basic procedural rules that the contract issuer must abide by in the main links of bidding activities, such as issuing bidding announcements and providing bidding documents to bid opening, bid evaluation and bid determination.   2. The contract issuing unit shall, in accordance with legal procedures and methods, issue a bidding announcement and provide bidding documents. The "legal procedures and methods" mentioned here refer to the provisions of laws and administrative regulations formulated by the State Council on the procedures and methods for issuing public bidding announcements and providing bidding documents. At present, laws and administrative regulations in this regard are in the process of being formulated, and the State Planning Commission and other relevant departments of the State Council have formulated departmental rules on bidding and contracting for construction projects in accordance with some common practices of open bidding and contract issuance, so that they can be followed in practice.   
         1． For construction projects subject to open bidding, in order to enable eligible contractors to have an equal opportunity to participate in bidding competition, the contracting party shall issue a bidding announcement in a manner that enables the relevant contractors to have access to the bidding information of the project under normal circumstances. According to the "Interim Regulations on the Implementation of Bidding and Bidding for Large and Medium-Sized National Capital Construction Projects" issued by the State Planning Commission, "public bidding shall simultaneously publish a bidding notice in more than one national newspaper and periodical, and invite all potential relevant units to participate in the bidding." "In addition, in order to enable contractors interested in participating in bidding competition to have an appropriate time to prepare for bidding after obtaining the bidding information, there should be an appropriate number of days from the date of publication of the bidding announcement to the closing date of the bidding, which is subject to specific provisions made by laws and administrative regulations.   
         2． In order to enable the contractor to obtain the relevant information and materials of the bidding project, in order to decide whether to participate in the bidding and to prepare for the bidding, the contracting party shall provide the bidding documents to all contractors interested in participating in the bidding at a lower price. The amount of information contained in the solicitation documents shall be able to meet the basic needs of the contractor in making bidding decisions. This article stipulates that the bidding documents shall contain the main technical requirements of the bidding project (such as the location, scale, quantity, expected progress of the project) and the main contract terms, and at the same time, in order to ensure that the bidding activities are open, fair and just, so that the bidders understand the procedures of the bidding and bidding activities, and supervise the bidding activities, this article stipulates that the bidding documents shall also contain the criteria for bid evaluation and the procedures for opening, evaluating and fixing bids (including time, place, etc.).   3. In order to ensure that the open bidding and contracting of construction projects conform to the principles of openness, fairness and justice, the second paragraph of this Article stipulates the basic requirements that shall be observed for the opening, evaluation and bid determination of public bidding and contracting of construction projects.   
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． Bid opening refers to the activity of the tendering party to open the acquired tender within the prescribed time after the expiration of the tender deadline and consult its contents in order to evaluate the contract conditions specified in each tender. In order to ensure the openness, fairness and impartiality of the bidding activities, the bid opening activities shall be carried out openly at the time and place specified in the bidding documents, usually in the form of holding a bid opening meeting, and all contractors participating in the bidding are eligible to participate in the bid opening meeting and supervise the bid opening process. The bidder shall check the sealing of each tender in public at the bid opening meeting, open the bids one by one, publicly sing the bids (that is, read out the names of the bidders, the bidding price and other main contents specified in the bids  
), and make a record of the bids for future reference. After the opening of tenders, no one may change the quotation or other contents of the tender.   
         2． Bid evaluation refers to the analysis and comparison of the content of the bid opening and the evaluation of the activities of the successful bidder. Bid evaluation shall be objectively and fairly evaluated and compared in accordance with the standards and procedures specified in the bidding documents, and no one shall change or violate the prescribed bid evaluation criteria and procedures. In practice, the bidding party usually organizes a bid evaluation agency with the participation of experts in relevant technical, economic and legal fields to make a technical review of the validity of the bidders' bids, the scientificity, rationality and feasibility of the technical solutions proposed in the bids, the status of the technical strength and the effectiveness of quality assurance measures, and make an economic review of the rationality of the project quotation and the composition of various costs, on this basis Make a bid evaluation report and put forward a list of several recommended successful bidders for the contract issuer to choose from. The "Interim Regulations on the Implementation of Bidding and Bidding for Large and Medium-sized National Capital Construction Projects" issued by the State Planning Commission proposes that the bid evaluation committee established by the project legal person shall be responsible for evaluating bids for large and medium-sized construction projects that are tendered and contracted. "The bid evaluation committee shall be composed of project legal persons, representatives of major investors, bidding agencies and technical, economic, legal and other experts employed, with a total number of more than 5 odd numbers, of which not less than two-thirds of the experts employed shall be employed"  
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Persons with an interest in the bidding unit shall not enter the bid evaluation committee.   
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The bid evaluation committee shall conduct a comprehensive evaluation and comparison of the bid documents in accordance with the requirements of the bidding documents, and recommend two or three successful candidates to the project legal person in order."   
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         3． Bid determination, also known as bid finalization, refers to the activity of the contract issuer to finally select the winning bidder from among the bidders as the contractor of the project. The bid must follow the principle of equal competition and selection of the best, and in accordance with the prescribed procedures, select the winning bidder from among the successful candidates recommended by the bid evaluation committee, and sign a project contract with them. The common international practice is that, in cases where other conditions such as technology and creditworthiness are comparable, the bidder with the lowest bid should be the successful bidder.   Article 21 The  bid opening, evaluation and bid determination of bidding for construction projects shall be organized and implemented by the construction unit in accordance with law and shall be subject to the supervision of the relevant administrative departments.   【Interpretation】This article is about the provisions on the organization and implementation unit of bid opening, evaluation and bid determination of bidding for construction projects and the acceptance of supervision.   1. The opening, evaluation and determination of bids for construction projects shall be organized and implemented by the construction unit in accordance with law.   
         1． The purpose of construction project bidding is to give full play to the role of market competition mechanism in the contracting of construction projects, select the best contracting units, reduce the project cost, ensure the quality of the project, and enable project investors to obtain the best investment benefits. Therefore, the bidding and contracting activities of construction projects, including the opening, evaluation and bid determination activities therein, should of course belong to the investors in the construction project, that is, the construction units themselves, and should be organized and implemented by the construction units themselves. The construction unit may organize the bidding activities with its own strength, and may also entrust the bidding agencies that meet the conditions to organize the bidding activities. For projects that use state-owned funds to invest in construction, the construction unit that is responsible for the construction and investment in the construction of the project shall be responsible for organizing the bidding activities of the project. In accordance with the requirements of the central authorities for the reform of the investment system, the State Planning Commission was established in April 1996 In January, the "Interim Provisions on the Implementation of the Responsibility System for Legal Persons of Construction Projects" was promulgated, requiring that large and medium-sized construction projects of commercial capital construction invested by state-owned units must form a project legal person during the construction stage, and the project legal person shall be responsible for the whole process of planning, fund raising, construction implementation, production and operation, debt repayment, and asset preservation and appreciation of construction projects. According to this provision, the project legal person established according to law shall be responsible for organizing the contracting activities of construction projects for construction projects invested and constructed by state-owned units as construction units. The "Interim Regulations on the Implementation of Bidding and Bidding for Large and Medium-sized Capital Construction Projects with the Same Family" issued by the State Planning Commission also clearly states that the opening of bids for construction projects shall be presided over by the project legal person, the bid evaluation committee shall be formed by the project legal person, and the winning bidding unit shall also be determined by the project legal person from among the candidate units recommended by the bid evaluation committee. The relevant competent departments shall supervise the bidding and bidding activities in accordance with the law, but shall not overstep their bounds and organize the bidding activities on behalf of the construction units.   
         2． The opening, evaluation and determination of bids for project bidding organized by construction units shall be carried out in accordance with the provisions of this Law and other laws and administrative regulations on bidding and bidding for construction projects, so as to be open, fair and just.   2. The bid opening, evaluation and bid setting activities of construction project bidding shall be subject to the supervision of the relevant administrative departments.   
  
         1． In order to ensure that the bidding and bidding activities for construction projects are carried out in accordance with the law, the bid opening, evaluation and bid determination activities of the construction project bidding shall be subject to the supervision of the relevant administrative departments. The relevant competent administrative departments shall supervise the bid opening, bid evaluation, and bid determination activities in accordance with law, mainly to supervise and inspect whether the bid opening, bid evaluation, and bid determination activities comply with the provisions of relevant laws and administrative regulations and the procedures set forth in the bidding documents. Those who violate the relevant provisions of laws and administrative regulations or violate the procedures specified in the bidding documents shall be corrected in accordance with law. However, the relevant administrative organs should pay attention not to organize bid opening, evaluation and bid determination on behalf of the construction unit, and must not illegally interfere with the bid opening, evaluation and bid determination activities carried out by the construction unit in accordance with the law.   
         2． The "relevant administrative departments" referred to in this article include, in addition to the competent administrative departments for construction that exercise supervisory and management functions and powers in accordance with the provisions of this Law, but also other relevant administrative departments exercising supervision and management duties for bidding and bidding activities for construction projects in accordance with the Law on Bidding and Bidding and the relevant provisions of the State Council. The division of duties and responsibilities of the relevant competent administrative departments shall be determined in accordance with the law on bidding and bidding and the relevant provisions of the State Council.   Article 22 Where  a construction project is tendered and contracted, the contracting unit shall award the contract for the construction project to the contracting unit that has won the bid in accordance with law. Where the construction project is directly contracted, the contracting unit shall award the construction project to the contracting unit with corresponding qualifications and conditions.   【Interpretation】This article is about the provisions that construction projects must be contracted to eligible contracting units.   First, whether the construction project is tendered and contracted directly, the project must be contracted to the contracting unit with the corresponding qualifications and conditions in accordance with the law.   Construction engineering is a century-old plan, its survey, design, construction of technical requirements are more complex, the quality of buildings is more directly related to the safety of people and property, therefore, engaged in construction activities, must be required to have the corresponding qualifications. Article 12 of this Law stipulates that construction enterprises, survey units, design units and project supervision units engaged in construction activities shall have professional and technical personnel with statutory professional qualifications that conform to the registered capital stipulated by the State, professional and technical personnel with legal qualifications appropriate to the construction activities they are engaged in, have the technical equipment necessary for engaging in construction activities, and have other conditions stipulated by laws and administrative regulations. Article 13 of this Law stipulates that construction enterprises, survey units, design units and project supervision units engaged in construction activities shall be divided into different qualification levels according to the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and completed construction project performance, and only after passing the qualification examination and obtaining the corresponding level of qualification certificates can they engage in construction activities within the scope of the business permitted by their qualification level. Judging from the current actual situation, an important manifestation of the chaos in the construction market is that some units and individuals that do not have the corresponding qualifications and conditions contract engineering projects through improper means, and some contract-issuing units and their staff illegally award construction projects to units and even individuals that do not have the corresponding qualifications, which seriously disrupts the normal order of the construction market, causes hidden dangers in the quality of construction projects and even vicious accidents of major personal injuries and property losses. This must be prohibited by law. To this end, this article stipulates that where a construction project is contracted directly, the contracting unit shall award the construction project to a contracting unit with corresponding qualifications; if the construction project is tendered and contracted, the contracting unit shall contract the construction project to the contracting unit that has won the bid according to law. An important condition for the so-called "winning the bid according to law" is that the contract issuing unit must review the qualification conditions of the bidding contracting unit, and the projects awarded to the winning bidding unit must be within the business scope of the winning bidding unit according to its qualification level. It is forbidden to contract projects to units and individuals that have not obtained qualification levels, and it is forbidden to contract projects contracted by units that require higher qualification levels to units with low qualification levels.   2. For construction projects that carry out bidding and contracting, once the contract issuing unit selects the winning bidders that meet the conditions in accordance with the bidding procedures stipulated in laws and administrative regulations, it shall issue a notice of winning the bid to the winning contracting unit, indicating that the contracting unit has promised to accept the contracting conditions proposed by the contracting unit in its bidding book, and the contract issuing unit shall sign a project contracting contract with the unit that has won the bid according to law and award the project to the contracting unit that has won the bid according to law.   Article 23 The  government and its subordinate departments shall not abuse their administrative power to restrict the contracting units from awarding contracts to the designated contracting units for construction projects that are tendered and contracted.   [Interpretation]. This article is about prohibiting administrative organs from abusing their administrative power to appoint contracting units for bidding and contracting.   Bidding and contract issuance must follow the principles of openness, fairness and justice, and truly achieve equal competition. If the government or its subordinate departments designate the contracting unit for bidding and issuing contracts, the bidding activities will lose their original meaning and become false bidding in vain, which is an act that violates the requirements of establishing a socialist market economy and must be stopped according to law. China is currently in the stage of transition to a market economy, due to a variety of reasons, some local governments or government departments abuse administrative power, violate the objective requirements of the market economy, and interfere with the normal business activities of market entities. In the process of contracting construction projects, some local governments and some competent departments adopt the practice of local protection or departmental protectionism, requiring construction units in their own regions and departments to only contract construction projects to contracting units belonging to their own regions or departments, and not allow contracting units from other places or departments to participate in competition in contracting construction projects in their respective regions and departments; It is required that the construction unit to which it belongs must contract the project to the contracting unit designated by it. In such cases, even if some construction projects are forced to invite bids and contracts under the circumstances or the requirements of superiors, they are engaged in false bidding, requiring the contract issuing units to secretly arrange for the designated units to win the bids. The practice of administrative organs abusing their administrative power to appoint contracting units for bidding and contracting undermines the principle of fair competition, disrupts the order of the market economy, tarnishes the image of government organs, and leaves an opportunity for corrupt acts. For this reason, this article specifically prohibits it.   Article 24  The implementation of general contracting for construction projects shall be advocated, and it is forbidden to dismember and issue contracts for construction projects.   The contracting unit for construction projects may contract the survey, design, construction and equipment procurement of construction projects to a general contracting unit of a project, and may also contract one or more items of survey, design, construction and equipment procurement of construction projects to a general contracting unit of the project; however, it shall not dismember the construction projects that should be completed by a contracting unit into several parts and contract to several contracting units.   【Interpretation】This article is about the prohibition of dismemberment and contracting of construction works.   First, the contracting of construction projects can be divided into two categories: general contracting and single task contracting according to the work content contracted by the contracting party.   
         1  
． In the general contracting of construction projects, in practice, there are more general contracting and construction general contracting of all work tasks of construction projects. The general contracting of all work tasks of construction projects, also known as "  
turnkey contracting  
", means that the contracting party will contract all the tasks of the construction of the construction project, such as the survey, design, civil construction, procurement of equipment, installation and commissioning of the construction project, to a contracting unit with the corresponding general contracting qualification conditions, and the general contracting unit shall be responsible to the construction unit for the whole process of the project construction until the completion of the project. Delivery to the construction unit the method of contracting and contracting for construction projects that meet the requirements of the contract issuer. Construction general contracting refers to the contracting unit will be the construction task of the construction project, including civil construction and related facilities, equipment installation and commissioning of the construction task, all contracted to a contracting unit with the corresponding construction general contracting qualification conditions, the construction general contracting unit is responsible for the whole process of project construction to the construction unit, until the completion of the project, to the construction unit to deliver experience to the construction project that meets the design requirements of the contracting method. In addition, there are also general contracting methods for different professional tasks such as survey, design and equipment procurement of construction projects. General contracting of projects is a contracting method that is used in construction activities at home and abroad, which is conducive to giving full play to the professional advantages of large contractors who have strong technical strength, rich experience and organizational management capabilities in engineering construction, comprehensively coordinate various relationships in project construction, strengthen the unified command and organizational management of project construction, ensure project quality and progress, and improve investment efficiency. The general contracting method is adopted in the contracting of construction projects, which has obvious advantages for construction units that lack specialized technical strength in engineering construction and are difficult to implement specific organizational management of construction projects, and also meet the requirements of the professional division of labor in socialized large-scale production. To this end, this Law stipulates that if the general contracting of construction projects is advocated, the contracting unit may issue contracts for the survey, design, construction and equipment procurement of construction projects to a general contracting unit of the project, that is, by means of general contracting; it may also issue one or more contracts for the survey, design, construction and equipment procurement of construction projects to a general contracting unit of the project, that is, by means of sub-professional general contracting. Of course, the general contracting method is adopted for construction projects, because the general contracting unit needs to undertake more organization and management of project construction, and often needs to carry out the necessary subcontracting of its general contracting projects and assume responsibility for the subcontracted projects, so in general, the general contracting costs may be higher than the general contracting costs contracted according to a single task. The construction unit may decide which method of contract issuance according to the specific situation.   
         2． Corresponding to the general contracting method, it is the contracting of a single task, that is, the contract issuing party will contract different work tasks in the construction activities to different contracting units and sign corresponding contracts with them. This method of contract issuance is conducive to attracting more contractors to participate in the bidding competition of various construction businesses, so that the contract issuing party has a greater choice; it is also conducive to the direct supervision and management of all links and stages of construction activities by the contract issuing unit, which is beneficial to those construction units that have professional and technical personnel in construction activities and have strong organizational and management capabilities in project construction.   Second, whether the construction project contracting method is adopted in the general contracting method or the single task contracting method may be determined by the construction unit according to the actual situation. Article 18 of the Economic Contract Law also clearly stipulates that a construction project contracting contract "may be signed by a general contracting unit and a construction unit, or several contracting units may sign contracts with the construction unit separately." However, regardless of the manner in which the contracting party enters into a contract with the contracting party, it shall comply with the provisions of this article and shall not dismember the construction work, that is, "the construction work that should be completed by one contracting unit shall not be dismembered into several parts and contracted to several contracting units  
" 。 This is in view of the actual situation that there are many occurrences in China's construction market and the harm is relatively large, and the project is dismembered and contracted. Some contract-issuing units will, according to their nature and technical links, be contracted by a contracting unit as a whole, dismembered into several parts, and contracted to several contracting units, so that the entire project construction lacks due overall coordination in management and technology, often causing chaos at the construction site, unclear responsibilities, seriously affecting the quality of project construction, and it is difficult to find the person responsible if there is a problem. Moreover, from the actual situation, dismemberment and contract issuance are often related to illegal acts such as favoritism and fraud by the staff of the contracting unit and the use of dismemberment to issue more kickbacks. Therefore, this article clearly stipulates that construction projects that should be completed by one contracting unit may not be dismembered into several parts and contracted to several contracting units. As for how to determine whether it belongs to a construction project that should be completed by a contracting unit, it is necessary for the relevant competent department of the State Council to make specific provisions according to the actual situation. For example, for the civil engineering of a house, the construction unit should not divide it into several parts and issue contracts to several contracting units, but should be contracted by a contracting unit; and the installation of air-conditioning equipment and fire-fighting equipment in a large public building, although it belongs to the equipment installation of the same building, but because of its strong professionalism, the construction unit can contract it to different contracting units.   Article 25  Where, in accordance with the contract, building materials, building components and equipment are procured by the project contracting unit, the contracting unit shall not designate the contracting unit to purchase building materials, building structure accessories and equipment for the project, or designate production plants or suppliers.   【Interpretation】This article is about the provisions that the contracting party shall not require the contracting party to purchase according to its designation in the case of the contracting unit being responsible for the procurement of building materials, structural parts and equipment according to the contract.   1. The building materials, structural parts and equipment required for construction projects may be provided by the contracting party according to the specific circumstances, and the contracting party may also be responsible for procurement. Who should be responsible for the supply and procurement of building materials, structural parts and equipment shall be clearly agreed upon in the contracting contract by both parties to the contract. The "Construction Contract Conditions for Construction Projects" formulated by the State Administration for Industry and Commerce and other departments stipulate that the contract issuer shall supply them in accordance with the contract For materials and equipment, the contracting party shall provide the contracting party with certificates of conformity for materials, equipment and products in accordance with the materials, equipment types, specifications, quantity, unit price, quality level, and time and place of provision as agreed in the terms of the agreement. Where the contracting party purchases materials and equipment in accordance with the contract, the contracting party shall purchase the materials and equipment required for the project in accordance with the terms of the agreement and in accordance with the requirements specified in the design. The conditions of the contract also specify the issue of liability for compensation in the event of the provision by a party to the contract of acceptance and storage of building materials and equipment, materials provided, and equipment that are inconsistent with the contract.   2. In the case where the contract stipulates that the contracting party is responsible for the procurement of building materials, structural parts and equipment, it shall carry out the procurement act on its own in accordance with the requirements of the contract, which is not only the obligation of the contracting party, but also the contractual rights enjoyed by the contracting party. The contract issuing has the right to inspect and accept whether the building materials, structural parts and equipment purchased by the contractor meet the prescribed requirements in accordance with the contract, and the right to refuse acceptance and require the contractor to bear the corresponding responsibilities for those who do not meet the requirements. However, the contracting party shall not take advantage of its advantageous position to require the contracting party to purchase building materials, structural parts or equipment designated by it, including that the contracting party must purchase building materials, structural parts or equipment from its designated production plant or supplier. Because this designated behavior of the contract issuer is bound to affect the fair competition between the producers and suppliers of building materials and structural parts and equipment, and this designated behavior often arises from the collusion between the contracting party and the producers and suppliers of building materials and structural accessories and equipment, which will inevitably lead to corruption; at the same time, the fixed price is implemented in the construction project according to the contract  
 In the case of the contract issuer designating the contractor to purchase high-priced building materials, structural parts and equipment, it will also harm the interests of the contractor. Therefore, this article stipulates that the designated purchase of the contracting party is prohibited in the case where the contracting party is responsible for the procurement of building materials, structural parts and equipment.   Section 3  
  Contracting  
    
  This section has four articles, which respectively stipulate the following issues in the contracting of construction projects, and establish the basic code of conduct that should be observed in the contracting activities of construction projects:  
  1 ． The contracting unit must contract the project in accordance with its qualification conditions, and it is prohibited to contract the project without qualification, beyond the qualification level or in any form borrowing the name of other construction enterprises (Article 26);  
  2. Joint contracting of two or more contracting units (Article 27);  
  
    
 Prohibition of subcontracting (Article 28);  
    
 Illegal subcontracting is prohibited (Article 29).   
  Article 26 A  
  unit contracting a construction project shall hold a qualification certificate obtained in accordance with law and contract the project within the scope permitted by its qualification level.   It is forbidden for construction enterprises to exceed the business scope permitted by the qualification level of the enterprise or to contract projects in any form in the name of other construction enterprises. It is forbidden for construction enterprises to allow other units or individuals to use their qualification certificates and business licenses in any form to contract projects in the name of their enterprises.   
  【Interpretation】This article is about the prohibition of contracting projects without qualifications, exceeding the qualification level or borrowing the name of other construction enterprises in any form. 1. The "  
qualification certificate obtained in accordance with law  
" and the "qualification level"  mentioned in this article Refers to the qualification certificate issued by the relevant competent authority to the construction enterprise, survey unit, design unit or project supervision unit that meets the statutory conditions in accordance with the provisions of Articles 12 and 13 of this Law, and the qualification level specified in the certificate.   Construction engineering is "a century-old plan, quality first"  
 Its quality problems are directly related to the safety of public life and property. To ensure the quality of construction projects, first of all, the units engaged in construction activities (including the survey, design, construction and supervision activities of construction projects, etc.) must have the corresponding qualifications, such as: there must be a certain number of professional and technical personnel with relevant professional knowledge and technical workers with relevant work skills, and there must be funds and technical equipment suitable for the construction activities they are engaged in. At the same time, due to the different nature, scale and technical complexity of each construction project, the requirements for the specific conditions that the project contracting unit should have are also different. The larger the scale of the project and the higher the technical requirements, the higher the requirements for the conditions of the contracting unit such as funds, technology and management level. Therefore, it is necessary to divide the units engaged in construction activities into different qualification levels according to the conditions they have, and stipulate that they can only contract works within the approved qualification level. In this regard, many countries have made clear provisions on the qualifications that should be possessed to engage in construction activities, as well as the issue that construction activity practitioners must contract projects according to the qualification level. For example, Japan stipulates that the person in charge of a construction industry operator who contracts and completes the construction project business by means of general contracting, subcontracting or other means must have a degree or above in the relevant major of the institution of higher learning, and have experience in engaging in relevant construction activities for more than one year stipulated by law, a sufficient property foundation or bank credit suitable for the construction activities they are engaged in, and other conditions stipulated by law. South Korea stipulates that those who operate the construction industry must obtain the permission of the Minister of Construction, and the amount of capital they own, technical equipment and technical level must meet the conditions stipulated by the presidential decree. China's Taiwan stipulates that the contractors of the construction industry shall be limited to the construction industry manufacturers who have registered and opened in accordance with the law, and the construction industry shall be divided into three levels: A, B and C. The conditions for each grade, the professional engineering and technical personnel and the performance of completed construction projects, and the limit of the projects allowed to be contracted at each level. Article 12 of this Law also clearly stipulates the conditions that units engaged in construction activities should have; Article 13 stipulates that construction enterprises, survey units, design units and project supervision units engaged in construction activities may be divided into different qualification levels according to the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and completed construction project performance, and after passing the qualification examination and obtaining the corresponding level of qualification certificates, they may engage in construction activities within the scope permitted by their qualification level. It can be said that the qualification certificate obtained in accordance with the law is the access certificate for entering the construction market to engage in construction activities; the qualification level specified in the qualification certificate is a proof of the size of its business ability. However, from the actual situation of the current construction market, the phenomenon of contracting projects without qualification or super qualification level occurs from time to time, which seriously disrupts the normal order of the construction market, which is an important reason for the prominent quality problems of the current construction projects and even the occurrence of major vicious accidents that collapse houses. For example, in December 1995, a 7-story high-rise building in Deyang City, Sichuan Province, collapsed as a whole, killing 17 people, injuring 10 others, and direct economic losses of 200  
 More than 10,000 yuan, the main reason is that a local Grade D design firm exceeded its qualification level to undertake the architectural design task of the building, and there were serious errors in the design, coupled with the chaos of construction management. Lessons of blood like this are not uncommon. To this end, this article clearly stipulates that the unit contracting the construction project shall hold the qualification certificate and can only contract the project within the scope permitted by its qualification level, and prohibit the construction enterprise from contracting the project beyond the business scope permitted by the qualification level of the enterprise.   Second, another manifestation of the current chaotic order of the construction market is that some unqualified or low-qualified enterprises, contractor teams "  
affiliated  
" construction enterprises with higher qualification levels or take the form of fake "joint ventures" with construction enterprises with higher qualification levels. In other forms, contracting projects in the name of construction enterprises with higher qualification levels; while some construction enterprises are ignorant of their interests and allow other units and even individuals to use the name of their own enterprises to contract projects in order to seek improper benefits (such as collecting affiliate management fees, qualification certificates and paid royalties for business licenses, etc.). For example, a construction company in Shanghai sold its qualification certificate and business license at a price of 3% to 5% of the project cost; a construction group in Changchun collected a total of   
48 A team of contractors. The existence of this phenomenon is extremely harmful to the establishment of normal construction market order and the quality of the project, and must be prohibited. To this end, the second paragraph of this article clearly stipulates that it is forbidden to contract projects in the name of other construction enterprises in any form, and it is forbidden for construction enterprises to allow other units or individuals to use the qualification certificate and business license of the enterprise in any form to contract projects in the name of the enterprise. Article   27 For  
  
  large-scale construction projects or construction projects with complex structures, two or more contracting units may jointly and jointly contract. The parties to the joint contract shall be jointly and severally liable for the performance of the contract.   Where two or more units with different qualification levels carry out joint contracting, they shall undertake the project within the scope of the licensing business of the unit with the lower qualification level.   【Interpretation】This article is about joint contracting. 1. "  
  
Joint joint contracting" referred to  in this Article , refers to the form of contracting in which two or more units jointly form a consortium of unincorporated persons and contract a construction project in the name of the consortium. In the form of joint contracting, the consortium jointly formed by the various contracting units participating in the joint contracting units as a single contracting entity signs a contracting contract with the contracting party and assumes all the responsibilities for performing the contractual obligations. Within the consortium, the parties participating in the consortium agree on their rights and obligations in the joint contract by agreement, including the management method of the consortium and the method of generating the joint management agency, the scope of the engineering tasks undertaken by the parties, the method of benefit-sharing and risk-sharing, and so on. As for the joint investment of two or more units to form a legal entity, the legal entity contracts the project and concludes a contract with the contracting party, which belongs to the separate contracting of the legal entity. It is not a joint contracting referred to in this article.   2. The form of joint joint contracting provided for in this Article shall apply to large and medium-sized construction projects and construction projects with complex structures. Large and medium-sized construction projects and structurally complex construction projects, with a large amount of engineering tasks, complex technical requirements and a long construction period, require the contractor to have a strong economic, technical strength and ability to resist risks. Joint contracting by a consortium of multiple units can concentrate the economic and technical strength of all parties, give play to their respective advantages, and greatly enhance the strength of bidding and competition; for the contract issuing party, it is also conducive to improving investment efficiency and ensuring the quality of project construction.   3. In a joint joint contract, the parties participating in the joint contract shall bear joint and several liability to the contracting party for the performance of the contracting contract. The so-called "joint and several liability" means that in two or more debtors in the same creditor-debtor relationship, any one debtor is obliged to perform all debts to the creditor; A debtor with joint and several liability shall not refuse to perform part or all of its debts on the basis that there is an agreement between the debtors on the basis of an agreement between the debtors on the basis of an agreement on the proportion of the debt to be shared. Once one or more of the joint debtors have fulfilled all their obligations, the obligations of the other joint and several debtors to the creditors shall be discharged. As far as the internal relationship of the joint and several debtors is concerned, the debtor who has paid off the debt in excess of the share that should be borne by himself according to the agreement between the debtors has the right to require the other joint and several debtors to repay their respective share. In this regard, Article 87 of the General Principles of the Civil Law clearly stipulates:   
"Every debtor with joint and several obligations has the obligation to pay off all debts, and the person who has fulfilled the obligation has the right to demand that other persons with joint and several obligations pay the share he should bear."   
"  
Pursuant to this provision, the contracting party may require any party participating in the joint contract to perform all the obligations of the contracting contract, and the parties to the joint contract shall not refuse. This is necessary to safeguard the legitimate rights and interests of the contracting party in the form of joint contracting, avoid the mutual responsibility of the parties to the joint contracting  
, and strengthen the cooperation and cooperation of all parties. The issue of the liability of the contractor for joint co-contracting is also clearly stipulated in the Conditions of Contract for Civil Engineering Construction (i.e. the "Fidic Clause"), prepared by the International Federation of Consulting Engineers, which is widely used internationally: " If the contractor consists of two or more consortiums, all of them will be jointly and each responsible for the performance of the terms of the contract and each of them shall be liable to the employer and shall nominate one as the leader competent to govern the consortium. "The joint and individual liabilities provided for herein have the same meaning as "joint and several liability" under this Law  
.   4. Joint contracting is jointly contracted by two or more contracting units, and when the qualification levels of each unit participating in the joint contracting with the same profession are different, in order to prevent the problem of over-level contracting, this article stipulates that in this case, the consortium can only contract the project according to the scope of licensing business of the unit with a lower qualification level.   Article 28 It  is forbidden for a contracting unit to subcontract all the construction projects it has contracted to others, and it is prohibited for a contracting unit to dismember all the projects it has contracted and then separately subcontract to others in the name of subcontracting.   【Interpretation】This article is about the prohibition of subcontracting.   1. The so-called "subcontracting" refers to the act of the contracting party of the construction project to transfer the construction project contracted by it to another person, so that the other party actually becomes the new contractor of the construction project.   This Law clearly prohibits the contracting unit from subcontracting the projects it has contracted, which is of great significance. (l) From the perspective of practice, subcontracting behavior has greater harm. Some units subcontract their contracted projects to others at a low price, from which they gain improper benefits, forming a phenomenon of "subcontracting layer by layer, peeling at every level", and finally the actual cost of project construction is greatly reduced, resulting in serious cutting corners; some construction projects fall into the hands of the contractor team that does not have the corresponding qualifications and conditions after subcontracting, leaving a serious hidden danger in the quality of the project. It even causes major quality accidents. For example, in April   
1995, a 7-story building in Anyi County, Jiangxi Province, collapsed, which was originally contracted by a construction company, subcontracted layer by layer, and finally fell into the hands of a rural contractor who cut corners in the construction of the project. The building materials used were not qualified, resulting in the collapse of the building, 6 deaths, 7 serious injuries of the major vicious accident. (2) The contracting party subcontracts the projects contracted by the contractor without authorization, which also violates the provisions of the contract law and undermines the stability and seriousness of the contractual relationship. From the perspective of the legal relationship of the contract, the subcontracting act is an act of changing the subject of the contract, and after subcontracting, the contracting party of the construction project contract is changed from the original contractor to the new contractor who accepts the subcontract, and the original contractor is no longer liable for the performance of the contract. According to the basic principles of the Contract Law, once the contract is established according to law, it is legally binding, and neither party may change the contract without authorization, neither the content of the contract, nor the subject of the contract. The conclusion of a contract for construction works is the act of both parties to the contract. The contract issuer is often carefully selected to conclude a contract with a contractor it trusts and has the appropriate qualifications. In particular, in the contracting contract for construction projects issued by means of bidding, the contracting party shall, in accordance with the principles of openness, justice and fairness, and after a series of strict procedures, select the successful bidder as the contracting party and conclude the contracting contract with it. The act of the contracting party subcontracting the contracted project to others and changing the subject of the contract without authorization violates the will of the contract issuer and harms the interests of the contract issuer, which is not allowed by law.   It is a common practice in the world that the contractor of a construction project is prohibited from subcontracting the project it has contracted without authorization, and the laws of many countries prohibit the subcontracting of construction projects. For example, Japan and South Korea stipulate that construction industry practitioners may not subcontract their contracted construction projects to others in any form, except with the written consent of the contracting party. The Conditions of Contract for Civil Engineering Construction (i.e. the "Fidic Clause"), prepared by the International Federation of Consulting Engineers  
, also clearly stipulate that the contractor may not transfer the contract or any part of the contract. The prohibition of subcontracting in China's construction law is not only in line with the actual situation of our country, but also consistent with international practice.   
  2. In the construction of the project, the subcontracting behavior of the contracting party is prohibited by law, but the act of the contracting party subcontracting part of the contracted project to others in accordance with the provisions of the contracting contract or with the consent of the contracting party (construction unit) is permitted, and Article 29 of this Law also provides for this. In practice, some contractors take advantage of the provisions permitted by law to subcontract, decompose all the projects they have contracted into several parts, and then subcontract each part separately to others in the name of subcontracting, just to profit from this kind of behavior called subcontracting, but not to bear the responsibility of performing the contractual obligations. In order to prevent the occurrence of such an act of circumvention of the law called subcontracting, this article stipulates that the contracting unit is prohibited from dismembering all the projects contracted by it and subcontracting them to others in the name of subcontracting. Article   
  29 The  
  general contracting unit of a construction project may contract part of the contracted project to a subcontracting unit with corresponding qualifications and conditions; however, except for the subcontracting agreed in the general contracting contract, it must be approved by the construction unit. In the case of general contracting, the construction of the main structure of the construction project must be completed by the general contracting unit itself.   The general contracting unit of the construction project shall be responsible to the construction unit in accordance with the provisions of the general contracting contract; the subcontracting unit shall be responsible to the general contracting unit in accordance with the provisions of the subcontract. The general contracting unit and the subcontracting unit shall be jointly and severally liable to the construction unit for the subcontracted project.          It is forbidden for the general contracting unit to subcontract the project to a unit that does not have the corresponding qualification conditions. Subcontractors are prohibited from subcontracting their contracted projects.   【Interpretation】This article is a provision on the subcontracting of construction works.   1. The so-called subcontracting of construction projects refers to the unit that implements general contracting for construction projects, and then issues a contract to other contracting units to contract a certain part or parts of its general contracting project, and signs a subcontract under the general contracting contract with it, at which time the contractor of the general contracting contract becomes the issuer of the subcontract. The fundamental difference between subcontracting and subcontracting is that in the subcontracting act, the original contractor reverses all the projects it has contracted to others and does not actually perform the obligations stipulated in the contract; in the subcontracting act, the general contractor only subcontracts a certain part or parts of its general contracting project to other contracting units, and the general contractor is still responsible to the contracting unit for the performance of all the obligations stipulated in the general contracting contract (including the subcontracted project part).   
  2. Paragraph 2 of this Article stipulates the conditions to be observed for subcontracting.   
  A contract for construction works is a contract concluded between the contracting party and the contractor selected by it. In principle, the obligations of the contracting party stipulated in the contract should be completed by the contracting party itself. However, for some large and medium-sized construction projects and structurally complex construction projects, the implementation of the combination of general contracting and subcontracting, allowing the contracting party to subcontract some of the labor services in its general contracting projects or professional projects that they are not good at to other contractors under the premise of complying with certain conditions, so as to maximize their strengths and avoid weaknesses, give full play to their respective advantages, which is beneficial to improving work efficiency, reducing project costs, ensuring project quality and shortening the construction period. The restrictions on subcontracting in this article are: (1) the general contracting unit can only subcontract part of the project to the unit with the corresponding qualification conditions; (2) in order to prevent the general contracting unit from subcontracting the project that should be completed by itself or subcontracting the project to the contracting unit that the construction unit does not trust, this article stipulates that the subcontracted project must be a project that can be subcontracted as stipulated in the general contracting contract. If there is no agreement in the contract, it must be approved by the construction unit; (3) In order to prevent some contracting units from subcontracting in the name of subcontracting after obtaining the project project, harming the interests of the construction unit and undermining the order of the construction market, this article stipulates that if the general contracting of construction is implemented, the main structure of the construction project must be completed by the general contracting unit itself and may not be subcontracted. In this regard, the State Planning Commission also stipulated in the "Interim Regulations on the Implementation of Bidding and Bidding for Large and Medium-sized National Capital Construction Projects" issued by the State Planning Commission: "The main projects shall not be subcontracted. The amount of contract subcontracting shall not exceed 30 per cent of the winning contract price".   3. Paragraph 3 of this Article stipulates the relationship between the construction unit, the general contracting unit and the subcontracting unit.   
         1． In the form of contracting that combines general contracting and subcontracting, there are two different contractual relationships between the general contracting contract and the subcontracting contract. The general contracting contract is a contract concluded between the construction unit and the general contracting unit, and the general contracting unit shall bear full responsibility to the construction unit for the performance of the general contracting contract, even if the general contracting unit subcontracts part of the construction project within the scope of the general contracting contract to others according to the contract or with the approval of the construction unit, the general contractor must also be responsible to the construction unit for the subcontracted project. In this regard, the internationally widely adopted Conditions of Contract for Civil Engineering Construction also clearly stipulates that subcontracting "shall not relieve the contractor of any responsibility or obligation under the contract, and the contractor shall treat the acts, breaches or omissions of any subcontractor, subcontractor's agent, employee or worker as if it were the same as the acts, breaches or omissions of the contractor itself and its agents, employees or workers, and shall be fully responsible for them." This requires that the general contractor should carefully select the subcontractor and strengthen the management of the subcontracted project.   
         2． A subcontract is a contract concluded between the contractor of the general contracting contract (the contractor in the subcontract) and the subcontractor, and there is no direct contractual rights and obligations between the subcontractor and the construction unit (the contractor of the general contracting contract), and generally speaking, the subcontractor is only responsible to the general contractor for the performance of the subcontract, and is not directly liable to the construction unit. Due to the problems arising from the subcontracted project, the general contractor, after assuming responsibility to the construction unit, may recover compensation from the subcontractor according to the provisions of the subcontract. However, in order to safeguard the rights and interests of the construction unit and appropriately increase the responsibility of the subcontracting unit, this article stipulates that the general contracting unit and the subcontracting unit shall bear joint and several liability for the subcontracting project, that is, due to the problems arising from the subcontracting project, the construction unit may either require the general contracting unit to bear responsibility or directly require the subcontracting unit to bear responsibility.   4. In accordance with the provisions of paragraph 4 of this Article, the general contracting unit shall not subcontract the project to a unit that does not have the corresponding qualifications. Subcontracting units may not subcontract their contracted projects, i.e., they can only subcontract construction projects once. Avoid situations where there is confusion of responsibilities due to subcontracting and a reduction in the actual cost of the project due to too many intermediate links.   
   
    
   
   
   
   
   
    
   
   
   
   
   
   
   
   
 

This chapter deals with the supervision of construction works, consisting of six articles, which stipulate the  
  following: The State implements the system of supervision of construction projects, and the State Council may stipulate the scope of construction projects subject to compulsory supervision (Article 30);  
  The construction unit shall entrust the project supervision unit with the corresponding qualifications and conditions to carry out supervision, and conclude a written entrustment contract with the project supervision unit entrusted by it (Article  
  31);   
  4. The status, main tasks, basic basis for the implementation of supervision and the basic rights of project supervision personnel (Article 32); The construction unit shall notify the construction enterprise of the relevant matters entrusted to the supervision before implementing the supervision of the construction project (Article 33);  
  6. The basic practice guidelines that the project supervision unit shall follow (Article 34);  
  The project supervision unit shall bear civil compensation liability for losses caused to the construction unit if it does not perform its supervision obligations in accordance with the entrusted supervision contract or colludes with the contracting unit (Article 35).   
  Article 30 The  State shall implement the system of supervision of construction projects.   
  The State Council may prescribe the scope of construction projects subject to compulsory supervision.   
  【Interpretation】This article is about the state's implementation of the construction project supervision system and the State Council may stipulate the scope of construction projects to be subject to compulsory supervision.   
  1. Paragraph 1 of this Article stipulates that the State shall implement the supervision system for construction projects. "Construction project supervision" as used in this Law refers to the special activity of the construction unit with statutory qualifications and conditions, in accordance with the entrustment of the construction unit, in accordance with laws, administrative regulations and relevant technical standards, design documents and construction project contracts, to supervise the construction of the project on behalf of the construction unit in terms of construction quality, construction period and use of construction funds. As an investor in the construction project, the construction unit (owner), in order to obtain good investment benefits, ensure the quality of the project, and reasonably control the construction period, needs to implement the necessary supervision over the construction activities of the construction enterprise. However, most construction units are not good at organizational management and technical supervision of engineering construction. The professional project supervision unit composed of personnel with professional knowledge and practical experience in engineering construction, entrusted by the construction unit, supervises the construction quality, construction period and investment use of the project on behalf of the construction unit, and has great superiority in maintaining the interests of the construction unit, coordinating the relationship between the construction unit and the project contracting unit, ensuring the quality of the project, and standardizing the order of the construction market. The construction project supervision system has a long history of development in the world, and Western developed countries have formed a complete set of project supervision system, it can be said that construction project supervision has become an international practice in the construction field. Construction projects financed by international financial institutions such as the World Bank and the Asian Development Bank and governments of developed countries generally require a project supervision system for projects financed by loans. With the development of the reform and opening up process, China began to implement the supervision system of construction projects from 1988 to 1996 At the end of the year, the vast majority of localities and industries in the country have implemented the construction project supervision system to varying degrees in many construction projects. Practice has proved that the implementation of the construction project supervision system is not only conducive to ensuring the quality of the project, saving project investment, and reasonably controlling the construction period, but also conducive to helping and supporting the construction unit to adopt new technologies and new processes to facilitate construction, civilized construction, safe construction, labor saving, and cost reduction. However, due to the late start of the construction project supervision system in China and the poor foundation, some units still lack sufficient understanding of the necessity of implementing the construction project supervision system, and some projects that should be supervised by the project have not implemented project supervision; some project supervision units have not standardized behavior and have not played the role of fair supervision that project supervision should play. In order to enable the smooth development of the construction project supervision system that has started in China and meet the needs of the reform and development of the construction industry, this law establishes the principle of the state to implement the construction project supervision system in the form of law. The relevant competent departments shall, in accordance with the provisions of the law, adopt effective support, guidance and management measures to implement the project supervision system in construction activities.   What needs to be pointed out here is that the supervision of construction projects by construction project supervision and the quality supervision of construction projects by the relevant competent government departments in accordance with the relevant provisions of the state are not the same in terms of the basis of supervision, the nature of supervision, and the relationship with construction units and contracting units, and cannot be replaced by each other. The basis for the supervision of the project supervision unit is the authorization of the construction unit to supervise on behalf of the construction unit; in nature, the supervision is carried out by the social intermediary organization as the impartial party, and the relationship between the project supervision unit and the construction unit and the project contracting unit is an equal civil subject, and if the supervision unit discovers the illegal acts of the contracting unit or the violation of the supervision contract, it shall report to the construction unit and has no administrative punishment power. The basis for the supervision of project quality by the competent government departments is the provisions of laws and regulations; administrative supervision and management is compulsory in nature, and the relationship between administrative management and management between the construction unit and the construction project contracting unit is administrative management and the management, whether the construction unit and the project contracting unit are willing or not, they must obey the supervision and management carried out by the competent administrative department according to law, and the competent government department has the right to make illegal acts of the construction unit and the construction project contracting unit according to law  
 Punish.   2. Paragraph 2 of this Article stipulates the scope of construction projects that the State Council may prescribe for compulsory supervision. Construction project supervision is the owner of the construction project in order to ensure the quality of the project, control the project cost and duration, in order to protect their own interests and take measures, whether to implement the supervision system for the construction project, in principle, should be decided by the project owner (construction unit). However, for projects constructed using state financial funds or other public funds, in order to strengthen the supervision of project construction, ensure investment efficiency, and safeguard the interests of the state and taxpayers, some countries usually stipulate that a compulsory supervision system is implemented for this part of the project, and the owner must entrust a legally qualified project supervision unit to supervise the project; in addition, for some large-scale public construction projects, in order to ensure the quality of the project and ensure public safety, some countries also stipulate that a compulsory supervision system is implemented. Judging from the actual situation in our country, the number of engineering projects that use state-owned funds for construction is relatively large, and in principle, in order to ensure the investment efficiency of state-owned construction funds and ensure the quality of projects, the project supervision system must be implemented for this part of the engineering construction projects, except for some primary school construction projects and special construction projects. In addition, a project supervision system should also be implemented for construction projects that use grants or loans from foreign governments or international financial organizations. Considering the complexity of the situation of engineering projects that require compulsory supervision by state regulations, it is difficult to make   
specific provisions in the law, therefore, this article authorizes the State Council to stipulate the scope of construction projects under compulsory supervision. For construction projects that belong to the compulsory supervision system stipulated by the State Council, the construction unit must entrust the project supervision unit to supervise according to law, and for other construction projects, the construction unit shall decide whether to implement project supervision on its own.   Article 31 For  construction projects under supervision, the construction unit shall entrust the project supervision unit with the corresponding qualifications and conditions to supervise. The construction unit and the project supervision unit entrusted by it shall conclude a written entrustment supervision contract.   【Interpretation】This article stipulates that the construction unit shall entrust the supervision unit with the corresponding qualifications to carry out the supervision and the construction unit shall conclude a written entrustment supervision contract with the project supervision unit entrusted by it.   
  First, to engage in construction project supervision activities, it is necessary to have higher professional and technical knowledge in engineering construction and relatively rich practical experience in order to play an effective supervision role, so that project supervision work can truly play a role in ensuring construction quality and reasonably controlling construction funds and construction periods. Therefore, whether it is a construction project that falls within the scope of compulsory supervision stipulated by the State Council in accordance with the provisions of Article 30 of this Law, or a construction project for which the construction unit voluntarily adopts the project supervision system, the construction unit shall entrust the project supervision unit with the corresponding qualifications to carry out the project supervision work.   The provisions of this article on   
"  
the construction project under supervision shall be entrusted by the construction unit with corresponding qualifications and conditions to supervise  
", in accordance with the provisions of this Law, include two meanings:  
  The supervision of construction projects shall be carried out by the project supervision unit. The "project supervision unit" referred to here refers to a supervision company, a supervision firm, and a unit that concurrently undertakes supervision business and undertakes engineering design, scientific research and engineering construction consulting that meets the conditions provided for in Article 12 of this Law, obtains a project supervision qualification certificate in accordance with the provisions of Article 13 of this Law, and has legal personality.   
         2． The supervision unit that implements the project supervision must have the qualification conditions suitable for the construction project it supervises. The so-called "qualification conditions of the supervision unit" refers to the personnel quality, technical equipment, amount of funds, professional skills, management level and supervision performance that should be possessed in accordance with the law when engaging in supervision business. According to the current regulations of the relevant competent departments of the State Council, construction project supervision units are divided into three levels A, B and C according to the different qualifications and conditions they have, and the project supervision units at each level can only undertake project supervision business within the scope of the supervision business that they can undertake. The construction unit shall entrust the supervision unit of the corresponding qualification level to undertake the supervision business of the project according to the scale of the construction project, the degree of technical complexity and other factors.   2. For construction projects under supervision, a written entrustment contract shall be concluded between the construction unit and the project supervision unit entrusted by it. The construction project supervision contract is an economic contract, and its formation form shall comply with the provisions of China's Economic Contract Law. According to Article 3 of the Economic Contract Law, economic contracts shall be in writing unless they are settled immediately. For construction projects under supervision, whether the construction unit selects the project supervision unit through bidding or determines the project supervision unit through direct entrustment, it shall sign a written entrustment supervision contract with the project supervision unit in accordance with the provisions of this Law and the Economic Contract Law. The main terms of the entrustment contract shall include: the name and address of the entrusting party and the name and address of the entrusted party; the entrusted matters; the remuneration or expenses; the rights and obligations of both parties; the modification, termination and rescission of the contract; the liability for breach of contract; the method of resolving disputes and other relevant matters. If the construction unit and the supervision unit sign the entrusted supervision contract, they shall perform their obligations in accordance with the provisions of the contract, and neither party shall violate the contract without authorization, otherwise it will bear the liability for breach of contract.   Article 32  The supervision of construction projects shall, in accordance with laws, administrative regulations and relevant technical standards, design documents and construction project contracting contracts, supervise the contracting unit on behalf of the construction unit in terms of construction quality, construction period and use of construction funds.   
  If the project supervision personnel believe that the construction of the project does not meet the engineering design requirements, construction technical standards and contractual agreements, they have the right to request the construction enterprise to make corrections.   
  If the project supervision personnel find that the engineering design does not meet the quality standards of the construction project or the quality requirements agreed in the contract, they shall report to the construction unit and request the design unit to make corrections.   【Interpretation】This article is about the status of construction project supervision, the main tasks, the basic basis for the implementation of supervision, and the basic rights of project supervision personnel.   
  1. Paragraph 1 of this Article stipulates the status, main tasks and basic basis for the implementation of project supervision tasks, including the following contents:  
  
  1  
 ． The project supervision unit is in the position of the representative of the construction unit in the supervision activities, accepts the entrustment of the construction unit, and supervises the contracting unit on behalf of the construction unit in terms of construction quality, construction period and use of construction funds in accordance with the provisions of the project supervision contract, and is responsible for the construction unit. If the supervision unit discovers the illegal acts of the contracting unit or the violation of the supervision contract, it shall stop it or report it to the construction unit.   
  
         2． The main task of construction project supervision is to supervise the contracting unit in terms of construction quality, construction period and use of construction funds. In the process of supervising and managing the construction of the contracting unit on behalf of the construction unit, in order to improve the construction level of the construction project, ensure the construction quality, give full play to the investment benefits, and ensure the implementation of the construction project contract, the project supervision unit shall strive to make the project conform to the relevant laws, regulations, standards and the quality requirements of the construction unit in terms of the project entity, function and use value, and work quality, and strive to make the actual progress of the project meet the requirements of the entire project progress plan, and at the same time, The construction of the project shall also meet the quality and schedule requirements, so that the actual investment of the project shall not exceed the planned investment.   
         3． The basic basis for the project supervision unit to perform the supervision task is: (1) the laws formulated by the National People's Congress and its Standing Committee and the relevant provisions on the construction of the project in the administrative regulations formulated by the State Council; (2) the national standards, industry standards, design drawings, project specifications and other documents related to the construction project; (3). The content of the construction project contract signed between the construction unit and the contracting unit generally includes the tender, contract conditions, design drawings, project specifications, technical specifications and standards, bill of quantities and unit price table.   2. Paragraphs 2 and 3 of this Article stipulate the basic rights of project supervision personnel.   
         1． "Project supervision personnel" as used in this Law refers to   
professional and technical personnel who have obtained a project supervision qualification certificate in accordance with the provisions of Article 14 of this Law and are engaged in project supervision activities within the scope permitted by the professional qualification certificate.   
         2． In the process of supervising the construction project, the project supervision personnel shall strictly follow the provisions of laws, administrative regulations and relevant technical standards, design documents, construction project contracts and construction project supervision entrustment contracts, and supervise the contracting unit on behalf of the construction unit in terms of construction quality, construction period and use of construction funds. In order to ensure that the project supervision personnel can independently and impartially supervise the construction of the project, this article stipulates the basic rights that the supervision personnel should have in the supervision activities, that is, the project supervision personnel have the right to require the responsible person to correct the engineering problems they have discovered or to request the construction unit to require the responsible person to correct: (1) the project supervision personnel believe that the project construction does not meet the engineering design requirements, construction technical standards and contractual agreements, (2) If the project supervision personnel find that the engineering design does not meet the quality standards of the construction project or the quality requirements agreed in the contract, they shall report to the construction unit and request the design unit to make corrections. The "contract" here refers to the construction project contracting contract concluded by the construction unit and the project contracting unit in accordance with the law. The specific rights and obligations of the project supervision personnel to supervise the project shall be clearly stipulated in the supervision contract.   Article 33  Before the implementation of construction project supervision, the construction unit shall notify the supervised construction enterprise in writing of the entrusted project supervision unit, the content of the supervision and the supervision authority.   【Interpretation】This article is about the provision that the construction unit shall notify the construction enterprise of the relevant matters entrusted to the supervision before implementing the supervision of the construction project.   1. The construction project supervision unit supervises the construction quality, construction progress and use of funds of the construction enterprise on behalf of the construction unit, in order to make the construction enterprise as the supervised party ready to accept the supervision work of the supervision unit, to facilitate the supervision personnel sent by the supervision unit to enter the construction site, and to achieve mutual support and cooperation between the supervision unit and the construction enterprise in the construction process. The construction unit is obliged to notify the construction enterprise in advance of the relevant matters entrusted to the project supervision.   Second, the relevant matters notified by the construction unit to the construction enterprise include the following items: (  
l) The project supervision unit, including the name, qualification level, supervision personnel and other basic information of the supervision unit. (  
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) The content of supervision and the authority of supervision. Judging from the current implementation of project construction supervision in China, the content and supervision authority of supervision in the construction stage are usually: review the construction organization design (or plan) proposed by the contractor, put forward suggestions for improvement, and participate in the construction unit  
." The technical meeting and supervise its implementation; supervise and inspect the contractor to strictly implement the project contracting contract and the relevant engineering technical specifications and standards; check the quality of the materials, structural parts and equipment used in the project, and put forward replacement requirements for those who are unqualified; check the progress and construction quality of the project, sign the project payment voucher, and issue a stop notice when necessary for serious violations of the norms and regulations; be responsible for concealing the acceptance of the project, participate in the handling of project quality accidents, and supervise the implementation of the accident handling plan Mediate disputes between the construction unit and the contractor; supervise and review the contractor to sort out the contract documents and engineering technical files and summarize and archive them; organize the design unit and the construction unit to carry out the preliminary acceptance of the project and put forward the completion acceptance report; participate in the final completion acceptance organized by the construction unit; review the project settlement, etc.   3. In accordance with the provisions of this Article, the construction unit shall notify the construction enterprise under supervision of the above matters in writing, and may not use the form of oral notification.   Article 34 The  project supervision unit shall undertake the project supervision business within the scope of supervision permitted by its qualification level.   The project supervision unit shall, in accordance with the entrustment of the construction unit, objectively and impartially carry out the supervision task.   The project supervision unit shall not have affiliation or other interests with the contracting unit of the project under supervision, as well as the unit supplying building materials, building structure accessories and equipment.   The project supervision unit shall not transfer the project supervision business.   
  【Interpretation】This article is about the basic practice standards that project supervision units should follow in the implementation of project supervision activities.   
  On the one hand, the project supervision unit shall supervise the construction on behalf of the construction unit in accordance with the authorization of the entrusted supervision contract concluded with the construction unit, and on the other hand, the project supervision unit shall be the third in fairness  
 While being responsible for the construction unit, it must also supervise the project in accordance with laws, administrative regulations and mandatory national and industry standards for the quality and safety of construction projects formulated according to law. This article stipulates the basic practice standards that project supervision units should follow in project supervision activities, including:  
  First, project supervision units shall undertake project supervision business within the scope of supervision permitted by their qualification level. Construction project supervision is a service with high professional and technical requirements, so there should be strict requirements for its personnel quality, technical equipment, professional skills, management level and supervision performance and other qualifications. In accordance with the provisions of Articles 12 and 13 of this Law, the State implements a qualification examination and approval system for project supervision units, and the supervision units shall undertake project supervision business within the scope of their qualification levels approved in accordance with law. In accordance with the current regulations of the relevant competent departments of the State Council, the qualification level of the project supervision unit is divided into three levels: A, B and C, and the supervision units of different qualification levels undertake different supervision business, of which the Grade A unit may undertake the supervision business of the first-class, second-class and third-class construction projects across regions and departments; the Second-class units can only undertake the supervision business of second-class and third-class construction projects in their own regions or within the scope of the department; and the Grade C units can only undertake the supervision business of third-class construction projects. Upon concession, Class B units and Grade C units may undertake the supervision of   
first-class and   
second-class construction projects respectively.   
  2. The engineering construction unit shall, in accordance with the entrustment of the construction unit, objectively and impartially carry out the supervision tasks. On the one hand, the construction supervision unit should supervise the construction situation of the contracting unit according to the entrustment of the construction unit and the provisions of the supervision contract, on the other hand, as an independent social intermediary organization, the project supervision unit and its supervision personnel must be objective and fair in the process of supervising the project. The so-called "  
objective" means that in the performance of supervision tasks, the project supervision unit and its supervision personnel should take the facts as the basis, and use scientific methods to deal with relevant problems in a timely, appropriate and efficient manner on the basis of fully grasping the actual situation of the supervision object and its external environment  
, and speak with facts, and cannot make subjective assumptions The so-called "impartiality" means that when the project supervision unit and its supervision personnel control the quality, investment and progress of the construction project, they should be impartial and honest, strictly checked, do not let go of any problems affecting the quality of the project, clear unqualified materials, put forward rational suggestions, correct unreasonable design, strictly review the budget and final accounts, and achieve investment savings. The purpose of ensuring the quality of the project, while handling disputes between the construction unit and the contracting unit, should be impartial, "a bowl of water is flat". Objectivity and fairness are the most basic requirements for project supervision activities, and are the most basic practice standards that project supervision units and their supervision personnel should follow. It should be said that if you cannot be objective and fair, you will not be qualified to engage in project supervision activities.   3. There shall be no affiliation or other interest with the contracting unit of the supervised project and the unit supplying building materials, building components and equipment. The so-called "affiliation" refers to the relationship between the project supervision unit and the contracting unit or the supply unit of building materials, building components and equipment that belongs to the administrative or subordinate level; the so-called "other interests"  
 It means that there is a certain interest relationship between the project supervision unit and the contracting unit or the building materials, building components and equipment supply unit, mainly the economic interest relationship. If the project supervision unit is entrusted by the construction unit to supervise the project quality, construction progress and use of funds, if the supervision unit has an affiliation relationship with the contracting unit of the supervised project, as well as the building materials, building components and equipment supply units, it is likely to affect its objective and fair performance of the supervision task, affect the construction quality of the construction project, and cause damage to the interests of the construction unit. Therefore. In order to ensure the smooth completion of the supervision task, the supervision unit shall not have an affiliation or other interest with the contracting unit of the supervised project and the building materials, building components and equipment supply units.   4. Project supervision business shall not be transferred. The so-called "transfer of project supervision business" refers to the act of the supervision unit transferring all or part of the supervision business it undertakes to other units. Project supervision is an activity in which the construction unit and its trusted supervision unit with the corresponding qualification level entrust it to supervise and manage the construction of the construction project by concluding a entrusted supervision contract. Once the contract is concluded, it is legally binding, and neither party may change the contract without authorization, including the subject of the contract. The project supervision unit will entrust the supervision business stipulated in the supervision contract to others, against the will of the construction unit, harming the interests of the construction unit, and it may be that because it transfers the supervision business to a unit that does not have the appropriate qualifications, it cannot control the quality, progress and funds of the project in accordance with the requirements of the construction unit, leaving hidden dangers to the project quality problems. Therefore, in order to safeguard the rights and interests of the construction unit and the supervised unit and ensure the effectiveness of supervision, this article clearly stipulates that the supervision unit cannot transfer the supervision business.   Article 35 Where a  project supervision unit fails to perform its supervision obligations in accordance with the provisions of the entrusted supervision contract, fails to inspect the projects that should be supervised and inspected, or does not inspect in accordance with the regulations, causing losses to the construction unit, it shall bear the corresponding liability for compensation.          Where the project supervision unit colludes with the contracting unit to seek illegal benefits for the contracting unit and cause losses to the construction unit, it shall bear joint and several liability for compensation with the contracting unit.   
  【Interpretation】This article stipulates that the project supervision unit shall bear civil compensation liability for failure to perform its supervision obligations in accordance with the entrusted supervision contract and collude with the contracting unit to cause losses to the construction unit.   First, civil compensation liability, also known as damage compensation liability, is one of the main ways to bear civil legal liability. In addition to the liability for breach of contract stipulated in the entrustment supervision contract, this article also specifically stipulates that if the project supervision unit commits any of the following acts and causes losses to the construction unit, it shall bear the liability for compensation to the construction unit:  
  1 ． The project supervision unit does not perform its supervision obligations in accordance with the provisions of the entrusted supervision contract, and does not inspect the projects that should be supervised and inspected or does not inspect in accordance with the regulations. In the process of implementing the supervision business, the supervision unit shall supervise and manage the project construction in accordance with the provisions of the entrusted supervision contract and in accordance with laws, administrative regulations and relevant technical standards, design documents and construction project contracting contracts. If the project supervision unit does not perform its supervision obligations in accordance with the provisions of the entrusted supervision contract, and fails to inspect the projects that should be supervised and inspected or does not inspect in accordance with the regulations, it shall bear the liability for compensation if it causes losses to the construction unit. The so-called "  
no inspection"   
means that the project supervision unit does not perform the inspection obligation for the projects that should be supervised and inspected in the supervision contract; the so-called   
"  
inspection in accordance with the regulations" means that the project supervision unit does not follow the laws, administrative regulations and relevant technical standards in the project supervision. The requirements and inspection methods stipulated in the design documents and the construction contracting contract are inspected.   
         2． The project supervision unit colludes with the contracting unit to seek illegal benefits for the contracting unit. The project supervision unit supervises and manages the construction of the construction project on behalf of the construction unit. In supervision activities, the supervision unit shall carry out the supervision business in accordance with the provisions of the law and the provisions of the entrusted supervision contract, abide by the objective and fair practice standards, and must not collude with the contracting unit to seek illegal benefits for the contracting unit. If the project supervision unit violates this provision of the law and causes losses to the construction unit, it shall bear the responsibility for compensation.   2. The losses caused to the construction unit as mentioned in this Article refer to the actual losses suffered by the construction unit due to the illegal acts of the project supervision unit. Including the losses caused to the construction unit due to the unqualified quality of the project, the loss caused to the construction unit due to the delay in the construction period, the loss caused to the construction unit due to the overpayment of the project cost, and so on.   3. This article makes different provisions on the liability of the project supervision unit for losses caused to the construction unit by not performing its supervision obligations in accordance with the provisions of the law and the contract.   
         1． In accordance with the provisions of the first paragraph of this Article, if the project supervision unit fails to perform its supervision obligations in accordance with the provisions of the supervision contract, fails to inspect the projects that should be supervised and inspected or does not inspect in accordance with the regulations, causing losses to the construction unit, the project supervision unit shall bear the "corresponding compensation liability". Because in this case, the losses suffered by the construction unit are usually related to the project supervision unit's failure to perform the supervision contract according to the contract, and also related to the unqualified construction project of the construction enterprise itself.   
That is,   
the construction of the construction enterprise is unqualified, and the project supervision unit has not carried out inspection or has not carried out inspection according to the regulations, so the construction enterprise and the construction unit shall bear their respective compensation liabilities for the losses caused to the construction unit. As for what constitutes the "corresponding liability" of the project supervision unit, it should be determined by the people's court or arbitration institution dealing with the issue of liability. ”  
         2． In accordance with the provisions of the second paragraph of this Article, if the project supervision unit colludes with the contracting unit to seek illegal benefits for the contracting unit and cause losses to the construction unit, the project supervision unit shall bear joint and several liability for compensation with the contracting unit, that is, both the project supervision unit and the contracting unit have the obligation to compensate the construction unit for all losses, and the construction unit may claim full or partial compensation from either of them.

This chapter deals with the management of construction safety production. The so-called construction safety production management refers to a series of management activities such as planning, organization, command, coordination and control to ensure the safety of construction production, with the purpose of protecting the safety and health of employees in the production process, ensuring that the property of the state and the people is not damaged, and ensuring the smooth completion of construction production tasks. Construction safety production management includes: the construction administrative department for the construction of the construction activities in the process of safe production of the industry management; the labor administrative department of the construction of the construction activities of the safety production of the comprehensive supervision and management of the main body engaged in construction activities (including construction enterprises, construction survey units, design units and project supervision units) to ensure the safe production of construction activities of self-management. Construction production activities are mostly open-air, high-altitude operations, there are more unsafe factors, some work is more dangerous, is an accident-prone industry, the number of annual work-related deaths second only to mines, ranking second in the country's various industries. In order to strengthen the management of construction safety production in accordance with the law, prevent and reduce the occurrence of accidents in the construction industry, and ensure the personal safety and property safety of employees and others in the construction industry, this law has made special provisions on the safety of construction production"  
  This chapter has a total of 16 articles, which make clear provisions on several important issues in the management of construction safety production, including:  
  2. The basic policy and basic system that must be followed in the management of safety production of construction projects (Article 36);  
  3. The design of the construction project must comply with the requirements for ensuring the safety performance of the project (Article 37);  
  The requirements for ensuring production safety put forward by construction enterprises include: the safety requirements for the preparation of construction organization designs by construction enterprises (Article 38), the requirements for the safety management of construction sites (Articles 39 and 45), the requirements for establishing and improving the enterprise safety production responsibility system (Article 44), the requirements for establishing and improving the labor safety production education and training system (Article 46), and the prohibition of illegal command and illegal operations that endanger safe production (Article 47). 4. Requirements for accident insurance for employees engaged in hazardous operations (Article 48);  
  Safety requirements for renovation works involving changes in the main body of the building and load-bearing structures (Article 49);  
  6. Safety requirements for house demolition operations (Article 50);  
  Handling of construction safety accidents (Article 51);  
  7· 8. Obligations of engineering construction units to ensure the safety of construction production (Article 42);  
  The duties of the relevant administrative departments for the supervision and management of construction safety production (Article 43).   
  Article 36 The  management of safe production in construction projects must adhere to the principle of safety first and prevention first, and establish and improve the responsibility system for safe production and the system of mass prevention and mass governance.   
  【Interpretation】This article is about the basic policy and basic system that must be adhered to in the management of safe production of construction projects.   
  First, the safety production management of construction projects must adhere to the principle of safety first and prevention first. The so-called adherence to the principle of safety first and prevention first means that in construction production activities, we should put the guarantee of production safety in the first place, and take preventive measures to ensure production safety in management, technology and other aspects to prevent construction accidents. Safety first, prevention-oriented policy is a summary of the experience of construction project safety production management, only by conscientiously implementing this policy, strengthening construction safety education and management, and continuously improving the safe production conditions of construction projects, can we reduce the occurrence of construction accidents and improve labor productivity. From a practical point of view, adhering to the principle of safety first and prevention first, we should do the following: (1) The management personnel and all employees of the unit engaged in construction activities, especially the person in charge of the unit, must firmly establish the awareness of safety first, correctly handle the relationship between safe production and project progress and efficiency, and put safe production in the first place; ( 2) It is necessary to strengthen the organization, leadership and planning of labor and safety production work. Strengthen the overall planning of safe production and the cooperation of all aspects in construction activities; (3) establish and improve the responsibility system for safe production and the system of mass prevention and mass governance; (4) carry out safety education and training for relevant management personnel and employees, and those who have not been educated and trained in safety shall not engage in safety management work or on-the-job operations; (5). Construction enterprises must issue labor protection supplies to employees to ensure safe production; (6) the equipment, equipment, instruments and building materials used must comply with national standards and industry standards to ensure production safety.   
  Second, the management of safe production in construction projects must establish and improve the responsibility system for safe production and the system of mass prevention and mass governance.   
         1． It is necessary to establish and improve the responsibility system for safe production. The so-called safety production responsibility system refers to the system that specifically implements the responsibility for ensuring production safety to the relevant management personnel and personnel in different positions. This system is a concrete embodiment of the principle of safety first and prevention first, and it is an effective and must be adhered to by workers in the long-term production practice of exchanging the price of blood. In construction activities, only by clarifying safety responsibilities and dividing labor can we form a complete and effective safety management system, stimulate everyone's sense of responsibility for ensuring production safety, strictly implement laws, regulations and safety regulations and technical specifications to ensure the safety of construction production, prevent problems before they occur, reduce and eliminate safety accidents in construction production activities, and create a good environment for construction production activities. As far as the construction enterprise is concerned, the safety production responsibility system of the enterprise is a responsibility system for ensuring production safety composed of different levels of safety production responsibility system within the enterprise, mainly including: (l) the safety production responsibility system of the main person in charge of the construction enterprise, and the legal representative of the enterprise shall be fully responsible for the production safety of the enterprise. (2) The responsibility system for safe production of the responsible persons of each functional organization of the enterprise and their staff. As far as construction enterprises are concerned, the functional institutions in the enterprises, such as production, technology, material supply, equipment management, finance, education, labor management, and health, should be responsible for the requirements of achieving safe production within the scope of their respective businesses. Production departments should rationally organize production, implement safety rules and regulations, strengthen on-site plane management, and establish safe production and civilized production order; technical departments should prepare technical documents such as design, construction, and technology in strict accordance with relevant national safety standards and technical regulations, put forward corresponding technical measures to ensure production safety, and be responsible for the technical appraisal and safety technology research of safety equipment, instruments, etc The research work of the project; the equipment management department shall complete the safety protection and safety device for the relevant mechanical and electrical equipment, strengthen the regular inspection, repair and maintenance of mechanical and electrical equipment, boilers and pressure vessels, and ensure safe operation; the material supply department shall ensure the supply of materials required for the realization of safety technical measures, and the rope and pole frame shall be guaranteed Wood, safety helmets, seat belts, safety nets, etc. should be inspected regularly, and those that are unqualified should be scrapped and updated; the financial department should provide funds for the realization of safety technical measures in accordance with regulations and supervise their rational use; the education department is responsible for incorporating safety education into the training plan for all employees and organizing the safety technology training of employees; the labor wage department should cooperate with the safety department to do a good job in the training, assessment, and certification of new workers, workers in different positions, and workers in special types of work, implement the combination of work and leisure, and strictly control overtime. The health department is responsible for regular health inspections and on-site labor hygiene work for employees, monitoring the concentration of dust poisons in toxic and harmful workplaces, and proposing measures to prevent occupational diseases and improve sanitary conditions. (3) The safety production responsibility system of post personnel. Post personnel must be responsible for safety, and personnel engaged in special operations must undergo safety training and pass the examination before they can work. As far as the construction enterprise is concerned: First, the technical person in charge of the enterprise is responsible for the overall responsibility for the technical work of labor protection and safe production of the enterprise. When organizing the preparation and approval of construction organization design (construction plan) and the adoption of new technologies, new processes and new equipment, corresponding safety technical measures must be formulated; responsible for proposing projects and implementation measures to improve working conditions and putting them into practice; conducting safety technology education for employees; timely solving safety technical problems in construction; participating in the investigation and analysis of major casualty accidents, and proposing technical appraisal opinions and improvement measures. Second, the director of the work area (engineering department, factory, station) and the construction team leader shall bear specific leadership responsibilities for the labor protection and safe production work of the unit. Conscientiously implement the rules and regulations for safe production and not command in violation of regulations; formulate and implement safety technical measures; regularly conduct safety inspections to eliminate hidden dangers of accidents and stop illegal operations; conduct safety technology and safety discipline education for employees; and promptly report casualties and seriously analyze the causes of accidents. Propose and implement improvement measures. Third, the foreman, the construction worker, and the workshop director are directly responsible for the safe production of the projects under management. Organize the implementation of safety technical measures and carry out technical safety briefing; the shelves erected at the construction site and the installed electrical, mechanical equipment and other safety protection devices must be organized and accepted, and can only be used after passing; not to command in violation of regulations; organize workers to learn safe operating procedures and educate workers not to operate in violation of regulations; conscientiously eliminate hidden dangers of accidents, and immediately report work accidents that occur at work, protect the scene, and participate in investigation and handling. Fourth, the team leader should exemplify compliance with the rules and regulations of safe production, lead the group to operate safely; conscientiously implement the safety briefing, and have the right to refuse illegal command. Before the shift, the safety inspection of the machines, equipment, protective equipment and "working environment" used should be carried out, and improvement measures should be taken immediately when problems are found; the safety activity day of the team should be organized and the pre-shift safety production meeting should be held; and the work accident should be immediately reported to the foreman.   
         2． It is necessary to establish a system of mass prevention and mass governance. The so-called mass prevention and mass governance system refers to a system for preventing the occurrence of safety accidents and managing the hidden dangers of various safety accidents with the joint participation of the broad masses of workers and staff. This system is also a concrete embodiment of the principle of safety first and prevention first, and it is also a concrete embodiment of the mass line in safety work, and is an important part of the democratic management of enterprises. Practice has proved that it is impossible to do a good job in safe production by relying only on a few people, and safety work must mobilize the masses so that everyone understands the importance of safe production and pays attention to safe production in order to prevent problems before they occur. To this end, this article legalizes this system, and a mass prevention and mass governance system should be established in the management of construction safety production. From a practical point of view, the establishment of a mass prevention and mass governance system for the management of construction safety production should be done as follows: (1) The important systems related to safety production management formulated by enterprises and the plans for major technical organizational measures formulated by enterprises should be submitted to the workers' congress for discussion, and decisions should be made on the basis of fully listening to the opinions of the workers' congresses, so as to give play to the democratic management role of the masses of workers in safe production; 2) It is necessary to combine professional management with mass management and give full play to the role of the network of staff safety personnel; (3) give play to the role of trade unions in the management of safe production, use trade unions to mobilize the masses, educate the masses, and mobilize the strength of the masses to prevent the occurrence of safety accidents; (4) strengthen safety education for new employees. Workers in special operations positions should be professionally educated on safety, and they cannot be operated without training. (5) Mobilize the masses to carry out technological innovation and technological transformation, adopt new technologies and new processes that are conducive to ensuring production safety, actively improve working conditions, and strive to turn unsafe and unhealthy operations into harmless operations. (6) Organize and carry out mass supervision and inspection of compliance with rules and discipline and accident prevention, and employees have the right to criticize, report and accuse violations of laws, regulations and safety rules and regulations related to safe production and safety rules and regulations of the construction industry. Article   37 The  design of construction projects shall comply with the building safety regulations and technical specifications formulated in accordance with the provisions of the State to ensure the safety performance of the project.   
  【Interpretation】This article is about the basic requirements for ensuring the safety performance of the project in the design of construction projects.   First, the design of architectural engineering is the basic work of construction engineering. Architectural engineering design is generally based on the requirements of the construction project, after investigation and research, comprehensive consideration of the use of the building function and such as investment, materials, environment, climate, geology, hydrology, structure and other factors to construct the architectural engineering drawing file activities. The general principle of China's construction engineering design is that for productive construction projects, it should be advanced, applicable and reliable; for non-productive construction projects, it should adhere to the principle of applicability, economy and attention to aesthetics under possible conditions. According to the provisions of the "Measures for the Administration of Capital Construction Design Work" formulated by the State Planning Commission, the design of construction projects is generally carried out in two stages: preliminary design and construction drawing design; technically complex construction projects may be carried out in three stages, according to the requirements of the competent departments, according to the preliminary design, technical design and construction drawing design. In small construction projects, the technical is simple, and the construction drawing design can be done after the simplified preliminary design is determined with the consent of the competent authorities.   
  The construction engineering design referred to in this article refers to the design activities of all kinds of housing buildings and their ancillary facilities and the installation of lines, pipelines and equipment supporting them in accordance with the provisions of article 2 of this Law on the scope of construction activities referred to in this Law. The quality of construction engineering design directly affects the safety of construction activities and construction products, and this article stipulates the basic requirements that construction engineering design should comply with from the aspect of ensuring the safety performance of construction projects.   
  Second, the design of the construction project must ensure the safety performance of the project. The safety performance of the guarantee project mentioned here refers to the fact that in the design of the construction project, the requirements for ensuring the safety of the construction operation and the safety of the use of the building must be comprehensively considered, and the various design technical requirements proposed can ensure the reliable safety of the structure of the project, which can ensure the safety of the construction operation of the project and the safety of the use of the building. According to the provisions of this article, the design of construction projects should ensure the safety performance of the project and shall comply with the building safety regulations and technical specifications formulated in accordance with national regulations. The   
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building safety regulations and technical specifications" mentioned here refer to the unified specific technical requirements formulated in construction activities in order to eliminate the occurrence of accidents that cause personal injury or property damage and endanger the environment. In accordance with the provisions of this article, the building safety regulations and technical specifications that should be conformed to in the design of buildings shall be the relevant procedures and specifications formulated in accordance with national regulations. The "state regulations" mentioned here include laws and administrative regulations, as well as relevant departments and rules formulated in accordance with laws and administrative regulations. In view of the fact that unified building safety regulations and technical specifications are usually formulated and issued in the form of technical standards, therefore, in the formulation of national standards or industry standards on building safety regulations and technical specifications, it must comply with the provisions of this law and the Standardization Law and other relevant laws and administrative regulations; in terms of formulating enterprise standards for building safety regulations and technical specifications, in addition to complying with the provisions of laws and administrative regulations, it must also meet the requirements of relevant national standards, industry standards and relevant department rules.   Article 38  When compiling the construction organization design, the construction enterprise shall formulate corresponding safety technical measures according to the characteristics of the construction project; for engineering projects with strong professionalism, it shall prepare a special safety construction organization design and adopt safety technical   
measures.   【Interpretation】This article is about the provisions that construction enterprises should take safety measures when preparing the design of construction organizations.   First, the so-called construction organization design, also   
known as construction   
organization planning, is a technical and economic document prepared for construction preparation and guidance of construction site work. According to the size of the project scale, structural characteristics, technical complexity and construction conditions, the construction organization design can be divided into three types: one is the general design of the construction organization. It refers to the planning and deployment of the entire building construction with the building complex as the object of compilation, and its scope is relatively wide and the content is relatively general. The other is the construction organization design of the unit project. It refers to the concretization of the annual construction plan of the building construction enterprise and the overall design of the construction organization made by a building or the delivery completion system as the object of preparation, and its content is also more detailed. The third is the design of sub-engineering operations. It is based on the sub-project as the preparation object, the construction organization design of a certain project is concretized, and it is the specific construction design of the professional project. The construction organization design mainly includes the following contents: the project task situation; the construction master plan, the main construction method, the project construction schedule, the comprehensive progress plan and the construction force, the machinery and deployment of the main unit project; the technical measures of the construction organization, including various measures such as engineering quality, safety protection and environmental pollution prevention; the general layout of the construction; the scope of the division of labor between the general contracting and subcontracting and the cross-construction deployment. Because the construction organization design is the preparatory document in the construction process of the construction enterprise, it is the precondition for ensuring the quality and safety of the construction project and achieving reasonable and timely construction, therefore, the construction enterprise must prepare the construction organization design of the project before construction. Where the construction project is subject to general contracting and subcontracting, the general contracting unit shall be responsible for preparing the construction organization design or the construction organization design in stages, and the subcontracting unit shall be responsible for preparing the construction organization design of the subcontracted project under the overall deployment of the general contracting unit.   Second, the construction organization design must have safety technical measures. The "  
safety technical measures" mentioned here refer to the corresponding safety technical measures formulated in the construction organization design, in order to prevent the occurrence of personal injury and property damage accidents and prevent occupational diseases, according to the characteristics of the construction project, construction methods, machinery, power equipment used, on-site roads, surrounding environment and other conditions. This article stipulates that the corresponding safety technical measures shall be "in accordance with the characteristics of the construction project" Formulating, the characteristics of the construction project mentioned here refers to the difference between a certain construction project and other construction projects. For example, from the perspective of the building structure of the project, some are wooden structures, some are masonry structures, some are concrete structures, and some are steel structures. Due to the different structures, different safety technical measures should be formulated according to different structures. In other words, safety technical measures should be targeted and cannot be generalized. What needs to be pointed out here is that the equipment and materials required by construction enterprises to prepare safety technical measures should be included in the material and material supply plans, and the time limit and responsible personnel for implementation should be clearly defined; safety technical measures should be measures aimed at improving working conditions affecting safety and health, preventing casualties, preventing occupational diseases and occupational poisoning, and should not be confused with measures such as production, infrastructure and welfare.   Third, for engineering projects with strong professionalism, special safety construction organization designs shall be prepared and safety technical measures shall be adopted. Engineering projects with strong professionalism mainly refer to blasting, hoisting, underwater, deep pits, support molds, demolition and other engineering projects. When preparing the construction organization design, the construction enterprise shall prepare a special safety technical plan, and shall formulate corresponding safety technical measures according to its particularity. For example, blasting projects should have safety technical measures to prevent casualties caused by blasting operations, in blasting projects, explosives must maintain a safe distance from traffic arteries, and explosion-proof covers should be set up around the warehouse. Article   
  39  Construction enterprises shall take measures such as maintaining safety, preventing dangers and preventing fires at the construction site;   Where the construction site may cause damage to adjacent buildings, structures and special operating environments, the construction enterprise shall take safety protection measures.   
  【Interpretation】This article is about the provisions of construction enterprises to take safety measures at the construction site and adjacent environment.   First, the construction enterprise should take safety measures for the construction site. The so-called construction site refers to the construction site approved by the construction enterprise when carrying out the construction activities provided for in this Law. Whether the safety measures taken by construction enterprises on the construction site are appropriate is directly related to the safety of building production and the safety of the surrounding masses. To this end, this article stipulates the main safety measures that construction enterprises should take against the construction site, which include:  
  
    
 Measures to maintain security. According to the relevant provisions, the measures to maintain safety at the construction site should generally be: the location and specifications of the affiliated enterprises, mechanical devices, warehouses, transport roads and temporary sewers, power grids, steam pipelines, compressed air pipelines, acetylene pipelines, acetylene   
generator stations and other temporary projects on the site should be specified in detail in the construction organization design Around the construction site and cliffs and steep ridges, fences, wooden boards or barbed wire are used to enclose fences; ditches and pits in the construction site should be filled in or fenced and covered; traffic signs should be used at the construction site, and "dangerous" or "dangerous" should be hung in dangerous areas No traffic" clear signs, red light warnings at night; temporary traffic commands should be set up in places where the site is small, pedestrians come and go and transportation frequently; the suspension height of the wires erected on the site and its horizontal distance from the work site should meet the requirements of the power department; The use of high-voltage wires in the construction site and the buildings or work sites through which it passes should maintain a safe distance, increase the safety factor of the wires, or add a wire protection network under it, and at the entrance of the wire, there is an oil switch device with a lightning arrester; the transportation road in the construction site should always be kept unobstructed, using a one-way line and reducing unnecessary intersections, and the radius of the corner of the truck should not be less than, and the special situation should not be less; the bucket truck driving in the construction site, The tracks of the small flats should be flat; the intersection of the tracks and the pedestrian and transportation lanes should be paved with wooden planks and flattened at the top of the tracks; there should be appropriate drainage ditches in the construction site; all materials should be stored neatly and steadily, and so on.   
         2． Precautionary measures. Precautionary measures should generally include: warehouses for storing explosives should maintain a sufficient safety distance from factories and mines, houses, densely populated places, traffic arteries and high-voltage lines; warehouses should use refractory materials (bricks, stones, etc.), the roof of the warehouse should adopt light structures and lightning rods, there should be perfect ventilation equipment and temperature meters in the warehouse, doors and windows should be opened outwards, transparent glass is not used, and iron nails on the floor cannot be exposed; explosion-proof covers should be set up around the warehouse十五公尺 Fireworks are strictly prohibited, and fire fighting equipment should be provided; a small amount of explosives, detonators, leads, etc. temporarily stored at the construction site are stored in safe places in covered wooden boxes, and full-time or part-time personnel have been assigned to keep and set signs prohibiting fireworks; detonators, leads and explosives are placed in separate stocks, should not be confused, and a safe distance is maintained between warehouses, and so on. 十公尺  
         3． Measures to prevent fires. Measures to prevent fires should generally include: establish and implement a fire prevention management system at the construction site; set up fire fighting facilities that meet fire control requirements and maintain a good standby state; special fire safety measures should be taken when constructing or storing and using inflammable and explosive equipment in areas prone to fire.   
         4.  Other measures to maintain safety at the construction site. For example, all kinds of harmful substances that endanger the health of workers should be stored in well-ventilated special buildings, asphalt should be stored in places that are not directly exposed to sunlight or are not easy to melt; when underground engineering or foundation engineering construction is carried out, explosives, cables, etc. are found, and construction should be suspended to protect the site and so on.   Second, in order to help strengthen the safety management of the construction site. In the case of conditional closure of the construction site五十公尺, the construction site should be closed management methods should be adopted. The closed management of the construction site refers to the situation that a certain means is taken to surround the construction site so that it has a certain isolation from the outside world. This method is not only a form of civilized construction management, but also an effective measure to ensure the safety of the construction site, which should be actively promoted. In accordance with the provisions of paragraph 1 of this Article, such measures shall be taken if conditions permit. For example, if the construction site is in an urban area or other densely populated area, a shielding fence should be set up around the area, and the scaffolding on the street should be set up with corresponding enclosure measures to ensure the safety of construction operations and the safety of pedestrians around. In the construction of the place where vehicles and pedestrians pass, the ditch and well cover and construction signs shall be set up to ensure the safety of passing vehicles and pedestrians.   Third, if the construction site may cause damage to adjacent buildings, structures and special operating environments, the construction enterprise shall take safety protection measures. The so-called building   
refers to all kinds of houses and other places for people's production, life and other activities, such as residences, office buildings, schools, sports venues, etc.; the so-called   
  
  
structures refer to buildings that are not used for people's production and living activities, such as water towers, independent chimneys,, Tanks, etc. The "  
special operating environment" mentioned here refers to the environmental conditions near the construction site that require special safety protection measures, such as special buildings, special pipelines, special facilities and so on. In order to ensure that the safety of the above-mentioned buildings, structures and special operating environments is not damaged by construction, paragraph 2 of this article stipulates that construction enterprises shall take safety protection measures. For example, necessary protection and reinforcement measures are taken for adjacent buildings and structures.   Article 40 The  construction unit shall provide the construction enterprise with the underground pipeline information related to the construction site, and the construction enterprise shall take measures to protect it.   【Interpretation】This article is about the provisions on the protection of underground pipelines in the construction of buildings.   In accordance with the provisions of this article, doing a good job in the protection of underground pipelines is an obligation that both the engineering construction unit and the construction enterprise shall jointly perform.   1. The construction unit of the project shall provide the underground pipeline information related to the construction site. The so-called "construction unit" of the project refers to the unit that invests in the construction of the construction project, that is, the "  
owner" of the construction project   
 。 The construction unit shall provide the construction enterprise with the underground pipeline information related to the construction site. The so-called underground data related to the construction site refers to the pipeline line data buried in the underground within the construction site approved by the construction enterprise when engaging in construction activities, including telecommunications optical cable line data, gas and   
natural gas   
pipeline data, water and sewage pipeline data, etc. The above-mentioned information shall include data such as the direction of lines and pipelines underground and the depth of burial underground. This provision is an obligation set for the construction unit, and the construction unit shall perform this statutory obligation.   2. Construction enterprises shall take measures to protect the underground pipeline data related to the construction site. This is an obligation set for construction enterprises, and construction enterprises should fulfill this obligation. The underground pipeline data related to the construction site is usually an important infrastructure related to the people's life and business activities, and the protection of these facilities will directly affect the people's lives and the business activities of the enterprise. Therefore, after obtaining the relevant information, the construction enterprise should take the necessary measures to ensure that these underground facilities are not damaged.   Regarding the cost of measures taken by construction enterprises to protect underground pipelines, this article does not stipulate that specific agreements need to be made in the contract between the construction unit and the construction enterprise. Generally speaking, the cost of taking safety protection measures for underground pipelines at the construction site should be included in the cost of the construction project and paid by the construction unit.   Article 41  Construction enterprises shall abide by the provisions of laws and regulations on environmental protection and safe production, and take measures to control and deal with all kinds of dust, waste gas, wastewater, solid waste, noise and vibration on environmental pollution and harm at construction sites.   【Interpretation】This article is about the provisions that construction enterprises shall take measures to prevent and control environmental pollution and harm at the construction site.   First, protecting the environment is the basic national policy of our country. Article 26 of the Constitution stipulates that "the State shall protect and improve the living environment and the ecological environment, and prevent and control pollution and other public hazards"  
. Article 6 of the Environmental Protection Law also stipulates that all units and individuals have the obligation to protect the environment. In the construction work, construction enterprises must also conscientiously fulfill their obligations to protect the environment in accordance with the provisions of the law. Take corresponding measures at the construction site to prevent pollution and harm to the environment.   
  2. This article stipulates that construction enterprises shall comply with the provisions of the following two laws and regulations, take necessary control and treatment measures, and prevent and control the pollution and harm to the environment caused by various pollution sources at the construction site:  
  Comply with laws and regulations related to environmental protection, including: (  
1) laws on environmental protection formulated by the National People's Congress and its Standing Committee. Since the beginning of reform and opening up, the Standing Committee of the National People's Congress has successively formulated six special laws on environmental protection, including the "Environmental Protection Law," the "Marine Environmental Protection Law," the "Water Pollution Prevention and Control Law," the "Air Pollution Prevention and Control Law," the "Law on the Prevention and Control of Environmental Pollution by Solid Waste," and the "Law on the Prevention and Control of Environmental Noise Pollution." (  
2  
) Administrative regulations on environmental protection formulated by the State Council. The main ones are the "Decision of the State Council on Several Issues Concerning Environmental Protection", "Regulations on the Implementation of the Law on the Prevention and Control of Water Pollution", "Regulations on the Implementation of the Law on the Prevention and Control of Air Pollution", and "Regulations on the Management of Pollution Damage to the Marine Environment by Coastal Engineering Construction Projects". (3) Local regulations on environmental protection formulated by the people's congresses and their standing committees of all provinces, autonomous regions, and municipalities directly under the Central Government, as well as the people's congresses of cities where the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government are located, and the people's congresses of larger cities approved by the State Council, and their standing committees, in accordance with laws and administrative regulations, combined with local actual conditions. In addition to complying with laws and administrative regulations, building construction activities in various localities should also comply with local regulations.   
         2． Comply with laws and regulations related to safe production, including: (  
1) laws related to safe production. There are mainly this law and the Labor Law. (2) Administrative regulations related to security. There are mainly "Safety Technical Regulations for Building and Installation Engineering" and so on. (3) Local regulations on safe production.   3. Construction enterprises shall, in accordance with relevant laws and regulations and the provisions of relevant competent departments of the State, take measures to prevent and control all kinds of dust at the construction site. Pollution and harm to the environment by waste gas, waste water, solid waste, noise and vibration. From a practical point of view, these measures mainly include: (1) proper treatment of slurry water, which shall not be directly discharged into urban drainage facilities and rivers without treatment; (2) except for the installation of devices that meet the regulations, shall not melt asphalt or burn linoleum, paint and other substances that will produce toxic and harmful smoke and odorous gases at the construction site; (3). Use sealed rings or take other measures to dispose of high-altitude waste; (4) take effective measures to control dust during construction; (  
5) prohibit the use of toxic and hazardous waste as earthwork backfill; (6) generate noise 3. Vibration of construction machinery, effective control measures should be taken to reduce noise disturbance. Article   42  In any of the following circumstances, the construction unit shall go through the formalities for applying for approval in accordance with the relevant provisions of the State:  (1) it is necessary to temporarily occupy a site outside the scope of planning approval;  (2) it may damage public facilities such as roads, pipelines, electric power, post and telecommunications;  (3) it is necessary to temporarily stop water, power or road traffic;   (4) Where blasting operations need to be carried out;  (5) Other circumstances provided for by laws or regulations that require application for approval.   【Interpretation】This article is from the perspective of ensuring the safety of the relevant important facilities involved in the construction of the project and avoiding the normal social life order affected by the construction of the construction project, and the provisions on which matters involved in the construction project should be applied for approval by the engineering construction unit.   
  1. In accordance with the provisions of this Article, the construction unit shall handle the application and approval formalities in accordance with the relevant provisions of the State (including the relevant provisions of laws and administrative regulations and the relevant administrative rules formulated in accordance with laws and administrative regulations) and the following matters include:  
  1  
 ． It is necessary to temporarily occupy a site outside the scope of planning approval. According to the provisions of Article 33 of the Land Administration Law, if the construction of a construction project requires material yards, transportation channels and other temporary facilities, the construction unit shall submit an application for the quantity and duration of the temporary land use to the organ that approved the land for the project, and after approval, sign a temporary land use agreement with the agricultural collective economic organization, and compensate the land according to the average annual output value of the land in the previous three years. Where it is necessary to temporarily use land for the erection of above-ground lines, laying of underground pipelines, construction of other underground projects, etc., it shall be approved by the local people's government at the county level and compensated year by year according to the average annual output value of the land in the previous three years.   
  
         2.   
It may damage public facilities such as roads, pipelines, electricity, post and telecommunications. According to article 44 of the Highway Law, if it is necessary to occupy, excavate or reroute a highway for the construction of railways, airports, power stations, communication facilities, water conservancy projects and other construction projects, the construction unit shall obtain the consent of the relevant competent department of communications in advance; if traffic safety is affected, it must also obtain the consent of the relevant public security organs. Where a highway is occupied or excavated or the highway is rerouted, the construction unit shall repair, reconstruct or give corresponding economic compensation in accordance with the original technical standards of the section of the highway. According to article 45 of the Highway Law, where bridges, aqueducts or pipelines and other facilities are erected or buried across highways, as well as pipelines, cables, and other facilities are erected or buried within the scope of highway land, the consent of the relevant competent departments of transportation shall be obtained in advance, and the consent of the relevant public security organs shall also be obtained; Where damage is caused to the highway, compensation shall be given in accordance with the degree of damage. According to Article 21 of the Regulations on the Protection of Oil and Natural Gas Pipelines issued by the State Council, if it is necessary to reroute or relocate, cross, or cross the pipeline and its ancillary facilities, and it is necessary to take protective measures, the construction unit shall obtain the consent of the pipeline enterprise in advance and sign relevant agreements. According to the provisions of Article 52 of the Electricity Law, where blasting or other operations that may endanger the safety of electric power facilities are carried out around electric power facilities, the operation shall be carried out only after approval and measures to ensure the safety of electric power facilities shall be carried out in accordance with the provisions of the State Council on the protection of electric power facilities。 According to Article 18 of the Detailed Rules for the Implementation of the Postal Law promulgated by the State Council, when a construction unit requisitions or demolishes a postal enterprise or branch office or postal facility due to construction needs, it shall consult with the local postal enterprise, and under the condition of ensuring the normal progress of postal communications, it shall move the postal enterprise, branch office and postal facility to a suitable place or build another one, and the necessary expenses shall be borne by the requisitioning and demolition unit. According to Article 33 of the Regulations on the Administration of Urban Roads issued by the State Council, if it is necessary to excavate urban roads due to project construction, it shall go to the competent administrative department of municipal engineering and the public security traffic management department to go through the examination and approval procedures in accordance with the regulations with the documents approved and issued by the urban planning department and the relevant design documents.   
  
         3  
． It is necessary to temporarily stop water, power or interrupt road traffic. According to Article 22 of the Regulations on Urban Water Supply issued by the State Council, if it is truly necessary to stop water supply due to engineering construction, equipment maintenance, etc., it shall be approved by the competent administrative department of urban water supply and   
notified to the water-using units and individuals 24 hours in advance. According to Article 31 of the Regulations on the Administration of Urban Roads, if it is necessary to temporarily occupy urban roads due to special circumstances, it must be approved by the municipal engineering administrative department and the public security traffic management department before it can be occupied in accordance with regulations.   
         4． Blasting operations are required. According to Article 27 of the Regulations on the Administration of Civil Explosives issued by the State Council, construction units using blasting equipment must be examined and approved by the competent department at a higher level and have instructions  
 The location, name, quantity, use, and neighborly distance documents and safety operating procedures for the use of blasting equipment shall be permitted to apply to the local county or municipal public security bureau for a "Permit for the Use of Explosives". In accordance with the provisions of Article 30 of the Regulations on the Administration of Explosives for Civil Use, large-scale blasting operations are carried out or controlled blasting is carried out in places where towns and other residents live together, scenic spots and important engineering facilities. For operation, the construction unit must report the blasting operation plan to the competent department at or above the county or city level for approval in advance, and obtain the consent of the local county or municipal public security bureau before allowing the blasting operation.   
         5. Other circumstances provided for by laws and regulations that require application for approval. This situation refers to other matters other than the above matters that need to be handled for approval by laws, administrative regulations, and local regulations.   Article 43 The  competent administrative department of construction shall be responsible for the management of construction safety production and shall accept the guidance and supervision of the competent labor administrative department for construction safety production in accordance with law.   【Interpretation】This article is about the administrative management and supervision of construction safety production.   1. The management of construction safety production by the competent administrative department of construction provided for in this article belongs to the industrial administrative management of the competent government industry department on the production safety of the industry. The objects of administrative management of the construction and production safety industry are construction enterprises, architectural design units, survey units and project supervision units engaged in the construction activities referred to in this Law. According to the provisions of this article, while being responsible for the management of construction safety production, the competent administrative department of construction shall also accept the guidance and supervision of the competent administrative department of labor in accordance with the law, and the management of the industry by the competent administrative department of construction shall not affect the supervision and management of housing construction projects involving relevant professional construction activities in accordance with their respective duties.   The competent administrative departments for construction shall implement the principle of combining unified management with hierarchical management in the management of construction safety production. The competent administrative department of construction under the State Council shall exercise unified industry management over the safe production of construction throughout the country, and the competent administrative department of construction of the local people's government shall manage the safe production of construction in its own region in accordance with its own duties.   
         1． The competent administrative department of construction under the State Council (currently referring to the Ministry of Construction) shall exercise industry management over the construction safety production work throughout the country, and shall mainly perform the following duties: (l) implement this Law and the relevant laws, regulations and guidelines and policies of the State on safe production, and formulate rules and standards related to construction safety production in accordance with the law; (2) manage the safety production work of construction projects nationwide; Improve the organizational guarantee system for construction safety production; (  
3) guide and supervise the construction administrative departments of local people's governments to do a good job in construction safety production management; (  
4  
) formulate medium- and long-term plans and short-term goals for construction safety production management, and organize the development and promotion and application of construction safety production technologies; (5  
). Organize the inspection of national construction safety production, grasp and publish the national construction industry safety production dynamics, summarize and exchange experience in construction safety production management, and commend the advanced; (6) responsible for statistics on the relevant situation of major safety accidents in the national construction industry, inspect and supervise the investigation and handling of major construction accidents in the industry, and organize or participate in the investigation of special major accidents in construction projects; (7). Perform other duties stipulated by laws and administrative regulations for the management of national construction safety production.   
         2． The competent administrative departments for construction of local people's governments at or above the county level shall exercise industry management over the construction safety production work in their respective administrative regions. It shall mainly perform the following duties: (1) implement this Law and national and local laws, regulations and guidelines and policies related to safe production, and formulate specific management regulations on construction safety production in accordance with the actual local conditions;  (2) manage the construction safety production work in the administrative region, Organize the implementation of the safety production responsibility system for the division of labor of leaders at all levels; (3) formulate medium- and long-term plans and short-term goals for construction safety production management in the administrative region, and organize the development and promotion and application of construction safety production technology in the administrative region; (4) be responsible for the statistics and reporting of work-related casualties of employees in the construction industry in the administrative region; Grasp and publish the dynamics of safe production in the construction industry in the administrative region; (5) organize and carry out the inspection of construction safety production in the administrative region, summarize and exchange the experience of construction safety production management, and commend the advanced; (6) organize or participate in the investigation and handling of casualty accidents in construction projects in the administrative region, and report major casualty accidents in accordance with relevant regulations; ( 7) Inspect the safety management and protective measures of the construction site of the construction project in the administrative region, correct the illegal command and illegal operation; (8) organize and carry out the safety production education, training and assessment of the production management personnel and operation safety personnel of the construction enterprise in the administrative region; (9) perform the law, Other duties related to construction safety production management stipulated in administrative regulations and local regulations.   2. In accordance with the provisions of this Article, the competent labor administrative department of the government shall be responsible for the administrative guidance and supervision of the safe production of construction. The competent administrative department of labor shall guide and supervise the safe production of construction, including the guidance and supervision of the safety production management of enterprises and units directly engaged in construction activities, and also the guidance and supervision of the competent administrative department of construction of the people's government at the same level and at the lower level on the industry management of construction safety production activities; the competent labor administrative department shall guide and supervise the management of construction safety production in accordance with the provisions of this Law and other laws, administrative regulations and local regulations on safe production. The competent administrative departments for construction and relevant units engaged in construction activities shall also accept the guidance and supervision of the competent labor administrative departments in accordance with law. The competent labor administrative department shall mainly guide and supervise the construction safety production from the following aspects: (l) guide and supervise the implementation of the laws, regulations, guidelines and policies of the state on safe production; (2) the implementation of the construction project organized and implemented by the competent construction administrative department." (3) Guidance and supervision of the investigation of safety accidents in construction projects; (4) guidance and supervision of the safety production responsibility system of the competent administrative department of construction; (5  
). (6) Other guidance and supervision duties related to construction safety production that are performed by laws, administrative regulations or local regulations stipulated by the competent labor administrative department. Article   44  Construction enterprises must strengthen the management of construction safety production in accordance with law, implement the responsibility system for safe production, and take effective measures to prevent casualties and other production safety accidents.   The legal representative of the construction enterprise is responsible for the safe production of the enterprise.   【Interpretation】This article stipulates the obligations that construction enterprises and their legal representatives should perform in terms of construction safety production management.   First, construction enterprises must strengthen the management of construction safety production in accordance with the law. Strengthening the management of enterprise safety production, improving working conditions and protecting the safety of workers in construction enterprises is a consistent requirement of the state for enterprises and a foundation for socialist enterprise management This Principle. In the construction activities, many construction enterprises attach importance to the management of safe production, strictly implement the laws and regulations of the state on safe production, and take effective measures to avoid the occurrence of safety accidents. However, some construction enterprises lack due attention to construction safety production, and the safety production management work is weak. For example, some do not establish and improve the responsibility system for safe production in enterprises in accordance with regulations, and no one is responsible for safety work; some one-sidedly emphasize the completion of production tasks and the pursuit of economic benefits, neglect to inspect and arrange safe production work, do not act in accordance with operating procedures, command in violation of regulations, and operate riskily; some not only do not actively solve the problem of equipment and facilities needed to ensure production safety, but instead divert the cost of safety technical measures to other uses; some do not seriously sum up lessons learned from the safety accidents that occur, and even repeatedly cause safety accidents, and so on. In order to strengthen the safety production management of construction enterprises in accordance with the law and reduce and avoid the occurrence of construction safety accidents, this article stipulates the basic obligations of construction enterprises to strengthen safety production management, including:  
  1 ． The management of construction safety production must be strengthened in accordance with the law. Every construction enterprise must act in accordance with the laws and regulations on safe production, strengthen the management of construction safety production, establish and improve the rules and regulations for the management of enterprise safety production, and strictly follow the implementation. The safety production management of enterprises should be carried out to the people, with plans, measures, inspections, and clear rewards and punishments. In view of the characteristics of many unsafe factors and great operational dangers in building construction activities, safety education should be often carried out for enterprise employees, so as to improve the safety production awareness of all employees and truly implement the work of ensuring production safety. The occurrence of production safety accidents shall be promptly investigated in accordance with the relevant provisions of the State, promptly handled and found out the cause of the accident, the responsibility is ascertained, and the improvement measures are determined.   
         2． Implement the safety production responsibility system. Construction enterprises should establish and improve the safety production responsibility system, which is the basic requirement for strengthening the management of construction safety production. The responsibility system for production safety that has been established in accordance with law must be strictly implemented. From a practical point of view, the establishment and improvement and implementation of the responsibility system for safe production should do the following: (l) The person in charge of the enterprise must manage the safety work while managing production, conscientiously implement the provisions of this Law and other relevant labor safety laws, regulations and rules, and plan, arrange, inspect, summarize, and evaluate the production work at the same time as planning, arranging, inspecting, summarizing, and evaluating the safety work. (2) The relevant full-time institutions of the construction enterprise shall, within the scope of their respective duties, assist the responsible person of the enterprise to do a good job in safety work, ensure the implementation of this Law and the laws, regulations and rules related to safe production, conduct frequent on-site safety inspections, publicize and educate employees on safe production, and find that problems that endanger safe production must be solved in a timely manner. (  
3) Post personnel must abide by the corresponding post safety production responsibility system, shall not carry out illegal operations, stop illegal operators, actively participate in various activities to ensure safe production, take the initiative to put forward opinions on improving safety work, and love and correctly use machinery and equipment, tools and their personal protective equipment.   
  
         3  
． Take effective measures to ensure the safety of building production. Construction enterprises shall take effective management and technical specific measures in view of the characteristics of construction activities to ensure production safety and prevent casualties and other safety production accidents. According to the current regulations of the state, these specific measures mainly include: First, safety management measures at the construction site. For example, to ensure that all materials on the construction site are stored neatly and steadily, that there should be appropriate drainage ditches in the construction site, and that safe bridges should be erected in the ditches through the transport road; that a small amount of explosives, detonators, leads, etc. temporarily stored at the construction site should be stored in safe places in covered wooden boxes, and full-time or part-time personnel should be assigned to keep and set up signs prohibiting fireworks; detonators, leads and explosives should be placed in separate stocks, should not be confused, and a safe distance should be maintained between the warehouses; in warehouses where explosives are stored, gunpowder processing shall not be carried out   
and the insertion of detonator leads, etc.; explosive lighting equipment should be used in warehouses where explosives are stored; pigments and other harmful substances that endanger the health of workers should be stored in specially ventilated buildings, and asphalt should be stored in places that are not directly exposed to sunlight or are not easily melted; and so on. The second is safety management measures in scaffolding. For example, wooden poles should be peeled fir wood and other kinds of tough hardwood as the standard, poplar, willow wood, Zen wood, root wood, oil pine and other decaying, cracked, dry joints and other easy to bend the wooden pole, shall not be used; the use of wooden poles as scaffolding, the diameter of the small head of the effective part of the pole can not be less than, the diameter of the small head of the effective part of the large crossbar, the small crossbar row wood) can not be less than, the shelf is equipped with cable-stayed rods and supports, the height is When the above project can not top the pole, the shelf and the building should be firmly connected, the bottom end of the pole and the pole should be buried in the ground, the depth depends on the nature of the soil; when buried in the pole, the pit should be compacted first, if it is a bamboo pole, it should be laid with bricks and stones in the pit to prevent sinking, when the soil is loose or the pit cannot be dug, the pole must be tied; the shelf is used to use tough hemp rope, brown rope, grass rope, wire or contempt according to the specific situation The strip is effectively tied and should be inspected frequently; the installation of tubular metal scaffolding shall not use bent, flattened or cracked pipes, and the joint parts of each pipe shall be intact to prevent dumping or moving; the pole of the metal scaffolding shall be placed vertically on the mat, before placing the mat The ground should be compacted and leveled; the scaffolding should be inspected and accepted by the construction responsible personnel before it can be used, and it should be inspected frequently during use; and so on. The third is safety management measures for earthworks. For example, the necessary investigation and survey work should have been done before the earthworks are carried out; when excavating the foundation pit near the building, the necessary safety measures should be taken according to the depth of excavation; the excavation earthwork should be constructed from top to bottom, and the operation method of hollowing out the bottom foot should not be used, and drainage measures should be done; when excavating foundation pits and 7公分well pits, 8公分safety slopes should be set according to the nature of the soil, humidity and excavation depth Or solid wall brackets; for loose soil or wide, deep trenches, general support methods should not be used, and support should be carried out according to specific designs; when 7公尺the solid wall brackets are removed, they should be gradually dismantled from bottom to top in accordance with the backfill order; when replacing the supports, the new ones should be installed first, and then the old ones should be removed to remove the solid wall brackets When supporting, it should be guided by engineering and technical personnel on the spot; before using machinery to dig soil, a signal should be issued first; when digging soil, within the range of the rotary rod of the excavator, no other work shall be carried out; when loading soil, no one shall stay on the earth loading truck; the transportation of all explosives shall be designated as a special person; detonators and explosives shall not be transported in the same boat or in the same container; when transporting, they should be properly packaged and bundled, and cannot be bulk, modified, nor can they be shaken, impacted, turned, fallen and rubbed; and no smoke should be smoked during transportation and so on. The fourth is safety management measures for mechanical and electrical equipment and installation. For example, the metal part of the electrical equipment and device, which may be charged due to insulation damage, should be taken protective grounding or zeroing measures according to technical conditions; when the wire and the power supply are connected, a switch or latch should be set up, and it should not be hung casually; the open-air switch should be installed in a special box; when the welding work and the metal workbench are separated from the earth, there should be protective grounding; after the removal of electric machinery and electrical lighting equipment, there shall be no potentially charged wires. If the wire must be retained, it should be cut off by the power supply and the wire head should be insulated; the oxygen cylinder should have a cap, and there should be a safety valve on the pressure reducer of the oxygen cylinder, which must not be contaminated with grease, and must not be placed in the same place as the combustible cylinder; the transmission belt, the open gear, the grinding wheel, the electric saw, the coupling joint close to the ground, the hinge, the pulley and the flywheel and other dangerous parts should be equipped with protective devices; lifting machinery, traction machinery and auxiliary lifting tools should be marked Clear maximum load; lifting and traction machinery to indicate the safety speed; all types of cranes should be installed as needed to install over-wringe limiters, lifting controllers, interlock switches and other safety devices; cantilever cranes should have lifting indicators, rail boom cranes equipped with clamp clamps Machinery and tools should be regularly overhauled; all kinds of mechanical and electrical equipment should be operated, disassembled or overhauled by full-time personnel who have passed the training and examination; and so on. Fifth, safety management measures for protective equipment. For example, the on-the-job framers should be provided with sleeves, leg wraps, shoulder pads, goggles, etc.   2. The legal representative of the construction enterprise shall be responsible for the production safety of the enterprise. The legal representative of a construction enterprise refers to the person in charge of exercising his or her functions and powers on behalf of the construction enterprise in accordance with the provisions of the law or the articles of association of the legal person. If a construction enterprise is a construction company established under the Company Law, the legal representative of the construction enterprise shall be the chairman of the board of directors of the company according to the provisions of the Company Law. If a construction enterprise is a state-owned enterprise in the form of a non-company organization, according to the provisions of the Law on Industrial Enterprises Owned by the Whole People, the legal representative of the construction enterprise shall be the director (manager) of the enterprise. The legal representative of the construction enterprise is the administrative leader of the enterprise, and while being responsible for the production and operation activities of the enterprise, it should also be responsible for the safety production of the enterprise. This is the basic requirement for enterprises to implement the "safety first, prevention first" policy, and it is also the effective "management of production and must manage safety" that has been proven by practice Concrete embodiment of principles. The blood lessons of many safety production accidents show that if the main responsible persons of enterprises ignore safe production and lack effective measures to ensure production safety, they will bring threats to the life safety and physical health of enterprise employees, bring losses to the property of the state and the people, and the economic benefits of enterprises are not guaranteed. The legal representative of the construction enterprise should correct the relationship between safety and production, so that it is not safe to produce, production must be safe, safety and production must be truly unified, and the phenomenon of "two skins" of production and safety should be effectively overcome, and the phenomenon of heavy production and light safety should be overcome.   The legal representative of the construction enterprise is responsible for the safe production of the enterprise, and should mainly do the following: (1) It is necessary to conscientiously implement the laws, regulations, rules and regulations related to ensuring safe production, strive to improve labor conditions, and continuously improve the safety production level of construction enterprises. (  
2) According to the actual work needs, set up the management security organization of the enterprise, and allocate appropriate personnel to ensure the normal progress of safety work. (3) Organize the formulation of various safety rules and regulations of the enterprise with the safety production responsibility system as the core, clarify the specific responsibility of cadres at all levels of the enterprise to ensure safe production, and be responsible for supervising and urging leading cadres at all levels and the management personnel of each functional unit to do a good job in safety management within the scope of their duties. (4) Frequently study and solve problems in safe production, and organize the preparation of the safety technology measures plan for the enterprise in view of the hidden dangers existing in the enterprise. (5) Organize safety inspections on a regular or irregular basis, rely on trade unions to organize activities such as employee safety competitions, and summarize and promote advanced experience in safe production. (6) Carry out safety education and technical training for employees in accordance with this Law and relevant provisions of the State. (7) For the casualties and accidents that occur in the enterprise, timely statistical reporting in accordance with the relevant provisions of the state, and carefully investigate and analyze, put forward handling opinions and improvement measures, and supervise the implementation. (8  
) Regularly report to the employee congress of the enterprise on the situation and measures of safe production of the enterprise, and accept the democratic supervision of the trade union and the employees of the enterprise.   Article 45  The construction enterprise shall be responsible for the safety of the construction site. Where the general contracting of construction is implemented, the general contracting unit shall be responsible. The subcontracting unit is responsible to the general contracting unit and obeys the safety production management of the construction site by the general contracting unit.   【Interpretation】This article is about the provisions of the safety responsible unit at the construction site of the construction project.   First, the safety of the construction site of the construction project shall be the responsibility of the construction enterprise. The construction site is a specific place for the construction enterprise to engage in engineering construction work, which is fully managed by the construction enterprise, of course, the safety of the construction site should also be fully responsible for the construction enterprise. Construction enterprises shall, in accordance with the provisions of Article 39 of this Law and other provisions of the State on ensuring production safety, take measures such as maintaining safety, preventing dangers and preventing fires at the construction site to ensure the safety of persons and property at the construction site, including: ensuring the safety of temporary buildings such as offices, work sheds, canteens and other temporary buildings located at the construction site; ensuring the safety of auxiliary enterprises, mechanical devices, warehouses, transport roads and temporary water and sewers, power grids, steam pipelines, compressed air pipelines, acetylene pipelines, and acetylene at the construction site The safety of the occurrence station and other temporary works; the safety of all materials stored on the site; the safety of dangerous goods (explosives, detonators, leads, etc.) used on the site. If a construction enterprise violates regulations and neglects management, resulting in a safety accident at the construction site, the construction enterprise shall bear legal responsibility in accordance with law.   2. Where the construction project is subject to general contracting, the safety of the construction site shall be uniformly responsible for the construction general contracting unit. The construction general contracting unit shall implement unified management of the safety of the construction site and supervise and inspect the safety of the construction site of the subcontracting unit. The subcontracting unit shall be responsible to the general contracting unit for the safety of the construction site and obey the safety production management of the construction site by the general contracting unit. The subcontracting unit shall, under the unified management of the general contracting unit, establish a construction site safety management responsibility system within the scope of its subcontracted project, and organize its implementation. The safety projects in the design of the construction organization of the construction project shall be prepared by the general contracting unit. Under the overall deployment of the general contracting unit, the subcontracting unit shall be responsible for preparing the construction organization design of the subcontracted project, and the safety project in the design shall meet the requirements of the construction organization design of the general contracting unit.   Article 46  Construction enterprises shall establish and improve the system of safety production education and training, and strengthen the education and training of employees on safe production; personnel who have not been trained and trained in production safety shall not be allowed to work on the job.   【Interpretation】This article is about the provisions of construction enterprises to carry out safety production education and training for employees.   First, safety production education and training is a basic work for construction enterprises to achieve safe production. The safety production education and training system is an important part of safety management and an important means to ensure safe production. Through safety education and training, we can not only improve the understanding of leaders at all levels and the majority of employees on "safety first, prevention first" The understanding of the policy, improve the sense of safety responsibility, enhance the consciousness of consciously abiding by various safety production and rules and regulations, and enable the management personnel at all levels of the enterprise and the workers to grasp the scientific knowledge of safe production, improve the operational skills of safe production, and create conditions for ensuring safe production. In recent years, China's construction industry has developed rapidly, and the number of personnel engaged in building construction has increased more, many of whom have low cultural quality and lack of expertise on ensuring the safety of construction projects. There are a considerable number of employees in construction enterprises who have not undergone education and training in construction safety production knowledge, do not understand safety knowledge, are not familiar with safety operation specifications, and will not prevent construction engineering safety accidents, which is also one of the reasons why construction engineering safety accidents often occur. In order to strengthen the safety production education for the employees of construction enterprises and ensure production safety in accordance with the law, this article makes special provisions on the establishment and improvement of the labor safety production education and training system for construction enterprises.   Second, the main contents of labor safety production education and training for employees by construction enterprises shall include:  
  
  1 ． Education and training on laws and regulations related to production safety. Through the education of employees on laws, regulations and policies related to safety production, enterprise employees can correctly understand and master the laws, regulations and policies related to safe production, and strictly comply with them in construction production activities. In this regard, it is particularly necessary to strengthen the education of leading cadres and safety management personnel at all levels of enterprises, enhance the legal awareness of safe production, familiarize themselves with the provisions of laws and regulations on safe production, and do a good job in safety work according to law.   
  
         2  
． Education and training of safety science and technology knowledge. The so-called education of safety science and technology knowledge refers to the education of basic safety technology knowledge and professional safety technology knowledge. The education of employees in safety science and technology knowledge must be as follows: First, new employees should carry out factory entry education. The content of education includes safety technical knowledge, equipment performance, operating procedures, safety systems and strictly prohibited matters, and can only enter the operation position after passing the education and training. The second is to carry out special safety education for special types of work according to their work characteristics. For example, electricians, welders, shelf workers, furnace workers, blasters, cranes, piling workers and drivers of various motor vehicles, in addition to general safety education, they must also undergo safety technology education for their own types of work, and after passing the examination, they are allowed to operate independently; for employees engaged in dust and poison hazard operations, they must carry out education on dust and poison hazards and prevention and control knowledge. Third, when adopting new technologies, new processes, new equipment construction and changing jobs, operators should be educated on new technology operations and safety in new posts, and they must not be operated on the job without education.   
  Article 47  
  In the course of construction, construction enterprises and operators shall abide by the laws and regulations on safe production and the safety rules and regulations of the construction industry, and shall not command or operate in violation of regulations. Operators have the right to put forward suggestions for improving operating procedures and operating conditions that affect personal health, and have the right to obtain protective equipment required for safe production. Operators have the right to criticize, report and accuse acts that endanger life safety and personal health.   
  【Interpretation】This article is about the obligations that construction enterprises and personnel engaged in construction work should perform in ensuring production safety and the relevant rights that operators should enjoy.   
  1. In accordance with the provisions of this Article, the obligations to be performed by construction enterprises and construction workers in the field of safe production include:  
  1 Shall comply with the laws and regulations related to safe production and the safety rules and regulations of the construction industry. The "laws" on production safety referred to in this article refer to the legally binding codes of conduct related to production safety promulgated by the National People's Congress and its Standing Committee; Refers to the administrative regulations on safe production promulgated by the State Council and the local regulations on safe production promulgated by local people's congresses and their standing committees with legislative power;   
"rules and regulations" refers to the relevant normative documents promulgated by the relevant administrative departments of the State Council in accordance with laws and administrative regulations that have the responsibility for supervising and managing the safe production of the construction industry.   
         2. No command or operation in violation of regulations shall be permitted. The "  
chapter" mentioned here is a broad concept, which includes laws, regulations, rules and internal rules and regulations of enterprises. The rules and regulations related to ensuring safe production are a summary of practical experience and the lessons of countless blood, and the construction enterprises and operators must strictly implement these rules and regulations related to safe production, the enterprise management personnel must not command in violation of the rules, and the operators in various posts must not operate in violation of the rules. The relevant personnel have the right to stop the illegal command and illegal operation; for the illegal command of the management personnel, the employee has the right to refuse to implement it in accordance with the provisions of the Labor Law.   
  2. The rights enjoyed by construction workers in the labor safety of construction projects include:  
  
  1 ． Have the right to put forward suggestions for improvement of operating procedures and operating conditions that affect personal health. In order to ensure the personal health of the operators, the relevant departments of the state have made several provisions on the operating procedures and operating conditions of the construction project, for example, the demolition of buildings should be carried out in order from top to bottom, if this procedure is violated, the operators are required to carry out demolition operations from the bottom up, and the operators have the right to put forward opinions to the supervisors and ask for corrections; Protect your personal safety.   
         2． The right to obtain protective equipment required for safe production. Protective equipment is a kind of defensive equipment that protects the safety and health of workers during labor. It is an auxiliary measure to ensure the safety of construction projects, and has a certain role in preventing work accidents, occupational hazards and reducing work accidents. Protective equipment may become an important means of protection under certain conditions. Sometimes it plays a decisive protective role. Therefore, construction enterprises must issue safety protection products to operators in accordance with relevant national regulations. In order to prevent the occurrence of casualties caused by the lack of necessary safety protection supplies by construction workers and to protect the personal safety of the majority of operators, this article gives operators the right to request the right to obtain protective equipment required for safe production. Where an enterprise fails to issue safety protective equipment in accordance with regulations, the operator has the right to make criticisms, reports and accusations in accordance with the provisions of this article.   According to the provisions of the "Technical Regulations for Construction and Installation Engineering" promulgated by the State Council, the following workers should be supplied with protective equipment according to the needs of the work: shelf workers: supply sleeves, leg wraps, shoulder pads, goggles; bricklayers: supply canvas finger sleeves or finger glue-coated thread gloves; do not use brick jams Brick lifters: supply hand pads; plasterers: sleeves, gloves, goggles; soot sprayers; supply overalls, goggles, masks, gloves, shoe covers; drenching, white ash workers: glue shoes and shoe covers with leg guards, goggles, masks, gloves, shawl headscarves, concrete mixing, tamping, flat ash, and maintainers: aprons, gloves, rubber boots (or rubber shoes and shoe covers with leg guards) respectively; Masonry: protective glasses, masks, canvas gloves, respectively Piling workers: supply gloves, leg wraps; hydraulic masonry and electrogriding masonry: supply rubber shoes or rubber boots, electric grinding masonry to issue insulating gloves; plumbing: supply gloves, supply work clothes, rubber boots, masks when working in the waterway; reinforcement workers: supply canvas gloves, shoulder pads, canvas aprons, masks; white iron workers: supply gloves, aprons; paint and painters: paint workers supply sleeved aprons, gloves; painters supply overalls, gloves, Goggles, masks; pickers: supply shoulder pads or collar pad shoulders, when carrying cement and lime, add shawl headscarves, masks, goggles, shoe covers, long-sleeved gloves; carpentry: provide sleeves and aprons respectively. Sawner: supply masks, goggles, canvas aprons, sleeves; excavators, levelers, bulldozers, crane drivers and assistants: work clothes, gloves, goggles, masks, respectively; electrical operators: insulated boots, insulated gloves, wire gloves, goggles, sleeves, leggings, etc. Fitters, riveters, welders, forgings, cranes: according to the different working conditions, in accordance with the provisions of the factory safety and health regulations, respectively, supply protective equipment. For workers engaged in asphalt work, solid cotton or linen overalls, protective goggles, protective masks or filter respirators, canvas gloves, canvas shoe covers and respectively are provided Protective ointment. A bath must be taken after work is done. Wicker hats or rattan hats are given to workers who work underneath the work at height; workers who work in deep pits, deep troughs or undergrounds; and workers who dismantle formwork and shelves. For workers working in the water, rubber boots should be supplied, and when working in deep water, rubber overalls should be supplied. For workers working at height, seat belts should be supplied if there is no protective device. For workers working in the rain, they should be supplied with rubber shoes, rubber boots, coats, raincoats, buckets and other rainproof utensils as needed. For workers working in the open air in harsh climates, cold protection supplies should be supplied as needed. For technicians and managers working at the construction site, protective equipment should be supplied as needed. Workers engaged in other jobs harmful to health should be provided with protective equipment separately as needed.   
         3． Operators have the right to criticize, report and accuse acts that endanger life safety and physical health. The criticism mentioned here refers to the right of the operator to criticize the behavior of the management personnel of the construction enterprise that endangers life safety and physical health. Stipulating this right is conducive to the supervision of the enterprise management personnel by the operators, so that the enterprise management personnel can often listen to the opinions of the masses and continuously improve the safety work of the enterprise. The whistle-blowing and accusation mentioned here refers to the behavior of the operators who endanger the life safety and physical health of the management personnel of the enterprise, and has the right to report and accuse the competent departments and judicial organs. Stipulating this right is conducive to the timely handling of illegal acts of enterprise managers, ensuring the safety of construction and preventing construction accidents. Article   48  
  A construction enterprise shall apply for accident insurance for employees engaged in hazardous operations and pay insurance premiums.   【Interpretation】This article is about the provisions that construction enterprises must apply for accident insurance for employees engaged in dangerous operations. 1. The "insurance"  
  provided for in this Article 1965年5月25日belongs to the insurance referred to in the Insurance Law. Article 2 of the Insurance Law stipulates that "insurance as used in this Law refers to the commercial insurance act in which the insured pays the insurance premium to the insurer in accordance with the contract, and the insurer bears the liability for compensation insurance for the property losses caused by the occurrence of the possible accident as stipulated in the contract, or bears the liability for the payment of insurance benefits when the insured dies, is disabled, falls ill or reaches the age or time limit agreed in the contract" 。 The insurance situation provided for in this article is that the construction enterprise, as the insured, concludes an insurance contract with the insurance company, pays the insurance premium, and takes the employees engaged in dangerous operations of the enterprise as the insured, and when the insured has an accidental injury accident in the construction work, the insurance company shall pay the insurance premium to the insured or beneficiary in accordance with the contract.   2. The accident insurance provided for in this article by the construction enterprise for employees engaged in dangerous operations is compulsory insurance. Insurance can be divided into voluntary insurance and compulsory insurance according to its implementation form. The so-called voluntary insurance refers to whether to apply for this insurance, which is entirely decided by the parties according to their own wishes, and can apply for this insurance or not. The vast majority of commercial insurance is voluntary. The so-called compulsory insurance, also known as statutory insurance, is an insurance that must be handled in accordance with the provisions of laws and administrative regulations, such insurance is mandatory, whether the parties concerned are willing or not, they must handle this insurance according to law. Compulsory insurance is usually implemented for insurance subjects with a wide range of dangers and a greater impact on the interests of the people. The accident injury insurance provided for by the construction enterprise for its employees engaged in dangerous operations is compulsory insurance, and whether the construction enterprise wants to do so or not, it must apply for the insurance provided for in this article in accordance with the law in order to safeguard the interests of employees engaged in dangerous operations.   3. The insurance provided for in this Article is accident insurance in personal insurance. According to the insurance object, insurance is divided into property insurance and personal insurance. The so-called property insurance refers to insurance with property and its related interests as the object of insurance. Property includes tangible property, intangible property, that is, property rights. The so-called life insurance is an insurance that takes the life or body of the person as the object of insurance. The insurer is responsible for paying the insurance premium for the death, disability, incapacity to work or retirement of the insured person due to accidental injury, illness, aging or other reasons. Life insurance is divided into personal accident insurance, life insurance, health insurance and so on. The so-called personal accident insurance refers to a kind of personal insurance in which the insurer pays the insured insurance premium when the insured is physically disabled or dies due to reasons other than the insured's own will. The insurance provided for in this article shall be subject to the personal life of an employee engaged in dangerous operations in a construction enterprise, and if the employee engaged in dangerous operations is physically disabled or dies due to an accident, that is, due to reasons other than the employee's own will, the insurer shall pay the insurance premium.   4. In implementing the provisions of this Article, attention shall be paid to: (1) For the compulsory insurance provided for in this Article, the construction enterprise must implement it. (  
2) The insurance cost shall be borne by the construction enterprise and shall not be borne by the employee. Where an enterprise requires an employee to bear the burden, the employee has the right to refuse. (  
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) The insured of this insurance is an "employee engaged in dangerous operations" in a construction enterprise. Employees engaged in hazardous operations mainly refer to employees engaged in high-altitude work, employees engaged in blasting operations, and so on. (4) The insurance provided for in this article is in nature a commercial insurance handled in accordance with the provisions of the Insurance Law, which is an obligation added by the law by a construction enterprise on the basis of social security for employees in accordance with the provisions of the State (also known as social insurance in China). Businesses cannot pit social security and commercial insurance against each other. That is to say, the insurance provided for in this article cannot be stopped because social security for work accidents has been handled for the employee, and if this is done, it is a violation of the provisions of this law; nor can it be stopped because the insurance provided for in this article is applied for for the employee. If this is done, it is a violation of the provisions of the labor law. As far as a worker engaged in hazardous operations is concerned, he or she has the dual right to social security and accident insurance.   Article 49 For  renovation projects involving changes in the main body of the building and the load-bearing structure, the construction unit shall entrust the original design unit or the design unit with corresponding qualifications to propose a design plan before construction; if there is no design plan, it shall not be constructed.   【Interpretation】This article is about the provisions that decoration projects involving changes in the main body of the building and load-bearing structures must have a design plan.   
  First, the so-called building main body refers to the main frame structure that ensures the support of the entire building. The load-bearing structure is part of the main body of the building and is also a part of the supporting building, such as the load-bearing wall. The so-called decoration project refers to the construction activities of using decoration materials to carry out construction of changes in the main body and load-bearing structure of the building in order to make the housing construction meet certain environmental requirements. The main body of the building and the load-bearing structure are the necessary structures to ensure the safety of the building, and the main body and the load-bearing structure of the building are damaged, which may cause safety accidents, resulting in casualties and property losses. To this end, it is necessary to strengthen the management of renovation projects involving changes in the main body of the building and the load-bearing structure, which is   
stipulated in principle in this article and must be implemented.   Second, the decoration project involving the change of the main body of the building and the load-bearing structure shall propose a design plan in advance. In accordance with the provisions of this article, for the renovation involving changes in the main body of the building and the load-bearing structure, the construction unit shall entrust the original design unit or the design unit with corresponding qualification conditions to propose a design plan before construction. The construction unit may entrust the original engineering design unit to propose a decoration design plan, and may also entrust other design units to propose a decoration design plan. The so-called original design unit refers to the design unit that originally designed the building. The original design unit has a better understanding of the main body and load-bearing structure of the building, and entrusting its design is more conducive to ensuring the quality of the design scheme. Other design units should be "with corresponding qualification conditions" Design units. The so-called corresponding qualification conditions means that the design unit must obtain a qualification certificate for engaging in architectural design in accordance with the law and have a qualification level that can design the decoration project. Entrusting a design unit with corresponding qualification conditions to design is also necessary to ensure the safety of the decoration project, and the building decoration unit shall not entrust a design unit that does not have the corresponding qualification conditions to design; the design unit shall not exceed the qualification level for design. When the design unit carries out the design, it shall strictly implement the national design specifications for ensuring the safety of the project. When the original house decoration needs to be demolished and modified, the decoration design must ensure the integrity, seismic resistance and structural safety of the house.   If the decoration project involving changes in the main body of the building and the load-bearing structure does not have a design plan, it shall not be constructed. This requires that the construction unit must not entrust construction without a design plan; building decoration enterprises must not accept construction, and at the same time, in the case of a design plan, the building decoration enterprise must follow the design plan and must not change the design plan without authorization.   
  Article 50 The demolition of houses  shall be undertaken by the construction unit that has the conditions to ensure safety, and the person in charge of the construction unit shall be responsible for safety.   【Interpretation】This article is about the provisions that the safety of house demolition should be guaranteed.   First, the construction unit that carries out the demolition of the house shall have the conditions to ensure the safety of the operation, and shall not engage in the demolition operation if it does not have the conditions to ensure the safety of the demolition operation. This Law does not make specific provisions on the conditions for ensuring safety that should be met for the operation of demolishing houses, and this shall be carried out in accordance with the provisions of the relevant competent departments of the State Council.   Second, the person in charge of the construction unit shall be responsible for the safety of the operation when the house is demolished. The person in charge of the construction unit is the administrative manager of the construction enterprise, who is not only responsible for the demolition business activities, but also for the safety of the demolition process. In order to ensure the safety of demolition, the person in charge of the construction unit engaged in house demolition must do when organizing the demolition of houses: (1) Before the construction of the construction project, the current situation of the building should be investigated in detail, and a construction organization plan should be prepared to ensure safety; the simpler demolition project should also formulate practical safety measures. (2) Before the demolition project is constructed, the relevant precautions and safety operating procedures for safe operation should be explained to the construction workers. (3) The construction of the demolition project must be carried out under the unified leadership and regular supervision of the personnel in charge of the project. (4) Before the demolition project is constructed, the trunk lines such as wires, gas pipelines, waterways, and heating equipment should be notified to the relevant units to cut off or relocate the branch lines of the building. (  
5) When workers engage in demolition work, they should operate on scaffolding or other stable structural parts. (  
6  
) Demolition of buildings should be carried out in order from top to bottom, and it is forbidden to demolish several floors at the same time. When one part is demolished, the collapse of the other part should be prevented. (7) The demolition of building railings, stairs and floor slabs should be in line with the overall degree of demolition, and cannot be demolished first. The load-bearing pillars and beams of a building cannot be demolished until all the structures it undertakes are demolished. (  
8) Demolition of buildings is generally not suitable for the use of the method of demolition, in case of special circumstances must be used to push down the method, must comply with the following provisions. The depth of cutting the root of the wall cannot exceed one-third of the thickness of the wall, and when the thickness of the wall is less than two and a half bricks, it is not allowed to dig; in order to prevent the wall from tipping in the direction of excavation, it should be supported before excavation  
; before the building is torn down, a signal should be issued  
, and it can only be carried out after all the staff have avoided the safe zone. (  
9  
) When demolishing part of the structure of the building by blasting method, the good condition of other structural parts should be ensured. After blasting, if it is found that there are signs of danger in the retained structural parts, safety measures must be taken before the work can be carried out. (  
10) When demolishing buildings, multiple people are not allowed to gather and stack materials on the floor slab to avoid danger. (11) For demolition work at a high place, a release trough should be set up so that the scattered waste flows down the trough. To dismantle larger or heavy materials, it is necessary to use a sling rope or lifting machinery to lift or transport it away in time, and it is forbidden to throw it downwards. The various materials that are disassembled should be cleaned up in time and stacked in a certain place.   Article 51 When an  accident occurs during construction, the construction enterprise shall take urgent measures to reduce casualties and accident losses, and promptly report to the relevant departments in accordance with the relevant provisions of the State.   【Interpretation】This article is about the provisions that when an accident occurs during construction, the construction enterprise must take urgent measures and report to the relevant departments.   First, the construction accident mentioned here refers to the event that causes casualties and relatively large property losses during the construction process of the building. According to the relevant regulations, accidents are divided into general accidents and major accidents. General accidents include minor injuries and serious injuries. Minor injury accidents refer to accidents with only minor injuries and no serious injuries and deaths. The so-called minor injury refers to the injury of the loss of disability less than 105 working days, and the minor injury accident of the loss of disability of 1 day is used as the starting point of the injury accident. A serious injury accident is an accident in which a person is seriously injured but no one dies. A serious injury is an injury that is lost incapacitation for more than 105 working days. The so-called major accident refers to an accident in which less than two people are killed, more than three people are seriously injured, and the direct economic loss is more than 100,000 yuan. Major accidents include: fatal accidents, major fatal accidents and particularly serious accidents (referring to accidents that cause particularly serious personal injuries or huge economic losses, as well as accidents of a particularly serious nature and have a major impact).   Second, when an accident occurs during construction, the construction enterprise must take emergency measures to reduce casualties and accident losses. In construction activities, once a safety accident occurs, the construction enterprise must take corresponding emergency measures according to different accident situations. If a fire breaks out at the construction site, it shall immediately report to the police and organize on-site personnel to extinguish it; if there is an injury to a person who needs rescue, it shall promptly contact the medical unit for rescue, and if conditions permit, it shall also carry out on-site emergency rescue, etc. If the provisions on emergency measures are not fulfilled, causing the accident loss to increase, the legal responsibility of the person in charge of the enterprise and the relevant responsible personnel shall be investigated according to law.   3. When an accident occurs, it shall be reported to the relevant departments in a timely manner in accordance with the relevant provisions of the State. When an accident occurs during construction, in addition to taking urgent measures to reduce casualties and property losses immediately in accordance with the law, the construction enterprise must also report to the relevant competent department in a timely manner in accordance with the relevant provisions of the state. The "relevant provisions of the state" here refers to the provisions of laws and administrative regulations related to the safety accident reporting system, and also includes the specific provisions made by the relevant competent departments in accordance with laws and administrative regulations. In this regard, China's Labor Law stipulates the principles of the state to establish a system for reporting and handling casualties (Article 57 of the Labor Law), and the State Council issued the "Labor Law" in March 1983 and February 1992 respectively  
. Interim Provisions on Investigation Procedures for Special Major Accidents and Provisions on reporting and Handling Casualty Accidents of Employees of Enterprises. In September 1989, the Ministry of Construction also   
promulgated the Regulations on the Procedures for reporting and investigating major accidents in Engineering Construction.   
  According to the provisions of the "Provisions on the Reporting and Handling of Casualty Accidents of Employees of Enterprises" issued by the State Council, after the occurrence of a casualty accident, the injured person or the relevant personnel at the scene of the accident shall immediately report directly or step by step to the person in charge of the enterprise; after receiving the report of the serious injury, death or major death accident, the person in charge of the enterprise shall immediately report to the competent department of the enterprise and the labor department, public security department, people's procuratorate, and trade union where the enterprise is located; after the competent department of the enterprise and the labor department receive the report of the death or major death accident, Fatal accidents shall be reported to the competent departments and labor departments of enterprises directly under the central government in accordance with the system; major fatal accidents shall be reported to the relevant competent departments and labor departments of the State Council; and enterprises where deaths or major fatalities occur shall protect the scene of the accident and promptly take necessary measures to rescue personnel and property to prevent the accident from expanding.   According to the provisions of the "Interim Provisions on the Investigation Procedures for Particularly Serious Accidents" issued by the State Council, units where exceptionally serious accidents occur must, after the occurrence of an accident, immediately report the occurrence of the exceptionally serious accident to the centralized management department at a higher level and the local people's government where they are located, and to the people's government of the province, autonomous region, or municipality directly under the Central Government and the centralized management department of the State Council; Department. For exceptionally serious accidents involving both military and civilian aspects, the unit where the accident occurred must immediately report the situation of the exceptionally serious accident to the local police command or the highest military organ, and shall write an accident report within twenty-four hours and report it to the above-mentioned units. The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government and the centralized administration departments of the State Council shall, upon receiving reports of exceptionally serious accidents, immediately make a report to the State Council. The report of an exceptionally serious accident shall include the following contents: the time, place, and unit of the accident; the brief history of the accident, the number of casualties, and the preliminary estimate of the direct economic loss; the preliminary judgment of the cause of the accident; the measures taken after the accident and the accident control; and the accident reporting unit. After the local people's government where the unit where the extraordinarily serious accident occurred receives the report of the extraordinarily serious accident, it shall immediately notify the public security department, the people's procuratorial organ, and the trade union.   According to the provisions of the "Provisions on the Procedures for reporting and Investigating Major Accidents in Engineering Construction" promulgated by the Ministry of Construction, after a major accident occurs, the unit where the accident occurred must report the brief situation of the accident to the competent department at the higher level and the competent municipal and county-level construction administrative departments and the procuratorial and labor (if there is personal injury) department in the fastest way; It shall be reported to the relevant competent department of the State Council at the same time. After receiving the report, the competent administrative department for construction at the municipal or county level at the place where the accident occurred shall immediately report to the people's government and the competent administrative department for construction of the province, autonomous region, or municipality directly under the Central Government; After a major accident occurs, the unit where the accident occurred shall write a written report within 24 hours and report it step by step in accordance with the prescribed procedures and departments. The written report of a major accident shall include the following contents: the time, place, project, and name of the enterprise where the accident occurred; a brief history of the accident, a preliminary estimate of the number of casualties and direct economic losses; a preliminary judgment on the cause of the accident; the measures taken after the accident and the control of the accident; and the accident reporting unit.   
   
   
   
 

This chapter deals with the quality management of construction works. The quality of construction projects is of great concern. Poor quality construction projects not only affect the normal use performance and service life of buildings, damage the interests of users, but also may cause major personal injuries and property losses, and there are many bloody lessons worth learning in this regard. "A century-old plan, quality first" is the most basic and important policy that must be adhered to in engaging in construction activities. Judging from the actual situation in our country at present, the problem of poor quality of construction projects is quite conspicuous, and the masses are very dissatisfied; major accidents that cause house collapses due to unqualified project quality occur from time to time, causing heavy losses to the lives and property of the state and the people Irresponsible. In view of the extreme importance of the quality problems of construction projects, as well as the main problems that exist in practice, the Construction Law will ensure the quality of construction projects as the legislative focus, and in this chapter, the basic system of strengthening the quality management of construction projects and ensuring the quality of projects, and the basic obligations and responsibilities of all parties engaged in construction activities to ensure the quality of projects, have made clear and highly targeted provisions.   This chapter has a total of 12 articles, which stipulate the following contents:  
  (  
1) The quality of the survey, design and construction of construction projects must meet the requirements of the relevant national safety standards for construction projects (Article 52);  (  
2) The state implements a quality system certification system for units engaged in construction activities (Article 53);   (  
3) The basic obligations of the construction unit to ensure the quality of the project (Article 54);  (  
4) The quality responsibility of the general contracting unit and the subcontracting unit for the construction project under general contracting (Article 55);  (  
5). (6) The architectural design unit    
shall not designate a production plant or supplier for the building materials selected in the design documents (Article 57);  (7  
).   (8) The quality of the foundation   
works and the main structure of the building must be ensured within the reasonable service life of the building, and there shall be no quality defects when the project is completed (Article 60).  (  
10) Quality warranty system for construction projects (Article 62);  (  
11) The right of units and individuals to report, accuse and complain about the quality of construction projects (Article 63).   Article 52 The  
  quality of survey, design and construction of construction projects must comply with the requirements of the relevant national safety standards for construction projects, and the specific management measures shall be prescribed by the State Council.   When the national standards for the safety of construction projects cannot meet the requirements of ensuring building safety, they shall be revised in a timely manner.   【Interpretation】This article is about the fact that the quality of construction project survey, design and construction must comply with the provisions of the relevant national safety standards for construction projects.   
  First, among the quality requirements of construction projects, the quality requirements for ensuring the safety of construction projects are undoubtedly the most important. If the quality of the construction project does not meet the requirements of ensuring the safety of the building, it will leave a serious quality hazard and endanger the safety of use. For some time now, because the quality of some construction projects does not meet the requirements for ensuring safety, there have been frequent major accidents in house collapses, causing major losses to the lives and property of the state and the people, which has aroused widespread concern in society. Ensuring that the quality of construction projects meets the requirements of use safety is the most important principle that must always be followed in the survey, design, construction and other activities of construction projects, and it is also the most important content in the quality management of construction projects. In accordance with the provisions of this article, in all construction activities, to ensure that the quality of the project meets the basic requirements of the principle of ensuring the safety of buildings, the quality of the survey, design and construction of construction projects must comply with the provisions of the relevant national safety standards for construction projects. 2. The "  
national safety standards for relevant construction projects  
"  
  mentioned in this article   
refers to the national standards and industry standards formulated in accordance with the provisions of the Standardization Law and relevant administrative regulations to ensure the safety of construction projects. The Standardization Law stipulates that standards shall be formulated for the technical requirements related to the safety of construction projects (Article 2 of the Standardization Law); at the same time, it is stipulated that "national standards shall be formulated for technical requirements that need to be unified nationwide, and national standards shall be formulated by the competent administrative department for standardization under the State Council." Industry standards can be formulated for technical requirements that do not have national standards and need to be unified within a certain industry across the country. The industry standard shall be formulated by the relevant industry competent department of the State Council and reported to the competent administrative department of standardization under the State Council for the record, and the industry standard shall be abolished after the national standard is promulgated. (Article 6 of the Standardization Law) The law also stipulates: "National standards and industry standards are divided into mandatory standards and recommended standards." The standards for protecting human health, personal and property safety and the standards for compulsory enforcement stipulated by laws and administrative regulations are mandatory standards", "Mandatory standards must be implemented." (Articles 7 and 14 of the Standardization Law) And the national standards for the safety of construction projects referred to in this article are, of course, standards related to the protection of personal and property safety, and are mandatory standards. All units and personnel engaged in construction activities must handle affairs in accordance with the law, ensure the quality of their survey, design and construction in the survey, design and construction of construction projects, and meet the requirements of the relevant national safety standards for construction projects.   As for the implementation of specific management measures for ensuring that the quality of projects conforms to the relevant national construction safety standards in construction activities, this article authorizes the State Council to make provisions.   3. In accordance with the provisions of this Article, when the national standards for the safety of construction projects cannot meet the requirements for ensuring construction safety, they shall be revised in a timely manner. With the continuous development of science and technology, some new technologies, new processes and new building materials will continue to be applied to construction activities. The national standards and industry standards related to the safety of construction projects should also reflect the requirements of the development of science and technology in a timely manner. If the existing relevant national standards and industry standards can no longer meet the requirements of ensuring building safety due to changes in the situation, they shall be revised in a timely manner in accordance with statutory procedures to meet the requirements for ensuring the safety of construction projects. Article   53 The  State implements a quality system certification system for units engaged in construction activities. Units engaged in construction activities may, on the basis of the principle of voluntariness, apply for quality system certification from the product quality supervision and management department under the State Council or to a certification body recognized by the department authorized by the product quality supervision and management department under the State Council. After passing the certification, the certification body will issue a quality system certification certificate.   
  【Interpretation】This article is about the provisions of the state to implement the quality system certification system for units engaged in construction activities.   First, the so-called "  
quality system  
" refers to the organic whole composed of management, technology and other measures taken by enterprises to ensure their product quality, that is, the quality assurance system of enterprises. The quality system of the enterprise not only includes the organizational structure, rules and regulations of the enterprise quality management management software, but also includes resources (  
including talents  
 resources), expertise, design techniques, equipment, and hardware such as computer systems. Quality system certification refers to the quality system of the enterprise according to the international general quality management and quality assurance series standards, the nationally recognized quality system certification body to audit the quality system of the enterprise, for those that meet the specified conditions and requirements, through the issuance of the enterprise quality system certification certificate, to prove that the quality assurance ability of the enterprise meets the corresponding requirements. The object of quality system certification is enterprises. The process of certification is to scientifically evaluate the overall level of the quality system to prove whether the quality assurance ability of the enterprise meets the requirements of the corresponding standards. The quality system certification is based on international quality management standards. We have adopted and translated this international standard into our national standard. Therefore, the basis for quality system certification is "quality management and quality assurance" Series standards. The purpose of enterprise quality system certification is to enable enterprises to provide users with reliable quality reputation and quality guarantee. In the contractual environment, the enterprise quality system certification is to meet the demand side quality assurance requirements; in the non-contract environment, the quality system certification is to enhance the market competitiveness of the enterprise, improve the quality management quality, implement the quality policy, and achieve the quality goals. The significance of the implementation of the enterprise quality system certification system is mainly that by carrying out the quality system certification work, it is conducive to promoting the enterprise to take effective measures in management and technology, and establish a reliable quality assurance system within the enterprise to ensure product quality; and for the enterprise itself, through the certification of the quality system certification body, it means that the quality assurance ability of the enterprise has been recognized by the relevant authoritative institutions, which can improve the quality reputation of the enterprise, expand the visibility of the enterprise, and enhance the competitive advantage of the enterprise.   Building products are a special product, and the implementation of the quality system certification system for units engaged in construction activities is also very beneficial to improving the quality of building products. Under the conditions of practicing the socialist market economy, if the units engaged in construction activities want to make themselves invincible in the fierce market competition, an important aspect is that they must strengthen the quality management of enterprises and improve their quality assurance capabilities. In recent years, the enterprise quality system certification activities in the construction industry has gradually unfolded, but due to the late start of China's work in this regard, this activity that is beneficial to the society and the enterprise has not been generally recognized, so it is necessary for the state to vigorously promote the quality system certification system in the units engaged in construction activities.   2. Units engaged in construction activities may, on the basis of the principle of voluntariness, apply for quality system certification from the product quality supervision and management department under the State Council or to a certification body recognized by the department authorized by the product quality supervision and management department under the State Council. This provision contains the following meanings: (l) The subject applying for quality system certification is the unit engaged in construction activities. The so-called units engaged in construction activities refer to construction enterprises, architectural survey units, architectural design units and project supervision units in accordance with the provisions of this Law. (2) Quality system certification is voluntarily applied for by the unit engaged in construction activities. In accordance with the provisions of this article, the quality system certification must adhere to the principle of voluntary application. In other words, whether the unit engaged in construction activities applies for certification is decided by the unit engaged in construction activities. For enterprises, as long as enterprises recognize the necessity and role of quality system certification, and have the specified conditions, they will usually actively apply for quality system certification. The principle of voluntary application for certification is the autonomy and choice given to enterprises by law, and no department or organization may violate the voluntary principles prescribed by law to force enterprises to apply for certification. (  
3  
) To apply for quality system certification, it shall apply to the certification body recognized by the product quality supervision and management department under the State Council or the department authorized by the product quality supervision and management department under the State Council. The product quality supervision and management department under the State Council, the State Bureau of Technical Supervision, implements unified management over the certification of enterprise quality systems throughout the country. The certification body that undertakes the specific work of quality system certification must be recognized by the State Bureau of Technical Supervision, or recognized by the department authorized by the State Bureau of Technical Supervision, in order to have the qualification to carry out the quality system certification work. Units engaged in construction activities may, on the basis of the principle of voluntariness, apply for quality system certification from a certification body recognized by the State Bureau of Technical Supervision, and may also apply for certification from a certification body recognized by a department authorized by the State Bureau of Technical Supervision. (4) The unit engaged in construction activities applies for quality system certification to the certification body provided for in this article, and after receiving the application, the relevant certification body shall seriously and timely conduct a review, evaluate the quality system status of the applicant unit, and make a conclusion on whether it meets the requirements of the standard for its quality assurance ability. (5) After reviewing the unit applying for certification in accordance with the prescribed certification procedures, if it is deemed qualified, the certification body will issue a quality system certification certificate to the unit. To prove that the quality system of the enterprise meets the requirements of the corresponding standards and technical specifications.   Article 54 A  construction unit shall not, for any reason, require the architectural design unit or the construction enterprise to violate laws, administrative regulations and construction project quality and safety standards in the course of engineering design or construction operations, and reduce the quality of the project.   Architectural design units and construction enterprises shall reject the construction unit's request to reduce the quality of the project in violation of the provisions of the preceding paragraph.   【Interpretation】This article is about the provisions that the construction unit shall not illegally request the architectural design unit or the construction enterprise to reduce the quality of the project, and the design unit and the construction enterprise shall refuse the illegal requirements of the construction unit.   1. Construction unit refers to the investor of the construction project (including the unit that uses the funds allocated by the State to invest in the construction of the project), that is, the owner of the construction project.   For each specific construction project, due to its different uses, the required use functions and grades are different, and the quality requirements will of course be different. For example, the same is a civil residence, ordinary unit-type houses and luxury villas, compared with luxury villas, there is a big difference in quality grade. The construction project is invested and constructed by the construction unit, and the construction unit of course has the right to put forward the specific quality requirements for the construction project according to the factors such as the use function, grade and project cost of the project, and makes a clear agreement in the contract with the design unit and the construction enterprise that contracts the construction project.   
  However, the construction projects referred to in this Law, that is, the construction projects of various types of houses, are places for people's production and living use, and their quality conditions must be able to fully meet the basic requirements for ensuring the safety of people and property; at the same time, as a housing construction project, it must meet the quality requirements of its basic use functions. For example, for civil housing, the roof must not have leakage, the water and sewage pipes should be unobstructed, the ground should be flat, etc., all of which belong to the quality requirements of meeting the basic use functions of the residence. As far as each construction project is concerned, the construction unit can of course put forward specific requirements on different quality grades, but its basic quality status should ensure the safety of the construction project and meet the requirements of its basic use function. The "  
shall not violate laws, administrative regulations and construction project quality and safety standards, and reduce the quality of the project  
"  
  stipulated in this article   
means that the provisions of laws and administrative regulations on ensuring the safety and basic performance of construction projects shall not be violated, as well as the provisions of the Standardization Law on ensuring the quality of construction projects. The provisions of mandatory national standards and industry standards for safety reduce the basic quality requirements of construction projects.   Second, the provisions of laws and administrative regulations on the quality requirements of construction projects and the provisions of mandatory standards for the quality and safety of construction projects are the most basic quality requirements that should be met by construction projects, and construction projects that do not meet these quality requirements will not have the safety and reliability and basic performance they should have, and the construction unit shall not require architectural design units and construction enterprises to violate the above provisions and reduce the quality of the project in engineering design or construction operations for any reason. "Not for any reason  
"  
  is spoken of here , is targeted. In practice, some construction units require design units to reduce design standards in violation of regulations or require construction enterprises to reduce construction quality on the grounds of insufficient construction funds, on the grounds of saving investment; some construction units require design units and construction enterprises to reduce quality requirements on the grounds that the construction period is tight and need to be shortened. These practices are extremely harmful to ensuring the quality and safety of construction projects. Accordingly, this Law expressly prohibits it.   3. In accordance with the provisions of the second paragraph of this Article, the construction design unit and the construction enterprise of the contracted project shall refuse the request of the construction unit to reduce the quality of the project in violation of laws, administrative regulations and the quality and safety standards of the construction project, so as to ensure the basic quality and safety of the construction project.   Article 55 Where a  
  general contracting project is carried out, the general contracting unit shall be responsible for the quality of the project, and if the general contracting unit subcontracts the construction project to other units, it shall bear joint and several liability for the quality of the subcontracted project and the subcontracting unit. The subcontracting unit shall accept the quality management of the general contracting unit.   
  【Interpretation】This article is about the quality responsibility of the general contracting unit and the subcontracting unit of the construction project.   1. In accordance with the provisions of Articles 24 and 29 of this Law, the contracting unit for construction projects may issue contracts for survey, design, construction and equipment procurement to a general contracting unit, and may also award one or more contracts for the survey, design, construction and equipment procurement of construction projects to a general contracting unit. In accordance with the provisions of the general contracting contract or with the approval of the construction unit, the general contracting unit may subcontract some of the engineering projects within the scope of its general contracting, conclude subcontracting contracts with other units with corresponding qualifications and conditions, and hand over this part of the project to the subcontracting unit for completion. In this form of contracting that combines general contracting and subcontracting, the general contractor shall be responsible for the quality of all the engineering tasks under the general contracting contract, and even if the general contracting unit subcontracts some of the engineering tasks within the scope of the general contracting contract to others in accordance with the provisions of the general contracting contract or with the approval of the construction unit, the general contracting unit shall also be responsible for the quality of the subcontracted engineering tasks.   Second, for the quality of the subcontracted project, the general contracting unit and the subcontracting unit are responsible. In accordance with the provisions of this article, the quality liability between the general contracting unit and the subcontracting unit for the subcontracted project is joint and several liability. That is to say, for the quality problems arising from the subcontracted project, the construction unit or other injured persons may either demand that the general contracting unit bear responsibility, or directly require the subcontracting unit to bear the responsibility, and the general contracting unit and the subcontracting unit shall bear full responsibility and shall not prevaricate. Of course, for the project quality problems caused by the reasons belonging to the subcontractor, the general contracting unit, after assuming responsibility to others, can recover compensation from the subcontractor according to the provisions of the subcontract.   3. In accordance with the provisions of this Article, if the general contracting unit subcontracts the construction project to other units, the subcontracting unit shall accept the quality management of the general contracting unit. The EPC shall be liable for the quality of all engineering tasks under the EPC contract, including the quality of the subcontracted project, and of course have the right to implement quality management for the subcontracted project. The general contracting unit shall, on the basis of carefully selecting the subcontractor, strengthen the quality management of the subcontracted project by dispatching management and supervision personnel to the subcontracting project, providing guidance, supervision, and regular inspection of the quality of the subcontracting unit; Article   
  56 The  survey and design unit of a construction project shall be responsible for the quality of its survey and design. The survey and design documents shall comply with the provisions of relevant laws and administrative regulations and the quality and safety standards of construction projects, the technical specifications for construction engineering surveys and designs, and the provisions of contracts. The building materials, building components and equipment selected in the design documents shall indicate their specifications, models, performance and other technical indicators, and their quality requirements must meet the standards stipulated by the state.   
  【Interpretation】This article is about the quality responsibility of the construction project survey and design unit.   First, the survey of construction projects is responsible for providing accurate geological data for the construction of the project; the design of the construction project directly provides the technical basis for the construction of the project. The quality of construction engineering survey and design is the basis for determining the quality of the entire construction project, if there is a problem with the quality of the survey and design, the quality of the entire construction project is not guaranteed. In practice, it is not uncommon for construction projects to learn from major accidents caused by inaccuracies in survey data and design errors. This article stipulates that the survey and design units of construction projects must be responsible for the quality of their survey and design, that is, they require the survey and design units to do a good job in the survey and design of the construction project with an attitude of being highly responsible for the quality and safety of the construction project, strengthen the quality control of the survey and design process, improve the quality assurance system, and ensure that the quality of the survey and design work is foolproof. If there is a problem due to the quality of the survey and design, which affects the quality of the project, the survey and design unit should bear the responsibility for quality, including the liability for compensation for the losses caused thereby, not just the problem of compensating the cost of the survey and design.   
  Two. In accordance with the provisions of this article, the documents for the survey and design of construction projects shall meet the following requirements:  
  
    
 Comply with the provisions of relevant laws and administrative regulations. Compliance with laws and administrative regulations mentioned here includes compliance with the provisions of this Law, as well as compliance with the provisions of the Urban Planning Law, the Land Management Law, the Environmental Protection Law, and other relevant laws and administrative regulations.   
         2． Meet the quality and safety standards of construction projects. The quality and safety standards of construction projects mentioned here mainly refer to the mandatory national standards and industry standards formulated in accordance with the Standardization Law and related administrative regulations to ensure the quality and safety of construction projects.   
  
         3  
． Comply with the technical specifications of construction engineering survey and design. The technical specifications for the survey and design of construction projects are usually formulated and issued in the form of standards. For the mandatory standards related to the survey and design specifications of construction projects, the survey and design units must follow and implement them. The survey documents of the construction project shall reflect the engineering geology, topography and hydrogeology, conform to the norms and regulations, and ensure that the survey plan is reasonable, the evaluation is accurate, and the data is reliable. The depth of the architectural engineering design documents should meet the technical requirements of the corresponding design stage, the construction drawings should be matched, the details should be clearly explained, and the annotations should be clear and complete.   
  
         4  
． Comply with the provisions of the contract. Survey and design documents shall also comply with the special quality requirements agreed in the survey and design contracts, provided that they comply with the provisions of laws and administrative regulations and relevant quality and safety standards. If the survey and design documents do not meet the quality requirements stipulated in the contract, the survey and design unit shall bear the liability for breach of contract, so if the construction project quality accident is caused, of course, the survey and design unit shall also be responsible.   
  3. In accordance with the provisions of this article, the design unit shall: (1) indicate the specifications of the selected building materials, building components and equipment selected for the design documents; (2) indicate the model of the selected building materials, building components and equipment, that is, indicate the type number and style of the materials, structural accessories and equipment ;(3) Indicate the performance of the selected building materials, building components and equipment, that is, indicate the characteristics and functions of building materials, structural accessories and equipment. In addition, other relevant technical indicators should be indicated as needed, such as the color and luster of building materials. (4) The quality requirements of the selected building materials, building components and equipment must comply with the relevant mandatory national standards and industry standards. Article   57 The  
  architectural design unit shall not designate a production plant or supplier for the building materials, building components and equipment selected in the design documents.   【Interpretation】This article is about the provisions of the architectural design unit shall not specify the production plant and supplier of building materials, building components and equipment selected in the design documents.   First, in order to ensure that the construction project meets the design requirements in terms of quality, the architectural design unit often needs to put forward corresponding requirements for the building materials, building components and equipment that should be used in the construction project, and indicate in its design documents the specifications, models, performance and other technical indicators of the building materials, building components and related equipment that should be used in the project. Article 56 of this Law has made clear provisions in this regard. For the building materials, building components and equipment specified in the design documents by the architectural design unit, the construction unit or construction enterprise of the project shall purchase in strict accordance with the technical and quality requirements such as specifications, models, performance and other specifications specified in the design documents, and use them in the project and shall not change them without authorization.   Second, the architectural design unit may put forward the requirements for the selection of building materials, building components and equipment in the design documents, but this selection requirement can only be the requirements for the quality and technical indicators of the building materials, building components and equipment used in the project in terms of specifications, models, performance and so on. In accordance with the provisions of this article, the architectural design unit shall not designate a production plant or supplier for the building materials, building structure accessories and equipment selected in the design documents, that is, the architectural design unit shall not designate the construction project to use building materials, building structure accessories and equipment produced or supplied by a certain production plant or supplier. The significance of   this law in providing for this issue is that: (1) it is conducive to the protection and promotion of legal competition in the market for the production and supply of building materials, building components and equipment. Competition is the most essential feature of the market economy  
, and protecting and promoting market competition that meets the requirements of establishing a socialist market economy is the principle to be followed in formulating legislation on the socialist market economy. It is stipulated that the architectural design unit shall not designate a production plant or supplier for the building materials, building structure accessories and equipment selected for the design, but the construction unit or the construction unit shall purchase the building materials, building structure accessories and equipment that meet the requirements by conducting multiple comparative purchases in the market, or using the method of bidding and procurement, which is conducive to competition among the production plants and suppliers of various building materials and building structure accessories and equipment. (2  
) It is conducive to saving investment in engineering construction and improving investment efficiency. It is forbidden for architectural design units to designate production plants and suppliers for building materials, building components and equipment used in the project, which is conducive to the construction unit or construction unit comparing the building materials, building structure accessories and equipment provided by the market from the aspects of quality and price, and selecting high-quality and inexpensive products that meet the design requirements for engineering construction and improving investment efficiency. (  
3  
) It is conducive to preventing corruption. The reality shows that the reason why some architectural design units designate production plants and suppliers for building materials, building components and equipment used in the project is often to obtain returns from the designated production plants and suppliers and obtain improper benefits, which is one of the reasons for corruption. Prohibiting building design units from designating manufacturers and suppliers of building materials, building components and equipment helps to plug this root cause of corruption. 3. The   
"production plant or supplier shall not be designated"  as provided for in this Article includes not only the name of the manufacturer or supplier whose building materials, building components and equipment shall not be directly designated, but also the name of the production plant or supplier shall not be indirectly designated in the form of a trademark brand for the designation of building materials, building components and equipment.   Article 58 Construction  enterprises shall be responsible for the construction quality of the project.   Construction enterprises must follow the engineering design drawings and construction technical standards, and must not cut corners. The original design unit shall be responsible for the revision of the engineering design, and the construction enterprise shall not modify the engineering design without authorization.   【Interpretation】This article is about the quality responsibility of construction enterprises for construction projects.   1. Paragraph 1 of this Article stipulates that the construction enterprise shall be responsible for the construction quality of the project. The   
"construction quality" mentioned here includes both the quality of various civil works in the construction project and the installation quality of the lines, pipelines and equipment supporting them.   The construction activity of the construction project is the construction activity that finally forms the building entity through the construction work according to the requirements of the design documents and drawings of the project. In the case that there is no problem with the quality of the survey and design of the construction project, the quality of the entire construction project ultimately depends on the construction quality of the project. From a practical point of view, many quality problems of construction projects occur in the construction stage of construction projects, and small construction quality problems, such as roof leakage, wall cracking, uneven ground, pipeline blockage, etc., bring great trouble to users. Large quality problems will lead to vicious accidents of human casualties and major property losses. Therefore, construction enterprises must be responsible for the interests of users, responsible for the safety of the life and property of the state and the people, strictly control the quality of engineering construction, do a good job in the quality control and management of engineering construction, and strictly follow the engineering design documents and technical standards for construction. All quality problems caused by engineering construction, including not according to the engineering design drawings, not in accordance with the requirements of construction technical standards, the use of unqualified building materials, building components and equipment in the construction, etc., must be borne by the construction enterprise. In accordance with the provisions of this Law, these liabilities include civil liability for the repair and compensation of losses caused by the construction enterprises for the quality problems existing in the project; the administrative liability of the relevant administrative organs for administrative penalties imposed on the construction enterprises that have violated the law; and the criminal liability pursued by the judicial organs in accordance with the provisions of the Criminal Law for causing major quality accidents and constituting crimes.   
  2. In accordance with the provisions of the second paragraph of this Article, to ensure the construction quality of the project, the construction enterprise must strictly follow the engineering design drawings and construction technical standards, and must not cut corners.   
         1  
． Engineering design drawings are the final results of the design work made by the architectural design unit according to the requirements of the project in terms of function and quality, and the construction drawings are detailed drawings and descriptions of the size, layout, selection of materials, structure, interrelationships, construction and installation quality requirements of buildings, equipment, pipelines and other engineering objects, which are the direct basis for guiding construction. The construction activities of the construction project, including the construction of civil engineering, the construction of water supply and drainage systems, the construction of heating and heating systems, the construction of electrical lighting systems, etc., must be carried out in accordance with the requirements of the corresponding construction drawings.   
         2  
． In addition to the construction of the construction enterprise must be carried out in strict accordance with the engineering design drawings, the construction must also be carried out in accordance with the requirements of the technical standards for the construction of the construction project. Construction technical standards include provisions on the construction preparation of each construction, the construction operation process and the quality requirements to be met. It is the technical basis for construction workers to carry out each construction operation. The operators of the construction enterprise must carry out the construction in accordance with the provisions of the construction technical standards.   
  
         3． Construction enterprises must not cut corners. The so-called "cutting corners"   
refers to the act of not carrying out construction operations in accordance with the construction process specified in the construction technical standards and reducing the workload without authorization. For example, in accordance with the provisions of the relevant construction technical standards, the construction of the cement mortar ground should be cleaned according to the grass-roots level, sprinkled with water on the day before construction, calendered three times after the cement mortar was laid, and not less than   
15 after 24 hours of sawdust Day of maintenance, etc. If the construction enterprise does not carry out construction in accordance with the operation process requirements of the construction operation project, reducing the workload that should be carried out (for example, not cleaning and sprinkling water and wetting at the grass-roots level according to regulations, reducing the number of calendering, shortening the maintenance time, etc.), it is a cut-off behavior, and the construction enterprise should bear full responsibility for the quality problems such as sand, empty drum and crack on the cement mortar ground caused by cutting corners. The so-called "material reduction" refers to the violation of the provisions of design documents and construction technical standards in the construction of the project, and the unauthorized reduction of the quantity of construction materials and the reduction of the quality of materials. For example, in reinforced concrete construction, reduce the amount of reinforcement used, reduce the amount of cement used, reduce cement marking, and other behaviors.   From the perspective of reality, cutting corners in engineering construction is an important reason for the common quality of construction projects and even major quality accidents. This article clearly stipulates that cutting corners in construction is prohibited, and in the chapter on legal liability, it stipulates clear legal liability for cutting corners in construction, which is a targeted and important measure to ensure the quality of construction projects.   3. Paragraph 2 of this Article also stipulates that the modification of the architectural design shall be the responsibility of the original design unit, and the construction enterprise shall not modify the engineering design without authorization. Architectural engineering design is made by the design unit with the corresponding architectural design qualification conditions, according to the requirements of the project and in accordance with the relevant design technical specifications technical documentation. According to the provisions of Article 56 of this Law, the design unit shall bear full responsibility for the quality of the engineering design, and the construction enterprise shall not have the right to modify the design without authorization. If the construction enterprise believes that there is a problem with the quality of the engineering design during the construction process, or the technical conditions of the construction cannot meet the design requirements, and there are other legitimate reasons for requesting the modification of the design, it shall propose to the construction unit or the design unit, if it is really necessary to modify the design, it shall be approved by the construction unit, and the original design unit shall make the necessary modifications.   Article 59  Construction enterprises shall inspect building materials, building components and equipment in accordance with the engineering design requirements, construction technical standards and contracts, and shall not use those that are unqualified.   【Interpretation】This article is about the provisions of construction enterprises to inspect building materials, etc. in accordance with requirements.   First, the quality of building materials, building components and equipment used in construction projects is the basis for the quality of the entire construction project. The building materials, building components and equipment used in the project are not qualified, and the quality of the construction project cannot meet the requirements. Therefore, construction enterprises must inspect building materials, building components and equipment in accordance with the relevant technical requirements in accordance with the provisions of this article, and those that are unqualified shall not be used.   2. In accordance with the provisions of this Article, the construction enterprise shall inspect the building materials, building components and equipment in accordance with the requirements of the following three aspects:  
  Inspections must be carried out in accordance with engineering requirements. That is, the building materials must be inspected in accordance with the technical requirements of building materials, building components and equipment specified in the design documents, such as specifications, models, performance, etc., and the construction enterprises shall not use the building materials, building components and equipment that do not meet the technical requirements specified in the design documents.   
  
         2  
． Inspections must be carried out in accordance with the relevant technical standards for construction. In the technical standards of various construction operations, the quality requirements of building materials, building structure accessories, etc. used in construction are stipulated, and the construction enterprise must conduct inspections in accordance with the provisions of the relevant construction technical standards, and shall not be used if they do not meet the construction technical standards.   
         3  
． The inspection must be carried out in accordance with the technical requirements agreed in the contract for construction projects. If there is a clear agreement in the construction project contracting contract on the quality requirements of the building materials, building components and equipment used in the project, the construction enterprise must conduct inspections in accordance with the technical requirements agreed in the contract, and if it does not meet the requirements of the contract, it shall not be used.   Third, when inspecting the quality of building materials, building components and equipment used in the construction of the project in accordance with the provisions of this article, the construction enterprise shall also use the correct inspection method in accordance with the relevant provisions, mainly including: (1  
) the sampling and testing methods shall comply with the "Building Material Quality Standards and Management Regulations", and shall reflect the quality performance of the batch of building materials. For important components or non-homogeneous materials, the number of samples should also be increased as appropriate; (  
2  
) all materials used for important structures and parts must be carefully checked during inspection to confirm whether there are errors in the variety, specifications, models, and performance of the materials, and whether they are suitable for engineering characteristics and meet the design requirements; (3) materials that need to be prepared on site, such as concrete, mortar, waterproof materials, and anti-corrosion materials The mix ratio of insulation materials, insulation materials, etc., should first put forward the requirements for trial matching, and can only be used after passing the test and inspection. (4) High-voltage cables, voltage insulation materials, etc. should be tested for withstand voltage. (5) It should be inspected in strict accordance with the quality standards of building materials, building components and equipment, and items should not be missed. (6) The inspection shall be carried out according to the different circumstances of the inspection object, and the appearance inspection, physical and chemical inspection, non-destructive testing and other methods shall be adopted according to the regulations.   
  4. This article clearly stipulates the quality inspection obligation of building enterprises for building materials, building structure accessories and equipment used in the project, and construction enterprises must strictly perform this obligation. If a construction enterprise does not perform its obligations under this article and uses unqualified building materials, building components and equipment in construction, the construction enterprise shall bear legal responsibility in accordance with law. Construction enterprises cannot shirk their responsibilities on the grounds that the production plants of building materials, building components and equipment, and suppliers have produced and supplied unqualified products. As for the production and supply of unqualified building materials, building components and equipment production plants and suppliers, they should be investigated for legal liability in accordance with the provisions of the Product Quality Law, but this does not exempt construction enterprises from the legal liability to be borne in accordance with the provisions of this Law.   Article 60  Within the reasonable service life of a building, the quality of the foundation works and the main structure must be ensured.   When the construction project is completed, the roof and wall shall not leave quality defects such as leakage and cracking; the construction enterprise shall repair the quality defects that have been discovered.   【Interpretation】This article is about the provisions that the quality of the foundation works and the main structure must be ensured within the reasonable service life of the building, and there must be no quality defects when the project is completed.   First, the quality of the foundation and main structure of the building is related to the safety and security of the entire building. If there is a quality problem with the foundation or the main structure, the building will not be safe to use. In practice, accidents of personal injury, death or major property damage caused by the unqualified quality of the foundation or main structure of buildings are not uncommon. For example, on July  12, 1997,   a five-storey residential building collapsed in Changshan County, Zhejiang Province, because the quality of the foundation part of the building was poor, the backfilling of the inner side of the foundation was not carried out according to the requirements of ensuring safety during the construction, and the quality of the bricks and masonry mortar used in the foundation brick wall was seriously unqualified. Only 3 years after delivery and use, the brick wall of the foundation was soaked in water and shattered damage occurred, causing the entire building to collapse into a pile of ruins in a few seconds, resulting in a major accident in which 36   
people died and   
3 people were seriously injured. The lesson of blood tells us that the foundation and main structure of the building must not have any quality hazards. To this end, this article clearly   
stipulates that the quality of the foundation works and the main structure of the building must be ensured within a reasonable service life.   
  Second, building products and general products are different, once the building is built, it will generally be used for a long time, which requires that during the reasonable service life of the building, there can be no quality problems that endanger the safety of use, otherwise it will pose a threat to personal safety. To this end, it is necessary to make reasonable provisions for the period during which producers of construction products (including survey units, design units, construction enterprises and project supervision units of construction projects) bear responsibility for the quality of their construction   
products. The period of liability for damages for defects in the quality of the products and the producers of general products shall not exceed 10 years from the time when the products are delivered to the original user (the second paragraph of Article 33 of the Product Quality Law stipulates: "The right to claim compensation for damages caused by defective products shall be completed after the defective products caused by the defective products are delivered to the original users and consumers." 10 years of loss, except where the stated safe period of use has not been exceeded. ") Differently, in accordance with the provisions of this Article, the period during which the producer of a building product bears responsibility for the quality of the foundation works and the main structure directly related to the safety of the use of the building shall be the entire reasonable service life of the building. As for what is the "reasonable service life" of a building, this law does not provide for it, and it is difficult to make specific provisions in the law, which needs to be made by the relevant technical departments according to the different circumstances of various types of buildings, such as the structure of the building, the function of use, the natural environment in which it is located, etc   
Judgment. In the "General Principles for the Design of Civil Buildings (Trial)" formulated by the relevant competent departments of the State Council, the building durability period determined according to the main structure of civil buildings is divided into four levels: the first-level durability period is more than 100 years, which is suitable for important buildings and high-rise buildings (refers to residential buildings with more than 10 floors and a total height exceeding Public buildings and comprehensive buildings); The second level durability period is 50 to 100 years, which is suitable for general buildings; the third level durability period is 25 to 50 years, which is suitable for secondary buildings; and the fourth level durability period is 15 Years old, applicable to temporary buildings. That is to say, in addition to temporary buildings, the minimum reasonable service life of civil buildings should be more than 25 years, during which it is necessary to ensure that the foundation and main works of the building do not have quality problems that affect the safe use of the building. During the reasonable service life of the building, if a safety accident is caused by the quality of the foundation engineering or the main structure, the relevant responsible person shall bear the corresponding legal responsibility in accordance with law.   In order to ensure the quality of the foundation works and main structure of buildings, the survey units, design units, construction enterprises and project supervision units of construction projects shall conscientiously perform their respective quality assurance obligations in accordance with the relevant provisions of this Law. The construction survey unit shall provide accurate relevant engineering geological data for the construction project; the design unit shall design in accordance with the provisions of the laws, regulations and design technical specifications on ensuring the safety of the project to ensure the safety of the construction project; the design of the foundation foundation and the main structure of the construction project shall be safe and reliable; the engineering construction enterprise shall carry out the construction of the foundation foundation and the main structure in strict accordance with the engineering design and construction technical standards, shall not use unqualified building materials, and shall not cut corners; the project supervision unit must follow the relevant laws, Administrative regulations and relevant technical standards, design documents and construction contracting contracts shall supervise the quality of the foundation and main structure of construction projects. If any party fails to perform the statutory obligation to ensure quality, resulting in quality problems in the foundation works or main structure of the building, it shall be investigated for legal responsibility in accordance with law.   3. Paragraph 2 of this Article stipulates that when a construction project is completed, the roof and wall of the building shall not be left with quality defects such as leakage and cracking; the construction enterprise shall repair the quality defects that have been discovered. This is in response to the large number of quality problems currently existing in the construction of houses. For a period of time, many newly built houses have many quality problems when they are delivered to users, such as roof leakage, empty drums and cracks in the ground and walls, blockage of water and sewage pipes, deformation of doors and windows, ineffective switches and so on. Originally, if there are these quality problems in the completed construction project, the construction enterprise should repair it, and before the repair is intact, it cannot be accepted as a qualified project and cannot be delivered to the user. However, some construction enterprises do not repair the quality defects in the completed projects and deliver them for completion acceptance, and some acceptance units do not accept according to the prescribed standards, resulting in the above quality problems becoming a common quality disease in housing construction, seriously damaging the interests of users, and the masses react strongly to this. In response to this issue, this article clearly stipulates that when the construction work is completed. There can be no quality defects left, and the construction enterprise should repair the quality defects that have been found, otherwise they cannot be delivered for use.   Article 61 The  construction project delivered for completion and acceptance must meet the prescribed quality standards of the construction project, have complete engineering technical and economic information and a signed project warranty, and have other completion conditions stipulated by the State.   After the completion experience of the construction project is qualified, it can be delivered for use; if there is no experience in acceptance or unqualified acceptance, it shall not be delivered for use. 24米  【Interpretation】This article is about the completion and acceptance system of construction projects.   1. The completion and acceptance of a construction project refers to the inspection and assessment of whether the construction project meets the design requirements and the project quality standards when the construction project has completed all the construction tasks in accordance with the design requirements and is ready to be delivered to the construction unit for use; the construction unit or the relevant competent department shall, in accordance with the provisions of the state on the completion and acceptance system of the construction project, carry out the inspection and assessment of whether the project meets the design requirements and the project quality standards. The completion and acceptance of the construction project is the last procedure in the whole process of project construction and the last important link in the implementation of project quality control. Conscientiously doing a good job in the completion and acceptance of construction projects is of great significance to ensuring the quality of construction projects.   2. In accordance with the provisions of this Article, the following conditions must be met for the delivery of a construction project for completion and acceptance:  
  It must meet the prescribed quality standards for construction works, and the "specified quality standards for construction works" mentioned here , including the mandatory national standards and industry standards formulated in accordance with the relevant provisions of laws and administrative regulations to ensure the quality and safety of construction projects, the special quality requirements for the construction project agreed in the construction project contracting contract, and the specific indicators and technical requirements for the quality of the project put forward in the engineering design documents to reflect the quality standards stipulated by laws and administrative regulations and the quality requirements stipulated in the construction project contracting contract. Only construction projects that fully meet the above quality standards and do not have quality defects can be accepted as qualified projects.   
         2． There are complete engineering and technical economic information. The "engineering technical and economic data  
" mentioned here   
should generally include the construction project contracting contract, the approval documents for the construction project land, the design drawings of the project and other relevant design documents, the factory inspection certificate and the entry inspection report of the main building materials used in the project, the building structure accessories and equipment, the report on the application for completion acceptance and the technical files related to the construction of the project.   
         3． There is a quality warranty for construction works. After the project is completed and delivered for use, the construction enterprise shall bear the warranty responsibility for the quality of the construction project it constructs within a certain period of time to safeguard the legitimate rights and interests of the user. To this end, the construction enterprise shall provide the construction project quality warranty certificate in accordance with the regulations, as a written certificate of its commitment to the user to assume the responsibility for quality warranty.   
  
         4.  Have other completion conditions stipulated by the state. For example, in accordance with the provisions of the competent administrative department for construction under the State Council, the comprehensive acceptance of the completion of urban residential quarters should also be done to ensure that all individual projects such as residential and public supporting facilities and municipal public infrastructure are accepted and the acceptance data is complete; the plane position, façade shape, decorative color, etc. of various types of buildings meet the approved planning and design requirements; construction tools, temporary projects, building debris, and remaining components are all dismantled and transported away to   
achieve the site clearance   
level Those with greening requirements have been completed according to the greening design, reaching the trees and grasses.   
  Construction projects must be accepted as completion before they can be delivered for use; construction projects that have not undergone completion acceptance or have been determined to be unqualified by completion acceptance shall not be delivered for use.   Article 62  
  A quality warranty system shall be implemented for construction projects.   The warranty scope of construction projects shall include foundation engineering, main structure engineering, roof waterproofing engineering and other projects, as well as the installation of electrical pipelines, water supply and sewage pipelines, heating, cooling system engineering and other projects; the warranty period shall be determined in accordance with the principle of ensuring the normal use of the building within the reasonable life expectancy of the building and safeguarding the legitimate rights and interests of users. The specific warranty scope and minimum warranty period shall be stipulated by the State Council.   【Interpretation】This article is about the provisions of the quality warranty system for construction projects.          1. The quality warranty system of construction projects refers to the system in which the construction enterprise bears the responsibility for repairing the quality defects found within a certain period of time after the construction project is delivered for use. Construction works, as a special durable consumer product, will be used for a long time once completed. The quality problems in the construction of construction projects, which are discovered at the time of completion and acceptance of the project, must be repaired in good condition before they can be delivered for use as qualified projects; some quality problems are not discovered at the time of completion and acceptance, and are gradually exposed within a certain period of time during the use process, and the construction enterprise should be responsible for free repair to safeguard the interests of users. At present, many houses have poor construction quality, leaving more quality hidden dangers. Some houses pass the completion acceptance, and many potential quality problems are revealed after a long or short period of time. Such as roof leakage, wall cracks or wall skin peeling, indoor floor empty drums, cracking, sand, water and sewer pipes, heating pipes leaking, blocking, heating is not hot, electrical failure, door and window switches do not work or gaps exceed the regulations, etc., these problems are quite common and serious, the masses react strongly. In order to clarify the quality responsibility of construction enterprises for the construction projects they are constructing and to safeguard the legitimate rights and interests of users, this article clearly stipulates that a quality warranty system is implemented for construction projects.   Second, in accordance with the provisions of this article, the scope of quality warranty for construction projects includes: (1) foundation works and main structural engineering. The quality of the foundation engineering and the main structure of the building is directly related to the safety of the building, these two projects are not allowed to have hidden dangers of quality, and once it is found that there are quality problems in the foundation engineering and the main structure of the building, it is difficult to solve it through restoration. The provisions on the implementation of a warranty system for foundation works and main structure works actually require construction enterprises to ensure the quality of foundation works and main structures. If the quality problems of the foundation works or main structural works found in use can be repaired through technical measures to ensure the safety of the building such as reinforcement, the construction enterprise shall be responsible for repairing; if it cannot be repaired, the building cannot be used anymore, and the relevant responsible person shall bear the liability for compensation according to law. (2) Roof waterproofing project. In view of the outstanding problem of roof leakage in the current housing construction project, this article lists the warranty problems of the roof waterproofing project separately. If there is a leakage of water on the roof or wall, the construction enterprise shall be responsible for the warranty; (3) other civil engineering works. Refers to civil works other than roof waterproofing works. Including ground and floor engineering, door and window engineering, etc. For example, the quality problems in civil engineering projects such as empty drums, cracking, sand raising, wall skin, surface tiles, paint and other decorative surfaces found in normal use, water leakage on the floor of toilets, kitchens and washrooms, and water leakage on the balcony should be within the scope of the quality warranty of the construction project, and the construction enterprise shall be responsible for repairing. (4) The installation of electrical pipelines and water supply and sewage pipelines, including the installation of electrical lines, switches and meters, the installation of electrical lighting appliances, the installation of water supply pipelines and drainage pipelines, etc. In the process of normal use of the building, if there is a leakage of electrical appliances and wires, the fall of lighting fixtures, the leakage and blockage of the water and sewage pipelines, etc., which belong to the quality problems of the installation project of the electrical pipeline and the water supply and sewage pipeline, the construction enterprise shall bear the warranty responsibility. (6) Heating and cooling system engineering, including the installation of heating equipment, central air-conditioning equipment, etc., the construction enterprise should also bear the warranty responsibility for its quality. (7) The scope of other items that should be warranted. This article does not enumerate all the scope of projects that should be borne by the construction enterprise for warranty liability, but uses the word "  
etc  
." to summarize, and authorizes the State Council to make provisions for the specific warranty scope  
. Therefore, for projects that are stipulated by the State Council and stipulated in the contract, the construction enterprise should be responsible for the warranty.   
  Third, about the determination of the warranty period. Taking into account the different circumstances of various types of construction projects, this Law does not make specific provisions on the warranty period for construction projects, but authorizes the State Council to make specific provisions on the minimum warranty period  
. This article clearly stipulates the principle of determining the warranty period for construction works. The determination of the specific duration of the building warranty shall follow the principles provided for in this article. These principles are:  
  
  1. Ensure the normal use of the building within the reasonable service life. The "fair use life of the building" referred to in this article , which has the same meaning as the fair use period mentioned in Article 60 of this Law. For quality defects that endanger the safe use of buildings within a reasonable service life, the construction enterprise shall be responsible for warranty. For example, in accordance with the provisions of Article 60 of this Law that the quality of the foundation works and the main structure of the foundation engineering and the main structure must be ensured within the reasonable service life of the building, the warranty liability period of the construction enterprise for the foundation engineering and the main structural engineering shall be extended to the reasonable life period of the building.   
         2． Safeguard the legitimate rights and interests of users. Building products are special products that are used for a long time with high investment, and the warranty period of construction projects should be adapted to the characteristics of building products and should not be too short. Otherwise, the construction products obtained by users with high investment will have quality problems in the short term and no one will be responsible, which is bound to harm the interests of users.   In accordance with the provisions of this article, the State Council shall make specific provisions on the minimum warranty period for construction projects in accordance with the above principles. It should be noted that the warranty period stipulated by the State Council belongs to the minimum warranty period, and the quality warranty period of the construction projects under construction enterprises cannot be lower than this period. The State encourages construction enterprises to increase the quality warranty period of their construction projects. At present, some construction enterprises have made their own provisions on the warranty period of construction projects, which have been greatly extended compared with the current provisions of the competent administrative departments for construction on the warranty period for project quality. For example, the warranty period of the construction project specified by the construction department at present, except for the roof waterproofing project of 3 years, the rest is 6 months to 1 year. Shijiazhuang Construction Group Company extended the warranty period for the entire construction project it undertakes to 10 years; Beijing Tongxian Songzhuang Construction Group Company extended the warranty period for the main structure of the construction project to   
20 to 40 years. The practice of these enterprises being responsible for the quality of the project and the responsibility of users is generally welcomed by the society.   Article 63  Any unit or individual has the right to report, accuse or complain to the competent administrative department for construction or other relevant departments about quality accidents or quality defects in construction projects.   【Interpretation】This article is about the right of any unit or individual to report, accuse and complain about the quality of construction projects.   First, the construction project quality accident mentioned here refers to the event of personal injury, death and economic loss caused by the unqualified quality of the construction project. The quality defect mentioned here refers to the situation that the project does not meet the relevant technical standards, design documents and quality requirements agreed in the contract of the country or industry.   Second, the quality of construction projects is directly related to the personal safety of the public, for the quality defects and quality accidents that occur in construction projects, any unit or individual has the right to report, accuse and complain to the competent administrative departments for construction at all levels or other relevant departments. This is conducive to forming social supervision over the quality of construction projects, and urging survey units, design units, construction enterprises and supervision units engaged in construction activities to strengthen quality management and ensure the quality and safety of construction projects.   3. In accordance with the provisions of this Law, any unit or individual has the right to report, accuse or complain to the competent administrative department for construction or other relevant departments about quality accidents and quality defects in construction projects. This is the form of supervision of the quality of construction projects by the whole society, and it is also the right granted by law to units and individuals. Any unit or individual who discovers a quality accident or quality defect in a construction project may make a complaint or complaint to the competent administrative department for construction; if it is found that the quality accident and quality defect of the construction project are caused by the responsibility of a certain unit or certain person, especially if it is related to serious irresponsibility, corruption, bribery or other illegal benefits, it may also report to the relevant departments, such as the supervision organs, procuratorial organs and other departments. The competent administrative departments for construction and relevant departments shall promptly handle them in accordance with law after receiving reports, accusations, or complaints from any unit or individual.   
   
    
   
   
 

This chapter deals with legal liability for violations of this Law. The so-called legal liability refers to the legal consequences that the parties should bear for violating their obligations stipulated by law. Its main features are: (1) legal liability is due to the violation of the mandatory norms of the law, the consequences of not performing the statutory obligations should be borne; (2) the legal liability is mandatory; (3). Legal liability is expressly provided for by law. Legal liability is divided into three types: civil liability, criminal liability and administrative liability. The so-called civil liability refers to the legal consequences that civil subjects should bear in accordance with civil legal norms due to damage to the legitimate rights and interests of others, or failure to perform civil obligations in accordance with legal provisions or contracts. The so-called administrative liability refers to the legal consequences that the parties must bear administratively due to the violation of laws, regulations or rules related to administrative management. The so-called criminal liability refers to the legal consequences that should be borne by committing acts that seriously endanger society and constitute a crime in accordance with the provisions of criminal law.   
  This chapter consists of seventeen articles, which stipulate the administrative and civil liability to be borne for the following illegal acts, and reiterate the need to pursue criminal liability in accordance with the law for the acts constituting crimes:  
  2. Construction without obtaining a construction permit or without approval in the commencement report in violation of the provisions of this Law (Article 64);  
  Where a contract-issuing unit awards a project to a contracting unit that does not have the corresponding qualification conditions, or dismembers and issues contracts for construction projects in violation of the provisions of this Law, and does not obtain a qualification certificate to contract a project or exceeds the qualification level of the unit, it obtains a qualification certificate by fraudulent means (Article 65).   
         3． 4. A construction enterprise transfers or lends a qualification certificate or otherwise allows others to contract a project in the name of the enterprise (Article 66);  
  5. The contracting unit subcontracts the contracted project or subcontracts in violation of the provisions of this Law (Article 67);  
  6. Soliciting, accepting or paying bribes in the process of contracting and contracting projects (Article 68);  
  The project supervision unit colludes with the construction unit or the construction enterprise to deceive, reduce the quality of the project, and transfer the project supervision business by the project supervision unit (  
 Article 69); 8. The decoration project involving the change of the main body of the building or the load-bearing structure is constructed without a design plan (Article 70);  
  Where a construction enterprise fails to take measures to eliminate the hidden dangers of construction safety accidents, the management personnel of the construction enterprise illegally direct or force workers to operate at risk, thereby causing major casualties or causing other serious consequences (Article 71);  
  The construction unit illegally requires the architectural design unit or the construction enterprise to violate the quality and safety standards of the construction project and reduce the quality of the project (Article 72);  
  The architectural design unit does not design in accordance with the quality and safety standards of the construction project (Article 73);  
  11. The construction enterprise cuts corners in the course of construction, uses unqualified building materials, building components and equipment, or has other acts of not following the engineering design drawings or construction technical standards (Article 74);  
  12 ． 13. A construction enterprise violates the provisions of this Law by not fulfilling its warranty obligations or delaying in performing its warranty obligations (Article 75);  
  14. Where the relevant competent department violates the provisions of this Law by issuing a qualification certificate of that level to a unit that does not possess the conditions for that level (Article 77);  
  15. The staff of the government and its subordinate departments violate the provisions of this Law by restricting the contracting unit from awarding contracts to the designated contracting unit for the projects tendered and contracted (Article 78);  
  The department responsible for issuing the construction permit for the construction project and its staff shall issue the construction permit for the construction project that does not meet the construction conditions; the department responsible for the supervision and inspection of the quality of the project or the acceptance of the completion and acceptance of the construction project and its staff shall issue quality qualification documents or accept the unqualified construction project according to the qualified project (Article 79).   
  Article 64 Whoever , in violation of the provisions of this Law, fails to obtain a construction permit or carries out construction without approval in the commencement report, shall be ordered to make corrections, and a fine may be imposed on the order to stop construction that does not meet the conditions for commencement of construction.   
  【Interpretation】This article stipulates the legal liability for unauthorized construction without obtaining a construction permit or without approval in the commencement report.   
  1. Article 7 of this Law stipulates that before the construction project starts, the construction unit shall, in accordance with the relevant provisions of the State, apply to the competent administrative department for construction of the people's government at or above the county level where the project is located to obtain a construction permit; however, except for small projects below the quota determined by the competent administrative department for construction under the State Council. Construction projects that approve the commencement report in accordance with the authority prescribed by the State shall no longer receive a construction permit. According to this provision, the construction of a construction project shall be carried out only after the approval of the construction permit or the commencement report, and the legal responsibility for violations of this provision of the law shall be pursued in accordance with the provisions of this article.   
  2. Where a construction project is constructed without permission, there are two actual situations: first, the project has already met the conditions for starting construction as provided for in Article 8 of this Law, but has not performed the formalities for approval of the start of construction in accordance with the provisions of Article 7 of this Law; second, the project does not have the conditions for starting construction provided for in Article 8 of this Law, nor does it perform the formalities for approval of the start of construction. In accordance with the provisions of this article, the unauthorized construction in violation of the provisions of the construction permit for construction works shall be dealt with according  
  to different circumstances: First of all, if anyone violates the provisions of this Law, fails to obtain a construction permit or carries out construction without approval in the commencement report, the relevant administrative department shall order him to make corrections in accordance with the provisions of this article, that is, require the construction unit to immediately complete the relevant approval procedures for obtaining a construction permit or a commencement report.   
         2． While ordering corrections, that is, requiring it to make up the formalities for the approval of the construction permit or the commencement report in accordance with the law, it is made according to whether the project has the statutory conditions for starting construction at the time of illegal start Different treatment: for those who meet the statutory conditions for starting construction after review, they are allowed to continue construction after completing the formalities; for those who do not meet the conditions for starting construction, they should be ordered to stop construction and may be fined. Fines are an economic punishment in administrative punishment, which is an economic sanction method for units or individuals who have committed general illegal acts, which is specifically manifested in ordering illegal units or individuals to pay a certain amount of money to the state free of charge in accordance with the law. The so-called "fine may be imposed" means that it can be fined or not, and whether to impose a fine is decided by the administrative law enforcement department provided for in this Law on the basis of the circumstances of the illegal act, the size of the impact and other specific circumstances.   Article 65 Where a  
  contracting unit awards a project to a contracting unit that does not have the corresponding qualifications and conditions, or dismembers and issues a contract for a construction project in violation of the provisions of this Law, it shall be ordered to make corrections and shall be fined.   Where a project is contracted beyond the qualification level of the unit, it shall be ordered to stop the illegal conduct, and a fine may be imposed, and may be ordered to suspend the business for rectification or lower the qualification level; if the circumstances are serious, the qualification certificate shall be revoked; if there are illegal gains, it shall be confiscated.   
  Those who have not obtained a qualification certificate to contract a project shall be banned and fined; if there are illegal gains, they shall be confiscated.   
  Where qualification certificates are obtained by fraudulent means, the qualification certificates are revoked and a fine is imposed; where a crime is constituted, criminal responsibility is to be pursued in accordance with law.   
  【Interpretation】There are four paragraphs in this article, which stipulate the corresponding legal liability for the contract issuing unit to the contracting unit that does not have the corresponding qualification conditions or dismembering the construction project, contracting construction projects beyond the qualification level, contracting projects without obtaining qualification certificates, and obtaining qualification certificates by fraudulent means.   
  I. Legal Liability of the Contracting Unit to Contracting Units That Do Not Have the Corresponding Qualifications  
  
  1. In accordance with the provisions of Article 22 of this Law, in the contracting of construction projects, the contracting unit must contract the construction project to the contracting unit with corresponding qualifications. The "corresponding qualification conditions" mentioned here means that the contracting unit has obtained a qualification certificate for engaging in construction activities in accordance with the provisions of Article 13 of this Law, and meets the conditions for contracting the contracting project according to the scope of licensing business of the qualification level specified in its qualification certificate. In the project contracting activities, whether it is to take bidding and contracting or direct contract issuance, the contracting unit shall review the qualification conditions of the contracting unit, and can only contract the project to the contracting unit with corresponding qualification conditions. Violations of this provision of the law shall be investigated for legal responsibility in accordance with the provisions of this article.   
         2． In accordance with the provisions of the first paragraph of this article, if the contract issuing unit awards a project to a contracting unit that does not have the corresponding qualifications and conditions, the relevant administrative law enforcement organ shall order it to make corrections and impose a fine. The "order to make corrections" mentioned here refers to the administrative law enforcement organ's request to the contract issuing unit to immediately correct its illegal contract issuance in the form of an administrative decision, to recover the project that has been contracted to the contracting unit that does not have the corresponding qualifications, and the signed construction project contract should be terminated as an invalid contract because of its illegality, and as for the handling of losses after the contract is terminated due to invalidity, it should be handled in accordance with the "" Article 61 of the General Principles of the Civil Law states that "after a civil act is confirmed to be invalid or revoked, the property acquired by the parties as a result of the act shall be returned to the party who suffered the loss." The party at fault shall compensate the other party for the losses suffered as a result, and if both parties are at fault, they shall each bear the corresponding responsibility." While ordering corrections to the contract-issuing unit, the administrative law enforcement organ shall also impose a fine on it. As for the amount of fines, this article does not make specific provisions, and the State Council shall formulate the detailed rules for the implementation of this law.   2. The legal liability of the contract issuing unit to dismember the construction project and issue the contract  
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 ． In accordance with the provisions of Article 24 of this Law, the implementation of general contracting for construction projects is advocated, and dismemberment and contracting of construction projects is prohibited. The general contracting of construction projects mentioned here includes the general contracting of all the work tasks of the construction project, and also includes the implementation of different forms of general contracting for the work tasks of each stage according to the survey, design, construction and other stages of the construction project. This Law advocates the implementation of general contracting for construction projects, and prohibits the contracting unit from dismembering the projects that should be contracted by one contracting unit as a whole according to its nature and technical links, and issuing contracts to several contracting units respectively. Violations of this provision of the law shall be investigated for legal responsibility in accordance with the first paragraph of this article.   
         2． In accordance with the provisions of the first paragraph of this article, where a contract issuing unit dismembers a construction project and issues a contract, the relevant administrative law enforcement organ shall order corrections and impose a fine. The so-called "order correction" means that the administrative law enforcement organ requires the contract issuing unit to immediately correct its illegal dismemberment of the construction project and the contract, and to recover the project that was dismembered and issued, and the contract issuing unit shall bear the corresponding responsibility for the losses caused thereby. In addition, the administrative law enforcement agencies must also impose fines on the contract issuing units.   THIRD, beyond the qualification level of the unit to contract the legal responsibility of the project  
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. In accordance with the provisions of this Law, surveying units, design units, construction enterprises and project supervision units engaged in construction activities must meet the statutory qualification conditions, pass the qualification examination, obtain the corresponding level of qualification certificates, and undertake the project within the scope permitted by their qualification level. It is forbidden to contract projects beyond the business scope permitted by the qualification level of the enterprise. The contracting unit shall be investigated for legal responsibility in accordance with the provisions of the second paragraph of this Article for its violation of the provisions of this Law and exceeding the business scope permitted by its lawfully approved qualification level.   
         2． In accordance with the provisions of the second paragraph of this Article, the following penalties shall be imposed on the contracting unit for contracting project business beyond the qualification level of the unit: (l) Order to stop the illegal act and impose a fine. The "order to stop illegal acts" mentioned here refers to the fact that the relevant administrative law enforcement organs order the relevant administrative law enforcement organs to immediately stop the illegal acts of contracting engineering business beyond the qualification level of the unit in the form of an administrative decision, and at the same time impose a fine on them. (2) It may be ordered to stop business for rectification and reduce the qualification level. After the illegal unit is ordered to stop the illegal act and impose a fine, if the circumstances of the illegal act are relatively minor and have little impact, they are allowed to continue to engage in construction activities that meet their qualification level, and no other punishments are given. For contracting units with serious illegal acts and chaotic management, the administrative law enforcement organs shall order them to stop their business activities for rectification for a period of time, and lower their qualification levels, and then engage in relevant construction activities according to their reduced qualification levels after rectification; they may also only give them the penalty of suspension of business for rectification, and not lower their qualification levels. (3) Where the circumstances are serious, the qualification certificate shall be revoked. The qualification certificate is the qualification certificate for building survey, design unit, construction enterprise and project supervision unit to engage in relevant construction activities. The revocation of the qualification certificate means that the person is disqualified from engaging in construction activities, so this is a severe administrative punishment measure, which is only imposed for serious violations. The "serious circumstances" mentioned here can generally include those who use relatively bad deceptive means to overstep the contract; those who exceed the multi-level sub-contract. It is a repeat offender; or the project it undertakes has serious quality problems, etc. Where the above-mentioned contracting units have illegal gains in contracting business beyond the qualification level, they shall be confiscated. The so-called "illegal income" in this paragraph refers to the income from the contracted project beyond the qualification level.   4. Legal liability for the conduct of architectural survey and design units, construction enterprises and project supervision units that have not obtained qualification certificates to contract projects          In accordance with the provisions of Article 13 of this Law, construction enterprises, survey units, design units and project supervision units engaged in construction activities shall be divided into different qualification levels in accordance with certain qualification conditions, and only after passing the qualification examination and obtaining the corresponding qualification level certificates can they engage in construction activities within the business scope permitted by their qualification levels. Whoever violates this provision of the law and undertakes a construction project without obtaining a qualification certificate shall be investigated for legal responsibility in accordance with law. According to the provisions of the third paragraph of this article, the relevant administrative law enforcement organs shall decide to ban and impose a fine on the acts of contracting projects that have not obtained qualification certificates in accordance with the law;   
  V. Legal Liability for Obtaining Qualification Certificates by Fraudulent Means The   
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qualification certificates obtained by fraudulent means  
"  as provided for in paragraph 4 of this Article Conduct refers to the conduct of construction enterprises, survey units, design units and project supervision units to deceive the qualification level management organs to obtain qualification certificates by concealing or falsely reporting the registered capital, professional and technical personnel, technical equipment and completed construction project performance. Where qualification certificates are obtained by deception, in accordance with the provisions of paragraph 4 of this article, the administrative law enforcement organs are to revoke the qualification certificates obtained by deception and impose a fine; Criminal responsibility is pursued by the judicial organs in accordance with the relevant provisions of the Criminal Law.   Article 66 Where a  construction enterprise transfers or lends a qualification certificate or otherwise allows others to contract a project in the name of the enterprise, it shall be ordered to make corrections, confiscate the illegal gains, and impose a fine, and may be ordered to suspend business for rectification and lower the qualification level; if the circumstances are serious, the qualification certificate shall be revoked. For the losses caused by the contracted project not meeting the prescribed quality standards, the construction enterprise and the unit or individual using the name of the enterprise shall bear joint and several liability for compensation.   
  【Interpretation】This article is about the legal liability of a construction enterprise to transfer, lend a qualification certificate or otherwise allow others to contract a project in the name of the enterprise.   1. Paragraph 2 of Article 26 of this Law stipulates that a construction enterprise shall not allow other units or individuals to contract projects in the name of the enterprise by transferring or lending the qualification certificate of the enterprise or in any other form. The transfer and lending of qualification certificates by the construction enterprise mentioned here refers to the act of the construction enterprise transferring or lending the qualification certificates it has obtained in accordance with the law to other construction units with low qualification levels or without qualification conditions, and obtaining illegal benefits from them. The so-called   
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other ways to allow others to contract projects in the name of the enterprise" refers to the joint venture of construction units or individuals with low qualification level or without qualification conditions ", "affiliation" and other ways to contract the project in the name of the construction enterprise.   2. This Article stipulates the administrative and civil liabilities that a construction enterprise shall bear for the illegal acts of transferring or lending its qualification certificate or otherwise allowing others to contract projects in the name of the enterprise, including: (l) ordering corrections. The   
"order to make corrections" mentioned here refers to the relevant administrative law enforcement organs ordering the construction enterprise to withdraw its qualification certificate of transfer and lending; for the units and individuals who use the name of the enterprise to contract the project, the project construction contract that has been signed shall be invalid, and the resulting losses shall be handled in accordance with the provisions of the General Principles of the Civil Law and the Economic Contract Law. (2) Confiscation of illegal gains. The "illegal income" mentioned here refers to all the income obtained by the construction enterprise from the transfer or lending of qualification certificates or otherwise allowing others to contract the project in the name of the enterprise. (3) And fined. While confiscating illegal gains from construction enterprises, administrative law enforcement agencies must also impose fines on them. (4) It may be ordered to stop business for rectification and reduce the qualification level. Relevant administrative law enforcement organs may, on the basis of factors such as the seriousness of the illegal conduct and the size of the impact, give construction enterprises a penalty of ordering them to suspend business for rectification and lower their qualification levels. (5) Where the circumstances are serious, the qualification certificate shall be revoked. (6) For the losses caused by the contracted project not meeting the prescribed quality standards, the construction enterprise and the unit or individual using the name of the enterprise shall bear the civil liability for joint and several compensation, that is, both of them shall bear the full liability for the losses caused by the non-compliance with the specified quality standards of the contracted project, and the loss party shall be partially or fully presented A debtor claims to settle a debt, and either debtor has full liability for repayment until the debt is unliquidated.   Article 67 Where a  contracting unit subcontracts a contracted project, or subcontracts in violation of the provisions of this Law, it shall be ordered to make corrections, confiscate the illegal gains, and impose a fine, and may be ordered to suspend business for rectification and lower the qualification level; if the circumstances are serious, the qualification certificate shall be revoked.   Where the contracting unit has committed any illegal acts as provided for in the preceding paragraph, it shall bear joint and several liability for compensation with the unit accepting the subcontract or subcontracting for losses caused by the subcontracted project or the illegal subcontracting project not meeting the prescribed quality standards.   【Interpretation】This article stipulates the legal liability of the contracting unit to subcontract the contracted project or subcontract in violation of the provisions of this Law.   
  I. Legal Liability of the Contracting Unit for subcontracting the contracted project  
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. In accordance with the provisions of Article 28 of this Law, it is forbidden for the contracting unit to subcontract all the construction projects contracted to others, and it is prohibited for the contracting unit to dismember all the projects it has contracted and then subcontract to others in the name of subcontracting. The so-called   
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subcontracting" refers to the act of the contracting party of the construction project transferring the construction project it has contracted to another person. There are two situations involved in the subcontracting act under this article: one is that the contracting unit subcontracts all the projects it has contracted; the other is that the contracting unit uses the provisions of the law to allow subcontracting to dismember all the projects it has contracted into several parts and subcontract them to others in the name of subcontracting. Subcontracted projects in violation of the provisions of this Law shall be investigated for legal responsibility in accordance with the provisions of this Article.   
         2． According to the provisions of this article, the legal liabilities that the contracting unit should bear for the act of subcontracting the projects it contracted include: (1) ordering corrections, that is, the administrative law enforcement organs order the contracting unit to take back the projects it has subcontracted, and the illegally signed subcontracting contracts should be terminated if the subcontracting contract is invalid, and the losses caused thereby shall be handled in accordance with the relevant provisions of the General Principles of the Civil Law and the Economic Contract Law. (2) Confiscation of illegal gains. The "illegal income" mentioned here refers to the difference between the subcontracting price obtained by the contracting unit through the subcontracting project and the original contract price. In practice, it is precisely through this method of "subcontracting layer by layer and skinning layer by layer" that the units that illegally subcontract to obtain improper benefits. (3) And fined. In addition to confiscating illegal gains, offenders are also fined and economically punished. (4) According to the circumstances of the illegal act, in addition to the penalty of confiscating the illegal gains and imposing a fine, it may also be ordered to stop business for rectification and reduce the qualification level. (5) Where the circumstances are serious, the qualification certificate shall also be revoked and the qualification for engaging in construction activities shall be cancelled. (6) For the losses caused by the subcontracted project not meeting the specified quality standards, the subcontracted contracting unit and the subcontracted unit shall bear joint and several liability for compensation, and the party receiving the loss may require either of the contracting unit and the unit receiving the subcontract to bear the full liability for compensation.   II. Legal Liability of the Contracting Unit for Illegal Subcontracting  
  1 ． In accordance with the provisions of Article 29 of this Law, the general contracting unit of a construction project shall comply with the following conditions for subcontracting the project it has contracted: First, the general contracting unit can only subcontract part of the project to a unit with corresponding qualification conditions; second, the subcontracted project must be a project that can be subcontracted as stipulated in the general contracting contract, and what is not agreed in the contract must be approved by the general contracting unit; third, if the general contracting unit is implemented, the main structure of the construction project must be completed by the general contracting unit itself and must not be subcontracted Fourth, subcontracting units shall not subcontract the projects they have contracted. The legal responsibility for subcontracting projects in violation of the provisions of this law shall be pursued in accordance with the provisions of this article.   
         2  
． In accordance with the provisions of this Article, the legal liabilities to be borne by the contracting unit for subcontracting in violation of the provisions of this Law include: (1) Order correction. The "order to make corrections" mentioned here refers to the fact that the relevant administrative law enforcement organs, in the form of administrative decisions, order the contracting unit to correct the subcontracting behavior that does not conform to the provisions of Article 29 of this Law, and to recover the projects that have been illegally subcontracted; the subcontracting contracts that have been signed shall be invalid. (2) Confiscation of illegal gains. The "illegal income" mentioned here should refer to the illegal benefits obtained by the unit that illegally subcontracts the project at a project subcontracting price lower than that determined by the general contracting contract. (3) And fined. (4) It may be ordered to stop business for rectification and reduce the qualification level. (5) Where the circumstances are serious, the qualification certificate shall be revoked. (6) For the losses caused by illegal subcontracting that do not meet the prescribed quality standards, the unit that illegally subcontracts and the unit that accepts the subcontracting shall bear the civil liability for joint and several compensation.   Article 68 Whoever  solicits, accepts or pays bribes in the course of contracting and contracting for a project, which constitutes a crime, shall be investigated for criminal responsibility in accordance with law; if it does not constitute a crime, a fine shall be imposed separately, the property of the bribe shall be confiscated, and the directly responsible managers and other directly responsible personnel shall be punished.   In addition to being punished in accordance with the provisions of the preceding paragraph, a contracting unit that pays bribes in a project contract may be ordered to suspend business for rectification, lower the qualification level, or revoke the qualification certificate.   【Interpretation】This article stipulates the legal liability for soliciting, accepting or paying bribes in the contracting and contracting of projects.   
  I. Criminal Liability for Soliciting, Accepting, or Paying Bribes in the Contracting and Contracting  of Projects Article 17 of this Law stipulates that contract-issuing units and their staff shall not accept bribes, kickbacks, or other benefits in the contracting of construction projects. The contracting unit and its staff shall not use improper means such as bribing the contracting unit and its staff, providing kickbacks or giving other benefits to contract the project. This article reiterates that anyone who, in violation of the above-mentioned provisions of the law, solicits, accepts or pays bribes in the course of contracting and contracting for projects, shall be investigated for criminal liability in accordance with law. The   
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pursuit of criminal responsibility in accordance with law  
" mentioned here   
refers to the pursuit of criminal responsibility in accordance with the provisions of the Criminal Law on the crime of accepting bribes and the crime of offering bribes.   
         1． Bribery offences. (1) Article 385 of the Criminal Law stipulates: "A state functionary who takes advantage of his position to extort money or property from another person, or illegally accepts property or property from another person to seek benefits for others, is guilty of accepting bribes." "Article 386 stipulates that whoever commits the crime of accepting bribes shall be given criminal punishment up to the death penalty and confiscation of property, depending on the amount and circumstances of the proceeds of bribery. Any staff member of a non-state-owned company or enterprise that does not fall within the scope of state functionaries who solicits or accepts bribes in the course of a project contract shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention in accordance with the provisions of article 163 of the Criminal Law; The crime of accepting bribes is mainly manifested in the contracting and contracting of construction projects as the act of the staff of the contracting unit taking advantage of their positions to extort other people's property or property, or illegally accepting other people's property and property to seek benefits for others in the contracting of construction projects. The so-called "use of the convenience of one's position" refers to the convenience caused by the use of the power within the scope of one's position, that is, the authority of one's own position to supervise, be responsible for or undertake the contracting of a certain construction project. "Soliciting other people's property" refers to the actor taking the initiative to ask for property from others in the activities of his or her duties. In addition, if the staff of the contracting unit violates the provisions of the state in the process of contracting and contracting, accepts kickbacks and handling fees in various names, and belongs to the individual, he shall be punished as accepting bribes. (2) Article 387 of the Criminal Law stipulates: "If a state organ, a state-owned company, an enterprise, a public institution, or a people's organization solicits or illegally accepts property or property from another person in order to seek benefits for others, and the circumstances are serious, the unit shall be fined, and the persons who are directly in charge and other persons who are directly responsible shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention." "In economic transactions, those who secretly accept kickbacks and handling fees in various names outside the accounts are considered to be accepting bribes." In the construction project contracting activities, the crime of accepting bribes by the unit is mainly manifested in the act of the contracting unit soliciting or illegally accepting property from others for the unit in the process of contracting the project, seeking benefits for others, and the circumstances are serious. Where a contract-issuing unit secretly accepts kickbacks or handling fees in various names in the course of project contracting and contracting, it is considered to be accepting bribes.   
         2． Bribery offences. Article 389 of the Criminal Law stipulates: "Whoever, for the purpose of seeking improper benefits, gives property to a state functionary shall be guilty of bribery." "Whoever, in the course of economic dealings, violates state regulations by giving property to state functionaries in a relatively large amount, or who, in violation of state regulations, gives state functionaries kickbacks or handling fees in various names, shall be punished as bribery." "Article 390 stipulates the criminal liability for the crime of bribery. At the same time, article 391 of the Criminal Law also stipulates that "whoever, in order to seek improper benefits, gives property to a state organ, state-owned company, enterprise, public institution or people's organization, or in the course of economic transactions, in violation of State regulations, gives kickbacks or handling fees in various names shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention." "Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and other persons who are directly responsible for it shall be punished in accordance with the provisions of the preceding paragraph." Article 164 stipulates: "Whoever, in order to seek improper benefits, gives property or property to the staff of an enterprise or an enterprise in a relatively large amount shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; "Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible shall be punished in accordance with the provisions of the preceding paragraph." In the contracting and contracting of construction projects, the crime of bribery is mainly manifested in the act of giving property or other benefits to the contracting unit or its staff in order to obtain benefits from the contracted project. Where bribery in the course of a project contract constitutes a crime, criminal responsibility shall be pursued in accordance with the above-mentioned provisions of the Criminal Law.   II. Administrative Responsibility for Soliciting, Accepting, or Paying Bribes in  the Contracting and Contracting of Projects Where the circumstances of bribery, bribery, or bribery in the contracting and contracting of a project are minor and do not constitute a crime, they shall be investigated for administrative responsibility in accordance with the provisions of this Article, including: (1) fines. (2) Confiscation of bribed property. (3  
) Sanctions shall be imposed on the directly responsible supervisors and other directly responsible personnel. Personnel belonging to state organs or state-owned and collective enterprises and public institutions shall be given administrative sanctions in accordance with the relevant provisions of the State Council. According to the "Interim Provisions on Rewards and Punishments for Employees of Administrative Organs" and the "Regulations on Rewards and Punishments for Employees of Enterprises" issued by the State Council, the forms of administrative punishment for state functionaries and employees of state-owned or urban collective enterprises mainly include warnings, demerits, major demerits, demotion, dismissal, retention and inspection, and expulsion. In addition, in accordance with the provisions of the second paragraph of this article, the contracting unit that pays bribes in the project contract may also be given an administrative penalty of ordering it to suspend its business for rectification, lowering the qualification level or revoking the qualification certificate.   
  Article 69 Where a  project supervision unit colludes with a construction unit or a construction enterprise to commit fraud or reduce the quality of the project, it shall be ordered to make corrections, impose a fine, lower the qualification level or revoke the qualification certificate;   Where a project supervision unit transfers supervision business, it shall order corrections and confiscate the illegal gains, and may order it to suspend business for rectification and lower the qualification level; if the circumstances are serious, the qualification certificate shall be revoked.   【Interpretation】This article stipulates the legal liability of the project supervision unit in collusion with the construction unit or the construction enterprise, the fraud, the reduction of the quality of the project and the transfer of the supervision business.   1. Legal liability of the project supervision unit in collusion with the construction unit or the construction enterprise to deceive and reduce the quality of the project  
  1 ． Paragraph 1 of Article 32 of this Law stipulates that the supervision of construction projects shall, in accordance with laws, administrative regulations and relevant technical standards, design documents and construction project contracts, supervise the contracting unit on behalf of the construction unit in terms of construction quality, construction duration and use of construction funds. Paragraph 2 of Article 34 of this Law stipulates that the project supervision unit shall, on the entrustment of the construction unit, objectively and impartially perform the supervision task. According to the above provisions of the law, the project supervision unit is entrusted by the construction unit to supervise the quality, duration and cost of the project as the representative of the construction unit, and at the same time must objectively and fairly carry out the supervision business in accordance with the provisions of laws, administrative regulations and relevant technical standards to ensure the quality and safety of the construction project. Where a project supervision unit violates the practice standards for objectively and impartially carrying out supervision business in accordance with law, colludes with the construction unit or construction enterprise, commits fraud, or reduces the quality of the project, it shall be investigated for legal responsibility in accordance with the provisions of this article.   
  
         2． In accordance with the provisions of the first paragraph of this article, the project supervision unit shall bear the following legal responsibilities for colluding with the construction unit or the construction enterprise to deceive and reduce the quality of the project: (  
1  
) Order correction. That is, the relevant administrative law enforcement organs shall require the project supervision unit to immediately correct its illegal acts in the form of administrative decisions. (  
2) A fine shall be imposed. (3) Reduce their qualification level; if the circumstances are serious, their qualification certificates shall be revoked and their qualifications for project supervision activities shall be cancelled. (4) Confiscation of illegal gains. That is, the recipients obtained by the project supervision unit from carrying out the illegal acts listed in this article shall be confiscated. (5) Where the project supervision unit colludes with the construction unit or the construction enterprise to commit fraud, reduce the quality of the project, and cause losses to others, the project supervision unit shall bear the civil liability for joint and several compensation with the construction unit or the construction enterprise. (6) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes covered by the provisions of this article mainly refer to the crime of major safety accidents in construction projects. According to the provisions of article 137 of the Criminal Law, the following conditions must be met to constitute this crime: First, the main body of this crime is a unit, that is, a construction unit, a design unit, a construction enterprise or a project supervision unit; second, the perpetrator's act of lowering the quality standards of the project is intentional, and in objective terms, he has committed an act of violating state regulations and reducing the quality standards of the project; third, it has objectively caused a major safety accident. According to the Criminal Law, the person directly responsible for this crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined;   II. Legal Liability of The Project Supervision Unit for the Transfer of Project Supervision Business  
  1. The project supervision unit is entrusted by the construction unit to undertake the task of project supervision. The construction unit is based on the trust of the specific project supervision unit with the corresponding qualification conditions and entrusts it to perform the supervision business after signing a written entrustment supervision contract with it. Once the contract is established in accordance with the law, it is legally binding and may not be changed by either party without authorization. The project supervision unit shall not transfer the project supervision business entrusted by the construction unit to another person, which has been clearly stipulated in the fourth paragraph of Article 34 of this Law. The transfer of project supervision business by a project supervision unit in violation of the provisions of the law shall be investigated for legal responsibility in accordance with the provisions of the second paragraph of this article.   
         2． In accordance with the provisions of the second paragraph of this article, the legal liabilities that the project supervision unit should bear for the transfer of the project supervision business include: (1)   
ordering corrections. That is, the relevant administrative law enforcement organ shall order the project supervision unit to immediately correct its act of transferring the project supervision business, and the contract for the transfer of the project supervision business that has been illegally concluded shall be invalid. (2) Confiscation of "illegal gains". The "illegal income" mentioned here refers to all the income obtained by the project supervision unit from the transfer of the project supervision business. (3) It may be ordered to stop business for rectification and reduce the qualification level. (4) Where the circumstances are serious, their qualification certificates shall be revoked and their qualifications for engaging in project supervision activities shall be cancelled.   Article 70 Whoever , in violation of the provisions of this Law, constructs a building renovation project involving changes in the main body of the building or the load-bearing structure without authorization shall be ordered to make corrections and shall be fined; where losses are caused, it shall bear the liability for compensation; where a crime is constituted, criminal liability shall be pursued in accordance with law.   【Interpretation】This article is about the legal liability for unauthorized construction of building decoration projects involving changes in the main body of the building or load-bearing structure.   1. Changes in the main body of the building or load-bearing structure. It is directly related to the safety of the building. In accordance with the provisions of Article 49 of this Law, for decoration projects involving changes in the main body of the building or load-bearing structure, the construction unit shall entrust the original design unit or the design unit with corresponding qualifications to propose a design plan before construction; if there is no design plan, it shall not be constructed. Whoever, in violation of this provision of the law, carries out construction without authorization for a renovation project involving changes in the main body of the building or the load-bearing structure without the design plan proposed in accordance with law, shall be investigated for legal responsibility in accordance with the provisions of this article.   2. In accordance with the provisions of this Article, the legal liability for the unauthorized construction of building decoration projects involving changes in the main body of the building and the load-bearing structure without the design plan proposed in accordance with the law includes: (1) Order correction. That is, the relevant administrative law enforcement organs shall order the construction unit to stop the construction immediately; only after the design plan is proposed   
in accordance with the law can the construction continue. (  
2  
) A fine shall be imposed. (  
3) If the building decoration project involving changes in the main body of the building and the load-bearing structure is not carried out without the design plan proposed in accordance with the law, causing losses to others, for example, if the load-bearing structure of the building is damaged due to illegal construction, causing hidden dangers of safety accidents, or if a safety accident has been caused, the responsible person shall bear the civil liability for compensation for losses. (4) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes involved here mainly refer to the crime of major safety accidents in construction projects provided for in article 137 of the Criminal Law.   Article 71 Where a  construction enterprise violates the provisions of this Law and fails to take measures to eliminate the hidden dangers of construction safety accidents, it shall be ordered to make corrections and may be fined;   Where the management personnel of a construction enterprise illegally direct or force employees to operate at risk, resulting in major casualties or other serious consequences, they shall be investigated for criminal liability in accordance with law.   【Interpretation】There are two paragraphs in this article, which respectively stipulate the legal liability of the construction enterprise for not taking measures to eliminate the hidden dangers of construction safety accidents, and the legal liability for the management personnel of the construction enterprise to illegally direct and force the employees to take risks, thereby causing major casualties or other serious consequences.   I. Legal liability of construction enterprises for not taking measures to eliminate hidden dangers of construction safety accidents  
  l. In the chapter   
"Construction Safety Production Management  
", this Law   
clearly stipulates that the safety production management of construction projects must adhere to the principle of safety first and prevention first, and establish and improve the responsibility of safe production  
 and mass prevention and mass governance system. Construction enterprises must strengthen the management of construction safety production in accordance with the law, implement the responsibility system for safe production, take effective measures to prevent the occurrence of casualties and other safety accidents, and if construction enterprises do not take measures to eliminate hidden dangers of construction safety accidents in accordance with law, they shall be investigated for legal responsibility in accordance with the provisions of the first paragraph of this article.   
         2． In accordance with the provisions of the first paragraph of this article, the legal liability that a construction enterprise should bear for not taking measures to eliminate the hidden dangers of construction safety accidents includes: (1) ordering corrections. That is, the administrative law enforcement agency orders the construction enterprise to eliminate the hidden danger of construction safety accidents within a time limit. () a fine. (3) Where the circumstances are serious, order the suspension of business for rectification, lower the qualification level or revoke the qualification certificate. The "serious circumstances" mentioned here include the fact that the construction enterprise does not take measures to eliminate the hidden dangers of major construction safety accidents, or does not take corrective measures after the relevant competent departments have pointed out the hidden dangers of construction safety accidents and requires them to correct them, or the occurrence of major safety accidents due to the hidden dangers of safety accidents. (4) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The "constitutive crime" mentioned here refers to the crime of causing a major accident due to the non-compliance of labor safety facilities with national regulations as stipulated in article 135 of the Criminal Law. This article stipulates: "Where the labor safety facilities of factories, mines, forestry farms, construction enterprises or other enterprises or public institutions do not conform to the provisions of the State, and after being proposed by the staff and workers of the relevant departments or units, they still do not take measures against the hidden dangers of the accident, and thus a major casualty accident or other serious consequences occurs, the persons directly responsible shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are particularly heinous, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years." "According to the provisions of this article, the following conditions must be met for the person constituting this crime: First, the subject constituting this crime is a factory, mine, forest farm, construction enterprise or other enterprise or public institution. Here refers to construction enterprises; second, the labor safety facilities of the above-mentioned units do not conform to national regulations, and have been proposed by relevant departments or unit employees that measures are still not taken to eliminate the hidden dangers of the accident; the third is that major casualties or other serious consequences are caused by the failure to take measures to eliminate the hidden dangers of the accidents in accordance with the law. Where this crime is constituted, the person directly responsible shall be sentenced to criminal punishment. The so-called "directly responsible persons". Refers to a person who is directly responsible for the commission of a criminal act. For example, in the case that the labor safety facilities of a construction enterprise do not conform to the provisions of the State, the relevant departments or employees of the unit have proposed to the enterprise, but the person in charge of the enterprise still decides not to take corrective measures, or the person in charge of the enterprise has ordered the functional department of the enterprise to take corrective measures and the functional department delays in handling it, resulting in a major accident. The person in charge of the enterprise or the person in charge of the safety production function department is the person directly responsible for causing the major accident, and his criminal responsibility shall be investigated in accordance with law.   Second, the management personnel of the construction enterprise illegally direct and force the employees to take risks, resulting in major casualties or other serious consequences          In accordance with the provisions of Article 47 of this Law, construction enterprises and operators shall abide by the laws and regulations on safe production and the safety rules and regulations of the construction industry during the construction process, and shall not command or operate in violation of regulations. Where the management personnel of a construction enterprise do not abide by the provisions of the law, direct or force employees to operate at risk in violation of regulations, and thus cause major casualties or other serious consequences, they shall be investigated for criminal responsibility in accordance with the provisions of the second paragraph of this article. The "pursuit of criminal responsibility in accordance with law" mentioned here refers to the pursuit of criminal responsibility in accordance with the provisions of article 134 of the Criminal Law on the crime of major liability accidents. The crime of major liability accidents provided for in this article of the Criminal Law refers to the acts of employees of factories, mines, forestry farms, construction enterprises or other enterprises or public institutions who are dissatisfied with management, violate rules and regulations, or force workers to operate in violation of regulations and risky operations, thereby causing major casualties or causing serious consequences. The following conditions must be met to constitute this offence. (1) The subject constituting this crime is a special subject, that is, the employees of factories, mines, forestry farms, construction enterprises or other enterprises or public institutions, and the employees mentioned here include the managers and workers at all levels of enterprises and public institutions; the criminal subjects referred to in the second paragraph of this article only refer to the management personnel of construction enterprises. (  
2  
) The perpetrator is subjectively negligent. (3) The perpetrator's criminal behavior is mainly manifested in two aspects: one is that due to disobedience to management and violation of rules and regulations, major casualties or serious consequences occur; second, workers are forced to operate in violation of regulations and risks, resulting in major casualties or serious consequences. The second paragraph of this article refers to the latter. The so-called "illegal command" refers to the violation of safety-related rules and regulations; the so-called "forced employees to take risks" , mainly refers to the management personnel in the unit responsible for the management of production, construction, operation and other work, knowing that their decision is in violation of rules and regulations, may be dangerous, causing safety accidents, but with a fluke, they think that there will be no accidents, and force workers to operate in violation of regulations and risks. (4) The perpetrator's conduct has objectively led to a major casualty or other serious consequences (such as causing major property damage, etc.).   Article 72 Where a  construction unit violates the provisions of this Law and requires an architectural design unit or a construction enterprise to violate the quality and safety standards of a construction project and reduce the quality of the project, it shall be ordered to make corrections and may be fined;   【Interpretation】This article is a provision on the legal liability of the construction unit for illegally requiring the architectural design unit or the construction enterprise to violate the quality and safety standards of the construction project and reduce the quality of the project.   1. In accordance with the provisions of Article 54 of this Law, the construction unit of a construction project shall not, for any reason, require the architectural design unit and the construction enterprise to violate the laws, administrative regulations and the provisions on the quality and safety standards of the construction project to reduce the quality of the project. The "any reason" mentioned here includes insufficient funds, tight time, rush schedule, etc. Construction units that violate this provision of the law shall be investigated for legal responsibility in accordance with the provisions of this article.          2. In accordance with the provisions of this Article, the legal liabilities that the construction unit shall bear for illegally requesting the architectural design unit or the construction enterprise to reduce the quality of the project include: (  
1) ordering corrections, that is, the relevant administrative law enforcement organs ordering the construction unit to withdraw its requirements for the illegal reduction of the quality of the project put forward by the architectural design unit or the construction enterprise, and the design or construction that has been made in accordance with the illegal requirements of   
the construction unit. Appropriate remedial action is required. (  
2) A fine may be imposed. The "may"   
fine mentioned here refers to whether or not to impose a fine on the construction unit, which must be decided by the relevant administrative law enforcement organs according to factors such as the seriousness of the circumstances of their illegal acts and the size of the impact, and may or may not be fined. (3) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes covered by this article mainly refer to the crime of major liability accidents in construction projects provided for in article 137 of the Criminal Law. The following conditions must be met to constitute this crime: First, the main body of this crime is the unit, that is, the construction unit, the design unit, the construction enterprise or the project supervision unit; second, the perpetrator's act of lowering the project quality standard is intentional, and the act of violating the state regulations and reducing the project quality standard is objectively committed; third, it must cause a major safety accident. According to this article of the Criminal Law, the person directly responsible for this crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined;   Article 73 Where an  architectural design unit fails to carry out the design in accordance with the quality and safety standards of the construction project, it shall be ordered to make corrections and shall be fined; if a project quality accident is caused, it shall be ordered to suspend business for rectification, lower the qualification level or revoke the qualification certificate, confiscate the illegal gains, and impose a fine; if it causes losses, it shall bear the liability for compensation; if it constitutes a crime, it shall be investigated for criminal liability in accordance with law.   【Interpretation】This article is about the legal liability of the architectural design unit for not designing in accordance with the quality and safety standards of the construction project.   1. Articles 52 and 56 of this Law stipulate that the quality of architectural design must meet the requirements of the relevant national safety standards for construction projects; the design unit of construction projects must be responsible for the quality of its design, and the design documents shall comply with the provisions of relevant laws and administrative regulations and the quality and safety standards of construction projects. The conduct of architectural design units that do not design in accordance with the quality and safety standards of construction projects shall be investigated for legal responsibility in accordance with the provisions of this article.   2. In accordance with the provisions of this article, the architectural design unit shall bear different legal responsibilities for the failure to design in accordance with the quality and safety standards of the construction project, and according to whether its illegal design has caused the consequences of the project quality accident:  
  1 ． If the design unit does not carry out the engineering design in accordance with the quality and safety standards of the construction project, but has not yet caused the project quality accident, the relevant administrative law enforcement department shall order it to make corrections, that is, order the architectural design unit to correct the design that does not meet the quality and safety standards of the construction project, and at the same time impose a fine on the architectural design unit.   
         2． If the architectural design unit does not design in accordance with the quality and safety standards of the construction project, causing the project quality accident, it shall bear the following legal responsibilities: (1  
) Order the suspension of business for rectification. That is, the relevant administrative law enforcement department ordered the architectural design unit to stop engaging in architectural design activities for a period of time and carry out rectification. The time for suspension of business for rectification is not stipulated in this Law, and the administrative law enforcement department shall make a decision in accordance with the relevant provisions of the State Council and according to the different circumstances of the illegal acts of the design unit. (  
2  
) Lower their qualification level or revoke their qualification certificates. If the architectural design unit does not design in accordance with the quality and safety standards of the construction project, causing a project quality accident, and the circumstances are more serious, it is not only necessary to give the penalty of ordering it to stop business for rectification, but also to reduce its qualification level; for serious circumstances, its qualification certificate shall be revoked and its qualification to engage in architectural design activities shall be cancelled. (  
3) Confiscation of illegal gains. The "illegal income" mentioned here refers to the income obtained by the architectural design unit from not designing in accordance with the quality and safety standards of the construction project. (4) And impose a fine, i.e., in addition to confiscating the income derived from the illegal design, also impose a fine. (5) If a construction project quality accident occurs due to the illegal design of the architectural design unit, causing losses to others, the architectural design unit shall bear the civil liability for compensation for the losses. (6) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes covered by this article refer to the crimes of major safety accidents in construction projects provided for in article 137 of the Criminal Law.   Article 74 Where a  construction enterprise cuts corners in the course of construction, uses unqualified building materials, building components and equipment, or has other acts of not constructing in accordance with the engineering design drawings or construction technical standards, it shall be ordered to make corrections and shall be fined; Where a crime is constituted, criminal responsibility shall be pursued in accordance with law.   【Interpretation】This article stipulates the legal liability of construction enterprises that cut corners in construction, use unqualified building materials, building components and equipment, or have other acts of not following engineering design drawings or construction technical standards.   1. Articles 52, 58 and 59 of this Law stipulate that the quality of construction projects must meet the requirements of the relevant national safety standards for construction projects; construction enterprises are responsible for the construction quality of the project, must be built in accordance with engineering design drawings and construction technical standards, and must not cut corners; construction enterprises must inspect building materials, building components and equipment in accordance with engineering design requirements, construction technical standards and contracts, and unqualified ones shall not be used. Construction enterprises that violate the above provisions of the law shall be investigated for legal responsibility in accordance with the provisions of this article.   2. In accordance with the provisions of this Article, if a construction enterprise cuts corners in the course of construction, uses unqualified building materials, building components and equipment, or has other acts of not constructing in accordance with engineering design drawings or construction technical standards, it shall bear the following legal responsibilities: (1). Order corrections. That is, the relevant administrative law enforcement organs shall order the construction enterprises to correct the illegal acts of cutting corners, using unqualified building materials, building components and equipment, or other construction in accordance with engineering design drawings or construction technical standards. (2) A fine shall be imposed. (3) Where the circumstances are serious, order the suspension of business for rectification, lower their qualification level, or revoke their qualification certificates. The "  
serious circumstances" mentioned here   
include cutting corners in key parts such as the main body of the construction project or the load-bearing structure, using unqualified building materials or other construction that do not follow the design drawings and construction technical standards, leaving serious quality hazards to the project, and even causing serious quality accidents; cutting corners or using unqualified building materials, The amount of building components and equipment is relatively large; as well as the illegal acts of cutting corners, using unqualified building materials, building components and equipment, etc. have occurred many times  
. (  
4) If the quality of the construction project does not meet the prescribed standards due to the illegal acts listed in this article by the construction enterprise, the construction enterprise shall bear the civil liability for rework and repair, and bear the civil liability for compensation for the losses caused thereby, and (5) if it constitutes a crime, it shall be investigated for criminal liability in accordance with law. The crimes covered by this article are mainly the crimes of major safety accidents in construction projects provided for in article 137 of the Criminal Law.   Article 75 Where a  construction enterprise violates the provisions of this Law, fails to perform its warranty obligations or delays in performing its warranty obligations, it shall be ordered to make corrections, may be fined, and shall bear the liability for compensation for losses caused by quality defects such as leakage and cracking of roofs and walls during the warranty period.   【Interpretation】This article is about the legal liability of construction enterprises for not performing warranty obligations in accordance with law or delaying the performance of warranty obligations.   1. Article 62 of this Law stipulates that the quality warranty system shall be implemented for construction projects, and the warranty period shall be determined in accordance with the principle of ensuring the normal use of the building within a reasonable life span and safeguarding the legitimate rights and interests of users, and the specific warranty scope and minimum warranty period shall be stipulated by the State Council. The construction enterprise shall fully perform the warranty obligation for the quality of the project in accordance with the provisions of the Law and the Provisions of the State Council on the Quality Warranty of the Project and the contract for construction projects. Where a construction enterprise fails to perform its project quality warranty obligations in accordance with the provisions of the law and the provisions of the contract, it shall be investigated for legal responsibility in accordance with the provisions of this Article.   2. In accordance with the provisions of this Article, the legal liability of a construction enterprise for illegally failing to perform its warranty obligations or delaying in performing its warranty obligations includes: (1) ordering corrections, that is, the relevant administrative law enforcement authorities ordering the construction enterprises to immediately perform their warranty obligations. (2) A fine may be imposed. The "  
may"   
fine mentioned here refers to whether to impose a fine on a construction enterprise that does not perform its warranty obligations in accordance with the law, and it is up to the relevant administrative law enforcement organ to decide according to the seriousness of the circumstances of its illegal behavior, the size of the impact and other factors, and it may or   
may not impose a fine   
 Fines. For example, if a construction enterprise delays in performing its warranty obligations, after being ordered by the relevant administrative department to make corrections, it immediately makes corrections, repairs the quality problems existing in the project, and the user is satisfied, it can no longer give a fine and punishment; on the contrary, if the construction enterprise does not correct its failure to perform its warranty obligations in a timely manner, has a bad attitude, and seriously damages the legitimate rights and interests of users, the relevant administrative law enforcement organs shall impose a certain amount of fines on them in addition to ordering them to immediately perform their warranty obligations in accordance with the law. (3) For the losses caused by quality defects such as leakage and cracking of the roof and wall during the warranty period, the construction enterprise shall bear the civil liability for compensation for the losses. For example, during the warranty period, due to roof leakage, the user's own decoration of the house suffered serious losses due to flooding, or the furniture was damaged, household appliances failed, etc., the construction enterprise should be responsible for compensation.   Article 76 The  administrative penalties provided for in this Law for ordering the suspension of business for rectification, the lowering of the qualification level, and the revocation of qualification certificates shall be decided by the organ that issued the qualification certificate; other administrative penalties shall be decided by the competent administrative department for construction or relevant departments in accordance with the law and the terms of reference provided by the State Council.   Where qualification certificates are revoked in accordance with the provisions of this Law, the administrative department for industry and commerce shall revoke their business licenses.   【Interpretation】This article is a provision on the implementing organ of the administrative punishment provided for in this Law.   1. Administrative punishment is a sanction against a citizen, legal person or other organization that has committed an administrative offence, which either restricts or deprives a citizen, legal person or other organization of certain rights (for example, the order to suspend business for rectification or revoke the qualification certificate provided for in this Law is a restriction or deprivation of the right of the offender to engage in construction activities), or it imposes new obligations on citizens, legal persons or other organizations (if this Law provides for fines for certain illegal acts), Therefore, according to the provisions of the Administrative Punishment Law, only administrative organs with administrative punishment powers in accordance with the law can impose administrative penalties on illegal acts within the scope of their statutory authority and in accordance with the statutory procedures. In other words, whether or not each administrative organ has administrative punishment power and which administrative punishment power it has must be in accordance with the provisions of the law. Administrative organs that have no statutory basis to impose administrative punishments, or that carry out administrative punishments beyond the scope of their statutory punishment authority, are not in accordance with the rule of law principle of administration according to law, and must bear corresponding legal responsibilities in accordance with the provisions of the Administrative Punishment Law.   This Law provides for administrative penalties for relevant illegal acts, and of course, it is necessary to make clear provisions on the organs that carry out the administrative penalties provided for in this Law, so as to comply with the statutory principles of administrative punishment and enable the effective implementation of the administrative penalties provided for in this Law.   2. There are five types of administrative penalties provided for in this Law, namely (1) fines; (2  
) confiscation of illegal gains; (3  
) orders to suspend business for rectification; (  
4  
) lowering the qualification level; ().   
5) Revocation of qualification certificates. This article stipulates the corresponding implementing organs for different administrative penalties:  
    
 The administrative organ that issued the qualification certificate shall decide on the administrative organ that issued the qualification certificate for the construction enterprise, survey unit, design unit or project supervision unit that engages in construction activities in accordance with the provisions of this Law and orders it to suspend business for rectification, lower the qualification level or revoke the qualification certificate. Because the issuance of qualification certificates is a confirmation of the qualifications of relevant units to engage in construction activities; and ordering the suspension of business for rectification, lowering the qualification level and revoking the qualification certificates is to restrict or deprive the qualifications to engage in construction activities. In order to ensure the unity and effectiveness of administrative management, the confirmation, restriction and deprivation of qualifications for construction activities should be carried out by the same administrative department.   
         2． Administrative penalties provided for in this Law, including fines and confiscation of illegal gains, other than ordering the suspension of business for rectification, lowering the qualification level, and revoking qualification certificates, shall be decided by the competent administrative department for construction or other relevant competent departments in accordance with the terms of reference prescribed by the State Council. That is to say, this law will impose fines and administrative penalties for confiscation of illegal gains by the implementing organs, authorized by the State Council. The departments of the administrative organs for construction and the relevant administrative departments shall, within the respective areas of their authority prescribed by the State Council, impose fines and administrative penalties for confiscation of illegal gains for violations of the provisions of the Construction Law in accordance with law.   Article 77: Where, in violation of the provisions of this Law, a unit that does not meet the requirements for that level of qualification is issued a qualification certificate of that level, the organ at the level above it is to order the recovery of the qualification certificate issued, and give administrative sanctions to the directly responsible managers and other directly responsible personnel;   【Interpretation】This article is about the legal liability for issuing the qualification certificate of the corresponding qualification level to the unit that does not have the conditions for the corresponding qualification level.   1. Article 12 of this Law clearly stipulates the basic conditions that construction enterprises, survey units, design units and project supervision units engaged in construction activities shall have; at the same time, Article 13 of this Law stipulates that construction enterprises, survey units, design units and project supervision units engaged in construction activities shall be divided into different qualification levels according to the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and completed construction project performance. After passing the qualification condition examination and obtaining the corresponding level of qualification certificate, you can engage in construction activities within the scope of its qualification level. Examining the qualifications of units engaged in construction activities in accordance with the law and issuing qualification certificates of the corresponding level according to the conditions they have is an important administrative management measure to maintain the normal order of the construction market and ensure the quality and safety of construction projects. Administrative organs that are responsible for conducting qualification reviews and issuing qualification level certificates for units engaged in construction activities in accordance with the law must act strictly in accordance with the law, strictly examine the qualification conditions of units engaged in construction activities, and ensure that the qualification certificates issued are consistent with the qualification level conditions of the unit. Judging from the actual situation, there are indeed staff members of certain departments responsible for issuing qualification certificates who inquire about personal fraud, abuse their powers, and use the power in their hands to engage in "power and money transactions." , or serious irresponsibility, dereliction of duty, the units that do not meet the corresponding qualification conditions are issued with qualification certificates of this level, which brings great harm to the normal order of the construction market and seriously damages the image of state organs. Such illegal abuses of administrative power must be investigated for legal responsibility in accordance with law.   2. In accordance with the provisions of this Article, the legal liabilities to be borne by a unit that violates the provisions of this Law and does not have the conditions for the corresponding qualification level shall include: (1) Where the circumstances are relatively minor and do not constitute a crime, the organ at the level above shall order the organ that issued the certificate to withdraw the qualification certificate issued, and give administrative sanctions to the directly responsible supervisors and other directly responsible personnel. (2  
) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes covered by this article are mainly the crimes of abuse of power by State agents as provided for in article 397 of the Criminal Law. The so-called crime of abuse of power refers to the crime of a functionary of a state organ violating the statutory authority and procedures, abusing his or her powers, or exceeding his or her powers, causing major losses to public property, the interests of the state and the people. The characteristics of the crime of abuse of power are: (1  
) the subject of this crime refers to the staff of the state organ; (  
2) the crime objectively shows that the staff of the state organ violates the statutory authority and procedures, abuses his power or exceeds his power, causing major losses to public property, the state and the interests of the people; (3). The subjective aspect of this sin is intentionality. Where a State functionary commits this crime for personal gain, a heavier penalty shall apply.   Article 78 Where a  staff member of the government and its subordinate department violates the provisions of this Law by restricting the contracting unit from awarding contracts to the designated contracting unit for the project for which the tender is to be tendered and contracted, the organ at the level above shall order corrections;   【Interpretation】This article stipulates the legal liability of the staff of the government and its subordinate departments in illegally restricting the legal liability of the contracting unit for the act of awarding contracts to the designated contracting unit.   
  First, the bidding and contracting of construction projects must follow the principles of openness, fairness and justice, and truly achieve equal competition. If the government or its subordinate departments restrict the contracting units that bid and issue contracts, the bidding activities will lose their original meaning and become false bidding in vain, which is an act that violates the requirements of establishing a socialist market economy. From a practical point of view, some local governments or government departments abuse their administrative power and illegally interfere in the contracting activities of construction projects. Some local governments or competent government departments adopt the practice of local protection or departmental protectionism, requiring construction units in their own regions and departments to only contract construction projects to contracting units belonging to their own regions or departments, and not allow contracting units from other places or departments to participate in competition in contracting construction projects in their respective regions and departments; some local governments or staff of relevant competent departments engage in power and money transactions in the contracting of construction projects, using their rights for personal gain, and accepting bribes from certain contracting units. It is required that the construction unit to which it belongs must contract the project to the contracting unit designated by it. The practice of administrative organs and their staff in abusing their administrative power to restrict the contracting units that bid and issue contracts undermines the principle of fair competition, disrupts the order of the market economy, tarnishes the image of government organs, and leaves an opportunity for corrupt acts. To this end, Article 23 of this Law clearly stipulates. "The government and its subordinate departments shall not abuse their administrative power to restrict the contracting units from awarding contracts to the designated contracting units for construction projects that are tendered and contracted. "Violations of this provision of the law shall be investigated for legal responsibility in accordance with the provisions of this article.   2. In accordance with the provisions of this Article, the legal liabilities to be borne by the staff of the government and its subordinate departments in violation of the law to the contracting units that issue contracts for the projects to be tendered and contracted include: (1) the staff of the government and its subordinate departments shall be ordered by the higher authorities to correct their illegal acts. (2) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The crimes involved in this article may have different circumstances depending on the manifestations of the illegal acts; if they are abusive of administrative power and cause major losses, they constitute the crime of abuse of power by state functionaries as provided for in article 397 of the Criminal Law; if they are soliciting or accepting bribes and restricting the contract-issuing units to award contracts to the bribe-givers, they constitute the crime of accepting bribes as provided for in the Criminal Law, and shall be investigated for criminal liability in accordance with the relevant provisions of the Criminal Law.   
  Article 79 Where the   department responsible for issuing construction permits for construction projects and their staff issue construction permits for construction projects that do not meet the construction conditions, and the departments responsible for project quality supervision and inspection or completion acceptance and their staffs issue quality qualification documents or accept unqualified construction projects according to qualified projects, the organ at a higher level shall order corrections and give administrative sanctions to the responsible personnel; if a crime is constituted, criminal responsibility shall be investigated in accordance with law; and where losses are caused , the department shall bear the corresponding compensation liability.   
  【Interpretation】This article is about the illegal acts of the department responsible for issuing construction permits for construction projects and their staff for the illegal acts of issuing construction permits for construction projects that do not meet the construction conditions, as well as the legal liability of the department responsible for project quality supervision and inspection or completion acceptance and its staff for issuing quality qualification documents for unqualified construction projects or accepting them according to qualified projects.   
  1. Article 7 of this Law stipulates that before the construction project starts, the construction unit shall, in accordance with the relevant provisions of the State, apply to the competent administrative department for construction of the people's government at or above the county level where the project is located to obtain a construction permit. Article 8 of this Law stipulates the conditions that should be met when applying for a construction permit. The implementation of the construction permit system for construction projects is an important measure for the state to supervise and manage construction activities. The relevant competent departments responsible for issuing construction permits for construction projects and their staff shall, in accordance with law, conduct a serious examination of whether the construction projects for which construction applications apply for commencement meet the statutory requirements for the commencement of construction, issue construction permits to construction projects that meet the conditions for commencement, and do not issue construction permits for those that do not meet the conditions for starting construction, so as to ensure that the projects that start construction meet the legal conditions and can proceed smoothly after the start of construction. The department responsible for issuing construction permits for construction projects and their staff who, in violation of the provisions of the law, issue construction permits for construction projects that do not meet the conditions for commencement of construction shall be investigated for legal responsibility in accordance with the provisions of this Article.   2. Article 61 of this Law stipulates that the construction project delivered for completion and acceptance must meet the prescribed quality standards for construction projects; If there is no experience in acceptance or unqualified acceptance, it shall not be delivered for use. The implementation of supervision and inspection and completion acceptance system for the quality of construction projects is an important measure to ensure the quality and safety of construction projects. The department responsible for the supervision and inspection of the quality of the project or the acceptance of the completion and acceptance of the project and its staff shall supervise and inspect the quality of the construction project in accordance with the relevant laws, administrative regulations and the quality standards of the construction project, and shall not issue quality qualification documents for unqualified construction projects, and shall not accept the qualified projects in accordance with the qualified projects. Judging from the actual situation, there are indeed some departments and their staff responsible for the quality supervision and inspection of construction projects or the completion and acceptance of the project, who have committed favoritism and dereliction of duty in supervising and inspecting the quality of the project or in the completion acceptance, and have issued quality documents for unqualified construction projects or accepted according to qualified projects, which is also one of the reasons for the frequent quality accidents of the current housing construction projects. Such violations by the relevant departments and their staff must be investigated for legal responsibility in accordance with the provisions of this article.   3. In accordance with the provisions of this Article, the legal liabilities to be borne by the department responsible for issuing construction permits and their staff for construction projects that do not meet the construction conditions, as well as for the issuance of quality documents for unqualified construction projects by the departments responsible for project quality supervision and inspection or completion acceptance or the acceptance of unqualified construction projects by their staff, include: (1). The higher-level organ shall order corrections, withdraw the construction permit issued or the project quality qualification documents, and accept the unqualified construction project according to the qualified project, and its acceptance shall be invalid. (2  
) Give corresponding administrative sanctions to the responsible personnel. (3) Where a crime is constituted, criminal responsibility shall be pursued in accordance with law. The offences covered by this article, depending on the circumstances, may mainly constitute the crimes of abuse of power, dereliction of duty and bribery. The so-called crime of dereliction of duty refers to the crime of non-performance, incorrect performance or abandonment of the performance of duties by functionaries of state organs, resulting in major losses to public property, the interests of the state and the people. (4) Where losses are caused by the illegal acts of the departments and their staff referred to in this Article, the departments shall bear the corresponding liability for compensation.   
  Article 80  Whoever, within the reasonable service life of a building, suffers damage due to the unqualified quality of the construction project, shall have the right to claim compensation from the person   
responsible.   
  【Interpretation】This article is about the liability for damage caused by the quality of the building.   
  As a special product, the producer of the building (including the construction enterprise, the survey unit and the design unit of the construction project) shall be responsible for the quality of its products. This article stipulates the quality liability of construction products from two aspects.   
  
         l. The premise that the producer of construction products bears the responsibility for the quality of the construction products is that the quality of the construction project is unqualified. Articles 56 and 58 of this Law clearly stipulate that the survey and design units of construction projects must be responsible for the quality of their survey and design, and the construction enterprises shall be responsible for the construction quality of the project. Damage to others due to unqualified quality of construction projects. The responsible party shall bear the liability for compensation in accordance with law. The "unqualified quality" mentioned here means that the quality of the survey, design or construction of the construction project does not meet the mandatory standards for ensuring the quality and safety of the construction project formulated according to law and the quality requirements agreed in the construction project contract, and the construction quality does not meet the provisions of the design documents. All damages to others caused by the unqualified quality of construction projects, including personal injury and property damage, shall be liable for compensation. If it is not because of the unqualified quality of the construction work, but because of the damage caused by reasons that do not belong to the producer of the construction product, the producer of the construction product is not liable for compensation. For example, the loss suffered by the lower tenants due to the destruction of the waterproof layer of the floor floor by the occupants of the upper floor is not a loss caused by the unqualified quality of the construction project, and the producer of the building products is not liable for compensation.   
         2． The period of responsibility for the quality of the building products of the responsible person shall be the reasonable service life of the building. Here it is necessary to distinguish between different situations: (1  
) According to the provisions of Article 60 of this Law, the quality of the foundation works and the main structure of the foundation engineering and the main structure must be ensured within a reasonable service life of the building. According to this provision, the period of responsibility of the responsible party for the quality of the foundation works and the main structure of the building shall be extended to the reasonable service life of the overall structure of the building. Building products are different from general products, once the building is completed, it will generally be used for a long time, which requires that during the reasonable service life of the overall structure of the building, there can be no quality problems that endanger the safety of use. To this end, reasonable provisions need to be made for the period during which producers of construction products are responsible for the quality of their construction products for the structural safety of their construction products. The period of liability for damages for defects in the quality of the products and the producers of general products shall not exceed 10 years from the time when the products are delivered to the original user (the second paragraph of Article 33 of the Product Quality Law stipulates:   
"  
The right to claim compensation for damages caused by defective products shall be completed after the defective products caused by the defective products are delivered to the original users and consumers." 10 years of loss, except where the stated safe period of use has not been exceeded. ") Differently, in accordance with the provisions of this article, the period during which the producer of building products bears responsibility for the quality of the foundation works and the main structure directly related to the safety of the use of the building shall be the reasonable service life of the overall structure of the building. The reasonable service life of the overall structure of the building mentioned here has the same meaning as the reasonable service life of the building mentioned in the interpretation of Article 60 of this Law. (2) The period of responsibility for quality for other parts of the building shall be the same as the reasonable useful life of that part. For example, the period of responsibility for the quality of the roof waterproofing of the building should be equivalent to the period of non-leakage that the building should generally achieve when using qualified building waterproofing materials and constructing according to the design requirements and the specified construction technical standards.

There are five articles in this chapter, and in addition to two special provisions on the scope of application of this Law (Articles 81 and 83), it also stipulates the prohibition of arbitrary collection of fees in the supervision and management of construction activities, the formulation of the administrative measures for military housing construction projects, and the date of implementation of this Law.   
  Article 81  The provisions of this Law on construction permits, qualification examination of construction enterprises, contracting, and prohibition of subcontracting of construction projects, as well as on construction project supervision, construction project safety and quality management, shall apply to the construction activities of other professional construction projects, and the specific measures shall be prescribed by the State Council.   
  【Interpretation】This article is about the application of certain provisions of this Law to other professional construction projects.   
  1. In accordance with the provisions of Article 2 of this Law, the scope of construction activities applicable to this Law shall be the construction of various types of houses and their ancillary facilities and the installation of lines, pipelines and equipment supporting them. Other professional construction projects, such as railways, highways, airports, ports, mines, reservoirs, communication lines, etc., because of their own characteristics and technical quality requirements, construction management also has its own competent departments, this law is difficult to fully apply and solve the problem of supervision and management of them. However, the construction activities of these professional construction projects have their commonalities with the construction activities of various types of house construction, which are part of the construction activities in a broad sense, and in their commonality, they should abide by common basic norms. The provisions of this Law on some basic codes of conduct that should be observed for housing construction activities can be used as the basic guidelines applicable to all kinds of construction activities, which apply to both the construction activities of various types of houses and the construction activities of various professional construction projects.   
  2. This Article enumerates the relevant provisions of this Law applicable to construction activities in various specialties, including:  
  The provisions of this Law on construction permits. The principles of The first section of Chapter II of this Law on the construction permits for construction projects shall apply to all kinds of professional construction projects. That is, before the start of construction, each professional construction project shall also go through the construction permit formalities in accordance with the relevant provisions of the state; the application for the construction permit formalities shall meet the statutory conditions; if the construction cannot be started on schedule for any reason after approval of the start of construction for any reason exceeding a certain time limit, it shall apply for an extension; it is a construction project that is approved in accordance with the provisions of the State Council and does not need to go through the construction permit formalities. As for the examination and approval authority for construction permits for professional construction projects, it shall be implemented in accordance with the relevant laws and the provisions of the State Council. For example, Article 25 of the Highway Law clearly stipulates: "The construction of highway construction projects shall be reported to the competent transportation departments of local people's governments at or above the county level for approval in accordance with the provisions of the competent department of transportation under the State Council." ”  
         2.  The provisions of this Law on the qualification review of construction enterprises. The provisions of Articles 12 and 13 of this Law on the qualification review of construction enterprises shall apply to enterprises engaged in various types of professional construction and construction activities. That is, construction enterprises engaged in professional construction projects shall also meet the statutory conditions for practicing in accordance with article 12 of this Law; and shall be divided into different qualification levels in accordance with the provisions of article 13 in accordance with the qualification conditions such as their registered capital, professional and technical personnel, technical equipment and performance of completed professional construction projects. After passing the examination by the relevant competent departments and obtaining the qualification certificate of the corresponding level, they can engage in relevant professional construction activities within the scope permitted by their qualification level. As for the competent administrative organ responsible for conducting the qualification level review, this Law does not provide for it, and this shall be implemented in accordance with the relevant provisions of the State Council.   
         3． This Law deals with the contracting and contracting of construction projects, including the provisions prohibiting subcontracting. The principles of Chapter III of this Law on the contracting and contracting of construction projects shall apply to all professional construction projects, such as: the contracting unit and the contracting unit of the construction project shall conclude a written contract in accordance with the law; the bidding and bidding activities of the project contracting and contracting shall follow the principle of openness, fairness and equal competition, and select the contracting unit on the basis of merit; it is forbidden to pay and accept bribes in various forms in the contracting of the project; the project cost shall be agreed upon by both parties to the contract in accordance with the relevant provisions of the State; and the contracting of the project shall be in the form of bidding and contracting. Only those who are not suitable for bidding and contracting can be directly awarded; the opening, evaluation and calibration of project bidding shall be organized and implemented by the construction unit in accordance with the law and subject to the supervision of the relevant administrative departments; the administrative department is prohibited from abusing its right to designate and issue contracts; it is prohibited to dismember the project and issue contracts; it is prohibited to subcontract; it is prohibited to illegal subcontracting; it is forbidden to contract without qualifications or beyond the qualification level; and the principle of prohibiting the use of other enterprises in any form to contract projects is also applicable to the construction activities of various professional construction projects.   
         4． The provisions of this Law on the supervision of construction works. The relevant provisions of Chapter IV of this Law on the supervision of construction projects, including the main tasks, basic duties, practice standards and responsibilities of project supervision, are also applicable to various professional construction projects.   
         5． The provisions of this Law on the safe production of construction. Chapter V of this Law on the relevant provisions on the management of construction safety production, including adhering to the principle of safety first and prevention first, establishing and improving the responsibility system for safe production, strengthening the safety management of construction sites, strengthening the education and training of employees in safe production, and construction enterprises should handle accident injury insurance for employees engaged in dangerous operations, etc., are also applicable to the construction activities of various professional construction projects.   
         6． The provisions of this Law on the quality management of construction projects. The principles of the relevant provisions of Chapter VI of this Law on the quality management of construction projects also apply to professional construction projects. For example, the construction project must meet the requirements of the relevant national safety standards for construction projects; the construction unit shall not require the architectural design unit or the construction enterprise to reduce the quality of the project in violation of the provisions of the state; the survey and design unit of the construction project must be responsible for the quality of its survey and design, and the construction enterprise must be responsible for the construction quality of the project; the principle that the project must be qualified after completion before it can be delivered for use, and it also applies to the construction activities of various professional construction projects.   
  3. The specific measures applicable to professional construction activities in the relevant provisions of this Law shall be formulated by the State Council Stipulate. Since each professional construction project has its own different characteristics from housing construction activities, there are also different specific requirements for supervision and management, and in view of the fact that the scope of application of this Law is the construction activities of various types of housing construction projects, the provisions are mainly for the specification of housing construction activities. Taking into account the commonality between the construction activities of professional construction projects and housing construction activities, this article lists the provisions in this Law that can be applied to the construction activities of various professional construction projects, and how these provisions are specifically applied according to the different characteristics of each professional construction activity, including determining the supervision and management system of the construction activities of various professional construction projects, the State Council shall formulate corresponding specific measures.   4. With regard to the application of law to construction activities in various specialties, in addition to the relevant provisions of this Law that shall be applied in accordance with this Article, the provisions of other relevant laws relating to professional construction activities shall also be implemented. For example, the construction activities of railways, highways, airports, coal mines, electric power facilities and other professional construction projects should be carried out separately in accordance with the relevant provisions of the Railway Law, the Highway Law, the Civil Aviation Law, the Coal Law and the Electric Power Law.   
  Article 82 In the   
  course of supervising and managing construction activities, the competent administrative department for construction and other relevant departments shall not collect other fees except for those collected in accordance with the relevant provisions of the State Council.   【Interpretation】This article is about prohibiting the relevant administrative departments from arbitrarily collecting fees in the supervision and management of construction activities.   
  1. Supervising and managing construction activities in accordance with the law is the duty that the competent administrative department of construction and other relevant competent departments shall perform. In principle, the expenses required for the administrative management activities of the state administrative organs shall be settled by the administrative funds allocated by the state treasury, and unless otherwise provided by the state, the administrative organs shall not collect fees from the managers. Judging from the actual situation at present, the competent administrative departments for construction in some localities and other relevant competent departments have taken advantage of the administrative power in their hands to supervise and manage construction activities to arbitrarily charge fees to the managed. Overcharging occurs from time to time. According to reports, some localities have violated the state's regulations on the management of administrative fees and   
made regulations without authorization, and to carry out project construction, they must pay various fees such as project reporting fees and management fees to the local construction administrative department; the state has invested more than 5 billion yuan in a certain place to build a factory, and the local construction administrative department has proposed to collect 600 yuan Some localities stipulate that all construction enterprises in other places should pay management fees to the local construction administrative department according to a certain proportion of the project cost. This kind of behavior of the administrative departments in charge of using administrative power to indiscriminately collect fees and charges not only increases the cost of the project but also damages the image of government organs, and is also prone to corrupt behavior. The PARTY Central Committee and the State Council attach great importance to the problem of arbitrary collection of fees by some administrative organs, and have issued civilized orders on many occasions prohibiting them. In 1993, the General Office of the CPC Central Committee and the General Office of the State Council forwarded the provisions of the Ministry of Finance on curbing arbitrary collection of fees, pointing out that at present, some state organs have taken advantage of their administrative powers to set up various types of fees and charges indiscriminately, "which are mainly manifested in: exceeding their authority, approving or independently establishing charging items without authorization, expanding the scope of fees, and increasing the charging standards; transferring administrative functions and changing gratuitous services into paid services." "Most of the funds obtained from arbitrary fees have gone into the 'small treasury' for buying cars, engaging in welfare, issuing bonuses, and squandering and wasting. This not only increases the burden on enterprises and the masses and disrupts the economic order, but also harms the interests of the party and the state and corrupts the party style and social atmosphere." It is necessary to "concentrate efforts nationwide on severely curbing the unhealthy trend of arbitrarily collecting fees, and focus on rectifying the problem of state organs and their subordinate units using their powers to arbitrarily collect fees." "For acts such as exceeding their authority to introduce charging items, expanding the scope of charging without authorization, increasing charging standards, and arbitrarily collecting fees without approval, it is necessary to promptly investigate and investigate the responsibility of relevant leaders and directly responsible personnel." The illegal income from arbitrary collection of fees is confiscated and handed over to the treasury, except for the return of the received units and individuals in accordance with regulations. 2. The "relevant provisions of the State Council"  referred to in this article mainly refer to the provisions on the management of administrative fees issued by the State Council. The Decision on Strengthening the Management of Extra-budgetary Funds issued by the State Council in July 1996 stipulates that   
" It is necessary to strictly implement the management system for examination and approval at the central and provincial levels for administrative fees and charges. The collection of fees shall be reported to the financial departments of the State Council and the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government for approval in conjunction with the planning (price) departments according to their affiliation; the determination and adjustment of charging standards shall be reported to the planning (price) departments of the State Council and the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government for approval in conjunction with the financial departments according to their affiliation; and the formulation and adjustment of important charging items and standards shall be reported to the State Council or the people's government at the provincial level for approval. The administrative fee items and charging standards approved by provinces, autonomous regions, and municipalities directly under the Central Government shall be reported to the Ministry of Finance and the State Planning Commission for the record. People's governments at all levels below the provincial, autonomous regional, and municipal levels (including cities separately listed in the plan) and their departments have no authority to examine and approve the establishment of administrative fee collection items or adjust the charging standards. "Administrative fees, nationwide license fees, and local fees involving the central government and other regions shall be examined and approved at the central level. Any person who collects fees in the administrative management of construction in violation of the above provisions of the State Council is an act of arbitrarily collecting fees and must be corrected according to law; the manager has the right to refuse to pay the fees illegally collected.   Article 83 The  construction activities of small housing construction projects determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be carried out with reference to this Law.   The repair of commemorative buildings and ancient buildings approved for the protection of cultural relics in accordance with law shall be carried out in accordance with the relevant laws and regulations on the protection of cultural relics.   This Law shall not apply to emergency rescue and disaster relief and other temporary housing construction and construction activities of low-rise houses built by farmers themselves.   【Interpretation】This article is a special provision on the scope of application of this Law.          In accordance with the provisions of Article 2 of this Law, this Law shall apply to all kinds of housing construction activities carried out within the territory of the People's Republic of China, but this Article makes special provisions on the application of the law to several special housing construction projects  
 : Small housing construction projects determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be carried out with reference to this Law. "  
Reference"   
is different from   
"  
Follow  
" , has the meaning that it can be partially implemented and adapted according to the situation. The provisions of this Law on the supervision and management of construction activities are difficult to apply to some small-scale housing buildings (such as relatively simple bungalow buildings), and they are required to be implemented by reference, which is more in line with reality. As for the specific standards for the construction of small houses that can be referred to for the implementation of this Law, this Law authorizes the people's governments of provinces, autonomous regions and municipalities directly under the Central Government to determine them.   
         2． The repair of monumental buildings and ancient buildings approved for the protection of cultural relics in accordance with the law is quite different from that of ordinary housing construction projects, except for special requirements such as "the principle of not changing the original state of cultural relics" (Article 14 of the Cultural Relics Protection Law), and the management is also different. This article stipulates that the repair of commemorative buildings and ancient buildings, etc., which have been approved for the protection of cultural relics in accordance with law, shall be carried out in accordance with the relevant laws and regulations on the protection of cultural relics. The "commemorative buildings and ancient buildings approved for the protection of cultural relics in accordance with the law" refers to the commemorative buildings and ancient buildings that have been determined as cultural relics protection units by the relevant competent authorities in accordance with the provisions of the Law on the Protection of Cultural Relics and by the relevant competent authorities in accordance with their statutory authority and procedures. Article 7 of the Law on the Protection of Cultural Relics stipulates: "Revolutionary sites, memorial buildings, ancient cultural sites, ancient tombs, ancient buildings, grotto temples, stone carvings and other cultural relics shall be determined as cultural relics protection units of different levels according to their historical, artistic and scientific values." "The cultural relics protection units at the county, autonomous county and municipal levels shall be approved and published by the people's governments of counties, autonomous counties and municipalities, and shall be reported to the people's governments of provinces, autonomous regions and municipalities directly under the Central Government for the record." "Cultural relics protection units at the provincial, autonomous regional and municipal levels shall be approved and promulgated by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, and shall be reported to the State Council for the record." "Among the cultural relics protection units at all levels, the competent national cultural administration departments shall select those with major historical, artistic and scientific value as the national key cultural relics protection units, or directly designate the national key cultural relics protection units and report to the State Council for approval and publication." "The repair of commemorative buildings and ancient buildings approved for the protection of cultural relics in accordance with the above provisions shall be carried out in accordance with the relevant laws and regulations on the protection of cultural relics.   
         3. Rescue and disaster relief and other temporary housing construction, because of its timeliness, temporariness and simplicity, it is impossible and unnecessary to manage in accordance with the provisions of this Law; the low-rise houses built by peasants in rural areas are large in quantity and wide, and the situation is very different, and at present, most of them are relatively simple. Therefore, this article provides that the provisions of this Law shall not apply to these two types of housing construction. Article   84 The  specific management measures for the construction activities of military housing construction projects shall be formulated by the State Council and the Central Military Commission in accordance with this Law.   【Interpretation】This article is a special provision on the management of military housing construction projects.   The provisions of this Law on the basic systems and basic norms of construction activities shall also apply to the construction activities of military housing construction projects. However, the management of military housing buildings has its own particularities and should be managed by the military itself according to law. Therefore, this article stipulates that the specific management measures for the construction activities of military housing construction projects shall be formulated by the State Council and the Central Military Commission in accordance with this Law.   Article 85  This Law shall come into force.   【Interpretation】This article is about the date of implementation of this Law.   This Law shall enter into force. From that date onwards, all housing construction activities carried out within the territory of our country must comply with the provisions of this Law; Acts that occur before the implementation of this Law shall not apply in accordance with the principle of non-retroactivity of the Law and shall not apply to the provisions of this Law.   
  This Law was adopted by the Twenty-eighth Session of the Standing Committee of the Eighth National People's Congress and promulgated on the same day by a presidential decree signed by President Jiang Zemin. This Law shall come into force after a period of time from the date of promulgation, mainly to enable all relevant parties to use this period to make full preparations for the implementation of the law, such as the publicity of the law, the cleaning up and formulation of relevant normative documents, etc., so as to ensure the effective implementation of this law. (End).  
   
   
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